

And as the *Place where, so the Time when*, an Appeal must be brought, is very material: And as to this matter, the Law makes some difference in respect to the nature of the Crimes for which the Appeal is brought; for if it is for Murder, it must be within a Year and a Day after the Fact, as hath been already observ'd; but if it is for a *Robbery*, it may be many Years afterwards.

So likewise it hath been a doubt, if a Man being indicted for Murder, and found guilty of Manslaughter, and an Appeal brought, whether the Court may proceed upon that Conviction, and allow the Party his Clergy pending the Appeal?

And as to this matter a late Case happened, by which the Law is settled, and it was thus,

One *Lisle* was indicted at the Assizes at *Carlisle*, for the Murder of *Armstrong*, and found guilty of Manslaughter, and an Appeal brought immediately, which was received by the Court, but before it was arraigned he pray'd his Clergy.

Then the Appeal was read in the Court, to which *Lisle* appeared but did not plead to it, but desired that he might be admitted to Bail, which was not granted, so he was sent back to Prison.

These Proceedings were removed by *Certiorari* into the King's Bench, and *Lisle* being brought up by *Habeas Corpus*, was committed to the *Marshalsea*.

And upon a motion in Court (where Mr. *Lisle* was brought up) the first Question was, Whether he might be bailed before his Clergy was allowed? And it was adjudged he might.

The next Question was, Whether the Court might proceed upon the Conviction of Manslaughter, though there was an Appeal then depending? And adjudged that they might, because neither the Appellant nor Appellee had any Day in Court;  
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