

if what he says be overruled as of no Moment; the Edge  
of the Axe is turned towards him, and some one of the  
Kings Council prays or Demands Judgement against him  
Which the Lord high steward pronounceth in the same  
terms, as Judgement is given against a Commoner;  
the law being Deaf to all Distinctions of persons in  
this case vide supra pag. 229. In the case of the Viscount  
of Stafford found guilty of high treason upon an Impeach-  
ment by the house of Commons, when it was moved  
by the Lords that he might be beheaded, the Judges  
gave their opinion, that if any other than the Usual  
Judgement of high treason were given upon him, it  
would be prejudicial to his Majesty. For Inferior  
courts cannot consider any person as Attainted of  
treason, unless the ordinary Judgement was given against  
him. But when it is given against a peer, the most in-  
nomious and painfull parts of it are usually remit-  
ted by the Grace of the Crown, the King Pardon'd all  
of them except beheading which is a part of the Judge-  
ment. Therefore the Lord high steward by order of the  
peers, gave the ordinary Judgement against the said  
Viscount of Stafford, but told him that the Lords would  
be humble suitors to the King that his Majesty  
would remit all the punishment, but the taking  
off his head. The warrant for Execution of a peer for Treason or Felony is under the  
Hand High Steward, priest and Seal, Hals Hist. placet. Corbol. 2. pag. 469.  
When the trial is over, a serjeant at arms, by  
Direction of the Clerk of the Crown, proclaims aloud  
with three eyes, that my Lord high steward of Great  
Britain doth strictly command all persons here to  
part in peace of God and our sovereign Lord the King  
for his grace is going to Dissolve his Commission. After  
the Lord high steward stands up Uncovered, pronou-  
ceth it Dissolved: and in token of its being at an  
end, takes the white Rod that had been held by him  
during the trial, in both his hands, and breaks it

intwo. The Judgement with <sup>the</sup> Records of the Arraignment trial  
and Judgement must be Delivered to be kept and Inrolled in  
the Kings Bench. 774.

Tit. 3.

The form and Method of trial of peers and  
Others in Parliament for the Crimes of  
high treason or felony or Misprision of either.

Crimes are tried in Parliament, 1<sup>o</sup> by Bills of  
Attainder, 2<sup>o</sup> By the house of Lords in Parliament assembled.

.. Sect. 1.

The form and Method of trial by Bills  
of Attainder.

A Bill of Attainder against a Commoner cannot be  
gin in the house of Lords, because they dont originally Meddle  
with the life of a Commoner. But Peers are sometimes  
first Impeached before the house of Lords who give the  
witnesses their oaths; and then the Impeachment is  
turned into a Bill of Attainder, which the Commons pro-  
ceed upon and pass without any other Evidence than  
what was offered to the Lords, as was done in the case  
of the Earl of Strafford. But Bills of Attainder are  
first brought into the house of Commons both against  
peers, as was done against the Duke Minmouth; and  
Commoners, as that against Sir John Gouwick.

Upon a Bill of Attainder first brought into the house  
of Commons the procedure is thus. The house allows  
or refuses Counsel to the prisoner as they think fit.  
When the Bill is read to the prisoner and his Counsel  
at the Bar, as a Charge to which they must answer:  
the Counsel for the Bill open the evidence they have to  
prove the Suggestions of the Bill. Which being done,  
and the Counsel for the prisoner having answered  
in their turn, the prisoner and the Counsel on both