

payable to his Majesty's surveyor general for the repair of his Majesty's houses, charged by virtue of an order of the sixth of September one thousand six hundred sixty, with interest for the same; the sum of ten thousand pounds advanced to her highness the Princess royal, being charged with interest by an order of the thirteenth September, one thousand six hundred sixty, the sum of ten thousand pounds payable to her Majesty the Queen of Bohemia, being charged, together with interest, by an order of the thirteenth of September, one thousand six hundred sixty, the sum of three thousand four hundred and fifty pounds payable for provisions for *Dunkirk*, by an order of the twenty-sixth of November one thousand six hundred sixty; which sum of twenty-eight thousand four hundred and fifty pounds, together with the interest for the same, according to the tenor of the said orders, after the rate of six *per cent.* shall be paid to the said *Edward Backwell* or his assigns, out of the grand excise, and the arrears thereof, in course, as is by the said orders appointed; and in case the same shall fall short in payment by the twenty-fifth of December one thousand six hundred and sixty, that then the remainder shall continue secured to him out of the whole excise in course as aforesaid, and that no other payments be made out of the excise, but what is appointed by this present parliament in course to precede the same, until the said debt due to the said *Edward Backwell* be satisfied; and that in case any part of the monies due to alderman *Backwell*, be paid out of that part of the excise which shall grow due to the King's majesty, that then his Majesty shall be reimbursed the same out of the first monies that shall come in of the arrears of excise that will be due the said twenty-fifth of December. Confirmed by 13 Car. 2. stat. 1. c. 7.

CAP. XXIV.

An act for taking away the court of wards and liveries, and tenures in capite, and by knights-service, and purveyance, and for settling a revenue upon his Majesty in lieu thereof.

The reasons of
this act.

WHEREAS it hath been found by former experience, That the courts of wards and liveries, and tenures by knights-service, either of the King or others, or by knights-service in capite, or socage in capite of the King, and the consequents upon the same, have been much more burthensome, grievous and prejudicial to the kingdom, than they have been beneficial to the King: (2) And whereas since the intermission of the said court, which hath been from the four and twentieth day of February which was in the year of our Lord one thousand six hundred forty and five, many persons have by will and otherwise made disposal of their lands held by knights-service, whereupon divers questions might possibly arise, unless some seasonable remedy be taken to prevent the same; (3) be it therefore enacted by the King our sovereign lord, with the assent of the lords and commons in parliament assembled, and by the authority of the same, and it is hereby enacted, That the court of wards and liveries, and

and all wardships, liveries, primer seifins and ousterlemains, values and forfeitures of marriages, by reason of any tenure of the King's Majesty, or of any other by knights-service, and all mean rates, and all other gifts, grants, charges incident or arising, for or by reason of wardships, liveries, primer seifins or ousterlemains be taken away and discharged, and are hereby enacted to be taken away and discharged, from the said twenty-fourth day of *February* one thousand six hundred forty-five; any law, statute, custom or usage to the contrary hereof in any wise notwithstanding: (4) And that all fines for alienations, seizures and pardons for alienations, tenure by homage, and all charges incident or arising, for or by reason of wardship, livery, primer seifin or ousterlemain, or tenure by knights-service, escuage, and also, *aide pur file marrier*, and *pur fair fitz chivalier*, all other charges thereunto, be likewise taken away and discharged, from the said twenty-fourth day of *February* one thousand six hundred forty and five; any law, statute, custom or usage to the contrary hereof in any wise notwithstanding: (5) And that all tenures by knights service of the King, or of any other person, and by knights-service *in capite*, and by socage *in capite* of the King, and the fruits and consequents thereof, happened or which shall or may hereafter happen or arise thereupon or thereby, be taken away and discharged, any law, statute, custom or usage to the contrary hereof in anywise notwithstanding; (6) and all tenures of any honours, manors, lands, tenements or hereditaments, or any estate of any inheritance at the common law, held either of the King, or of any other person or persons, bodies politic or corporate are hereby enacted to be turned into free and common socage, to all intents and purposes, from the said twenty-fourth day of *February* one thousand six hundred forty-five, and shall be so construed, adjudged and deemed to be from the said twenty-fourth day of *February* one thousand six hundred forty-five, and for ever thereafter turned into free and common socage; any law, statute, custom or usage to the contrary hereof in any wise notwithstanding.

The court of wards and liveries, primer seifins, &c. taken away.

Fines for alienations, &c. taken away.

Tenures by knights-service taken away.

II. And that the same shall for ever hereafter stand and be discharged of all tenure by homage, escuage, voyages royal and charges for the same, wardships incident to tenure by knights-service, and values and forfeitures of marriage, and all other charges incident to tenure by knights-service, and of and from *aide pur file marrier*, and *aide pur fair fitz chivalier*; any law, statute, usage or custom to the contrary in any wise notwithstanding: (2) And that all conveyances and devises of any manors, lands, tenements and hereditaments made since the said twenty-fourth day of *February*, shall be expounded to be of such effect, as if the same manors, lands, tenements and hereditaments had been then held and continued to be holden in free and common socage only; any law, statute, custom or usage to the contrary hereof in any wise notwithstanding.

