

The first offence was the taking of the party to be sworn of State by a military law which is now abolished.

and Entering their ships of war and fitting them selves and going out to sea to destroy the Kings Ships, or fitting them selves in any Regiment belonging to the Enemy, and Marching it the morning to the Kings Enemies, by aiding and comforting with a Battell, tho' they dont come to a battell Vaught. 43. Because such things give the Enemy Cause to go on with the War, who otherwise might have come to good terms of peace. And if this were not understood to be aiding and assisting the Enemy, it might as well be made void that the Making an Attack upon our Ships or Land forces and not carrying, would not be so; for that, by an Impressed word attempt the Enemy is not aided or comforted. After which kind of Reasoning, a traitor could not be quietly left his attempt succeed: when as it would be too late to question him there surrendering the Kings castles or forts to his enemy for the ward to C. by his captain, ^{or other officer} or a treasonable doing to his Majesties Enemy, Book 3. Stat. 10. Hen. 6. c. 17. It was resolved to be no Excuse to Act for his treason, by Commanding the guard at King Charles the firsts trial and Murder, that he Acted as a Soldier by Command of his Superior officer whom he believed to obey or did. For that person being a traitor, all who joines with him were traitors and obedient to a traitorous Command is also traitorous. Sir Henry Vane was found guilty of high treason for being in war, against King Charles the second, altho' what he did was by Authority of Parliament called by King Charles the first; in respect the Power of the Parliament should be that Kings death notwithstanding a Statute that it should not be Disaid without consent of both Houses, there being no special provision that it should continue any time after the Kings death. Kol. Rep. 14. But the furnishing Armes to Sir John Oldcastle and others and being in arms with them against King Henry the Eight was adjudged to be treason: because that was done out of Fear of death and they Acted or Returned at the first opportunity from the Actes.

1 The Statute of 25 Hen. 3. Requires to Convict one

one of some kind of high treason that an Overt or open Act be proved against him. Which it to be understood of proof beyond Reasoning in the thought and Internal purpose which cannot be known tried and proved without Act, Overt and Manifesting by some External open Act, Breach of Compassion and Imagining the death of the King, Breach or Laying war, or ad joining to the Kings Enemies. Be cause of these words, and the proof probably attained by open deed, which follow and are founded to the treason of Compassion the Kings death, receiving war and ad joining to his enemies d. 25 Hen. 3. cap. 2. And as these treasons are several and distinct treasons, one of them cannot be made an Overt Act of another.

But other treasons consisting of Vilebits or Deformities facts as Violating the Lawes, falsifying the Kings Money, &c. which are Overt acts in themselves, Require no other overt act in order to Convict the traitor, as an Indictment for Murder requires no other Overt Act to prove it, but the Murder it self. Compassion the Kings death may be manifest by not only by overt acts of a Direct Conspiracy to take away his life, as the providing Weapons or ~~the~~ fulfilling the Means to kill him; or assisting with the others, and procuring them to attempt the Kings death; but also by such Overt Acts as show a design that cannot be Executed without apparent hazard of his Majesties life. If a foreign Prince to invade the Realm, and preparing for the same by some Overt Act, or conspiring to lay war against the King, or Making preparations to Transport Armes to be sent and Imagining him by Violence till he hath offered to be taken Demand, or to Remove evil Counsellors from the Ministry which tends upon the matter to Dissolve them of his Royal Pleasure, as in the case of the Earl of Essex 43 Eliz. and the Lord Cobham, Jac. 1 are Overt Acts of Compassion the Kings death. ^{and} Stat. 3. Hen. 6. c. 12. 14. and Imagining his Majesties death ^{with} Stat. 3. Hen. 6. c. 12. 14. ^{and} Stat. 19. 21. Hen. 6. c. 12. 14. ^{and} Stat. 19. 21. Hen. 6. c. 12. 14. ^{and} Stat. 21. Hen. 6. c. 12. 14. ^{and} Stat. 21. Hen. 6. c. 12. 14. ^{and} Stat. 21. Hen. 6. c. 12. 14.