

entertains a doubt whether such person ought to have been convicted, he may, instead of advising that the sentence be remitted or commuted, order a new trial.

Comparisons are perhaps invidious and unprofitable, but it may be usefully pointed out that, under the above provisions, while the interests of the accused are safeguarded, no such trifling with the welfare of the public could take place as in the recent case of one Nordstrom, convicted of murder in the first degree in the State of Washington, and sentenced in 1891 to be hanged. In 1901 his case reached the Supreme Court of the United States in appeal from the State Supreme Court for the fourth time, with other points in reserve in case the decision of the Supreme Court was again adverse.

V. PARTIES TO CRIMES.

1. *Principals and accessories.*

In former times the law relating to principal and accessory was one of the most intricate branches of criminal law. It only applied to cases of felony. In treason, the object was to include as many as possible in the guilt, and all who had any connection with it were accordingly held to be principals. In misdemeanour, all were regarded as principals because it was not thought worth while to make any distinction between them : Steph. Gen. View. p. 82.

At common law there are four different positions, any one of which may be occupied by a person implicated in a felony.

a) Principals in the first degree, being "those who have *actually and with their own hands* committed the fact:" Russ., I., 161.

b) Principals in the second degree, being "those who were present *aiding and abetting* at the commission of the fact": Ib. Such persons "must be present aiding and abetting at the fact or ready to render assistance if necessary, but the *presence* need not be a strict, actual, immediate presence, such a presence as would make one an eye or ear witness of what passes, but may be a constructive presence:" Ib. p. 162.

(c) Accessories before the fact, "they who, being absent at the time of the offence committed, do yet procure, counsel, command, or abet another to commit a felony, which is committed in consequence of such counselling, procuring or commandment.

(d) Accessories after the fact. These are "persons who, knowing a felony to have been committed by another, receive, relieve, comfort or assist the felon:" Ib. 177.