

the Day intended is a natural Day; and this Year and Day must be accounted after the Felony and Murder committed. Now if a Man be mortally wounded on the first Day of *May*, and thereof languishes to the first Day of *June*, and then dies; the Question here arises, Whether the Year and the Day allowed for bringing the Appeal, is to be reckoned from the giving the Wound, or the time of Death? Some have held the former: For that the Death ensuing, hath relation to it, and that is the Cause of the Death, and the Offender did nothing the Day of the Death. But the truth is, the Year and the Day shall be accounted only from the first of *June*, the Day of the Death, for before that time no Felony was committed. And thus it hath often been resolved and adjudged, and the reason abovesaid grounded upon Relation (which is a Fiction in Law) holdeth not in this Case. *Coke 2 Instit. Fol. 320.*

(6.) If an Appeal of Murder be brought, and depending the Suit, and after the Year and Day is elapsed, one become Accessary to the Murder, the Plaintiff shall have an Appeal against him after the Year and Day past after the Death; but it must be brought within the Year and Day after this new Felony as Accessary.

(7.) If a Man be indicted for Murder, and convicted only of Manslaughter, and have the Benefit of his Clergy, it seems the Wife and Heir cannot afterwards bring their Appeal. Touching which the Lord *Coke 3 Instit. Fol. 131.* cites a Case in these words: *Thomas Burghe, Brother and Heir of Henry Burghe, brought an Appeal of Murder against Thomas Holcroft, of the Death of the said Henry: The Defendant pleaded, that before the Coroner, he was indicted of Manslaughter, and before Commissioners of Oyer and Terminer, he was upon that*
Indictment