

V. Provided always, That where any Penalties are by this Act inflicted on any Person or Persons, other than the Undertakers, their Agents, Deputies, Substitutes, or Servants, such Penalties shall be recovered by Action of Debt, Bill, Complaint or Information. Proviso concerning Penalties.

VI. And whereas there hath been an evil Practice in farming and purchasing for a Sum of Money, the Charity-money that should or might be collected on such Briefs, to the very great Hindrance and Discouragement of Alms-giving on such Occasion; Be it therefore enacted by the Authority aforesaid, and it is hereby declared, That all farming and purchasing of such Charity-money is unlawful, and that from and after the aforesaid five and twentieth Day of *March*, if any Person or Persons shall purchase or agree for any Charity-money to be collected on any Briefs or Letters Patents, or by any Instrument of Covenant or agreement, by way of Farming, shall or may pretend to appropriate such Charity-money, or any Part thereof, to his or their Use, contrary to the Intent and Meaning of such Letters Patents, by which such Charity-money shall be collected, and contrary to the Intent and Meaning of this Act, such Purchase and Instrument of Covenant and Agreement, shall be void, and each Person agreeing to purchase the Benefit of such Brief, shall forfeit the Sum of five hundred Pounds, to be applied for the Benefit of the Sufferers in such Letters Patents mentioned, and to be recovered as before last mentioned. No Persons to farm or purchase Charity-money on Briefs, &c. on Penalty.

C A P. XV.

An Act for making the River *Stower* Navigable, from the Town of *Maningtree* in the County of *Essex*, to the Town of *Sudbury* in the County of *Suffolk*. River *Stower* to be made Navigable from *Maningtree* in *Essex*, to *Sudbury* in *Suffolk*. Powers granted to the Undertakers. Commissioners appointed for determining Differences. Any nine of them impowered to act. Persons declining Commissioners Mediation, Sheriff of the County to impanel a Jury; who, on Oath, are to inquire and assess Damages, &c. Such Assessment to be binding. On Payment of Sum assessed, &c. Undertakers, &c. may act in pursuance of such final Order. No Commissioner to act in any Case where concerned. In case of Death of Commissioners, or Refusal to act, the Number shall be supplied. Undertakers to receive for Goods, Merchandizes, &c. viz. For every Chalders of Coals, 5s. every Ton Weight of other Goods, &c. 5s. On Nonpayment, Undertakers may sue or detain Goods. Watermen, &c. may use Winches. Owners of Barges, Boats, &c. responsible for Damages done by Barges, &c. Commissioners to have the sole Power of surveying the River, &c. and not to be under the Survey of any Commission of Sewers. Persons sued on this Act may plead the General Issue. Defendants to have full Costs. Act to be deemed a Publick Act. Rights of Fishing reserved. Owners of Lands may use Pleasure Boats, &c. Lawful to enter into any Boat, Vessel, &c. and seize Nets, &c. for taking Fish. Undertakers by the twenty-fourth of *June* 1708, to begin their Works, and finish the same by the twenty-fourth of *June* 1713. If Works be not finished by the Time limited, Commissioners may appoint others to perfect the same, &c. And so *toties quoties*. Mill-stones, Timber, Lime, &c. for the Use of the Mills, exempt from Toll. The Sea Walls and Banks, &c. belonging to *Lawford Hall* in *Essex*, shall be repaired and maintained. Dr. *Dent* to pay 5*l.* per *Ann.* to the Undertakers, on Penalty of Distress. No Duty to be paid for Dung, Muck, &c. used for manuring of Owners Lands, &c. Wharfage Duty for Coals, &c. payable at *Sudbury*. All Boats, Barges, &c. to be registered and marked. No Boat to be marked with another's Mark. P R.

C A P. XVI.

