

of Buckingham and Monmouth after his death. But all the  
 sorts of treason which argue no hostile design against the  
 Sovereign and Common wealth, such as Statutory treason or  
 simple Violence done or attempted against the Sovereign or  
 person upon any private account or the King's Condemning  
 of treason, are Extinguished by the Statute Doe. E. Wickw. 2.  
 observ. on act by Stat. 6. E. 5. Cap. 1. Sec. 6. 1522. By our law  
 no traitor could have been proceeded against in absence except  
 before the parliament. Because the civil law allows not  
 absence pursued by Damnam. l. p. 1. de Regum. Vol. 2. cap. 1.  
 Damnam. Nor any evidence of treason to be pursued in absence  
 absent. For, it was thought harder to pursue an absent  
 traitor, than one that is dead: The Count of Arundel was  
 after the Commisioner's death, when the pursuit of Maitland  
 was to abate, and the hazard of death is over, and the  
 proof against the Treason and proof of the fact may  
 be made by the Hearst of kin of the Deceased; and  
 thing so terrible and Dangerous, as a pursuit in absence  
 for treason, where in no person it allowed to make a  
 bond for the Absent party, and the no person should  
 a better condition by his Contumacy, than if he  
 appeared; law is not so cruel as to punish with equal  
 severity, presumed and real guilt. Being it having been  
 of ten found that persons questioned for treason have  
 facted to appear more out of fear of a prevailing faction,  
 or brought witnesses, or have <sup>been</sup> <sup>detained</sup> <sup>than</sup> out  
 banishment or bonds of guilt; and the allowing the  
 to be accused to or instructed with any manner of question  
 in absence of the party accused, being found dangerous  
 and pernicious to the lives of the King and dignity of the  
 League: the officers were appointed to hear the whole  
 accusation, reasoning, Propositions of witnesses, parties  
 and other Instructions of the Prince in face of Judges  
 went in presence of the Council, and in other ways  
 90 Stat. 11. E. 6. But thereafter for the more effectually  
 discouraging rebels in the case of treasonable  
 in arms, and open and manifest rebellion against  
 the King and his Authority, the guilty person was

allowed by an order from his Majesty to be prosecuted before  
 the Court and presented by the Justices, tho' he be absent till 11. Stat. 2.  
 Sec. 1. E. 2. Because if a traitor contumacious should not be  
 a ground of impunity to him, or wrong the King of his Cal-  
 =wally. 2. The case of treason may be kept and carried on in  
 order to forfeit after the Prince is dead, when he is  
 not in being and cannot be present: and Much rather should  
 those who wilfully withhold from Justice be proceeded  
 against and punished. 3. It were hard to charge the King  
 either to call a Parliament for dealing with a person  
 traitors, or to wait till then did; when the mean of proof may  
 fail in the mean time; by the death of witnesses.  
 The King the Parliament might always in their judicial capacity  
 condemn absent traitors, what is just before their own  
 vantage before other Judges. The Court of Statute as  
 ordinary treason, may for not appearing be denounced  
 by the court of Justice, but may be forfeited on the  
 Parliament only in treason absent, on act 11. Stat. 2.  
 It is not clear, if bounding out persons to open the rebellion  
 the Rebels absent dole to men we find and punished in  
 absence by the Statute. Because on the one hand and part  
 is punishable as the Prince to which it is indigent and  
 appears to be more Goddard persons taken in treason  
 plotting Noblemen being more Dangerous, than the Count  
 or other dependant who rise in Armies being justige  
 tion. On the other hand, the pursuing for and taking proof  
 of absent treason in absence of the person guilty of treason  
 is more than to treat in that fashion upon the law  
 Prince is Notoriously known Sir George Mordaunt from part  
 1. Stat. 1. E. 2. is of opinion, that since traitors may be  
 forfeited in absence, the men may be for treason tried  
 to forfeiture, tho' they cannot be for treason punished.  
 For a pursuit for high treason after the traitors death  
 his appearance or Hearst of kin must be called in  
 order to defend him and purge the Prince, by objecting  
 against the Treason of the rebel, and the liability of  
 the Deceased. The Bonds of the Deceased traitor are  
 nearly kept and brought to the Bar, the Statute  
 No. 1. Stat. 2. observ. on act 69 Stat. 6. E. 5. Cap. 1.