Tenures by homage, escuage, &c. discharged.

III. And be it further ordained and enacted by the authority of

The acts of
33 H. 8. c. 46.
& 33 H. 8.
c. 22. repealed.

of this present parliament, That one act made in the reign of King *Henry* the Eighth, intituled, *An act for the establishment of the court of the King's wards*; and also one act of parliament made in the thirty-third year of the reign of the said King *Henry* the Eighth, concerning the officers of the court of wards and liveries, and every clause, article and matter in the said acts contained, shall from henceforth be repealed and utterly void.

All tenures to
be created by
the King here-
after shall be
free and com-
mon socage.
Dyer 44. pl.
28.

IV. And be it further enacted by the authority aforesaid, That all tenures hereafter to be created by the King's majesty, his heirs or successors, upon any gifts or grants of any manors, lands, tenements or hereditaments, of any estate of inheritance at the common law, shall be in free and common socage, and shall be adjudged to be in free and common socage only, and not by knights-service or *in capite*, and shall be discharged of all wardship, value and forfeiture of marriage, livery, primer seisin, *ousterlemain*, *aide par faier fitz chivalier* and *pur file marrier*; any law, statute or reservation to the contrary thereof in any wise notwithstanding.

Proviso for
rents certain,
heriots, &c.

V. Provided nevertheless, and be it enacted, That this act, or any thing herein contained, shall not take away, nor be construed to take away, any rents certain, heriots or suits of court belonging or incident to any former tenure now taken away or altered by virtue of this act, or other services incident or belonging to tenure in common socage, due or to grow due to the King's majesty, or mean lords, or other private person, or the fealty and distresses incident thereunto; (2) and that such relief shall be paid in respect of such rents as is paid in case of a death of a tenant in common socage.

Fines for alie-
nations due by
particular cus-
toms of ma-
nors.

VI. Provided always, and be it enacted, That any thing herein contained shall not take away, nor be construed to take away, any fines for alienation due by particular customs of particular manors and places, other than fines for alienations of lands or tenements holden immediately of the King *in capite*.

Tenures in
Frank Almoign.

VII. Provided also, and be it further enacted, That this act, or any thing therein contained, shall not take away or be construed to take away, tenures in *Frank Almoign*, or to subject them to any greater or other services than they now are; (2) nor to alter or change any tenure by copy of court roll, or any services incident thereunto; (3) nor to take away the honorary services of grand-serjeantry, other than of wardship, marriage and value of forfeiture of marriage, escuage, voyages royal and other charges incident to tenure by knights-service; and other than *aide pur faier fitz chivalier*, and *aide pur file marrier*.

Copy of court-
roll.

Honorary ser-
vices.

Parents may
dispose of the
custody of
children du-
ring their mi-
nority.

Vaughan 177.
3 Mod. 24.

VIII. And be it further enacted by the authority aforesaid, That where any person hath or shall have any child or children under the age of one and twenty years, and not married at the time of his death, That it shall and may be lawful to and for the father of such child or children, whether born at the time of the decease of the father, or at that time *in ventre sa mere*, or whether such father be within the age of one and twenty years, or of full age, by his deed executed in his life-time, or by his last

last will and testament in writing, in the presence of two or more credible witnesses, in such manner, and from time to time as he shall respectively think fit, to dispose of the custody and tuition of such child or children, for and during such time as he or they shall respectively remain under the age of one and twenty years, or any lesser time, to any person or persons in possession or remainder, other than popish recusants; (2) and that such disposition of the custody of such child or children made since the twenty-fourth of *February* one thousand six hundred forty-five, or hereafter to be made, shall be good and effectual against all and every person or persons claiming the custody or tuition of such child or children as guardian in socage or otherwise: (3) And that such person or persons, to whom the custody of such child or children hath been or shall be so disposed or devised as aforesaid, shall and may maintain an action of ravishment of ward or trespass, against any person or persons which shall wrongfully take away or detain such child or children, for the recovery of such child or children; (4) and shall and may recover damages for the same in the said action, for the use and benefit of such child or children.

Actions of ravishment of wards.

IX. And be it further enacted, That such person or persons, to whom the custody of such child or children hath been or shall be so disposed or devised, shall and may take into his or their custody to the use of such child or children, the profits of all lands, tenements and hereditaments of such child or children; and also the custody, tuition and management of the goods, chattels and personal estate of such child or children, till their respective age of one and twenty years, or any lesser time, according to such disposition aforesaid; (2) and may bring such action or actions in relation thereunto, as by law a guardian in common socage might do.

The lands of children, and the management of their personal estate by their guardians.

X. Provided also, That this act, or any thing therein contained, shall not extend to alter or prejudice the custom of the city of *London*, nor of any other city or town corporate, or of the town of *Berwick upon Tweed*, concerning orphans; nor to discharge any apprentice from his apprenticeship.

