

# Imperial Acts Application Act 1969 No 30

[1969-30]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**

[Stronger Communities Legislation Amendment \(Courts and Civil\) Bill 2020](#)

### Authorisation

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## Contents

<b>Long title</b> .....	6
<b>Part 1 Preliminary</b> .....	6
1 Name of Act and commencement .....	6
2 Construction .....	6
3 (Repealed) .....	6
<b>Part 2 General</b> .....	6
4 Definition .....	6
5 Substitution of enactments .....	6
6 Preserved Imperial enactments .....	7
7 Enactments not affected by repeal .....	8
8 Imperial enactments repealed .....	8
9 Savings .....	8
10 Saving .....	9
11 Revival of repealed enactments .....	9
<b>Part 3 Substituted enactments</b> .....	10
<b>Division 1 Administration of estates</b> .....	10
12 Definitions .....	10
13 Executor of executor represents original testator .....	10
14 Rights and accountability of administrator .....	11
15 Liability for waste .....	11

<b>Division 2 Calendar</b> .....	11
Note.....	11
16 Provisions relating to calendar .....	11
<b>Division 3 (Repealed)</b> .....	12
<b>Division 4 Forcible entries and detainers</b> .....	12
Note.....	12
18 Forcible entry.....	12
19 Forcible detainer.....	12
20 Penalty.....	12
<b>Division 5 Guardians</b> .....	12
Note.....	12
21 Powers of guardian .....	12
<b>Division 6 Insurance—life, fire and other policies</b> .....	12
Note.....	12
22 Existing insurances not affected by this Division.....	13
23 Insurable interest .....	13
<b>Division 7 Insurance—marine</b> .....	13
Note.....	13
24 Application of Division .....	13
25 Existing contracts not affected.....	13
26 Avoidance of wagering or gaming contracts.....	13
27 Contracts must be embodied in policy .....	14
28 What policy must specify.....	14
<b>Division 8 (Repealed)</b> .....	14
<b>Division 9 Landlord and tenant</b> .....	14
31 (Repealed) .....	14
32 Voluntary waste.....	14
<b>Division 10 Legal procedure—actions on bonds</b> .....	15

Note.....	15
33 Assignment of breaches, payment of damages etc.....	15
34 Action of debt brought on a bond after money paid etc.....	15
<b>Division 11 Libels—blasphemous and seditious libels .....</b>	<b>16</b>
Note.....	16
35 Seizure of copies of libels .....	16
<b>Division 12 Real property .....</b>	<b>17</b>
Note.....	17
36 Alienation of fee simple .....	17
37 Tenure.....	17
<b>Division 13 Recovery of property on determination of a life or lives.....</b>	<b>17</b>
Note.....	17
38 Property—determination of a life or lives .....	17
<b>Division 14 Religious worship—disturbance of.....</b>	<b>18</b>
Note.....	18
39 Disturbing religious worship .....	18
<b>Division 15 Bailiff .....</b>	<b>18</b>
Note.....	18
40 Duties on arrest of civil debtors.....	18
<b>Division 16 Sunday .....</b>	<b>19</b>
Note.....	19
41 (Repealed) .....	19
<b>Division 17 Witnesses—habeas corpus for prisoners .....</b>	<b>19</b>
Note.....	19
42 (Repealed) .....	19
<b>Part 4 Penalties .....</b>	<b>19</b>
43 Offences—penalties.....	19
<b>First Schedule .....</b>	<b>19</b>

<b>Second Schedule</b> .....	21
<b>Third Schedule Enactments applying irrespective of 9 George IV c 83</b> ....	22
<b>Notes</b> .....	23
<b>Note</b> .....	23
1 (1297) 25 Edward I (Magna Carta) .....	23
2 (1351) 25 Edward III St.5 .....	23
3 (1354) 28 Edward III .....	23
4 (1368) 42 Edward III .....	23
5 (1623 4) 21 James I c.3 (The Statute of Monopolies) ss. 1 and 6.....	24
6 (1627) 3 Charles I c.1 (The Petition of Right).....	25
7 (1640) 16 Charles I c.10 (The Habeas Corpus Act 1640), s.6 .....	28
8 (1679) 31 CHARLES II. c. II. (The Habeas Corpus Act, 1679) ss. 1-8, s.11 (except the words “and shall incur and sustain” and the following words of the section), and ss. 15-19. .....	28
9 (1688) 1 William and Mary c. 30 (The Royal Mines Act 1688), S.3.....	34
10 [1688] 1 William and Mary Sess. II. (Bill of Rights) c. II.....	34
11 [1816] 56 George III. c. 100 (The Habeas Corpus Act, 1816) .....	40

# Imperial Acts Application Act 1969 No 30



New South Wales

An Act to provide 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 in England at the time of the passing of the Imperial Act 9 George IV Chapter 83 shall continue in force in New South Wales; to replace other enactments of such Parliaments; to repeal other enactments of such Parliaments; to validate certain matters; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act and commencement

- (1) This Act may be cited as the *Imperial Acts Application Act 1969*.
- (2) This Act shall, except where otherwise expressly provided, commence upon a day to be appointed by the Governor and notified by proclamation in the Gazette.

### 2 Construction

This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected.

### 3 (Repealed)

## Part 2 General

### 4 Definition

In the construction of this Act, unless inconsistent with the context or subject-matter, the expression **Imperial enactment** includes any part of the enacted law at any time in force in England.

### 5 Substitution of enactments

- (1) Each Imperial enactment mentioned in the First Schedule to this Act, so far as it was

in force in England on the twenty-fifth day of July, one thousand eight hundred and twenty-eight is declared:

- (a) to have been in force in New South Wales on that day by virtue of the Imperial Act 9 George IV Chapter 83 (*The Australian Courts Act 1828*), and
  - (b) to have remained in force in New South Wales from that day until the commencement of this Act, except so far as affected by State Acts from time to time in force.
- (2) Each Imperial enactment mentioned in the First Schedule to this Act is hereby repealed so far as it applies in New South Wales.
- (3) Each provision of Part 3 of this Act is substituted for the Imperial enactment mentioned in the first column of the First Schedule to this Act opposite the reference to that provision in the second column of that Schedule.
- (4) To the extent to which any of the provisions of Part 3 of this Act are inconsistent with the provisions of any State Act in force at the commencement of this Act, the provisions of the State Act shall prevail.
- (5) In construing any of the provisions of Part 3 of this Act regard may be had to the context (if any) of the Imperial enactment for which the provision is substituted.
- (6) In any State Act a reference to any Imperial enactment specified in the first column of the First Schedule to this Act shall, where the case permits, and unless a contrary intention appears, be construed as a reference to the provision of this Act specified opposite that Imperial enactment in the second column of that Schedule.

## **6 Preserved Imperial enactments**

Each Imperial enactment mentioned in Part 1 of the Second Schedule to this Act, and so much of each Imperial enactment mentioned in the first column of Part 2 of that Schedule as is specified opposite that Imperial enactment in the second column of the said Part 2, so far in either case as it was in force in England on the twenty-fifth day of July, one thousand eight hundred and twenty-eight:

- (a) is declared to have been in force in New South Wales on that day by virtue of the Imperial Act 9 George IV Chapter 83, and
- (b) except so far as affected by any Imperial enactments or State Acts from time to time in force in New South Wales:
  - (i) is declared to have remained in force in New South Wales from that day,
  - (ii) shall from the commencement of this Act be in force in New South Wales, and
- (c) is not repealed by section eight of this Act.

## **7 Enactments not affected by repeal**

Nothing in this Act affects any Imperial enactment set out in the Third Schedule to this Act or any other Imperial enactment which independently of the provisions of the Imperial Act 9 George IV Chapter 83 is made applicable to New South Wales by the express words or necessary intendment of any Imperial enactment.

