

And yet for this case of a Trespass committed by the Husband and Wife; Sir Fr. Bacon giveth this Rule, *Excusat aut extenuat delictum in Capitalibus quod non operatur idem in Civilibus: sc.* In capital Causes, *in favorem vita;* the Law will not punish in so high degree, except the malice of the will and intention appear, pag. 36, 37.

Stamf. 6. But a Woman covert alone by her self (the Husband not knowing thereof) may commit Larceny, and may be either Principal or Accessary: as if she steal another Mans Goods, or receive the Thief that stealeth them; or shall receive stollen Goods into her House, knowing them so to be; or shall lock them up in her Chest or Chamber, her Husband not knowing thereof: and in such cases, if her Husband so soon as he knoweth thereof, do forthwith forsake his House and her Company, and make his Abode elsewhere; he shall not be charged for her Offence; whereas otherwise the Law will impute the fault to him and not to her, P.R. 130. See *Bracton lib. 3. cap. 32.*

M. Bracton saith farther, *In certis casibus de furto tenebitur uxor, si furtum inveniatur sub clavibus suis, quas quidem claves habere debet uxor sub custodia & cura sua; Claves, viz. dispensæ suæ, arca suæ, scrinii sui: & si ali- quando furtum sub clavibus istis inveniatur, uxor cum viro culpabilis erit; sc. vir si consenserit, vel rem ei Warrantizabit. Ibid.*

Goods are delivered to the Husband to keep, and his Wife stealeth them, it is no felony. Otherwise it is if the Husband had delivered them to a stranger, and then the Wife had taken them feloniously out of the possession of the stranger, this had been felony in the Wife, *Mar. Lect. 12.*

I. Cor. 455  
R. Cor. 142  
Stamf. 17. Also the Wife shall not be accounted a Felon for taking or stealing the Goods of her Husband: and if the Wife do take her Husbonds Goods secretly, and deliver them to a stranger knowing thereof, yet this is no felony in the stranger, See *Abr. d' Ass. fol. 71.*

R. Cor. 77  
Cromp. 35  
I. R. 130. But if a Man do take away another Mans Wife with her Husbonds Goods against the Wives will, this is felony by the Statute *Westm. 2. c. 34.* as it seemeth: and so if any Man takes away another Mans Wife with her Husbonds Goods against the Husbonds will, this also is felony.

If a Married Woman shall deliver to her Adulterer, her Husbonds Goods, this is felony in the Adulterer, *Lecture Mr. Cook.*

And if the Husband commit Larceny, and the Wife knowing thereof, do receive or relieve him, &c. she is not thereby Accessary to the felony, *Vide postea tit. Accessary.*

Note, that a Woman convicted of or for the felonious taking of any Money, Goods or Chattels above the value of 12 d. and under 10 s. or as Accessary to any such Offences, the said Offences being no Burglary nor Robbery in or near the High-way, nor the felonious taking of any Goods from the person of another privily: shall for the first Offence be branded in the Hand, and farther punished by Imprisonment or Whipping, at the discretion of the Judge or Justice, before whom she shall be so convicted, 21 Jac. cap. 6.

If a Servant by the compulsion of his Master steal another Mans Goods, this is felony in them both, notwithstanding such compulsion. See more of Servants here before, *sub hoc tit.* §. 2. Infant.

Lamb. 273 An Ideot, Lunatick, Dumb or Deaf Person, and an Infant, are chargeable in Larceny, after the same sort as they are chargeable in Homicide, saith Mr. Lambert; yet *quare inde*, and see here before in *Man-slaughter*, And yet if an Infant shall commit Larceny, and shall be found guilty thereof