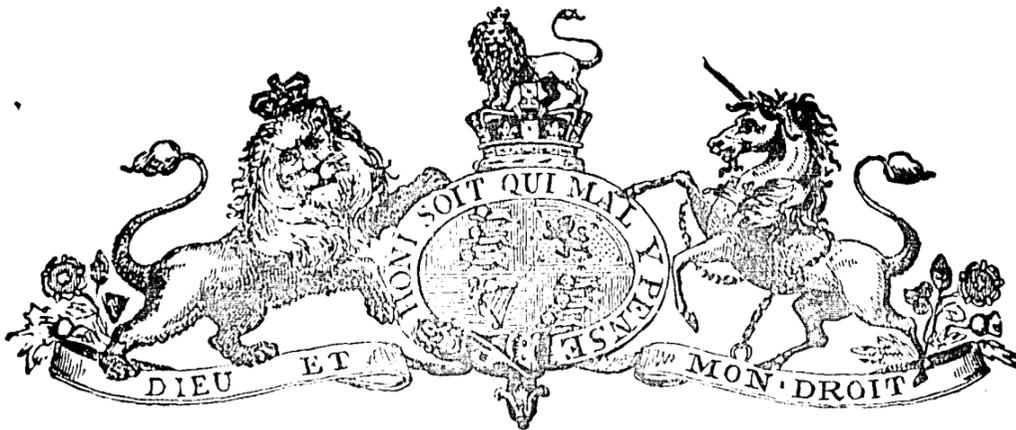


1922.
VICTORIA.



ANNO TERTIO DECIMO
GEORGII QUINTI REGIS.

No. 3270.

An Act to declare that certain Enactments of the Parliament of England and of the Parliament of Great Britain and of the Parliament of the United Kingdom of Great Britain and Ireland in force at the time of the passing of the Act 9 George IV. c. LXXXIII. shall not apply in Victoria and to transcribe or consolidate other Enactments of such Parliaments and for other purposes.

[Reserved 14th December, 1922. Royal Assent proclaimed 25th May, 1923.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Imperial Acts Application Act 1922* and shall come into operation on the first day of September, One thousand nine hundred and twenty-three and is divided into Parts and Divisions as follows:—

Short title
commencement
and division.

Part I.—General, ss. 1-8.

Part II.—Transcribed Enactments, s. 9.

Division 1.—Administration of Justice, Offences against.

Division 2.—Affrays and Riots.

Division 3.—Civil Procedure.

Division 4.—Criminal Law and Procedure.

Division 5.—Disorderly Houses.

Part

Part II.—Transcribed Enactments—*continued.*

- Division 6.—Distress.
- Division 7.—Elections.
- Division 8.—Escapes and Rescues.
- Division 9.—Fraudulent Gifts.
- Division 10.—Guardians.
- Division 11.—Habeas Corpus.
- Division 12.—Juries.
- Division 13.—Justice and Liberty.
- Division 14.—Justices of the Peace.
- Division 15.—Landlord and Tenant.
- Division 16.—Libels.
- Division 17.—Parliament, Speeches in.
- Division 18.—Penal Statutes.
- Division 19.—Privilege of Parliament.
- Division 20.—Process of the Peace in Superior Courts.
- Division 21.—Public Officers Protection.
- Division 22.—Real Property.
- Division 23.—Sunday.
- Division 24.—Witchcraft, Pretence of.
- Division 25.—Witnesses.

Part III.—Consolidating Provisions—

- Division 1.—Act of Parliament, ss. 10-12.
- Division 2.—Administration of Estates, ss. 13-36.
- Division 3.—Certiorari, ss. 37 and 38.
- Division 4.—Charitable Trusts, ss. 39 and 40.
- Division 5.—Criminal Procedure and Punishment, ss. 41-48.
- Division 6.—Fires, ss. 49-51.
- Division 7.—Forcible Entries and Detainers, ss. 52-54.
- Division 8.—Lotteries and Gaming, ss. 55-63.
- Division 9.—Marriage, ss. 64 and 65.
- Division 10.—Parliament, ss. 66 and 67.
- Division 11.—Religious Worship, Disturbance of, s. 68.
- Division 12.—Servants' Characters, ss. 69-71.
- Division 13.—Sheriff, ss. 72-85.
- Division 14.—Solicitors, &c., ss. 86-92.
- Division 15.—Unlawful Oaths, ss. 93-96.
- Division 16.—Supplementary, ss. 97-100.

PART I.—GENERAL.

Interpretation. 2. In the construction of this Part of this Act unless inconsistent with the context or subject-matter—

“Enactment.” The expression “enactment” includes any Statute Ordinance or other Provision in the nature of a Statute or Ordinance set out as such in the editions of the Statutes hereinafter referred to and

and also includes any part of such Statute Ordinance or other Provision and also includes any Statute or part of a Statute made or passed in or since the reign of George the First and also includes any Schedule to any such enactment.

3. In the case of enactments made or passed before the reign of George the First this Part of this Act and the Schedules thereto shall be read as referring to the first Revised Edition of the Statutes prepared in England under the direction of the Statute Law Committee in all cases of enactments included in that edition and as referring in all cases of enactments not so included to the edition prepared in England under the direction of the Record Commission and known as the "Statutes of the Realm." Judicial and official notice shall be taken of each of such editions and of the contents thereof.

Editions of
Statutes
referred to.

4. The enactments mentioned in the First Schedule to this Act to the extent set out in Part II. of this Act shall continue to have in Victoria whether separately or in combination with any unrepealed enactment or statutory provision such force and effect, if any, as they had at the commencement of this Act. In construing any such enactment where the whole Statute Ordinance or other Provision is not set out in full regard may be had to any part thereof not so set out. In the case of enactments made or passed prior to the reign of Henry VII. the translation from the original Latin or Norman-French in Part II. shall be deemed to be correct. The titles to the Divisions of Part II. shall be read as descriptive merely and not as affecting the construction of the enactment or enactments set out thereunder.

Transcribed
enactments.
First Schedule.

5. (1) Nothing in section seven shall affect or apply to or be construed as affecting or applying to any enactments which (independently of the provisions of the Act 9 George IV. c. LXXXIII.)—

Enactments
not affected
by repeal.
Act. 28 & 29
Vict. c. 63.

(a) by express words apply to the dominions (a) or other possessions of the Crown and which on their proper construction are applicable to Victoria as being included in such dominions or other possessions.

(b) by necessary intendment either as involving matters of Imperial concern or otherwise are applicable to Victoria.

(2) Without limiting the generality or effect of the provisions of the last preceding sub-section nothing in section seven shall affect or apply to or be construed as affecting or applying to any enactments (so far as they are in force in England (b) at the passing of this Act) relating to the security or safety of the Sovereign.

(3) Nothing in section seven shall affect or apply to or be construed as affecting or applying to any enactment relating to naval or military matters

(a) See, for example, 34 and 35 Henry VIII. c. VIII. as to administering medicines and 2 & 3 Philip and Mary c. VII. (with which compare 31 Elizabeth c. XII.) as to buying of stolen horses in markets and fairs which apparently at present could not be applied in Victoria. *Fitzgerald v. Lucke Legge* 118, and see also 1 Charles I. c. I. relating to games on Sunday and 24 Henry VIII. c. XII., 25 Henry VIII. cc. XIX. XX. XXI., 5 & 6 Edward VI. c. I., 1 Elizabeth c. I., and 13 Elizabeth c. II. relating to ecclesiastical matters which also seem to be inapplicable.

(b) See The English Chronological Table and Index of the Statutes.

matters or to naturalization nationality or aliens or to copyrights (a) patents of inventions or designs or trade marks or to any matter with respect to which the Parliament of the Commonwealth of Australia has made or hereafter makes any law with which a repeal if effected by such section would be inconsistent.

Special enactments not affected by repeal.
Second Schedule.

6. Without limiting the generality or effect of the provisions of section five the enactments mentioned in the first column of the Second Schedule to this Act to the extent to which they were in force in England (b) on the thirty-first day of December, 1921, and to such further extent as is expressly provided in the said Schedule shall be deemed to be unaffected by and to be excepted from the provisions of section seven. The words under the title "Subject-matter" in such Schedule shall be read as descriptive merely.

Repeal.
See The Constitution Act s. 1.; The Constitution Act Amendment Act 1915 s. 11.

7. Save as aforesaid all the enactments (commencing with the Statute of Merton 20 Henry III. A.D. 1235-6) in force in England at the time (c) of the passing of the Act 9 George IV. chapter LXXXIII. are so far as they are in force in Victoria and so far as the Parliament of Victoria has authority to repeal them hereby repealed in and for Victoria.

Saving.

Provided that where any enactment not repealed by this section has been repealed confirmed revived or perpetuated by any enactment hereby repealed such repeal confirmation revivor or perpetuation shall not be affected by the repeal effected by this section ;

And the repeal by this section of any enactment shall save as hereinafter provided not affect any enactment in which such enactment has been applied incorporated or referred to (d) ;

And the repeal by this section of any enactment shall not affect the construction of any enactment not so repealed whether as regards the past or the future ;

And this section shall not affect the validity invalidity effect or consequences of any thing already done or suffered—or any existing status or capacity—or any right title obligation or liability already acquired accrued or incurred or any remedy or proceeding in respect thereof—or any release or discharge of or from any debt penalty obligation liability claim or demand or any indemnity—or the proof of any past act or thing ;

Nor

(a) The Imperial Copyright Act of 1911, 1 & 2 George V., c. XLVI., repeals the former Copyright Acts 1734 to 1888 and the International Copyright Acts (except ss. 7, 8 of 25 & 26 Victoria c. LXVIII.) in any part of His Majesty's Dominions as from the coming into operation of the Act of 1911 in such part. The Act has been brought into force in Australia as from 1st July, 1912, by the Commonwealth Act No. 20 of 1912. See English Alphabetical Index to Statutes in force under Title "Copyright."

(b) See the English Chronological Table and Index of The Statutes.

(c) 25th July, 1828. The Acts 9 George IV. cc. LXXIV.-XCI. were passed on the same day and it may therefore be that none of the Acts from 9 George IV. c. LXXIV. to LXXXII. fall within s. 24 of 9 George IV. c. LXXXIII. or are included in the repeal but they do not appear to be of any importance in Victoria.

(d) See, for example, *Crown Remedies and Liability Act* 1915 s. 7 and Sixth Schedule incorporating *inter alia* 43 George III. c. XLVI. and see *Justices Act* 1915, ss. 181, 185, *Master and Apprentice Act* 1915, ss. 4, 8, 10, *Supreme Court Act* 1915, s. 16, *City of Melbourne Act*, 8 Victoria, No. 12 s. 28.

Nor shall this section affect the validity of any marriage heretofore or hereafter celebrated or any established principle or rule of law or equity or established jurisdiction form or course of pleading practice or procedure or any existing usage franchise liberty custom privilege restriction exemption office appointment payment allowance emolument or benefit notwithstanding that the same respectively may have been in any manner affirmed recognised or derived by in or from any enactment hereby repealed.

Nor shall this section revive or restore any jurisdiction office duty drawback fee payment franchise liberty custom right title privilege restriction exemption usage practice procedure or other matter or thing not now existing or in force.

Provided also and without limiting the generality of the foregoing provisos that the repeal effected by this section shall save as hereinafter provided not affect any Statute or Ordinance made in Victoria or made in New South Wales and in force in Victoria whether as regards the past or the future and that such repeal shall not prevent the recognition in Victoria of any status right title or other matter or thing elsewhere acquired under any of the enactments repealed by this section in the same circumstances and to the same extent as such recognition would have been granted or given prior to the commencement of this Act.

Provided further that the repeal effected by this section shall affect section two hundred and ten of the *Supreme Court Act* 1915 so far as such section may be read as incorporating any enactment but not further or otherwise.

8. The Governor in Council may at any time and from time to time by proclamation published in the *Government Gazette* indicate any enactment or enactments as an enactment or enactments which is or are to be added to those mentioned in the First Schedule to this Act or to those mentioned in the Second Schedule to this Act or to those set out in Part II. of this Act and thereupon such enactment or enactments shall be deemed to have been mentioned at the appropriate place in such First Schedule or such Second Schedule or such Part II. (as the case may be) and the effect shall be the same as if the appropriate Schedule or Part had at the time of the passing of this Act included such added enactment or enactments and sections four six and seven of this Act shall be construed accordingly. In the case of any enactment being so added to the First Schedule only, it shall be deemed to be set out in full in Part II. whether it does or does not fall under any of the Divisions of that Part.

Powers of the Governor in Council.

First Schedule.
Second Schedule.

PART II.—TRANSCRIBED ENACTMENTS.

9. The enactments referred to in section four of this Act shall have effect and be construed as provided by that section and are set out in this Part under the Divisions mentioned in section one as being included in Part II. and such Divisions shall be deemed to be Divisions of this Part.

Transcribed enactments.

DIVISION

DIVISION 1.—ADMINISTRATION OF JUSTICE, OFFENCES AGAINST.

[1275] 3 EDWARD I. (STATUTE OF WESTMINSTER THE FIRST) c. XXVIII.

Frauds by
officers of
courts.

And that no clerk of any justicer, or sheriff . . . shall work any fraud, whereby common right may be delayed or disturbed; and if any do so he shall be punished . . .

[1275] 3 EDWARD I. (STATUTE OF WESTMINSTER THE FIRST) c. XXIX. (a).

Deceits by
pleaders.

It is provided also, that if any serjeant, pleader, or other, do any manner of deceit or collusion in the King's court, or consent to do it, in deceit of the court or to beguile the court, or the party, and thereof be attainted, he shall be imprisoned . . . and from thenceforth shall not be heard to plead in the court for any man; and if he be no pleader, he shall be imprisoned . . .

DIVISION 2.—AFFRAYS AND RIOTS.

[1328] 2 EDWARD III. (STATUTE OF NORTHAMPTON) c. III.

Riding or
going armed
in affray of the
peace.

Item, it is enacted, that no man great nor small, of what condition soever he be, except the King's servants in his presence, and his ministers in executing of the King's precepts, or of their office, and such as be in their company assisting them, and also upon a proclamation of deeds of arms in time of peace and that in places where such deeds are to be done, be so hardy to come before the King's justices, or other of the King's ministers doing their office, with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day, in fairs, markets, nor in the presence of the justices or other ministers, nor in no part elsewhere, upon pain to forfeit their armour to the King, and their bodies to prison . . . And that the King's justices in their presence, sheriffs, and other ministers in their bailwicks . . . and . . . constables . . . shall have power to execute this Act.

[1351-2] 25 EDWARD III. st. V. c. II.

Certain offences
not treason.

And if percase any man of this realm ride armed openly or secretly with men of arms against any other, to slay him, or rob him, or take him, or retain him till he hath made fine or ransom for to have his deliverance, it is not the mind of the King nor his council, that in such case it shall be judged treason, but shall be judged felony or trespass, according to the laws of the land of old time used, and according as the case requireth . . .

[1393-4] 17 RICHARD II. c. VIII. (b).

Riots
prohibited, and
sheriffs required
to suppress
them by the
power of the
county.

Wherefore our sovereign lord the King in this present Parliament hath defended to all his liege people, . . . that none shall make such assemblies, riot, or rumour against the peace in no wise; and if any such assembly be begun as soon as the sheriffs and other the King's ministers may thereof have knowledge, they with the strength of the county and country, where such case shall happen, shall set disturbance against such malice with all their power, and shall take such offenders, and them put in prison till due execution of the law be of them made; and that all . . . liege people of the realm, shall be attending and aiding with all their strength and power to the sheriffs and ministers aforesaid in such case.

[1411] 13 HENRY IV. c. VII. (b).

Justices of
peace and
sheriffs shall
arrest all
rioters; and
record their
offences; and
inquire thereof.
The penalty of
the nearest
justices, &c.
omitting to
execute this
Act.

Item, it is ordained and established, that if any riot, assembly, or rout of people against the law, be made in any partie of the realm, that the justices of peace, three or two of them at the least, and the sheriff . . . of the county where such riot, assembly, or rout shall be made hereafter, shall come with the power of the county, if need be, to arrest them, and shall arrest them; . . . And moreover, that the justices of peace dwelling nighest in every county where such riot, assembly, or rout of people shall be made hereafter, together with the sheriff . . . shall do execution of this statute, every one upon pain of an hundred pounds, to be paid to the King as often as they shall be found in default of the execution of the same statute.

[1414]

(a) See *Quirk v. Watson*, 4 A.J.R. 117.(b) See *Unlawful Assemblies and Processions Act 1915*, which enables one justice to act.

AFFRAYS AND RIOTS.

[1414] 2 HENRY V. ST. I. C. VIII.

And that such rioters attainted of great and heinous riots, shall have one whole year's imprisonment at the least: And that the rioters attainted of petty riots shall have imprisonment . . . And that the King's liege people, being sufficient to travel in the county where such routs, assemblies, or riots be, shall be assistant to the justices, . . . sheriff, . . . when they shall be reasonably warned, to ride with the said justices, . . . and sheriff, . . . in aid to resist such riots, routs, and assemblies, upon pain of imprisonment, and to make fine and ransom to the King: . . .

Punishment of rioters. Every able person shall be assistant to the justices and sheriff to repress riots.

DIVISION 3.—CIVIL PROCEDURE.

[1623-4] 21 or 21 & 22 JAMES I. C. XVI. S. 5.

An Acte for lymytation of Accions, and for avoyding of Suits in Lawe.

* * * * *

And be it further enacted, that in all accions of trespas quare clausum fregit hereafter to be brought, wherein the defendand or defendants shall disclaime in his or their plea to make any title or claime to the land in which the trespasse is by the declaracion supposed to be done, and the trespas be by negligence, or involuntary, the defendand or defendants shalbe admitted to pleade a disclaymer, and that the trespas was by negligence, or involuntary, and a tender or offer of sufficient amends for such trespas before the accion brought, wherupon or upon some of them, the plaintiffe or plaintiffes shalbe enforced to joyne issue; and if the said issue be found for the defendand or defendants, or the plaintiff or plaintiffes shalbe nonsuted, the plaintiffe or plaintiffes shalbe clearlie barred from the said accion or accions and all other suite concerning the same.

After judgment for defendand, &c. in trespas quare clausum fregit, upon disclaimer of defendand, &c. plaintiff barred of his action.

[1705] 4 & 5 ANNE C. III. S. 27.

An Act for the Amendment of the Law and the better Advancement of Justice.

* * * * *

And be it enacted by the authority aforesaid that from and after the said first day of Trinity term actions of account shall and may be brought and maintained against the executors and administrators of every guardian bailiff and receiver and also by one joynt tenant and tenant in common his executors and administrators against the other as bailiff for receiving more than comes to his just share or proportion and against the executor and administrator of such joynt tenant or tenant in common and the auditors appointed by the court where such action shall be depending shall be and are hereby impowered to administer an oath and examine the parties touching the matters in question and for their pains and trouble in auditing and taking such account have such allowance as the court shall adjudge to be reasonable to be paid by the party on whose side the balance of the account shall appear to be.

Proviso for actions of account by and between joint tenants bailiffs, &c.

DIVISION 4.—CRIMINAL LAW AND PROCEDURE.

[1692] 4 WILLIAM & MARY C. XVIII. SS. 1, 5, 6.

An Act to prevent malicious Informations in the Court of King's Bench

I. Whereas diverse malicious and contentious persons have more of late then in times past procured to be exhibited and prosecuted informations in their Majesties Court of King's Bench at Westminster against persons in all the counties of England for trespasses batteries and other misdemeanours and after the parties so informed against have appeared to such informations and pleaded to issue the informers do very seldom proceed any further whereby the persons so informed against are put to great charges in their defence and although att the tryals of such informations verdicts are given for them or a noli prosequi be entred against them they have no remedy for obtaining costs against such informers be it enacted that the clerk of the crowne in the said Court of King's Bench for the time being shall not without expresse order to be given by the said court in open court exhibit receive or file any information for any of the causes aforesaid or issue out any processe thereupon before he shall have

Recital that malicious informations had been exhibited and not proceeded in:

Clerks of the cr wn not to exhibit, &c. Inform tion without order of court, nor issue process till recognizance to prosecute.

CRIMINAL LAW AND PROCEDURE.

have taken or shall have delivered to him a recognizance from the person or persons procuring such information to be exhibited with the place of his her or their abode title or profession to be entred to the person or persons against whom such information or informations is or are to be exhibited in the penalty of twenty pounds that he she or they will effectually prosecute such informations or information and abide by and observe such orders as the said court shall direct which recognizance the said clerk of the crowne and alsoe every justice of the peace of any county city franchise or towne corporate (where the cause of any such information shall arise) are hereby impowered to take after the takeing whereof by the said clerk of the crowne or the receipt thereof from any justice of the peace the said clerk of the crowne shall make an entry thereof upon record and shall file a memorandum thereof in some publick place in his office that all persons may resort thereunto without fee And in case any person or persons against whom any information or informations for the causes aforesaid or any of them shall be exhibited shall appeare thereunto and plead to issue and that the prosecutor or prosecutors of such information or informations shall not att his and their owne proper costs and charges within one whole yeare next after issue joyned therein procure the same to be tryed or if upon such tryall a verdict passe for the defendant or defendants or in case the said informer or informers procure a noli prosequi to be entred then in any of the said cases the said Court of King's Bench is hereby authorized to award to the said defendant and defendants his her or their costs unlesse the judge before whom such information shall be tryed shall att the tryal of such information in open court certifie upon record that there was a reasonable cause for exhibiting such information And in case the said informer or informers shall not within three months next after the said costs taxed and demand made thereof pay to the said defendant or defendants the said costs, then the said defendant & defendants shall have the benefitt of the said recognizance to compel them thereunto.

Memorandum in the office.

Defendant to have costs if cause not tried within one year after issue joined, &c.

unless judge certify.

Defendants remedy for costs.

This Act only extends to Informations by master of crown office.

Proviso for demise of the King.

* * * * *

5. Provided that nothing in this Act relateing to informations shall extend or be construed to extend to any other informations then such as are or shall be exhibited in the name of their Majesties coroner or attorney in the Court of King's Bench for the time being (commonly called the master of the crowne office) any thing in the said Act contained to the contrary notwithstanding.

6. And be it further enacted by the authority aforesaid that upon the demise of any King or Queen of this realme all pleas to informations in the said court shall stand and be good in law without calling defendants to plead again to the same unlesse the defendants desire so to do and make request of the said court for that purpose within five months next after such demise any law or usage to the contrary notwithstanding.

[1808] 48 GEORGE III. c. LVIII. s. 1.

An Act for amending the Law with regard to the Course of Proceeding on Indictments and Informations in the Court of King's Bench in certain cases ;

Ball bonds in cases where persons are charged with any offence for which they may be prosecuted by indictment, &c. in the Court of King's Bench, not being treason or felony.

1. Be it enacted that whenever any person shall be charged with any offence for which he or she may be prosecuted by indictment or information in his Majesty's Court of King's Bench, not being treason or felony, and the same shall be made appear to any judge of the same court by affidavit, or by certificate of an indictment or information being filed against such person in the said court for such offence, it shall and may be lawful for such judge to issue his warrant under his hand and seal, and thereby to cause such person to be apprehended and brought before him or some other judge of the same court, or before some one of his Majesty's justices of the peace, in order to his or her being bound to the King's Majesty, with two sufficient sureties, in such sum as in the said warrant shall be expressed, with condition to appear in the said court at the time mentioned in such warrant, and to answer to all and singular indictments or informations for any such offence ; and in case any such person shall neglect or refuse to become bound as aforesaid, it shall be lawful for such judge or justice respectively to commit such person to the common gaol of the county, city, or place where the offence shall have been committed, or where he or she shall have been apprehended, there to remain until he or she shall become bound as aforesaid, or shall be discharged by order of the said court in term time, or of one of the judges of the said court in vacation ; and the recognizance to be thereupon

CRIMINAL LAW AND PROCEDURE.

thereupon taken shall be returned and filed in the said court, and shall continue in force until such person shall have been acquitted of such offence, or in case of conviction shall have received judgment for the same, unless sooner ordered by the said court to be discharged; and that where any person, either by virtue of such warrant of commitment as aforesaid, or by virtue of any writ of capias ad respondendum issued out of the said court, is now detained or shall hereafter be committed to and detained in any gaol for want of bail, it shall be lawful for the prosecutor of such indictment or information to cause a copy thereof to be delivered to such person, or to the gaoler, keeper, or turnkey of the gaol wherein such person is or shall be so detained, with a notice thereon indorsed that unless such person shall within eight days from the time of such delivery of a copy of the indictment or information as aforesaid cause an appearance and also a plea or demurrer to be entered in the said court to such indictment or information, and appearance and the plea of not guilty will be entered thereto in the name of such person; and in case he or she shall thereupon, for the said space of eight days after such delivery of a copy of the indictment or information as aforesaid, neglect to cause an appearance and also a plea or demurrer to be entered in the said court to such indictment or information, it shall be lawful for the prosecutor of such indictment or information upon an affidavit being made and filed in the said court of the delivery of a copy of such indictment or information with such notice indorsed thereon as aforesaid to such person, or to such gaoler, keeper, or turnkey, as the case may be, which affidavit may be made before any judge or commissioner of the said court authorized to take affidavits in the said court to cause an appearance and the plea of not guilty to be entered in the said court to such indictment or information for such person; and such proceedings shall be had thereupon as if the defendant in such indictment or information had appeared and pleaded not guilty according to the usual course of the said court; and that if upon the trial of such indictment or information any defendant so committed and detained as aforesaid shall be acquitted of all the offences therein charged upon him or her, it shall be lawful for the judge before whom such trial shall be had, although he may not be one of the judges of the said Court of King's Bench, to order that such defendant shall be forthwith discharged out of custody as to his or her commitment as aforesaid, and such defendant shall be thereupon discharged accordingly.

Entry of appearance, &c. in certain cases, for persons detained on warrant of commitment or on capias ad respondendum.

[1810] 50 GEORGE III. c. LIX. s. 2

An Act for more effectually preventing the Embezzlement of Money or Securities for Money belonging to the Public by any Collector, Receiver, or other Person entrusted with the Receipt, Care, or Management thereof.

2. And be it further enacted, that if any such officer, collector, or receiver so entrusted with the receipt, custody, or management of any part of the public revenues shall, knowingly furnish false statements or returns of the sums of money collected by him or entrusted to his care, or of the balances of money in his hands or under his control, such officer, collector, or receiver so offending and being thereof convicted shall be adjudged guilty of a misdemeanor, and shall be adjudged to suffer the punishment of fine and imprisonment at the discretion of the court, and be rendered for ever incapable of holding or enjoying any office under the crown.

Officers giving in false statements of money entrusted to their care, guilty of a misdemeanor, &c., and rendered incapable of holding office under the crown.

[1819] 60 GEORGE III. & 1 GEORGE IV. c. IV. ss. 1, 2, 8, 9, 10.

An Act to prevent Delay in the Administration of Justice in Cases of Misdemeanor.

1. Whereas great delays have occurred in the administration of justice in cases of persons prosecuted for misdemeanors by . . . information in his Majesty's courts of King's Bench at Westminster . . . by reason that the defendants in some of the said cases have according to the present practice . . . an opportunity of postponing their trials to a distant period, by means of imparlances in the said . . . courts of King's Bench, . . . For remedy thereof be it enacted . . . that

Preamble.

CRIMINAL LAW AND PROCEDURE.

Persons prosecuted in the Court of King's Bench for misdemeanors shall not be permitted to imparle, but must plead or demur; and in default thereof judgment may be entered.

. that where any person shall be prosecuted in his Majesty's Court of King's Bench for any misdemeanor, by information and shall appear in term time in person, to answer to such information, such defendant upon being charged therewith shall not be permitted to imparle to a following term, but shall be required to plead or demur thereto within four days from the time of his or her appearance; and in default of his or her pleading or demurring within four days as aforesaid, judgment may be entered against the defendant for want of a plea; and in case such defendant shall appear to such information by his or her attorney it shall not be lawful for such defendant to imparle to a following term, but a rule requiring such defendant to plead may forthwith be given, and the plea or demurrer to such information enforced, or judgment by default entered thereupon, in the same manner as might have been done before the passing of this Act in cases where the defendant had appeared to such information by his or her attorney in a previous term.

Court may allow further time to plead.

2. Provided always, and be it further enacted, that it shall be lawful for the said courts, or for any judge of the same respectively, upon sufficient cause shewn for that purpose, to allow further time for such defendant to plead or demur to such information.

* * * * *

Prosecutions for misdemeanors by the attorney or solicitor general, a copy of the information shall be delivered to the party.

8. And be it further enacted by the authority aforesaid, that in all cases of prosecutions for misdemeanors instituted by his Majesty's attorney or solicitor general in any of the courts aforesaid, the court shall, if required, make order that a copy of the information shall be delivered, after appearance, to the party prosecuted, or his attorney, upon application made for the same, free from all expence to the party so applying; provided that such party, or his attorney, shall not have previously received a copy thereof.

In case such prosecution is not brought to trial within twelve calendar months, the court may authorize the defendant to bring on the trial.