## **8 Imperial enactments repealed**

- (1) In addition to the repeals effected by subsection two of section five of this Act all other Imperial enactments (commencing with the Statute of Merton, 20 Henry III A.D. 1235-6) in force in England at the time of the passing of the Imperial Act 9 George IV Chapter 83 are so far as they are in force in New South Wales hereby repealed.
- (2) The repeal of the Imperial Act 7 George II Chapter 8 (*Sir John Barnard's Act*) effected by subsection one of this section shall be deemed to have taken effect as on and from the fourteenth day of June one thousand eight hundred and sixty:

Provided that nothing in this subsection shall affect any transaction in respect of which proceedings in any Court have been taken or commenced on or before the twenty-fifth day of July one thousand nine hundred and sixty-eight.

## **9 Savings**

- (1) The repeal by this Act of any Imperial enactment does not:
  - (a) revive anything not in force or existing at the commencement of this Act,
  - (b) affect the previous operation of any Imperial enactment so repealed or anything duly done or suffered under any Imperial enactment so repealed,
  - (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any Imperial enactment so repealed,
  - (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any Imperial enactment so repealed, or
  - (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid,and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture or punishment may be imposed and enforced, as if this Act had not been passed.
- (2) The repeal by this Act of:
  - (a) The Imperial Act 43 Elizabeth Chapter 4 (*The Charitable Uses Act 1601*) does not affect the established rules of law relating to charity,



- (b) section four of the Imperial Act 29 Charles II Chapter 3 (*The Statute of Frauds 1677*) does not apply in relation to a promise or agreement made before the commencement of this Act, and
- (c) any other Imperial enactment does not affect any rules of law or equity not enacted by the repealed enactment.

## 10 Saving

Where any Imperial enactment not repealed by this Act has been repealed (whether expressly or impliedly), confirmed, revived, or perpetuated by any Imperial enactment hereby repealed, the first-mentioned repeal, or the confirmation, revivor, or perpetuation shall not be affected by the repeal effected by this Act.

## 11 Revival of repealed enactments

- (1) The Governor may, by proclamation published on the NSW legislation website, declare that any provision (in this section called ***the revived provision***) being the whole or any part of any Imperial enactment repealed by this Act, other than an Imperial enactment mentioned in the First Schedule to this Act, shall be revived as from the date of publication of the proclamation, or a later date to be specified in the proclamation.
- (2) On and after the date of revival, the revived provision shall, subject to Acts from time to time in force, and subject to subsection three of this section, have such effect in New South Wales as the revived provision had in New South Wales immediately before the commencement of this Act.
- (3) The revival under this section of any revived provision shall not:
  - (a) affect the previous operation of any repeal worked by section eight of this Act,
  - (b) affect anything duly done or suffered before the date of revival,
  - (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred before the date of revival, or any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation or liability, or
  - (d) make any person liable for any penalty, forfeiture or punishment in respect of anything done or omitted before the date of revival.
- (4) Every such proclamation shall be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.
- (5) If either House passes a resolution of which notice has been given at any time within fifteen sitting days after the proclamation has been laid before such House disallowing any proclamation or part thereof, the proclamation or part thereupon ceases to have

effect.

## **Part 3 Substituted enactments**

### **Division 1 Administration of estates**

#### **12 Definitions** 25 Edward III St 5 c 5.

In this Division unless inconsistent with the context or subject-matter:

**Administration** means letters of administration whether general, special, or limited, or with the will annexed or otherwise, and includes an order to the NSW Trustee and Guardian to administer.

**Estate** includes both real and personal property.

**Personal representative** means the executor original or by representation or administrator for the time being of a deceased person.

**Will** includes codicil.

#### **13 Executor of executor represents original testator** 31 Edward III St 1 c 11; 1 James II c 17, s 6.

- (1) An executor of a sole or last surviving executor of a testator is the executor of that testator.

This provision shall not apply to an executor who does not prove the will of his testator and, in the case of an executor who on his death leaves surviving him some other executor of his testator who afterwards proves the will of that testator, it shall cease to apply on such probate being granted.

- (2) So long as the chain of such representation is unbroken, the last executor in the chain is the executor of every preceding testator.

- (3) The chain of such representation is broken by:

- (a) an intestacy,
- (b) the failure of a testator to appoint an executor, or
- (c) the failure to obtain probate of a will,

but is not broken by a temporary grant of administration if probate is subsequently granted.

- (4) Every person in the chain of representation to a testator:

- (a) has the same rights in respect of the estate of that testator as the original executor would have had if living, and

(b) is, to the extent to which the estate of that testator has come to his hands answerable as if he were an original executor.

**14 Rights and accountability of administrator** 30 Charles II c 7; 4 William and Mary c 24, s 12.

Every person to whom administration of the estate of a deceased person is granted shall, subject to the limitations (if any) contained in the grant, have the same rights and liabilities and shall be accountable in like manner as if he were the executor of the deceased.

**15 Liability for waste**

Where a person as personal representative or as executor in his own wrong wastes or converts to his own use any part of the estate of a deceased person and dies, his personal representative shall to the extent of the available assets of the defaulter be liable and chargeable in respect of such waste or conversion in the same manner as the defaulter would have been if living.

## Division 2 Calendar

24 George II c 23—*The Calendar (New Style) Act 1750*—ss 1, 2 and 3.

**16 Provisions relating to calendar**

- (1) The first day of January in every year shall be the first day of the year, and each new year shall accordingly commence and be reckoned from the first day of every month of January and all acts, deeds, writings, notes, and other instruments, of what nature or kind soever, hereafter made, executed, or signed shall bear date according to the said method of reckoning, being the reckoning instituted by the Imperial Act 24 George II c 23, known as *The Calendar (New Style) Act 1750*.
- (2) The several years two thousand one hundred, two thousand two hundred, two thousand three hundred, or any other hundredth year in time to come, except only every fourth hundredth year, of which the year two thousand shall be the first, shall not be leap years, but shall be common years consisting of three hundred and sixty-five days, and no more; and the years two thousand, two thousand four hundred, two thousand eight hundred, and every other fourth hundredth year from the said year two thousand inclusive, and also all other years which by the reckoning in use before the first day of January, one thousand seven hundred and fifty-two (being the date for the commencement of the calendar or reckoning instituted by the said Imperial Act, *The Calendar (New Style) Act 1750*) would have been leap years, shall in all times to come be leap years, consisting of three hundred and sixty-six days, in the same manner as was before the said first day of January, one thousand seven hundred and fifty-two used with respect to every fourth year.
- (3) The months, the enumeration of days in the respective months, and the ordering of the days of the week and Easter Day, shall be determined in accordance with the

calendar, table and rules annexed to the said Imperial Act, *The Calendar (New Style) Act 1750*.

### **Division 3**

#### **17 (Repealed)**

### **Division 4 Forcible entries and detainers**

5 Richard II St 1 c 7—*The Forcible Entry Act 1381*.

**18 Forcible entry** 8 Henry VI c 9—*The Forcible Entry Act 1429*; 31 Elizabeth c 11—*The Forcible Entry Act 1588*.

No person shall make any entry into any land except where such entry is given by law and, in such case, with no more force than is reasonably necessary.

#### **19 Forcible detainer**

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.

#### **20 Penalty**

Any person who contravenes section eighteen or section nineteen of this Act shall be guilty of an indictable offence and liable to imprisonment for a term of not more than one year or to a fine not exceeding 10 penalty units or to both such imprisonment and fine.

