

indictment charges both offences the prosecution must elect on which to proceed. These cases, however, do not affect the right of a jury, when distinct persons are separately charged as principals and accessories after the fact to murder, to convict the principal of manslaughter, and the alleged accessories as accessories thereto, which was declared in *Regina v. Richards*, 46 Law J. Rep. M. C. 200.—*Law Journal* (London.)

STATEMENTS BY PRISONERS TO POLICEMEN.

There are two schools of opinion among the judges as to the policy or propriety of admitting in evidence extrajudicial statements by prisoners, and in particular statements made to a constable on arrest or in answer to inquiries made by a police officer with or without caution at or after arrest. Mr. Justice Smith in *Regina v. Gavin*, 15 Cox, 656, laid it down that when a prisoner is in custody the police have no right to ask him questions, and when the prosecution attempts to elicit statements made by a prisoner on arrest Mr. Justice Cave always disallows the question, but permits counsel for the defence to get the statements out if he wishes to do so. He has expressed his opinion decidedly in *Regina v. Male* (1893), 17 Cox, 689, to the effect that the police had no right to ask questions or to seek to manufacture evidence. He said the law does not allow the judge or jury to put questions in open Court to a prisoner, and it would be monstrous if it permitted a police officer, without anyone present to check him, to put a prisoner through an examination, and then produce the effects of it against him. He should keep his mouth shut and his ears open, should listen and report, neither encouraging nor discouraging a statement, but putting no questions. And this view is substantially the same as that expressed by Mr. Justice Hawkins, if we may judge from his preface to Howard Vincent's "Police Guide," and his ruling in *Regina v. Greatrex-Smith* (noted *ante*, p. 46, but not yet fully reported). A contrary rule was expressed by Mr. Justice Day in *Regina v. Brackenbury* (1893), 17 Cox, 628, who expressly dis-sented from *Regina v. Gavin*, and admitted statements made by the prisoner in answer to questions put by the police. The learned notes in Cox to both these cases affirm that the opinion of Mr. Justice Day is that sustained by the text-books and earlier decisions. But a good deal is to be said for the view that state-