

## ADMINISTRATORS.

for such Legacy or Residuary Part as shall then appear to be due, by such Accounts as shall then be made up. And such Legacies or Residuary Part shall then be paid or recovered out of the full Estate, as if no Disbursements for Debts or Charges were to be made thereout: Such Persons giving Security to refund to such Executor, &c. according to the *English Stat.* of 22 and 23 *Car. II. cap. 10. 1718, ch. 5, §. 2.*

16. Every Creditor having Money, Tobacco, or other Goods, due from the Estate of any deceased Person, by Judgment, Statute, Recognizance, &c. or other Writing, before the Executor or Administrator pay the same, shall make Oath (or Affirmation if a Quaker) that no Part of the Money, &c. mentioned therein, hath been paid, or any Satisfaction towards the same made, other than is taken Notice of in the said Oath, &c. And the Balance, after deducting what is confessed in the Creditor's Oath, shall be paid by the Executor, &c. having Assets. *1722, ch. 10, §. 1.*

17. Every Executor or Administrator of a Creditor, shall, before the Receipt or Recovery of any Debt due from any other Executor, &c. swear or affirm, that the Creditor (to the Knowledge of the Executor, &c.) did not receive any Part of the Debt, more than mentioned in such Oath, &c. and that he hath not received any Part of the Debt more than he gives an Account of; which shall always be particularly mentioned in such Oath, &c. and deducted as aforesaid. *Ibid. §. 2.*

18. When any Creditor, or Executor, &c. of a Creditor, shall refuse to swear, &c. as aforesaid, and will sue the Executor, &c. of a Debtor, who shall offer, on its being done, to pay the real Debt, he shall be Non-suit, and pay Costs; but shall not be debarred of a new Action, first complying with this Law. *Ibid. §. 3.*

19. Persons convicted of Swearing or Affirming falsely herein, shall suffer as in Case of wilful and corrupt Perjury. *Ibid.*

20. No Executor or Administrator shall be allowed any Costs of Suit, in any Action recovered against him, out of the deceased's Estate, unless the Court before whom brought, shall certify to the Commissary, that such Executor, &c. had just or probable Cause for withstanding such Suit. *Ibid. §. 4.*

21. The several County Courts shall, every Court, as well by giving the same in Charge to the Grand Jury, as by other Means enquire, Whether any Executor or Administrator hath received, and not accounted for, or neglected to receive or recover any Debt due to the deceased? and shall call such Executor, &c. before them; and if such Default shall sufficiently appear, they shall cause the same to be entered upon Record: Which shall be allowed in Evidence, in any Suit commenced by the Guardian during the Minority, or by the Orphan at full Age, or by the Creditor against the Executor, &c. or by the Ward against the Guardian. *1729, ch. 24, §. 3.*

22. No Preference shall be given in the Payment of Debts, by any Executor, &c. to any Debts due to the Crown, or the Lord Proprietary, other than to such Debts as shall be due to the Crown, or his Lordship, for their own proper Use. *Ibid. §. 15.*

23. On Petition of any Sureties on Administration or Testamentary Bonds, or Bonds passed for any Guardians, and Proof that they are in Danger of suffering thereby, the County Court shall cause the Executor, &c. to give the Petitioners sufficient Counter Security to indemnify them from such Bonds. *Ibid. §. 23.*

24. And in case such Executors, &c. shall refuse or neglect to do the same, the Court shall order Attachment to issue against their Bodies, to compel them thereto. *Ibid.*

25. And in case such Executor, &c. shall be unable, &c. to give such Security, the Court shall order the Estate remaining in the Hands of such Executor, Administrator or Guardian, to be delivered up to the

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Sureties, or their legal Representatives; who, by Process of Attachment or Distress, issued out of the said Court, shall possess themselves of the same, and return an Account of what they shall so receive, to the County Court, appraised on the Oath of Two indifferent Persons appointed by the Court: And the said Executor, &c. shall be discharged of so much as the Sureties shall receive, by virtue of such Order or Process. *Ibid.*

26. But no Order of a County Court, for Delivery of such Estate into the Hands of the Sureties shall be executed, &c. or any Process thereon issued, before the Sureties, &c. obtaining such Order, have entered into Bond or Recognizance before the Court, with Two sufficient Securities, for their Delivery or Payment of all Goods, &c. which shall come to their Possession by virtue of such Order, or the Value thereof according to Law, to any Persons having Right to, and lawfully requiring the same: Which Bonds shall be filed in Court, and be assignable to, and may be sued by, any Person injured by the Non-Performance thereof, in the same Manner as Testamentary or Administration Bonds now are. *1735, ch. 17.*

27. Executors and Administrators are exempted from Amerciaments, on being cast in Suit. *1722, ch. 12, §. 1.*

See *Bills of Exchange, 4. Commissary-General, 5. Fieri facias, 1, 6. Foreign Debts, 3. Intestates Estates per Tot. Negroes, 11. Public Arms, 11, 12.*

ADMONITION. See *Fornication, 3.*

AD QUOD DAMNUM. See *Church Lands, 4. Iron Works, 1—3. Water Mills, 1, 2.*

## ADVANCEMENT OF JUSTICE.

1. The several Courts at Law shall proceed, and give Judgment, according as the very Right of the Cause and Matter in Law shall appear to them, without regarding any Omissions, Errors, &c. (such as are usually taken Advantage of by Special Demurrers, or in the Prosecution of Writs of Error, &c. serving only to divert Judgment on the very Right of the Cause) so as sufficient Matter shall appear in the Proceedings upon which the Court may give Judgment as aforesaid, and that the Action was commenced after Cause thereof had accrued. Nor shall any such Judgment be reversed, or Execution thereon delayed, by Reason of any such Imperfection, &c. *1763, ch. 22, §. 2.*

2. But this Act shall not extend to Cases of Treason, Felony, or Murder, or Prosecutions on Penal Statutes. *Ibid. §. 3.*

3. In all Actions hereafter to be commenced in the Provincial Court, for any Sum within the Jurisdiction of that Court, where the Plaintiff is desirous of a speedy Trial, if the Plaintiff send a Copy of the Declaration with the Writ, and cause the same to be served on, or delivered to the Defendant, or left at his Place of Abode, Twenty-Days at least before the Appearance Court; the Justices shall oblige the Defendant, by Rule of Court, to proceed to Trial the same Court. And, if the Defendant neglect or refuse to Answer or Plead, to render Judgment for the Plaintiff, with Costs; unless sufficient Cause be shewn for an Imparlance. *Ibid. §. 4.*

4. In Actions, not exceeding 20*l.* Sterling, or 5000*lb* Tobacco, the County Court, at the Prayer of either Party, either before or after Judgment or Verdict, may hear and determine the same, according to Equity and Conscience, as amply as the Chancellor, &c. *Ibid. §. 5.* And the Attorney's Fee, in any such Cause of Equity, where the Debt does not exceed 10*l.* Sterling, or 2500*lb* Tobacco, shall be 100*lb* Tobacco: But where it exceeds that Sum, 200*lb* Tobacco. *Ibid. §. 12.* But this shall not limit or restrain the Jurisdiction of the High Court of Chancery, but the said Court shall have the same Power, &c. in every Case as belonged to, and was exercised by it before this Act. *Ibid. §. 6.*

5. Where