### **Division 5 Guardians**

12 Charles II c 24—*The Tenures Abolition Act 1660*—s 9.

#### **21 Powers of guardian**

(1) A guardian of a minor appointed by deed or will may take into his custody and management to the use of the minor the real and personal estate of the minor till the age of eighteen years or any lesser time according to the terms of the appointment of the guardian, and may bring such actions in relation to the real and personal estate of the minor as by law a guardian in common socage might have done, or may bring such other proceedings as may be necessary to give effect to all or any of his powers under this section.

(2) In this section *minor* means a person under the age of eighteen years.

### **Division 6 Insurance—life, fire and other policies**

14 George III c 48—*The Life Assurance Act 1774*.

## **22 Existing insurances not affected by this Division**

This Division does not apply to insurances made before the commencement of this Act.

## **23 Insurable interest**

- (1) No insurance shall be made by any person on the life of any person or on any other event whatsoever wherein the person for whose use or benefit or on whose account the policy is made has no interest, or by way of gaming or wagering; and every assurance made contrary to this subsection shall be void.
- (2) It shall not be lawful to make any policy on the life of any person, or on any other event whatsoever, wherein the person effecting the policy has no interest, without inserting in such policy the names of the persons interested therein, or for whose use or benefit or on whose account such policy was made.
- (3) In all cases where there is an interest in such life or other event, no greater sum shall be recovered or received from the insurer than the amount or value of the interest.
- (4) Nothing in this Division shall extend to insurance made by any person on ships or goods, or to contracts of indemnity against loss by fire or loss by other events whatsoever.

## **Division 7 Insurance—marine**

19 George II c 37—*The Marine Insurance Act 1745*; 28 George III c 56—*The Marine Insurance Act 1788*.

## **24 Application of Division**

This Division applies to State marine insurance within the limits of New South Wales.

## **25 Existing contracts not affected**

This Division does not apply to contracts of marine insurance made before the commencement of this Act.

## **26 Avoidance of wagering or gaming contracts**

- (1) Every contract of marine insurance by way of gaming or wagering is void.
- (2) A contract of marine insurance is deemed to be a gaming or wagering contract:
  - (a) where the assured has not an insurable interest, and the contract is entered into with no expectation of acquiring such an interest, or
  - (b) where the policy is made “interest or no interest”, or “without further proof of interest than the policy itself”, or “without benefit of salvage to the insurer”, or subject to any other like term:

Provided that, where there is no possibility of salvage, a policy may be effected

without benefit of salvage to the insurer.

## **27 Contracts must be embodied in policy**

Subject to the provisions of any Act, a contract of marine insurance is inadmissible in evidence in an action for the recovery of a loss under the contract unless it is embodied in a marine policy in accordance with this Division. The policy may be executed and issued either at the time when the contract is concluded or afterwards.

## **28 What policy must specify**

A marine policy must specify:

- (a) the name of the assured, or of some person who effects the insurance on his behalf,
- (b) the subject-matter insured and the risk insured against,
- (c) the voyage, or period of time, or both as the case may be, covered by the insurance,
- (d) the sum or sums insured, and
- (e) the name or names of the insurers.

## **Division 8**

### **29, 30 (Repealed)**

## **Division 9 Landlord and tenant**

### **31 (Repealed)**

### **32 Voluntary waste**

- (1) A tenant for life or lives or a leasehold tenant shall not commit voluntary waste.
- (2) Nothing in subsection one of this section applies to any estate or tenancy without impeachment of waste, or affects any licence or other right to commit waste.
- (3) In subsection one of this section **leasehold tenant** includes a tenant for a term, a tenant under a periodical tenancy, a tenant under a tenancy to which section one hundred and twenty-seven of the [Conveyancing Act 1919](#), as amended by subsequent Acts, applies, and a tenant at will.
- (4) A tenant who infringes subsection one of this section is liable in damages to his remainderman or reversioner but this section imposes no criminal liability.
- (5) This section does not affect the operation of any event which may determine a tenancy at will.

## **Division 10 Legal procedure—actions on bonds**

8 and 9 William III c 11—*The Administration of Justice Act 1696*—s 8.

### **33 Assignment of breaches, payment of damages etc** 4 and 5 Anne c 3 (or c 16)—*The Administration of Justice Act 1705*—ss 12 and 13.

- (1) In any action on any bond or on any penal sum for non-performance of any covenant or agreement, the plaintiff may assign as many breaches as he thinks fit, and may recover not only such damages as have been usually awarded in such cases, but also damages for such of the said breaches so assigned as the plaintiff proves to have occurred.
- (2) If interlocutory judgment in any such case is given for the plaintiff by confession or in default of appearance or of pleading, the plaintiff may suggest as many breaches of the covenants and agreements as he thinks fit, and may on proof of such breaches recover damages accordingly.
- (3) If the defendant after judgment and before execution pays into the court where the action is brought to the use of the plaintiff such damages together with the costs of the action, or if by reason of any execution the plaintiff is fully paid or satisfied all such damages together with his costs of the action and all reasonable charges and expenses for the said execution, further proceedings on the said judgment shall be stayed. But the judgment shall remain as a further security to answer to the plaintiff such damages as are sustained for further breach of such covenant or agreement, and upon any such breach the plaintiff may summon the defendant to show cause why execution should not be had or awarded upon the said judgment, upon which there shall be the like proceeding or such other proceeding as may be ordered for inquiry as to such breaches and assessing damages thereon; and upon payment or satisfaction in manner as aforesaid of such future damages costs charges and expenses as aforesaid all further proceedings on the said judgment shall to the like extent again be stayed.

### **34 Action of debt brought on a bond after money paid etc**

- (1) Where an action is brought upon any bond which has a condition or defeasance to make void the same upon payment of a lesser sum at a day or place certain, if the obligor has before the action brought paid to the obligee the principal and interest due by the defeasance or condition of such bond, though such payment was not made strictly according to the condition or defeasance, it 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 defeasance and had been so pleaded.
- (2) If at any time pending an action upon any such bond with a penalty the defendant brings into court all the principal money and interest due on such bond and also all

costs properly chargeable by the plaintiff against the defendant in respect of any proceedings upon such bond, the money so brought in shall be in full satisfaction and discharge of the bond.

## **Division 11 Libels—blasphemous and seditious libels**

60 George III and 1 George IV c 8—*The Criminal Libel Act 1819*—ss 1, 2 and 8.

### **35 Seizure of copies of libels**

- (1) In every case in which any verdict or judgment 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 Her Majesty, Her heirs or successors, or the government and constitution of the State of New South Wales as by law established, or either House of Parliament, or to excite Her Majesty's subjects to attempt the alteration of any matter as by law established, otherwise than by lawful means, the judge or the court before whom or in which such verdict shall have been given, or the court in which such judgment shall be had, may 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 person acting under any such order, or for any person acting with or in aid of any such justice of the peace, or other person, to search for any copies of such libel in any house, building, or other place whatsoever belonging to or occupied by the person against whom any such verdict or judgment shall have been had, or belonging to or occupied by 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 section, or disposed of according to any further order made in relation thereto.
- (2) If in any such case as aforesaid judgment shall be stayed, or if, after judgment shall have been entered, the same shall be reversed, all copies so seized shall be forthwith returned to the person from whom the same shall have been so taken as aforesaid, free of all charge and expense, and without the payment of any fees whatsoever; and in every case in which final judgment shall be entered upon the verdict so found against the person 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.

- (3) Any proceeding which shall be brought for any thing done in pursuance of this section, shall be commenced within six months next after the thing done; and the defendant in every such proceeding may plead the general issue, and give this section and the special matter in evidence at any trial to be had thereupon; and if proceedings shall be brought or commenced after the time limited for bringing the same, there shall be a verdict for the defendant.

