

Some act must be done to assist the felon personally, and some felony must have been actually committed and completed, and the party charged must have had notice direct or implied at the time of the assistance given that the person assisted had committed a felony. The code, s. 63, by defining what kind of assistance will render a person an accessory after the fact, settles a point which was a little uncertain previously; "an accessory after the fact to an offence is one who receives, comforts or assists any one who has been a party to such offence in order to enable him to escape, knowing him to have been a party thereto."

The importance of these distinctions in England has been much diminished by statutes; in Canada they have been completely abolished. There is no distinction now, even in name, between accessories before the fact and principals in the first or second degree. They may all be indicted as principal offenders, whether the actual perpetrator is indicted with them or not, and whether he has been tried or not.

Section 61 enacts: "Everyone is a party to and guilty of an offence who (a) actually commits it; or (b) does or omits an act for the purpose of aiding any person to commit the offence; (c) abets any person in commission of the offence; or (d) counsels or procures any person to commit the offence."

2. Husband and wife.

"The law has such regard (we are told) to the duty, love and tenderness which a wife owes to her husband, that it does not make her an accessory to felony by any receipt whatever which she may give to him; considering that she ought not to discover her husband:" Russ. 1, p. 179. But this applies to no other relation than that of a wife to her husband; the law does not, apparently, have any regard for the duty, love and tenderness of the husband to his wife. He may be an accessory (at common law) for the receipt of his wife who has committed a felony: 1 Hale 621. "A man may be accessory to his wife, but the wife cannot be accessory to her husband, though she know that he committed larceny, and relieve him, and discover it not; for by the law divine, she is not bound to discover the offence of her husband:" Coke 3rd Ins. 108. The code (s. 63 (2)) somewhat extends the privilege of a wife in such a case, and does away with the unreasonable distinction between the "duty, love and tender-