

CAP. I.

An act for raising the fum of five hundred eighty-four thousand nine hundred feventy eight pounds two fhillings and two-pence half-peny, for the speedy building thirty fhips of war. EXP.

CAP. II.

An act for an additional excife upon beer, ale and other liquors, for three years. EXP.

CAP. III.

An act for prevention of frauds and perjuries.

FOR prevention of many fraudulent practices, which are commonly endeavoured to be upheld by perjury and subordination of perjury; (2) be it enacted by the King's most excellent majesty, 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 from and after the four and twentieth day of June, which shall be in the year of our Lord one thousand six hundred seventy and seven, all leases, estates, interests of freehold, or terms of years, or any uncertain interest of, in, to or out of any messuages, manors, lands, tenements or hereditaments, made or created by livery and seisin only, or by parol, and not put in writing, and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only, and shall not either in law or equity be deemed or taken to have any other or greater force or effect; any consideration for making any such parol lease or estates, or any former law or usage, to the contrary notwithstanding.

1 Roll. Abr. 24.

Parol leases and interest of freehold shall have the force of estates at will only.

II. Except nevertheless all leases not exceeding the term of three years from the making thereof, whereupon the rent reserved to the landlord, during such term, shall amount unto two third parts at the least of the full improved value of the thing demised.

Except leases not exceeding three years, &c.

III. And moreover, That no leases, estates or interests, either of freehold, or terms of years, or any uncertain interest, not being copyhold or customary interest, of, in, to or out of any messuages, manors, lands, tenements or hereditaments, shall at any time after the said four and twentieth day of June be assigned, granted or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or their agents thereunto lawfully authorized by writing, or by act and operation of law.

No leases or estates of freehold shall be granted or surrendered by word.

4 Bing: 460
No B. & C. 922

IV. And be it further enacted by the authority aforesaid, That from and after the said four and twentieth day of June no action shall be brought whereby to charge any executor or administrator upon any special promise, to answer damages out of his own estate; (2) or whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriages of another person; (3) or to charge any person upon any agreement made upon consideration of marriage; (4) or upon

Promises and agreements by parol.

5 East 10. 46. 42
6 Bing: 508.⁵
Shower 16.
Skinn. 142,
any 143.

any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them; (5) or upon any agreement that is not to be performed within the space of one year from the making thereof; (6) unless the agreement upon which such action shall be brought, or some *memorandum* or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

Devises of lands shall be in writing and attested by three or four witnesses.

3 Lev. 86.
Carthew 35.

514.
Ellis v. Smith,
in chan. Hill.

1754
Bing: 310.

How the same shall be revocable.

3 Mod. 219,
220, 260.

All declarations or creations of trusts shall be in writing.

Explained by
4 Ann. c. 16.
1. 15.

Trusts arising, transferred or extinguished by implication of law, are excepted.

Lloyd v. Spillit
in chan. Hill,
1740.

Assignments of trusts shall be in writing.

V. And be it further enacted by the authority aforesaid, That from and after the said four and twentieth day of *June* all devises and bequests of any lands or tenements, deviseable either by force of the statute of wills, or by this statute, or by force of the custom of *Kent*, or the custom of any borough, or any other particular custom, shall be in writing, and signed by the party to devising the same, or by some other person in his presence and by his express directions, and shall be attested and subscribed in the presence of the said devisor by three or four credible witnesses, or else they shall be utterly void and of none effect.

VI. And moreover, no devise in writing of lands, tenements or hereditaments, nor any clause thereof, shall at any time after the said four and twentieth day of *June* be revocable, otherwise than by some other will or codicil in writing, or other writing declaring the same, or by burning, cancelling, tearing or obliterating the same by the testator himself, or in his presence and by his directions and consent; (2) but all devises and bequests of lands and tenements shall remain and continue in force, until the same be burnt, cancelled, torn or obliterated by the testator, or his directions, in manner aforesaid, or unless the same be altered by some other will or codicil in writing, or other writing, of the devisor, signed in the presence of three or four witnesses, declaring the same; any former law or usage to the contrary notwithstanding.

