

But if the party robbed take Money or other Goods, &c. of the Thief, to the end, he shall favour him, or shall not give Evidence against him, whereby the Thief escapeth; now he is an Accessary to the Felony of his own Goods, by good Opinion: Though some other seem to take this for Theft-boot, and so to be punishable at this day only by Ransom and Imprisonment, as aforesaid. 6 E. 6.  
Lamb. 286  
Cromp. 41  
P. R. 131  
Br. Cor.  
1, 2.

If the party robbed, or if he that shall have any Goods stolen from him, after complaint by him made of the Felony (to a Justice of Peace, or to the Constable) shall then take his Goods again, or otherwise be compounded withal, and will not prosecute this matter against the Felon any farther, but will suffer him to escape after he was once so charged, and perhaps arrested for the same. *Quere*, if this maketh not him an Accessary, for that he did once *agere criminaliter*, by complaint made to the Officer against the Felon.

I think in such case the Justice of Peace shall do well (at least) to bind over both, the one and the other to the next Quarter-Sessions, or to the next Gaol-delivery, and then to acquaint the Court with the whole matter.

But if upon Hue and Cry, a Man do Arrest a Thief that hath stolen another Mans Goods, and then take the Goods from the Felon, and so let him go; this maketh him an Accessary to the felony, if not a principal Felon. 27 Aff. 62.  
Lamb. 285

*Nota que pur biens embles, ou imports, la party peut aver son Action de Trespass, & apres Apéal de Robbery, Co. 4. 43.*

§. 10.  
Time.

Also note, in all cases of an Accessary after the Fact, it is requisite that the Fact (to which he is an Accessary) be a felony at the very time in which he becometh an Accessary to it: For if *A* giveth a mortal Wound to *B*. upon the first of *March*, and *C*. knowing thereof, receiveth, &c. *A*. two or three days together, and letteth him go, and after *B*. dieth of the Wound within the year; yet this Receipt, &c. maketh *C*. no Accessary, because the principal Fact was no felony at the time, either of the Receipt, or of the letting him go. Stamf. 287

By the Statute of 2 *Ed. 6. c. 24*. Accessaries may be to a felony done in another County; Whereas before the Statute, the Common Law laid no hold of such Accessaries, for that those in another County, upon the Trial, could not have Cognizance of the principal Offence, &c. P. Trial. 2.  
Stamf. 41.  
f. 63. b.

But now by the said Statute, there shall be a Certificate from the *Custos Rotulorum* of the County where the principal shall be attainted or convicted, &c. See *antea tit. Felony*.

Rules.

Note, That if an Offence be made felony by Statute, although the same Statute doth not expressly make mention of Procurers, Counsellors, Abettors, Receivers, Consenters and Aiders, &c. yet they shall be taken as Accessaries (within the compass of the same Statute) even in the same manner, as if it were felony at the Common Law. Lamb. 285  
Stamf. 44

§. 11.  
Accessory  
of Accessary.

A Man may be an Accessary to an Accessary; as if he shall receive, relieve or comfort him who is Accessary to a Felon, knowing the same, 26 Aff. 52.  
F. Cor. 190

§. 12.

Although the Accessary shall be punished, and shall have Judgment of Life and Member, as well as the Principal which did the felony; yet the Principal, (yea, all the Principals) ought first to be attainted (by Verdict, Confession or Uttery) before the Accessary can be charged, or put to answer (as an Accessary;) and the acquittal of the Principal, is the acquittal of the Accessary; for *ubi non est Principalis, non potest esse Accessarius*; but yet the Accessary shall be attached, and surely kept, (and be committed by the Justice P. Appel  
3.  
Co. 4. 43  
& 9. 117  
119.  
Plo. 98, 99  
Cro. 33.  
107.