## **Division 12 Real property**

18 Edward I St 1 (*Quia Emptores*) cc 1 and 3; 34 Edward III c 15

### **36 Alienation of fee simple** 12 Charles II c 24—*The Tenures Abolition Act 1660*—s 4.

Land held of the Crown in fee simple may be assured in fee simple without licence and without fine and the person taking under the assurance shall hold the land of the Crown in the same manner as the land was held before the assurance took effect.

### **37 Tenure**

All tenures created by the Crown by way of the alienation of an estate in fee simple in land after the commencement of this Act shall be taken to be in free and common socage without any incident of tenure for the benefit of the Crown.

## **Division 13 Recovery of property on determination of a life or lives**

18 and 19 Charles II c 11—*The Cestui que Vie Act 1666*; 6 Anne c 72 (or c 18)—*The Cestui que Vie Act 1707*.

### **38 Property—determination of a life or lives**

- (1) Every person having any estate or interest in any property determinable upon a life or lives who, after the determination of such life or lives without the express consent of the person next immediately entitled upon or after such determination, holds over or continues in possession of such property estate or interest, or of the rents, profits or income thereof, shall be liable in damages or to an account for such rents and profits, or both, to the person entitled to such property, estate, interest, rents, profits or income after the determination of such life or lives.
- (2) Where a reversion remainder or other estate or interest in any property is expectant upon the determination of a life or lives, the reversioner remainderman or other person entitled to such reversion remainder or other estate or interest may in any proceeding claiming relief on the basis that such life or lives has or have determined, adduce evidence of belief that such life or lives has or have been determined and of the grounds of such belief, and thereupon the court may in its discretion order that unless the person or persons on whose life or lives such reversion remainder or other estate or interest is expectant is or are produced in court or is or are otherwise shown

to be living, such person or persons shall for the purposes of such proceedings be accounted as dead, and relief may be given accordingly.

- (3) If in such proceedings the lastmentioned person is shown to have remained beyond Australia, or otherwise absented himself from the place in which if in Australia he might be expected to be found, for the space of seven years or upwards, such person, if not proved to be living, shall for the purposes of such proceedings be accounted as dead, and relief may be given accordingly.
- (4) If in any such proceedings judgment has been given against the plaintiff, and afterwards such plaintiff brings subsequent proceedings upon the basis that such life has determined, the court may make an order staying such proceedings permanently or until further order or for such time as may be thought fit.
- (5) If in consequence of the judgment given in any such proceedings, any person having any estate or interest in any property determinable on such life or lives has been evicted from or deprived of any property or any estate or interest therein, and afterwards it appears that such person or persons on whose life or lives such estate or interest depends is or are living or was or were living at the time of such eviction or deprivation, the court may give such relief as is appropriate in the circumstances.

## **Division 14 Religious worship—disturbance of**

1 William and Mary c 18—*The Toleration Act 1688*—s 15; 52 George III c 155—*The Places of Religious Worship Act 1812*—s 12

### **39 Disturbing religious worship**

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 upon summary conviction to a penalty not exceeding 1 penalty unit or to imprisonment for a term not exceeding two months.

## **Division 15 Bailiff**

32 George II c 28—*The Debtors Imprisonment Act 1758*—ss 1, 3 and 4.

### **40 Duties on arrest of civil debtors**

- (1) Where any bailiff or other officer arrests or has in custody upon mesne process any person in the course of a civil proceeding such officer shall not:
  - (a) convey such person without his free consent to any premises licensed for the sale of intoxicating liquor or any registered club, or to the private house of such officer or any tenant or relative of such officer; nor
  - (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; nor

(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 a reasonable distance 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 to 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 require any payment for the use thereof or restrict the use thereof.

(2) Where a bailiff or other officer makes an arrest to which this section applies he shall as promptly as reasonably possible inform the person arrested of the effect of subsection one of this section.

## Division 16 Sunday

29 Charles II c 7—*The Sunday Observance Act 1677*—s 6

### 41 (Repealed)

## Division 17 Witnesses—habeas corpus for prisoners

44 George III c 102—*The Habeas Corpus Act 1804*.

### 42 (Repealed)

## Part 4 Penalties

### 43 Offences—penalties

Any person guilty of any offence under any Imperial enactment included in Part 1 of the Second Schedule for which no punishment is otherwise provided is liable to imprisonment for a term of not more than five years or to a fine not exceeding 20 penalty units, or to both such imprisonment and fine.

## First Schedule

(Section 5)

Imperial enactment	Substituted provision of this Act	Division of Part 3
(1267) 52 Henry III ( <i>Statute of Marlborough</i> ) c 23	s 32	Division 9
(1289-90) 18 Edward I (st 1) ( <i>Quia Emptores</i> ) cc 1 and 3.	s 36	Division 12
(1326-7) 1 Edward III St 2 c 16	s 29	Division 8
(1344) 18 Edward III St 2 c 2	s 29	Division 8

(1351-2) 25 Edward III St 5 c 5	s 13	Division 1
(1357) 31 Edward III St 1 c 11	s 14	Division 1
(1360-1) 34 Edward III c 1 ( <i>The Justices of the Peace Act 1361</i> )	s 30	Division 8
(1361) 34 Edward III c 15	s 36	Division 12
(1381-2) 5 Richard II St 1 c 7 ( <i>The Forcible Entry Act 1381</i> )	s 18	Division 4
(1429) 8 Henry VI c 9 ( <i>The Forcible Entry Act 1429</i> )	s 19	Division 4
(1588-9) 31 Elizabeth c 11 ( <i>The Forcible Entry Act 1588</i> )	s 19	Division 4
(1660) 12 Charles II c 24 ( <i>The Tenures Abolition Act 1660</i> ):		
s 4	s 37	Division 12
s 9	s 21	Division 5
(1666) 18 and 19 Charles II c 11 ( <i>The Cestui que Vie Act 1666</i> )	s 38	Division 13
(1677) 29 Charles II c 7 ( <i>The Sunday Observance Act 1677</i> ), s 6	s 41	Division 16
(1678) 30 Charles II c 7	s 15	Division 1
(1685) 1 James II c 17, s 6	s 14	Division 1
(1688) 1 William and Mary c 18 ( <i>The Toleration Act 1688</i> ), s 15	s 39	Division 14
(1692) 4 William and Mary c 24, s 12	s 15	Division 1
(1696-7) 8 and 9 William III c 11 ( <i>The Administration of Justice Act 1696</i> ), s 8	s 33	Division 10
(1705) 4 and 5 Anne c 3 (or c 16) ( <i>The Administration of Justice Act 1705</i> ), ss 12 and 13	s 34	Division 10
(1707) 6 Anne c 72 (or c 18) ( <i>The Cestui que Vie Act 1707</i> )	s 38	Division 13
(1737) 11 George II c 19 ( <i>The Distress for Rent Act 1737</i> ), s 14	s 31	Division 9
(1745) 19 George II c 37 ( <i>The Marine Insurance Act 1745</i> )	s 26	Division 7
(1750) 24 George II c 23 ( <i>The Calendar (New Style) Act 1750</i> ), ss 1, 2 and 3	s 16	Division 2

(1758-9) 32 George II c 28 ( <i>The Debtors Imprisonment Act 1758</i> ), ss 1, 3 and 4	s 40	Division 15
(1774) 14 George III c 48 ( <i>The Life Assurance Act 1774</i> )	s 23	Division 6
(1788) 28 George III c 56 ( <i>The Marine Insurance Act 1788</i> )	ss 27, 28	Division 7
(1804) 44 George III c 102 ( <i>The Habeas Corpus Act 1804</i> )	s 42	Division 17
(1812) 52 George III c 101 ( <i>The Charities Procedure Act 1812</i> )	s 17	Division 3
(1812) 52 George III c 155 ( <i>The Places of Religious Worship Act 1812</i> ), s 12	s 39	Division 14
(1819) 60 George III and 1 George IV c 8 ( <i>The Criminal Libel Act 1819</i> ), ss 1, 2 and 8	s 35	Division 11