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

FOR the Amendment of the Law in several Particulars, and for the easier, speedier, and better Advancement of Justice, Be it enacted by the Queen'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 of the same, That from and after the first Day of *Trinity* Term which shall be in the Year of our Lord one thousand seven hundred and six, where any Demurrer shall be joined, and entered in any Action or Suit in any Court of Record within this Realm, the Judges shall proceed and give Judgment, according as the very Right of the Cause and Matter in Law shall appear unto them, without regarding any Imperfection, Omission, or Defect in any Writ, Return, Complaint, Declaration, or other Pleading, Process, or Course of Proceeding whatsoever, except those only which the Party demurring shall specially and particularly set down and express, together with his Demurrer, as Causes of the same, notwithstanding that such Imperfection, Omission, or Defect might have heretofore been taken to be Matter of Substance, and not aided by the Statute made in the twenty-seventh Year of Queen ELIZABETH, intituled, *An Act for the Furtherance of Justice in case of Demurrer and Pleadings*, so as sufficient Matter appear in the said Pleadings, upon which the Court may give Judgment according to the very Right of the Cause; and therefore from and after the said first Day of *Trinity* Term, no Advantage or Exception shall be taken of or for an immaterial Traverse; or of or for the Default of entering Pledges upon any Bill or Declaration; or of or for the Default of alledging the bringing into Court any Bond, Bill, Indenture, or other Deed whatsoever mentioned in the Declaration or other Pleading; or of or for the Default of alledging of the bringing into Court Letters Testamentary, or Letters of Administration; or of or for the Omission of *Vi & Armis & contra pacem*, or either of them; or of or for the want of Averment of *Hoc paratus est verificare*, or, *Hoc paratus est verificare per Recordum*; or of or for not alledging *prout patet per Recordum*, but the Court shall give Judgment according to the very Right of the Cause as aforesaid, without regarding any such Imperfections, Omissions and Defects, or any other Matter of like Nature, except the same shall be specially and particularly set down and shewn for Cause of Demurrer. By 9 Annæ, c. 20. sect. 7. This Statute is extended to Writs of Mandamus and Informations in nature of Quo Warranto. From Trinity Term 1706 Judges shall give Judgment on Demurrer, &c. without regarding any Defect in Writ, &c. Exception. 27 Eliz. cap. 5.

II. And

All Statutes of Jeofails to be extended to Judgments upon Nihil dicit, &c. No such Judgment to be reversed.

II. And be it further enacted by the Authority aforesaid, That from and after the said first Day of *Trinity* Term, all the Statutes of Jeofails shall be extended to Judgments which shall at any Time afterwards be entred upon Confession, *Nihil dicit*, or *Non sum informatus*, in any Court of Record; and no such Judgment shall be reversed, nor any Judgment upon any Writ of Enquiry of Damages executed thereon be staid or reversed, for or by reason of any Imperfection, Omission, Defect, Matter or Thing whatsoever, which would have been aided and cured by any of the said Statutes of Jeofails in case a Verdict of twelve Men had been given in the said Action or Suit, so as there be an original Writ or Bill, and Warrants of Attorney duly filed according to the Law as is now used.

When Warrants of Attorney shall be filed.

III. Provided always, and be it enacted by the Authority aforesaid, That the Attorney for the Plaintiff, or Demandant in any Action or Suit, shall file his Warrant of Attorney with the proper Officer of the Court where the Cause is depending the same Term he declares; and the Attorney for the Defendant or Tenant shall file his Warrant of Attorney as aforesaid, the same Term he appears, under the Penalties inflicted upon Attornies by any former Law for Default of filing their Warrants of Attorney.

Defendant, &c. may plead several Matters.

IV. And be it further enacted by the Authority aforesaid, That from and after the said first Day of *Trinity* Term it shall and may be lawful for any Defendant or Tenant in any Action or Suit, or for any Plaintiff in Replevin, in any Court of Record, with the Leave of the same Court, to plead as many several Matters thereto, as he shall think necessary for his Defence.

Proviso touching Costs.