9. Provided also, and be it further enacted, that in case any prosecution for a misdemeanor instituted by his Majesty's attorney or solicitor general in any of the courts aforesaid shall not be brought to trial within twelve calendar months next after the plea of not guilty shall have been pleaded therein, it shall be lawful for the court in which such prosecution shall be depending, upon application to be made on the behalf of any defendant in such prosecution, of which application twenty days previous notice shall have been given to his Majesty's attorney or solicitor general, to make an order, if the said court shall see just cause so to do, authorizing such defendant to bring on the trial in such prosecution; and it shall thereupon be lawful for such defendant to bring on such trial accordingly, unless a nolle prosequi shall have been entered in such prosecution.

Saving as to informations of quo warranto, &c.

10. And be it further enacted, that nothing in this Act contained shall extend or be construed to extend to any prosecution by information in nature of a quo warranto, or for the non-repair of any bridge or highway.

[1828] 9 GEORGE IV. c. XXXII. s. 3.

An Act to amend the Law in certain cases.

* * * * *

Every punishment for felony not punishable with death after it has been endured shall have the effect of a pardon under the great seal.

3. And whereas it is expedient to prevent all doubts respecting the civil rights of persons convicted of felonies not capital who have undergone the punishment of which they were adjudged: Be it therefore enacted that where any offender hath been or shall be convicted of any felony not punishable with death and hath endured or shall endure the punishment to which such offender hath been or shall be adjudged for the same the punishment so endured hath and shall have the like effects and consequences as a pardon under the great seal as to the felony whereof the offender was so convicted. Provided always that nothing herein contained nor the enduring of such punishment shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any other felony.

DIVISION

DIVISION 5.—DISORDERLY HOUSES.

[1751-2] 25 GEORGE II. c. XXXVI. s. 8.

An Act for the better preventing Thefts and Robberies, and for regulating Places of publick Entertainment, and punishing Persons keeping disorderly Houses.

* * * * *

8. And whereas, by reason of the many subtle and crafty contrivances of persons keeping bawdy-houses, gaming-houses, or other disorderly houses, it is difficult to prove who is the real owner or keeper thereof, by which means many notorious offenders have escaped punishment: Be it enacted by the authority aforesaid, that any person who shall at any time hereafter appear, act, or behave him or herself as master or mistress, or as the person having the care, government, or management of any bawdy-house, gaming-house, or other disorderly house, shall be deemed and taken to be the keeper thereof, and shall be liable to be prosecuted and punished as such, notwithstanding he or she shall not in fact be the real owner or keeper thereof.

Who shall be deemed the keeper of bawdy-house, &c.

DIVISION 6.—DISTRESS.

[1267] 52 HENRY III. (STATUTE OF MARLEBERGE) c. XV.

It shall be lawful for no man from henceforth, for any manner of cause, to take distresses out of his fee, nor in the King's highway, nor in the common street, but only to the King or his officers, having special authority to do the same.

In what places distresses shall not be taken.

1275] 3 EDWARD I. (STATUTE OF WESTMINSTER THE FIRST) c. XVI.

In right thereof, that some persons take, and cause to be taken, the beasts of other, chasing them out of the shire where the beasts were taken; it is provided also, that none from henceforth do so; and if any do, he shall make a grievous fine, as is contained in the Statute of Marleberge, made in the time of King Henry, father to the King that now is. And likewise it shall be done to them which take beasts wrongfully, and distrain out of their fee; and shall be more grievously punished, if the manner of the trespass do so require.

None shall drive a distress out of the county; [See Stat. Marl. ch. 4, 15.] nor distrain out of his own fee.

[1300] 28 EDWARD I. (ARTICLES UPON THE CHARTERS) c. XII.

From henceforth the King will, that such distresses as are to be taken for his debts shall not be made upon beasts of the plough, so long as a man may find any other, according to that which is ordained elsewhere by Statute, with the same pain, &c. And he will not that over-great distresses shall be taken for his debts, nor driven too far; and if the debtor can find able and convenient surety until a day before the day limited to the sheriff, within which a man may purchase remedy or agree for the demand, the distress shall be released in the mean time; and he that otherwise doth, shall be grievously punished.

Distresses for the King's debt.

DIVISION 7.—ELECTIONS.

[1275] 3 EDWARD I. (STATUTE OF WESTMINSTER THE FIRST) c. V.

And because elections ought to be free, the King commandeth upon great forfeiture, that no man by force of arms, nor by malice, or menacing, shall disturb any to make free election.

Freedom of election.

DIVISION 8.—ESCAPES AND RESCUES.

[1742-3] 16 GEORGE II. c. XXXI. ss. 3, 4.

An Act for the further Punishment of Persons who shall aid or assist Prisoners to attempt to escape out of lawful Custody.

* * * * *

3. And be it further enacted that if any person shall, aid or assist any prisoner to attempt to make his or her escape from the custody of any constable, or other officer or person who shall then have the lawful charge of such prisoner, in order to carry him or her to gaol, by virtue of a warrant of commitment for treason or any felony expressed in such warrant; then every person so offending, and being lawfully convicted thereof, shall be deemed and adjudged to be guilty of felony,(a)

To assist any person to escape from a constable, being charged with treason or felony; the offender shall be deemed guilty of felony,

4. Provided

(a) See s. 43 of this Act.

ESCAPES AND RESCUES.

The prosecution to commence within a year.

4. Provided always, and be it enacted, that there shall be no prosecution for any of the said offences unless such prosecution be commenced within one year after such offence committed.

[1751-2] 25 GEORGE II. c. XXXVII. s. 9.

An Act for better preventing the horrid Crime of Murder.

Penalty of rescuing a murderer.

9. And be it enacted by the authority aforesaid, that if any person or persons whatsoever shall by force set at liberty, or rescue, or attempt to rescue or set at liberty, any person out of prison who shall be committed for or found guilty of murder, or rescue or attempt to rescue any person convicted of murder going to execution, or during execution, every person so offending shall be deemed, taken, and adjudged to be guilty of felony (a)

DIVISION 9.—FRAUDULENT GIFTS.

[1571] 13 ELIZABETH c. V. ss. 1, 2, 5.

An Acte agaynst fraudulent Deedes Gyftes Alienations, &c.

Evils of feigned conveyances to defraud creditors ;

For the avoyding and abolysshing of fained covenous and fraudulent feoffmentes gyftes grauntes alienations conveyances bondes suites judgements and executions, aswell of landes and tenementes as of goodes and catals, more commonly used and practysed in these dayes, then hathe ben scene or hard of heretofore ; which feoffmentes gyftes grauntes alienations conveyances bondes suites judgements and executions have ben and are devysed & contrived of malyce fraude covyne collusion or guyle, to thend purpose and intent to delaye hynder or defraude creditors and others of theyr juste and lawfull actions suites debtes accomptes damages penalties forfaitures not onely to the let or hindraunce of the due course and execution of lawe and justyce, but also to the overthrowe of all true and playne dealing barganyng and chevysaunce betwene man and man, without the which no common welth or civile societie can be mayntayned or contynued : Bee yt therefore declared ordeyned and enacted by thauuthoritie of this present Parliament, that all and every feoffment gyfte graunte alienation bargayne and conveyance of landes tenementes hereditamentes goodes and catalls or of any of them, or of any lease rent common or other profyte or charge oute of the same landes tenementes hereditamentes goodes and catalls or any of them, by wryting or otherwyse, and all and every bonde suite judgement and execution at any tyme, had or made sithens the begynninge of the Queenes Majesties raigne that nowe is or at any tyme hereafter to be had or made, to or for any intent or purpose before declared and expressed, shalbe from henceforth deemed and taken, onely as againste that person or persons his or theyre heyres successors executors administrators and assignes and every of them, whose actions suites debtes accomptes damages penalties forfaitures by such guylefull covenous or fraudulent devyses and practyses as is aforesaid, are shall or mought be in any wyse dysturbed hyndred delayed or defrauded, to be clearly and utterly voyde frustrate and of none effecte ; any pretence color fayned consideration expressing of use or any other matter or thyng to the contrary notwithstanding.

Such conveyances declared void as against the creditors.

All parties to such fraudulent conveyances, putting the same in effect, shall forfeit one year's value of land, and the whole value of goods so conveyed ;

2. And be yt further enacted by thauuthoriti aforesaid, that all and every the parties to such faygned covenous or fraudulent feoffment gyfte graunte alienation bargayne conveyance bondes suites judgements executions and other thynges before expressed, or beinge privy and knowynge of the same or any of them, which at any tyme after the tenthe daye of June next commyng shall wittingly and willingly put in ure avowe mayntaine justefie or defend the same or any of them, as true simple and done had or made bona fide and upon good consyderation, or shall alien or assigne any the landes tenementes goodes leases or other things before mentioned, to hym or them conveyed as is aforesaid, or anye parte thereof, shall incurre the penaltie and forfayture of one yeres value of the said landes tenementes & heredytamentes leases rentes comons or other profytes of or oute of the same, and the whole value of the said goodes and cattalls, and allso so muche monye as are or shalbe conteyned in any suche covenous and fayned bonde ; the one moitie whereof to be to the Queenes Majestie, her heyres and successors, and thother moitye to the partye or parties greeved by suche fayned and fraudulent feoffment gyfte graunte alyenation bargayne conveyance bondes suites judgements executions leases rentes communes profytes charges and other thynges aforesaide ; to be recovered in any of the Queenes courtes of record

half to the Crown, and half to the party grieved.

(a) See s. 43 of this Act.

FRAUDULENT GIFTS.

record by action of debt byll playnt or information, wherein none essoyne protection or wager of lawe shalbe admitted for the defendaunt or defendauntes ; and also beinge thereof lawfully convycted, shall suffer imprysonment for one halfe yere.

* * * * *

5. Provyded also and be it enacted by thauuthoriti aforesaid, that this Acte or any thyng therein contayned shall not extend to any estate or interest, in landes tenementes hereditamentes leases rentes comons profites goodes or catals, had made conveyed or assured or hereafter to be had made conveyed or assured, which estate or interest is or shalbe upon good consyderation, & bona fide lawfully conveyed or assured to any person or persons or bodyes politique or corporate, not havng at the tyme of suche conveyance or assurance to them made any maner of notice or knowledge of suche covyne fraude or collusion as is aforesaid ; any thing before mentioned to the contrary hereof notwithstandinge.

Proviso for conveyances made bona fide, and on good consideration.

DIVISION 10.—GUARDIANS.

[1267] 52 HENRY III. c. XVII.

It is provided, that if land holden in socage be in the custody of the kinsfolke of the heir, because the heir is within age, the guardians shall make no waste, nor sale, nor any destruction of the same inheritance ; but safely shall keep it to the use of the said heir : So that when he cometh to his lawful age, they shall answer to him for the issues of the said inheritance by a lawful accompt, saving to the same guardians their reasonable costs. Neither shall the said guardians give or sell the marriage of such an heir, but to the advantage of the foresaid heir : But the next kinsfolke which had the ward, for all that time that writs of impleading did not lie, shall have such wardship unto the advantage of the heir, as is said before, without waste, exile, or destruction making.

The duty of guardians in socage.

[1660] 12 CHARLES II. c. XXIV. SS. 8 AND 9.

An Act takeing away the Court of Wards and Liveries and Tenures in Capite and by Knights Service and Purveyance, and for setling a Revenue upon his Majesty in Lieu thereof.

* * * * *

8. And bee it further enacted by the authority aforesaid that where any person hath or shall have any child or children under the age of twenty one yeares and not married at the time of his death that it shall and may be lawfull to and for the father of such child or children, whether borne at the time of the decease of the father or at that time in ventre sa mere, or whether such father be within the age of twenty one yeares or of full age by his deed executed in his life time, or by his last will and testament in writing in the presence of two or more credible witnesses in such manner and from time to time as he shall respectively thinke fitt to dispose of the custody and tuition of such child or children for and dureing such time as he or they shall respectively remaine under the age of twenty one yeares or any lesser time to any person or persons in possession or remainder and that such disposition of the custodie of such childe or children made since the twenty fourth of February one thousand six hundred forty five or hereafter to be made shall be good and effectuell against all and every person or persons claiming the custody or tuition of such childe or children as guardian in socage or otherwise ; and that such person or persons to whom the custodie of such childe or children hath beene or shall be soe disposed or devised as aforesaid shall and may maintaine an action of ravishment of ward or trespasse against any person or persons which shall wrongfully take away or detaine such child or children for the recovery of such childe or children and shall and may recover damages for the same in the said action for the use and benefit of such childe or children.

Fathers may dispose of the custody of children during their minority.

Actions of ravishment of ward for guardians.

9. And be it further enacted that such person or persons to whom the custody of such childe or children hath beene or shall be soe disposed or devised shall and may take into his or their custody to the use of such childe or children the proffitts of all lands tenements & hereditaments of such childe or children, and alsoe the custody tuition and mannagment of the goods chattells and personall estate of such childe or children till their respective age of twenty one yeares or any lesser time according to such disposition aforesaid, and may bring such action or actions in relation thereunto as by law a guardian in common socage might doe.

Custody of lands and personal estate of children, in guardians, who may bring action, &c.

DIVISION

DIVISION 11.—HABEAS CORPUS. (a)

[1679] 31 CHARLES II. c. II. ss. 1-9, 11-13, 15-20.

An Act for the better securing the Liberty of the Subject
and for Prevention of Imprisonments beyond the
Seas.

Recital that
delays had been
used by
sheriffs in
making returns
of writs of
habeas corpus,
&c.

Sheriff, &c.
within three
days after
service of
habeas corpus,
with the
exception of
treason and
felony, as and
under the
regulations
herein
mentioned,
to bring up
the body before
the court to
which the writ
is returnable ;

and certify
the true causes
of imprison-
ment.

Exceptions in
respect of
distance.

How writs to
be marked.

Persons
committed,
except for
treason and
felony, &c.
may appeal to
the lord
chancellor, &c.

Proceedings
thereon.

Habeas corpus
may be
awarded ;

1. Whereas great delays have been used by sheriffs goalers and other officers to whose custody any of the King's subjects have been committed for criminal or supposed criminal matters in making returns of writs of habeas corpus to them directed by standing out an alias and pluries habeas corpus and sometimes more and by other shifts to avoid their yielding obedience to such writs contrary to their duty and the known laws of the land whereby many of the King's subjects have been and hereafter may be long detained in prison in such cases where by law they are baylable to their great charge and vexation. For the prevention whereof and the more speedy relief of all persons imprisoned for any such criminal or supposed criminal matters be it enacted by the King's most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled and by the authority thereof that whensoever any person or persons shall bring any habeas corpus directed unto any sheriff or sheriffs goaler minister or other person whatsoever for any person in his or their custody and the said writt shall be served upon the said officer or left at the goale or prison with any of the under-officers under-keepers or deputy of the said officers or keepers that the said officer or officers his or their under-officers under-keepers or deputies shall within three dayes after the service thereof as aforesaid (unlesse the committment aforesaid were for treason or felony plainly and specially expressed in the warrant of committment) upon payment or tender of the charges of bringing the said prisoner to be ascertained by the judge or court that awarded the same and endorsed upon the said writt not exceeding twelve pence per mile and upon security given by his owne bond to pay the charges of carrying backe the prisoner if he shall be remanded by the court or judge to which he shall be brought according to the true intent of this present Act and that he will not make any escape by the way make returne of such writt or bring or cause to be brought the body of the partie soe committed or restrained unto or before the lord chauncellor or lord keeper of the great seale of England for the time being or the judges or barons of the said court from whence the said writt shall issue or unto and before such other person and persons before whome the said writt is made returnable according to the command thereof, and shall likewise then certifye the true causes of his detainer or imprisonment unlesse the committment of the said partie be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be residing and if beyond the distance of twenty miles and not above one hundred miles then within the space of ten dayes and if beyond the distance of one hundred miles then within the space of twenty dayes after such delivery aforesaid and not longer.

2. And to the intent that noe sheriff goaler or other officer may pretend ignorance of the import of any such writt be it enacted by the authority aforesaid that all such writts shall be marked in this manner Per statutum tricesimo primo Caroli Secundi Regis and shall be signed by the person that awards the same. And if any person or persons shall be or stand committed or detained as aforesaid for any crime unlesse for treason or felony plainly expressed in the warrant of committment in the vacation time and out of terme it shall and may be lawfull to and for the person or persons soe committed or detained (other then persons convict or in execution) by legall processe or any one on his or their behalfe to appeale or complaine to the lord chauncellour or lord keeper or any one of his Majestyes justices either of the one bench or of the other or the barons of the Exchequer of the degree of the coife and the said lord chauncellor lord keeper justices or barons or any of them upon view of the copy or copies of the warrant or warrants of committment and detainer or otherwise upon oath made that such copy or copies were denyed to be given by such person or persons in whose custody the prisoner or prisoners is or are detained are hereby authorized and required upon request made in writing by such person or persons or any on his her or their behalfe attested and subscribed by two witnesses that were present at the delivery of the same to award and grant an habeas corpus under the seale of such court whereof he shall then be one of the judges to be directed to the officer

(a) See Rules of the Supreme Court under title Habeas Corpus.

HABEAS CORPUS.

officer or officers in whose custodie the party soe committed or detained shall be returnable immediate before the said lord chauncellor or lord keeper or such justice baron or any other justice or baron of the degree of the coife of any of the said courts and upon service thereof as aforesaid the officer or officers his or their under-officer or under-officers under-keeper or under-keepers or their deputy in whose custodie the partie is soe committed or detained shall within the times respectively before limited bring such prisoner or prisoners before the said lord chauncellor or lord keeper or such justices barons or one of them before whome the said writt is made returnable and in case of his absence before any other of them with the returne of such writt and the true causes of the committment and detainer and thereupon within two dayes after the partie shall be brought before them the said lord chauncellor or lord keeper or such justice or baron before whome the prisoner shall be brought as aforesaid shall discharge the said prisoner from his imprisonment takeing his or their recognizance with one or more suretie or sureties in any summe according to their discretions haveing regard to the quality of the prisoner and nature of the offence for his or their appearance in the Court of Kings Bench the terme following or at the next assizes sessions or generall goale-delivery of and for such county city or place where the committment was or where the offence was committed or in such other court where the said offence is properly cognizable as the case shall require and then shall certifie the said writt with the returne thereof and the said recognizance or recognizances into the said court where such appearance is to be made unlesse it shall appeare unto the said lord chauncellor or lord keeper or justice or justices or baron or barons that the party soe committed is detained upon a legall processe order or warrant out of some court that hath jurisdiction of criminall matters or by some warrant signed and sealed with the hand and scale of any of the said justices or barons or some justice or justices of the peace for such matters or offences for the which by the law the prisoner is not baileable.

3. Provided alwayes and bee it enacted that if any person shall have wilfully neglected by the space of two whole termes after his imprisonment to pray a habeas corpus for his enlargement such person soe wilfully neglecting shall not have any habeas corpus to be granted in vacation time in pursuance of this Act.

4. And bee it further enacted by the authoritie aforesaid that if any officer or officers his or their under-officer or under-officers under-keeper or under-keepers or deputy shall neglect or refuse to make the returnes aforesaid or to bring the body or bodies of the prisoner or prisoners according to the command of the said writt within the respective times aforesaid or upon demand made by the prisoner or person in his behalfe shall refuse to deliver or within the space of six houres after demand shall not deliver to the person soe demanding a true copy of the warrant or warrants of committment and detayner of such prisoner, which he and they are hereby required to deliver accordingly all and every the head goalers and keepers of such prisons and such other person in whose custodie the prisoner shall be detained shall for the first offence forfeite to the prisoner or partie grieved the summe of one hundred pounds and for the second offence the summe of two hundred pounds and shall and is hereby made incapable to hold or execute his said office, the said penalties to be recovered by the prisoner or partie grieved his executors or administrators against such offender his executors or administrators by any action of debt suite bill plaint or information in any of the Kings courts at Westminster wherein noe essoigne protection priviledge injunction waver of law or stay of prosecution by non vult ulterius prosequi or otherwise shall bee admitted or allowed or any more then one imparlance, and any recovery or judgement at the suite of any partie grieved shall be a sufficient conviction for the first offence and any after recovery or judgement at the suite of a partie grieved for any offence after the first judgement shall bee a sufficient conviction to bring the officers or person within the said penaltie for the second offence.

5. And for the prevention of unjust vexation by reiterated committments for the same offence bee it enacted by the authoritie aforesaid that noe person or persons which shall be delivered or sett at large upon any habeas corpus shall at any time hereafter bee againe imprisoned or committed for the same offence by any person or persons whatsoever other then by the legall order and processe of such court wherein he or they shall be bound by recognizance to appeare or other court haveing jurisdiction of the cause and if any other person or persons shall knowingly contrary to this Act recommitt or imprison or knowingly procure or cause to be recommitted or imprisoned for the same offence or pretended offence any person or persons delivered or sett at large as aforesaid or be knowingly aiding or assisting therein then he or they shall forfeite to the prisoner or party

and upon service thereof the officer to bring up the prisoners as before mentioned ;

and thereupon within two days lord chancellor, &c. may discharge upon recognizance

and certify the writt with the return and recognizance.

Proviso for process not baileable.

Habeas corpus not granted in vacation to prisoners who have neglected to pray the same.

Officer neglecting, &c. to make the said returns, &c.

or upon demand to deliver a copy of warrant of commitment ;

first offence, penalty £100.
second offence, £200 and incapacity.

Judgment at suit of party sufficient conviction.

Proviso as to imprisonment of party after having been set at large upon habeas corpus.

Unduly recommitting such discharged persons or assisting therein ;

HABEAS CORPUS.

penalty to the party £500.

grieved the summe of five hundred pounds any colourable pretence or variation in the warrant or warrants of committment notwithstanding to be recovered as aforesaid.

If persons committed for high treason or felony plainly expressed in warrant shall not on petition be indicted as herein mentioned, judges, &c. may discharge upon bail; proviso;

6. Provided alwayes and bee it further enacted that if any person or persons shall be committed for high treason or felony plainly and specially expressed in the warrant of committment upon his prayer or petition in open court the first weeke of the terme or first day of the sessions of oyer and terminer or generall goale delivery to be brought to his tryall shall not be indicted sometime in the next terme sessions of oyer and terminer or generall goale delivery after such committment it shall and may be lawfull to and for the judges of the Court of Kings Bench and justices of oyer and terminer or generall goale delivery and they are hereby required upon motion to them made in open court the last day of the terme sessions or goale-delivery either by the prisoner or any one in his behalfe to sett at liberty the prisoner upon baile unlesse it appeare to the judges and justices upon oath made that the witnesses for the King could not be produced the same terme sessions or generall goale-delivery. And if any person or persons committed as aforesaid upon his prayer or petition in open court the first weeke of the terme or first day of the sessions of oyer and terminer or generall goale delivery to be brought to his tryall shall not be indicted and tryed the second terme sessions of oyer and terminer or generall goale delivery after his committment or upon his tryall shall be acquitted he shall be discharged from his imprisonment.

and if not indicted and tried as herein mentioned then to be discharged.

Proviso respecting persons charged in debt, &c.

7. Provided alwayes that nothing in this Act shall extend to discharge out of prison any person charged in debt or other action or with processe in any civill cause but that after he shall be discharged of his imprisonment for such his criminall offence he shall be kept in custodie according to law for such other suite.

Persons committed for criminal matter not to be removed but by habeas corpus or other legal writ.

8. Provided alwaies and bee it enacted by the authoritie aforesaid that if any person or persons subject of this realme shall be committed to any prison or in custodie of any officer or officers whatsoever for any criminall or supposed criminall matter that the said person shall not be removed from the said prison and custody into the custody of any other officer or officers unlesse it be by habeas corpus or some other legall writt or where the prisoner is delivered to the constable or other inferiour officer to carry such prisoner to some common goale or where any person is sent by order of any judge of assize or justice of the peace to any common worke-house or house of correction or where the prisoner is removed from one prison or place to another within the same county in order to his or her tryall or discharge in due course of law or in case of suddaine fire or infection or other necessity and if any person or persons shall after such committment aforesaid make out and signe or countersigne any warrant or warrants for such removeall aforesaid contrary to this Act as well he that makes or signes or countersignes such warrant or warrants as the officer or officers that obey or execute the same shall suffer and incurr the paines and forfeitures in this Act before-mentioned both for the first and second offence respectively to be recovered in manner aforesaid by the partie grieved.

Unduly making out, &c. warrant for removal;

penalty.

Proviso for application for and granting habeas corpus in vacation-time.

9. Provided alsoe and bee it further enacted by the authoritie aforesaid that it shall and may be lawfull to and for any prisoner and prisoners as aforesaid to move and obtaine his or their habeas corpus as well out of the High Court of Chauncery or Court of Exchequer as out of the courts of Kings Bench or Common Pleas or either of them and if the said lord chauncellor or lord keeper or any judge or judges baron or barons for the time being of the degree of the coife of any of the courts aforesaid in the vacation time upon view of the copy or copies of the warrant or warrants of committment or detainer or upon oath made that such copy or copyes were denyed as aforesaid shall deny any writt of habeas corpus by this Act required to be granted being moved for as aforesaid they shall severally forfeite to the prisoner or partie grieved the summe of five hundred pounds to be recovered in manner aforesaid.

Lord chancellor, &c. unduly denying writ;

penalty to party £500.

* * * * *

No subject to be sent prisoner into any part beyond the seas.

11. And for preventing illegall imprisonments in prisons beyond the seas bee it further enacted by the authoritie aforesaid that noe subject of this realme that now is or hereafter shall be an inhabitant or resiant of this Kingdome of England . . . shall or may be sent prisoner into . . . any . . . places beyond the seas which are or at any time hereafter shall be within or without the dominions of his Majestie his heires or successors and that every such imprisonment is hereby enacted and adjudged to be illegall and that if any of the said subjects now is or hereafter shall bee soe imprisoned every such person and persons soe imprisoned shall and may for every such imprisonment maintaine by vertue of this Act an action or actions of false imprisonment in any of His Majestyes courts of record against the person or persons by whome he or shes shall be soe committed detained imprisoned sent prisoner or transported contrary

Action for false imprisonment.

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contrary to the true meaning of this Act and against all or any person or persons that shall frame contrive write seale or countersigne any warrant or writing for such committment detainer imprisonment or transportation or shall be adviseing aiding or assisting in the same or any of them and the plaintiffe in every such action shall have judgement to recover his . . . costs besides damages which damages soe to be given shall not be lesse then five hundred pounds in which action noe delay stay or stopp of proceeding by rule order or command nor noe injunction protection or priviledge whatsoever . . . shall be allowed excepting such rule of the court wherein the action shall depend made in open court as shall bee thought in justice necessary for speciall cause to be expressed in the said rule and the person or persons who shall knowingly frame contrive write seale or countersigne any warrant for such committment detainer or transportation or shall soe committ detaine imprison or transport any person or persons contrary to this Act or be any wayes adviseing aiding or assisting therein being lawfully convicted thereof shall be disabled from thenceforth to beare any office of trust or proffitt within the said realme of England . . . or any of the islands territories or dominions thereunto belonging and shall incurr and sustaine the paines penalties and forfeitures limited.ordained and provided in the Statute of provision and premunire made in the sixteenth yeare of King Richard the Second and be incapeable of any pardon from the King his heires or successors of the said forfeitures losses or disabilities or any of them.

And the persons so committing, & disabled from office and incur premunire.

12. Provided alwayes that nothing in this Act shall extend to give benefitt to any person who shall by contract in writing agree with any merchant or owner of any plantation or other person whatsoever to be transported to any parts beyond seas and receive earnest upon such agreement although that afterwards such person shall renounce such contract.

Proviso for contracts for transportation.

13. Provided alwayes and bee it enacted that if any person or persons lawfully convicted of any felony shall in open court pray to be transported beyond the seas and the court shall thinke fitt to leave him or them in prison for that purpose such person or persons may be transported into any parts beyond the seas this Act or any thing contained therein to the contrary notwithstanding.

Proviso for transportation of persons convicted of felony and praying to be transported.

15. Provided alsoe that if any person or persons at any time resiant in this realme shall have committed any capitall offence in Scotland or Ireland or any of the islands or forreigne plantations of the King his heires or successors where he or she ought to be tryed for such offence such person or persons may be sent to such place there to receive such tryall in such manner as the same might have beene used before the makeing of this Act anything herein contained to the contrary notwithstanding.

Proviso for sending persons to be tried in places where capital offence committed.

16. Provided alsoe and bee it enacted that noe person or persons shall be sued impleaded molested or troubled for any offence against this Act unlesse the partie offending be sued or impleaded for the same within two yeares at the most after such time wherein the offence shall be committed in case the partie grieved shall not be then in prison and if he shall be in prison then within the space of two yeares after the decease of the person imprisoned or his or her delivery out of prison which shall first happen.

Limitation of prosecution for offences against this Act.

