

And this Pardon is twofold; one, *Ex gratia Regis*, which the King, in some special regard of the Person or other circumstance, sheweth and affordeth upon His Prerogative: The other by course of Law, which the Law in Equity affordeth for lesser offences, as of Homicide by Misadventure or *Se Defendendo*.

Note, That he which hath a Pardon for Felony, if he hath not found Sureties for his good abearing, or if afterwards, during his life, he shall break the Peace: Such Pardon shall be holden for none, but that he may be hanged notwithstanding his Pardon; for by the Pardon, the Offence *tegitur, non tollitur*. See 10 E. 3. c. 3. P. Pardon 5. & 3 H. 7. 7. where one was executed upon this Statute, for making an Affray after his Pardon. *Br. Coron.* 134.

None have authority to pardon any Treason, Murther or other Felony; or any accessory to the same, save only the King: it being one of His Royal Prerogatives.

Manslaughter. C H A P. CXLVI. V. 94.

**M**anslaughter in right signification thereof, implieth all manner of Homicide, and extends in the general, as well to Murther as to the rest. Nevertheless, for that in common speech it is restrained to Manslaughter by Chancemedly alone, in that sense I will here write of it.

Manslaughter, otherwise called Chancemedly, is the killing of a Man Feloniouly, *sc.* with a Mans will, upon a sudden or present heat, and fury of Mind, yet without any Malice forethought; as when two do quarrel and fight together upon the sudden, and by meer chance, without any Malice precedent, and one of them doth kill the other; this also is Felony of death, *Plo.* 101. *Br. Coron.* 22.

And yet in case of Manslaughter (not being within the Statute of 1 Jac.) the Offender shall have the benefit of Clergy for the first time, and by the Law of God there was a City of Refuge appointed for such to flie unto, *Exod.* 21. 13. *Deut.* 19. 3, 4. *Numb.* 35. 11, 22. For in such cases of Chance (as we term it) *sc.* Where the Offender hath not laid wait, nor hated in time past, the same Scripture saith, That God offered the party so slain, into the hands of such Manslayer, *Exod.* 21. 13.

Two fall out upon the sudden, and fight, and the one breaketh his weapon, and a stranger standing by (yet being none of their company) lendeth him a weapon, and therewith he killeth the other: This is Manslaughter, as well in him that killed the other: as in the Stranger, who lent him his Weapon.

*A.* and *B.* fall out upon a sudden, and fight, and *A.* is so fierce, that he runneth upon the others weapon, and is slain; yet this seemeth Manslaughter in *B.* for he should have fled to some Wall or Strait, & *querere*.

And if *B.* had fled to a Wall, &c. and *A.* pursueth him, and *B.* perceiving that *A.* would assault him, holdeth his weapon between them, and *A.* runnieth upon the weapon and is slain; this is Homicide in his own defence and for which *B.* shall forfeit only his Goods: But otherwise it had been if *B.* had fallen, and lying upon the ground had drawn his Knife or Dagger, and *A.* falleth thereon, and so is slain; for then *B.* could not flie, nor make any other defence for his safety, and therefore here *B.* shall not forfeit his Goods, nor be culpable of his death, but be discharged: For *A.* in a manner killed himself. See hereof, *postea*.

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