

sum certain to the *party grieved*,¹ the action for it is not *qui tam* and is wrongly so brought, *Johns v. Carnes*, Cro. Eliz. 621; but it appears that if a statute gives *damages* to the party injured it is usual to join the king, but if it makes an offence and adds no penalty, the action must be *qui tam*, *Norris v. Mawditt*, 5 Mod. 311.² By the Act of 1716, ch. 3, sec. 4, upon the restoration of the Government of the Province to Lord Baltimore, it was provided that in all suits, indictments, informations, &c., that should thereafter be made for any fines, penalties, or forfeitures, recoverable by the king, or in his name, &c., wherein the king's name ought to have been used, it should be lawful to use the name or title of the Lord Proprietor, &c., as fully, &c., and see *Britton v. Ridgely*, 4 H. & McH. 503. The Act of Feb. 1777, ch. 6, enacted that all penalties, &c., should, unless otherwise directed by the laws imposing them, be recovered if not over 5*l.* with costs before a justice of the peace of the county in which the offence was committed in the name of the State and the informer; if exceeding 5*l.*, in the County Court of the county where the offence happened, by indictment in the name of the State, or by action of debt in the name of the State and the informer, in which it should be sufficient to allege, that the defendant is indebted to the State and the informer in the fine, penalty or forfeiture by [this] Act directed and imposed whereby *action accrued **261** without setting forth the special matter, provided the cause of action should be endorsed on the writ at the time of its issuing, and one-half part of the penalty to be paid to the informer (with costs, if recovered in the action of debt); and the time of limitation of prosecutions or suits for any fine, penalty, or forfeiture, was fixed at one year from the offence committed. The word "bill," used in the English Acts, though

¹ An act which gives to the party grieved the right to enforce the penalty for its violation will be construed as *remedial* in its nature; it is a *penal* act when such right is given to the public or to the government. The action of debt lies on statutes at the suit of the party grieved, either where it is expressly given to such party or where a statute prohibits the doing of an act under a penalty or forfeiture to be paid to the party grieved, and there is no specific mode of recovery prescribed. An Act of Congress giving a penalty to a party grieved, without specifying a remedy for its enforcement, will be enforced by proper action in a state court, if not otherwise provided by some Act of Congress. *Ordway v. Central Bank*, 47 Md. 217. But a penalty imposed under a statute of another state can only be enforced within such state. *First Bank v. Price*, 33 Md. 487. Cf. *Attrill v. Huntington*, 70 Md. 191 (reversed in 146 U. S. 657.)

As to who is a party grieved, see *Robinson v. Currey*, 7 Q. B. D. 465.

² Where a penalty is created by statute and nothing is said as to who may recover it and it is not created for the benefit of a party grieved and the offence is not against an individual, the penalty belongs to the Crown and the Crown alone can maintain a suit for it. To enable a common informer to maintain an action for a penalty created by statute, an interest in the penalty must be given to him by express words, or by sufficient implication. *Bradlaugh v. Clarke*, 8 App. Cas. 354, reversing the Court of Appeal in 7 Q. B. D. 38.