

Cromarty Courthouse Learning Zone - Crumbs of Justice 1

The Poachers

Please use the laminated cards in the Crumbs of Justice Loan Kit for this activity (content also set out below)

Dates

1360 to 2019

Introduction

Poaching in Cromarty (and elsewhere on the Black Isle) is one of the most frequent crimes to be found among the Courthouse and earlier records. There are still modern poachers today, people who take fish illegally from the sea or from rivers and deer from the hill.

Punishments for poaching vary greatly through history: this Crumbs of Justice activity looks at punishment for the same crime through time, as recorded for Cromarty and Resolis.

Some names and some details are fictional, but the crimes and the punishments are either real or based on real ones. Most can be found within the timeline.

In this activity, we invite pupils to read aloud the crimes and then decide which punishment fits which crime through group discussion.

They can then discuss them as outlined below.

The answers are:

Poacher A: Punishment 2

Poacher B: Punishment 3

Poacher C: Punishment 1

Poacher D: Punishment 5

Poacher E: Punishment 4

Vocabulary

authority: official power

canons: cathedral priests

custodial: prison sentence

craic: fun, a laugh

defendant: the prisoner or accused person

dusk: the time of day after sunset but before nightfall

flesher: butcher

ghillie: as a gamekeeper, but for fish

hagbutt: a primitive musket (kind of gun)

keeper: gamekeeper, someone who polices wild game such as deer

mutilation: having a part of your body cut off

stigma: others thinking badly of you

Poacher A

The year is 1360. I am John the Skinner and I work as a flesher in the new settlement at the Chanonry, where the new Cathedral is. It sometimes helps to be able to sell the canons and townsfolk meat which I do not need to buy, but these days it's risky, so risky, for every beast seems to belong to someone and that someone is never me! And so I took a stag from the hill up at Blackstand, but an old woman told the new Sheriff of Cromarty that she saw me go up the top road at dusk with my bow and a quiver full of arrows on my back – a plague upon her! They came for me that night, just as I was skinning the beast. No point in fighting them, for William de Urquhart is a brutish man...

Punishment 2

The defendant is not a wealthy man. He is punished by mutilation – by having the three fingers of his right hand cut off. This means he can no longer draw his bow, but he can at least still ride and use his hand to some degree. He considers himself fortunate not to be punished more harshly. He has heard that sometimes poachers are wrapped in a deerskin to be torn apart by hounds.

Poacher B

The year is 1577. I, John Dingwall of Kildun, am brought before the Sheriff of Cromarty for killing fifteen or sixteen great deer. He said the deer were on his land, but I dispute this. In any case, deer are not known for stopping at a boundary stone on the hill, are they? My men and I had enjoyed a rare day's hunting. We had with us our bows, pistols and my new hagbutt. Drat that hagbutt! I was that proud of it, but I wish now I had stuck to my trusty old bow. A bow is invisible at night, silent and deadly. If it had not been for the glow from the spark of the gun and the sound it made on firing, I doubt the Sheriff's men would have overtaken us...

Poacher B: Punishment 3

The defendant was a wealthy landowner and so was punished by the payment of a harsh fine in gold coin, with the threat of worse punishment should he ever poach on the Sheriff's lands again.

Poacher C

The year is 1674. I, Donald McFinlay, am tried by the Sheriff Sir John Urquhart on a charge of night poaching. It was the third time he has caught

me. The first time, I was beaten. The second time, I was both beaten and imprisoned in his castle dungeon. The harvest has failed again this year. I was desperate for food for my family. There was a struggle with a keeper and in the darkness, I struck him and he fell. He has since died.

I know Sir John is not like his old uncle Sir Thomas, who was mad, but often kindly...

Poacher C: Punishment 1

The defendant was a poor man and because the keeper he knocked down died, he was hanged on the Mulbuie Ridge. His body was left hanging on the gibbet for eight days as a warning to others who passed by.

Poacher D

The year is 1893. I am Alexander Skinner – Monk to youse – and myself and John Hossack – that’s Gyte to his pals – went up the hill to see if we could find ourselves a nice wee roe deer. Some to eat and some to sell. We’ll take salmon too when the tides are right but this time it was the deer we were after. We had no idea that someone had tipped off the Laird’s keeper and he was lying in wait for us. So then we were hauled up before the Kirk Session, and considered ourselves lucky that it was not before the Sheriff. Our wives are not impressed, I can tell you...

