

are still a few distinctions in the proceedings appropriate to felony and misdemeanor, but the classification has for many years become a mere source of embarrassment and intricacy.

Passing to the definitions of crimes I come first to crimes against public tranquillity. The most important of these is high treason—an offence of which the definition has played an important part in English history. Bracton has not on this occasion copied the language of the "Digest;" but down to the reign of Edward the Third, high treason was a term little, if at all less vague than "majestas," and its definition in the year 1352 by statute was regarded as a highly important security against oppression. It defined treason as consisting of three main branches,\* namely: (1) Compassing or imagining the death of the king and displaying such compassing and imagination by any open act; (2). Levying war against the king; (3). Adhering to the king's enemies. The first of these heads has been interpreted to mean forming an intention in the mind, which intention is displayed by any open act. There is some ground for the opinion that the "imagining" mentioned in the act (which was in Norman French) really meant attempting; but the other interpretation has always been received and acted upon. This act has remained in force for upwards of five hundred years, and its meaning has been the subject of vehement controversy. It was for centuries regarded as the law under which all attempts to make by force revolutionary changes in the government must be punished, but it is obvious that such changes might be made without any direct attempt upon the king's life, and also without "levying war" against him in the plain sense of the words. Hence at different stormy periods in English history—for instance, in the reigns of Henry the Eighth, Elizabeth, and Charles the Second—other acts were made treason, as, for instance, denying the king's supremacy over the Church, maintaining particular theological doctrines, speaking words of a seditious character, and the like. These, however, were regarded as stretches of power, and the act of Edward the Third was

regarded with almost superstitious reverence as containing the true constitutional theory on the subject. As it was found in practice too narrow for the purposes to which it was from time to time sought to apply it, the judges on many occasions enlarged it by "construction" or interpretation. It was held, for instance, that every one who tried to lay any restraint on the king for the purpose of making him change his measures, or who attempted to depose him, must be taken to "imagine his death," because deposed kings are often put to death. In the same way it was held that any riot having for its object the effecting by force any public general object, as, for instance, the repeal of an obnoxious law, was high treason by levying of war. These judicial interpretations or constructions were naturally unpopular, and juries sometimes refused to give effect to them. During the reign of George the Third accordingly an Act of Parliament was passed which gave them statutory authority during his life, but the greater part of this Act expired on his death in 1820. In the present reign, during the excitement produced in England and Ireland in 1848 by the continental revolutions of that year, another act was passed which left untouched the act of Edward the Third and the constructions put upon it by the judges, but re-enacted in substance the act of George the Third, declaring, however, as to the greater part of it, that offenders against it should be guilty of felony and liable to penal servitude for life, or any less punishment. It was, however, expressly declared that this should not in any way affect the older law. High treason accordingly at present is defined by the law of England twice over; namely, first by the Act of Edward the Third, upon which the judges have put a variety of constructions and interpretations; and secondly, by the Act of 1848, which embodies these constructions and interpretations, but punishes the offender with secondary instead of capital punishment. Some indeed of the constructions in question which relate to attacks on the king's person are still treason by statute.

There are a variety of other acts against political offences, some of which are strange and even antiquated. The only one of interest enough to be mentioned in such a sketch as this is the offence of seditious libel. The crime is nowhere defined on authority. Practically it

\* There are some others of less importance which I omit. It is treason *e. g.*, to kill the Lord Chancellor or a Judge of the High Court whilst discharging the duties of his office. When the statute of treasons was passed, murder was clergyable, and the object was, that a man who murdered a Judge on the bench should be hanged even if he could read, and if his wife had not before her marriage been a widow.