## Second Schedule

### Part 1 Constitutional enactments

(Section 6)

(1297)	25 Edward I ( <i>Magna Carta</i> ) c 29.
(1351)	25 Edward III St 5 c 4.
(1354)	28 Edward III c 3.
(1368)	42 Edward III c 3.
(1623-4)	21 James I c 3 ( <i>The Statute of Monopolies</i> ) ss 1 and 6.
(1627)	3 Charles I c 1 ( <i>The Petition of Right</i> ).
(1640)	16 Charles I c 10 ( <i>The Habeas Corpus Act 1640</i> ), s 6.
(1679)	31 Charles II c 2 ( <i>The Habeas Corpus Act 1679</i> ) ss 1-8, s 11 (except the words "and shall incur and sustain" and the following words of the section), and ss 15-19.
(1688)	1 William and Mary c 30 ( <i>The Royal Mines Act 1688</i> ), s 3.
(1688)	1 William and Mary sess 2 c 2 ( <i>The Bill of Rights</i> ).
(1700)	12 and 13 William III c 2 ( <i>The Act of Settlement</i> ).
(1702)	1 Anne c 2 ( <i>The Demise of the Crown Act 1702</i> ), s 4.
(1702)	1 Anne St 2 c 21 ( <i>The Treason Act 1702</i> ), s 3.
(1707)	6 Anne c 41 (or 6 Anne c 7) ( <i>The Succession to the Crown Act 1707</i> ), s 9.
(1816)	56 George III c 100 ( <i>The Habeas Corpus Act 1816</i> ).

## Part 2 Criminal law—treason: piracy

(Section 6)

### Treason

So far as the same declares what offences shall be adjudged treason, as amended by the following:

- |   |   |
|---|---|
| <p>(1351) 25 Edward III st 5 c 2 (<i>The Treason Act 1351</i>).</p> | <p>9 George IV c 31,</p> <p>11 George IV and 1 William IV c 66 (<i>The Forgery Act, 1830</i>) adopted by 4 William IV No 4,</p> <p>2 and 3 William IV c 34 adopted by 9 Victoria No 1,</p> <p><i>Succession to the Crown Act 2013</i> (United Kingdom).</p> |
|---|---|

- |   |   |
|---|---|
| <p>(1795) 36 George III c 7 (<i>The Treason Act 1795</i>).</p> <p>(1817) 57 George III c 6 (<i>The Treason Act 1817</i>).</p> | <p>Such provisions of the Acts respectively as relate to the compassing, imagining, inventing, devising, or intending death or destruction, or any bodily harm tending to death or destruction, maim or wounding, imprisonment, or restraint of the person of the Sovereign and the expressing, uttering, or declaring of such compassings, imaginations, inventions, devices, or intentions, or any of them.</p> |
| <p>(1695) 7 and 8 William III c 3 (<i>The Treason Act 1695</i>).</p>  | <p>S 5 (except the words “And that no person” to the end of that section) and s 6.</p>  |

### Piracy

- |  |  |
|--|--|
| <p>(1536) 28 Henry VIII c 15*.</p> <p>(1698–9) 11 and 12 William III (11 William III) c 7.</p> <p>(1717–8) 4 George I c 2 (or c 11), s 7.</p> <p>(1721–2) 8 George I c 24.</p> <p>(1744–5) 18 George II c 30*.</p> | <p>The provisions of each Act except so much of each Act as relates to the punishment of the crime of piracy or of any offence by any of the said Acts declared to be piracy, or of accessories thereto.</p> |
|--|--|

#### Editorial note—

\* See [Piracy Punishment Act 1902](#), s 3.

## Third Schedule Enactments applying irrespective of 9 George IV c 83

### (A) Criminal law enactments

- |                 |                                |  |
|-----------------|--------------------------------|--|
| <p>(1698–9)</p> | <p>11 William III c 12</p>     | <p>Crimes by Governors of Colonies.</p>                  |
| <p>(1772)</p>   | <p>12 George III c 24</p>      | <p><i>The Dockyards, &amp;c Protection Act 1772</i>.</p> |
| <p>(1802)</p>   | <p>42 George III c 85, s 1</p> | <p><i>The Criminal Jurisdiction Act 1802</i>.</p>        |
| <p>(1812)</p>   | <p>52 George III c 156</p>     | <p><i>The Prisoners of War (Escape) Act 1812</i>.</p>    |
| <p>(1824)</p>   | <p>5 George IV c 113</p>       | <p><i>The Slave Trade Act 1824</i>.</p>                  |

**(B) Miscellaneous**

(1813)	54 George III c 15, s 4	<i>The New South Wales (Debts) Act 1813.</i>
(1821)	1 and 2 George IV c 121, ss 27-29	<i>The Commissariat Accounts Act 1821.</i>

Note

**Editorial note.**

This note sets out the text of Imperial Acts listed in Part 1 of the Second Schedule (other than Settlement and Treason Acts). While this text (including translations from the original Latin or Norman-French) has been prepared with due skill and care, it is not authorised and is provided for information purposes only.

**1 (1297) 25 Edward I (Magna Carta)**

**Chapter 29 Imprisonment etc contrary to law**

No free man 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 not 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.

**2 (1351) 25 Edward III St.5**

**Chapter 4 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.

**3 (1354) 28 Edward III**

**Chapter 3 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.

**4 (1368) 42 Edward III**

**Chapter 3 None shall be put to answer without due process of law**

... 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.

**5 (1623 4) 21 James I c.3 (The Statute of Monopolies) ss. 1 and 6**

**An Act concerning monopolies and dispensations with penal laws and the forfeiture thereof**

**1. (1)** For as much as your most excellent Majesty, in your royal judgment, and of your blessed disposition to the weal and quiet of your subjects, did in the year of our Lord God one thousand six hundred and ten, publish in print to the whole realm, and to all posterity, That all grants and monopolies, and of the benefit of any penal laws or of power to dispense with the law, or to compound for the forfeiture, are contrary to your Majesty's laws, which your Majesty's declaration is truly consonant and agreeable to the ancient and fundamental laws of this your realm.

**(2)** And whereas your Majesty was further graciously pleased, expressly to command, that no suitor should presume to move your Majesty for matters of that nature;

**(3)** yet nevertheless upon misinformations, and untrue pretences of public good, many such grants have been unduly obtained, and unlawfully put in execution, to the great grievance and inconvenience of your Majesty's subjects, contrary to the laws of this your realm, and contrary to your Majesty's most royal and blessed intention to published as aforesaid.

**(4)** For avoiding whereof, and preventing of the like in time to come, may it please your excellent Majesty, at the humble suit of the lords spiritual and temporal, and the commons, in this present parliament assembled, That it may be declared and enacted;

**(5)** and be it declared and enacted by authority of the present parliament, That all monopolies, and all commissions, grants, licences, charters and letters patents heretofore made or granted, or hereafter to be made or granted, to any person or persons, bodies politick or corporate whatsoever, of or for the sole buying, selling, making, working or using of any thing within this realm, or the dominion of Wales,

**(6)** or of any other monopolies, or of power, liberty to faculty, to dispense with any others, or to give licence or toleration to do, use or exercise any thing against the tenor or purport of any law or statute;

**(7)** or to give or make any warrant for any such dispensation, licence or toleration to be had or made; or to agree or compound with any others for any penalty or forfeitures limited by any statute; or of any grant or promise of the benefit, profit or commodity of any forfeiture, penalty or sum of money, that is or shall be due by any statute, before judgement thereupon had;



**(8)** and all proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things whatsoever, any way tending to the instituting, erecting, strengthening, furthering or countenancing of the same or any of them;

**(9)** are altogether contrary to the laws of this realm, and so are and shall be utterly void and of none effect, and in no wise to be put in use or execution.