XI. Provided also, That neither this act, nor any thing therein contained, shall infringe or hurt any title of honour, feudal or other, by which any person hath or may have right to sit in the lords house of parliament, as to his or their title of honour, or sitting in parliament, and the privilege belonging to them as peers; this act, or any thing therein contained to the contrary in any wise notwithstanding.

Proviso touching titles of honour feudal.

XII. *And whereas by like experience it hath been found, That though divers good, strict, and wholesom laws have been made in the times of sundry his Majesty's most noble progenitors, some extending so far as to life, for redress of the grievances and oppressions committed by the persons employed for making provisions for the King's household, carriages and other purveyance for his Majesty and his occasions; yet divers oppressions have been still continued, and several counties have submitted themselves to sundry rates and taxes and compositions,*

Purveyances and provisions for the King's household taken away.

to redeem themselves from such vexations and oppressions: (2) And forasmuch as the lords and commons assembled in parliament do find that the said remedies are not fully effectual, and that no other remedy will be so effectual and just, as to take away the occasion thereof, especially if satisfaction and recompence shall be therefore made to his Majesty, his heirs and successors, which is hereby provided to his Majesty's good liking and content; his Majesty is therefore graciously pleased, That it may be enacted; (3) and be it enacted by the King's most excellent majesty, by and with the advice and consent of the lords and commons in this present parliament assembled, That from henceforth no sum or sums of money or other thing shall be taken, raised, taxed, rated, imposed, paid or levied, for or in regard of any provision, carriages or purveyance for his Majesty, his heirs or successors.

Purveyances
for the King,
Queen, &c.

Timber, carts,
carriages, &c.
taken away.

Altered by 13
Car. 2. stat. 1.
c. 8. s. 2.
13 & 14 Car. 2.
c. 20. s. 1. &
1 Jac. 2. c. 10.

No pre-emp-
tion to be al-
lowed or
claimed in be-
half of the
King, &c.

The penalty.

XIII. And that henceforth no person or persons by any warrant, commission or authority under the great seal or otherwise, by colour of buying or making provision or purveyance for his Majesty or any Queen of *England* for the time being, or of any the children of any King or Queen of *England* for the time being or that shall be, or for his, their or any of their household, shall take any timber, fewel, cattle, corn, grain, malt, hay, straw, victual, cart, carriage or other thing whatsoever, of any the subjects of his Majesty, his heirs or successors, without the free and full consent of the owner or owners thereof had and obtained without menace or inforcement; (2) nor shall summon, warn, take, use or require any of the said subjects, to furnish or find any horses, oxen or other cattle, carts, ploughs, wains or other carriages, for the use of his Majesty, his heirs or successors, or of any Queen of *England*, or of any child or children of any the Kings or Queens of *England* for the time being, for the carrying the goods of his Majesty, his heirs or successors, or the said Queens, or children or any of them, without such full and free consent as aforesaid; any law, statute, custom or usage to the contrary notwithstanding.

XIV. And be it further enacted, That no pre-emption shall be allowed or claimed in the behalf of his Majesty or of any his heirs or successors, or of any the Queens of *England*, or of any the children of the royal family for the time being, in market or out of market; (2) but that it be for ever hereafter free to all and every of the subjects of his Majesty, to sell, dispose or employ his said goods to any other person or persons as himself listeth, any pretence of making provision or purveyance of victual, carriages or other thing for his Majesty, his heirs and successors, or of the said Queens or children, or any pretence of pre-emption in their or any of their behalfs notwithstanding; (3) And if any person or person shall make provision or purveyance for his Majesty, his heirs or successors, or any the Queens or children aforesaid, or impress or take any such carriages or other things aforesaid, on any pretence or colour of any warrant aforesaid, under the great seal or otherwise, contrary

trary to the intent hereof, it shall be lawful for the justices of peace, or such two or one of them as dwell near, and to the constables of such parish or village where such occasion shall happen, at the request of the party grieved, and they are hereby enjoined, to commit or cause to be committed the party or parties so doing and offending to gaol, till the next sessions, there to be indicted and proceeded against for the same; and that the officers and inhabitants of the village or parish where such offence shall happen, shall be assistant therein; (4) and moreover, the party grieved shall have his action or actions against such offender or offenders, and therein recover his treble damages and treble costs: In which action, no essoin, wager of law, aid-prayer, privilege, protection, imparlance, injunction or order of restraint shall be granted or allowed: (5) And if any person or persons shall (after notice given that the action depending is grounded upon this statute) cause or procure any action at the common law grounded on this statute, to be delayed or stayed before judgment, by colour or means of any order, power, warrant or authority, save only of the court where such action shall be brought and depending, or after judgment had upon such action, shall cause or procure execution of such judgment to be stayed or delayed by colour or means of any order, warrant, power or authority, save only by writ of error or attain, or order of such court where such writ of error or attain shall be depending; that then the person so offending shall incur the pains, penalties and forfeitures ordained and provided by the statute of provision and *præmunire* made in the sixteenth year of the reign of King *Richard* the Second: (6) Provided always, That this act extend not to prejudice any of his Majesty's rights, titles or duties of, in or to, or out of any tin in the stannaries of *Devon* and *Cornwall*, nor to prejudice the ancient duties of butlerage and prizage of wines; but that the same shall be in the same plight that the same were before the making of this act; any thing herein contained to the contrary in any wise notwithstanding. (7) And now to the intent and purpose that his Majesty, his heirs and successors, may receive a full and ample recompence and satisfaction, as well for the profits of the said court of wards, and the tenures, wardships, liveries, primer seifins, *ouster le mains*, and other the premisses and perquisites incident thereunto; and for all arrears any way due for the same, as also for all and all manner of purveyance and provisions herein before-mentioned, and intended to be taken away and abolished; and all sums of money due or pretended to be due or payable for and in respect of any compositions for the same:

