

hundred and forty one, no indictment, information, or cause whatsoever, shall be tried at *Nisi prius* before any judge or justice of assize, or *Nisi prius*, or at the sittings in *London* or *Westminster*, where the defendant or defendants reside above forty miles from the said cities respectively, unless notice of trial in writing has been given at least ten days before such intended trial.

10 days notice of trial.

V. And be it further enacted by the authority aforesaid, That in case any party or parties shall have given such notice of trial as aforesaid, and shall not afterwards duly countermand the same in writing, at least six days before such intended trial, every such party shall be obliged to pay unto the party or parties to whom such notice of trial shall have been given as aforesaid, the like costs and charges as if such notice of trial had not been countermanded.

Notice of trial may be countermanded 6 days before the trial intended.

CAP. XVIII.

An act to indemnify persons who have omitted to qualify themselves for offices and employments, within the time limited by law, and for allowing further time for that purpose. Persons taking the oaths of the act 1 Geo. I. and receiving the sacrament, by 28 Nov. 1741, indemnified, and recapacitated. But persons not hereby restored to places already avoided or filled up. E X P.

CAP. XIX.

An act for repairing the roads from a place called Red House near Doncaster to Wakefield; and through the said town of Wakefield, by Dewsbury, Hightown, and Lightcliff, to the town of Halifax, in the west riding of the county of York.

Certain tolls are granted from 20 May, 1741, for 21 years.

CAP. XX.

An act to amend the law concerning common recoveries, and to explain and amend an act made in the twenty ninth year of the reign of King Charles the Second, intituled, An act for prevention of frauds and perjuries, so far as the same relates to estates pur auter vie.

WHEREAS several leases have been heretofore, and are hereafter likely to be made, of honors, castles, manors, lands, tenements, and hereditaments, for one or more life or lives, under particular rents thereby reserved, and to be reserved: and whereas procuring surrenders of such freehold leases, or the tenants thereof to join, in order to make tenants to the writs of entry or other writs for suffering common recoveries, frequently occasions great trouble, difficulty, and expence to tenants in tail, and the same cannot in many cases be obtained, by reason of the uncertainty in whom the legal estate of freehold under such leases is vested, and also by reason of the disabilities and incapacities of such lessees, or persons claiming under them, by means whereof purchases and family settlements are often delayed, and may be in great danger of being defeated, if some proper remedy be not provided: For remedy whereof, 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

Preamble.

Common recoveries to be valid, without surrender of freehold leases.

parliament assembled, and by the authority of the same, That all common recoveries suffered or to be suffered in his Majesty's court of *Common Pleas* at *Westminster*, or in any other court of record in the principality of *Wales*, or in any of the counties palatine, or in any other court having jurisdiction of the same, of any honors, castles, manors, lands, tenements, or hereditaments, without any surrender or surrenders of such lease or leases, or without the concurrence, or any conveyance or assurance from such lessee or lessees, or other person or persons claiming under such lessee or lessees, in order to make good tenants to the writs of entry, or other writs, whereupon such recoveries have been or shall be had or suffered, shall be as valid and effectual in law, to all intents and purposes whatsoever, as if such lessee or lessees, or any other person or persons claiming under him, her, or them, had conveyed, or joined in conveying, or shall convey, or join in conveying, a good estate of freehold to such person or persons as has or have been, or shall become, tenant or tenants to such writs of entry, or other writs, whereupon such common recoveries have been or shall be suffered.

What shall make common recoveries valid.

II. Provided always, That nothing in this act contained shall extend; or be construed to extend, to make any common recoveries valid and effectual in law, unless the person or persons intitled to the first estate for life, or other greater estate (in case there be no such estate for life in being) in reversion or remainder next after the expiration of such leases has or have by some lawful act or means conveyed or assured, or joined in conveying or assuring, or shall by some lawful act or means convey or assure, or join in conveying or assuring, an estate for life at the least, to such person or persons as has or have been, or shall become, tenant or tenants to the writs of entry, or other writs, whereupon such common recoveries have been or shall be suffered.

Proviso.

III. Provided also, That nothing in this act contained, shall be construed to extend to prejudice the estate of such lessee or lessees, or any person or persons claiming any interest under such lessee or lessees.

Evidence to be allowed of common recoveries.

IV. *And whereas, by the default or neglect of persons employed in suffering common recoveries, it has happened, and may happen, that such recoveries are not entered on record, whereby purchasers for a valuable consideration may be defeated of their just rights; For Remedy thereof, be it further enacted by the authority aforesaid,* That where any person or persons hath or have purchased, or shall purchase, for a valuable consideration, any estate or estates in lands, tenements, or hereditaments, whereof a recovery or recoveries is, are, or were necessary to be suffered, in order to compleat the title, such person or persons, and all claiming under him, her, or them, having been in possession of the purchased estate or estates from the time of such purchase, shall and may, after the end of twenty years from the time of such purchase, produce in evidence the deed or deeds, making a tenant to the writ or writs of entry, or other writs for suffering a common

mon recovery or common recoveries, and declaring the uses of a recovery or recoveries, and the deed or deeds so produced (the execution thereof being duly proved) shall in all courts of law and equity be deemed and taken as a good and sufficient evidence for such purchaser and purchasers, and those claiming under him, her, or them, that such recovery or recoveries was or were duly suffered and perfected according to the purport of such deed or deeds, in case no record can be found of such recovery or recoveries, or the same should appear not to be regularly entered on record: *Provido.* Provided always, that the person or persons making such deed or deeds as aforesaid, and declaring the uses of a common recovery or recoveries, had a sufficient estate and power to make a tenant to such writ or writs as aforesaid, and to suffer such common recovery or recoveries.

