

1682 Abaddon or Clavin and others. but a Man by Stander who lies not Under the Impression of any presumption from the life or the like Circumstances, but is Morally, passively Neither Encouraging nor offering to hinder the fact, is not understood to be Art and part Propp. *Larrin. it. d. Quall.* 131. n. 98. *Hawkins pl. Cr. lib. 2 Chap. 26 & 66. Chap. 29 § 10.* Because a Man may be Fune on the spot, and is Not presumed to have been a party where no Circumstance is alleged that Makes him so. Thus once a Stated person when slaughter was Committed, was not found to be a guilty accessory June 1673 *M. in the of Corther.* Nor was Stated person a tumult without being in Arms or qualifications of Accessory, Sustained to infer Art and part thereof 22 Novemb. 1684 *John Strauchan* 17th Novemb. 1725 *James Stoddan and others.* For it is so ordinary to see people run together at any noise or Confusion, and such a Concourse is often to the Advantageous to the Contending parties, that it would both Unjust and Inconvenient to punish Mere Spectators. However this is question Arbitrary depending much upon Circumstances, *De. it. d. Clar. for the wh. lib. 5. § fin. Quall. 90 n. 17 & Leg. 9.* It is therefore the advisable for any who interpose in a fray, to put off aloud, that he intends no prejudice to either party, nor to interest himself in either side; except he is known to be a very Neutral Independent person *M. House Crim. part 1. Tit. 35 § 7.* Where a Mans house was Unlawfully Broke into by a riotous Mob who carried away and Broke or destroyed the goods or furniture thereof; it was sustained to Exculpate one in Company of the said Mob, that all he did was to Endeavour to recover the goods from them, and that he voluntarily Delivered or caused to be Delivered what goods he could to the owners friends in order to their being saved; October 1725 *James Barroch & others.*

A person may be Art and part of a Crime either is Committed, several ways. Ratifying approving or owning Crimes Committed by others, is *in General* of

of pernicious Consequence and punishable *Ang. l. 38. s. 5. § 10. penis.* But the Doctors Distinguish betwixt the Ratifying Crimes chiefly Committed to Gratify the offenders self, as the Applauding ones to ululate more the Affair the whole Murther, and the Ratifying Crimes whereby an Injury to others is Mainly Intended as Murther theft &c. holding that the Ratifyer is in the first case liable to an Arbitrary punishment; but no ways punishable in the last case, unless the Crime was Committed in the Name of the Ratifyer, and he knew so much when he Ratified the deed. In Holland Ratification or (as we call it) A Rehabilitation of other Crimes than Treason falls not properly under Art and part, unless the Ratifyer hath been some other way Accessory to the Commission of the Crime June 1673 *M. in the of Corther.* It being hard to Infor a Crime from any words Approving the same; when it is ordinary for Men upon hearing of the Murder of one they had no liking to though they would not have killed him to say, it was well Done, or they are glad out. And *Albert Monachius* *Co. de lib. jud. Quest. Cas. 331* observes, that *Jactatus* and *Gloriatio* are punishable w<sup>th</sup> the kind of Absint being justified as Accessory to the Murder of the Marquis of Montrose, for Rehabilitating the Crime by Vanting, that he had taken him prisoner at his own house; the Parliament of Holland Inclined not to punish him, unless he would Covicted of some farther Accessory, *M. House Crim. part 1. Tit. 35 § 8.* But one's not only Approving of a Crime Committed, but also Accepting of a Reward for it as if it had been Committed by him, is punishable; since that goes farther than simple Rehabilitation *M. Fenzies lib. 1. c. 1.* One in Company with another who attacked a third person with a drawn sword and Designed to kill him, finding his associate to have Missed his blow, swore that he would Accomplish it, and in order thereto put his hand to draw his own sword which he was hindered to do; was found Art and part of the Treason 4th March 1695 *Balfour of Calderston & Patrick Wood.* One was found