

and not required by Express Statute. For the Common Law of England sustains one Witness as sufficient Evidence in trials by a Jury of the Neighbour hood shewers Rep. 161. Hawkins pl. Cr. chap. 23. § 31. 6. It seems the prisoner may move in Arrest of Judgment, Exceptions against the Judgment for Miswriting, mispelling, false or Improper Latin Pro cause the quashing of Judgments or Motion for Miswriting &c. after Evidence given, seem to be Disallowed by the Statute of 7 W. 3 cap. 3 only to those prisoners who have the advantage of counsel, and of a copy of the Judgment, Rock wood Guy 23.

At the Close, or Near the end of the session of year and terminer, if there be any prisoners in the Goal, who were committed for high treason, or suspicion thereof, and have not been prosecuted, and indicted for the same, or whose Judgment the Grand Jury returned into court Ignoramus: the court may, if it be thought fit, charge such prisoners out of custody. And in order thereto, the Clerk of Arraignments by Direction of the Court, bid the Keeper of the Goal, call those prisoners by their Names, and set them to the Bar. When brought to the Bar, the Clerk causeth the Crier to proclaim thus: if any one can inform my Lord the Kings Justice, the Kings forswear, the Kings Attorney or Advocate of any high treason or Misprision of high treason, or other Misdemeanour committed or done by A. B. C. D. E. F. now prisoner at the Bar, or any of them, let them come forth and they shall be heard; for the prisoners stand at the Bar upon their Deliverance. If upon this no Evidence appear against them, they are set free paying the Goalers fees; which is called Deliverance by proclamation.

§ 2.

The form of trying Criminal Commons in England upon Appeals. An Appeal from the French Appeller to Accuse or call it a private persons Accusation of a publick person

offender, in order to Attaint him. The Accuser or plaintiff had the Name of the Appellant or Appellor, and the Defendant good by that of the Appellee.

There are two sorts of Appeals in England; 1. An Appeal by an Innocent person injured. 2. An Appeal by an offender Confessing himself guilty, and Acquitting his Accomplish who is Commonly called An Approver.

§ 1.

How Appeals are prosecuted by Innocent persons injured.

An Appeal by an Innocent person, is an Action of the Law, or a private parties Accusation of one who hath injured him Mediate or Immediate, in order to Attaint the offender.

An Appeal may be brought; 1. for Injury done to the Appellant Mediate, upon the Account of his Interest in a party killed: as when an heir sues for the death of his Ancestor from the Latin Antecessor or a wife for the death of her husband; which is called An Appeal of Death. 2. For Injury Done Immediately to the Appellant, as for Robbery, Rape, Mayhem. But this last sort of Appeal is Disused: because the process is more Nice and Chargeable than by Indictment.

An Appeal of Death (which is either for Murder or Man slaughter) must be sued within a Year and a Day after the fact 6 Edw. 1 cap. 9. i. e. after the felony committed by Homicide or by Death of the party; for this time is not Computed from the stroke or wound given a Wife surviving, she, and not her heir, shall have the Appeal: because she is thought best able to know her want of her husband. Tho' the husband was Attainted before he had killed her, just. 33. Putton de pace Cit. Appeals 57. Hawkins pl. Cr. lib. 2 chap. 23 § 37. For An Attaint or