Poacher D: Punishment 5

The punishment here was a fine of seven shillings and sixpence to the Kirk Session and twelve shillings and sixpence costs which were paid to Walter Charteris Ross of Church Street, Cromarty, who owned the land on Cromarty Hill.

Poacher E

The year is 2019. I am Colan Watson. I work offshore, but I like a bit of fishing when I'm home. It's in the blood I reckon! I was just after a few salmon, wild salmon like, out in the firth. We were catching them with lights and nets at night. It's a good craic. Why should wild fish be only for the rich guys who can pay for the fancy salmon beats on the Conon and the Beaully river? It's not like I am part of one of those commercial gangs who strip rivers clean of salmon with nets. It's just a few wild fish out in the firth, not elephants or tigers, for goodness sake, everyone knows *that's* wrong.

I might have known I'd be caught. Those ghillies have got night-sights now, just like the flippin' SAS. They're not protecting the fish. They're just protecting rich men's pockets. They've not caught me before though, so I'm hoping I don't end up in prison...

Poacher E: Punishment 4

The defendant is fined £500 and given community service. He will now have a criminal record.

Activities/discussion

What would the consequences be for the defendant and his family in each case?

Poacher A, John the Flesher would not longer be able to hunt to feed his family. He would also have found it difficult to carry on his profession as a butcher. With luck he might have had a son to help him. If not, his future (and that of his family) would have been very tough. Sometimes mutilation was like a slow death sentence.

Poacher B, John Dingwall of Kildun would have paid his fine, possibly having to sell some land to do so. It is likely he would have avoided the Sheriff of Cromarty's land in future.

Poacher C, Donald McFinlay, was particularly unlucky to find himself at the mercy of ruthless Sheriff Sir John Urquhart, the nephew of Sir Thomas. Hangings often took place at a gibbet beside a crossroads on a high place to allow the maximum number of people to see the corpse. Did it act as a deterrent? Probably, especially if the man was someone people knew. McFinlay may also have left a wife and children without support – unseen victims of the harsh punishment too.

Poacher D, 'Monk' and his pal 'Gyte' benefit from less rough justice than their predecessors. The population is growing again post-Clearances and poaching is so commonplace that it is now heard by the Kirk Session rather than the Justices. The Kirk Session is starting to lose the authority it once had. The men are fined and costs awarded to Walter Charteris Ross. The crime and punishment would not have been deemed as serious as in times gone by. Did they do it again? Probably...

Poacher E, Colan Watson, is someone who poaches for fun when he is not working offshore. He is fined and given community service rather than imprisoned but will also have the stigma of a criminal record which may well affect his future job prospects.

General topics to discuss

Which of these punishments were *legal*?

All of them. The early Sheriffs were able to do pretty much what they wanted in the name of the King.

Which of these punishments were *fair*?

The concept of *fairness* is very modern. At the time they would all have been considered *just*, which is slightly different - with the possible exception of the hanging of Donald McFinlay, who did not intend to harm the keeper so badly. Under Scots Law today this would be considered 'culpable homicide' – manslaughter in England, when you are guilty of killing someone without intending to do so – but at the time this was not law.

Which if any of these punishments were too harsh, and why?

Likely to focus on the hanging of Donald McFinlay. The punishment for most serious injuries or manslaughters or murders was almost automatically a death sentence. The last judicial execution carried out in Scotland was at Craiginches Prison, Aberdeen when Henry John Burnett was hanged on 15 August 1963, just before hanging was abolished here in November 1965. Hanging was believed to be too primitive and brutal a punishment for any crime and there was too much scope for error. You cannot bring a hanged man back to life, but you can release a wrongly imprisoned one.

Which if any of these punishments were not harsh enough, and why?

Likely to focus on Monk and Gyte and Colan Hossack. When was/is it OK to poach for food if you or hungry? When was/is it OK to do it for fun?

What happens to deer and salmon stocks when criminal gangs get involved today?

This article provides interesting detail on modern punishments for poaching but also ask pupils to consider who reads *The Scottish Field*.

<https://www.scottishfield.co.uk/outdoors/poaching-is-a-danger-to-scotlands-food-economy/>

What do you notice about the punishments in terms of whether or not the defendant is wealthy or poor?

Likely to focus on John Dingwall of Kildun, a landowner, who is fined but who escapes worse punishment because of his status.

What do you notice about the punishments as time moves on?

The punishments move from purely physical (mutilation, hanging) to financial (fines) or custodial (imprisonment).