17. And to the intent noe person may avoid his tryall at the assizes or generall goale-delivery by procureing his removeall before the assizes at such time as he cannot be brought backe to receive his tryall there bee it enacted that after the assizes proclaimed for that county where the prisoner is detained noe person shall be removed from the common goale upon any habeas corpus granted in pursuance of this Act but upon any such habeas corpus shall be brought before the judge of assize in open court who is thereupon to doe what to justice shall appertaine.

After assizes proclaimed, no person to be removed from common gaol upon habeas corpus, but brought before judge of assize.

18. Provided neverthelesse that after the assizes are ended any person or persons detained may have his or her habeas corpus according to the direction and intention of this Act.

After assizes persons detained may have habeas corpus.

19. And bee it also enacted by the authoritie aforesaid that if any information suite or action shall be brought or exhibited against any person or persons for any offence committed or to be committed against the forme of this law it shall be lawfull for such defendants to pleade the generall issue that they are not guilty or that they owe nothing and to give such speciall matter in evidence to the jury that shall try the same which matter being pleaded had beene good and sufficient matter in law to have discharged the said defendant or defendants against the said information suite or action and the said matter shall be then as availeable to him or them to all intents and purposes as if he or they had sufficiently pleaded sett forth or alledged the same matter in barr or discharge of such information suite or action.

In informations &c. brought for offence against this law; general issue.

20. And

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Proviso as to removal or bail of persons charged as accessories before the fact to petty treason or felony.

20. And because many times persons charged with petty treason or felony or as accessories thereunto are committed upon suspicion onely whereupon they are baileable or not according as the circumstances makeing out that suspicion are more or lesse weighty which are best knowne to the justices of peace that committed the persons and have the examinations before them or to other justices of the peace in the county Bee it therefore enacted that where any person shall appeare to be committed by any judge or justice of the peace and charged as accessory before the fact to any petty treason or felony or upon suspicion thereof or with suspicion of petty treason or felony which petty treason or felony shall be plainly and specially expressed in the warrant of committment that such person shall not be removed or bailed by vertue of this Act or in any other manner then they might have beene before the makeing of this Act.

[1816] 56 GEORGE III. c. C.

An Act for more effectually securing the Liberty of the Subject.

[1st July 1816.]

31 Cha. 2. c. 2.

Judges to issue, in vacation, writs of habeas corpus returnable immediately, in cases other than for criminal matter, or for debt, or on civil process.

1. Whereas the writ of habeas corpus hath been found by experience to be an expeditious and effectual method of restoring any person to his liberty, who hath been unjustly deprived thereof: And whereas extending the remedy of such writ, and enforcing obedience thereunto, and preventing delays in the execution thereof, will be advantageous to the public: And whereas the provisions made by an Act passed in England in the thirty-first year of King Charles the Second, intituled "An Act for the better securing the liberty of the subject, and for prevention of imprisonment beyond the seas." only extend to cases of commitment or detainer for criminal or supposed criminal matter: Be it therefore enacted that where any person shall be confined or restrained of his or her liberty (otherwise than for some criminal or supposed criminal matter, and except persons imprisoned for debt or by process in any civil suit) within that part of Great Britain called England, it shall and may be lawful for any one of the barons of the Exchequer, of the degree of the coif, as well as for any one of the justices of one bench or the other, and they are hereby required, upon complaint made to them by or on the behalf of the person so confined or restrained, if it shall appear by affidavit or affirmation (in cases where by law an affirmation is allowed) that there is a probable and reasonable ground for such complaint, to award in vacation time a writ of habeas corpus ad subjiciendum, under the seal of such court, whereof he or they shall then be judges or one of the judges, to be directed to the person or persons in whose custody or power the party so confined or restrained shall be, returnable immediately before the person so awarding the same, or before any other judge of the court under the seal of which the said writ issued.

Non-obedience to such writ to be a contempt of court, and punishable accordingly.

2. And be it further enacted by the authority aforesaid, that if the person or persons to whom any writ of habeas corpus shall be directed according to the provision of this Act, upon service of such writ, either by the actual delivery thereof to him, her, or them, or by leaving the same at the place where the party shall be confined or restrained with any servant or agent of the person or persons so confining or restraining shall wilfully neglect or refuse to make a return or pay obedience thereto, he, she, or they shall be deemed guilty of a contempt of the court, under the seal whereof such writ shall have issued; and it shall be lawful to and for the said justice or baron, before whom such writ shall be returnable, upon proof made by affidavit of wilful disobedience of the said writ, to issue a warrant under his hand and seal for the apprehending and bringing before him, or before some other justice or baron of the same court, the person or persons so wllfully disobeying the said writ, in order to his, her, or their being bound to the King's Majesty with two sufficient sureties, in such sum as in the warrant shall be expressed, with condition to appear in the court of which the said justice or baron is a judge, at a day in the ensuing term to be mentioned in the said warrant, to answer the matter of contempt with which he, she or they are charged; and in case of neglect or refusal to become bound as aforesaid, it shall be lawful for such justice or baron to commit such person or persons so neglecting or refusing to the jail or prison of the court of which such justice or baron shall be a judge, there to remain until he, she, or they shall have become bound as aforesaid, or shall be discharged by order of the court in term time, or by order of one of the justices or barons of the court in vacation: and the recognizance or recognizances to be taken thereupon shall be returned and filed in the same court, and shall continue in force until

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until the matter of such contempt shall have been heard and determined, unless sooner ordered by the court to be discharged: Provided, that if such writ shall be awarded so late in the vacation by any one of the said justices or barons, that, in his opinion, obedience thereto cannot be conveniently paid during such vacation the same shall and may, at his discretion, be made returnable in the court of which the said justice or baron shall be a justice or baron, at a day certain in the next term; and the said court shall and may proceed thereupon, and award process of contempt in case of disobedience thereto, in like manner as upon disobedience to any writ originally awarded by the said court: Provided also, that if such writ shall be awarded by the Court of King's Bench or the Court of Common Pleas, or Court of Exchequer, . . . which last-mentioned court shall have like power to award such writs as the respective courts of King's Bench and Common Pleas . . . now have, in term, but so late that, in the judgement of the court, obedience thereto cannot be conveniently paid during such term, the same shall and may, at the discretion of the said court, be made returnable at a day certain in the then next vacation, before any justice or baron of the degree of the coif, . . . who shall and may proceed thereupon, in such manner as by this Act is directed concerning writs issuing in and made returnable during the vacation.

Judges to make writs of habeas corpus, issued late in vacation, returnable in court in the next term.

Courts to make writs issued late in term returnable in vacation.

3. And be it further enacted by the authority aforesaid, that in all cases provided for by this Act, although the return to any writ of habeas corpus shall be good and sufficient in law, it shall be lawful for the justice or baron, before whom such writ may be returnable, to proceed to examine into the truth of the facts set forth in such return by affidavit or by affirmation (in cases where an affirmation is allowed by law), and to do therein as to justice shall appertain; and if such writ shall be returned before any one of the said justices or barons, and it shall appear doubtful to him on such examination, whether the material facts set forth in the said return or any of them be true or not, in such case it shall and may be lawful for the said justice or baron to let to bail the said person so confined or restrained, upon his or her entering into a recognizance with one or more sureties, or in case of infancy or coverture, or other disability, upon security by recognizance, in a reasonable sum, to appear in the court of which the said justice or baron shall be a justice or baron upon a day certain in the term following, and so from day to day as the court shall require, and to abide such order as the court shall make in and concerning the premises; and such justice or baron shall transmit into the same court the said writ and return, together with such recognizance, affidavits, and affirmations; and thereupon it shall be lawful for the said court to proceed to examine into the truth of the facts set forth in the return, in a summary way by affidavit or affirmation (in cases where by law affirmation is allowed), and to order and determine touching the discharging, bailing, or remanding the party.

The judge shall inquire into the truth of facts set forth in return;

and where it appears doubtful shall bail the person confined on recognizance to appear in term, &c.

4. And be it further enacted by the authority aforesaid, that the like proceeding may be had in the court for controverting the truth of the return to any such writ of habeas corpus awarded as aforesaid, although such writ shall be awarded by the said court itself, or be returnable therein.

The truth of the return may be controverted in that court.

5. And be it declared and enacted by the authority aforesaid, that a writ of habeas corpus, according to the true intent and meaning of this Act, may be directed and run . . . into any port, harbour, road, creek, or bay, upon the coast of England or Wales, although the same should lie out of the body of any county; . . . any law or usage to the contrary in anywise notwithstanding.

Writ may run into places not in body of county.

6. And be it further enacted by the authority aforesaid, that the several provisions made in this Act, touching the making writs of habeas corpus issuing in time of vacation returnable into the said courts, or for making such writs awarded in term time returnable in vacation, as the cases may respectively happen, and also for making wilful disobedience thereto a contempt of the court, and for issuing warrants to apprehend and bring before the said justices or barons, or any of them, any person or persons wilfully disobeying any such writ, and in case of neglect or refusal to become bound as aforesaid, for committing the person or persons so neglecting or refusing to jail as aforesaid, respecting the recognizances to be taken as aforesaid, and the proceeding or proceedings thereon, shall extend to all writs of habeas corpus awarded in pursuance of the said Act passed in England in the thirty-first year of the reign of King Charles the Second, . . . and hereinbefore recited, in as ample and beneficial a manner as if such writs and the said cases arising thereon had been herein-before specially named and provided for respectively.

Provisions of this Act to extend to all writs of habeas corpus in cases within 31 Cha. 2 c. 2.

DIVISION

DIVISION 12.—JURIES.

[1351-2] 25 EDWARD III. ST. V. C. III.

Challenge of an indictor upon an inquest.

Item, it is accorded, that no indictor shall be put in inquests upon deliverance of the indictees of felonies or trespass, if he be challenged for that same cause by him which is so indicted.

DIVISION 13.—JUSTICE AND LIBERTY.

[1267] 52 HENRY III. (STATUTE OF MARLEBERGE) C. I.

Of wrongful distresses, or defiances of the King's courts.

Whereas . . . many . . . have disdained to be justified by the King and his court, . . . but took great revenges and distresses of their neighbours, and of other, until they had amends and fines at their own pleasure; and further, some of them will not be justified by the King's officers, nor will suffer them to make delivery of such distresses as they had taken of their own authority at their own pleasure; it is provided, agreed, and granted, that all persons, . . . do and receive justice in the King's court; and none from henceforth shall take any such revenge or distress of his own authority, without award of the King's court, though he have damage or injury, whereby he would have amends of his neighbour.

Punishment for unlawful distresses.

And upon the foresaid article it is provided and granted, that if any from henceforth take such revenges of his own authority, without award of the King's court as before issaid, and be convict thereof, he shall be punished by fine, and that according to the trespass; and likewise if one neighbour take a distress of another without award of the King's court, whereby he hath damage, he shall be punished in the same wise, and that after the quantity of the trespass; and nevertheless sufficient and full amends shall be made to them that have sustained loss by such distresses.

[1297] 25 EDWARD I. (MAGNA CARTA) (a) C. XXIX.

Imprisonment, &c. contrary to law. Administration of justice.

No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties or free customs, or be outlawed, or exiled, or any other wise destroyed; nor will we pass upon him, nor condemn him, but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right.

[1323] 2 EDWARD III. (STATUTE OF NORTHAMPTON) C. VIII.

Commands shall not be in delay of justice.

Item, it is accorded and established, that it shall not be commanded by the great seal nor the little seal to disturb or delay common right; and though such commandments do come, the justices shall not therefore leave to do right in any point.

[1331] 5 EDWARD III. C. IX.

No unlawful attachment, &c.

Item, it is enacted, that no man from henceforth shall be attached by any accusation, nor forejudged of life or limb, nor his lands, tenements, goods, nor chattels, seised into the King's hands, against the form of the Great Charter, and the law of the land.

[1351-2] 25 EDWARD III. ST. V. C. IV.

None shall be taken upon suggestion without lawful presentment;

nor disfranchised, but by course of law.

Item, whereas it is contained in the Great Charter of the franchises of England that none shall be imprisoned nor put out of his freehold, nor of his franchises nor free custom, unless it be by the law of the land; it is accorded assented, and stablished, that from henceforth none shall be taken by petition or suggestion made to our lord the King, or to his council, unless it be by indictment or presentment of good and lawful people of the same neighbourhood where such deeds be done, in due manner, or by process made by writ original at the common law; nor that none be out of his franchises, nor of his freeholds, unless he be duly brought into answer, and forejudged of the same by the course of the law; and if any thing be done against the same, it shall be redressed and holden for none.

[1354] 28 EDWARD III. C. III.

None shall be condemned without due process of law.

Item, that no man of what estate or condition that he be, shall be put out of land or tenement, nor taken, nor imprisoned, nor disinherited, nor put to death, without being brought in answer by due process of the law.

[1368]

(a) This is a re-statement of the Great Charter of Henry III. and appears as 9 Henry III. in the ordinary printed editions.

JUSTICE AND LIBERTY.

[1368] 42 EDWARD III. c. III.

... It is assented and accorded, for the good governance of the commons, that no man be put to answer without presentment before justices, or matter of record, or by due process and writ original, according to the old law of the land: And if any thing from henceforth be done to the contrary, it shall be void in the law, and holden for error. None shall be put to answer without due process of law.

[1387-8] 11 RICHARD II. c. X.

Item, it is ordained and established, that neither letters of the signet, nor of the King's privy seal, shall be from henceforth sent in damage or prejudice of the realm, nor in disturbance of the law. Delays of law by privy seal forbidden.

[1405-6] 7 HENRY IV. c. I.

... And that the peace within the realm be holden and kept, so that all the King's liege people and subjects may from henceforth safely and peaceably go, come, and abide, according to the laws and usages of the same realm: And that good justice and equal right be done to every person; saving to the same our lord the King his regaltv and prerogative. Peace shall be kept, and justice done.

DIVISION 14.—JUSTICES OF THE PEACE.

[1326-7] 1 EDWARD III. ST. II. c. XVI.

Item for the better keeping and maintenance of the peace the King will, that in every county good men and lawful which be no maintainers of evil or barretors in the country shall be assigned to keep the peace.

[1344] 18 EDWARD III. ST. II. c. II.

Item, that two or three of the best of reputation in the counties shall be assigned keepers of the peace by the King's commission; and, at what time need shall be, the same, with other wise and learned in the law, shall be assigned by the King's commission to hear and determine felonies and trespasses done against the peace, in the same counties, and to inflict punishment reasonably according to law and reason and the manner of the deed. Keepers of the peace. their authority.

[1360-1] 34 EDWARD III. c. I.

First, that in every county of England shall be assigned for the keeping of the peace, one lord, and with him three or four of the most worthy in the county, with some learned in the law, and they shall have power to restrain the offenders, rioters, and all other barators, and to pursue, arrest, take, and chastise them according to their trespass or offence; and to cause them to be imprisoned and duly punished according to the law and customs of the realm, and according to that which to them shall seem best to do by their discretions and good advisement; and also to inform them, and to inquire of all those that have been pillors and robbers in the parts beyond the sea, and be now come again, and go wandering, and will not labour as they were wont in times past; and to take and arrest all those that they may find by indictment, or by suspicion, and to put them in prison; and to take of all them that be not of good fame, where they shall be found, sufficient surety and mainprise of their good behaviour towards the King and his people, and the other duly to punish; to the intent that the people be not by such rioters or rebels troubled nor endamaged, nor the peace blemished, nor merchants nor other passing by the highways of the realm disturbed, nor put in fear by peril which might happen of such offenders: and also to hear and determine at the King's suit all manner of felonies and trespasses done in the same county according to the laws and customs aforesaid; . . . And that fines, which are to be made before justices for a trespass done by any person be reasonable and just, having regard to the quantity of the trespass, and the causes for which they may be made. Who shall be justices of the peace. Their jurisdiction over offenders; rioters; barrators; vagabonds; they make take surety for good behaviour; and may hear and determine felonies and trespasses. Fines for trespasses shall be reasonable.

[1774-5] 15 GEORGE III. c. XXXIX.

An Act to impower Justices of the Peace to administer Oaths where any Penalty is to be levied or Distress to be made, in pursuance of any Act of Parliament, wherein the same is not expressly directed.

Whereas it is frequently necessary for justices of the peace to administer oaths or affirmations, where penalties are to be levied or distresses to be made, in pursuance of Acts of Parliament, which they have no power to administer, unless authorised so to Preamble.

JUSTICES OF THE PEACE.

to do by such Acts respectively:
. be it enacted
., that in all cases where any penalty is directed to be levied or distress to be made by any Act of Parliament now in force or hereafter to be made, it shall and may be lawful for any justice or justices acting under the authority of such Acts respectively, and he and they is and are hereby authorised and impowered to administer an oath or oaths, affirmation or affirmations, to any person or persons, for the purpose of levying such penalties or making such distresses respectively.

In all cases where penalties, &c. are directed to be levied under Acts, justices are impowered to administer oaths, &c. for levying such penalties, &c.

DIVISION 15.—LANDLORD AND TENANT.

[1267] 52 HENRY III. (STATUTE OF MARLEBERGE) c. XXIII.

Farmers shall do no waste.

Remedy thereon.

Also fermors, during their terms, shall not make waste, sale, nor exile of houses, woods, men, nor of any thing belonging to the tenements that they have to ferm, without special licence had by writing of covenant, making mention that they may do it; which thing if they do, and thereof be convict, they shall yield full damage, and shall be punished by amerciamment grievously.

DIVISION 16.—LIBELS.

[1792] 32 GEORGE III. c. LX.

An Act to remove Doubts respecting the Functions of Juries in Cases of Libel.

Preamble.

On the trial of an indictment for a libel the jury may give a general verdict upon the whole matter put in issue and shall not be required by the court to find the defendant guilty merely on proof of the publication and of the sense ascribed to it in the information. But the court shall give their opinion and directions on the matter in issue as in other criminal cases. Jury may find a special verdict. Defendant found guilty may move in arrest of judgement as before this Act.

1. Whereas doubts have arisen whether on the trial of an indictment or information for the making or publishing any libel, where an issue or issues are joined between the King and the defendant or defendants, on the plea of not guilty pleaded, it be competent to the jury impanelled to try the same to give their verdict upon the whole matter in issue: Be it therefore declared and enacted that on every such trial the jury sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon such indictment or information, and shall not be required or directed by the court or judge before whom such indictment or information shall be tried to find the defendant or defendants guilty merely on the proof of the publication by such defendant or defendants of the paper charged to be a libel, and of the sense ascribed to the same in such indictment or information.

2. Provided always, that on every such trial the court or judge before whom such indictment or information shall be tried shall, according to their or his discretion, give their or his opinion and directions to the jury on the matter in issue between the King and the defendant or defendants, in like manner as in other criminal cases.

3. Provided also, that nothing herein contained shall extend or be construed to extend to prevent the jury from finding a special verdict, in their discretion, as in other criminal cases.

4. Provided also, that in case the jury shall find the defendant or defendants guilty it shall and may be lawful for the said defendant or defendants to move in arrest of judgement, on such ground and in such manner as by law he or they might have done before the passing of this Act, any thing herein contained to the contrary notwithstanding.

[1819] 60 GEORGE III. 1 GEORGE IV. c. VIII. ss. 1, 2, 4, 8.

An Act for the more effectual Prevention and Punishment of blasphemous and seditious Libels.

[30th December 1819.]

1. Whereas it is expedient to make more effectual provision for the punishment of blasphemous and seditious libels: Be it enacted in every case in which any verdict or judgment by default shall

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shall be had against any person for composing, printing, or publishing any blasphemous libel, or any seditious libel tending to bring into hatred or contempt the person of his Majesty, his heirs or successors, . . . or the government and constitution of the United Kingdom as by law established, or either House of Parliament, or to excite his Majesty's subjects to attempt the alteration of any matter . . . as by law established, otherwise than by lawful means, it shall be lawful for the judge or the court before whom or in which such verdict shall have been given, or the court in which such judgment by default shall be had, to make an order for the seizure and carrying away and detaining in safe custody, in such manner as shall be directed in such order, all copies of the libel which shall be in the possession of the person against whom such verdict or judgment shall have been had, or in the possession of any other person named in the order for his use, evidence upon oath having been previously given to the satisfaction of such court or judge, that a copy or copies of the said libel is or are in the possession of such other person for the use of the person against whom such verdict or judgment shall have been had as aforesaid; and in every such case it shall be lawful for any justice of the peace or for any constable or other peace officer acting under any such order, or for any person or persons acting with or in aid of any such justice of the peace, constable, or other peace officer, to search for any copies of such libel in any house, building, or other place whatsoever belonging to the person against whom any such verdict or judgment shall have been had, or to any other person so named, in whose possession any copies of any such libel, belonging to the person against whom any such verdict or judgment shall have been had, shall be; and in case admission shall be refused or not obtained within a reasonable time after it shall have been first demanded, to enter by force by day into any such house, building, or place whatsoever, and to carry away all copies of the libel there found, and to detain the same in safe custody, until the same shall be restored under the provisions of this Act, or disposed of according to any further order made in relation thereto.

After verdict, &c. against any person for composing, &c. a blasphemous or seditious libel, the court may make order for the seizure of copies of the libel in possession of such person, &c.

and search may thereupon be made for the same.

2. And be it further enacted, that if in any such case as aforesaid judgment shall be arrested, or if, after judgment shall have been entered, the same shall be reversed . . . all copies so seized shall be forthwith returned to the person or persons from whom the same shall have been so taken as aforesaid, free of all charge and expence, and without the payment of any fees whatever; and in every case in which final judgment shall be entered upon the verdict so found against the person or persons charged with having composed, printed, or published such libel, then all copies so seized shall be disposed of as the court in which such judgment shall be given shall order and direct.

Copies of libels so seized shall be restored if judgment is arrested, &c.; but shall otherwise be disposed of as the court shall direct.

4. And be it further enacted, that if any person shall, after the passing of this Act, be legally convicted of having after the passing of this Act composed, printed, or published any blasphemous libel or any such seditious libel as aforesaid, and shall after being so convicted offend a second time, and be thereof legally convicted before any commission of oyer and terminer or gaol delivery, or in his Majesty's Court of King's Bench, such person may, on such second conviction, be adjudged, at the discretion of the court, . . . to suffer such punishment as may now by law be inflicted in cases of high misdemeanors, . . .

Punishment of persons convicted of a second offence.

8. And be it further enacted, that any action and suit which shall be brought or commenced against any justice or justices of the peace, constable, peace officer, or other person or persons, within that part of Great Britain called England, . . . for any thing done or acted in pursuance of this Act, shall be commenced within six calendar months next after the fact committed, and not afterwards; . . . and the defendant or defendants in every such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and if such action or suit . . . shall be brought or commenced after the time limited for bringing the same, . . . then the jury shall find a verdict for the defendant or defendants; . . .

Limitation of actions. &c. in England.

DIVISION 17.—PARLIAMENT, SPEECHES IN. (a).

1512] 4 HENRY VIII. c. VIII. s. 2.

2. be it inacted . . . that all sutes accusementes condempnacions executions fynes amerciamentes punysshmentes correccions grevances charges and imposicions putte or had or here after to be put or hadde unto or uppon . . . every . . . person or persons . . . that nowe be of this present Parliament

Suits against any for bills or speeches, &c. in Parliament declared void.

(a) See also 13 Charles II. st I. c. I. s. 6 under Division 19 Privilege of Parliament.

PARLIAMENT, SPEECHES IN.

Action on the case given to the party grieved.

Treble damages, &c.

Parliament or that of any Parliament herafter shalbe for any bill spekyng reasonyng or declaryng of any mater or maters concernyng the Parliament to be commened and treated of, be utterly voyd and of none effecte. And over that be it inacted by the said auctoritie that if . . . any of . . . the said . . . person or persons here after be vexed trobeled or other wise charged for any causes as is aforesaid, that then he or they and every of theym so vexed or troubeled of and for the same to have accion uppon the case ageynst every such person and persons so vexyng or troubelyng any contrarie to this ordynaunce and provysion, in the which accion the partie greved shall recover trebyll damages and costes, (b), and no proteccion essoine nor wager of lawe in the said accion in any wise be admitted nor receyved.

DIVISION 18.—PENAL STATUTES.

[1488-9] 4 HENRY VII. c. XX.

An Acte agaynst collusions and fayned accions.

To plea in bar of judgement recovered, or former bar, in actions popular, the plaintiff may reply covin;

If the covin be found, the plaintiff shall have judgement

defendant shall be imprisoned two years.

No release of any person shall surcease any action popular or indictment of the same.

No covin averrable after trial of the merits.

. . . that if eny persone or persones heraftir sue with gode feith eny accion populer, and the defendaunt or defendautes in the same accion plede eny maner of recovere of accion popular in-barre of the seid accion, or ellis that the same defendaunt or defendautes plede that he or they before that tyme barred eny suche pleyntif or pleyntifs in eny suche accion populer, that than the pleyntif or pleyntifs, in the accion taken with gode feith, may averre that the seid recovere in the seid accion populer was had by covyne, or ellis that the seid pleyntif or pleyntifs was or were barred in the seid accion populer by covyne; that than if afterwarde the seid collusion or covyne so averred be lauffully founden, the pleyntif or pleyntifs, in that accion sued with gode feith, shall have recovere according to the nature of the accion, and execucion upon the same, in like wise and effecte as though no such accion afore had ben had: And over that be it enacted and ordeyned by thauctorite aforesaid, that in every suche accion populer wheryn the defendaunt or defendautes shalbe lauffully condempned or atteynted of covyne or collusion as is aforesaid, that everych of the same defendautes have imprisonment of two yere, . . . and that no relesse of eny . . . persone heraftir to be made to eny suche partie, where before or aftir eny accion populer or enditement of the same had or commencid or made hanging the same accion, be in eny wise available or effectuell to lette or to surcease the seid accion enditement processe or execucion. Provided alway that no pleyntif or pleintyfs be not in eny wise receyved to averre eny covyne in eny accion populer, where the poynte of the same accion or ellis that covyne or collusion have be ones tried, and lauffully founde with the pleyntif or pleyntifs or ayenst theym, . . .

[1575-6] 18 ELIZABETH c. V. ss. 1, 4, 5, 7, 8.

An Acte to redresse Disorders in Common Infourmers upon Penall Lawes.

Preamble.

1. For redressinge of divers disorders in comon informers, and for better execucion of penall lawes, . . . * * * * *

Informers shall not compound with defendant until after answer, nor without leave of the court:

4. . . be yt further enacted, that no suche informer or playntyffe shall or may compoude or agree with any person or persons that shall offende or shalbe surmysed to offende against any penall statute, for suche offence commytted or pretended to be committed, but after answer made in cowrte unto the informacion or suite in that behalfe exhibited or prosecuted, nor after answer but by the order or consente of the courte in which the same informacion or sute shalbe dependinge, upon the paynes and penalties hereafter in this present Acte sett downe and declared; . . .

Punishment of informers compounding offences under penal Acts; incapacity to sue, and £10 penalty.

5. And be yt also enacted, that yf any person or persons, . . . shall offende in . . . makinge of composicion or other misdemeanour, contrary to the trewe intente and meaninge of this statute, or shall by collour or pretence of processe, or withowte processe upon collour or pretence of any matter of offence againste any penall lawe, make any composicion or take any money rewarde or promyse of rewarde for himself or to the use of

(b) As to costs see 5 and 6 Victoria c. XCVII. adopted by 19] Victoria No. 19 s. 307 now repealed.

PENAL STATUTES.

of any other, withowte order or consente of some of her Majesties cowrtes at Westminster, that then he or they so offendinge, beinge thereof lawfullie convicted, . . . shall from and after suche conviction, for ever be disabled to pursue or be playntyf or informer in anye sute or informacion uppon any statute populer or penall; and shall also for every suche offence forfeyte and lose tenne poundes of lawfull Englishe money, the one half thereof to the Quenes Majestic her heyres and successours, and the other half to the partie greeved thereby, to be recovered in any cowrte of record by accion of debte . . .

* * * * *

7. Provyded also, that this Acte shall not . . . restraine any certayne person bodye pollitique or corporate to whome or to whose use any forfeiture penaltie or sute ys or shalbe speciallie lymytted or graunted by vertue of any statute, and not generally to any person that will sue, but that everye suche certayne person bodye pollitique or corporate which might sue or infourme as yf this Acte were not made, may in suche case sue infourme and pursue as he or they might have donne yf this Acte were never had nor made.

Proviso for corporations, &c. entitled to forfeitures, &c.

8. And provided also, that neyther this Acte nor any thinge therein conteyned, shall in any wise extend to any suche officer of recorde as have in respecte of their offices heretofore lawfully used to exhibite informacions, or sue uppon penall lawes, nor to any officers infourminge or pursuinge for matters onely concerninge his or their offices, but that theye and every of them may infourme and pursue in that behalf, as they might have donne before the makinge of this Acte; any thinge in this Acte conteyned to the contrary in any wise notwithstandinge.

Proviso for officers using to exhibit Informations.

[1588-9] 31 ELIZABETH c. v. s. 1.

An Acte concerninge Informers.

