

be no Law, but where the casting of a Stone is lawful; as where a Mason is untyling of an House, &c. but to cast it for pleasure, and not in lawful labour, seemeth to be Felony: and so was the opinion of Mr. Bracton lib. 3. fol. 120 & 121. And Mr. Stamford: especially if the casting of the Stone be in such place where Men do use to pass by. Yet Mr. Bracton lib. 3. c. 17. *De homicidio per infortunium & casualiter*, giveth these Rules, *Crimen non contrahitur nisi voluntas nocendi intercedat, & voluntas & propositum distinguunt maleficium, secundum quod dici poterit de insante & furioso, cum alterum innocentia consilii tueatur, & alterum facti imbecillitas excuset.* Again, *In maleficiis spectatur voluntas non exitus, & nihil interst, occidat quis, an causam mortis prabeat.*

Casual Death.. C H A P. CXLIX. V. 97.

Also a Man may be slain by other casualty, than by hands or means of another Man, As by the fall of an House, Pit or Tree, &c. upon him; or be killed by a Bull, Bear or other Beast, or by an Horse or Cart, &c. or be killed by some fall, which he himself taketh.

And in these and the like Cases, observe these Rules.

1. First if a Man be slain in any such manner, yet if it be by the means or procurement, or wilful default of another Man. This shall be Felony in the party procuring or causing it.

2. The thing which is the cause of such casual death, shall be forfeit to the King, praised and taken for a *Deodand*, and the price of the thing shall be distributed in Alms to the Poor, by the Kings Almoner, for *Deodand, est quasi Deodandum, id est, in Eleemosynas erogandum.* But the Almoner hath no interest, as it seemeth, in such Goods, but hath only the disposition of the Kings Alms, *Durante Beneplacito*; so that the King may grant them to any other. See Co. 1. 50. Dyer 77.

The Office and Duty of this Almoner. See Co. 1. 94.

3. The Forfeiture shall have relation from the stroke given; so as the Party or Owner selling thereof (*sc.* of such thing as was cause of such death) after the stroke given, taketh not away the Kings Right, but that he shall have it as forfeited, notwithstanding such Sale.

4. *Deodands* are not forfeited, until the matter be found of Record, and therefore they cannot be claimed by Prescription.

5. The Jury which find the death of the Man, must also find and appraise the *Deodand*, and the Sheriff shall be charged with the price of such *Deodand*, and shall levy the same of the Town where it falleth, although it were not committed to the Town to keep: and therefore it behoveth the Town to see it forth coming. See the Stat. *de officio Coronatoris*, 4 Ed. 1.

6. If he that is so slain be under fourteen years of age, nothing shall be forfeit to the King as a *Deodand* for him, as it seemeth.

If a man dieth suddenly or by misfortune, Mr. Bracton, lib. 3. saith, *Tunc attachiare debent inventorem usque ad adventum iusticiariorum & si militer omnes illos qui in societate illa interfuerint ubi tale accidit infortunium*, fol. 122.

And if a man that is unknown be found dead in the Field, his Apparel and Mony about him shall be given to the Poor, &c. And if he were known, then his Goods shall be delivered to his Executors or Administrators, or to the Ordinary; but shall not be taken as a *Deodand*, in

§. 1.

§. 2.

Deodand.