**2.** Provided also, and be it declared and enacted, That any declaration before mentioned shall not extend to any letters patents and grants of privilege for the term of fourteen years or under, hereafter to be made, of the sole working or making of any manner of new manufactures within this realm, to the true and first inventor and inventors of such manufactures, which others at the time of making such letters patents and grants shall not use, so as also they be not contrary to the law, nor mischievous to the state, by raising prices of commodities at home, or hurt of trade, or generally inconvenient: The said fourteen years to be accounted from the date of the first letters patents, or grant of such privilege hereafter to be made, but that the same shall be of such force as they should be, if this act had never been made, and of none other.

**6 (1627) 3 Charles I c.1 (The Petition of Right).**

**1. (1)** The petition is exhibited to his Majesty by the lords spiritual and temporal, and commons, in this present parliament assembled, concerning divers rights and liberties of the subjects, with the King's majesty's royal answer thereunto in full parliament.

To the King's most excellent majesty.

Humbly show unto our sovereign Lord the King, the lords spiritual and temporal, and commons in parliament assembled, That whereas it is declared and enacted by a statute made in the time of the reign of King Edward the First, commonly called Statutum de tallagio non concedendo, That not tallage or aid shall be laid or levied by the King or his heirs in this realm, without the good will and assent of the archbishops, bishops, earls, barons, knights, burgesses, and other the freemen of the commonalty of this realm;

**(2)** And by authority of parliament holden in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted, That from thenceforth no person should be compelled to make any loans to the King against his will, because such loans were against reason and the franchise of the land;

**(3)** And by other laws of this realm it is provided, That none should be charged by any charge or imposition called a benevolence, nor by such like charge;

**(4)** By which the statutes before mentioned and other the good laws and statutes of this realm, your subjects have inherited this freedom, That they should not be compelled to contribute to any tax, tallage, aid or other like charge not set by common consent in parliament.

**2. (1)** Yet nevertheless, of late divers commissions directed to sundry commissioners in

several counties, with instructions, have issued; by means whereof your people have been in divers places assembled, and required to lend certain sums of money unto your Majesty, and many of them upon their refusal so to do, have had an oath administered unto them not warrantable by the laws or statutes of this realm, and have been constrained to become bound to make appearance and give attendance before your privy council and in other places, and others of them have been therefore imprisoned, confined, and sundry other ways molested and disquieted;

**(2)** And divers other charges have been laid and levied upon your people in several counties by lords lieutenants, deputy lieutenants, commissioners for musters, justices of peace and others, by command or direction from your Majesty, or your privy council, against the laws and free customs of the realm.

**3.** And where also by the statute called, The great charter of the liberties of England, it is declared and enacted, That no freeman may be taken or imprisoned, or be disseised of his freehold or liberties or his free customs, or be outlawed or exiled, or in manner destroyed, but by the lawful judgement of his peers, or by the law of the land.

**4.** And in the eight and twentieth year of the reign of King Edward the Third it was declared and enacted by authority of parliament, That no man of what estate or condition that he be, should be put out of his land or tenements, nor taken, nor imprisoned, nor disherited, nor put to death without being brought to answer by due process of law.

**5. (1)** Nevertheless against the tenor of the said statutes, and other the good laws and statutes of your realm to that end provided, divers of your subjects have of late been imprisoned without any cause showed;

**(2)** And when for their deliverance they were brought before your justices by your Majesty's writs of habeas corpus, there to undergo and receive as the court should order, and their keepers command to certify the causes of their detainer, no cause was certified, but that they were detained by your Majesty's special command, signified by the lords of your privy council, and yet were returned back to several prisons, without being charged with any thing to which they might make answer according to the law.

**6.** And whereas of late great companies of soldiers and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourn, against the laws and customs of this realm, and to the great grievances and vexation of the people.

**7. (1)** And whereas so by authority of parliament, in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted, That no man should be forejudged of life or limb against the form of the great charter and the law of the land;

**(2)** And by the said great charter and other the laws and statutes of this your realm, no man ought to be adjudged to death but by the laws established in this your realm, either by the customs of the same realm, or by acts of parliament;

**(3)** And whereas no offender of what kind soever is exempted from the proceedings to be used, and punishments to be inflicted by the laws and statutes of this your realm; Nevertheless of late time divers commissions under your Majesty's great seal have issued forth, by which certain persons have been assigned and appointed commissioners with power and authority to proceed within the land, according to the justice of martial law, against such soldiers or mariners, or other dissolute persons joining with them as should commit any murder, robbery, felony, mutiny or other outrage or misdemeanour whatsoever, and by such summary course and order as is agreeable to martial law, and as it sued in armies in time of war, to proceed to the trial and condemnation of such offenders, and them to cause to be executed and put to death according to the law martial. By pretext whereof some of your Majesty's subjects have been by some of the said commissioners put to death, when and where, if by the laws and statutes of the land they had deserved death, by the same laws and statutes also they might, and by no other ought to have been judged and executed. And also sundry grievous offenders, by colour thereof claiming an exemption, have escaped the punishments due to them by the laws and statutes of this your realm, by reason that divers of your officers and ministers of justice have unjustly refused or forborn to proceed against such offenders according to the same laws and statutes, upon pretence that the said offenders were punishable only by martial law, and by authority of such commissions as aforesaid;

**(4)** Which commissions, and all other of like nature, are wholly and directly contrary to the said laws and statutes of this your realm.

**8. (1)** They do therefore humble pray your most excellent Majesty, That no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by act of parliament;

**(2)** And that none be called to make answer, or take such oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same, or for refusal thereof;

**(3)** And that no freeman, in any such manner as is before mentioned, be imprisoned or detained;

**(4)** And that your Majesty would be pleased to remove the said soldiers and mariners, and that your people may not be so burthened in time to come;

**(5)** And that the aforesaid commissions, for proceeding by martial law, may be revoked and annulled, and that hereafter no commissions of like nature may issue forth to any person or persons whatsoever to be executed as aforesaid left by colour of them any or your Majesty's subjects be destroyed, or put to death contrary to the laws and franchise of the land. All which they most humbly pray of your most excellent Majesty as their rights and liberties, according to the laws and statutes of this realm; and that your Majesty would also vouch safe to declare. That the awards, doing and proceedings, to the prejudice of your people in any of the premises, shall not be drawn hereafter into

consequence or example;

**(6)** And that your Majesty would also graciously pleased, for the further comfort and safety of your people, to declare your royal will and pleasure, That in the things aforesaid all your officers and ministers shall serve you according to the laws and statutes of this realm, as they tender the honour of your Majesty, and the prosperity of this kingdom.