No action upon this statute to be stayed, but by order of the court where such action depends.

Præmunire, 16 R. 2. c. 5.

Proviso for the stannaries, butlerage, prizage.

Recompence to his Majesty for the court of wards and purveyances.

XV. Be it therefore enacted by the authority aforesaid, That there shall be paid unto the King's majesty, his heirs and successors for ever hereafter, in recompence as aforesaid, the several rates, impositions, duties and charges herein after expressed, and in manner and form following: That is to say,

12 Car. 2. c. 24. Rates of the excise.

XVI. For

XVI. For every barrel of beer or ale above six shillings the barrel, brewed by the common brewer, or any other person or persons who doth or shall sell or tap out beer or ale publickly or privately, to be paid by the common brewer, or by such other person or persons respectively, and so proportionably for a greater or lesser quantity, one shilling three pence. } xv. d.

XVII. For every barrel of six shillings beer or ale, or under, brewed by the common brewer, or any other person or persons who doth or shall sell or tap out such beer or ale publickly or privately, to be paid by the said common brewer, or by such other person or persons respectively, as aforesaid, and so proportionably for a greater or lesser quantity, three pence. } iii. d.

XVIII. For all cyder and perry made and sold by retail, upon every hoghead, to be paid by the retailer thereof, and so proportionably for a greater or lesser measure, one shilling three pence. } xv. d.

XIX. For all metheglin or mead sold, whether by retail or otherwise, to be paid by the maker thereof, upon every gallon, one half-penny. } Ob.

XX. For every barrel of beer, commonly called vinegar-beer, brewed by any common brewer in any common brewhouse, six pence. } vi. d.

XXI. For every gallon of strong water or *aqua-vita*, made and sold, to be paid by the maker thereof, one penny. } i. d.

XXII. For every barrel of beer or ale imported from beyond the seas, three shillings. } iii. s.

XXIII. For every ton of cyder or perry imported from beyond the seas, and so proportionably for a greater or lesser quantity, five shillings. } vs.

XXIV. For every gallon of spirits made of any kind of wine or cyder imported, two pence. } ii. d.

XXV. For every gallon of strong-water perfectly made, imported from beyond the seas, four pence. } iv. d.

XXVI. For every gallon of coffee made and sold, to be paid by the maker thereof, four pence. } iv. d.

XXVII. For every gallon of chocolate, sherbet and tea, made and sold, to be paid by the maker thereof, eight pence. } viii. d.

Explained by
22 Car. 2. c. 4.
f. 2.

The duties on
coffee, &c. re-
pealed by 1 W.
& M. stat. 2.
c. 6.

Rates of ex-
cise upon fo-
reign liquors
imported, to
be paid in mo-
ney before
landing.

Entries to be
made at the
excise-office
by common
brewers, inn-
keepers, &c.

XXVIII. And be it further enacted and ordained by the authority aforesaid, That the several rates, duties and charges of excise, or new imposts above mentioned, hereby set or imposed upon all and every the said foreign liquors which shall be imported or brought into all or any the ports of this kingdom and dominions thereof aforesaid, from and after the five and twentieth day of *December* next, shall be from time to time satisfied and paid by the merchant or merchants, importer or importers of the same, in ready money, upon his or their entry or entries made, and before the landing thereof.

XXIX. And be it further enacted by the authority aforesaid, That all common brewers of beer and ale, shall once in every week, and all inn-keepers, alehouse-keepers, victuallers and other retailers of beer, ale, cyder, perry, metheglin or strong-water, brewing, making or retailing the same, shall once in every month make true and particular entries at the office of excise, within the limits of which the said commodities and manufactures are made, of all beer, ale, perry, cyder, metheglin,

glin, strong-water or other the liquors aforefaid, which they or any of them shall brew, make or retail in that week and month respectively as aforefaid.

XXX. And be it further enacted by the authority aforefaid, The penalty for not making entries. That all such common brewers who do not once a week make due and particular entries, shall forfeit ten pounds: (2) And that every such inn-keeper who doth not make true and particular entries once a month, shall forfeit five pounds: (3) And that every alehouse-keeper, victualler, or other retailer who doth not once a month make due and particular entries, shall forfeit twenty shillings.

