may mortally wound the ſovereign, *per infortuniam,* without any traitorous intent, is no treaſon : as was the caſe of Sir Walter Tyrrel, who, by the command of King William Rufus, ſhooting at a hart, the arrow glanced againſt a tree, and killed the king upon the ſpot. But as this compaſſing or imagination is an act of the mind, it cannot poſſibly fall under any judicial cognizance, unleſs it be demonſtrated by ſome open or overt act. The ſtatute expreisly requires, that the accuſed “ be thereof upon ſufficient proof attainted of ſome open act by men of his own condition.” Thus, to provide weapons or ammunition for the purpoſe of killing the king, is held to be a palpable overt act of treaſon in imagining his death. To conſpire to impriſon the king by force, and move towards it by affembling company, is an overt act of compaſſing the king’s death ; for all force, uſed to the perſon of the king, in its conſequence may tend to his death, and is a ſtrong preſumption of ſomething worſe intended than the preſent force, by ſuch as have ſo far thrown off their bounden duty to their ſovereign : it being an old obſervation, that there is generally but a ſhort inter­val between the prisons and the graves of princes. It ſeems clearly to be agreed, that by the common law and the ſta­tute of Edw. III. words ſpoken amount only to a high miſdemeanor, and no treaſon. For they may be ſpoken in heat, without any intention ; or be miſtaken, perverted, or miſremembered by the hearers ; their meaning depends al­ways on their connection with other words and things ; they may ſignify differently even according to the tone of voice with which they are delivered ; and ſometimes ſilence itſelf is more expreſſive than any diſcourſe. As therefore there can be nothing more equivocal and ambiguous than words, it would indeed be unreaſonable to make them amount to high treaſon. And accordingly, in 4 Car. I. on a reference to all the judges, concerning ſome very atrocious words ſpoken by one Pyne, they certified to the king, “ that though the words were as wicked as might be, yet they were no treaſon ; for unleſs it be by ſome particular statute, no words will be treaſon.” If the words be ſet down in writing, it argues more deliberate intention ; and it has been held, that writing is an overt act of treaſon ; for *ſcribere est agere.* But even in this caſe the bare words are not the treaſon, but the deliberate act of writing them.

2. The ſecond ſpecies of treaſon is, “ if a man do vio­late the king’s companion, or the king’s eldeſt daugh­ter unmarried, or the wife of the king’s eldeſt ſon and heir.” By the king’s companion is meant his wife; and by violation is underſtood carnal knowledge, as well without force as with it : and this is high treaſon in both parties if both be conſenting ; as ſome of the wives of Henry VIII. by fatal experience evinced.

3. The third ſpecies of treaſon is, “if a man do levy war againſt our lord the king in his realm.” And this may be done by taking arms, not only to dethrone the king, but under pretence to reform religion, or the laws, or to re­move evil counſellors, or other grievances whether real or pretended. For the law does not, neither can it, permit any private man, or ſet of men, to interfere forcibly in matters of ſuch high importance ; eſpecially as it has eſtabliſhed a ſufficient power for theſe purpoſes in the high court of parliament : neither does the conſtitution juſtify any private or particular reſiſtance for private or particular grievances ; though, in cases of national oppreſſion, the na­tion has very juſtifiably riſen as one man, to vindicate the original contιact ſubſiſting between the king and his people.

4. “ If a man be adherent to the king’s enemies in his realm, giving to them aid and comfort in the realm or elsewhere,” he is alſo declared guilty of high-treaſon. This muſt likewiſe be proved by ſome overt act ; as by giving them intelligence, by fending them proviſions, by ſelling them arms, by treacherously surrendering a forteſs, or the like.

5. “ If a man counterfeit the king’s great or privy ſeal,” this is alſo high-treaſon. But if a man takes wax bearing the impreſſion of the great ſeal off from one patent and fixes it to another, this is held to be only an abuse of the ſeal, and not a counterfeiting of it : as was the caſe of a certain chaplain, who in ſuch a manner framed a diſpenſation for non-residence. But the knaviſh artifice of a lawyer much exceeded this of the divine. ’ One of the clerks in chancery glued together two pieces of parchment; on the uppermost of which he wrote a patent, to which he regularly obtained the great ſeal, the label going through both the ſkins. He then dissolved the cement, and taking off the written patent, on the blank ſkin, wrote a freſh patent of a different import from the former, and publiſhed it as true. This was held no counterfeiting of the great ſeal, but only a great misprision ; and Sir Edward Coke mentions it with ſome indig­nation that the party was living at that day.

6. The ſixth ſpecies of treaſon under this ſtatute is, “ if a man counterfeit the king’s money ; and if a man bring falſe money into the realm counterfeit to the money of England, knowing the money to be falſe, to merchandiſe and make payment withal.” As to the first branch, counter­feiting the king’s money ; this is treaſon, whether the ſalſe money be uttered in payment or not. Alſo if the king’s own minters alter the ſtandard or alloy eſtabliſhed by law, it is treaſon. But gold and ſilver money only are held to be within this ſtatute. With regard likewiſe to the ſecond branch, importing foreign counterfeit money in order to ut­ter it here ; it is held that uttering it, without importing it, is not within the ſtatute.

7. The laſt ſpecies of treaſon aſcertained by this statute is, “ if a man 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.” Theſe high magiſtrates, as they repreſent the king’s majeſty du­ring the execution of their offices, are therefore for the time equally regarded by the law. But this ſtatute extends on­ly to the actual killing of them ; and not to wounding, or a bare attempt to kill them. It extends alſo only to the of­ficers therein ſpecified ; and therefore the barons of the ex­chequer, as ſuch, are not within the protection of this act ; but the lord keeper or commissioners of the great ſeal now ſeem to be within it, by virtue of the ſtatutes 5 Eliz. c. 18. and I W. and Μ. c. *21.*

The new treaſons, created ſince the ſtatute 1 M. c. I. and not comprehended under the deſcription of ſtatute 25 Edw. III. may be compriſed under three heads. The first species relates to Papiſts ; the ſecond to falſifying the coin or other royal ſignatures, as falſely forging the sign manual, privy ſignet, or privy seal, which ſhall be deemed high trea­ſon (I M. ſtat. ii. c. 6.) The third new ſpecies of high treaſon is ſuch as was created for the ſecurity of the Proteſtant ſucceſſion in the houſe of Hanover. For this purpoſe, after the act of ſettlement was made, it was enacted by ſta­tute 13 and 14 W. III. c. 3. that the pretended prince of Wales, assuming the title of King James III. ſhould be at­tainted of high treaſon ; and it was made high-treaſon for any of the king’s ſubjects to hold correſpondence with him or any perſon employed by him, or to remit money for his uſe. And by 17 Geo. II. c. 39. it is enacted, that if any of the ſons of the pretender ſhall land or attempt to land in this kingdom, or be found in the kingdom or any of its do­minions, he ſhall be adjudged attainted of high-treaſon; and