

So of the Commons, there be Knights, Esquires, Gentlemen, Citizens and Yeomen, and yet all of them Commons of the Realm. And as every of the Nobles is one a Peer to another, though he be of a several Degree; so it is of the Commons, and as it hath been said of Men, so doth it hold of Noble Women, either by Birth or Marriage.

And forasmuch, as this Judgment by Peers is called *lawful*, it shews the Antiquity of this manner of Trial: it was the ancient, accustomed, legal Course, long before this Charter.

Or by the *Law of the Land*, that is, by due Process of Law, for so the Words are expressly expounded by the Statute of 37 Edw. 3. c. 8. And these Words are specially to be referred to those forgoing, to whom they relate. As none shall be condemned without a lawful Trial by his Peers, so none shall be taken, imprisoned, or put out of his Freehold, without due Process of the Law, that is, by the Indictment or Presentment of good and lawful Men of the Place, in due manner, or by Writ original of the Common Law.

Now, seeing that no Man can be taken, arrested, attached, or imprisoned, but by due Process of Law, and according to the Law of the Land, these Conclusions hereupon do follow.

1. That the Person or Persons who commit any, must have lawful Authority.

2. It is necessary that the Warrant, or *Mittimus*, be lawful, and that must be in Writing under his Hand and Seal.

3. The Cause must be contained in the Warrant, as for Treason, Felony, &c. Suspicion of Treason, or Felony, or the like particular Crime; for if it do not thus specify the Cause, if the Prisoner bring his *Habeas Corpus*, he must be discharged, because no Crime appears on the Return; nor is it in such Case, any Offence at all, if the Prisoner make his Escape; whereas if the *Mittimus* contain the Cause, the Escape would respectively be Treason or Felony, though in Truth he were not guilty of the first Offence. And this mentioning the Cause, is agreeable to Scripture, *Acts 5*.

4. The Warrant or *Mittimus*, containing a lawful Cause, ought to have a lawful Conclusion, &c. and him safely to keep until he be delivered by Law, &c. and not until the Party committing shall farther order.