1. For that divers of the Quenes Majesties subjects be daylie unjustlie vexed and disquieted by divers commen informers upon penall statutes, notwithstandinge any former statute that hath bene heretofore made againste their disorders: For remedye thereof, be it inacted . . . that noe person other then the partie grievd, . . . shalbe receyved to informe or sue uppon any penall statute, that before that tyme hath bene, for any mysdemeanor by any order of anye the Quenes Majesties courts, ordered not to followe or pursue anye sute upon any penall statute.

Statutes for regulatng information confirmed.

Informers restrained by order of court.

[1623-4] 21 or 21 & 22 JAMES I. c. IV. ss. 1, 4, 5.

An Act for the Ease of the subject concerning the Informacions uppon Penall Statutes.

. be it enacted that like processe uppon every popular accion bill plaint informacion or suit to be commenced or sued or prosecuted after the end of this present session of Parliament by force of or according to the purport of this Act, be had and awarded to all intents and purposes as in an accion of trespas vi & armis, at the common lawe;

Process upon popular actions.

* * * * *

4. And be it alsoe enacted by the authoritie aforesaid, that if any informacion suit or accion shalbe brought or exhibited against any person or persons for any offence committed or to be committed against the form of any penall law, either by or on the behalfe of the King or by any other, or on the behalf of the King and any other, it shall be lawful for such defendants to pleade the generall issue that they are not guiltie, or that they owe nothing, and to give such speciall matter in evidence to the jury that shall try the same; which matter beinge pleaded had bene good and sufficient matter in law to have discharged the said defendant or defendants against the informacion suit or accion, and the said matters shalbe then as avaiable to him or them to all intents and purposes as if he or they had sufficientlie pleaded sett forth or alledged the same matter in barre or discharge of such informacion suit or accion.

Defendants in penal actions may plead the general issue.

5. Provided alwaies, that this Act or any clause contayned therein, shall not extend to any informacion suit or accion for maintenance champertye

Exceptions; maintenance;

DIVISION

DIVISION 19.—PRIVILEGE OF PARLIAMENT.(a)

[1603-4] 1 or 2 JAMES I. c. XIII.

An Acte for new Executions to be sued againste any which shall hereafter be delivered out of Execution by Priviledge of Parliament, and for discharge of them out of whose custody such persons shall be delivered.

Execution may be renewed against persons discharged by privilege of Parliament, when they cease to be privileged.

Forasmuch as heretofore doubt hath ben made, if any person being arrested in execution, and by priviledge of either of the Houses of Parliament set at libertie, whether the partie at whose suite such execution was pursued be for ever after barred and disabled to sue forthe a new writt of execution in that case: For the avoydinge of all further doubt and trouble which in like cases may hereafter ensue, be it enacted by the Kings moste excellent Majestie, by the lordes spirituall and temporall, and by the commons in this present Parliament assembled, that from henceforthe the partie at or by whose suite such writt of execution was pursued, his executors or administrators, after such tyme as the priviledge of that session of Parliament in which such priviledge shall be so graunted shall cease, may sue forthe and execute a newe writt or writts of execution, in such manner and forme as by the lawe of this realme hee or they might have done if no suche former execution had bene taken forthe or served: And that from henceforth noe shiriffe bayliffe or other officer from whose arreste or custodie any such person so arrested in execution shalbe delivered by any such priviledge, shall be charged or chargeable with or by any accion whatsoever for deliveringe out of execution any such priviledged person so as is aforesaide, by suche priviledge of Parliament set at libertie; any lawe custome or priviledge heretofore to the contrarie notwithstandinge. Provided alwaies, that this Acte or any thing therein conteyned shall not extend to the diminishinge of any punishment to be hereafter by censure in Parliament inflicted upon any person which hereafter shall make or procure to be made any such arrest as is aforesaide.

Sheriff not liable on discharge of privileged persons.

Proviso for censure by Parliament.

[1661] 13 CHARLES II. St. I. c. 1. s. 6.

An Act for Safety and Preservation of His Majesties Person and Government against Treasonable and Seditious practices and attempts.

Proviso for privilege of debate in Parliament;

and for repeal or alteration of laws, or redressing public grievances.

6. Provided likewise and be it enacted that this Act or any thing therein contained shall not extend to deprive either of the Houses of Parliament or any of their members of their just ancient freedome and priviledge of debating any matters or busines which shall be propounded or debated in either of the said houses or att any conferences or committees of both or either of the said Houses of Parliament or touching the repeal or alteration of any old or preparing any new lawes or the redressing any publique grievance but that the said members of either of the said houses and every of them shall have the same freedome of speech and all other priviledges whatsoever as they had before the making of this Act any thing in this Act to the contrary thereof in any wise notwithstanding.

[1737-8] 11 GEORGE II. c. XXIV. s. 4.

An Act to amend an Act passed in the Twelfth and Thirteenth Year of the Reign of King William the Third, intituled "An Act for preventing any Inconveniencies that may happen by Privilege of Parliament."

No process against the King's debtor to be stayed by privilege of Parliament;

4. And it is hereby enacted, that no action, suit, process, order, judgement, decree, or proceeding in law or equity against the King's original and immediate debtor, for the recovery or obtaining of any debt or duty originally and immediately due or payable unto his Majesty, his heirs or successors, or against any accountant or person answerable or liable to render any account unto his Majesty, his heirs or successors, for any part or branch of any of his or their revenues, or other original and immediate debt or duty, or the execution of any such process, order, judgement, decree, or proceedings, shall be impeached, stayed, or delayed in any court in Great Britain or Ireland, by or under the colour or pretence of any privilege of the Parliament of Great Britain; yet so nevertheless that the person of any such debtor or accountant or person

(a) See The Constitution Act Amendment Act 1915 s. 12 and see also Division 17 Parliament. Speeches in.

PRIVILEGE OF PARLIAMENT.

person answerable or liable to account, being a peer or lord of Parliament of Great Britain, shall not be liable to be arrested or imprisoned by or upon any such suit, order, judgement, decree, process, or proceedings; or being a member of the House of Commons of Great Britain, shall not, during the continuance of the privilege of Parliament, be arrested or imprisoned by or upon any such order, judgement, decree, process, or proceedings.

but the persons not to be arrested.

* * * * *

[1770] 10 GEORGE III. c. L. ss. 1, 2, 5.

An Act for the further preventing Delays of Justice by reason of Privilege of Parliament.

1. be it enacted that any person or persons shall and may at any time commence and prosecute any action or suit in any court of record or court of equity or of admiralty, and in all causes matrimonial and testamentary, in any court having cognizance of causes matrimonial and testamentary, against any peer or lord of Parliament of Great Britain, or against any of the knights, citizens, and burgesses, and the commissioners for shires and burghs of the House of Commons of Great Britain for the time being, or against their or any of their menial or any other servants, or any other person intituled to the privilege of Parliament of Great Britain; and no such action, suit, or any other process or proceeding thereupon shall at any time be impeached, stayed, or delayed by or under colour or pretence of any privilege of Parliament.

suits may be prosecuted in courts of record, equity, or admiralty, and courts having cognizance of causes matrimonial and testamentary, against peers, and members of the House of Commons, and their servants, &c.

2. Provided nevertheless, and be it further enacted by the authority aforesaid, that nothing in this Act shall extend to subject the person of any of the knights, citizens, and burgesses, or the commissioners of shires and burghs of the House of Commons of Great Britain for the time being, to be arrested or imprisoned upon any such suit or proceedings.

But the persons of members of the House of Commons not to be arrested or imprisoned.

* * * * *

5. And be it further declared and enacted by the authority aforesaid, that obedience may be enforced to any rule of his Majesty's courts of King's Bench, Common Pleas, or Exchequer against any person intituled to privilege of Parliament by distress infinite, in case any person or persons intituled to the benefit of such rule shall chuse to proceed in that way.

Obedience to rule of the Court of King's Bench, Common Pleas, or Exchequer may be enforced by distress infinite.

DIVISION 20.—PROCESS OF THE PEACE IN SUPERIOR COURTS

[1623-4] 21 or 21 & 22 JAMES I. c. VIII. ss. 1, 2, 3.

An Acte to prevent and punishe the Abuses in procuring Process and Supersedias of the Peace,

1. Whereas divers turbulent and contentious persons, some out of malice and others in hope of gaine, by way of composicion doe oftentimes upon their corporall oathes peremptorily and corruptlie taken, or otherwise upon false suggestions and surmises, procure processe of the peace or good behaviour out of his Majesties courts of Chauncerie and Kings Bench against divers of His Majesties quiett subjects, whose dwellings and abodes are for the most part in countreys farre distant and remote from the said courts to their intolerable trouble and vexacion, whereas they might upon good cause shewed, receive justice at the hands of the justices of the peace in the counties where they dwell: For remedy whereof, be it enacted by the authoritie of this present Parliament, that all processe of the peace or good behaviour after the end of this session of Parliament to be graunted or awarded out of the same courts or either of them, against any person or persons whatsoever at the suit of or by the prosecucion of any person or persons whatsoever, shalbe void and of none effect, unlesse such processe shalbe so graunted or awarded upon mocion first made before the judge or judges of the same courts respectivelie (sitting in open court, and upon declaracion in writing upon their corporall oathes to be then exhibited unto them by the parties which shall desire such processe) of the causes for which such processe shalbe graunted or awarded by or out of any the said courts respectivelie, and unlesse that such mocion and declaracion be mencioned to be made upon the back of the writt; the said writings there to be entred and remayne of recorde: And that if it shall afterwards appeare unto the said courts or either of them respectivelie, that the causes expressed in such writings or any of them be untrue, that then the judge or judges of the said courts or either of them respectivelie, shall and may award such costs and damages unto the parties greived for their or any of their wrongfull vexacions on

Oppressions by procuring process of the peace against parties, from Chancery or K.B.

No such process shall be granted out of such courts, but upon motion in open court, on oath of the parties applying;

costs and damages may be awarded by the courts to parties grievd.

PROCESS OF THE PEACE.

on that behalfe, as they shall thinke fitt; and that the partie or parties soe offending shall and may be committed to prison by such judge or judges untill he or they pay the said costs and damages.

Collusion, by persons, liable to be bound to keep the peace, procuring process against themselves, and a supersedeas to other process:

2. And whereas divers turbulent and contencious persons deservedlie fearing to be bound to the peace or good behaviour by the justices of peace of the counties where they dwell, doe oftentimes procure themselves to be bound to the peace or good behaviour in the said courts or one of them upon insufficient sureties or upon colourable prosecution of some person or persons who will be readie at all tymes to release them at their owne pleasure, whereupon his Majesties writts of supersedeas are oftentimes directed to the justices of peace and other his Majesties officers, requiring them and every of them to forbear to arrest or imprison the parties aforesaid for the causes aforesaid, by meanes whereof the said turbulent and contencious persons misdemeane themselves amongst their neighbours with impunitie, to the great offence and disturbance of their neighbours amongst whome they converse and live, and to the affront of the justices of peace, and to the evill example and incouragement of like evill disposed persons; be it therefore enacted by the authoritie aforesaid, that all writts of supersedeas after the end of this present session of Parliament to be graunted by or out of either of the courts aforesaid shalbe void and of none effect, unlesse such proces be graunted likewise upon mocion in open court first made as aforesaid, and upon such sufficient sureties as shall appeare unto the judge or judges of the same court respectivelie upon oath, . . . ; which oathes and the names of such suerties, with the places of their abode . . . shalbe entered and remayne of record in the same courts; and unlesse it shall also first appeare unto the said judge or judges from whome such supersedeas is desired, that the process of the peace or good behaviour is prosecuted against him or them desiring such supersedeas bona fide by some partie greived in that court out of which such supersedeas is desired to be so awarded and directed.

supersedeas shall be granted only on motion in open court, and upon sufficient surety, &c.

False or insufficient sureties and their procurers may be punished, in the discretion of the courts.

3. And whereas divers lewd and evil disposed persons commonly called common baylers or knights of the post, being base and beggarlic persons, . . . sometymes do falselic take upon them the names of other men of good abilitie, of purpose to enable themselves to be accepted for bayle, which persons being of small or no abilitie or worth, are ready for lucre and gaine to become bound by recognizance as suerties for such persons as shall procure themselves to be bound to the peace or good behaviour as aforesaid, by meanes whereof the judge or judges of the said courts not knowing them, may be casilie abused and justice deluded: Be it therefore enacted by the authoritie aforesaid, that the judge or judges of the courts aforesaid respectivelie, or of either of them, upon proove of any the misdemeanors aforesaid to be committed in the obtayning of the aforesaid writts of supersedeas, or procuring such suertie as aforesaid, shall and may likewise punish the false and insufficient suerties and baylers aforesaid, and the procurers thereof, according to their discrecions, . . .

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DIVISION 21.—PUBLIC OFFICERS PROTECTION.

[1609-10] 7 or 7 and 8 JAMES I. c. V. s. 1.

An Acte for ease in pleading against troublesome and contencious Suites, prosecuted against . . . Maiors . . . Constables . . . for the lawfull execution of their Office.

constables, . . . sued for acts done in execution of their office, may plead the general issue:

1. For ease in pleading against many causeles and contencious suites which have bene and daylie are commenced and prosecuted against . . . maiors . . . constables . . . who for due execution of their office have bene troubled and molested and still are like to be troubled and molested by evell disposed contencious persons, to their great charge and discouragement in doing of their offices; be it . . . enacted . . . that if any accion bill plainte or suite upon the case trespasse battry or false ymprisonament shalbe brought . . . in any of his Majesties courtes at Westminster or elsewhere, against any . . . maior . . . constable . . . for or concerning any matter cause or thing by them or any of them done by vertue or reason of their or any of their office or offices, that it shall be lawfull to and for every such . . . maior . . . constable . . . and all others which in their aide or assistance or by their commaundement shall doe any thing touching or concerning his or

PUBLIC OFFICERS PROTECTION.

or their office or offices, to plead the generall yssue that he or they are not guiltie, and to give such speciall matter in evidence to the jurie which shall trie the same which speciall matter being pleaded had beene a good and sufficient matter in lawe to have discharged the saide defendant or defendants of the trespasse or other matter laide to his or their charge; and that if the verdict shall passe with the said defendant or defendants in any such accion, or the plaintiffe or plaintiffes therein become nonsuite or suffer any discontinuance thereof, that in every such case the justices or justice or such other judge before whome the said matter shalbe tried shall by force and vertue of this Act allowe unto the defendant or defendants his or their . . . costs which hee or they shall have susteyned by reason of their wrongfull vexacion in defence of the said accion or suite, for which the said defendant or defendants shall have like remedy as in other cases where costs by the lawes of this realme are given to the defendants.

Costs on verdict for them.

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[1750-1] 24 GEORGE II. C. XLIV. SS. 6 AND 8.

An Act for . . . indemnifying Constables and others acting in obedience to their Warrants.

* * * * *

6. And be it further enacted . . . that . . . no action shall be brought against any constable, . . . or other officer, or against any person or persons acting by his order and in his aid, for any thing done in obedience to any warrant under the hand . . . of any justice of the peace, until demand hath been made or left at the usual place of his abode by the party or parties intending to bring such action, or by his, her, or their attorney or agent, in writing signed by the party demanding the same, of the perusal and copy of such warrant, and the same hath been refused or neglected for the space of six days after such demand; and in case after such demand and compliance therewith, by shewing the said warrant to and permitting a copy to be taken thereof by the party demanding the same, any action shall be brought against such constable, . . . or other officer, or against such person or persons acting in his aid for any such cause as aforesaid, without making the justice or justices who signed . . . the said warrant defendant or defendants, that on producing and proving such warrant at the trial of such action the jury shall give their verdict for the defendant or defendants, notwithstanding any defect of jurisdiction in such justice or justices; and if such action be brought jointly against such justice or justices and also against such constable, . . . or other officer or person or persons acting in his or their aid as aforesaid, then, on proof of such warrant, the jury shall find for such constable, . . . or other officer, and for such person and persons so acting as aforesaid, notwithstanding such defect of jurisdiction as aforesaid; and if the verdict shall be given against the justice or justices, that in such case the plaintiff or plaintiffs shall recover his, her, or their costs against him or them, to be taxed in such manner by the proper officer as to include such costs as such plaintiff or plaintiffs are liable to pay to such defendant or defendants for whom such verdict shall be found as aforesaid.

Action not to be brought against any constable acting in obedience to justices warrant, till demand made of the sight and copy of the warrant, and refusal thereof, &c.

* * * * *

8. Provided also, and be it enacted by the authority aforesaid, that no action shall be brought . . . against any constable, . . . or other officer or person acting as aforesaid, unless commenced within six calendar months after the act committed.

Limitation of actions.

[1802] 42 GEORGE III. C. LXXXV., s. 6.

An Act . . . for extending the provisions of an Act passed in the Twenty-first year of the Reign of King James made for the ease of Justices and others in pleading in Suits brought against them to all persons either in or out of this Kingdom, authorised to commit to safe custody.

6. And whereas it is expedient to extend the provisions of an Act passed in the twenty-first year of the reign of His Majesty King James the First intituled "An Act to enlarge and make perpetual the Act made for ease in pleading against troublesome and contentious suits prosecuted against justices of the peace mayors constables and certain other of His Majesty's officers for the lawful execution of their

Provisions of 21 Ja. I. c. 12 extended to persons empowered to commit to safe custody.

PUBLIC OFFICERS PROTECTION.

their office" made in the seventh year of His Majesty's most happy reign to all persons who may by law commit to safe custody either in or out of this Kingdom: Be it therefore enacted that the said recited Act and all the provisions therein contained shall extend and be deemed taken and construed to extend to all persons having holding or exercising or being employed in or who may hereafter have hold or exercise or be employed in any public employment or any office station or capacity either civil or military either in or out of this kingdom and who under and by virtue or in pursuance of any Act or Acts of Parliament law or laws or lawful authority within this kingdom or any Act or Acts statute or statutes ordinance or ordinances or law or laws or lawful authority in any plantation island colony or foreign possession of his Majesty now have or may hereafter have by virtue of any such public employment or such office station or capacity power or authority to commit persons to safe custody; and all such persons having such power or authority as aforesaid shall have and be entitled to all the privileges benefits and advantages given by the provisions of the said Act as fully and effectually to all intents and purposes as if they had been specially named therein: Provided always that where any action bill plaint or suit upon the case trespass battery or false imprisonment shall be brought against any such person as is in this Act described as aforesaid in this kingdom for or upon any act matter or thing done out of this kingdom it shall be lawful for the plaintiff bringing the same to lay such act matter or thing to have been done in Westminster or in any county where the person against whom any such action bill plaint or suit shall be brought shall then reside anything in this Act to the contrary thereof notwithstanding.

DIVISION 22.—REAL PROPERTY.

[1285] 13 EDWARD I. (STATUTE OF WESTMINSTER THE SECOND) c. I.

* * * * *

Several sorts of
gifts of lands
upon condition;

First, concerning lands that many times are given upon condition, that is to wit where any giveth his land to any man and his wife, and to the heirs begotten of the bodies of the same man and his wife, with such condition expressed that if the same man and his wife die without heir of their bodies between them begotten, the land so given shall revert to the giver or his heir: In case also where one giveth lands in free marriage, which gift hath a condition annexed, though it be not expressed in the deed of gift, which is this, that if the husband and wife die without heir of their bodies begotten, the land so given shall revert to the giver or his heir: In case also where one giveth land to another, and the heirs of his body issuing; it seemed very hard, and yet seemeth to the givers and their heirs, that their will being expressed in the gift, was not heretofore, nor yet is observed: For in all the cases aforesaid, after issue begotten and born between them, to whom the lands were given under such condition, heretofore such feoffees had power to aliene the land so given, and to disherit their issue of the land, contrary to the minds of the givers, and contrary to the form expressed in the gift: And further, when the issue of such feoffee is failing, the land so given ought to return to the giver, or his heir, by form of the gift expressed in the deed, though the issue, if any were, had died: Yet by the deed and feoffment of them, to whom land was so given upon condition, the donors have heretofore been barred of their reversion, which was directly repugnant to the form of the gift: Wherefore our lord the King perceiving how necessary and expedient it should be to provide remedy in the aforesaid cases hath ordained, that the will of the giver, according to the form in the deed of gift manifestly expressed, shall be from henceforth observed; so that they to whom the land was given under such condition, shall have no power to aliene the land so given, but that it shall remain unto the issue of them to whom it was given after their death, or shall revert unto the giver or his heirs, if issue fail either by reason that there is no issue at all, or if any issue be, it fail by death, the heir of such issue failing, Neither shall the second husband of any such woman, from henceforth, have any thing in the land so given upon condition, after the death of his wife, by the law of England, nor the issue of the second husband and wife shall succeed in the inheritance, but immediately after the death of the husband and wife, to whom the land was so given it shall return to their issue or to the giver, or his heir, as before is said.
. And if a fine be levied hereafter upon such lands, it shall be void in the law; neither shall the heirs, or such as the reversion belongeth unto, though they be of full age, within England, and out of prison, need to make their claim.

In such gifts
the donor's
will shall be
observed.

* * * * *

[1289 90]

REAL PROPERTY.

[1289-90] 18 EDWARD I. (QUIA EMPTORES) CO. I., II.

A Statute of our Lord the King, concerning the Selling and Buying of Land.

I. henceforth it shall be lawful to every freeman to sell at his own pleasure his lands and tenements, or part of them; so that the feoffee shall hold the same lands or tenements of the same chief lord, and by the same services (a) and customs as his feoffor held before.

Freeholders may sell their lands so that the feoffee do hold of the chief lord.

II. And if he sell any part of such lands or tenements to any, the feoffee shall immediately hold it of the chief lord, and shall be forthwith charged with the services, for so much as pertaineth, or ought to pertain to the said chief lord for the same parcel, according to the quantity of the land or tenement so sold: And so in this case the same part of the service shall cease to be taken by the chief lord by the hands of the feoffor, from the time that the feoffee ought to be attendant and answerable to the same chief lord, according to the quantity of the land or tenement sold, for the parcel of the service so due.

Sale of part.

Apportionment of services.

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[1535-6] 27 HENRY VIII. c. X. ss. 1, 2, 3, 8 (b)

An Acte concernyng uses & wylles.

1. Where by the common lawes of this realme landes tenementes and hereditaments be not devysible by testament, nor ought to be transferrid frome one to an other but by sollemn livery and season matter of recorde wryting suffycient made bona fide without covyne or fraude, yet nevertheles dyverse and sundry ymginacions subtil invencions and practises have bene usid, wherby the heredytamentes of this realme have bene conveyed frome one to an other by fraudulent feoffementes fynes recoveryes and other assurances craftely made to secrete uses intentes and trustes, and also by wylles and testamentes sumtyme made by nude perolx and wordes somtyme by signes and tokens and somtyme by wrytyng, and for the moste parte made by such persones as be visited with syknes, in theyr extreme agonyes and peynes or at such tyme as they have hadde scantlye eny good memorie or remembrance; at whiche tymes they beyng provokid by gredye covetous persones lyeng in a wayte about them do many tymes dyspose indiscretely and unadvisidly theyr landes and inheritances; by reason wherof and by occasion of which fraudulent feoffementes fynes recoverys and other lyke assuraunces to uses confydences and trustes dyvers and many heires have bene unjustlye at sundry tymes disherited, the lordes have lost theyr wardes mariages relyefes hariottes eschetes aydes pur fayre sitz chyvaler & pur file maryer, and scantlye any persone can be certaynly assurid of any landes by them purchasid nor knowen surelye agayn whome they shal use theyr accions or execucions for theyr rightes titles and duytes; also men maryed have lost theyr tenancies by the courtesie, women theyr dowers, manyfest perjures by triall of such secrete wylles and uses, have bene comyttid, the Kynges Highnes hath lost the proffyttes and advauntages of the landes of persones atteyntid, and of the landes craftelye put in feffement to the uses of alyens borne, and also the proffittes of waste for a yere and a daye of landes offelones atteyntid, and the lordes theyr eschetes therof, and many other inconveniences have happened and dayly do encrease amonge the Kynges subjectes, to theyr greate trouble and inquitnes, to the utter subvercion of the auneynt common lawes of this realme; for the extirpying and extinguyshment of al such subtil practised feffementes fynes recoveryes abuses and errours heretofore usid and accustomed in this realme, to the subversion of the good and auneynt lawes of the same, and to thintent that the Kynges Highnes or any other his subjectes of this realme shall not in any wise hereafter by any meanys or invencions be deceyvid damaged or hurted by reason of such trustes uses or confidences, it may please the Kynges most royall Majestie that it may be enacted by his Highnes by thassent of the lordes spyrituall & temporall and the comons in this present Parlyament assemblyd and by auctorite of the same in manour and fourme folowing that is to saye; that where any persone or persones stand or be seased or at any tyme hereafter shall happen to be seased, of and in any honoures castelles manoures landes tenementes rentes servyces revercions remaynders or other hereditamentes, to the use confidence or trust of any other parson or persones or of anye bodie polytyke, by reason of any bargayne sale feffement fyne recovery covaunte contracte agreement will or otherwise by anye maner meanes what so ever it be, that in every suche case all and every suche person & persones & bodyes polytyke that have or hereafter shall have any such use confidence or truste in fee symple fee tayle for terme of lyf or for yeres or otherwyse, or any use confidence or trust

Transfer of lands at common law; evils resulting from conveyances and devises to uses;

persons entitled to the use of lands, shall stand and be seized, and be deemed in lawful seisin and possession, of the lands.

(a) As to abolition of military tenures and services, &c., see 12 Charles II. c. XXIV.
(b) SS. 1, 2, 3, 4, 10 in some printed editions.

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trust in remaynder or reverter, shall from hensforth stond and be seasid demed and adjudged in lawfull season estate and possession of and in the same honours castels manours landes tenementes rentes servyces revercyons remaynders and hereditamentes with theyr appurtenances to all intentes construccions and purposis in the lawe, of and in suche lyke estates as they had or shall have in use trust or confidence of or in the same. And that the estate right title and possession that was in suche persone or persones that were or shalbe hereafter seasid of any landes tenementes or hereditamentes, to the use confidence or trust of any such persone or persones or of any bodye polytyke, be from hensforth clerelye demed and adjudgid to be in hym or them that have or hereafter shall have suche use confydence or trust, after such qualytie maner fourme & condicion as they had before in or to the use confydence or trust that was in them.

So where divers are seized to the use of any of them :

2. And be it further enactid by the auctorite aforesaid that where dyvers and many persones be or hereafter shall happen to be joyntlye seasid, of and in any landes tenementes rentes revercions remaynders or other hereditamentes, to thuse confidence or trust of any of them that be so joyntlye seasid, that in every suche case that or those person or persones which have or hereafter shall have any suche use confidence or trust, in any suche landes tenementes rentes revercions remaynders or hereditamentes, shal from hensforth have and be demed and adjudged to have, onlye to hym or them that have or hereafter shall have such use confidence or trust, such estate possession and season of and in the same landes tenementes rentes revercyons remaynders or other hereditamentes, in lyke nature manor and fourme condicion and course as he or they hadde before in thuse confidence or trust of the same landes tenementes or hereditamentes: Savyng and reservyng to all and singular persones and bodyes polytyke theyr heyres and successors, other than those person or persones which be seasid or hereafter shalbe seasid of any landes tenementes or hereditamentes to any use confidence or trust, all such right title entre enterest possession rentes and action as they or any of theym had or myght have hadde before the making of thys Acte. And also savyng to all and singular those persones and to theyr heyres which be or hereafter shalbe seasid to anye use, al suche former right title entre enterest possession rentes customes servyces and action as they or anye of theym myght have had to hys or theyr owne proper use in or to any manours landes tenementes rentes or heredytamentes wherof they be or hereafter shalbe seasid to any other use, as if thys present Acte had never bene hadde nor made; any thing conteynid in thys Acte to the contrary notwithstanding.

Saving for rights of strangers.

Saving for rights of persons seized to any use.

In case of uses for payment of any rents, the parties intituled to the rents shall be deemed in possession and seizin thereof.

3. And where also dyvers persons stond and be seasid of and in any landes tenementes or hereditamentes in fee symple or otherwise, to the use or intent that some other person or persones shall have and perceyve yerely to them and to his or theyr heyres one annuell rent of x li. or more or lesse out of the same landes and tenementes, and some other person one other annuel rent to hym and hys assignes for terme of lyf or yeres or for some other speycall tyme, according to suche entent and use as hath bene heretofore declarid lymtyed and made therof; be it therfore enacted by the auctorite aforesaid that in every suche case the same persones theyr heyres and assignes, that have suche use and interest to have and perceyve any such annuell rentes out of anye landes tenementes or hereditamentes, that they and every of them theyr heyres and assignes be adjudgid and demyd to be in possession and season of the same rent, of and in such lyke estate as they had in the title interest or use of the said rent or proffytt, and as if a suffycyent graunt or other lauffull conveyance had be made & executed to them by suche as were or shalbe seased to the use or intent of anye suche rent to be hadde made or paide accordyng to the very trust and intent therof. And that all and every suche persone or persones as have or hereafter shall have any title use and interest in or to anye such rent or proffytte, shall lauffully distrayne for none payment of the seid rent and in theyr owne names make advowryes or by theyr baylyffes or servauntes make conysaunces and justyfycacions, and have al other suytes entres and remedies for such rentes, as if the same rentes hadde be actuallye and really graunted to them with suffycyent clauses of dystresse reentre or otherwise, according to such condicions peynes or other thynges lymtyed and apoyntid upon the trust and entent for payment or suertie of such rente.

