on its books and certify to him the shares of stock so seized. *Held*, that the seizure of the certificates in England divested Pilger of title to the shares. *Pilger v. United States Steel Corporation* (N. J. Ch., 1928), 141 A. 737.

The principal case is in accord with a recent Supreme Court decision in a case involving similar facts. *Direction der Disconto-Gesellschaft v. U. S. Steel Corp.* (1924), 267 U. S. 22, 69 L. Ed. 495, 45 S. Ct. 207. The factual set-up is not a usual one, but the case is analogous to those in which it is sought by levy to attach the interest represented by stock certificates. At common law, shares of stock in a corporation were not subject to levy and sale on execution. *Foster v. Potter* (1866), 37 Mo. 525. The reason given was that "to 'levy' means to seize. It follows that what cannot be taken corporeally, cannot be levied on." *Haley v. Reid* (1854), 16 Ga. 437. The interest of the shareholder was said to be an invisible and intangible thing. At present, however, statutes generally permit levy upon an attachment of stock. Cook, CORPORATIONS (8th Ed.), Sec. 482. Since a thing can be seized only where it is, the cases turn on the *situs* of the shares in the corporation. It is generally held that the *situs* of a share, "considered as property separated from its owner" is at the domicil of the corporation. Cook, CORPORATIONS (8th Ed.), Sec. 485. *Armour Bros. Banking Co. v. St. Louis Nat. Bank* (1892), 113 Mo. 12, 20 S. W. 690. Hence, courts permit levy to be made by process served on the corporation at its domicil. *Barber v. Morgan* (1911), 84 Conn. 618, 80 A. 791, Ann. Cas. 1912D 951. It is often held that shares can be attached only in the state creating the corporation. See *Smith v. Downey* (1893), 8 Ind. App. 179, 34 N. E. 823, 52 Am. St. Rep. 467; *Christmas v. Biddle* (1850), 13 Pa. St. 223; *Armour Bros. Banking Co. v. St. Louis Nat. Bank, supra.* In these cases, the certificates of foreign corporations were in the state and within the jurisdiction of the court. In *Christmas v. Biddle, supra,* the court said that seizure of the certificates is as ineffective in attaching the share as a levy upon title deeds in attachment of land in another state. This view is based on the conception that certificates are muniments of title and merely evidence of the ownership of a share in the corporation. The modern business view, however, is that a certificate of stock is property in itself, and is, practically speaking, the stock itself. Cook, CORPORATIONS (8th Ed.), Sec. 485; *Simpson v. Jersey City Contracting Co.* (1900), 165 N. Y. 193, 58 N. E. 896, 55 L. R. A. 796. As a result the modern trend of the courts is to permit levy upon a share of stock by attachment of the certificate, although the domicil of the corporation is in another state. *Simpson v. Jersey City Contracting Co., supra. Direction der Disconto-Gesellschaft v. U. S. Steel Corp., supra.* In the latter case, it was said that the question of title depended on the law of the place where the paper is (at least in cases where the certificate is, by the law of the domicil of the corporation, transferable in blank). The principal case is in accord with this modern doctrine. J. N., '29.

CRIMINAL LAW—CONSTRUCTIVE PRESENCE OF PRINCIPAL.—Where a burglary is committed pursuant to a conspiracy, one of the conspirators, located at a considerable distance from the place burglarized, is nevertheless guilty as a principal, if his location was for the purpose of accomplishing some-

thing to make the burglary possible, since he would be constructively present. *State v. James* (1928), 165 La. 822, 116 So. 199.

The facts of this case are not given in the report; but if its language is to be believed it goes farther than the ordinary cases of constructive presence in which the accused has acted in aiding the accomplishment of the crime; in the principal case the accused is held where he has been a party to a comspiracy, but has gone no farther than appearing in a location with the unexpected purpose of assisting in the perpetration of the crime.

Under the rules of the common law, for one to be guilty as a principal in the second degree it is necessary that he shall have been present at the commission of the crime. But this presence need not be actual; it may be constructive. Clark, CRIMINAL LAW, p. 112. Ordinarily the accused is held if, contemporaneously, he has acted in aid of the felony, although not actually present. *State v. Talley* (1893), 102 Ala. 25, 15 So. 722; *Knight v. State* (1924), 165 Ark. 226, 263 S. W. 782. Common methods which would render the accused constructively present are keeping watch, giving information, preventing warning, and leaving a post of duty in order to facilitate the commission of the offense. In *People v. McCourtney* (1923), 307 Ill. 441, 138 N. E. 857, it was held that one who acts as a lookout and assists in an attempted burglary is a principal in the commission of the crime.

In support of the principal case the accused has been held as a principal where he is so situated when the crime is committed as to be able to assist in its commission. *U. S. v. Boyd* (1890), 45 F. 851; *Gilbert v. State* (1916) 79 Tex. Cr. 523, 186 S. W. 324.

But the mere fact that one is a party to a conspiracy to commit a felony does not in itself show constructive presence. *Barnett v. State* (1904), 46 Tex. Cr. 459, 805 S. W. 1013; *Carey v. State* (1924), 194 Ind. 626, 144 N. E. 22. Nor will the mere presence of a person be sufficient to constitute him a principal, unless there is something in his conduct showing a design to encourage, incite, or in some manner aid, abet, or assist the actual perpetration of the crime. *People v. Barnes* (1924), 311 Ill. 559, 143 N. E. 445.

In *Commonwealth v. Knapp* (1830), 9 Pickering (Mass.) 496, 20 Am. Dec. 491, it was held that if a conspirator be in a situation to assist the perpetrator at the time the crime was committed, the burden is on the conspirator to rebut the presumption that he was then to carry into effect the concerted crime.

It is thus to be inferred that it is sufficient that the accused was so situated as to aid in the commission of the crime and had merely formed the purpose of assisting in the crime. No act on his part is necessary to hold him as a principal where his location coincides with a purpose of assistance. S. E., '30.

MUNICIPAL CORPORATIONS—TORT LIABILITY—CONDUCT OF PARKS.—Plaintiffs sue city of Waco, Texas, for own benefit and as best friend, for minor daughter, who was injured when a municipal park employee negligently blocked the road while she was riding in a car on one of the driveways of Cameron Park in defendant city. *Held*, that maintenance of a public park