V. Provided nevertheless, That if any such Matter shall, upon a Demurrer joined, be judged insufficient, Costs shall be given at the Discretion of the Court; or if a Verdict shall be found upon any Issue in the said Cause for the Plaintiff or Demandant, Costs shall be also given in like Manner, unless the Judge, who tried the said Issue, shall certify, that the said Defendant, or Tenant, or Plaintiff in Replevin, had a probable Cause to plead such Matter which upon the said Issue shall be found against him.

Venire facias how to be awarded.

VI. And whereas great Delays do frequently happen in Trials, by reason of Challenges to the Arrays of Panels of Jurors, and to the Polls, for Default of Hundredors: For Prevention thereof for the future, be it enacted by the Authority aforesaid, That from and after the said first Day of *Trinity* Term, every *Venire facias* for the Trial of any Issue, in any Action or Suit in any of her Majesty's Courts of Record at *Westminster*, shall be awarded of the Body of the proper County where such Issue is triable.

Not to extend to Writs of Appeal of Felony or Murder, &c.

VII. Provided always, and be it enacted by the Authority aforesaid, That nothing in this Act before contained shall extend to any Writ, Declaration, or Suit of Appeal of Felony or Murder, or to any Indictment or Presentment of Treason, Felony or Murder, or other Matter, or to any Process upon any of them, or to any Writ, Bill, Action or Information upon any Penal Statute.

Where Jurors are to view Lands, &c. Court may order Special Writs of *Distringas* or *Habeas Corpora*.

VIII. And be it further enacted by the Authority aforesaid, That from and after the said first Day of *Trinity* Term in any Actions brought in any of her Majesty's Courts of Record at *Westminster*, where it shall appear to the Court in which such Actions are depending, that it will be proper and necessary, that the Jurors who are to try the Issues in any such Actions, should have the view of the Messuages, Lands, or Place in Question, in order to their better understanding the Evidence that will be given upon the Trials of such Issues, in every such Case the respective Courts in which such Actions shall be depending, may order Special Writs of *Distringas* or *Habeas Corpora* to issue, by which the Sheriff, or such other Officer to whom the said Writs shall be directed, shall be commanded to have six out of the first twelve of the Jurors named in such Writs, or some greater number of them, at the Place in Question, some convenient Time before the Trial, who then and there shall have the Matters in Question shewn to them by two Persons in the said Writs named, to be appointed by the Court; and the said Sheriff or other Officer, who is to execute the said Writs, shall, by a special Return upon the same, certify that the View hath been had according to the Command of the said Writs.

All Grants and Conveyances, &c. to be good, without Attornment of Tenants.

IX. And be it further enacted by the Authority aforesaid, That from and after the said first Day of *Trinity* Term, all Grants or Conveyances thereafter to be made, by Fine or otherwise, of any Manors or Rents, or of the Reversion or Remainder of any Messuages or Lands, shall be good and effectual, to all Intents and Purposes, without any Attornment of the Tenants of any such Manors, or of the Land out of which such Rent shall be issuing, or of the particular Tenants upon whose particular Estates any such Reversions or Remainders shall and may be expectant or depending, as if their Attornment had been had and made.

Proviso.

X. Provided nevertheless, That no such Tenant shall be prejudiced or damaged by Payment of any Rent to any such Grantor or Conusor, or by Breach of any Condition for Nonpayment of Rent, before Notice shall be given to him of such Grant by the Conusee or Grantee.

No dilatory Plea to be received unless on Affidavit.

XI. And be it further enacted by the Authority aforesaid, That from and after the said first Day of *Trinity* Term, no dilatory Plea, shall be received in any Court of Record, unless the Party offering such Plea, do, by Affidavit, prove the Truth thereof, or shew some probable Matter to the Court to induce them to believe that the Fact of such dilatory Plea is true.

Action of Debt brought on single Bill or Judgment, after Money paid, such Payment may be pleaded in Bar.