XXXI. And be it further enacted by the authority aforefaid, The penalty for not paying. That every common brewer who shall not pay and clear off within a week after he made his entry, or ought to have made his entry, as aforefaid, shall pay double the value of the duty: (2) And that every inn-keeper, alehouse-keeper, victualler, or other retailer who shall not pay and clear off within a month after he made his entry, or ought to have made his entry as aforefaid, shall pay double the value of the duty: (3) The said respective forfeitures to be levied upon their goods and chattels, in such manner and form as hereafter in this act is ordained and directed.

XXXII. Provided, That no such person as aforefaid shall be In what places entries shall be made. compelled by the commissioners, or sub-commissioners of the excise, to travel for the making of the said entries or payment of the said duties or other cause whatsoever touching or concerning the same, if he live in a market-town, out of the said town; if Further provisions relating hereto, 15 Car. 2. c. 11. s. 9. he live out of a market-town, then to no other place than to the next market-town to his habitation in the same county, on the market-day.

XXXIII. And be it further enacted and ordained by the authority aforefaid, The powers of the commissioners to appoint gagers. That the commissioners who shall be appointed by his Majesty for putting this act in execution, and their sub-commissioners in their respective circuits and divisions, shall hereby have power to constitute under their hands and seals such and so many gagers as they shall find needful: (2) Which gagers, and every of them, shall at all times, as well by night as by day, and if by night, then in the presence of a constable or other lawful officer, be permitted upon their request to enter the house, brew-house, distilling-house, and all other houses and places whatsoever belonging to, or used by any brewer, inn-keeper, victualler, or other retailer of beer, brewing or making the same, as aforefaid, or by any distiller of strong waters, or retailer of other the liquors aforefaid, and to gage all coppers, fats and vessels in the same, and to take an account of beer, ale, worts, perry, cyder, strong waters, *aqua-vitæ*, metheglin, or other the liquors aforefaid, in the said houses, places and vessels, from time to time brewed or made, and distilled; (3) and thereof to make return or report in writing to the said commissioners or sub-commissioners of excise, under whose office and limits such brewer, retailer, distiller or maker of the liquors

The powers of the gagers.

quors aforesaid doth dwell and inhabit, leaving a true copy of such return in writing under his hand with such brewer, retailer, distiller, or maker of the liquors aforesaid; (4) and such reports or returns of the said gagers shall be a charge upon the said brewers, makers and retailers respectively: (5) And if any such common brewer, maker or retailer, shall refuse to permit any such gager or gagers to enter his brew-house or any other places aforesaid, or to gage or take account of his brewing vessels, or of any such beer, ale, worts, perry, cyder, strong water, *aqua-vita*, metheglin, or other the liquors aforesaid, such brewer, retailer or distiller, shall be forthwith forbidden by the said gager or gagers, to sell, carry out or deliver to any of his customers, any beer, ale, strong-water, *aqua-vita*, or other the liquors aforesaid; (6) and if any such brewer, retailer, or distiller of any the liquors aforesaid, after such warning given, shall sell, carry or deliver out the same, or any part thereof, not having paid and cleared the duty of excise, such person and persons shall, besides the forfeiture of double the value, forfeit and lose the sum of ten pounds as aforesaid, for every offence, to be levied and recovered upon his or their goods and chattels in manner and form as hereafter in this act is provided.

Penalty for selling, &c. not having cleared the excise.

Proportions to be observed in returns of gagers.

XXXIV. And for the avoiding of all uncertainty and dispute touching the returns made or to be made by the gagers of any beer or ale so brewed as aforesaid; (2) be it enacted and declared by the authority aforesaid, That every six and thirty gallons of beer taken by the gage according to the standard of the ale-quart, four whereof shall make the gallon, remaining in the custody of the chamberlains of his Majesty's exchequer, shall be reckoned, accounted and returned by the gager, for a barrel of beer, and every two and thirty gallons of ale taken by the gage according to the same standard, shall be in like manner reckoned, accounted and returned for a barrel of ale, and all other the liquors aforesaid according to the wine gallon.

Brewers and retailers to observe the usual rates and prices.

XXXV. Provided always, and be it enacted and ordained by the authority aforesaid, That no brewers or retailers of beer and ale, shall take any more in the price thereof, upon sale of the same, than according to the usual rates and prices; saving that every common brewer shall and may take and receive of all and every person and persons to whom he shall sell and deliver any ale or beer, the excise thereupon due as aforesaid, over and above the usual rates and prices.

Encouragement to brewers to make true entries.

XXXVI. And be it enacted by the authority aforesaid, That for the better encouragement of all common brewers and makers of beer or ale to make due entry and payment thereof according as by this act is appointed, the said common brewer, not selling the same by retail, for and in consideration of waste by fillings and leakage of their beer and ale, shall have and be allowed out of the said returns made by the gagers, the several allowances and abatements hereafter mentioned, (that is to say) upon every three and twenty barrels of beer, whether strong

Allowance for waste and leakage.

or

or small, returned by the said gagers, three barrels; and upon every two and twenty barrels of ale, whether strong or small; returned by the gagers, two barrels; which said allowances and abatements the said commissioners to be appointed as aforesaid; and their sub-commissioners, are hereby authorized to allow and make accordingly.

