

§ 8. Also wilful killing of another by Poyson, was, and is Murther by the
Poysoning. Common Law. See *Stamf.* 21. & *Br. Indictment* 41.

And the Offenders therein, their Aiders, Abettors, Procurers and
 Counsellors shall suffer death, and forfeit in every behalf, as in other cases
 of wilful Murther, of malice prepened, *1 Ed. 6. cap. 12. Speculum Justic.*
 describeth these Offenders thus, *Qui done al auter a manger, ou anterment*
chose envenom.

The Husband gave a poysoned Apple to his Wife, to the intent to kill
 her, and she not knowing of it, to be poysoned, gave it to her Child,
 who dyed thereof; this is Murther in the Husband, and yet he loved that
 Child dearly: and so it had been, if a stranger of his own accord had
 after eaten thereof, and dyed thereof: for the putting of poyson into the
 Apple, &c. upon an evil and felonious intent, maketh it Murther, who-
 soever be killed thereby. Plo 474.

A. bringeth Drink that was poysoned (knowing of it) to B. and ad-
 vised B. to drink of it, telling him, it would do him much good; by
 reason of which perswasion, B. drunk of it (in the absence of A.) and
 dyed thereof, this was adjudged Murther in A. although he were not
 present at the time of the taking of the poyson. If one giveth corrupt
 Victual to another, to the intent to poyson him, and he dyeth thereof
 within the year and a day (this is Murther.) One layeth corruption at
 another mans door, to the intent to poyson him with the savour thereof,
 and the other party taketh infection by the savour thereof and dyeth;
 this is Felony. *Let. M. Cooke.* Co. 4. 44.

So if one giveth to another Spurge Comfets, or other such things in
 sport, and not in malice, and he that so taketh them dyeth thereof, this
 is Felony. *Ibid.*

But if a man shall prepare Rats-bane, &c. to kill Rats, &c. and shall lay
 this in certain places to that purpose, without any evil intent, (i. e. with-
 out any intent to kill any reasonable Creature) and another man finds
 and eat this, and dieth thereof, this is no Felony, *Plo. 474.* Co. 9. 81.

The Master upon malice precedent, goeth to kill another, and taketh
 his Servants with him, (but they knowing nothing of their Masters in-
 tent) and the Master and his Servants do meet the other, and the Master
 doth assault him, and the Servants taking their Masters part, do also assault
 him and kill him; this is Murther in the Master, and but Man-slaughter in
 the Servants. Plo. 100.

1. Note, that when a man hath malice to one, and intenddng and en-
 deavouring to kill him, he killeth another man; this is Murther whom-
 soever he killeth, *vid. Plo. 101. Dyer 128. Fitz. 262. Stamf. 161.* For his
 intent was to Murther. Plo. 474.

Nay, if two fight upon malice prepened, and in their fight a stranger
 (that would part them) cometh between them, and is killed; this is Mur-
 ther in them both, if it may not be proved which of them did kill him. Lamb. 238.

A man upon malice shooteth at one, or lyeth in wait to kill one, and
 killeth another unwittingly; in both these cases it is Murther. F. Coro. 261.

2. Note also, that in all cases where a man cometh, or goeth about to
 do any thing unlawful, as to kill, beat or disseise another, or to do any
 other Trespas; and in doing this, he killeth any man, this is Murther.
 See *Cromp. 24. b.* Dyer 128.

One stealing Pears in another mans Orchard, and the Owner came
 and rebuked him, and the other killed him, this was adjudged Murther. Plo. 474.

4. *Marie.*

Also