VII. And be it further enacted by the authority aforesaid, That from and after the said four and twentieth day of *June* all declarations or creations of trusts or confidences of any lands, tenements or hereditaments, shall be manifested and proved by some writing signed by the party who is by law enabled to declare such trust, or by his last will in writing, or else they shall be utterly void and of none effect.

VIII. Provided always, That where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise or result by the implication or construction of law, or be transferred or extinguished by an act or operation of law, then and in every such case such trust or confidence shall be of the like force and effect as the same would have been if this statute had not been made; any thing herein before contained to the contrary notwithstanding.

IX And be it further enacted, That all grants and assignments of any trust or confidence shall likewise be in writing, signed by the party granting or assigning the same, or by such last will or devise, or else shall likewise be utterly void and of none effect.

X. And

X. And be it further enacted by the authority aforefaid, That from and after the faid four and twentieth day of *June* it fhall and may be lawful for every fheriff or other officer to whom any writ or precept is or fhall be directed, at the fuit of any perfon or perfons, of, for and upon any judgment, ftatute or recognizance hereafter to be made or had, to do, make and deliver execution unto the party in that behalf fuing, of all fuch lands, tenements, rectories, tithes, rents and hereditaments, as any other perfon or perfons be in any manner of wife feifed or poffeffed, or hereafter fhall be feifed or poffeffed, in trust for him againft whom execution is fo fued, like as the fheriff or other officer might or ought to have done, if the faid party againft whom execution hereafter fhall be fo fued, had been feifed of fuch lands, tenements, rectories, tithes, rents or other hereditaments of fuch eftate as they be feifed of in trust for him at the time of the faid execution fued; (2) which lands, tenements, rectories, tithes, rents and other hereditaments, by force and virtue of fuch execution, fhall accordingly be held and enjoyed freed and difcharged from all incumbrances of fuch perfon or perfons as fhall be fo feifed or poffeffed in trust for the perfon againft whom fuch execution fhall be fued; (3) and if any *ceftuy que trust* hereafter fhall die, leaving a trust in fee-fimple to defcend to his heir, there and in every fuch cafe fuch trust fhall be deemed and taken, and is hereby declared to be, affets by defcent, and the heir fhall be liable to and chargeable with the obligation of his ancestors for and by reafon of fuch affets, as fully and amply as he might or ought to have been, if the eftate in law had defcended to him in poffeffion in like manner as the trust defcended; any law, custom or ufage to the contrary in any wife notwithstanding.

XI. Provided always, That no heir that fhall become chargeable by reafon of any eftate or trust made affets in his hands by this law, fhall by reafon of any kind of plea or confeffion of the action, or fuffering judgment by *nient dedire*, or any other matter, be chargeable to pay the condemnation out of his own eftate; (2) but execution fhall be fued of the whole eftate fo made affets in his hands by defcent, in whose hands foever it fhall come after the writ purchafed, in the fame manner as it is to be at and by the common law, where the heir at law pleading a true plea, judgment is prayed againft him thereupon, any thing in this prefent act contained to the contrary notwithstanding.

XII. And for the amendment of the law in the particulars following; (2) be it further enacted by the authority aforefaid, That from henceforth any eftate *pur auter vie* fhall be devisable by a will in writing, figned by the party fo devising the fame, or by fome other perfon in his prefence and by his exprefs directions, attefted and fubfcribed in the prefence of the devifor by three or more witneffes; (3) and if no fuch devife thereof be made, the fame fhall be chargeable in the hands of the heir, if it fhall come to him by reafon of a fpecial occupancy as affets by defcent,

Lands, &c. fhall be liable to the judgments, &c. of *ceftuy que trust*.

B. & A. 684
to Bing: 96

And held free from the incumbrances of the perfons feifed in trust.

Trust fhall be affets in the hands of heirs
2 Vern. 248.

No heir fhall by reafon thereof become chargeable of his own eftate.

Eftates *pur auter vie* fhall be devisable.
14 Geo. 2. c. 20. f. 9.

And fhall be affets in the heirs hand.

And where there is no special occupant, shall go to the executors. Carthew

as in case of lands in fee-simple ; (4) and in case there be no special occupant thereof, it shall go to the executors or administrators of the party that had the estate thereof by virtue of the grant, and shall be assets in their hands.

