

*3 James 1.—A. D. 1605.*

## CHAP. 4. An act for the better discovering and repressing popish recusants.

The act of 1706, Ch. 8, which has been mentioned in the note to 1 James 1, Ch. 11 declared, that the act of parliament, 1 W. and M. Ch. 18, commonly called the toleration act, should be in force in the province. One part of the message spoken of in that note, related to the person suffering a quaker conventicle to be kept in his house, the answer to which, referred to the act concerning religion. That act passed in 1702, and in the 21st section, provided that the dissenters, called quakers, should have the benefit of the statute 7 and 8 W. 3, Ch. 34, entitled, "An act, that the solemn affirmation and declaration of the people called quakers, should be accepted, instead of an oath in the usual form," and also that the protestant subjects should have the benefit of the toleration act; so that it is not easy to perceive why it was again declared in force in 1706, unless it was for the purpose of introducing the several penal acts of parliament, mentioned in the said toleration act, which was also done by the act of 1706. These penal acts were 23 Eliz. Ch. 1; 29 Eliz. Ch. 6; a branch of the statute 1 Eliz. Ch. 2; 3 James 1, Ch. 4, and 3 James 1, Ch. 5. The toleration act mentioned likewise, "the several laws made against papists and popish recusants, and also the statutes 25 Car. 2, Ch. 2; 30 Car. 2; 13 Eliz. Ch. 12; 17 Car. 2, Ch. 2; 22 Car. 2, Ch. 1; 13 and 14 Car. 2, Ch. 4; 5 Eliz. Ch. 1; 13 and 14 Car. 2, Ch. 1, and 35 Eliz. Ch. 1." This statute (as well as the others) was of course, declared in force in the province, subject only to the exceptions and qualifications contained in the toleration act; but there is no instance found of any prosecution under them. We have now no occasion for such statutes. See the note on 11 and 12 W. 3, Ch. 4.

## CHAP. 5. An act to prevent and avoid dangers which grow by popish recusants.

See the note above.

*7 James 1.—A. D. 1609.*

## CHAP. 12. An act to avoid the double payment of debts.

This statute is mentioned in the letter from S. Chase, which has been referred to, and therefore may be presumed to have been in use, but it does not appear to have been entirely consistent with the habits of the people, or the laws of the province on the same subject. The statute related to tradesmen or handicraft men keeping shop books, and declared that they should not be allowed to give them in evidence, in actions for wares to be delivered, or work to be done above one year before the action brought, and there was a proviso that it should not extend to any intercourse of traffic, &c. In the case of Pitman, against Maddox, (2 Salheld 690,) lord Holt stated, that though the statute said, a shop book should not be evidence after the year, it was not of itself evidence within the year; and Espinasse who cites this case, states that if the person is living, who delivered the goods, he must be produced. The act of assembly, providing what should be good evidence to prove foreign and other debts, &c. under which accounts were generally proved, was passed in 1729, (Ch. 20,) and it repealed an act with the same title, which had passed in 1715, (Ch. 29.) There had been an act to prove foreign debts in 1692, and an act to prove foreign and other debts in 1704. The act of 1729 was repealed (subject to the provisos mentioned) by 1785, Ch. 46, directing what should be good evidence to prove foreign and other debts; so that this statute, supposing it to have been in force in the province, would not be proper to be incorporated, &c.