**7 (1640) 16 Charles I c.10 (The Habeas Corpus Act 1640), s.6**

**6.** AND ...if any person shall hereafter be committed restrained of his libertie or suffer imprisonment [by the order or decree of any such Court of Star Chamber or other court aforesaid now or at any time hereafter having or ptending to have the same or like jurisdiction power or authoritie to commit or imprison as aforesaid or by the command or warrant of the Kings Majestie his heires or successors in their owne person or by the command or warrant of the councill board or of any of the lords or others of his Majesties privy councill]<sup>1</sup> that in every such case every person so committed restrained of his libertie or suffering imprisonment upon demand or motion made by his councill or other employed by him for that purpose unto the judges of the Court of Kings Bench or Common Pleas in open court shall without delay upon any pretence whatsoever for the ordinary fees usully paid for the same have forthwith granted unto him a writ of habeas corpus to be directed generally unto all and every sheriffs gaoler minister officer or other person in whose custody the party committed or restrained shall be [and the sheriffs gaoler minister officer or other person in whose custody the pty so committed or restrained shall be]<sup>2</sup> shall at the return of the said writ & according to the command thereof upon due and convenient notice thereof given unto him [at the charge of the party who requireth or procureth such writ and upon securitie by his owne bond given to pay the charge of carrying back the prisoner if he shall be remanded by the court to which he shall be brought as in like cases hath beene used such charges of bringing up and carrying backe the prisoner to be alwaies ordered by the court if any difference shall arise thereabout] bring or cause to be brought the body of the said party so committed or restrained unto and before the judges or justices of the said court from whence the same writ shall issue in open court and shall then likewise certifie the true cause of such his deteinor or imprisonment and thereupon the court within three court dayes after such return made and delivered in open court shall proceed to examine and determine whether the cause of such commitment appearing upon the said return be just and legall or not and shall thereupon do what to justice shall appertaine either by delivering bailing or remanding the prisoner and if any thing shall be otherwise wilfully done or omitted to be done by any judge justice officer or other person aforementioned contrary to the direction and true meaning hereof that then such person so offending shall forfeit to the party grieved his trebble damages to be recovered by such meanes and in such manner as is formerly in this Act limited and appointed for the like penaltie to be sued for and recovered.

<sup>1</sup> annexed to the original Act in a separate schedule

<sup>2</sup> interlined on the roll

**8 (1679) 31 CHARLES II. c. II. (The Habeas Corpus Act, 1679) ss. 1-8, s.11 (except the**

**words “and shall incur and sustain” and the following words of the section), and ss. 15-19.**

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

**1.** Whereas great delays have been used by sheriffs gaolers and other officers to whose custody any of the King's subjects have been committed for criminal or supposed criminal matters in making returns 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 reliefe of all persons imprisoned for any such criminal or supposed criminal matters bee it enacted by the King's most excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in this present Parlyament assembled and by the authorities thereof that whensoever any person or persons shall bring any habeas corpus directed unto any sheriffe or sheriffs gaoler 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 bee 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 chancellor 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 certifie 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 sheriffe gaoler or other officer may pretend ignorance of the import of any such writt bee it enacted by the authorities 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 chauncellor or lord keeper or any one of his Majesties 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 veiw of the copy or copies of the warrant or warrants of committment and detainer or otherwise upon oath made that such copy or copyes were denied 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 writeing 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 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 of 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 taking 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 partie 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 seale 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 incapeable 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 King's courts at Westminster wherein noe essoigne protection priviledge injunction wager of law or stay of prosecution by non vult ulterius prosequi or otherwise shall bee admitted or allowed or any more than 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 recommit 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 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.

**6.** Provided alwayes and bee it further enacted that if any person or persons shall be committed for high treason or fellony plainely and specially expressed in the warrant of committment upon his prayer or petition in open court the first weeke of the terme or first daye 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 daye 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 daye 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.

**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.

**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.

**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 Majesteyes courts of record against the person or persons by whome he or she shall be soe committed detained



imprisoned sent prisoner or transported contrary to the true meaning of this Act and against all or any person or persons that shall frame contrive write seale of 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 thence-forth to beare any office of trust or proffitt within the said realme of England...or any of the islands territories or dominions thereunto belonging.

**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.

**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.

**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 country where the prisoner is detained noe person shall be removed from the common goale upon any habeas corpus granted in persuance 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.

**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.

**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.

**9 (1688) 1 William and Mary c. 30 (The Royal Mines Act 1688), S.3**

**3.** Provided alsoe and bee it further enacted by the authoritie aforesaid that noe mine of copper tin iron or lead shall hereafter be adjudged reputed or taken to be a royall mine although gold or silver may be extracted out of the same.

**10 [1688] 1 William and Mary Sess. II. (Bill of Rights) c. II.**

**An act for declaring the rights and liberties of the subject, and settling the succession of the crown:**

Whereas the lords spiritual and temporal, and commons, assembled at Westminster, lawfully, fully, and freely representing all the estates of the people of this realm, did upon the thirteenth day of February, in the year of our Lord one thousand six hundred eighty eight, present unto their Majesties, then called and known by the names and stile of William and Mary, prince and princess of Orange, being present in their proper persons, a certain declaration in writing, made by the said lords and commons, in the words following; viz.:

Whereas the late King James the Second, by the assistance of divers evil counsellors, judges, and ministers employed by him did endeavour to subvert and extirpate the protestant religion, and the laws and liberties of this kingdom.

- 1.** By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of parliament.
- 2.** By committing and prosecuting divers worthy prelates, for humbly petitioning to be excused from concurring to the said assumed power.
- 3.** By issuing and causing to be executed a commission under the great seal for erecting a court called, the court of commissioners for ecclesiastical causes.
- 4.** By levying money for and to the use of the crown, by pretence of prerogative, for other time, and in other manner, than the same was granted by parliament.
- 5.** By raising and keeping a standing army within this kingdom in time of peace, without consent of parliament, and quartering soldiers contrary to law.
- 6.** By causing several good subjects, being protestants, to be disarmed, at the same time

when papists were both armed and employed, contrary to law.

**7.** By violating the freedom of election of members to serve in parliament.

**8.** By prosecutions in the court of King's bench, for matters and causes cognizable only in parliament; and by divers other arbitrary and illegal courses.

**9.** And whereas of late years, partial, corrupt, and unqualified persons have been returned and served on juries in trials, and particularly divers jurors in trials for high treason, which were not freeholders.

**10.** And excessive bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the liberty of the subjects.

**11.** And excessive fines have been imposed; and illegal and cruel punishments inflicted.

**12.** And several grants and promises made of fines and forfeitures, before any conviction or judgement against the persons, upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes, and freedom of this realm:

And whereas the said late King James the Second having abdicated the government, and the throne being thereby vacant, his highness the prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this Kingdom from papery and arbitrary power) did (by the advice of the lords spiritual and temporal, and divers principal persons of the commons) cause letters to be written to the lords spiritual and temporal, being protestants, and other letters to the several counties, cities, universities, boroughs, and cinque-ports, for the choosing of such persons to represent them, as were of right to be sent to parliament to meet and sit at Westminster upon the two and twentieth day of January, in this year one thousand six hundred eighty and eight in order to such an establishment, as that their religion, laws, and liberties might not again be in danger of being subverted; upon which letters, elections have been accordingly made:

And thereupon the said lords spiritual and temporal, and commons, pursuant to their respective letters and elections, being now assembled in a full and free representative of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid; do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare:

**1.** That the pretended power of suspending the laws, or the execution of laws, by regal authority, without consent of parliament, is illegal.

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

**3.** 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.

**4.** That levying money for or to the use of the crown, by pretence of prerogative, without grant of parliament, for longer time, or in other manner than the same is or shall be granted, is illegal.

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

**6.** That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of parliament, is against law.

**7.** That the subjects which are protestants, may have arms for their defence suitable to their conditions, and as allowed by law.

**8.** That election of members of parliament ought to be free.

**9.** That the freedom of speech, and debates or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.

**10.** That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.

**11.** That jurors ought to be duly impanelled and returned.

**12.** That all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void.

**13.** And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, parliaments ought to be held frequently.

And they do claim, demand, and insist upon all and singular the premisses, as their undoubted rights and liberties; and that no declarations, judgements, doings or proceedings, to the prejudice of the people in any of the said premisses, ought in any wise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his highness the prince of Orange, as being the only means for obtaining a full redress and remedy therein.

**1.** Having therefore an entire confidence, That his said highness the prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights, and liberties.