376. 2 Salk. 464. 2 Vern. 719.

XIII. And whereas it hath been found mischievous, that judgments in the King's courts at Westminster do many times relate to the first day of the term whereof they are entered, or to the day of the return of the original, or filing the bail, and bind the defendants lands from that time, although in truth they were acknowledged or suffered and signed in the vacation-time after the said term, whereby many times purchasers find themselves agrieved :

The day of signing any judgment shall be entered on the margin of the roll.

This clause extends to counties palatine by 8 Geo. 1. c. 25. s. 6.

And such judgments as against purchasers shall relate to such time only.

XIV. Be it enacted by the authority aforesaid, That from and after the said four and twentieth day of June any judge or officer of any of his Majesty's courts of Westminster, that shall sign any judgments, shall at the signing of the same, without fee for doing the same, set down the day of the month and year of his so doing, upon the paper book, docket or record which he shall sign ; which day of the month and year shall be also entered upon the margin of the roll of the record where the said judgment shall be entered.

XV. And be it enacted, That such judgments as against purchasers *bona fide* for valuable consideration of lands, tenements or hereditaments to be charged thereby, shall in consideration of law be judgments only from such time as they shall be so signed, and shall not relate to the first day of the term whereof they are entered, or the day of the return of the original or filing the bail ; any law, usage or course of any court to the contrary notwithstanding.

Writs of execution shall bind the property of goods but from the time of their delivery to the officer.

2 Salk. 320.
Carthew 419.
2 Mod. 188.
2 Keb. 257.

XVI. And be it further enacted by the authority aforesaid, That from and after the said four and twentieth day of June no writ of *Fieri facias* or other writ of execution shall bind the property of the goods against whom such writ of execution is sued forth, but from the time that such writ shall be delivered to the sheriff, under-sheriff or coroners, to be executed : and for the better manifestation of the said time, the sheriff, under-sheriff and coroners, their deputies and agents, shall upon the receipt of any such writ, (without fee for doing the same) endorse upon the back thereof the day of the month or year whereon he or they received the same.

Contracts for sales of goods for ten pounds or more.

Thuan. hist. lib. 39. s. 25.

Executory contracts
9 Geo. 1. c. 11. s. 7

XVII. And be it further enacted by the authority aforesaid, That from and after the said four and twentieth day of June no contract for the sale of any goods, wares and merchandizes, for the price of ten pounds sterling or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized.

XVIII. And

XVIII. And be it further enacted by the authority aforefaid, That the day of the month and year of the enrolment of the recognizances fhall be fet down in the margent of the roll where the faid recognizances are enrolled; (2) and that from and after the faid four and twentieth day of *June* no recognizance fhall bind any lands, tenements or hereditaments in the hands of any purchafers *bona fide* and for valuable confideration, but from the time of fuch enrolment; any law, ufage or courfe of any court to the contrary in any wife notwithstanding.

The day of the enrolment of recognizances fhall be fet down, and lands in the hands of purchafers bound from that time only.

XIX. *And for prevention of fraudulent praetices in fetting up nuncupative wills, which have been the occafion of much perjury;* (2) be it enacted by the authority aforefaid, That from and after

Nuncupative wills.

the aforefaid four and twentieth day of *June* no nuncupative will fhall be good, where the eftate thereby bequeathed fhall exceed the value of thirty pounds, that is not proved by the oaths of three witneffes (at the leaft) that were prefent at the making thereof; (3) nor unlefs it be proved that the teftator at the time of pronouncing the fame, did bid the perfons prefent, or fome of them, bear witnefs, that fuch was his will, or to that effect; (4) nor unlefs fuch nuncupative will were made in the time of the laft ficknefs of the deceafed, and in the houfe of his or her habitation or dwelling, or where he or fhe hath been refident for the fpace of ten days or more next before the making of fuch will, except where fuch perfon was furprized or taken fick, being from his own home, and died before he returned to the place of his or her dwelling.

Explained by 4 Ann. c. 16. s. 14.

XX. And be it further enacted, That after fix months paffed after the fpeaking of the pretended teftamentary words, no teftimony fhall be received to prove any will nuncupative, except the faid teftimony, or the fubftance thereof, were committed to writing within fix days after the making of the faid will.