XII. And be it further enacted by the Authority aforesaid, That from and after the said first Day of *Trinity* Term, where any Action of Debt shall be brought upon any single Bill, or where Action of Debt, or *Scire facias*, shall be brought upon any Judgment, if the Defendant hath paid the Money due upon such Bill or Judgment, such Payment shall and may be pleaded in Bar of such Action or Suit, and where an Action of Debt is brought upon any Bond which hath a Condition or Defeazance to make void the same upon Payment of a lesser Sum at a Day or Place certain, if the Obligor, his Heirs, Executors or Administrators, have, before the Action brought, paid to the Obligee, his Executors or Administrators, the Principal and Interest due by the Defeazance or Condition of such Bond, though such Payment was not made strictly according to the Condition or Defeazance; yet it shall and may nevertheless be pleaded in Bar of such Action, and shall be as effectual a Bar thereof, as if the Money had been paid at the Day and Place according to the Condition or Defeazance, and had been so pleaded.

The like on Bonds.

XIII. And

XIII. And be it further enacted by the Authority aforesaid, That if at any Time, pending an Action Principal and Interest on Bonds paid in Court, &c. Court may discharge Defendant.

XIV. And whereas by an Act of Parliament made in the twenty-ninth Year of King CHARLES the Second, intituled, *An Act for prevention of Frauds and Perjuries*, it is enacted, That no Nuncupative Will shall be good, where the Estate thereby bequeathed shall exceed the Value of thirty Pounds, that is not proved by the Oaths of three Witnesses, at the least, that were present at the making thereof; it is hereby declared, That all such Witnesses as are and ought to be allowed to be good Witnesses upon Trials at Law, by the Laws and Customs of this Realm, shall be deemed good Witnesses to prove any Nuncupative Will, or any thing relating thereunto.

XV. And whereas it hath been doubted, whether since the making of the said last mentioned Act of Parliament, the Declarations or Creations of Uses, Trusts, or Confidences, of any Fines or Common Recoveries manifested by Deed made after the levying or suffering of such Fines or Recoveries, are good and effectual in Law; It is hereby declared, That all Declarations, or Creations of Uses, Trusts, or Confidences, of any Fines or Common Recoveries of any Lands, Tenements, or Hereditaments, manifested and proved, or which hereafter shall be manifested and proved, by any Deed already made, or hereafter to be made, by the Party who is by Law enabled to declare such Uses or Trusts, after the levying or suffering of any such Fines or Recoveries, are and shall be as good and effectual in the Law, as if the said last mentioned Act had not been made.

XVI. And be it further enacted by the Authority aforesaid, That from and after the said first Day of Trinity Term, no Claim or Entry to be made of or upon any Lands, Tenements or Hereditaments, shall be of any Force or Effect to avoid any Fine levied or to be levied with Proclamations, according to the Form of the Statute in that Case made and provided in the Queen's Court of *Common Pleas at Westminster*, or in the Courts of Sessions in any of the Counties Palatine, or in Courts of Grand Sessions in *Wales*, of any Lands, Tenements or Hereditaments, or shall be a sufficient Entry or Claim within the Statute made in the twenty-first Year of King JAMES the First, intituled, *An Act for Limitation of Actions, and for avoiding of Suits in Law*, unless upon such Entry or Claim, an Action shall be commenced within one Year next after the making of such Entry or Claim, and prosecuted with Effect.

XVII. And be it further enacted by the Authority aforesaid, That all Suits and Actions in the Court of Admiralty for Seamens Wages, which shall become due after the said first Day of Trinity Term, shall be commenced and sued within six Years next after the Cause of such Suits or Actions shall accrue, and not after.

XVIII. Provided nevertheless, and be it further enacted, That if any Person or Persons, who is or shall be intituled to any such suit or Action for Seamens Wages, be or shall be, at the Time of any such Cause of Suit or Action accrued, fallen or come, within the Age of twenty-one Years, Feme Covert, *Non Compos mentis*, imprisoned, or beyond the Seas, that then such Person or Persons shall be at Liberty to bring the same Actions, so as they take the same within six Years next after their coming to, or being of full Age, Discover, of sane Memory, at large, and returned from beyond the Seas.