**2.** The said lords spiritual and temporal, and commons, assembled at Westminster, do resolve, That William and Mary prince and princess of Orange, be, and be declared, King and Queen of England, France and Ireland, and the dominions thereunto belonging, to

hold the crown and royal dignity of the said kingdoms and dominions to them the said prince and princess during their lives, and the life of the survivor of them; and that the sole and full exercise of the regal power be only in, and executed by the said prince of Orange, in the names of the said prince and princess, during their joint lives; and after their deceases, the said crown and royal dignity of the said kingdoms and dominions to be the heirs of the body of the said princess; and for default of such issue to the princess Anne of Denmark, and the heirs of her body; and for default of such issue to the heirs of the body of the said prince of Orange. And the lords spiritual and temporal, and commons, do pray the said prince and princess to accept the same accordingly.

**3.** And that the oaths hereafter mentioned be taken by all persons of whom the oaths of allegiance and supremacy might be required by law, instead of them; and that the said oaths of allegiance and supremacy be abrogated.

I A.B. do sincerely promise and swear, That I will be faithful, and bear true allegiance, to their Majesties King William and Queen Mary.

So help me God.

I A.B. do swear, That I do from my heart abhor, detest, and abjure as impious and heretical, that damnable doctrine and position, That princes excommunicated or deprived by the pope, or any authority of the see of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, That no foreign prince, person, prelate, state, or potentate hath, or ought to have any jurisdiction, power superiority, pre eminence, or authority ecclesiastical or spiritual, within this realm.

So help me God.

**4.** Upon which their said Majesties did accept the crown and royal dignity of the kingdoms of England, France and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said lords and commons contained in the said declaration.

**5.** And thereupon their Majesties were pleased, That the said lords spiritual and temporal, and commons, being the two houses of parliament, should continue to sit, and with their Majesties, royal concurrence make effectual provision for the settlement of the religion, laws and liberties of this kingdom, so that the same for the future might not be in danger again of being subverted; to which the said lords spiritual and temporal, and commons, did agree and proceed to act accordingly.

**6.** Now in pursuance of the premisses, the said lords spiritual and temporal, and commons, in parliament assembled, for the ratifying, confirming and establishing the said declaration, and the articles, clauses, matters and things therein contained, by the force of a law made in due form by authority of parliament, do pray that it may be declared and enacted, That all and singular the rights and liberties asserted and claimed in the said declaration, are the true, ancient, and indubitable rights and liberties of the people of this kingdom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be, and

that all and every the particulars aforesaid shall be firmly and strictly holden and observed as they are expressed in the said declaration; and all officers and ministers whatsoever shall serve their Majesties and their successors according to the same in all times to come.

**7.** And the said lords spiritual and temporal, and commons, seriously considering how it hath pleased Almighty God, in his marvellous providence, and merciful goodness to this nation, to provide and preserve their said Majesties' royal persons most happily to reign over us upon the throne of their ancestors, for which they render unto him from the bottom of their hearts their humblest thanks and praises, do truly, firmly, assuredly, and in the sincerity of their hearts think, and do hereby recognize, acknowledge and declare, That King James the Second having abdicated the government, and their Majesties having accepted the crown and royal dignity as aforesaid, their said Majesties did become, were, are, and of right ought to be, by the laws of this realm, our sovereign leige lord and lady, King and Queen of England, France and Ireland, and the dominions thereunto belonging, in and to whose princely persons the royal state, crown, and dignity of the said realms, with all honours, stiles, titles, regalities, prerogatives, powers, jurisdictions and authorities to the same belonging and appertaining, are most fully, rightfully, and entirely invested and incorporated, united and annexed.

**8.** And for preventing all questions and divisions in this realm, by reason of any pretended titles to the crown, and for preserving a certainty in the succession thereof, in and upon which the unity, peace, tranquility, and safety of this nation doth, under God, wholly consist and depend, The said lords spiritual and temporal and commons, do beseech their Majesties that it may be enacted, established and declared, That the crown and regal government of the said kingdoms and dominions, with all and singular the premisses thereunto belonging and appertaining, shall be and continue to their said Majesties, and the survivor of them during their lives, and the life of the survivor of them: And that the entire, perfect, and full exercise of the regal power and government be only in, and executed by his Majesty, in the names of both their Majesties during their joint lives; and after their deceases the said crown and premisses shall be and remain to the heirs of the body of her Majesty; and for default of such issue, to her royal highness the princess Anne of Denmark, and the heirs of her body; and for default of such issue, to the heirs of the body of his said Majesty: And thereunto the said lords spiritual and temporal, and commons, do, in the name of all the people aforesaid, most humbly and faithfully submit themselves, their heirs and posterities for ever; and do faithfully promise, That they will stand to, maintain, and defend their said Majesties, and also the limitation and succession of the crown herein specified and contained, to the utmost of their powers, with their lives and estates against all persons whatsoever, that shall attempt any thing to the contrary.

**9.** And whereas it hath been found by experience, that it is inconsistent with the safety and welfare of this protestant kingdom, to be governed by a popish prince, or by any King or Queen marrying a papist; the said lords spiritual and temporal, and commons, do further pray that it may be enacted, That all and every person and persons that is, are or

shall be reconciled to, or shall hold communion with, the see or church of Rome, or shall profess the popish religion, or shall marry a papist, shall be excused, and be forever incapable to inherit, possess or enjoy the crown and government of this realm, and Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use or exercise any regal power, authority, or jurisdiction within the same; and in all and every such case or cases the people of these realms shall be, and are hereby absolved of their allegiance, and the said crown and government shall from time to time descend to, and be enjoyed by such person or persons, being protestants, as should have inherited and enjoyed the same, in case the said person or persons so reconciled, holding communion, or professing, or marrying as aforesaid, were naturally dead.

**10.** And that every King and Queen of this realm, who at any time hereafter shall come to and succeed in the imperial crown of this kingdom, shall on the first day of the meeting of the first parliament, next after his or her coming to the crown sitting in his or her throne in the house of peers, in the presence of the lords and commons therein assembled, or at his or her coronation, before such person or persons who shall administer the coronation oath to him or her, at the time of his or her taking the said oath (which shall first happen) make, subscribe, and audibly repeat the declaration mentioned in the statute made in the thirtieth year of the reign of King Charles the Second intituled, An act for the more effectual preserving the King's person and government, by disabling papists from sitting in either house or parliament. But if it shall happen, that such King or Queen, upon his or her succession to the crown of this realm, shall be under the age of twelve years, then every such King or Queen shall make, subscribe, and audibly repeat the said declaration at his or her coronation, or the first day of the meeting of the first parliament as aforesaid, which shall first happen after such King or Queen shall have attained the said age of twelve years.

**11.** All which their Majesties are contented and pleased shall be declared, enacted, and established by authority of this present parliament, and shall stand, remain, and be the law of this realm for ever; and the same are by their said Majesties, by and with the advice and consent of the lords spiritual and temporal, and commons, in parliament assembled, and by the authority of the same, declared, enacted, and established accordingly.

**12.** And be it further declared and enacted by the authority aforesaid, That from and after this present session of parliament, no dispensation by non obstante of or to any statute, or any part thereof, shall be allowed but that the same shall be held void and of no effect, except a dispensation be allowed of in statute, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during this present session of parliament.

**13.** Provided that no charter, or grant, or pardon, granted before the three and twentieth day of October, in the year of our Lord one thousand six hundred eighty nine shall be any ways impeached or invalidated by this act, but that the same shall be and remain of the same force and effect in law, and no other than as if this act had never been made.

**11 [1816] 56 George III. c. 100 (The Habeas Corpus Act, 1816)**

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

**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 and 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.

**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 to 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 bring in before him, or before some other justice or baron of the same court, the person or persons so wilfully 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 recognizance to be taken thereupon shall be returned and filed in the same court, and shall continue in force 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.

**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.

**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.

**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.

**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 herein-before 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.