

Statute of H. 7. was made, by which it is enacted, *That an Indictment may be tried without staying for the Appeal.*

But notwithstanding such an Indictment, or any Attainder or Acquittal thereon, the benefit of Appeal is saved, *if the Clergy was not had*, which shews, that before the Statute, *if the Clergy was had*, there was an end of the Appeal, for it was a good Plea in Bar to it.

So that tis unreasonable that an Appeal should interpose between the Conviction of Manslaughter and the Judgment, so as to hinder the Execution; for if that was to be allowed, then an Appeal might likewise hinder the Execution even upon a Conviction of Murder, as well as Manslaughter.

Thereupon the King's Counsel at another Day moved for Judgement against *Lisle*, who being asked, what he had to say why Judgment should not pass against him? pray'd his Clergy, and it was allowed; and the Court said, that upon the like Prayer, it ought to have been allowed at the Assizes, and afterwards he read, &c. and was burnt in the Hand.

But he still standing upon his Recognizance, he brought a *Scire facias* against the Appellant, to compell him to prosecute his Appeal, to which he appeared *gratis*; for if he had not appeared, he would have been nonsuited.

And thereupon the Appeal was arraigned in *French*, by the Appellant's Counsel; and the Appellee was arraigned by the Clerk of the Court, and ordered to put in new Bail, or be committed; but at last the Court gave Leave that he might stand upon his old Recognizance till he could get other Bail upon another Day, and then to plead.

At the Day appointed Mr. *Lisle* pleaded the Indictment and Conviction of Manslaughter at the Assizes, which was removed into the King's Bench,
 &c.