XXXVII. Provided always, That where any common brewer shall wittingly or willingly make a false entry, and be convicted for the same before the commissioners to be appointed as aforesaid, or any two of them, or before such other person or persons as are hereafter by this act appointed, in that case such brewer or brewers shall forfeit and lose over and besides the penalties before-mentioned, the said allowance so to be made, for six months then next ensuing.

Forfeiture for making false entries.

XXXVIII. And be it enacted and ordained by the authority aforesaid, That no beer or ale shall be delivered in by such brewer or maker thereof, to any victualler or other retailer thereof, until the rate which by such victualler or retailer is to be paid over and above the price of the said beer or ale, for or in respect of this duty, be first paid and satisfied by the said victualler or retailer, to the brewer or maker thereof.

No beer, &c. to be delivered, by the brewer until the excise be paid by the retailer.

XXXIX. Provided always, That if any person or persons shall brew and sell by retail any small quantities of beer or ale in any fair within this realm or dominions aforesaid, who is not otherwise any common or usual brewer or retailer thereof, and shall before any such selling and retailing thereof, well and truly pay and satisfy the duty due for the same to the commissioners or sub-commissioners within whose limits or divisions the said fair shall be held, or to their officers thereunto appointed; that then such person or persons so brewing or retailing the same, and for so much and no more, nor otherwise, shall be freed and discharged from all penalties and forfeitures in and by this act before mentioned and imposed; any thing therein contained to the contrary notwithstanding.

Proviso for beer and ale sold in fairs.

XL. Provided nevertheless, That it shall and may be lawful to and for the said commissioners and sub-commissioners respectively, to compound for this duty with any inn-keeper, victualler, alehouse-keeper or retailer of beer, ale and other the liquors aforesaid, within their respective divisions, from time to time, and in such manner and form as may be most for the advantage and improvement of the receipts thereof; any thing in this act before contained to the contrary notwithstanding.

The commissioners may compound for the excise in their divisions.

XLI. And it is further ordained and enacted by the authority aforesaid, That the lord treasurer, or commissioners of the treasury for the time being, or such other person or persons as his Majesty, his heirs and successors shall appoint, shall have power, and are hereby authorized and impowered from time to time to treat, contract, conclude and agree with any person or persons for or concerning the farming of all or any the rates, duties and charges in this act mentioned, upon beer, ale, perry, cyder or other the liquors aforesaid, in any the respective coun-

The power of the lord treasurer, &c. to contract for farming any the rates or duties in this act.

ties, cities or places of this realm or dominions thereof, and be for the greatest benefit and advantage of the said receipt, as the same exceed not the term of three years.

XLII. And be it further enacted, That every such contract bargain and agreement of the lord treasurer, or commissioners of the treasury, or other persons aforesaid, on behalf of Majesty on the one part, and the person or persons farming the other part, shall be good and effectual in law, to all intents and purposes.

Persons to be approved by the justices of the peace, &c. within six months, to have the refusal of contracting for the excise in their respective counties.

XLIII. Provided always, to the end the aforesaid duty be paid with most ease to the people, it is hereby further enacted, That the lord treasurer, commissioners of the treasury, or other persons aforesaid, shall not within six months after commencement of this act, treat, conclude or agree with any person or persons touching the farming of this duty upon any land and ale in any the respective counties or places of this realm or dominions thereof, other than with such person or persons by the justices of peace of the said counties or places, or the major part of them, at their publick quarter-sessions shall be nominated and appointed in that behalf, which person or persons is to have the first refusal of any such farm respectively, and may take the same; any thing in this act to the contrary thereof in any wise notwithstanding.

XLIV. Provided, That the said duty shall not be let to any other person or persons, than to the person or persons recommended by the justices, under the rate that it shall be tendered to, and refused by, such person or persons so recommended.

Forfeitures and offences within this act, how to be determined.

XLV. And be it further enacted and ordained by the authority aforesaid, That all forfeitures and offences made, done or committed against this act, or any clause or article therein contained, shall be heard, adjudged and determined by such person or persons, and in such manner and form as hereafter is and by this act is directed and appointed; that is to say, (1) such forfeitures and offences made and committed within the immediate limits of the chief office in *London*, shall be heard, adjudged and determined by the said chief commissioners and governors of excise (appointed by his Majesty) or the major part of them, or by the commissioners for appeals, and regulating of this duty, or the major part of them, in case of appeal and not otherwise: (2) And all such forfeitures and offences made and committed within all or any other the counties, cities, towns or places within this kingdom or dominions thereof shall be heard and determined by any two or more of the justices of the peace residing near to the place where such forfeitures shall be made or offence committed: (3) And in case of neglect or refusal of such justices of the peace, by the space of fourteen days next after complaint made, and notice thereof given to the offender, then the sub-commissioners, or the major part of them, appointed for any such city, county, town or place, shall and are hereby empowered to hear and determine

London.

Counties, cities, &c. within this kingdom.

