

Peers are ordered to withdraw. Then the Members of the house Reason and speak to the Cause, and canvass the weight of the evidence. They are not tied up to the forms and Niceties and Evidence Required in ordinary Courts of Justice. Nor doth the statute of 7 W. 3 cap. 3 regulate in trials in cases of high treason Extends to their proceeding 7 W. 3 cap. 3 § 12. Albeit things said in an Judgment cannot be afterwards Altered: Yet the house alters the suggestions of a Bill of Attainder, as the case appears to them to be verified. They hear all evidence that may concern the Matter, whether positive or Circumstantial tending to clear their Conscience, that the Bill ought to pass; they will not stifle any thing that may bring out the truth; and then the wisdom of the house Distinguisheth and Judge what is Material and what not. The house of Commons doth not swear witnesses produced before them. The Bill receives a first and second Reading, and then is committed. Afterward it gets a third Reading and then is passed or refused by Vote. Attainder is done in absence of the prisoner and his Counsel, when they and the Counsel for the Bill are all withdrawn by order of the house. The Bill is sent up to the house of Peers where it gets the finishing stroke the sanction of an oath, and the witnesses are sworn and Partially Examined. The Spiritual as well as the Temporal Lords sit and Judge upon a bill of Attainder, tho' it be causa sanguinis: Because the Bishops would not have any to think, that a Parliament was complete or an Act of any force without the Concurrence of them who lookt upon them selves as the first estate in Parliament.

The Parliament sometimes inflict punishments that cannot be inflicted in Westminster hall, and sometimes alleviate the ordinary punishment.

According to Circumstances. So the Lord Mounson Sir John Davenport and others Concerned in the Murder of King Charles the first, had not the Judgment of high treason, but to forfeit their estates &c. In regard many had Actual suffering. It is true many Acts of Attainder have been afterwards reversed in succeeding Parliaments because of Rancour and Irregular proceedings in obtaining those Acts; but Never for the Parliaments making use of the legislative power to Attain Men.

sect. 2.

The form and Method of the trial of peers for the Crimes of high treason and felony or Misprision of either, before the house of Peers in Parliament.

When a Peer is tried before the house of Lords in Parliament for high treason or felony or Misprision of either, upon an indictment at the suit of the King, or upon an Impeachment Exhibited by the house of Commons: his Majesty at the humble Desire of the Lords grants Commission to one of their own Number Commonly the Lord Chancellor to be Lord high steward and proceed in the trial. But it was Determined in the case of the five Popish Lords, that the office of Lord high steward in the trial of Peers Impeached by the house of Commons, is not necessary; and that the Lords in Parliament may proceed in such trials if a high steward be not Made according to their humble Desire: because if such an office were necessary, the King might by not appointing a high steward Defeat the Jurisdiction of the Lords.

At the time appointed for the trial, the Temporal Lords come from their own houses to the place of trial. The Temporal Lords only without the Spiritual.