XIX. And be it further enacted by the Authority aforesaid, That if any Person or Persons against whom there is or shall be any such Cause of Suit or Action for Seamens Wages, or against whom there shall be any Cause of Action of Trespass, Detinue, Actions Sur Trover, or Replevin for taking away Goods or Cattle, or of Action of Account, or upon the Case, or of Debt grounded upon any Lending or Contract without Specialty, of Debt for Arrearages of Rent, or Assault, Menace, Battery, Wounding and Imprisonment, or any of them, be or shall be, at the Time of any such Cause or Suit or Action given or accrued, fallen, or come, beyond the Seas; that then such Person or Persons, who is or shall be intituled to any such Suit or Action, shall be at Liberty to bring the said Actions against such Person and Persons, after their return from beyond the Seas, so as they take the same after their Return from beyond the Seas, within such Times as are respectively limited for the bringing of the said Actions before by this Act, and by the said other Act made in the one and twentieth Year of the Reign of King JAMES the First.

XX. And be it enacted by the Authority aforesaid, That if any Person or Persons shall be arrested from and after the said first Day of Trinity Term, by any Writ, Bill, or Process, issuing out of any of her Majesty's Courts of Record at *Westminster*, at the Suit of any common Person, and the Sheriff or other Officer taketh Bail from such Person, against whom such Writ, Bill, or Process is taken out, the Sheriff or other Officer at the Request and Costs of the Plaintiff in such Action or Suit, or his lawful Attorney, shall assign to the Plaintiff in such Action the Bail Bond, or other Security taken from such Bail, by endorsing the same, and attesting it under his Hand and Seal in the Presence of two or more credible Witnesses, which may be done without any Stamp; provided the Assignment so endorsed be duly stamped before any Action be brought thereupon; and if the said Bail Bond or Assignment, or other Security taken for Bail be forfeited, the Plaintiff in such Action, after such Assignment made, may, bring an Action and Suit thereupon in his own Name, and the Court where the Action is brought, may by Rule or Rules of the same Court, give such Relief to the Plaintiff and Defendant in the original Action, and to the Bail, upon the said Bond or other Security taken from such Bail, as is agreeable to Justice and Reason, and that such Rule or Rules of the said Court shall have the Nature and Effect of a Defeazance to such Bail Bond, or other Security for Bail.

XXI. And

Warranty by
Tenant for Life
void.

XXI. And be it further enacted by the Authority aforesaid, That all Warranties which shall be made after the said first Day of *Trinity* Term, 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 after the said first Day of *Trinity* Term, 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.

No Subpœna to
issue till after
Bill filed.
Exception.

XXII. And be it further enacted by the Authority aforesaid, That no *Subpœna*, or any other Process for Appearance, do issue out of any Court of Equity, till after the Bill is filed with the proper Officer in the respective Courts of Equity, except in Cases of Bills for Injunctions to stay Wastes, or stay Suits at Law commenced, and a Certificate thereof brought to the *Subpœna* Office, or to him who usually makes out *Subpœnas* or other Process in the several Courts of Equity, under the Hand of the Six Clerk, or other Clerk or Officer who usually files Bills in Equity, for which Certificate he shall receive no Fee.

On dismissing
Bills in Equity,
Plaintiff or De-
fendant to pay
full Costs.

XXIII. And for the better preventing vexatious Suits in Courts of Equity; be it further enacted, That upon the Plaintiff's dismissing his own Bill, or the Defendant's dismissing the same for want of Prosecution, the Plaintiff in such Suit shall pay to the Defendant or Defendants, his or their full Costs, to be taxed by a Master: And that no Copy, Abstract, or Tenor of any Bill in Equity, do go with the *Dedimus* or Commission for taking the Defendant's Answer; but in Lieu and Recompence thereof, the sworn Clerks of the Court of *Chancery* shall take to their own Use, in all Clauses, the whole Term Fee of three Shillings and four Pence, and also the whole Fee or Fees of and for all small Writs made by the said sworn Clerks.

