name of *perduellio* gave place to that of *læsa majestas, deminuta* or *minuta majestas,* or simply *majestas.* The lex Julia majestatis, to which the date of 48 b.c. has been conjecturally assigned, continued to be the basis of the Roman law of treason until the latest period of the empire. The original text of the law appears to have still dealt with what were chiefly military offences, such as sending letters or messages to the enemy, giving up a standard or fortress, and desertion. With the empire the law of *majestas* received an enormous development, mainly in the reign of Tiberius, and led to the rise of a class of pro­fessional informers, called *delatores.@@1* The conception of the emperor as divine @@2 had much to do with this. It became a maxim that treason was next to sacrilege @@3 in gravity. The law as it existed in the time of Justinian is contained chiefly in the titles of the *Digest* @@4 and *Code@@5 “Ad legem Juliam majestatis.”* The definition given in the *Digest* (taken from Ulpian) is this : “majestatis crimen illud est quod adversus populum Romanun vel adversus securi­tatem ejus committitur.” Of treasons other than military offences, some of the more noticeable were the raising of an army or levying war without the command of the emperor, the questioning of the emperor’s choice of a suc­cessor, the murder of (or conspiracy to murder) hostages or certain magistrates of high rank, the occupation of public places, the meeting within the city of persons hostile to the state with weapons or stones, incitement to sedition or administration of unlawful oaths, release of prisoners justly confined, falsification of public documents, and failure of a provincial governor to quit his province at the expiration of his office or to deliver his army to his successor. The intention *(voluntas)* was punishable as much as an overt act *(effectus).@@6* The reported opinions as to what was not treason show the lengths to which the theory of treason must have been carried by at least some person in authority. It was not treason to repair a statue of the emperor which had decayed from age, to hit such a statue with a stone thrown by chance, to melt down such a statue if unconsecrated, to use mere verbal insults against the emperor, to fail in keeping an oath sworn by the emperor, or to decide a case contrary to an imperial constitution. Treason was one of the “ publica judicia,” *i.e.,* one of those crimes in which any citizen was entitled to prosecute. The law went further than this, and deprived the accused in a charge of treason of his ordinary remedy for malicious prosecution. It also took from him the privilege (which those accused of other crimes generally possessed) from accusation by women or infamous persons, from liability to be put to the torture, and from having his slaves tortured against him (see Torture). The punishment from the time of Tiberius was death (usually by beheading) @@7 and confiscation of property, coupled with complete civil disability. A traitor could not make a will or a gift or emancipate a slave. Even the death of the accused, if guilty of treason of the gravest kind, such as levying war against the state, did not extinguish the charge, but the memory of the deceased became infamous, and his property was forfeited as though he had been con­victed in his lifetime.

The law of England corresponds to a considerable extent with Roman law; in fact, treason is made by Blackstone the equivalent of the *crimen læsæ majestatis.* The history of the crime in the two systems agrees in this that in both the law was settled by legislation at a com­paratively early period, and subsequently developed by judicial construction. In both, too, there were exceptional features distinguishing this crime from other offences.@@8 For instance, at common law treason was not bailable (except by the Queen’s Bench) or clergyable, could not be cleared by sanctuary, and did not admit of accessories, for all were principals, nor could a married woman plead coercion by her husband. To stand mute and refuse to plead did not save the lands of the accused, as it did in felony, so that the “ peine forte et dure ” (see Torture) was unnecessary in treason. These severities were due to the conception of treason as a breach of the oath of allegiance. Other differences introduced by statute will be mentioned later. In some cases a statute simply affirmed the common law, as did the Statute of Treasons to a great extent, and as did 26 Hen. VIII. c. 13, depriving those accused of treason of the benefit of sanctuary. How far the Roman law was consciously imitated in England it is impossible to determine. It was certainly not adopted to its full extent, for many acts were *majestas* which were never treason, even in the most despotic periods. Treason was the subject of legislation in many of the pre-Conquest codes. The laws of Alfred @@9 and Æthelred@@10 punished with death any one plotting against the life of the king. Soon after the Conquest the *Leges Henrici Primi@@*11 put any one slaying the king’s messenger in the king’s mercy. The crime was shortly defined by Glanvill@@12 and at greater length by Bracton,@@13 who follows Roman law closely. He includes under treason sedition and coining. Treason seems to have rested chiefly, if not wholly, upon common law until the year 1352, when the famous Statute of Treasons (25 Edw. III. st. 5, c. 2) was passed. The statute appears to have arisen from a petition of the Commons in 1348, praying for a definition of the offence of accroaching royal power, a charge on which several persons—notably Gaveston and the Despencers—had suffered. The offences made treason by the statute are these:—(1) to compass or imagine@@14 the death of the king,@@15 the queen, or their eldest son and heir ; (2) to violate the king’s companion, or his eldest daughter unmarried, or the wife of his eldest son and heir ; (3) to levy war against the king in his realm, or be adherent to the king’s enemies in his realm, giving them aid and com­fort in the realm or elsewhere ; (4) to counterfeit the king’s great or privy seal or his money ; (5) to bring false money into the realm, counterfeit to the money of Eng­land, as the money called Lushburgh,@@16 knowing the money to be false ; (6) to slay the chancellor, treasurer, or the king’s justices of the one bench or the other, justices in eyre, or justices of assize, and all other justices assigned to hear and determine, being in their places doing their offices. The statute further defined petty treason to be the slaying of a master by his servant, a husband by his wife, or a prelate by a man secular or religious owing him allegiance. In all cases of treason not specified in the statute the justices before whom the case came were to tarry without going to judgment until the cause had been

@@@1 See Merivale, *Hist. of the Romans under the Empire,* vol. iii. p. 467, vol. V. p. 141.

@@@2 “ Principes instar deorum esse ” are the words of Tacitus.

@@@3 This crime was called *læsa majestas divina* in later law.

@@@4 xlviii. 4.

@@@5 ix. 8.

@@@6 A similar provision was contained in the Golden Bull of Charles IV. c. 24. In English law, with the one exception of a statute of Richard II. (21 Ric. II. c. 3) repealed in the first year of Henry IV., an overt act has always been necessary. The difficulty of proving a mere intention is obvious. In French and German law the overt act *(attentat or Unternehmen)* is as indispensable as in English.

@@@7 To harbour a fugitive enemy was punishable only by deportation, *Dig*., xlviii. 19, 40.

@@@8 The position of treason as a special crime prosecuted by special procedure is one common to most legal systems at some period of their existence. For instance, in Germany, by a constitution of Henry VII. the procedure was to be summary, *sine strepitu et figura judicii.*

@@@9 c. 4.

@@@10 V. 30.

@@@11 lxxix. 2.

@@@12 xiv. 1.

@@@13 118*b*.

@@@14 These words, according to Luders *(Law Tracts,* note *ad fin. ),* mean to attempt or contrive.

@@@15 This by 1 Mary, sess. 3, c. 1 includes a queen regnant.

@@@16 *i.e.,* Luxemburg.