

offender's traitorous purpose. In other words, it was the intention itself that was looked upon as the crime; but, in order to warrant a conviction, it was necessary to make proof of the manifestation of the intention by some overt act tending towards the accomplishment of the criminal object. And so it was held that where conspirators met and consulted together how to kill the King, it was an overt act of compassing his death, even although they did not then resolve upon any scheme for that purpose. And all means made use of, either by persuasion or command, to incite or encourage others to commit the act, or join in the attempt to commit it, were held to be overt acts of compassing the King's death; and any person, who but assented to any overtures for that purpose, was involved in the same guilt. (See Broom's Common Law, 1875, 5th ed., pages 880, 881.)

More words of themselves were not regarded as an overt act of treason; for, in *Pine's* case, it was held that his having spoken of Charles I. as *unwise* and as *not fit to be King*, was not treason, although very wicked, and that, unless it were by some particular statute, no words alone would be treason. (2 Stephens' History of Criminal Law, page 308.)

But words were sometimes relied on to shew the meaning of an Act. As, where C., being abroad, said: "I will kill the King of England if I can come at him," and the indictment, after setting forth these words, charged that C. went into England for the purpose indicated by the words, it was held that C. might, on proof of these facts, be convicted of treason, for the traitorous intention, evinced by words uttered, converted an action, innocent in itself, into an overt act of treason. The deliberate act of writing treasonable words was also considered an overt act, if the writing were published; for *scribere est agere*. (3 Coke's Ins. 14.) But, even in that case, it was not the bare words themselves that were considered the treason, and the preponderance of authority favoured the rule that writings not published did not constitute an act of treason. (*Algernon Sidney's* case (1683), 9 How. St. Tr., 817; Broom's Common Law, 5th ed., page 883.)

The wide construction placed upon the language of the Statute of Treasons (25 Edward III., Stat. 5, ch. 2), is shewn by the words of Coke, who, in referring to the cases of Lord Cobham and the Earl of Essex, says: "He that declareth by overt act to depose the King, is a sufficient overt act to prove, that he compasseth and imagineth the death of the King." (3 Coke's Ins. 6.) Hale adds that "to levy war against the King directly is an overt act of compassing the King's death. (Hale, Pleas of the Crown, page 110.) And Foster says "a treasonable correspondence with the enemy is an act of compassing the King's death," and, in support of this, he refers to *Lord Preston's* case, in which it was held that taking a boat at Surrey Stairs, in Middlesex, to go on board a ship in Kent for the purpose of conveying to Louis XIV. a number of papers informing him of the naval and military condition of England and to so help him to invade England and depose William and Mary was an overt act of treason by compassing and imagining the death of William and Mary. (*Lord Preston's* case, (1691), 12 How. State Trials, page 645; Foster's Crown Cases, pages 195, 197.)