

may have any Relation to it

Whether Dolus or an evil intention is requisite in all Crimes, is a point largely treated of by the Doctors; and it would seem from the Evil Law, that no Action is Criminal without a Wicked Design; 57 Inst. de oblig. que ad Dolus l. 351 & Feign. de Impuris l. pen. ff. de Jul. de Adulter. being an Involuntary Act, it is not Blame worthy. This General Negative Rule is likewise that in this a Crime is not to be presumed so that an Act is not presumed to be a Crime, either of a good or bad Construction, ought to be interpreted in the more favourable sense; and that which is law full in one place and at one time, is presumed to have been so elsewhere and when lawful, Prosp. Farin. de Confess. & Convict. Quast. 85 n. 18 Feign. But because an evil Design is a Secret Concealed Act of the Mind, law infers it from Conjectures and presumptions in some cases, which are left to the Determination of the Judge, Prosp. Farin. de Quast. 89 n. 16 & 25. Thus an evil Design is presumed 1^o from the quality and Character of the person, as in a Running Man dealing with a simpleton, or in one who afforded a person he was formerly a good Enemy with; or in a person who refused to commit such Wicked Acts, according to the Breard, Senol Malus Boni per profumitur. l. 10 Prosp. Farin. ibid. 12. 74. 75. 2^o An evil Design is gathered from the Nature of the fact. l. 152. ff. de Poli. Mali & Mal. Except where it is grossly evil and irregular, as in Romicide, Theft, Adultery, Sodomy Prosp. Farin. ibid. n. 77. The Evil Design is inferred from a fact the Inroad out of its own Nature, because forbidden by law, and Dolus out of its own Nature, because forbidden by law, and the buying or profumitur contra Dispensation in fluitis and the Woman of selling prohibited goods, or Consenting with a Woman, for the Church shall discharge it, Prosp. Farin. n. 81 & Feign. McLenzie Crim. part 1; Tit. 154. Ugarian l. 10 may be said to be good or Evil, according to Circumstances as the giving of poison which may be done thro ignorance, Mistake or Malice; the kissing and Embracing a Woman, which may be done out of Civility, or from a principle of lust. Where one in office doth any thing in violation of it, without observing the duty of his office, he is presumed to have had a bad design in so doing, l. 77. pro. de Ann. de pover. Tit. Prosp. Farin. ibid. n. 95. 4^o An evil Design may be inferred from Circumstances preceding and subsequent to the fact, Prosp. Farin. ibid. n. 98. 99. 100.

Where

What law expressly requires an Evil Design to infer a Crime, it may be alleged and proved, as in Act 37 Parl. 25. 1, where willfully Defeating of Records is Discharged under the pain of for the time it may be libelled and proved McLenzie Crim. part 1; Tit. 154. About later Fulgar, a gross fault or inexcusable Negligence is Equivocal to Dolus, guilt or an Evil Design in later Crimes; it is not so in those that infer Death or Mutilation & Cr. de Sente. lib. 5. 3 fin. Quast. 84 n. 7. Prosp. Farin. de Confess. & Convict. Quast. 86 n. 20 & Feign. The loss of life or limb as we please it.

It hath been doubted if an Action that hath a direct Tendency to a Crime, but comes not up to precise terms of it, is punishable in the penal law, be equally punishable as that Crime. V. G. Whether papers tending to misinform his Majesty's proceedings and Government, or Containing Seditious Insinuations apt to inspire people with ~~hatred~~ against the Government, are punishable by the laws (Act 10 Parl. 1. 10. 1) which declare such as Misinform the Sovereign, & Government and proceeding, or Depress his laws, to be liable to the pain of death, Sir George MacKenzie Crim. part 1, Tit. 154. persons only pro & Bon, without Determining the point. He argues for the Affirmative, 1^o the law having expressly noted seditious misinforming or Depressing, without declaring such Insinuations or seditious punishable, they cannot be drawn within the scope of the statute; qua casus omnis habetur pro Omisso. And otherwise all Judges would be Arbitrary, and juries might be run out or Criminal, according to their zeal, humour or Interest, being tending and Insinuations are in effect the issue of Contempt; Men are naturally prone to differ in such Consequential strained Inferences, and too apt to pass judgment according as they favour the person or cause; 2^o It is the Common Interest of Mankind to know the precise bounds of their duty in Relation to penal laws, and to know how to be innocents. & Contra he argues for the Negative; 1^o Some Crimes cannot be Determined as to all the Degrees of guilt, such as Misrepresentation as to all the Degrees of guilt, such as Misrepresentation of the Government, which may be done so many differing ways, as cannot be specified in any Statute, of which confounding the Government, is a Capital Crime, which tends to it is most certainly punishable in some proper