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This Act shall not extinguish recognisances, &c.

8. Provided also that this present Acte nor any thyng therin conteynid extend nor be at any tyme hereafter interpretated expounded or taken to extincte release discharge or suspende any statute reconisaunce or other bonde by the execucion of any estate of or in any landes tenementes or hereditamentes by thauctorite of this Acte to any person or persones or bodyes polytyke; any thyng conteynid in this Act to the contrary therof notwithstanding.

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[1535-6] 27 HENRY VIII. c. XVI. s. 1.

An Acte concernyng enrolmentes of bargaynes & contractes of Landes & Tenementes.

1. Be it enacted that
 no manours londes tenementes or other hereditamentes shall passe alter or chaunge from one to another, wherby any estate of enheritaunce or freehold shalbe made or take effecte in any personne or personnes or any use therof to be made by reason oonly of any bargayne and sale therof, excepte the same bargayne and sale be made by writing indented sealed and enrolled in oon of the Kinges courtes of recorde at Westmynster ;

No land shall pass by bargain and sale unless by indenture sealed and inrolled within six months, either in the courts of record at Westminster, or at the sessions of the several counties.

[1539] 31 HENRY VIII. c. 1.

An Acte for joynt Tenauntes & Tenauntes in comon.

1. Forasmuche as by the comen lawes of this realme, diverse of the Kinges subjectes being seised of mannors landes tenementes & hereditamentes as joynt tenauntes or as tenauntes in comen with other, of any estate of enheritaunce, in their owne rightes or in the right of their wyffes, by purchase discent or otherwise, and every of them so being joynt tenauntes or tenauntes in comen hathe like righte title interest and possession in the same mannors landes tenementes and hereditamentes for their partes or porcions joyntlye or in comen undevydedlye together withe other, and none of them by the lawe doeth or maye knowe their severall partes or porcions in the same, or that that ys his or theirs by hit selfe undevyded, and cannot by the lawes of this realme otherwise occupye or take the profytt of the same, or make any severans division or particion thereof, without either of their mutuall consentes and assentes ; by reason whereof diverse and many of them, beinge so joyntly and undevydedly seised of the saide mannors landes tenementes and hereditamentes, often tymes of their perverse covetous and malicious myndes and willes, ayens all right justice equitie and good conscience by strenghe and power, hath not onlye cutt and fallen downe all the woodes and trees growinge uppon the same, but also hathe extirped subverted pulled downe and distroyed all the houses edificyons and buyldynges meadowes pastures commens and the hoole commodities of the same, and hath taken and converted them to their owne uses and behooffes, to the open wronge & disherison & ayens the myndes and willes of other holdinge the same mannors landes tenementes & hereditamentes joyntlye or in comen withe them, and they have bene alwaies without assured remedy for the same ; be it therefore enacted by the Kinge our most drede soveraigne lorde and by thassent of his lordes spirituall and temporall and by the commons in this present Parliament assembled, that all joynttenauntes and tenauntes in comen, that nowe be or hereafter shalbe of enny estate or estates of enheritaunce in their owne rightes or in the righte of their wyffes, of any mannors landes tenementes or hereditamentes within this realme of Englande Wales or the mersches of the same, shall and maye be coacted and compelled by vertue of this present Acte, to make particion betwene them of all suche mannors landes tenementes and hereditamentes as they nowe holde or hereafter shall holde as joynttenauntes or tenauntes in comen, by writte de participacione faciend, in that case to be devised in the Kinge our soveraigne lordes Courte of Chauncerie, in like manner and forme as coparceners by the comen lawes of this realme have byne and are compellable to doe, and the same writte to be pursued at the comen lawe.

Inconveniences resulting from joint-tenancy, &c. undivided.

Joint-tenants and tenants in common shall be compellable to make partition, in like manner as coparceners.

2. Provided alwaye and be it enacted, that everye of the saide joynttenauntes or tenauntes in comen and their heires after suche particion made, shall and may have ayde of the other, or of their heires, to thentent to deraigne the warrantye paramount and to recover for the rate as is used betwene coparceners after particion made by the order of the comen lawe ; any thinge in this Acte conteyned to the contrarie notwithstandinge.

After partition each shall have aid of the other.

[1540] 32 HENRY VIII. c. XXXII.

Joinctenauntes for lif or yeres.

1. Forasmuche as in the Parliament begon at Westminster the twenty-eighth day of Aprill and there contynued till the twenty-eighth day of June the thirty-one yere of the Kinges mooste noble and victorouse reigne that nowe is, it was amongst other thinges there enacted and established that all joyncete tenauntis and tenauntis in common that then were or herafre shulde be of anny estate or estatis of inheritaunce, in their owne rightis or in the right of their wives, of anny mannors landis tenementis or hereditamentis within this realme of England Wales or marches of the same, shall and may be coacted and compellid by vertue of the said Acte to make partition betwene them

St. 31 H. VIII. c. 1. for partition by joint-tenants, &c. extended to persons having particular estates for life or life.

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them of all suche mannours landis tenementis and hereditamentis as they than hilde or hereafter shulde holde as joynte tenauntis or tenauntis in comen; as more at large apperith by the said estatute: And forasmuche as the said estatute dothe not extende to joynete tenauntis or tenauntis in common for terme of life or yeris, nother to joynete tenauntis or tenauntis in common where one or some of them have but a particulier estate for terme of life or yeris and thother have estate or estatis of inheritaunce of and in any mannours landis tenementis and hereditamentis; be it therefore enacted by the Kinge our souveraine lorde and by thassent of his lordis spirituall and temporall and the comons in this present Parliament assembled and by thautoritie of the same, that all joynet tenauntis and tenauntis in comen and every of them, whiche nowe hold or hereafter shalholde joyntly or in common for terme of life yere or yeris, or joynet tenauntis or tenauntis in common where one or some of them have or shalhave estate or estatis for terme of life or yeris with thother that have or shalhave estate or estatis of inheritaunce or freeholde, in any manours landes tenementis or hereditamentis, shall and may be compellable from hensfurth, by writte of partition to be pursued out of the Kinges Courtis of Chauncery uppon his or their case or cases, to make severaunce and partition of all suche manours landis tenementis and hereditamentis whiche they holde joyntely or in common for terme of lyf or lifes yere or yeris, where one or somme of them holde joyntly or in common for term of life or yeris with other, or that have an estate or estatis of inheritaunce or freeholde.

Such partition shall not prejudice others, not parties.

2. Provided alway and be it enacted that no suche partition nor severaunce hereafter to be made by force of this Acte be nor shalbe prejudiciall or hurtefull to any personne or personnes their heirs or successours other than suche whiche be parties unto the said partition their executors or assigneis.

[1584-5] 27 ELIZABETH c. IV. (a) ss. 1, 2, 3, 4.

An Act against covenous and fraudulent Conveyaunces.

For avoiding mischiefs by fraudulent conveyances of lands:

Fraudulent conveyances, made to deceive purchasers, declared void as against such purchasers.

1. Forasmuch as not onely the Queenes most excellent Majestie, but also divers of her Highnes good and lovinge subjectes and bodies politique and corporate, after conveyances obtained or to be obtained and purchases mad or to be made of landes tenementes leases estates and hereditamentes for money or other good considerations, may have incurre and receive great losse and prejudice, by reason of fraudulent and covenous conveyances estates giftes grauntes charges & limitations of uses, heretofore made or hereafter to be made of in or out of lands tenementes or hereditaments so purchased or to be purchased; which said giftes grauntes charges estates uses and conveyances were or hereafter shal be meant or intended, by the parties that so make the same, to be fraudulent & covenous, of purpose and entent to deceive such as have purchased or shall purchase the same, or els, by the secret entent of the parties, the same be to their owne proper use and at their fre disposition, coloured neverthesse by a fained countenance and shewe of woordes and sentences, as though the same were made bona fide for good causes and upon just and lawfull considerations: For remedy of which inconveniences, and for the avoyding of such fraudulent fayned and covenous conveyances giftes grantes charges uses and estates, and for the maintenance of upright and just dealing in the purchasing of landes tenements and hereditaments, be it ordeined and enacted by the autoritie of this present Parliament, that all and everie conveyance graunt charge lease estate incombrance and limitation of use or uses, of in or out of any landes tenements or other hereditamentes whatsoever, had or made any time heretofore sithence the beginninge of the Queenes Majesties raigne that now is, or at any time hereafter to be had or made, for the intent and of purpose to defraude and deceive such person or persons bodies pollitique or corporate as have purchased or shall afterwarde purchase in fe simple fe taile for life lives or yeris the same landes tenementes and hereditamentes, or any part or percell thereof, so formerly conveid graunted leased charged incumbred or limited in use, or to defraude and deceive such as have or shall purchase any rent profite or commoditie in or out of the same, or any parte thereof, shall be deemed and taken, only as against that person and persons bodies pollitique and corporate, or his and their heirs successors executors administrators and assignes, and against all and everi other person and persons lawfully having or claiming by from or under them or any of them, which have purchased or shall hereafter so purchase for money or other good consideration the same landes tenements or hereditaments, or any part or percell thereof, or any rent profet or commoditie in or out of the same, to be utterly void frustrate and of none effecte; any pretence, colour, fained consideration, or expressinge of any use or uses, to the contrari notwithstanding.

2. And

(a) See *Real Property Act 1915*, Part XVIII.

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2. And be it foorth inacted by the authoritie aforesaide, that all and everie the parties to such fained covenous and fraudulent giftes grauntes leases charges or conveiances before expressed, or beinge privie and knowing of the same or any of them, which after the xx day of Aprill next cominge shall wittingely and willingly put in ure avow maintaine justifie or defende the same or any of them, as true simple and done had or made bona fide or upon good consideration, to the disturbance or hinderance of the said purchaser or purchasers lessees or grauntees, or of or to the disturbance or hinderance of their heires successors executors administrators or assignes, or such as have or shall lawfully claim any thing by from or under them or any of them, shall incurre the penaltie or forfeiture of one yeres value of the said landes tenementes and hereditamentes so purchased or charged; the one moitie whereof to be to the Queenes Majestie her heirs or successors, and the other moitie to the partie or parties greved by such fained and fraudulent gift graunt lease conveiance incumbrance or limatation of use; to be recovered in any of the Queenes courtes of recorde by action of debt bill plaint or information, wherein no essoine protection or wager of lawe shall be admitted for the defendand or defendants; and also being thereof lawfully convicted shall suffer imprisonment for one halfe yere without baile or mainprise.

Penalty upon all parties to such fraudulent conveyances, putting the same in effect, one year's value, half to the crown and half to the party grieved and half a year's imprisonment.

3. Provided also and be it enacted by the authoritie aforesaid, that this Acte or any thing therein contained shall not extend or be construed to impeach default make void or frustrate any conveiance assignement of lease assurance graunt charge lease estate interest or limitation of use or uses, of in to or out of any landes tenementes or hereditaments, heretofore at any time hade or made or hereafter to be hade or made, upon or for good consideration and bona fide, to any person or persons bodies pollitique or corporate; any thing before mentionede to the contrary heereof notwithstanding.

Proviso for conveyances made on good consideration, &c.

4. And be it further enacted by the authoritie aforesaide, that if any person or persons have heretofore, sithens the beginning of the Queenes Majesties raigne that nowe is, made, or hereafter shall make, any conveiance gift graunt demise charge limitation of use or uses or assurance, of in or out of any lands tenementes or hereditamentes, with ani clause provision article or condition of revocation determination or alteration at his or their will or pleasure of such conveiances assurance grauntes limitations of uses or estates, of in or out of the saide landes tenementes or hereditamentes or of in or out of any part or parcell of them, contained or mentioned in any writinge dedde or indenture of such assurance conveiance graunte or gift; and after such conveiance graunte gift demise charge limitation of uses or assurance so made or had, shall or doe bargain sell demise graunt convey or charge the same landes tenementes or hereditamentes, or any part or parcell thereof, to any person or persons bodies pollitique or corporate, for money or other good consideration paid or geven, the saide first conveiance assurance gift graunt demise charge or limitation not by him or them revoked made voyde or altered, accordinge to the power and authoritie reserved or expressed unto him or them in and by the said secrete conveiance assurance gift or graunt, that then the said former conveiance assurance gift demise and graunte, as touching the said landes tenements and hereditamentes so after bargained sold conveyed demised or charged, against the said bargances vendees lessees grauntees, and everie of them, their heires successors excutors administrators and assignes, and against all and everie person and persons which have shal or may lawfully claime any thing by from or under them or any of them, shall be demed taken and adjudged to be void frustrate and of none effecte, by vertue and force of this present Acte: Provided neverthesse that no lawfull morgage, made or to be made bona fide and without fraud or covin upon good consideration, shall be impeached or impaired by force of this Acte, but shall stande in like force and effecte as the same shoulde have done if this Acte had never bene had nor made; any thinge in this Acte to the contrarie in any wise notwithstanding.

Conveyances made revocable of lands afterwards sold for good consideration, declared void against the purchasers.

Proviso for mortgages.

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[1623-4] 21 or 21 & 22 JAMES I. c. XXV.

An Acte for the Releife of Patentees Tenauntes & Farmors of Crowne Landes in Cases of Forfeiture.

1 be it enacted that if any person or persons bodies pollitique or corporate, having holding or possessing or which hereafter shall have hold or possesse any mannors landes tenementes or hereditamentes by vertue or colour of any originall graunte or lease or assignement of the same made by the Kinges Majestie, or any of his predecesors, or to be made by any of his successors for any number of yeaeres for life or lives in fee tayle or fee simple, or other estate whereuppon any rent service or other dutie hath been is or shalbe reserved or payable with or under any condicion or limitacion of

Where possessors of lands granted by the Crown have made default in payment of rent or services, afterwards answered to the Crown before any proceeding for forfeiture, no advantage thereof shall be taken for the Crown.

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of reentry cesser or to be void for default of payment of such rent or performance of such service or dutie heretofore hath made, or any other by from or under whome he claymeth, hath made, or any which hereafter shall have hold or possesse shall make any default therein, and yet after such default made such rent service or other dutie hath been or shalbe answered paid or done unto his Majestie or any of his predecessors or successors into his or their receipt of the Exchequer or to any other having authoritie to receive the same as the case shall require, before any advantage of such forfeiture or cause of forfeiture hath been or shalbe taken, and before any commission awarded to enquire, or other processe issued touching the said forfeiture or nonpayment of rent, that in all such cases no advantage shalbe taken by his Majestie his heires or successors of for or by reason of any such forfeiture or cause of forfeiture.

None claiming under the Crown shall take any advantage of such default.

2. And be it further enacted, that no person or persons clayming or which afterwards shall clayme by from or under his Majestie, or any of his predecessors or successors at any tyme after such cause or title of forfeiture given, shall in anywise have or take any benefit or advantage by reason meanes or colour of such default made or to be made; but that every such estate forfeited or forfeitable by means or occasion of such default of payment of rent or performance of service or other dutie, shalbe adjudged to contynue and have his being, as if no such default or cause of forfeiture had bene had or made; any lawe custome or usage to the contrary thereof in any wise notwithstanding.

[1666] 18 & 19 CHARLES II. c. XI. ss. 1, 4.

An Act for Redresse of Inconveniencies by want of Proove of the Deceases of Persons beyond the Seas or absenting themselves, upon whose Lives Estates doe depend.

Recital that cestui que vies have gone beyond sea, and that reversioners cannot find out whether they are alive or dead.

1. Whereas diverse lords of mannours and others have granted estates by lease for one or more life or lives, or else for yeares determinable upon one or more life or lives and it hath often happened that such person or persons for whose life or lives such estates have beene granted have gone beyond the seas or soe absented themselves for many yeares that the lessors and reversioners cannot finde out whether such person or persons be alive or dead by reason whereof such lessors and reversioners have beene held out of possession of their tenements for many yeares after all the lives upon which such estates depend are dead in regard that the lessors and reversioners when they have brought actions for the recovery of their tenements have beene putt upon it to prove the death of their tennants when it is almost impossible for them to discover the same, for remedy of which mischeife soe frequently happening to such lessors or reversioners bee it enacted by the Kings most excellent Majestie by and with the advice and consent of the lords spirituall and temporall and the commons in this present Parlyament assembled and by the authoritie of the same that if such person or persons for whose life or lives such estates have beene or shall be granted as aforesaid shall remaine beyond the seas or elsewhere absent themselves in this realme by the space of seaven yeares together and noe sufficient and evident proove be made of the lives of such person or persons respectively in any action commenced for recovery of such tenements by the lessors or reversioners in every such case the person or persons upon whose life or lives such estate depended shall be accounted as naturally dead, and in every action brought for the recovery of the said tenements by the lessors or reversioners their heires or assignes, the judges before whom such action shall be brought shall direct the jury to give their verdict as if the person soe remaining beyond the seas or otherwise absenting himselfe were dead.

Cestui que vie remaining beyond sea for seven years together and no proof of their lives, judge in an action to direct a verdict as though cestui que vie were dead.

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If the supposed dead man prove to be alive, then the title is revested.

4. Provided alwayes and bee it enacted that if any person or persons shall be evicted out of any lands or tenements by vertue of this Act, and afterwards if such person or persons upon whose life or lives such estate or estates depend shall returne againe from beyond the seas, or shall on proove in any action to be brought for recovery of the same to be made appeare to be liveing; or to have beene liveing at the time of the eviction that then and from thenceforth the tennant or lessee who was outed of the same his or their executors administrators or assignes shall or may reenter repossesse have hold and enjoy the said lands or tenements in his or their former estate for and dureing the life or lives or soe long terme as the said person or persons upon whose life or lives the said estate or estates depend shall be liveing, and alsoe shall upon action or actions to be brought by him or them against the lessors reversioners or tennants in possession or other persons respectively which since the time of the said eviction received the proffitts of the said lands or tenements recover for damages the full

Action for mean profits with interest.

REAL PROPERTY.

full proffitts of the said lands or tenements respectively with lawfull interest for and from the time that he or they were outed of the said lands or tenements, and kepte or held out of the same by the said lessors reversioners tennants or other persons who after the said eviction received the proffitts of the said lands or tenements or any of them respectively as well in the case when the said person or persons upon whose life or lives such estate or estates did depend are or shall be dead at the time of bringing of the said action or actions as if the said person or persons were then liveing.

[1692] 4 WILLIAM & MARY C. XVI. ss. 1, 2, 3.

An Act to prevent Frauds by Clandestine Mortgages.

1. Whereas great frauds and deceits are too often practised by necessitous and evil disposed persons in borrowing of money and giving judgments statutes and recognizances privately for securing the repayment of the said money and the same persons do afterwards borrow money upon security of their lands of other persons and do not acquaint the latter lender thereof with the same whereby such late lender is very often in danger to lose his whole money or forced to pay of the debts secured by the said judgments statutes and recognizances before they can have any benefitt of the said mortgages. And whereas divers persons do many times mortgage their lands more then once without giving notice of their first mortgage whereby lenders of money vpon second or after mortgages doe often lose their money and are put to great charges in suits and otherwise. For remedy whereof and preventing the same as much as may be for the future be it enacted by the King and Queens most excellent Majesties by and with the advice and consent of the lords spiritual and temporal and the commons in this present Parliament assembled and by the authority of the same that if any person or persons from and after the first day of May which shall be in the yeare of our Lord one thousand six hundred ninety and three shall borrow any money or for any other valuable consideration for the payment thereof voluntarily give acknowledge permitt or suffer to be entred against him or them one or more judgment or judgments statute or statutes recognizance or recognizances to any person or persons creditor or creditors And if the said borrower or borrowers debter or debtors shall afterwards take upp or borrow any other sum or sums of money of any other person or persons or for other valuable consideration become indebted to such person or persons and for securing the repayment and discharge thereof shall mortgage his her or their lands or tenements or any part thereof to the said second or other lender or lenders of the said money creditor or creditors or to any other person or persons in trust for or to the use of such second or other lender or lenders creditor or creditors and shall not give notice to the said mortgagee or mortgagees of the said judgment or judgments statute or statutes recognizance or recognizances in writing under his her or their hand or hands before the execution of the said mortgage or mortgages unlesse such mortgager or mortgagers his her or their heires vpon notice to him her or them given by the mortgagee or mortgagees of the said lands and tenements his her or their heirs executors administrators or assigns in writing vnder his her or their hands and seals attested by two or more sufficient witnesses of any such former judgment or judgments statute or statutes recognizance or recognizances shall within six months pay of and discharge the said judgment or judgments statute or statutes recognizance or recognizances and all interest and charges due thereupon and cause or procure the same to be vacated or discharged by record that then the mortgager or mortgagers of the said lands and tenements his her or their heires executors administrators or assigns shall have no benefitt or remedy against the said mortgagee or mortgagees his her or their heires executors administrators or assigns or any of them in equity or elsewhere for redemption of the said lands and tenements or any part thereof But the said mortgagee or mortgagees his her or their heires executors administrators and assigns shall and may hold and enjoy the said lands and tenements for such estate and term therein as were or was granted and settled to the said mortgagee or mortgagees against the said mortgager or mortgagers and all person or persons lawfully claiming from by or vnder him her or them freed from equity of redemption and as fully to all intents and purposes whatsoever as if the same had been purchased absolutely and without any power or liberty of redemption.

2. And be it further enacted by the authority aforesaid that if any person or persons who have or hath once mortgaged or from and after the said first day of May shall mortgage any lands or tenements to any person or persons for security of money lent or otherwise accrued or become due or for other valuable considerations and if the said mortgager or mortgagers shall again mortgage the same lands or tenements or any part thereof to any other person or persons for valuable considerations (the said former mortgage being in force and not discharged) and shall not discover to the said second or other mortgagee or mortgagees or some or one of them the former mortgage

Recital that frauds are practised by necessitous persons in borrowing money.

Debtor upon judgment, &c. taking up money of another upon mortgage, without notice of the judgment to the mortgagee, unless upon notice by the mortgagee he pay off the same within six months, shall lose his equity to redem;

and mortgagee may hold the land against the said mortgagor for such estate as was granted to him.

Persons having mortgaged and mortgaging again without notice to the second or other succeeding mortgagee, to lose his equity of redemption.

REAL PROPERTY.

mortgage or mortgages in writing under his or their hands that then and in those cases also the said mortgager or mortgagers his her or their heires executors administrators or assigns shall have no relief or equity of redemption against the said second or after mortgagee or mortgagees his her or their heires executors administrators or assigns upon the said after mortgage or mortgages but that such mortgagee or mortgagees his her or their heires executors administrators and assigns shall and may hold and enjoy such more then once mortgaged lands and tenements for such estate and terme therein as were or was granted and conveyed by the said mortgager or mortgagers against him her or them his her or their heires executors or administrators respectively freed from equity of redemption and as fully to all intents and purposes as if the same had been an absolute purchase and without any power or liberty of redemption.

Under-mortgages may redeem.

3. Provided always and be it further enacted by the authority aforesaid that nevertheless if it so happen there be more then one mortgage att the same time made by any person or persons to any person or persons of the same lands and tenements the several late or under mortgagees his her or their heires executors administrators or assigns shall have power to redeem any former mortgage or mortgages upon payment of the principal debt interest and costs of suit to the prior mortgagee or mortgagees his her or their heires executors administrators or assigns any thing herein contained to the contrary thereof in any wise notwithstanding.

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[1698] 10 WILLIAM III. c. XXII. (a) s. 1.

An Act to enable Posthumous Children to take Estates as if borne in their Fathers Life time.

Posthumous children may take as if born in father's lifetime.

1. Whereas it often happens that by marriage and other settlements estates are limited in remainder to the use of the sons and daughters the issue of such marriage with remainders over without limiting an estate to trustees to preserve the contingent remainders limited to such sons and daughters by which meanes such sons and daughters if they happen to be borne after the decease of their father are in danger to be defeated of their remainder by the next in remainder after them and left unprovided for by such settlements contrary to the intent of the parties that made those settlements Be it enacted by the Kings most excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in this present Parliament assembled and by the authority of the same that where any estate already is or shall hereafter by any marriage or other settlement be limited in remainder to or to the use of the first or other son or sons of the body of any person lawfully begotten with any remainder or remainders over to or to the use of any other person or persons or in remainder to or to the use of a daughter or daughters lawfully begotten with any remainder or remainders to any other person or persons that any son or sons or daughter or daughters of such person or persons lawfully begotten or to be begotten that shall be borne after the decease of his her or their father shall and may by virtue of such settlement take such estate so limited to the first and other sons or to the daughter or daughters in the same manner as if borne in the life time of his her or their father although there shall happen no estate to be limited to trustees after the decease of the father to preserve the contingent remainder to such after-borne son or sons daughter or daughters untill he she or they come in esse or are borne to take the same any law or usage to the contrary in any wise notwithstanding.

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[1705] 4 & 5 ANNE c. III. (b) s. 21.

An Act for the Amendment of the Law and the better Advancement of Justice.

Warranties by tenant for life and collateral warranties by ancestor having no estate in possession, void as against reversloner and heir.

21. And be it further enacted by the authority aforesaid that all warranties which shall be made by any tenant for life of any lands tenements or hereditaments the same descending or coming to any person in reversion or remainder shall be void and of none effect and likewise all collateral warranties which shall be made of any lands tenements or hereditaments by any ancestor who has no estate of inheritance in possession in the same shall be void against his heir

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[1707]

(a) 10 or 10 and 11 William III. c. XVI. in ordinary printed editions. (b) 4 or 4 and 5 Anne c XVI. in ordinary printed editions.

REAL PROPERTY.

[1707] 6 ANNE c. LXXII. (1)

An Act for the more effectual Discovery of the Death of Persons pretended to be alive to the Prejudice of those who claim Estates after their Deaths.

1. Whereas divers persons as guardians and trustees for infants and husbands in right of their wives and other persons having estates or interests determinable upon a life or lives have continued to receive the rents and profits of such lands after the determination of their said particular estates or interests And whereas the proof of the death of the persons on whose lives such particular estates or interests depended is very difficult and several persons have been and may be thereby defrauded For remedy whereof and for preventing such fraudulent practices be it enacted by the Queens most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled and by the authority of the same that any person or persons who hath or shall have any claim or demand in or to any remainder reversion or expectancy in or to any estate after the death of any person within age married woman or any other person whatsoever upon affidavit made in the High Court of Chancery by the persons so claiming such estate of his or her title and that he or she hath cause to believe that such minor married woman or other person is dead and that his or her death is concealed by such guardian trustee husband or any other person shall and may once a year if the person agrieved shall think fit move the lord chancellor keeper or commissioners for the custody of the great seal of Great Britain for the time being to order and they are hereby authorized and required to order such guardian trustee husband or other person concealing or suspected to conceal such person at such time and place as the said court shall direct on personal or other due service of such order to produce and shew to such person and persons (not exceeding two) as shall in such order be named by the party or parties prosecuting such order such minor married women or other persons aforesaid And if such guardian trustee husband or such other person as aforesaid shall refuse or neglect to produce or shew such infant married woman or such other person on whose life any such estate doth depend according to the directions of the said order that then the Court of Chancery is hereby authorized and required to order such guardian trustee husband or other person to produce such minor married woman or other person concealed in the said Court of Chancery or otherwise before commissioners to be appointed by the said court at such time and place as the court shall direct two of which commissioners shall be nominated by the party or parties prosecuting such order at his her or their costs and charges And in case such guardian trustee husband or other person shall refuse or neglect to produce such infant married woman or other person so concealed in the Court of Chancery or before such commissioners whereof return shall be made by such commissioners and that return filed in either or any of the said cases the said minor married woman or such other person so concealed shall be taken to be dead and it shall be lawful for any person claiming any right title or interest in remainder or reversion or otherwise after the death of such infant married woman or such other persons so concealed as aforesaid to enter upon such lands tenements and hereditaments as if such infant married woman or other person so concealed were actually dead

Reasons for passing this Act.

Reversions, &c. expectant upon determination of life estate, upon affidavit of belief of death of infant or other tenant for life as herein mentioned, and that such death is concealed by guardian, &c. may yearly move for and obtain an order in Chancery for the production of such tenant for life;

and upon refusal, &c. to produce such tenant for life, taken to be dead.

2. And be it further enacted by the authority aforesaid that if it shall appear to the said court by affidavit that such minor married woman or other person for such life such estate is holden is or lately was at some certain place beyond the seas in the said affidavit to be mentioned it shall and may be lawful for the party or parties prosecuting such order as aforesaid at his her or their costs and charges to send over one or both the said persons appointed by the said order to view such minor married woman or other person for whose life any such estate is holden and in case such guardian trustee husband or other person concealing or suspected to conceal such persons as aforesaid shall refuse or neglect to produce or procure to be produced to such person or persons a personal view of such infant married woman or other person for whose life any such estate is holden that then and in such case such person or persons are hereby required to make a true return of such refusal or neglect to the Court of Chancery which return shall be filed and thereupon such minor married woman or other person for whose life any such estate is holden shall be taken to be dead and it shall be lawful for any person claiming any right title or interest in remainder reversion or otherwise after the death of such infant married woman or other person for whose life any such estate is holden to enter upon such lands tenements and hereditaments as if such infant married woman or other person for whose life any such estate is holden were actually dead

If such infant, &c. tenant for life, appear to be in some place beyond sea, party prosecuting such order may send over to view such infant, and if guardian, &c. will not produce such tenant for life, then he or she to be taken as dead.

