

A Man cometh to my Wife, or to my Servant, with a false Messuage, Token or Letter made in my name, and thereby getteth my Goods: yet this is no felony, but it shall be punished by the Statute of 33 H. 1. ca. 1. See *antea tit. Counterfeiters.*

What Persons are chargeable in Larceny. C H A P. CLVII. V. 104.

§. I.
wife.

A Feme Covert doth steal Goods by the compulsion or constraint of her Husband; this is no felony in her, *F. Coron.* 160. & *Fitz. Coron.* 199. *Br. Coron.* 108. For where the words of the Law are broken by compulsion, there the Law is not offended, neither shall any person be damnified for doing a thing, whereto he is enforced or compelled, but such compulsion shall be a good excuse in our Law, *Pl.* 19. a. b.

But yet if by the compulsion of her Husband, she committeth Murther, this is felony in them both.

If a Feme Covert doth steal Goods by the commandment or procurement of her Husband, (without any constraint) this hath been holden to be felony in her, *scil.* that the Wife in such case is a principal, and the Husband but an Accessary. *M. Bracton* also saith it is felony; for *Licet uxor obedire debeat viro, in atrocioribus tamen non est ei obediendum*: but *M. Stamford* and others seem to be of another opinion. *Stamf.* 26. *P. R.* 130. *Br. Coron.* 108.

If the Husband and the Wife joyn in committing of Treason, the necessity of Obedience doth not excuse the Wives Offence, as it doth in felony, because it is against the Commonwealth; for, *Privilegium non valet contra Rempublicam*, *Ba.* 32.

But if the Husband and the Wife joyntly together do steal Goods, this shall be taken to be the only Act of the Husband, and such felony shall be imputed only to the Husband, and not to be felony in the Wife, by some Opinions. *Vide Stamf.* 26. & *Lamb. Fitz. Coron.* 160. & *Ba.* 31 & 37. that the Wife can neither be Principal or Accessary, in regard of the Subjection and Obedience she oweth to her Husband.

And yet *Mr. Bracton* seems to be of another opinion herein, saying, *Quid erit si uxor cum viro conjuncta fuerit, vel confessa fuerit, quod viro suo consilium praestiterit & auxilium? nunquid tenebuntur ambo? imo, ut videtur.* (And a lither after he saith) *Alter eorum potest esse malus per se, & alter bonus; ita uterque eorum possit simul & conjunctim esse malus.*

And again, *Sicut sunt participes in crimine, ita debent esse participes in pana.* *Ibidem.*

And *M. Bracton* seemeth to make this difference, That although the Wife may conceal her Husbonds Offence in case of felony, (as also she may relieve and keep company with him, knowing him to be a Felon) *Consentire tamen non debet Feloniae viri sui, neque esse coadjutrix, sed Feloniam & nequitiam viri impedire quantum possit.* And accordingly at Cambridge, at Lent Assizes, Anno 1619. The Wife was in such case Indicted and Arraigned with the Husband for Robbing of a Wind-Mill.

Again at Cambridge, Lent Assizes, 1620. One *William Houghton*, and *Katherine* his Wife, were together Indicted and Arraigned for stealing certain Apparel: and the Husband and Wife were indicted for the like at Lent Assizes, Anno Dom. 1624.

Also the Wife is chargeable for Trespas done by her and her Husband together; and therefore (howsoever) it shall be safe for the Justice of Peace, in such cases, to commit the Wife to Gaol as well as the Husband.

And

Cromp. 37
P. Just. 54.

27 *Aff.* 40.
Stamf. 26.
142.
Fl. 12.

Mar. 168.
12.
27 *Aff.* 40.
See *Stamf.*
142, 26, 27

Ibid.

F. Co. 130.
Lamb. 257