

Dissolved not the Conjugal Relation, nor shall an heir have the Appeal, tho' the Wife dies within the Year without prosecuting, Hale pl. Cr. 181. The Appeal of a Woman for the Death of her husband, is annexed to her widowhood, Coke 2 Just. 69 that is, she has only an Appeal while she continues a Widow. For if she Marry before or depending the Appeal, her Appeal is lost, tho' the second husband die within Year and day of the former's death. Yea, if she Marry after Judgement upon her Appeal she cannot have Execution Hale pl. Cr. 181. Hawkins pl. b. lib. 2 chap. 23 § 38 joining the loss of her husband, which is the cause of the Appeal, cease when she gets another. A Man cannot have an Appeal for the Death of his wife, but her heir only Stamford pl. Cr. 59 do. Because Generally men can better without their Wives than Women can subsist without their husbands protection and provision. An heir who had an Appeal for the Death of his Ancestor, to whom he succeeds by Blood, must be heir Male: for no female except a wife can Maintain an Appeal 9 R. 3 cap. 34. But an heir Male deriving by a female, that is, the son of a Woman, being heir in the Right of his Mother at the Death of the Ancestor, may have the Appeal Coke 2 Just. 68. Hale pl. Cr. 182. Hawkins ibid 142. This if a Woman be slain, her Next of Kin may Maintain the Appeal 3 Mod. Rep. 137. Again, an heir who had an Appeal must be heir according to the Course of the Common Law, and how at the time of the killing of his Ancestor, Hale pl. Cr. 182. A father cannot have an Appeal for the death of his son because he cannot be his heir, Hawkins ibid 140. The heir of a person Attainted of high treason or felony, cannot have an Appeal upon his being slain because the Blood of the Descendants was Corrupted, Coke 2 Just. 69. Where an heir is Disabled by an Attainder from prosecuting an Appeal of the Death of his Ancestor; or where the heir hath killed his Ancestor: the Appeal goes to the Next heir as if the other were dead without

without issue Hale ibid. 142. If a wife kill her husband his heir shall have the Appeal, Hale ibid. 181. Pulton de pace pt. Appeals 514. Where the heir at the time of killing the Ancestor died within the Year the Appeal is lost and Dies with him, and shall not go to another heir, Hale ibid. 182. Hawkins ibid. 141. Nor where the Next heir to a person killed, is a female, can the Next heir Male have an Appeal Coke 1 Just. 14.

An Appeal may be brought either by bill, when one of himself presents a written Accusation against a Criminal, and the other takes to prosecute the Appeal; or by an original writ out of the Chancery by one to another commanding him to Appeal a third person of some Crime committed by him, and to find pledges to the Sheriff or Coroner to do it Effectually. But process by Appeal being more chargeable than process by Judgment, and an Appeal being one of the Nicest parts in the Law and requiring the greatest exactness in the several proceedings, trials by Judgment are more ordinary, than trials upon Appeal. Some say that an Appeal may be prosecuted and defended by Attorney and Counsel, Wood Inst. of the Law of England. But others seem to deny this, Hawkins pl. Cr. lib. 2 chap. 23 § 74. Jacobs Law of Appeals pag. 109. Law allows a Defendant in an Appeal, whether Capital or not Capital, the Benefit of Counsel, Stamford pl. Cr. 151. b. Hawkins ibid. chap. 39 § 3. Perhaps for this Reason among others, because Appeals are presumed to be Generally carried on with greater heat and Spirit than Judgments, and so being Mostly rather grounded on a Desire of private Revenge, than of public Justice, are the least to be favoured. An Appeal of Death must Mention the ~~Death~~ Day, the Year the day the heir the time of the Killing the town where and the Weapon wherewith the fact was