3. Provided

(1) 6 Anne c. XVIII. in ordinary printed editions.

REAL PROPERTY.

If it appear afterwards in any action to be brought that such tenant for life was alive at the time of the order made, then he or she may re-enter, and have action for rent, &c.

Proviso for guardian, &c. who shall make it appear that due endeavour has been used to procure the appearance of such infant and tenant for life.

Guardians, trustees, &c. holding over without consent of remainder man, &c. deemed trespassers.

Damages.

3. Provided always that if it shall afterwards appear upon proof in any action to be brought that such infant married woman or other person for whose life any such estate is holden were alive at the time of such order made that then it shall be lawful for such infant married woman guardian or trustee or other person having any estate or interest determinable upon such life to re-enter upon the said lands tenements or hereditaments and for such infant married woman or other person having any estate or interest determinable upon such life their executors administrators or assigns to maintain an action against those who since the said order received the profits of such lands tenements or hereditaments or their executors or administrators and therein to recover full damages for the profits of the same received from the time that such infant married woman or other person having any estate or interest determinable upon such life were ousted of the possession of such lands tenements or hereditaments

4. Provided always that if any such guardian trustee husband or other person or persons holding or having any estate or interest determinable upon the life or lives of any other person or persons shall by affidavit or otherwise to the satisfaction of the said Court of Chancery make appear that he she or they have used his her or their utmost endeavours to procure such infant married woman or other person or persons on whose life or lives such estate or interest doth depend to appear in the said Court of Chancery or elsewhere according to the order of the said court in that behalf made and that he she or they cannot procure or compel such infant married woman or other person or persons so to appear and that such infant married woman or other person or persons on whose life or lives such estate or interest doth depend is are or were living at the time of such return made and filed as aforesaid then it shall be lawful for such person or persons to continue in the possession of such estate and receive the rents and profits thereof for and during the infancy of such infant and the life or lives of such married woman or other person or persons on whose life or lives such estate or interest doth or shall depend as fully as he she or they might have done if this Act had not been made

5. And be it further enacted by the authority aforesaid that every person who as guardian or trustee for any infant and every husband seised in right of his wife only and every other person having any estate determinable upon any life or lives who after the determination of such particular estates or interests without the express consent of him her or them who are or shall be next and immediately entitled upon and after the determination of such particular estates or interests shall hold over and continue in possession of any manors messuages lands tenements or hereditaments shall be and are hereby adjudged to be trespassers and that every person and persons his her and their executors and administrators who are or shall be entitled to any such manors messuages lands tenements and hereditaments upon or after the determination of such particular estates or interests shall and may recover in damages against every such person or persons so holding over as aforesaid and against his her or their executors or administrators the full value of the profits received during such wrongful possession as aforesaid.

DIVISION 23.—SUNDAY.

[1877] 29 CHARLES II. c. VII. ss. 1, 2, 3, 4, 6.

An Act for the better Observation of the Lords day commonly called Sunday.

Preamble.

1. For the better observation and keeping holy the Lords day commonly called Sunday bee it enacted that all the lawes enacted and in force concerning the observation of the Lords day be carefully putt in execution. And

Tradesmen, &c. working on Sunday.

Exception.

Penalty 5s. ;

exposing to sale wares, &c.: penalty.

Drovers, &c. travelling, &c.

Penalty 20s.

. that noe tradesman, artificer workeman labourer or other person whatsoever shall doe or exercise any worldly labour, busines or worke of their ordinary callings upon the Lords day or any part thereof (workes of necessity and charity onely excepted) and that every person being of the age of fourteene yeares or upwards offending in the premisses shall for every such offence forfeit the summe of five shillings, and that noe person or persons whatsoever shall publickly cry shew forth or expose to sale any wares merchandizes, fruit, herbs goods or chattells whatsoever upon the Lords day or any part thereof upon paine that every person soe offending shall forfeite the same goods soe cryed or shewed forth or exposed to sale.

2. And it is further enacted that noe drover horsecourser waggoner butcher higler their or any of their servants shall travell or come into his or their inne or lodgeing upon the Lords day or any part thereof upon paine that each and every such offender shall forfeite twenty shillings for every such offence,

3. Provided

SUNDAY.

3. Provided that nothing in this Act contained shall extend to the prohibiting of dressing of meate in families or dressing or selling of meat in inns cookeshops or victualling houses for such as otherwise cannot be provided nor to the crying or selling of milke before nine of the clocke in the morning or after foure of the clocke in the afternoone.

Proviso for private families, inns, &c. and for crying milk.

4. Provided alsoe that noe person or persons shall be impeached prosecuted or molested for any offence before mentioned in this Act unlesse he or they be prosecuted for the same within ten dayes after the offence committed.

Limitation of prosecution.

* * * * *

6. Provided alsoe that noe person or persons upon the Lords day shall serve or execute or cause to be served or executed any writt, processe, warrant, order judgement or decree (except in cases of treason felony or breach of the peace) but that the service of every such writt, processe, warrant, order judgement or decree shall be void to all intents and purposes whatsoever and the person or persons soe serving or executing the same shall be as lyable to the suite of the partie grieved and to answere damages to him for doing thereof as if he or they had done the same without any writt, processe warrant order judgement or decree at all.(a)

Service of process on the Lords day (exception) void.

Persons serving the same liable to action.

[1730-1] 21 GEORGE III., C. XLIX. SS. 1, 2, 3, 4, 5, 6.

An Act for preventing certain Abuses and Profanations on the Lord's Day, called Sunday.

1. Whereas certain houses, rooms or places within the cities of London or Westminster or in the neighbourhood thereof have of late frequently been opened for publick entertainment or amusement upon the evening of the Lord's Day, commonly called Sunday; and at other houses, rooms or places within the said cities or in the neighbourhood thereof, under pretence of enquiring into religious doctrines and explaining texts of Holy Scripture, debates have frequently been held on the evening of the Lord's Day concerning divers texts of Holy Scripture by persons unlearned and incompetent to explain the same, to the corruption of good morals, and to the great encouragement of irreligion and profaneness: Be it enacted that from and after the passing of this present Act any house, room or other place which shall be opened or used for publick entertainment or amusement, or for publickly debating on any subject whatsoever, upon any part of the Lord's Day, called Sunday, and to which persons shall be admitted by the payment of money or by tickets sold for money, shall be deemed a disorderly house or place; and the keeper of such house, room or place shall forfeit the sum of two hundred pounds for every day that such house, room or place shall be opened or used as aforesaid on the Lord's Day, to such person as will sue for the same, and be otherwise punishable as the law directs in cases of disorderly houses; and the person managing or conducting such entertainment or amusement on the Lord's Day, or acting as master of the ceremonies there, or as moderator, president or chairman of any such meeting for publick debate on the Lord's Day, shall likewise for every such offence forfeit the sum of one hundred pounds to such person as will sue for the same; and every doorkeeper, servant or other person who shall collect or receive money or tickets from persons assembling at such house, room, or place on the Lord's Day, or who shall deliver out tickets for admitting persons to such house, room or place on the Lord's Day, shall also forfeit the sum of fifty pounds to such person as will sue for the same.

Preamble.

From the passing of this Act, any house, &c. opened for publick amusement or debate on a Sunday, to which persons shall be admitted by payment of money, &c., shall be deemed a disorderly house, and the keeper thereof shall forfeit 200*l.* for every Sunday the same shall be used as aforesaid.

Penalty on the president, &c., doorkeepers and servants.

2. And whereas, by reason of the many subtle and crafty contrivances of persons keeping such houses, rooms or places as aforesaid, it may often be difficult to prove who is the real owner or keeper thereof: Be it enacted by the authority aforesaid, that any person who shall at any time hereafter appear, act or behave him or herself as master or mistress, or as the person having the care, government or management of any such house, room or place as aforesaid, shall be deemed and taken to be the keeper thereof, and shall be liable to be sued or prosecuted and punished as such, notwithstanding he or she be not in fact the real owner or keeper thereof: And wherever any such house, room or place shall belong to or be kept by divers persons in partnership, as joint-owners or joint-keepers thereof, each and every such joint-owner or joint-keeper of such house, room or place shall be deemed the keeper thereof, and shall be liable to be sued or prosecuted and punished as such; and any house, room or place at which persons shall be supplied with tea, coffee or any other refreshments of eating or drinking on the Lord's Day at any greater prices than the common and usual prices at which the like refreshments are commonly sold upon other days at such house, room, or place, or at coffee houses or other houses where the same are usually sold, shall be deemed a house, room or place to which persons are admitted by

The person who acts as master or mistress in any such house shall be deemed the keeper thereof.

Where there are joint-owners, each of them shall be liable to prosecution.

All houses where refreshments are sold on Sundays at more than the usual prices, by

(a) See *Justices Act 1915* and *Supreme Court Act 1915*.

SUNDAY.

and such as are opened for publick amusement or debate on Sundays by subscription, &c., shall be liable to the penalties inflicted by this Act.

Penalty on advertising any such publick amusement for Sunday, and on printing such advertisement.

Penalties how to be recovered.

Actions to be brought within 6 months.

Persons sued for things done pursuant to this Act may plead the general issue,

by the payment of money, although money be not there taken in the name of or for admittance, or at the time when persons enter into or depart from such house, room or place; and any house, room or place which shall be opened or used for any publick entertainment or amusement or for publick debate on the Lord's Day, at the expence of any number of subscribers or contributors to the carrying on any such entertainment or amusement or debate on the Lord's Day, and to which persons shall be admitted by tickets, to which the subscribers or contributors shall be intitled, shall be deemed a house, room or place to which persons are admitted by the payment of money within the meaning of this Act.

3. And for the better preventing persons assembling on the Lord's Day for such irreligious purposes as aforesaid, be it further enacted by the authority aforesaid, that any person advertising or causing to be advertised any publick entertainment or amusement or any publick meeting for debating on any subject whatsoever on the Lord's Day, to which persons are to be admitted by the payment of money or by tickets sold for money, and any person printing or publishing any such advertisement, shall respectively forfeit the sum of fifty pounds for every such offence to any person who will sue for the same.

4. And be it further enacted by the authority aforesaid, that any person intitled to either of the aforesaid forfeitures may sue for the same by action of debt in any of his Majesty's courts of record at Westminster, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of being the sum demanded by the said action, being forfeited by an Act made in the twenty-first year of the reign of his Majesty King George the Third, intituled "An Act for preventing certain abuses and profanations on the Lord's Day, called Sunday;" and the plaintiff, if he recover in any such action, shall have his full costs.

5. Provided that no action shall be brought for either of the said penalties by this Act imposed unless the same be brought within six calendar months next after the offence committed.

6. Provided also, that if any action or suit shall be brought against any person for any thing done in pursuance and in execution of this Act; the defendant may plead the general issue

DIVISION 24.—WITCHCRAFT, PRETENCE OF.

[1735-6] 9 GEORGE II. c. V. ss. 3, 4.

An Act to repeal the Statute made in the First Year of the Reign of King James the First, intituled "An Act against Conjurat[i]on, Witchcraft and dealing with evil and wicked Spirits," except so much thereof as repeals an Act of the Fifth Year of the Reign of Queen Elizabeth, "Against Conjurat[i]ons, Inchantments, and Witchcrafts," and for punishing such Persons as pretend to exercise or use any Kind of Witchcraft, Sorcery, Inchantment, or Conjurat[i]on.

* * * * *

After 24 June, 1736, no person to be prosecuted for witchcraft, &c.

Persons pretending to exercise witchcraft, tell fortunes, or by crafty science to discover stolen goods.

3. And be it further enacted, that from and after the said twenty fourth day of June, no prosecution, suit, or proceeding shall be commenced or carried on against any person or persons for witchcraft, sorcery, inchantment, or conjuration, or for charging another with any such offence, in any court whatsoever in Great Britain.

4. And for the more effectual preventing and punishing of any pretences to such arts or powers as are before mentioned, whereby ignorant persons are frequently deluded and defrauded, be it further enacted by the authority aforesaid, that if any person shall from and after the said twenty fourth day of June pretend to exercise or use any kind of witchcraft, sorcery, inchantment, or conjuration, or undertake to tell fortunes, or pretend from his or her skill or knowledge in any occult or crafty science, to discover where or in what manner any goods or chattels supposed to have been stolen or lost may be found, every person so offending, being thereof lawfully convicted on indictment or information in that part of Great Britain called England, shall for every such offence suffer imprisonment

WITCHCRAFT.

imprisonment by the space of one whole year to be
. and also shall (if the court by which such judgment imprisoned for
shall be given shall think fit) be obliged to give sureties for his or her good behaviour a year,
in such sum and for such time as the said court shall judge proper according to the and bound for
circumstances of the offence, and in such case shall be further imprisoned until such good behaviour.
sureties be given.

DIVISION 25.—WITNESSES.

[1562-3] 5 ELIZABETH c. IX. s. 6.

An Act for the Punishment of suche persones as shall
procure or commit any wyfull Perjurye.

* * * * *

6. Provided also and bee yt further enacted by thauthoritee aforesaid, that yf any
person or persons upon whom any proces out of any of the courtes of recorde within
this realme or Wales, shalbee served to testefie or depose concerning any cause or
matter depending in any of the same courtes, and having tendred unto him or them,
according to his or their countenance or calling, suche reasonable sommes of moneye
for his or their costes and chardges as having regarde to the distance of the places
ys necessarye to bee allowed in that behalfe, doo not appeare according to the tenour
of the said proces, having not a laifull and reasonable lett or impedymnt to the
contrarye, that then the partie making defaulte to lose and forfeite for every suche
offence tenne pounds, and to yelde suche further recompence to the partie grieved as
by the discretion of the judge of the courte out of the whiche the said proces shalbee
awarded, according to the losse and hindrance that the partie which procured the
said proces shall sustayne by reason of the non appaerance of the said witnes or
witnesses; the said severall sommes to bee recovered by the partie so greeved against
thoffendour or offendours by accion of det bill plaint or informacion in any of the
Quenes Majesties courtes of recorde, in which no wager of lawe essoigne or proteccion
to bee allowed.

Penalty on all
witnesses
neglecting to
attend, £10 and
recompence to
the party
grieved.

PART III.—CONSOLIDATING PROVISIONS.

DIVISION 1.—ACT OF PARLIAMENT.

10. The Clerk of the Parliaments shall indorse on every Act of
Parliament immediately after the title of such Act the day month and
year when the same has passed and received the Royal assent, and
such indorsement shall be taken to be part of such Act and to be the
date of its commencement where no other commencement is therein
provided.

Date of passing
of Act to be
endorsed by
clerk and such
date shall be
taken as
commencement
of Act if no
other is
provided.

11. Whenever by any Act of Parliament a day or time is appointed
fixed or indicated as the day or time on or at which any act matter or
thing is to be done or effected and such day or time is antecedent to
the passing of such Act and its receiving the Royal assent the Governor
in Council unless the contrary is expressly enacted may by publication
in the Government Gazette appoint or fix or indicate a day or time for
doing or effecting such act matter or thing and every such act matter
or thing done or effected upon the day or time so appointed fixed or
indicated shall be as good valid and effectual as if it had been done
or effected on the day or at the time appointed fixed or indicated in
the Act and all provisions of the Act following and dependent directly
upon the doing or effecting of such act matter or thing shall be read
and construed as if the date or time so appointed fixed or indicated
by the Governor in Council had been the date appointed fixed or
indicated in the Act.

33 Geo. III.
c. 13.
Where the time
fixed by an
Act for the
doing of any
act &c. cannot
be observed
being
antecedent to
the passing of
the Act the
Governor in
Council may
fix a time.
cf. 4 Geo. IV.
c. 35.

12. Where

Where bills for continuing Act which would expire during the session shall not pass before the Acts expire such Acts shall be deemed to continue from their expiration.
48 Geo. III. c. 106.

12. Where in any session any bill is introduced into either House of Parliament for the continuance of any Act which would expire in such session and such Act has expired before the bill for continuing the same has received the Royal assent such continuing Act shall be deemed and taken to have effect from the date of the Act intended to be continued as fully and effectually to all intents and purposes as if such continuing Act had actually passed before the expiration of such Act except it is otherwise specially provided in such continuing Act. Provided that nothing herein contained shall extend or be construed to extend to affect any person with any punishment penalty or forfeiture whatsoever by reason of anything done or omitted to be done by any such person contrary to the provisions of the Act so continued between the expiration of the same and the date at which the Act continuing the same receives the Royal assent.

DIVISION 2.—ADMINISTRATION OF ESTATES.

Interpretation.

13. In the construction of this Division unless inconsistent with the context or subject-matter—

English
Administration
of Estates Bill
1893 cl. 34.

“Administration” means letters of administration or a rule to administer and in either case whether general or limited or with the will annexed or otherwise.

“Estate” includes both real and personal property.

“Representative” except in section thirty-two means an executor or administrator.

“Will” includes codicil and every other testamentary instrument.

Obligation to
take out
probate or
administration.

55 Geo. III.
c. 184 s. 37.

English Bill
1893 cl. 1.

14. If any person takes possession of and in any manner administers any part of the estate of a deceased person without obtaining a grant of probate of his will or a grant of administration of his estate or a grant of administration of or including such part within six months after his decease or if there is any action or dispute respecting the will or the right to administration which is not ended within four calendar months after his decease within two months after the determination of that action or dispute he shall (if the estate is such that after making all proper deductions duty would in the appropriate circumstances be payable thereon under Part VI. of the *Administration and Probate Act 1915* or any corresponding enactment hereafter in force) be liable to forfeit Fifty pounds and a further sum at the rate of ten per centum on the amount of such duty and any sum so forfeited shall be and shall be recoverable as a debt due from him to the Crown.

Power of Court
to insure due
administration
and to call on
representative
to account and
to exhibit an
inventory.

21 Henry VIII.
c. 5 s. 2.

22 and 23 Chas.
II. c. 10 s. 1.

See English Bill
cl. 3.

See *Supreme
Court Act 1915*
s. 17.

15. The Supreme Court or any Judge thereof may require any representative of a deceased person to exhibit on oath an inventory and account of the estate of the deceased and may call any such representative to account for and touching the estate of the deceased and upon hearing and due consideration may order and make just distribution of such estate and may decree and settle such distribution and compel any representative to observe the same in due course of law.

16. (1) A person

16. (1) A person doing or permitting any act in good faith under a probate or administration duly granted and issued in respect of the estate of a deceased person shall be exempt from liability in respect thereof notwithstanding any defect in or other circumstances affecting the validity of the probate or administration.

Protection of persons acting on probate or administration. 20 and 21 Vict. c. 77 ss. 77-78. English Bill 1893 cl. 4.

(2) Where a probate or administration is duly revoked all payments made in good faith to a representative under the probate or administration before the revocation thereof shall be a legal discharge to the person making the same; and the representative who has acted under the revoked probate or administration may retain and reimburse himself in respect of any payments made by him which the person to whom probate or administration is afterwards granted might have lawfully made.

17. If any person to the defrauding of creditors or persons interested in the estate of an intestate or without full and valuable consideration obtains or holds any estate or the release of any debt or liability owing from him to the intestate he shall be charged as an executor in his own wrong to the extent of the estate received or held by him or the debt or liability released to him less any debt for valuable consideration and without fraud due to him from the intestate and any payment made by him which could lawfully be made by a representative.

Liability of person fraudulently obtaining or retaining personal estate of deceased. 43 Eliz. c. 8. English Bill 1893 cl. 5.

18. Where a person dies intestate his personal estate until administration is granted in respect thereof shall vest in the Chief Justice of the Supreme Court who may by order under his hand direct the Curator of the estates of deceased persons to take possession of and manage and preserve the same or any specified part thereof and any charges and expenses incurred by such Curator in so doing shall be deemed to be a debt of the intestate.

Vesting of personal estate between death and grant of administration. 13 Edw. I. c. 19. 21 and 22 Vict. c. 95 s. 19. English Bill 1893 cl. 6.

19. Where a person is at the time of his death the sole executor of a deceased person the executor of that testator shall be the executor of that deceased person and have the same rights of action and other rights and obligations in respect of the estate of the deceased person as his own testator would if living have had and shall be answerable accordingly to the extent of the estate of the deceased person which comes to his hands.

Executor of executor to represent original testator. 25 Edw. III. St. 5 c. 5. English Bill 1893 cl. 8.

20. Where administration has been granted of any portion of the estate of a deceased person no person shall have power to take any proceeding or act as executor of the deceased person in respect of the estate comprised in or affected by the grant until the same has been recalled or revoked.

No one may act as executor while administration is in force. 20 and 21 Vict. c. 77 s. 75. English Bill 1893 cl. 11.

21. When legal proceedings are commenced in any court by or against a temporary administrator and the temporary administration terminates while the proceeding is pending that court may order that the proceedings be continued by or against the new representative in like manner as if the same had been originally commenced by or against him but subject to such conditions and variations if any as the court directs.

Continuance of legal proceedings after termination of temporary administration. 20 and 21 Vict. c. 77 s. 78. English Bill 1893 cl. 13.

22. (1) Where

Grant of special administration where representative is abroad.

38 Geo. III.
c. 87 ss. 1, 5.
20 and 21 Vict.
c. 77 s. 74.
21 and 22 Vict.
c. 95 s. 18.
English Bill
1893 cl. 14.

22. (1) Where at the expiration of twelve months from the death of a person in respect of whose estate probate or administration has been granted there is no representative of the deceased residing within Victoria the Supreme Court may on the application of any creditor next of kin or legatee of the deceased grant to him special administration of the estate or part of the estate of the deceased.

(2) The Supreme Court or a judge thereof may order that any part of the personal estate be brought into court for the purpose of any matter to which the special administrator is party and all companies and persons shall obey any such order.

(3) The costs of and incidental to the special administration and to the proceedings in any action by or against the special administrator shall be paid by such person or out of such fund as the Supreme Court or a Judge thereof directs.

Administration with will annexed to have force of probate.

22 and 23 Chas.
II. c. 10 s. 6.
English Bill
1893 cl. 15.

Administration during minority of executor.

38 Geo. III.
c. 87 ss. 6 & 7.
English Bill
1893 cl. 16.

23. Where administration is granted with the will annexed the will of the deceased shall be performed and observed in like manner as if probate thereof had been granted to the executor.

24. Where an infant is sole executor of a will administration with the will annexed may be granted to his guardian or to such other person as the Court thinks fit until the infant attains the age of twenty-one years.

The person to whom such administration is granted shall have the same powers as a person to whom administration is granted during the minority of the next of kin.

When the infant attains the age of twenty-one years he shall be entitled to have probate of the will granted to him

Rights and accountability of administrator.

31 Edw. III.
st. 1 c. 11.
1 James II. c. 17
s. 6.
English Bill
1893 cl. 17.

25. Every person to whom administration of the estate of a deceased person is granted shall have the same rights of action in respect of the estate and shall be accountable for the administration of the estate in like manner as if he had been appointed executor by the deceased.

Rights of action for debts due and injuries to personal estate.

13 Edw. I. c. 23.
4 Edw. III. c. 7.
31 Edw. III.
st. 1 c. 11.

English Bill
1893 cl. 18.

Liability for waste, &c.

30 Chas. II. c. 7.
4 William and
Mary c. 24 s. 12.
English Bill
1893 cl. 22.

26. The representative of a deceased person shall have the same right of action for any debt due to the deceased and for any injury to his personal estate in his lifetime as the deceased would have if alive.

27. Where a person as representative or as executor in his own wrong wastes or converts to his own use the estate of a deceased person and dies his estate shall be liable for the waste or conversion.

28. The beneficial interest whether legal or equitable of a deceased person in any real or personal property shall be assets for the payment of the debts and liabilities of the deceased. Such real and personal property shall be deemed to include an estate or interest *pur autre vie* (whether under the law formerly in force it would have passed or gone to the heir or to the executors or administrators) and also any property over which the deceased at the time of his death had a general power enabling him to dispose thereof other than a power exercisable by him as a trustee under a disposition not made by himself and all such estates interests and property on probate or administration being granted shall unless excluded therefrom by the terms of the grant vest in the executor or administrator and if more than one jointly.

Real and personal property of deceased to be assets for payment of debts.
13 Edw. I. c. 19.
31 Edw. III. St. 1 c. 11.
Administration and Probate Act 1915 ss. 9 & 10.
English Bill 1893 cl. 25.

29. Nothing in section thirty-one of the *Trusts Act* 1915 shall be construed as requiring the personal estate of a deceased person to be distributed until after the expiration of one year from his death. In case of intestacy a representative not proceeding under the said section shall not distribute the estate of the deceased person as to which he died intestate until after the expiration of such year.

No distribution required until one year from death.
English Bill 1893 cl. 30.
22 and 23 Chas. II. c. 10 s. 5.

30. Where a person in respect of the whole of his estate dies intestate leaving a widow but no issue—

- (a) Where his estate does not exceed in value One thousand pounds the widow shall be entitled to such estate.
- (b) Where his estate exceeds in value One thousand pounds the widow shall be entitled to One thousand pounds thereof and shall have a charge upon the whole estate for such sum with interest thereon at the rate of four per centum per annum from the date of the death of the intestate until payment and this provision for the widow shall be in addition and without prejudice to her interest and share in the residue of the estate remaining after giving effect to such provision in the same way as if such residue had been the whole of the estate of the intestate.
- (c) Where by the operation of paragraph (a) of this section a widow is entitled to One thousand pounds or any less sum being the proceeds of any policy or policies of insurance on the life of the deceased husband it shall not be necessary for such widow in order to obtain administration of his estate to enter into any bond with respect to the said One thousand pounds or any less sum the proceeds of the said policy or policies to which she is so entitled.

Intestate's estate not exceeding £1,000 to belong to widow where no issue.
Administration and Probate Act 1915 s. 15.
Where estate exceeds £1,000 widow to have a charge for that sum in addition to a share of residue.
1b.

Bond for administration not required as to certain interests under life insurance policies.
Administration and Probate Act 1915 s. 20.

31. Where a person in respect of the whole of his or her estate dies intestate leaving a mother but no widow or widower issue or father—

- (a) Where his or her estate does not exceed in value Five hundred pounds the mother shall be entitled to such estate.
- (b) Where his or her estate exceeds in value Five hundred pounds the mother shall be entitled to Five hundred pounds thereof and shall have a charge upon the whole estate for such sum with interest thereon at the rate of four per centum per annum from the date of the death of the

Intestate's estate not exceeding £500 when to belong to mother.
Intestate Estates Distribution Act 1916.
Provisions for mother in cases where certain estate exceeds £500.

intestate

intestate until payment, and this provision for the mother shall be in addition and without prejudice to her interest and share in the residue of the estate remaining after giving effect to such provision in the same way as if such residue had been the whole of the estate of the intestate.

- (c) Where by the operation of paragraph (a) of this section a mother is entitled to Five hundred pounds or any less sum being the proceeds of any policy or policies of insurance on the life of her deceased son or daughter it shall not be necessary for such mother in order to obtain administration of his or her estate to enter into any bond with respect to the said Five hundred pounds or any less sum the proceeds of the said policy or policies to which she is so entitled.

Bond for administration not required as to certain interests under life assurance policies.

See *Administration and Probate Act* 1915 s. 20.

Distribution on Intestacy.

22 & 23 Chas. II. c. 10 ss. 3, 4, 5.

29 Chas. II. c. 3 s. 24.

1 Ja. II. c. 17 s. 7.

English Bill 1893 cl. 32, 33.

Administration and Probate Act 1915 s. 11.

Married Women's Property Act s. 26.

Intestate Estates Distribution Act 1910.

32. Where a person in respect of the whole or any part of his or her estate dies intestate then subject to the provisions of the two last preceding sections the following provisions shall have effect with respect to such estate or part :—

- (1) If the intestate leaves a widow or widower she or he shall be entitled if the intestate leaves any issue to one-third and if the intestate leaves no issue to one-half of such estate or part.
- (2) If the intestate leaves a father and a mother but no widow or widower or issue such estate or part shall be distributed equally between the father and the mother and in the case of the latter for her own use.
- (3) If the intestate leaves a widow or widower and a father and a mother but no issue one-half of such estate or part shall be distributed equally between the father and the mother and in the case of the latter for her own use.
- (4) If the intestate leaves a widow or widower and a father but no issue or mother the father shall be entitled to one-half of such estate or part.
- (5) If the intestate leaves a father but no widow or widower or issue or mother the father shall be entitled to such estate or part.
- (6) Subject to the above-mentioned rights such estate or part or the portion thereof to which these rights do not extend shall be distributed in equal shares among the children of the intestate living at his decease and the representatives then living of any children who predeceased the intestate or if there are no such children or representatives among the next of kin of the intestate who are in equal degree ^(a) and their representatives : Provided as follows :—

(a) Where a child has any property real or personal or any estate or interest therein by settlement of the
intestate

(a) For the purpose of determining degrees in the case of an ancestor the number of steps from the intestate to the ancestor are to be counted, and in the case of a collateral relative the number of steps from the intestate to the common ancestor and from the common ancestor to the person in question are to be counted and added together. In the case of brothers' and sisters' children there is, however, a provision that they may claim by representation, and there is also a provision that grandparents are postponed to brothers and sisters or their children.

intestate or was advanced by the intestate in his lifetime that child or his representative shall bring such property estate interest or advance into account in estimating the share (if any) to be taken by him or them in the distribution.