Neglects of the justices.

mine the same; (5) and if the party find himself aggrieved by the judgment given by the said sub-commissioners, he shall and may appeal to the justices of the peace at the next quarter-sessions, who are hereby impowered and authorized to hear and determine the same, whose judgment therein shall be final; (6) which said commissioners for appeals, and regulating of this duty, and the chief commissioners for excise, and all justices of peace, and sub-commissioners aforesaid respectively, are hereby authorized and strictly enjoined and required, upon any complaint or information exhibited and brought of any such forfeiture made, or offence committed contrary to this act, to summon the party accused, and upon his appearance or contempt, to proceed to examination of the matter of fact, and upon due proof made thereof; either by the voluntary confession of the party, or by the oath of one or more credible witnesses (which oath they or any two or more of them have hereby power to administer) to give judgment or sentence, according as in and by this act is before ordained and directed, and to award and issue out warrants under their hands, for the levying of such forfeitures, penalties and fines, as by this act is imposed for any such offence committed, upon the goods and chattels of the offender, and to cause sale to be made of the said goods and chattels, if they shall not be redeemed within fourteen days, rendering to the party the overplus, if any be, and for want of sufficient distress, to imprison the party offending till satisfaction be made.

Levying the forfeitures.

XLVI. Provided nevertheless, That it shall and may be lawful to and for the said respective justices of the peace, commissioners for excise, or any two of them, or their sub-commissioners respectively, from time to time, where they shall see cause, to mitigate, compound or lessen such forfeiture, penalty or fine, as in their discretion they shall think fit; and that every such mitigation and payment thereupon accordingly made, shall be a sufficient discharge of the said penalties and forfeitures to the persons so offending; so as by such mitigation the same be not made less than double the value of the duty of excise, which should or ought to have been paid, besides the reasonable costs and charges of such officer or officers, or others as were employed therein, to be to them allowed by the said justices; any thing in this act to the contrary in any wise notwithstanding:

Power to mitigate the forfeitures.

2) And it is hereby further enacted and ordained, That all fines forfeitures and penalties mentioned in this act, all necessary charges for the recovery thereof being first deducted, shall be employed, three fourth parts thereof to and for the use of the King's majesty, and one fourth part to the discoverer or informer of the same. (3) And for the better managing, collecting, securing, levying and recovering of all and every the said rates and charges of excise hereby imposed and set upon all or any of the commodities before-mentioned, to the end the same may be paid and disposed of according to the

How the fines and forfeitures shall be employed.

One principal
office of excise
to be erected
in London.

intent of this present act, (4) be it further enacted and ordained by authority aforesaid, and it is hereby enacted, That one principal head office shall be erected and continued in the city of *London*, or within ten miles thereof, from time to time, as long as his Majesty shall think fit, for this duty, unto all other offices for the same within *England* and *Wales*, and town and port of *Berwick*, shall be subordinate and accountable, which said office shall be managed by such officers as shall be appointed by the King's majesty, as aforesaid, who, or any of them, are hereby appointed and constituted commissioners and governors for the management of his Majesty's revenue of excise, and to sit in some convenient place in the city of *London*, or within ten miles thereof, from time to time, as long as his Majesty shall think fit, for the ends aforesaid.

XLVII. And be it enacted by the authority aforesaid, That no person or persons shall be capable of intermeddling with the office or employment relating to the excise, until he or they be before two or more justices of peace in the county, where their employments shall be, or before one of the barons of the exchequer, take the oaths of allegiance and supremacy, which oaths they have hereby power to administer, together with the oath following, *mutatis mutandis*.

The oath.

(2) **Y**OU shall swear to execute the office of *truly and faithfully, without favour or affection, and from time to time true account make and deliver to such persons as his Majesty shall appoint to receive the same, and shall take no fee or reward for the execution of the said office, from any other person than from his Majesty, or those whom his Majesty shall appoint in that behalf.*

London, West-
minster, &c.
to be under
the manage-
ment of the
chief office.

All commis-
sioners, &c. to
be nominated
by his Maje-
sty.

Times in
which the of-
fice shall be
kept open.

XLVIII. And be it further enacted by the authority aforesaid, That every such justice of the peace shall certify the taking of such oath to the next quarter-sessions, there to be recorded. (2) And it is further enacted, That all parts of the cities of *London* and *Westminster*, with the borough of *Southwark*, and several suburbs thereof, and parishes within the weekly bills of mortality, shall be under the immediate care, inspection and management of the said head office, (3) and such and so many subordinate commissioners and sub-commissioners, and other officers and ministers for the execution of the premisses, shall from time to time nominated and appointed by his Majesty, his heirs and successors, in all and every other the counties, cities, towns and places within this kingdom of *England*, dominions of *Wales*, and port of *Berwick*, as from time to time his Majesty, his heirs and successors, shall think fit. (4) And it is hereby further enacted, That the said office of excise in all places where it shall be appointed, shall be kept open from eight of the clock in the morning till twelve of the clock at noon; and from twelve of the clock in the afternoon till five of the clock in the afternoon, for the due execution and performance of all and every

the matters and things in this act appointed and required. (5) And it is further hereby enacted, That the said chief commissioners of excise, or the major part of them, shall from time to time issue forth and pay such sum and sums of money, as shall from time to time be received, collected or levied by virtue of this act, into his Majesty's receipt of exchequer.