XXI. And be it further enacted, That no letters teftamentary or probate of any nuncupative will fhall pafs the feal of any court, till fourteen days at the leaft after the deceafe of the teftator be fully expired; (2) nor fhall any nuncupative will be at any time received to be proved, unlefs procefs have firft iffued to call in the widow, or next of kindred to the deceafed, to the end they may conteft the fame, if they pleafe.

Probates of nuncupative wills.

XXII. And be it further enacted, That no will in writing concerning any goods or chattels, or personal eftate, fhall be repealed, nor fhall any clause, devife or bequeft therein, be altered or changed by any words, or will by word of mouth only, except the fame be in the life of the teftator committed to writing, and after the writing thereof read unto the teftator, and allowed by him, and proved to be fo done by three witneffes at the leaft.

Raymond 334.

XXIII. Provided always, That notwithstanding this act, any foldier being in actual military fervice, or any mariner or feaman being at fea, may difpofe of his moveables, wages and personal eftate, as he or they might have done before the making of this act.

Soldiers and mariners wills excepted.

XXIV. And it is hereby declared, That nothing in this act

The jurifdiction of courts fhall faved.

shall extend to alter or change the jurisdiction or right of probate of wills concerning personal estates, but that the prerogative court of the archbishop of *Canterbury*, and other ecclesiastical courts, and other courts having right to the probate of such wills, shall retain the same right and power as they had before, in every respect; subject nevertheless to the rules and directions of this act.

22 & 23 Car.
2. c. 10.
Husbands not
compellable to
make distribution of the
personal
estates of
their wives.
1 Mod. 231.

XXV. And for the explaining one act of this present parliament, intituled, *An act for the better settling of intestates estates*; (2) be it declared by the authority aforesaid, That neither the said act, nor any thing therein contained, shall be construed to extend to the estates of feme coverts that shall die intestate, but that their husbands may demand and have administration of their rights, credits, and other personal estates, and recover and enjoy the same, as they might have done before the making of the said act. *Made perpetual by 1 Jac. 2. c. 17. s. 5.*

CAP. IV.

An act for erecting a judicature to determine differences touching houses burnt and demolished by the late dreadful fire in Southwark.

Who shall be commissioners. Their power and manner of proceeding. Their decrees shall be binding and conclusive. Their summons of parties and witnesses how to be granted. And how to be served. Upon default they may proceed to determine the controversy. If the persons cannot be found to be summoned, no proceedings shall be thereon till after six months. Tofts of such as will not begin to build within two years, &c. may be disposed of to such as will build. And satisfaction awarded to the proprietors. Or assessed by a jury where the parties will not or cannot accept the same. Decrees made by fewer than seven, and excepted to within thirty days, may be reversed or altered by any seven or more, &c. Such appeals to be finished within six months. Such orders and decrees shall be effectual, and conclude all persons. And not reversed by writ of error or *certiorari*. Such judgments and decrees how to be entered. The books to be kept by the town clerk of London. The powers given by this act to continue for three years. An oath to be taken by the judges of the court. Encroachments and purprestures upon the high street, how to be regulated. A proviso for stall-boards notwithstanding. Differences concerning party-walls and other walls, and lights, passages, &c. how to be mediated. The court shall order what fees their officers shall take. Affidavits of serving process how to be taken. The penalty of committing perjury in the same. Decrees may be signed by the survivors of those that made them. Leases and agreements since the fire shall be of force, and may be corroborated by decree of the court. Persons interested shall not have votes. Damages may be recovered at law for non-performance of any decree, or a bill in equity maintained for a performance *in specie*. Persons not abating annoyances may be indicted. An action at law given for money decreed, the decree may be given in evidence. Persons prosecuted may plead the general issue, &c. Southwark market shall be kept where it anciently has been.

CAP. V.

An act for taking affidavits in the country, to be made use of in the courts of King's bench, common pleas and exchequer.

FOR the greater ease and benefit of all persons whatsoever in the taking of affidavits to be made use of and read in his Majesty's courts of King's bench, common pleas and exchequer at Westminster, as well in matters and things relating to his Majesty and his revenue, as in all other