- (b) Except as hereinafter provided the children of any person who died in the lifetime of the intestate shall take only the share which that person would have taken if living at the death of the intestate and if more than one shall take the same in equal shares.
- (c) No representation shall be admitted among collaterals after brothers' and sisters' children.
- (d) The interest of the mother of the intestate shall be the same as if she were a sister of the intestate.
- (e) Brothers or sisters or brothers' or sisters' children shall take in priority to grandparents.
- (f) Where brothers' or sisters' children are entitled and all the brothers or sisters of the intestate have died in his lifetime all such children shall take in equal shares.
- (g) There shall be no difference between males and females or between relationship of the whole blood and of the half blood.
- (h) A husband and wife shall for all purposes of distribution and division be treated as two persons.

33. In the three last preceding sections "estate" means the surplus remaining after deducting, or making according to law proper provision for, all debts funeral expenses testamentary expenses administration expenses and all other lawful liabilities and charges to which the estate is subject and where in the last preceding section part of an estate is referred to the property available for distribution as such part shall be determined according to the law for the time being in force with reference to the incidence as between various parts of the estate of such debts expenses and other liabilities and charges and after deducting or making according to law proper provision therefor so far if at all as such part is affected thereby.

Meaning of "estate" and "part of an estate" in the preceding sections.

34. In the case of any person dying before the commencement of this Act the Statutes and laws in force at the commencement of this Act relating to the distribution of the estates of deceased persons shall notwithstanding anything in this Act contained have the like force and effect as if this Act had not passed.

Saving as to persons dying before commencement of Act.

References to the Statutes of Distributions or references to the like effect in an instrument inter vivos made or in a will coming into operation after the commencement of this Act shall unless the contrary intention appears be construed as references to this Division.

Reference to Statutes of Distributions how construed.

35. Nothing

Saving.
English Bill
1893 cl. 37.

Repeal.
*Administration
and Probate Act*
1915 ss. 11, 15,
20, 73.
*Married
Women's
Property Act*
1915 s. 26.

*Intestate Estates
Distribution
Act 1916 No.*
2863.

Writ of
certiorari to
justices of the
peace, time for
applying for
and notice.

cf. 13 Geo. II.
c. 18 s. 5.
Supreme Court
Rules in Civil
proceedings
Order 53 Rule
7.

Recognizance
security for
costs.

cf. 5 Geo. II.
c. 19.

Supreme Court
Rules in Civil
proceedings.
Order 53 Rule
10.

Petition in
case of a
charitable trust
and
determination
thereof in a
summary way.
cf. 52 Geo. III.
c. 101 s. 1.

Petitions to be
signed by
petitioners and
their solicitor
and by law
officer.

Ib. s. 2.

35. Nothing in this Division shall affect any unrepealed enactment dispensing with probate or administration or otherwise regulating the distribution of money or property of a deceased person.

36. Section eleven paragraphs (2) (3) (4) and (5) and sections fifteen twenty and seventy-three of the *Administration and Probate Act 1915* section twenty-six of the *Married Women's Property Act 1915* and the *Intestate Estates Distribution Act 1916* are hereby repealed.

DIVISION 3.—CERTIORARI.

37. A writ of *certiorari* or order *nisi* for a writ of *certiorari* to remove a conviction judgment order or other proceeding before justices of the peace in or out of sessions shall not be granted unless within six months after the date of the conviction judgment order or other proceeding nor unless it is proved upon affidavit that the applicant has given six days' notice of the intended application to the justices of the peace (or to two of them if more than one) by or before whom such conviction judgment order or other proceeding was had or made to the end that such justice or justices or the parties therein concerned may show cause if he or they think fit against the issuing or granting of such *certiorari* or order *nisi*.

38. Except on the application of a law officer no such writ of *certiorari* shall be issued until the applicant has given security to the satisfaction of the prothonotary in the sum of Fifty pounds conditioned to prosecute the writ with effect at his own cost without delay and to pay to the party in whose favour the conviction judgment or order was given or made in the event of its being confirmed such costs if any as the Court shall order him to pay.

This section and the last preceding section shall apply to a chairman of general sessions as if he were a justice of the peace.

DIVISION 4.—CHARITABLE TRUSTS.

39. In every case of a breach of any trust or supposed breach of any trust created for charitable purposes or whenever the direction or order of a court is deemed necessary for the administration of any trust for charitable purposes any two or more persons may present a petition to the Supreme Court stating such complaint and praying such relief as the nature of the case may require; and the Supreme Court shall hear such petition in a summary way and upon affidavits or such other evidence as is produced upon such hearing determine the same and make such other order therein and with respect to the costs of such application as seems just.

40. Every petition so to be presented as aforesaid shall be signed by the persons preferring the same in the presence of and shall be attested by the solicitor concerned for such petitioners and every such petition shall be submitted to and allowed by a law officer and such allowance shall be certified by him before any such petition is presented.

DIVISION

DIVISION 5.—CRIMINAL PROCEDURE AND PUNISHMENT.

41. In or in connexion with criminal proceedings all powers of amendment reform or correction existing at the time of the commencement of this Act may notwithstanding any repeal effected thereby be exercised and acted upon as if this Act had not been passed and no judgment plea record process warrant panel or return shall be affected by any mere rasure interlineation addition subtraction diminution or literal error therein and in affirmance of any judgment any such defect may be amended reformed or corrected.

Amendments in criminal proceedings.
14 Edw. III. St. 1 c. 6.
9 Henry V. St. 1 c. 4.
4 Henry VI. c. 3.
8 Henry VI. cc. 12, 15.
46 and 47 Vict. c. 49 s. 4.

42. With respect to offences specified in the enactments set out in Part II. of this Act (so far as they are in force in Victoria) whether such offences are felonies misdemeanours or offences punishable by or before justices and with respect to all proceedings (whether preliminary or otherwise) in connexion therewith or on appeal therefrom or for the enforcement of any sentence judgment or order in connexion therewith the practice and procedure in force in Victoria shall except so far as is otherwise expressly provided in such enactments be adopted so far as they are applicable. Where under any of such enactments any offence is punishable by a fixed maximum term of imprisonment such enactment shall be construed as if it provided for imprisonment for a term of not more than the term specified in such enactment and where under any of such enactments a minimum term of imprisonment is specified the Court or Justices may impose any shorter term of imprisonment or may apply any appropriate provisions of the Victorian Legislature which are applicable to cases where terms of imprisonment may be imposed for offences.

Victorian practice and procedure to be adopted with respect to offences under Part II.

43. Any person guilty of any felony or misdemeanour under any of the enactments set out in Part II. of this Act (so far as they are in force in Victoria) for which no maximum punishment is specially provided shall in the case of felony be liable to imprisonment for a term of not more than ten years and in the case of misdemeanour be liable to imprisonment for a term of not more than three years or to a fine of not more than Five hundred pounds or to both such fine and imprisonment.

Punishment for felonies and misdemeanours under Part II.

44. The punishment of death in all cases whatsoever whether for treason or otherwise is to be executed by hanging the offender by his neck until he is dead. The time and place of execution are to be appointed by the Governor in Council.

Execution of sentence of death.
cf. 30 Geo. III. c. 48.
54 Geo. III. c. 146.
57 Geo. III. c. 6.
Queensland Code s. 664.
Calendar of accused persons for trial.
3 Henry VII. c. 3 or 4.
5 and 6 William IV. c. 38 s. 3.
28 and 29 Vict. c. 126 s. 62.

45. The governor or keeper or officer in charge of a gaol shall deliver or cause to be delivered to the judge or chairman presiding at any sitting of a Court for the trial of indictable offences a signed calendar of all prisoners in his custody for trial at such sitting and the Crown Solicitor shall deliver or cause to be delivered to such judge or chairman a signed calendar of all persons committed for trial at such sitting who are not in custody.

46. The

Police attendance at criminal sittings.

14 Chas. II. c. 21.

50 and 51 Vict. c. 55 s. 9.

cf. *Police Regulation Act* 1915 s. 18.

46. The Chief Commissioner of Police shall direct that a sufficient number of members of the police force shall be present to keep order in and within the precincts of the court-room at all sittings of the Supreme Court in its criminal jurisdiction and of the Court of General Sessions in its criminal jurisdiction and shall at the request of the presiding judge or chairman direct that an additional number of such members shall be present at any particular sitting with respect to which the request is made.

Sentence by a judge other than the judge presiding at a trial.

cf. 1 Edw. VI. c. 7 s. 5.

47. (1) When upon the trial of any indictable offence a verdict of guilty has been found or a plea of guilty has been received but no judgment or sentence has been given or passed thereon and the judge or chairman of general sessions (as the case may be) presiding at the trial dies or it appears to be probable that by reason of incapacitating illness or other serious cause he will be unable within a reasonable time to give judgment or pass sentence any other judge of the Supreme Court or chairman of general sessions (as the case may be) may in open Court take (if necessary) all steps preliminary to the giving of judgment or passing of sentence and may give judgment or pass sentence which shall for all purposes have the same effects and consequences as if it had been given or passed by such judge or chairman (as the case may be) presiding at the trial.

In all cases where it is possible so to do the judge or chairman (as the case may be) presiding at the trial shall be consulted before such judgment is given or such sentence is passed but non-compliance with this provision shall not affect the validity of such judgment or sentence.

The question whether it appears probable that the judge or chairman (as the case may be) presiding at the trial will be unable for the causes abovementioned within a reasonable time to give judgment or pass sentence shall be decided after such inquiry or upon such information as they think fit by the majority of the judges of the Supreme Court or the majority of the chairmen of general sessions (as the case may be) and such decision shall not be challenged on any ground whatsoever.

Sentence determined by one judge pronounced by another.

(2) When upon the trial of any indictable offence a verdict of guilty has been found or a plea of guilty has been received and all preliminary steps necessary for the giving of judgment or the passing of sentence have been taken but no judgment or sentence has been given or passed any such judge or chairman (as the case may be) may give any judgment or pass any sentence determined by the judge or chairman (as the case may be) presiding at the trial and such judgment or sentence shall for all purposes have the same effects and consequences as if it had been given or passed by the judge or chairman (as the case may be) presiding at the trial.

Sentence by another judge where a person pleads guilty on arraignment.

(3) Where upon arraignment for or at any time before the commencement of the trial of any indictable offence the accused person pleads guilty any such judge or chairman (as the case may be) other than the judge or chairman (as the case may be) receiving such

such plea may take (if necessary) all steps preliminary to the giving of judgment or passing of sentence and may give judgment or pass sentence upon the person so pleading guilty and such judgment or sentence shall for all purposes have the same effects and consequences as if it had been given or passed by the judge or chairman (as the case may be) who received such plea.

48. Whenever a sentence may be lawfully imposed for any indictable offence it may be imposed in open court at any time and at any place in Victoria at which sittings of the Supreme Court or Court of General Sessions (as the case may be) are held and the judge or chairman (as the case may be) presiding at the trial or receiving any plea of guilty or any other judge or chairman empowered to impose such sentence when he thinks it desirable in the interests of justice so to do may and from time to time if necessary fix or indicate by reference to some fact or event the time and fix the place at which such sentence is to be imposed and (unless he thinks fit to release such person on recognizances conditioned for such person's appearance at the proper time and place which he is hereby empowered to do) make an order or orders for the removal in custody of such person from one place in Victoria to another and such person during such removal and pending the imposition of such sentence shall be deemed to be in the lawful custody of the gaoler or other officer having the custody of such person for the purpose of carrying out any such order.

Time and place
of sentence.

This and the last preceding section shall not be construed as being in derogation of the powers possessed by a judge or chairman (as the case may be) under any other enactment or at common law.

DIVISION 6.—FIRES.

49. It shall be lawful to and for the respective governors and directors of any insurance office or persons granting policies of insurance for insuring houses or other buildings against loss by fire, and they are hereby authorized and required, on the request of any person interested in or entitled to any house or other building which hereafter is burned down demolished or damaged by fire, to cause the money for which such house or building has been insured by the occupier thereof or by any other person to be laid out and expended as far as the same will go towards re-building re-instating or repairing such house or other building so burned down demolished or damaged by fire; unless the person claiming such insurance money within thirty days next after his claim is adjusted gives a sufficient security to the governors or directors of the insurance office where such house or other building is insured that the same insurance money will be laid out and expended as aforesaid; or unless the said insurance money is in that time settled and disposed of to and amongst all the contending parties to the satisfaction and approbation of such governors or directors of such insurance office or such persons aforesaid respectively.

Money insured
on houses burnt
may be laid
out in
re-building.

14 Geo. III.
c. 78 s. 83.

*Landlord and
Tenant Act*
1915 s. 16.

50. No

No action to lie against person on whose estate a fire accidentally begins.
14 Geo. III. c. 78 s. 86.

50. No action suit or process whatever shall be had maintained or prosecuted against any person in whose house chamber stable barn or other building or on whose estate any fire accidentally begins and no recompense shall be made by such person for any damage suffered thereby any law usage or custom to the contrary notwithstanding. And in such case if any action be brought the defendant may plead the general issue and give this Act and the special matter in evidence at any trial thereupon to be had; provided that no contract or agreement made between landlord and tenant shall be hereby defeated or made void.

Repeal.
Melbourne Building Act 1849 s. 58.
No. 2677 s. 16.

51. Section fifty-eight of the *Melbourne Building Act* 1849 13 Victoria No. 39 and section sixteen of the *Landlord and Tenant Act* 1915 are hereby repealed.

DIVISION 7.—FORCIBLE ENTRIES AND DETAINERS.

Forcible entry.
5 Rich. II. St. 1 c. 7.
15 Rich. II. c. 2.
13 Henry IV. c. 7.
2 Henry V. St. 1. c. 8.
8 Henry VI. c. 9.
31 Eliz. c. 11.
21 James I. c. 15.
Queensland Code s. 70.
Forcible detainer.
cf. 8 Henry VI. c. 9.
31 Eliz. c. 11.
Queensland Code s. 71.

52. No person except where entry is given by the law shall make an entry upon land in a manner likely to cause a breach of the peace or reasonable apprehension of breach of the peace. Except as aforesaid it is immaterial whether he is entitled to enter upon the land or not.

53. No person being in actual possession of land for a period of less than three years by himself or his predecessors shall without colour of right hold possession of it in a manner likely to cause a breach of the peace or a reasonable apprehension of a breach of the peace against a person entitled by law to the possession of the land and able and willing to afford reasonable information as to his being so entitled.

Punishment.

54. Any person guilty of a contravention of either of the last two preceding sections shall be guilty of a misdemeanour and liable to imprisonment for a term of not more than one year or to a fine of not more than Five hundred pounds or to both such fine and imprisonment.

DIVISION 8.—LOTTERIES AND GAMING.

Interpretation.

55. This Division except the next succeeding section shall be read and construed as part of Part IV. of the *Police Offences Act* 1915.

Meaning of lottery.
Police Offences Act 1915 s. 86.

56. In section eighty-six of the *Police Offences Act* 1915 for the expression "Lottery" and the words immediately following such expression there shall be substituted the following:—"Lottery" includes any scheme whether real or pretended by which prizes whether
of

of money or of any other property matter or thing are or are to be or are represented or understood as capable of being drawn or thrown or competed for or gained in any other way by lot dice or any other mode of chance or by reference to any event or contingency whatsoever depending upon chance whether such scheme is established or conducted or intended or proposed to be established or conducted and in any case whether wholly or partly in Victoria or elsewhere.

57. Each of the following games is declared to be a lottery :—

- (a) The game known as faro or any similar game.
- (b) The game known as roulette or any similar game.
- (c) Every game invented or to be invented with one or more dice or with any other instrument engine or device in the nature of dice having one or more numbers or figures thereon (backgammon and other games with the backgammon tables only excepted).

Games declared to be lotteries.

12 Geo. II.

c. 28 s. 2.

18 Geo. II.

c. 34 s. 1.

13 Geo. II.

c. 19 s. 9.

58. Every game which is declared to be a lottery or which is in fact a game by way of lottery shall be deemed to be an unlawful game and within the meaning of the expression "unlawful game" or "unlawful games" in any Act now or hereafter to be passed.

Games by way of lottery unlawful games.

59. Every lottery is hereby declared to be a common nuisance and contrary to law.

Every lottery a nuisance.

10 William III.
c. 23 (or 17) s. 1.

42 Geo. III.
c. 119 s. 1.

60. Any person who keeps any house or place to exercise keep open show or expose to be played or drawn or thrown at or in any lottery or who knowingly suffers to be exercised kept open shown or exposed to be played at or in any lottery in his house or place shall be liable for a first offence to a penalty of not more than Two hundred pounds and for any subsequent offence besides such penalty to imprisonment for a term of not more than six months.

Keeping a house &c. for purpose of a lottery.

42 Geo. III.
c. 119 s. 2.

61. Any person who plays draws throws stakes or adventures at or in any lottery or contributes any money or other valuable property matter or thing to any sale or disposition of property by way of lottery shall be liable to a penalty of not more than Fifty pounds.

Penalty on players &c.

10 William III.
c. 23 (or 17)
s. 3.

8 Geo. I. c. 2
s. 37.

12 Geo. II.
c. 28 s. 3.

13 Geo. II.
c. 19 s. 9.

18 Geo. II.
c. 34 s. 2.

62. Any person who receives or causes to be received any money or other valuable property matter or thing in consideration of any money or other valuable property matter or thing to be paid transferred or given in case any ticket-number or chance in any lottery shall prove fortunate and any person who on or under any pretence form denomination or description whatsoever promises or agrees to pay transfer or give

Agreement to pay money &c. on result of lottery.

6 Geo. II. c. 35
s. 20.

42 Geo. III.
c. 119 s. 5

give any money or other valuable property matter or thing or to do or forbear doing anything for the benefit of any person whether with or without consideration on any event or contingency relating to the result of any lottery shall be liable to a penalty of not more than One hundred pounds.

Saving.
Police Offences Act 1915 s. 88.

63. Nothing in this Division shall limit the effect of the last paragraph of section eighty-eight of the *Police Offences Act 1915* and such paragraph shall be given effect to as if it had been passed after the coming into operation of this Act.

DIVISION 9.—MARRIAGE.

Degrees of
consanguinity
and affinity.
25 Henry VIII.
c. 22.
28 Henry VIII.
c. 7 s. 7.
28 Henry VIII.
c. 16.
32 Henry VIII.
c. 38.
2 and 3 Edw.
VI. c. 23.
1 and 2 Phillip
and Mary c. 8
s. 4.
1 Eliz. c. 1. s. 3.

64. The following and none other shall be the persons who shall be deemed to be within the degrees of consanguinity and affinity which may affect at law the validity of a marriage in fact celebrated :—

(a) In relation to a man :—

Any ancestor or descendant of his.
His father's wife.
His grandfather's wife.
His wife's grandmother.
His father's sister.
His mother's sister.
His father's brother's wife.
His mother's brother's wife.
His wife's father's sister.
His wife's mother's sister.
His wife's mother.
His wife's daughter.
His son's wife.
His sister.
His wife's sister. (a)
His brother's wife.
His son's son's wife.
His daughter's son's wife.
His wife's son's daughter.
His wife's daughter's daughter.
His brother's daughter.
His sister's daughter.
His brother's son's wife.
His sister's son's wife.
His wife's brother's daughter.
His wife's sister's daughter.

(b) In

(a) But see the next section.

(b) In relation to a woman :—

Any ancestor or descendant of hers.
 Her mother's husband.
 Her grandmother's husband.
 Her husband's grandfather.
 Her father's brother.
 Her mother's brother.
 Her father's sister's husband.
 Her mother's sister's husband.
 Her husband's father's brother.
 Her husband's mother's brother.
 Her husband's father.
 Her husband's son.
 Her daughter's husband.
 Her brother.
 Her husband's brother.
 Her sister's husband.
 Her son's daughter's husband.
 Her daughter's daughter's husband.
 Her husband's son's son.
 Her husband's daughter's son.
 Her brother's son.
 Her sister's son.
 Her brother's daughter's husband.
 Her sister's daughter's husband.
 Her husband's brother's son.
 Her husband's sister's son.

For the purpose and in the construction of this section " wife " or " husband " means a person who has been a wife or a husband (as the case may be) and there shall be no difference between relationship of the whole blood and of the half blood or between legitimate and illegitimate children.

65. Nothing in the last preceding section shall affect the meaning or effect of sections forty-two and one hundred and thirty-five of the *Marriage Act* 1915 or the meaning or effect of either of such sections and such sections shall be given effect to as if they had been passed after the coming into operation of this Act.

Marriage Act
1915 ss. 42 and
135 not
affected.

DIVISION 10.—PARLIAMENT.

66. When the Governor by proclamation summons the Legislative Council and the Legislative Assembly for the despatch of the business of Parliament on any day not less than six days from the day of the date of such proclamation the Houses of Parliament shall thereupon stand prorogued or adjourned (as the case may be) to the day and time declared in such proclamation notwithstanding any previous prorogation of the Council and Assembly to any longer day and notwithstanding

Summoning of
Parliament.
37 Geo. III.
c. 127 s. 1.
39 and 40 Geo.
III. c. 14 s. 1.
Constitution
Act Amendment
Act 1915 s. 31.

notwithstanding any previous adjournment of the Council and Assembly or either of them to any longer day and notwithstanding any former law usage or practice to the contrary.

How in case of adjournment orders of either House shall be deemed to have been appointed. 39 and 40 Geo. III. c. 14 s. 2.

67. All and singular the order or orders made by the Council or the Assembly and appointed for the day to which the Council or the Assembly (as the case may be) has been adjourned or to any day or days subsequent thereto other than and except any order or orders specially appointed for particular days and declared to be so fixed notwithstanding any meeting under this enactment and other than and except any order or orders made under the express provisions of any Act of Parliament shall be deemed and taken to have been appointed for the day on which the Council and the Assembly shall meet in pursuance of such proclamation.

DIVISION 11.—RELIGIOUS WORSHIP, DISTURBANCE OF.

Disturbing religious worship.

cf. 5 and 6 Edw. VI. c. 4.
1 Mary St. 2 c. 3.
1 Eliz. c. 2 s. 3.
1 William and Mary c. 18 s. 15.
52 Geo. III. c. 155 s. 12.
9 and 10 Vict. c. 59 s. 4.
Queensland Code s. 207.

68. Any person who wilfully and without lawful justification or excuse the proof of which lies on him disquiets or disturbs any meeting of persons lawfully assembled for religious worship or assaults any person lawfully officiating at any such meeting or any of the persons there assembled shall be liable to imprisonment for a term of not more than two months or to a penalty of not more than Five pounds.

A prosecution for any offence against this section must be begun within three months after the offence is committed.

DIVISION 12.—SERVANTS' CHARACTERS.

69. Every person who—

Personation of master &c. or giving false character to servant. 32 Geo. III. c. 56 s. 1.

Falsely asserting in writing that a servant has been hired for a period of hire or in a station. Ib. s. 2.

Falsely asserting a servant had been discharged at any time or had not been hired in any previous service. Ib. s. 3.

(a) falsely personates any master or mistress or the executor administrator wife relative housekeeper agent or servant of any such master or mistress and either personally or in writing gives any false forged or counterfeited character to any person offering himself or herself as a servant into the service of any person or persons ;

(b) knowingly and wilfully pretends or falsely asserts in writing that any servant has been hired or retained for any period of time whatsoever or in any station or capacity whatsoever other than that for or in which he or she has hired or retained such servant in his or her service or employment or for the service of any other person ;

(c) knowingly and wilfully pretends or falsely asserts in writing that any servant was discharged or left his or her service at any other time than that at which he or she was discharged or actually left such service or that any such servant has not been hired or employed in any other service contrary to truth ;

(d) offers

(d) offers himself or herself as a servant asserting or pretending that he or she has served in any service in which such servant has not actually served or with a false forged or counterfeit certificate of his or her character or in any wise adds to or alters effaces or erases any word date matter or thing contained in or referred to in any certificate given to him or her by his or her last or former actual master or mistress or by any other person duly authorized by such master or mistress to give the same ;

Person offering himself as servant and pretending to have served when he has not served or with a false or altered certificate.
32 Geo. III. c. 56 s. 4.

(e) having been in service when offering to hire himself or herself as a servant in any service whatsoever falsely and wilfully pretends not to have been hired or retained in any previous service as a servant,

Person offering himself for service who having been before in service pretends not to have been in such service.

shall be liable to a penalty of not more than Ten pounds.

Ib. s. 5.
Penalty and application.
Ib. s. 6.

70. If any servant who has been guilty of any of the offences aforesaid before any information has been laid against him or her for such offence discovers and lays an information against any person or persons concerned with him or her in any offence against the last preceding section every such servant so discovering and laying an information shall thereupon be discharged and indemnified from and against all penalties and punishments to which at the time of such information he or she might be liable by the last preceding section for or by reason of such his or her own offence.

Offenders discovering accomplices before information indemnified.
Ib. s. 8.

71. Any person who feels himself or herself aggrieved by any conviction under the last preceding section but one may appeal from such conviction to the next practicable Court of General Sessions in the manner and in the conditions prescribed by any law now or hereafter to be in force relating to appeals from justices to Courts of General Sessions.

Appeal.
Ib. s. 10.
cf. Health Act 1919 s. 364.

DIVISION 13.—SHERIFF.

72. In the construction of this Division the expression " writ " includes any process.

Interpretation.

73. Any person who having reasonable notice that he is required to assist the sheriff or any deputy sheriff in arresting any person or in preserving the peace omits without reasonable excuse so to do shall be liable to a penalty of not more than One hundred pounds and if a bailiff or assistant of the sheriff or a member of the police force shall be guilty of a misdemeanour and liable to a fine of not more than One hundred pounds or to imprisonment for a term of not more than one year or to both such fine and imprisonment.

Neglect to aid sheriff.
3 Edw. I. c. 9.
50 and 51 Vict. c. 55 s. 8.
Queensland Code s. 203.

74. If

Powers of sheriff.

50 and 51 Vict.
c. 55 s. 8 (2).
13 Edw. I. c.
39.

74. If the sheriff or any deputy sheriff finds any resistance in the execution of a writ he shall take with him such assistants as he thinks desirable and shall go in person to do execution and may arrest the resisters and bring them before a justice of the peace to be dealt with according to law and every such resister shall be guilty of a misdemeanour.

Duties as to execution of writs.

50 and 51 Vict.
c. 55 s. 10.
cf. 13 Edw. I.
c. 39.
2 Edw. III.
c. 5.

75. The sheriff at the request of a person delivering a writ to him for execution shall give a receipt for that writ stating the day of its delivery.

Duties on receipt of debt to Crown.

50 and 51 Vict.
c. 55 s. 11.
3 Geo. I. c. 15
s. 13.

76. (1) Where the sheriff or any officer or other person employed in collecting by process from any Court any debt due to the Crown receives from any person a sum as being due to the Crown he shall give a receipt to such person for that sum, and the sheriff shall forthwith take all necessary steps to procure in respect of that sum the effectual discharge of the debtor paying the same.

(2) An officer receiving any such sum shall account for it to the sheriff and the sheriff shall give a receipt for such sum.

(3) In case of any default under this section the sheriff and his representatives shall be liable to pay any damages suffered by a debtor in consequence of such default.

Duties on arrest of civil debtors.

50 and 51 Vict.
c. 55 s. 14.
cf. 32 Geo. II.
c. 28 ss. 1-4.

77. (1) Where an officer being a sheriff deputy sheriff bailiff or other officer whatsoever arrests or has in custody any person in the course of a civil proceeding whether at the suit of the Crown or otherwise such officer shall not—

(a) convey such person without his free consent to any house licensed for the sale of intoxicating liquor or to the private house of such officer or any tenant or relative of such officer ;

(b) charge such person with any sum for or procure him to call or pay for any liquor food or thing whatsoever except what he freely asks for ;

(c) take such person to any gaol within twenty-four hours of his arrest unless such person fails to name or refuses to be carried to some safe and convenient house of his own nomination being within three miles of the place at which he was arrested and not being the private dwelling-house of such person,

but shall during such twenty-four hours permit such person to send for and have brought to him at reasonable times in the day and in reasonable quantities any food or liquor from what place he thinks fit and also to have and use such bedding linen and other necessary things as he has occasion for or is supplied with and shall not purloin or detain the same or require any payment for the use thereof or restrict the use thereof.