Act to extend to
all Suits for the
King's Debts,
&c.

Rex v. Phillips
in Scacc. Hil.
1746.

XXIV. And be it further enacted by the Authority aforesaid, That from and after the said first Day of *Trinity* Term, this Act and all the Statutes of Jeofails shall extend to all Suits in any of her Majesty's Courts of Record at *Westminster*, for Recovery of any Debt immediately owing, or any Revenue belonging to her Majesty, her Heirs or Successors; and shall also extend to all Courts of Record in the Counties Palatine of *Lancaster*, *Chester*, and *Durham*, and the Principality of *Wales*, and to all other Courts of Record within this Kingdom.

On quashing
Writ of Error
Defendant to
have Costs.

XXV. And for the preventing great Vexation from suing out defective Writs of Error; be it enacted by the Authority aforesaid, That upon the quashing any Writ of Error to be sued out after the said first Day of *Trinity* Term, for Variance from the original Record or other Defect, the Defendants in such Error shall recover against the Plaintiff or Plaintiffs, issuing out such Writ, his Costs, as he should have had if the Judgment had been affirmed, and to be recovered in the same Manner.

Probats of Wills
and Administra-
tions.

XXVI. And whereas great Trouble and Expence is frequently occasioned to the Widows and Orphans of Persons dying Intestate to Monies or Wages due for Work done in her Majesty's Yards and Docks, by Disputes happening about the Authority of granting Probate of the Wills, and Letters of Administration of the Goods and Chattels of such Persons, and for preventing such unnecessary Trouble and Expence; Be it therefore enacted by the Authority aforesaid, That the Power of granting Probats of the Wills, and Letters of Administration of the Goods and Chattels of such Person and Persons respectively, is, and is hereby declared to be, in the Ordinary of the Diocese, or such other Person, to whom the Ordinary Power of Probat of Wills, or granting Letters of Administration do belong, where such Person and Persons shall respectively die; and that the Salary, Wages, or Pay due to such Person or Persons from the Queen's Majesty, her Heirs or Successors, for Work done in any of the Yards or Docks, shall not be taken or deemed to be *Bona notabilia*, whereby to found the Jurisdiction of the Prerogative Court.

Bona notabilia.

Actions of Ac-
count may be
brought against
Executors of
Guardian, Bai-
liff, &c.
Auditors to ex-
amine the Parties
on Oath.

XXVII. 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 Joint-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 Joint-tenant, or Tenant in Common; and the Auditors appointed by the Court, where such Action shall be depending, shall be, and are hereby empowered 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.

C A P. XVII.

An Act to prevent Frauds frequently committed by Bankrupts. [Continued for five Years from April 1709. by 7 Annæ, c. 25. §. 4.] E X P. See 10 Ann. c. 15.

C A P. XVIII.

An Act for enlarging the Pier and Harbour of *Parton* in the County of *Cumberland*. Harbour to be enlarged. From 1 *May* 1706. for eleven Years to be paid to the Trustees, for enlarging and repairing the Pier and Harbour. For every 192 Gallons of Coals, 2 *d.* by the Owner, and 2 *d.* by the Master of the Ship. And after eleven Years, one Farthing only for every 192 Gallons for ever. Trustees to appoint Collectors of the Duties. Who are to pay the Monies to the Receivers. Trustees to take Security of the Receivers and Collectors. Collectors to be allowed 6 *d.* in the Pound. If Duties be not paid, Collectors may distrain. And on Non-payment Distress may be sold. No Ship to be discharged until Master produce Collectors Receipt of Duties paid. Trustees may contract for repairing the Harbour: And assign the Place for building the Pier, &c. Trustees may borrow Money on Credit of the Duties, at 6 *l.* per Cent. per