

As to the third, it was objected, That every Plea ought to have an apt Conclusion, and that the Conclusion in this Case ought to have been, *Et petit iudicium si prædict' Thomas Holcroft iterum de eadem morte, de qua semel convictus fuit, respondere compelli debeat*, And he does ask Judgment, if the above-mentioned Thomas Holcroft shall be obliged to answer again for the same Death he was once convicted of: But it was adjudged, that either of both Conclusions was sufficient in Law: And therefore that Exception was disallowed by the Rule of the Court.

It has been a doubt, that if upon an Appeal the Jury find the Person not guilty of the Murder, but guilty of *Manslaughter*, whether the King can pardon the burning in the Hand? Those who say he cannot pardon it, do ground their Opinion upon the nature of the Action, (*viz.*) that it is at the Suit of the Party; but my Lord Coke tells us, that in *Shuckborough* and *Biggin's* Case, which was upon an Appeal of the Wife for the Death of her Husband, it was adjudged upon a Conference had amongst the Judges, that the King might pardon the burning in the Hand, because it is not part of the Judgment or Punishment of the Criminal; it is only a Mark to signify that he shall not have his Clergy again: And this was likewise the Opinion of my Lord *Hobart* in his Argument of *Searle* and *Williams* Case, so that this Point is settled.

There have been some Questions likewise in what County to bring an Appeal, as for Instance: If the *Principal* is attainted in *Surrey*, and an Appeal is brought in the same County against the Accessory, setting forth that he, *apud London*, did incite the *Principal* to commit the Murder; this Appeal is not well brought in *Surrey*, because the inciting was a personal wrong done in *London*, and therefore the Appeal ought to be brought there.

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