(2) For

(2) For the purpose of making known the provisions of this section a printed copy thereof shall be delivered by the sheriff or other person intrusted with causing the execution of any writ order or attachment to the bailiff officer or other person employed to execute the same, and such bailiff officer or other person after making an arrest shall forthwith show a printed copy of such section to the person arrested or if such person is unable to read shall forthwith make known the provisions of such section to the person arrested.

(3) Subject to the foregoing provisions any person so arrested shall be lodged in the gaol nearest to the place of his arrest or with his consent in any other gaol and shall be there detained until the Supreme Court or a Judge thereof shall order his discharge or until he is otherwise discharged by due course of law.

(4) In this and the next succeeding section the expression "gaol" has the meaning assigned to it in the *Gaols Act 1915*.

78. A person unlawfully imprisoned by the sheriff or any of his officers shall have an action against the sheriff in like manner as against any other person that should imprison him without warrant. The Judges of the Supreme Court may make rules providing that in such circumstances as may be specified in such rules security for costs shall be given by the plaintiff.

Liability for wrongful imprisonment.
50 and 51 Vict. c. 55 s. 15.
13 Edw. I. c. 13

79. If a person in the custody of the sheriff or any of his officers or of any other person either in execution or for non-performance of a judgment or order of the Supreme Court or for contempt of that Court or otherwise in the course of a civil proceeding escapes out of legal custody such sheriff or other person shall be liable to pay the damages sustained by the person at whose suit such prisoner was taken into custody and all costs of any action or other proceeding to recover the same but not any further sum.

Liability for escape.
50 and 51 Vict. c. 55 s. 10.
6 Anne c. 12 s. 5.
cf. 5 and 6 Vict. c. 98.
cf. *Supreme Court Act 1915* s. 219.

Provided that there shall be no liability under this section for the escape of any prisoner when confined in any gaol.

cf. 40 and 41 Vict. c. 21.

Section two hundred and nineteen of the *Supreme Court Act 1915* is hereby repealed.

80. The sheriff or any officer concerned in the execution of any process directed to the sheriff may demand take and receive such poundage as may be fixed by rules made by the Judges of the Supreme Court.

Fees and poundage.
29 Eliz. c. 4.
3 Geo. I. c. 15 s. 3.
50 and 51 Vict. c. 55 s. 20.

81. All accounts of the sheriff or any deputy sheriff shall be transmitted examined verified and audited in such manner and at such times as is or are provided by law or as the Governor in Council may by order from time to time direct.

Sheriff's accounts.
cf. 50 and 51 Vict. c. 55 s. 21.

All sums received by a sheriff and not fully accounted for shall be answered for by himself or his representatives or otherwise in due course of law.

82. When the sheriff dies any person nominated by a Law Officer pending the appointment of a sheriff may execute the office of sheriff in the name of the deceased sheriff and be answerable for the execution

Execution of office on death of sheriff.
Ib. s. 25.
3 Geo. I. c. 15 s. 8.

execution of the said office as the deceased sheriff would have been by law if living and the security given to the sheriff so deceased by any deputy sheriff shall remain and be a security to the Crown and to all persons whomsoever for such deputy sheriff's due execution of the office of deputy sheriff.

Outgoing
sheriff to turn
over prisoners
and process to
incoming sheriff.
50 and 51 Vict.
c. 55 s. 28.
20 Geo. II. c. 37
4 Geo. IV.
c. 37 s. 1.

83. (1) Every sheriff shall at the expiration of his term of office make out and deliver to the incoming sheriff a correct list and account of all prisoners in his custody or lodged in gaol by him and of all writs and attachments in his hands not wholly executed by him with all such particulars as may be necessary to explain to the incoming sheriff the several matters intended to be transferred to him and shall thereupon turn over and transfer to the custody of the incoming sheriff all such prisoners so in custody and all such writs and attachments and all records books and matters appertaining to the office of sheriff.

(2) The incoming sheriff shall thereupon sign and give to the outgoing sheriff a duplicate of such list and account which shall be a good and sufficient discharge to him of and from all the prisoners therein mentioned and the execution of the writs and other matters therein contained and thereupon the incoming sheriff shall stand charged with the said prisoners so in custody, and with the execution and care of the said writs and attachments and other matters contained in the said list and account.

Punishment for
misconduct.
50 and 51 Vict.
c. 55 s. 29.

84. (1) If any person being a sheriff deputy sheriff or bailiff or other such officer or being employed in levying or collecting debts due to the Crown by process of any court or being an officer to whom the return or execution of writs belongs does any of the following things that is to say :—

3 Edw. I. c. 9.
23 Henry VI.
c. 9.

- (a) unlawfully lets go at large a prisoner or unlawfully withholds a prisoner entitled to be released; or
- (b) grants a warrant for the execution of any writ before he has actually received that writ; or
- (c) is guilty of an offence against or breach of the provisions of this Division or of any wrongful act or default in the execution of his office or of any contempt of the Supreme Court,

he and any person procuring the commission of any such offence shall without prejudice to any other punishment under the provisions of this Division but subject as hereinafter mentioned be liable—

- (i) to be punished by the Supreme Court as hereinafter mentioned ;
and
- (ii) if any person is aggrieved to forfeit Two hundred pounds and to pay all damages suffered by such person ;

and such forfeiture and damages may be recovered by such person as a debt by an action in the Supreme Court.

(2) The Supreme Court or any Judge thereof may on complaint made of any such offence as aforesaid having been committed and on proof on oath given by the examination of witnesses or by affidavit or on interrogatories of the commission of the alleged offence and after hearing

hearing anything which the alleged offender may urge in his defence (which evidence and hearing may be taken and had in a summary manner) punish the offender or cause proceedings to be taken for his punishment in like manner as a person guilty of contempt of the said Court may be punished.

(3) The Supreme Court or Judge may order the costs of or occasioned by any such complaint to be paid by either party to the other and an order by the Supreme Court or Judge to pay any costs damages or penalty shall be of the same effect as a judgment of such Court and may be enforced accordingly.

3 Geo. I. c. 15
s. 15.

(4) The said Court may also proceed for and deal with such offence in like manner as for any contempt of such Court.

(5) If any person not being a deputy sheriff bailiff or other such officer assumes or pretends to act as such or demands or takes any fee or reward under colour or pretext of such office he shall be guilty of contempt of the Supreme Court and be liable to be punished in manner provided by this section as if he were a deputy sheriff guilty of a contempt of such Court.

(6) Any proceeding in pursuance of this section against a sheriff deputy sheriff or any other person to whom this section applies shall except as provided in the next succeeding sub-section be taken within six months after the alleged offence was committed and not subsequently.

(7) Nothing in this section shall render a person liable to be punished twice for the same offence but if any proceeding within such period of six months is taken against a person under this section for any offence the Supreme Court or any Judge thereof may whether such period of six months has expired or not postpone or stay such proceeding and direct any other available proceeding for punishing such offence to be taken.

85. (1) Nothing in this Division shall affect—

(a) any such power right privilege obligation liability or duty of any sheriff or officer of a sheriff as exists by common law at the commencement of this Act.

(b) any legal proceeding or remedy in respect of any such power right privilege obligation liability or duty and any such legal proceeding or remedy may be carried on or had as if this Act had not been passed.

Saving.
50 and 51 Vict
c. 55 s. 39.

(2) Any fees or poundage authorized to be taken by or in pursuance of any enactment in force at the commencement of this Act may continue to be taken until altered in pursuance of this Division.

DIVISION 14.—SOLICITORS, ETC.

86. In the construction of this Division unless inconsistent with the context or subject-matter—

Interpretation.

“Solicitor” includes attorney solicitor or proctor and also a barrister or a barrister and solicitor when practising as an attorney solicitor or proctor.

No person to act as attorney unless admitted and enrolled.
6 and 7 Vict. c. 73 ss. 2, 35.
2 Geo. II. c. 23 ss. 3, 24, 25.
22 Geo. II. c. 46 s. 12.
23 and 24 Vict. c. 127 s. 20.

87. Except so far as is otherwise expressly enacted no person shall act as a solicitor or as such solicitor sue out any writ or process or commence carry on solicit or defend any action suit or other proceeding in the name of any other person or in his own name in the Supreme Court, Insolvency Court, County Court, Court of Mines, Court of General Sessions, or Court of Petty Sessions or before any judge or chairman of any of such Courts or before any warden justice or justices unless such person has been admitted and enrolled and otherwise duly qualified to act as a barrister or a solicitor or a barrister and solicitor of the Supreme Court and continues to be so duly qualified and on the roll at the time of his acting in the capacity of a solicitor as aforesaid; and any person who acts or does anything in contravention of the provisions of this section shall be guilty of a contempt of the Supreme Court and punishable accordingly upon the application of any person complaining thereof and upon proof made thereof upon oath either oral or by affidavit and shall be incapable of maintaining or prosecuting any action suit or other proceeding for any fee reward or disbursement for or in respect of any business matter or thing done by him in connexion with the matters aforesaid.

Oaths.
6 and 7 Vict. c. 73 ss. 17, 19.
2 Geo. II. c. 23 s. 5.

88. Except so far as may be otherwise specially provided by or under any Act every person shall before he is admitted and enrolled as a barrister and solicitor take the oath of allegiance and an oath that he will well and honestly demean himself in the practice of the profession of a barrister and solicitor according to the best of his knowledge and ability and admission shall be deemed not to be complete until an order of the Court for admission has been taken out and the roll signed.

Right to practise in all courts.
6 and 7 Vict. c. 73 s. 27.

89. Every person duly admitted as a barrister or solicitor or as barrister and solicitor shall while his qualification continues be entitled to practise in or before the said Courts or persons aforesaid on compliance with the special provisions if any relating to the right to practise in such Courts or before such persons.

Solicitors not to commence &c. actions &c. while prisoners.
6 and 7 Vict. c. 73 s. 31.
12 Geo. II. c. 13 s. 9.

90. No solicitor who is a prisoner in any gaol shall during his confinement in such gaol as a solicitor in his own name or in the name of any other solicitor sue out any writ or process or commence or prosecute or defend any action suit or other proceeding civil or criminal in any of the Courts aforesaid or as precedent to any proceeding before any of the persons aforesaid: and any solicitor acting in contravention of the provisions of this section and any other solicitor permitting or empowering such firstmentioned solicitor so to do shall be guilty of a contempt of the Supreme Court and punishable accordingly upon the application of any person complaining thereof and upon proof made thereof by oath either oral or by affidavit: and every solicitor acting in contravention of any of the provisions of this section shall be incapable of maintaining or prosecuting any action suit or other proceeding for any fee reward or disbursement for or in respect of any business matter or thing done by him whilst such firstmentioned solicitor was a prisoner as aforesaid.

91. If

91. If any solicitor acts as agent in any such action suit or other proceeding as is mentioned in section eighty-seven for any person not duly qualified to act as a solicitor or if any solicitor permits or suffers his name to be in any way made use of in any such action suit or proceeding upon the account or for the profit of any person not duly qualified as aforesaid or if any solicitor sends any process or does any other act thereby to enable any person not duly qualified as aforesaid to appear act or practise as a solicitor in any such action suit or other proceeding knowing such person not to be duly qualified as aforesaid any such solicitor may upon the application of any person complaining thereof and upon proof made thereof upon oath either oral or by affidavit to the satisfaction of the Supreme Court that such solicitor wilfully and knowingly offended therein be struck off the roll and such Court may make such order as to costs as it thinks just.

Solicitors not to act as agent for persons not qualified.

6 and 7 Vict. c. 73 s. 32.

2 Geo. II. c. 23 s. 17.

22 George II. c. 46 s. 11.

92. Nothing in this Division shall limit the jurisdiction or control of any Court with respect to solicitors given by the *Legal Profession Practice Act* 1915 s. 8 or by any other enactment or law in force at the commencement of this Act.

Saving

DIVISION 15.—UNLAWFUL OATHS.

93. Any person who—

- (a) administers or is present at and consents to the administering of any oath or engagement in the nature of an oath purporting to bind the person who takes it to commit any crime punishable with death ; or
- (b) takes any such oath or engagement not being compelled to do so ; or
- (c) attempts to induce any person to take any such oath or engagement—

Unlawful oaths to commit capital offences. Queensland Code s. 47.

shall be guilty of felony and shall be liable to imprisonment for a term of not more than fifteen years.

94. Any person who—

- (a) administers or is present at and consents to the administering of any oath or engagement in the nature of an oath purporting to bind the person who takes it to act in any of the ways following (that is to say) :—
 - (1) To engage in any mutinous or seditious enterprise ;
 - (2) To commit any indictable offence not punishable with death ;
 - (3) To disturb the public peace ;
 - (4) To be of any association society or confederacy formed for the purpose of doing any such act as aforesaid ;
 - (5) To obey the order or commands of any committee or body of men not lawfully constituted or of any leader or commander or other person not having authority by law for that purpose ;
 - (6) Not to inform or give evidence against any associate confederate or other person ;

Other unlawful oaths to commit offences. Ib. s. 49.

(7) Not

(7) Not to reveal or discover any unlawful association society or confederacy or any illegal act done or to be done or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person or the import of any such oath or engagement ; or

(b) takes any such oath or engagement not being compelled to do so ; or

(c) attempts to induce any person to take any such oath or engagement—

shall be guilty of felony and shall be liable to imprisonment for a term of not more than seven years.

Compulsion how far a defence.
Queensland Code s. 49.

95. A person who takes any such oath or engagement as is mentioned in the two last preceding sections cannot set up as a defence that he was compelled to do so unless within fourteen days after taking it or if he is prevented by actual force or sickness within fourteen days after the termination of such prevention he declares by information on oath before some member of the Executive Council or justice of the peace or if he is on actual service in His Majesty's forces by sea or land either by such information or by information to his commanding officer the whole of what he knows concerning the matter, including the person or persons by whom and in whose presence and the place where and the time when the oath or engagement was administered or taken.

Effect of prosecution.
Ib. s. 50.

96. A person who has been tried and convicted or acquitted on a charge of any of the offences mentioned in this Division shall not be afterwards prosecuted upon the same facts for treason or for failing when he knows that any person intends to commit treason to give information thereof with all reasonable despatch to a justice or use other reasonable endeavours to prevent the commission of the crime.

DIVISION 16.—SUPPLEMENTARY.

Correction in Part II. of First Schedule to Supreme Court Act 1915.

97. In Part II. of the First Schedule to the *Supreme Court Act* 1915 there shall be substituted for the words and figures "21 Jac. 1 c. 16 ss. 3, 4, 5, and 7" the words and figures "21 Jac. 1 c. 16 ss. 3, 4, 6, and 7" and after the words and figures "4 and 5 Anne c. 16 s. 19" there shall be added the words "(except so far as it relates to seamen's wages)" and such substitution shall be deemed to have been made as from the commencement of the said Act.

Revival of Act relating to piracy &c.
See 2 Vict. No. 10
The Criminal Law and Practice Statute 1865.

98. The Act 7 William IV. and 1 Victoria c. lxxxviii. is hereby adopted in and for Victoria save that for the words "three years" in section three of such Act there shall be substituted the words "ten years".^(a)

99. Section

^(a) This Act relates to punishment for piracy, as to which see the Acts set out in the Second Schedule.

99. Section three hundred and eight of the *Crimes Act 1915* shall as to any crime punishable with death not apply to limit the effect of any enactment or law relating to treason or of any enactment or law relating to piracy or to limit the effect of the Act mentioned in the last preceding section or of either of the Acts 12 George III. c. xxiv. or 37 George III. c. lxx. (a)

Limitation of effect of *Crimes Act 1915* s. 308.

100. The several offences of badgering engrossing forestalling and regrating are hereby utterly abolished and no information indictment or prosecution shall be commenced or prosecuted against any person for or by reason of any of the said offences or supposed offences: Provided that nothing in this section contained shall be construed to apply to the offence of knowingly and fraudulently spreading or conspiring to spread any false rumour with intent to enhance or decri the price of any goods wares or merchandise or to the offence of preventing or endeavouring to prevent by force or threats any goods wares or merchandise being brought to any market and every such offence may be inquired of tried and punished as if this Act had not been made.

Offences of badgering engrossing forestalling and regrating abolished. 7 and 8 Vict. c. 24 ss. 1, 4.

(a) See references to these Acts in the Second Schedule.

Sections 4, 8.

FIRST SCHEDULE.

Enactments.	Division of Part II.
[1267] 52 Henry III. (Statute of Marleberge) c. I. ..	Justice and Liberty
c. XV.	Distress
c. XVII.	Guardians
c. XXIII.	Landlord and Tenant
[1275] 3 Edward I. (Statute of Westminster the First) c. V. ..	Elections
c. XVI. ..	Distress
c. XXVIII.	Administration of Justice, Offences against
c. XXIX.	Administration of Justice, Offences against
[1285] 13 Edward I. (Statute of Westminster the Second) c. I.	Real Property—Estates Tail
[1289-90] 18 Edward I. (Quia Emptores) cc. I., II...	Real Property—Buyers of Land
[1297] 25 Edward I.(a) (Magna Carta) c. XXIX. ..	Justice and Liberty
[1300] 28 Edward I. (Articles upon the Charters) c. XII.	Distress
[1326-7] 1 Edward III. St. II. c. XVI.	Justices of the Peace
[1328] 2 Edward III. (Statute of Northampton)	
c. III. ..	Affrays and Riots
c. VIII.	Justice and Liberty
[1331] 5 Edward III. c. IX.	Justice and Liberty
[1344] 18 Edward III. St. II. c. II.	Justices of the Peace
[1351-2] 25 Edward III. St. V. c. II (in part) ..	Affrays and Riots
c. III. ..	Juries
c. IV. ..	Justice and Liberty
[1354] 28 Edward III. c. III.	Justice and Liberty
[1360-1] 34 Edward III. c. I.	Justices of the Peace
[1368] 42 Edward III. c. III.	Justice and Liberty
[1387-8] 11 Richard II. c. X.	Justice and Liberty
[1393-4] 17 Richard II. c. VIII.	Affrays and Riots
[1405-6] 7 Henry IV. c. I.	Justice and Liberty
[1411] 13 Henry IV. c. VII.	Affrays and Riots
[1414] 2 Henry V. St. I. c. VIII.	Affrays and Riots
[1488-9] 4 Henry VII. c. XX.	Penal Statutes
[1512] 4 Henry VIII c. VIII. s. 2	Parliament, Speeches in
[1535-6] 27 Henry VIII. c. X. ss. 1, 2, 3, 8 (b) ..	Real Property—Uses
c. XVI. s. 1 ..	Real Property—Enrolments
[1539] 31 Henry VIII. c. I.	Real Property—Partition
[1540] 32 Henry VIII. c. XXXII.	Real Property—Partition
[1562-3] 5 Elizabeth c. IX. s. 6	Witnesses
[1571] 13 Elizabeth c. V. ss. 1, 2, 5	Fraudulent Gifts
[1575-6] 18 Elizabeth c. V. ss. 1, 4, 5, 7, 8 ..	Penal Statutes
[1584-5] 27 Elizabeth c. IV. (c) ss. 1, 2, 3, 4 ..	Real Property—Voluntary Conveyances
[1588-9] 31 Elizabeth c. V. s. 1	Penal Statutes
[1603-4] 1 or 2 James I. c. XIII.	Privilege of Parliament
[1609-10] 7 or 7 & 8 James I c. V. s. 1	Public Officers' Protection
[1623-4] 21 or 21 & 22 James I. c. IV. ss. 1, 4, 5 ..	Penal Statutes
c. VIII. ss. 1, 2, 3	Process of the Peace in Superior Courts
c. XVI. s. 5 ..	Civil Procedure
c. XXV.	Real Property—Crown Tenants

(a) This is a restatement of the Great Charter of Henry III. and appears as 9 Henry III. in ordinary printed editions.

(b) Ss. 1, 2, 3, 4, 10 in some printed editions.

(c) See *Real Property Act* 1915, Part XVIII.

FIRST

SECOND SCHEDULE.(a)

Sections 6, 8.

Enactments.	Subject-matter.
Statutes of uncertain date (Prerogativa Regis) (b) c. XIII.	Prerogative
[1351-2] 25 Edward III. St. V. c. II. (so far as it relates to Treason) (c)	Treason
[1391] 15 Richard II. c. III.	Admiralty
[1423] 2 Henry VI. c. XVII. [XIV.]	Silverware
[1495] 11 Henry VII. c. I.	Treason
[1535-6] 27 Henry VIII. c. XXIV. ss. 1, 2	Prerogative
[1536] 28 Henry VIII. c. XV.(d)	Piracy, Sea Offences
[1541-2] 33 Henry VIII. c. XXXIX. ss. 36, 37, 40-58	Debtors to Crown
[1543-4] 35 Henry VIII. c. II.	Treason
[1547] 1 Edward VI. c. VII. s. 4	Judicial Officers
[1551-2] 5 & 6 Edward VI. c. XI.	Treason
c. XVI.(e)	Public Offices
[1553] 1 Mary Sess. I. c. I. ss. 1, 3	Treason
[1554-5] 1 & 2 Philip & Mary c. X. ss. 6, 8	Treason
[1571] 13 Elizabeth c. IV.	Debtors to Crown
[1584-5] 27 Elizabeth c. III.	Debtors to Crown
[1609-10] 7 or 7 & 8 James I. c. XV.	Debtors to Crown
[1623-4] 21 or 21 & 22 James I. c. III.	Monopolies
[1627] 3 Charles I. c. I.(f)	Petition of Right
[1640] 16 Charles I. cc. X., XIV.	Liberty, &c.
[1660] 12 Charles II. c. XXIV. (except ss. 8, 9)	Abolition of Military Tenures
[1661] 13 Charles II. St. I. c. VI. Preamble	Sea and land forces
[1670-1] 22 & 23 Charles II. c. XI.	Defence of Merchant Ships
[1679] 31 Charles II. c. I. s. 32	Quartering Soldiers
[1688] 1 William & Mary Sess. II. c. II.	Bill of Rights(g)
[1690] 2 William & Mary Sess. II. c. II.	Admiralty
[1695-6] 7 & 8 William III. c. III.	Treason
[1696-7] 8 & 9 William III. c. VIII. s. 8	Silverware
[1698-9] 11 William III.(h) c. VII.(d)	Piracy, Sea Offences
c. XII.	Governors
[1702] 1 Anne c. II. ss. 4, 5, 6	Demise of Crown
1 Anne St. II. c. IX. s. 3	Treason, &c
c. XXI.(i) s. 3	Treason

(a) As to punishment for offences see s. 99 of this Act.

(b) 17 Edward II. c. XI. in ordinary printed editions. As to wreck of the sea see the Merchant Shipping Acts and the Commonwealth Navigation Act 1912.

(c) Part of c. II. appears in Part II., Division 2, and part as to petit treason and counterfeiting King's seal and money has been repealed by 9 George IV. c. XXXI., and 11 George IV., & 1 William IV. c. LXVI. adopted, 4 William IV. No. 4 and by 2 & 3 William IV. c. XXXIV. and another part by 56 & 57 Victoria c. LIII. See also the Commonwealth Crimes Act 1914.

(d) Amended by 7 William IV. & 1 Victoria c. LXXXVIII. See s. 98 of this Act. As to Piracy &c. and Offences Abroad, see also 46 George III. c. LIV. 12 & 13 Victoria c. XCVI. (s. 2 of which has been repealed) 37 & 38 Victoria c. XXVII. and 41 & 42 Victoria c. LXXXIII.

(e) See *R. v. Vaughan*, Burrows Reports, p. 2500, and 49 George III. c. 126.

(f) Part preceding c. I. in the ordinary printed editions. See 16 Charles I. c. XIV. for confirmation.

(g) The general declarations of the Bill of Rights are as follows:—

That the pretended power of suspending of laws or the execution of laws by regal authority without consent of Parlyament is illegal.

That the pretended power of dispensing with laws or the execution of laws by regal authority as it hath bene assumed and exercised of late is illegal.

That the commission for erecting the late Court of Commissioners for ecclesiastical causes and all other commissions and courts of like nature are illegal and pernicious.

That levying money for or to the use of the Crowne by pretence of prerogative without grant of Parlyament for longer time or in other manner then the same is or shall be granted is illegal.

That it is the right of the subjects to petition the King and all commitments and prosecutions for such petitioning are illegal.

That the raising or keeping a standing army within the Kingdome in time of peace unless it be with consent of Parlyament is against law.

* * * * *

That elections of members of Parlyament ought to be free.

That the freedome of speech and debates or proceedings in Parlyament ought not to be impeached or questioned in any court or place out of Parlyament.

That excessive baile ought not to be required nor excessive fines imposed nor cruell and unusuall punishments inflicted.

That jurors ought to be duely impannelled and returned.

(h) 11 & 12 William III. in the ordinary printed editions.

(i) C. XVII. in the ordinary printed editions.

SECOND

SECOND SCHEDULE—continued.

Enactments.	Subject-matter.
[1705] 4 & 5 Anne c. III. (a) (ss. 17, 18 and so far as it relates to seamen's wages s. 19)	Admiralty, Seamen's Wages
[1707] 6 Anne c. XII.(b)	Treason
[1708] 7 Anne c. XII.	Ambassadors
c. XXI. s. 14	Treason
[1717-8] 4 George I. c. XI. s. 7(c)	Piracy. Sea Offences
[1719-20] 6 George I. c. XI. ss. 1, 2, 3, 41	Silverware
[1721-2] 8 George I. c. XXIV.(c)	Piracy. Sea Offences
[1738-9] 12 George II. c. XXVI. (including s. 23 except so far as it relates to costs)	Gold and Silverware
[1741-2] 15 George II. c. XX. (including s. 5 and s. 10 except so far as it relates to costs)	Gold and Silverware
[1744-5] 18 George II. c. XXX.(c)	Piracy. Sea Offences
[1750-1] 24 George II. c. XXIII.	Calendar. New Style
[1765-6] 6 George III. c. XII (d)	Legislation for Colonies
c. LIII. s. 3	Treason
[1766-7] 7 George III. c. XLVIII.	Chartered Companies
[1768-9] 9 George III. c. XVI. (e)	Crown Suits
[1772] 12 George III. c. XI.	Royal Family, Marriages
c. XXIV.	Dockyards, Magazines, Ships, Stores, &c., Protection
[1772-3] 13 George III. c. LXIII. ss. 42-45(f)	Evidence
[1777-8] 18 George III. c. XII. s. 1(d)	Legislation for Colonies
[1781-2] 22 George III. c. LXXV.	Public Offices for Colonies
[1785] 25 George III. c. XXXV.	Debtors to Crown
[1787-8] 28 George III. c. VII. (including s. 6 except so far as it relates to costs)	Gold and Silverware
[1790] 30 George III. c. XXXI.	Silverware
[1795] 36 George III. c. VII.	Treason
[1796] c. LX. (including ss. 8-13 and s. 21 except so far as it relates to costs)	Gold and Silverware
[1797] 37 George III. c. LXX.(g)	Incitement to Mutiny
[1798] 38 George III. c. LXIX.	Goldware
[1799] 39 George III. c. XXXVII.	Offences at Sea
[1800] 39 & 40 George III. c. LIV.	Debtors to Crown
c. XCIII.	Treason
[1801] 41 George III. c. LXXIX.	Notaries Public
[1802] 42 George III. c. LXXXV. (including s. 5 and excepting s. 6)	Offences Abroad
[1806] 46 George III. c. LIV.	Offences at Sea
[1809] 49 George III. c. CXXVI.	Public Offices
[1812] 52 George III. c. CLVI.(g)	Aiding Prisoners of War to escape
[1817] 57 George III. c. VI.	Treason
c. LIII.	Offences outside the Dominions
[1819] 59 George III. c. LX.	Admission of Clergy for Colonies
[1819] 60 George III. & 1 George IV. c. I.(g) (including s. 5 except so far as it relates to costs)	Unlawful Drilling

(a) 4 or 4 & 5 Anne c. XVI. in the ordinary printed editions.

(b) 6 Anne c. VII. in the ordinary printed editions.

(c) See note (d) on the preceding page.

(d) 6 George III. c. XLI. and 18 George III. c. XII s. 1 relate to the American Colonies, but may have a general application.

(e) See *Real Property Act 1915* s. 17.

(f) See 1 William IV. c. XXII. It should be noticed that the Act 13 George III. c. LXIII. is now wholly repealed. See 6 and 7 George V. c. XXXVII. s. 7 (2) and compare 5 and 6 George V. c. LXI. s. 130.

(g) See *Commonwealth Crimes Act 1914*.

SECOND SCHEDULE—*continued.*

Enactments.	Subject-matter.
[1820] 1 George IV. c. XC.	Offences at Sea
[1821] 1 & 2 George IV. c. CXXI. ss. 27-29 ..	Colonial Accounts
[1824] 5 George IV. c. LXXXVI. ..	Australian Agricultural Com- pany
c. CXIII.	Slave Trade
[1826] 7 George IV. c. XXXVIII.	Offences at Sea
[1827] 7 & 8 George IV. c. LXV... ..	Admiralty
[1828] 9 George IV. c. LXVI.	Admiralty