

other like Cafes of poyfoning. *Antea tit. Murder. Et poſtea, ſub hoc tit.*

Accessaries.

Two Thieves, viz. *A.* and *B.* ſet upon *C.* and *D.* to rob them, *C.* ſieth one way, and *A.* purſueth him, but robbeth him not. *D.* ſieth another way, and *B.* purſueth him, and robbeth him; adjudged by the whole Court of *Kings Bench*, that *A.* is Principal in the Robbery of *D.* and was hanged for it, *H. 26 El.*

And. part
1. P. 116.

Note, that the Accessary in Fact in Felony, whether before or after, though it be another Offence, and diſtinct from the Principal Fact; yet it is alſo Felony, and they ſhall have the ſame puniſhment which the Principal ſhall have.

Note alſo, when a Statute maketh or ordaineth an Act or Offence to be Treason or Felony, which was not ſo before by the Common Law, and yet the Statute ſaith not that the Abettors, Aiders, Comforters or Conſenters to the doing thereof, ſhall be alſo Felons; yet it ſhall be Felony in them, for that they were the Cauſes of the doing or committing of the Offence, which (it may be) otherwiſe had not been committed. See *Lamb. p. 279, 280. 19 H.6. fol.47. & 11 H.4. fol.13. Fitz. Coron. 228.*

And ſo it ſeemeth of Receivers, &c. after the Offence, *Lamb. 281.* for where a Statute maketh any thing Felony, it is made as Felony to all intents and purpoſes.

§. 4.
Kinds.

The Book called the *Mirror of Juſtices* maketh divers manner of Accessaries; ſc.

Those which command. } And ſo Murder, and other Felonies, may
Those which counſel. } be committed as well in words and heart, as
Those which conſent. } by outward act.
Those which are partakers in the gain.
Those which know thereof, and do not diſturb or hinder the ſame.
Receivers knowing thereof.
And thoſe which are preſent at the Fact. But theſe laſt (at this day) are Principals as aforeſaid.

And now our Books do divide them into two ſorts; ſc. Accessaries before the Felony (or Fact,) and Accessaries after the Fact.

§. 5.
Before the
Fact.

Accessaries before the Felony, are ſuch as ſhall will, command, hire, procure, move, conſpire, counſel, abet, ſc. Incurge or ſet on, or conſent to commit any Petty Treason, Murther, Robbery, Rape, Burglary or Larceny, but are not preſent thereat; yet all ſuch are thereby Felons, when the Felony is committed.

Præcipi-
endo, Per-
ſuadendo,
Conſulendo,
Conſentendo.

But here note ſome differences are to be obſerved, when the Principal and chief Offender or Actor doth not accompliſh the Fact altogether in the ſelf ſame ſort, as it was beforehand agreed and plotted between him and the Accessary; and therefore if *A.* command *B.* to lay hold upon *C.* and *B.* goeth and robbeth *C.* This is no Felony in *A.* (if he be abſent when the Robbery is done) for his Commandment might have been performed without any Robbery.

But if the Commandment had been to beat *C.* and the party commanded doth kill *C.* or beat him ſo that he died thereof, *A.* ſhall be accessary to his Felony and Murther; for it is hazard in beating a Man, that he may die thereof.

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A. commandeth *B.* to rob *C.* and in attempting this *B.* killeth *C.* *A.* ſhall be accessary to this Murther; for in attempting to rob *C.* the Commandment of *A.* was purſued, and then when the Commandment is purſued, and in the Execution thereof another thing falleth out, he which gave the Command-

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