XLIX. Provided always, and be it enacted, That if any person or persons shall at any time be sued or prosecuted for any thing by him or them done or executed in pursuance of this act, he or they shall and may plead the general issue, and give this act in evidence for his defence; (2) and if upon the trial a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs be nonsuit, then such defendant or defendants shall have double costs to him or them awarded against such plaintiff or plaintiffs.

The general issue pleadable in any action upon this statute.

L. Provided also, and be it enacted, That no writ or writs of *certiorari* shall supersede execution or other proceeding, upon any order or orders made by the justices aforesaid in pursuance of this act, but that execution and other proceedings shall and may be had and made thereupon, any such writ or writs, or allowance thereof notwithstanding.

Writs of *certiorari* no superseas.

LI. Provided, That this act, or any thing therein contained, shall not extend or be construed to extend in any manner to weaken or invalidate one act of this present parliament, intituled, *An act of free and general pardon, indemnity and oblivion*, but that every clause, article, matter and thing therein mentioned and comprised, shall notwithstanding this act or any matter or thing therein, remain good and valid, and be of the same force, virtue and effect, as if this act had never been made.

Proviso as to the act of general pardon. 12Car.2. c.11.

LII. Provided always, and be it further enacted, That this act, or any thing therein contained, shall not be prejudicial to *Edward Backwell* alderman of *London*, as to the sum of twenty-eight thousand four hundred and fifty pounds (or any part thereof) by him advanced upon the credit of several orders of this present parliament, and by them charged on the receipt of the grand excise; that is to say, the sum of five thousand pounds payable to his Majesty's surveyor general for the repair of his Majesty's houses, charged by virtue of an order of the sixth of *September* one thousand six hundred sixty, with interest for the same; the sum of ten thousand pounds advanced to her Highness the Princess Royal, being charged with interest by an order of the thirteenth of *September* one thousand six hundred sixty; the sum of ten thousand pounds payable to her Majesty the Queen of *Bohemia*, being charged together with interest, by an order of the thirteenth of *September* one thousand six hundred sixty; the sum of three thousand four hundred and fifty pounds payable for provisions for *Dunkirk*, by order of the twenty-sixth of *November* one thousand six hundred sixty; which sum of twenty-eight thousand four hundred and fifty pounds, together with the interest for the same, according to the tenor of the said orders, after the rate of six *per cent.* shall be paid to the said *Edward Backwell*, or his assigns,

Proviso concerning *Edw. Backwell*.

assigns, out of the grand excise, and the arrears thereof in course, as is by the said orders appointed; and in case the same shall fall short in payment by the twenty-fifth of *December* one thousand six hundred and sixty, that then the remainder shall continue secured to him out of the whole excise in course, as aforesaid, and that no other payments be made out of the excise, but what is appointed by this present parliament in course to precede the same, until the said debt due to the said *Edward Backwell* be satisfied; and that in case any part of the monies due to alderman *Backwell* be paid out of that part of the excise which shall grow due to the King's majesty, that then his Majesty shall be reimbursed the same out of the first monies that shall come in of the arrears of excise that will be due the said twenty-fifth of *December*. *Confirmed by 13 Car. 2. stat. 1. c. 7.*

CAP. XXV.

An act for the better ordering the selling of wines by retail, and for preventing abuses in the mingling, corrupting and viciating of wines, and for setting and limiting the prices of the same.

FOR the better ordering of selling of wines by retail in taverns and other places, and for preventing of abuses therein, (2) be it enacted by the King's most excellent majesty, by and with the consent of the lords and commons in parliament assembled, and by the authority of the same, That no person or persons whatsoever, from and after the five and twentieth day of *March* one thousand six hundred sixty-one, unless he or they be authorized and enabled in manner and form as in this present act is prescribed and appointed, shall sell or utter by retail, that is, by the pint, quart, pottle or gallon, or by any other greater or lesser retail measure, any kind of wine or wines to be drunk or spent within his or their mansion house or houses, or other place in his or their tenure or occupation, or without such mansion house or houses, of such other place in his or their tenure or occupation, by any colour, craft or mean whatsoever; (3) upon pain to forfeit for every such offence the sum of five pounds; the one moiety of every such penalty to be to our sovereign lord the King; the other moiety to him or them that will sue for the same by action of debt, bill, plaint or information, in any of the King's courts of record, in which action or suit no essoin, wager of law or protection shall be allowed.

The penalty for uttering wine by retail. Carthew 216.

His Majesty may issue out commission to licence the uttering wine.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for his Majesty, his heirs and successors, from time to time, to issue out under his or their great seal of *England* one or more commission or commissions directed to two or more persons, thereby authorizing them to licence and give authority to such person or persons as they shall think fit, to sell and utter by retail all and every, or any kind of wine or wines whatsoever, to be drunk and spent, as well within the house or houses, or other place in the tenure or oc-

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