V. *And whereas it has frequently happened, that the deeds for making the tenant to the writs of entry or other writs for suffering common recoveries, have been lost, or that the fines or deeds, making the tenants to the said writs, have not been levied or executed till after the judgment given in such recoveries, and the writ of Seisin awarded, by reason whereof great doubts have arisen, whether such recoveries, for want of proper tenants to the writs, are good and effectual in law;* to prevent such doubts for the future, and in order to render common recoveries more certain and effectual, be it enacted by the authority aforesaid, That every common recovery already suffered, or hereafter to be suffered, shall, after the expiration of twenty years from the time of the suffering thereof, be deemed good and valid to all intents and purposes, if it appears upon the face of such recovery, that there was a tenant to the writ; and if the persons joining in such recovery had a sufficient estate and power to suffer the same, notwithstanding the deed or deeds for making the tenant to such writ should be lost or not appear. *Common recoveries not disputed in 20 years, shall be deem'd valid.*

VI. And be it further enacted by the authority aforesaid, That from and after the commencement of this act, every recovery already suffered, or hereafter to be suffered, shall be deemed good and valid to all intents and purposes, notwithstanding the fine, or deed or deeds, making the tenant to such writ, should be levied or executed after the time of the judgment given in such recovery, and the award of the writ of seisin as aforesaid, provided the same appear to be levied or executed before the end of the term, great session, session or assizes, in which such recovery was suffered, and the persons joining in such recovery had a sufficient estate and power to suffer the same as aforesaid. *Recovery to be deemed good, though the deed be executed after the time.*

VII. Provided always, That nothing in this act contained shall extend, or be construed to extend, to make any such common recovery heretofore suffered valid and effectual in law, which has been avoided by any lawful act or means, or which shall hereafter be avoided by entry duly made on or before the sixteenth day of *January*, one thousand seven hundred and forty, or by judgment or decree had or obtained upon some action or *What recoveries not to be made valid.*

suit at law or in equity, commenced or to be commenced on or before the said sixteenth day of *January*, and prosecuted with due diligence; but every such common recovery shall remain and be of such force and effect only, as the same would have been if this act had never been made, and of no other force or effect.

Proviso.

VIII. Provided, That nothing in this act contained shall be construed to prejudice or affect any question of law, which may arise upon common recoveries not remedied or intended to be remedied by this act; but all such common recoveries shall remain and be of such force and effect, as the same would have been if this act had never been made, and of no other force or effect.

29 Car. II.
c. 3.

IX. *And whereas, by an act made in the twenty ninth year of the reign of king Charles the Second, intituled, An act for prevention of frauds and perjuries, amongst other things, it is enacted, That estates pur auter vie, whereof no devise should be made, should, in case there should be no special occupant thereof, go to the executors or administrators of the party that had the estate thereof by virtue of the grant, and should be assets in their hands: and whereas doubts have arisen, where no devise has been made of such estates, to whom the surplus of such estates, after the debts of such deceased owners thereof are fully satisfied, shall belong; be it enacted by the authority aforesaid, That such estates pur auter vie, in case there be no special occupant thereof, of which no devise shall have been made according to the said act for prevention of frauds and perjuries, or so much thereof as shall not have been so devised, shall go, be applied, and distributed, in the same manner as the personal estate of the testator or intestate.*

Surplus of e-
states pur auter
vie, how to
pass, if not
devised.

CAP. XXI.

An act to indemnify protestant purchasers of estates of papists, against the penalties or forfeitures papists are liable to, for not having inrolled their estates, in pursuance of an act of the third year of the reign of his late majesty King George the First, for that purpose. Further time given to inroll purchases made before 29 Sept. 1741, to 25 Mar. 1742. Judgments already given not to be made void. E X P.

CAP. XXII.

An act for granting and continuing the duties upon salt, and upon red and white berrings, for the further term of seven years; and for allowing rock salt to be used in making of salt from sea water at the salt works at Neath in the county of Glamorgan.

Clause of loan for 1,200,000l. at 4 per cent. Treasury to take an account of the said monies raised by loan or exchequer bills, at Michaelmas, 1742. Deficiency to be made good out of the next aids granted after Michaelmas, 1742, or sinking fund, and replaced out of the next supplies. Surplus to be disposed of by parliament. E X P.

XIX. **A**ND *whereas by an act made in the first year of the reign of her late majesty Queen Anne, it is enacted, That no rock salt whatsoever shall be refined or made into white salt*