precognition, be immediately committed to prison without Bail, and their goods put under sure burrows or caution to be tried by an Assize. Act 49 Parl. 1592. McKenzie observes on this Act 49. formerly such suspected persons might have been detained in prison for a long time, the more to induce them to offering themselves to a trial: because traitors should not be set at liberty for want of present proof which perhaps they have affected; nor the King or state forced to discover too soon by pursuit a treason which good Policy requires to be concealed for some time. But in the year 1683 more as 400 being given up as traitors in the Portsons Roll, who could not all be imprisoned, the Privy council of Scotland Empowered the Circuit court to admit to Bail such as appeared and were willing to submit to a Trial McKenzie ibid. And imprisoning persons without expressing the treasons thereof and delaying to put them to trial, being contrary to the Claim of Right 1689: if prisoner for treason might after 40 days (which were allowed to prepare the process) apply to the Lords of Justiciary, whereupon production of the warrand of imprisonment, were ordained under the pain of treasonable imprisonment to issue out within 24 hours: a messenger or Messengers for intimating to his Majesty's Advocate and any party appearing from the warrand to be barred, and to fix a diet for the trial within 60 days after intimation: and if such a diet be not appointed to continue to liberate the prisoner, unless he desire to continue in prison. And where a diet is prefixed, the prisoner is to be listed before the Lords of Justiciary who must finally determine the trial within 40 days: other ways, the prisoner is to be set at liberty upon Bail, not exceeding the double of Bail in other crimes, to appear at any time when called within a year, and for his good and peaceable behaviour in the meantime Act 6 Sess. 9 Parl. K. W.

4/ The Certification in the Conclusion of a Criminal Libel for treason, is that probation should be led against the traitors and they be forfeited the absent as if they were present.

5/ Letters or summons of treason which persons are charged to obey under the pain of treason, must be

be executed by Herald or Pursevants in their Display'd coats or by Macers of the Criminal court otherways the Execution is null Act 125 Parl. 129. 6. That people by such solemnity may be moved to Notice who are cited for treason. The Kings Advocate should Mon along with a herald or Pursevant to bear witness to the Execution of letters of treason, who at their return to bear witness they saw the same timely executed 21 Decem. 1685 Lo. Fountainhall of Cuncleugh, Sir James Dalrymple of Stair and Colonel Buchan for treason upon Portsons, letters to Circuit Courts, may be made by Messengers or their officers specified by Act 29 Parl. 1. 7 and letters or judicial writs of treason for a body offenders committed especially against Mon in prison, may be served or executed by Messengers 15 December 1686 Captain Arial Major McNary Messengers and such prisoners may be cited upon 48 hours: but may appeal to the Commissioners of Justiciary for Examination, who if they see reason to grant the same are allowed to delay the trial till the day specified to which the Exculpation is delayed Act 3 Sess. 1 Parl. Ib.

6/ By the Civil law, Women and persons infamous were supposed to accuse traitors, but no other criminals, by Cod. 1. 8. 11. and L. Jul. Maj. By the Law of Scotland women or persons inhabile to bear witness in other Criminals, as Women, famous, decij Criminis, Infamous, may be receivable for informing against the Lords, but not to Condemn one that is charged with high treason: because proof should be cleared, where the hazard is great. But in open treason committed by Rising in Arms, it seems necessary to prove the Crime by such as were also in Arms with the accused traitors, strong no other persons can lawfully come near to an Army of Rebels, McKenzie Criminal, Tit. 6. §. 21.

7/ By the Civil law, Procurators a design to rise in Arms against the Prince may be proscribed and punished after the Traitors death, l. ult. ff. ad L. Jul. Maj. l. 19. Ba. Silic. h. t. and by our law such high treason against the King's person and the Common Wealth, as the Raising war, introducing a foreign Invasion or the like, may be Enquired into after the Committers death, and his Lordship may be forfeited therefore Act 69 Parl. 6 J. 5. so 13 Feb. 1686 Doom of forfeiture was given against the