

Names which was done in favour of the Viscount of Staffor  
and allowed as legal by the Lords in Parliament at Down  
1680 but also that the Execution for felony hath been chan-  
ged from hanging to beheading, as in the case of the Duke  
of Somerset in the Reign of King Edward the first, and of  
the Lord Dudley in the Reign of King Charles the first, who  
were both condemned for felony, and had their heads  
severed from their Bodies. To which and other Instances  
all the Answer can be given, that *Judicandum est legibus  
non Exemplis*

2.

The Specialities observed in the trial offer  
said Statutes of high treason for Counterfeiting  
the Kings coin, great or privy seal, sign  
Manual or privy signet, or other high trea-  
son whereof the trial is not regulated by  
Statute, but according to the Course of the  
Common law of England.

Such high treasons, if committed in that county,  
may be tried by the same Commission of Oyer and terminer  
above Mentioned, according to the Course of the Common  
law of England: And as it now stands, the prisoners are  
to have the Peremptory challenges of 35 of the Jurors (he  
turned to try them, if they Demand it 182 Ph. & M. cap. 10 and  
Witnesses for them Must be sworn in the trial 1 A. cap. 9 & 3.

But the Specialities in the trial And 1/ If the prisoner  
is not allowed a Copy of the Indictment, or of the Names of  
Jurors Returned to try him. But if he take a legal Excep-  
tion to the Indictment, it is said, that the Court will grant  
him a copy of so much of the Indictment as Concerns  
his Exception. Also if he hath such Matter to plead as can  
not be well put into form, without knowledge of the  
Charge

Charge <sup>against</sup> him as said in the Indictment, V. G. Autre fois acquitted  
it is said, the Court will give the heads of the Indictment, to make  
his plea so drawn as to shew the Charge against him <sup>Hawkins</sup>  
pl. Cr. lib. 2 chap. 39 § 13. 2/ He cannot Demand of the court to  
assign him counsel to advise with, except in special doubtful  
points of law arising at or after his trial, and proposed or  
offered by him to the Consideration of the Court, when he  
prays counsel to argue them: As where it appears ques-  
tionable, whether the facts proved, if true, fully amount to  
the Crime charged against him; or whether the persons  
offered to be Evidence against him, be legal Witnesses, in  
Respect of such or such Exceptions against them; or whether  
Certain persons Returned off his Jury can be lawful Jurors,  
the Indictment or process &c. be strictly legal, Hawkins  
pl. Cr. lib. 2 chap. 39 § 4 or where the prisoner hath a good  
to plead Code 3 Inst. 29. Hawkins ibid. § 5. 3/ The prisoner  
must plead to or Confess the Indictment, so soon as the  
Bill is found against him by the grand jury. If the Court  
then cause him to be arraigned and require him to plead; or  
else the Court may give Judgment against him for refusing  
to plead, or standing mute. 4/ He having plead not guilty,  
four of the Justices or Commissioners (unus quorum) may  
sign and seal a precept to the sheriff of the county, or other  
Minister (whose province it is to return Jurors) to Return  
a Jury of free holdors, to appear at some hour of the same  
day in which the Bill was found, or at some hour of the  
next or other day, as the Court shall think fit. And when  
the sheriff returns the precept with an Answered schedule  
of the summoned free holdors, and they do appear, and  
the Witnesses for the King are ready, the Court may proceed  
to the trial of such a prisoner. 5/ One Witness is sufficient  
Evidence of the treason Hale pl. Cr. 262. Henning's q. 59  
As it is in any case of felony where two Witnesses are