

vyng of the residue of the same debts or duties, whereof they shall not be fully satisfied and paid, or otherwise contented in form aforesaid against the said offender or offenders in like manner and form as they should or might have had, before the making of this act, and that the said creditor and creditors, and every of them, shall be only barred and excluded by virtue of this act, of and for all and every such part and portion of the said debts and duties, as shall be paid, satisfied, distributed, or delivered unto him or them by the said lords, having authority as is aforesaid, and of no more portion or parcel thereof, any thing herein specified that may be taken or construed to the contrary notwithstanding.

C A P. V.

The bill concerning the explanation of wills.

32 H. 8. c. 1.

WHERE in the last parliament begun and holden at Westminster the thirty-eighth day of April in the thirty-first year of the King's most gracious reign, and there by divers prorogations holden and continued unto the twenty-fourth day of July in the thirty-second year of his said reign, it was by the King's most gracious and liberal disposition shewed toward his most humble and obedient subjects, ordained and enacted how and in what manner lands, tenements, and other hereditaments might be by will or testament in writing, or otherwise by any act or acts lawfully executed in the life of every person, given, disposed, willed or devised, for the advancement of the wife, preferment of the children, payment of debts of every such person, or otherwise at his will and pleasure, as in the same act more plainly is declared: (2) sithen the making of which estatute, divers doubts, questions and ambiguities have risen, been moved, and grown, by diversity of opinions, taken in and upon the exposition of the letter of the same estatute.

II. For a plain declaration and explanation whereof, and to the intent and purpose that the King's obedient and loving subjects shall and may take the commodity and advantage of the King's said gracious and liberal disposition, the lords spiritual and temporal, and the commons, in this present parliament assembled, most humbly beseechen the King's majesty, that the meaning of the letter of the same estatute, concerning such matters hereafter rehearsed, may be by the authority of this present parliament enacted, taken, expounded, judged, declared and explained in manner and form following:

III. First, Where it is contained in the same former statute, within divers articles and branches of the same, that all and singular person and persons having any manors, lands, tenements or hereditaments of the estate of inheritance, should have full and free liberty, power and authority to give, will, dispose or assign, as well by his last will and testament in writing, or otherwise by any act or acts lawfully executed in his life, his manors, lands, tenements or hereditaments, or any of them, in such manner and form as in the same former act more at large it doth appear. Which words *of estate of inheritance*, by the authority of this present parliament, is and shall be declared, expounded, taken and judged of estates in fee-simple only.

The words
estate of inheritance
how to be understood.

IV. And

IV. And also that all and singular person and persons having a sole estate or interest in fee-simple, or seised in fee-simple in coparcenary, or in common in fee-simple, of and in any manors, lands, tenements, rents or other hereditaments, in possession, reversion, remainder, or of rents or services incident to any reversion or remainder, and having no manors, lands, tenements or hereditaments holden of the King, his heirs or successors, or of any other person or persons by knights service, shall have full and free liberty, power and authority to give, dispose, will or devise to any person or persons (except bodies politick and corporate) by his last will and testament in writing, or otherwise by any act or acts lawfully executed in his life, by himself solely, or by himself and other jointly, severally or particularly, or by all those ways, or any of them, as much as in him of right is or shall be, all his said manors, lands, tenements, rents and hereditaments, or any of them, or any rents, commons or other profits or commodities out of or to be perceived of the same, or out of any parcel thereof, at his own free will and pleasure; any clause in the said former act notwithstanding.

V. And further be it declared and enacted by the authority aforesaid, That all and singular person and persons, having a sole estate or interest in fee-simple, or seised in fee-simple in coparcenary, or in common in fee-simple, of or in any manors, lands, tenements, rents or other hereditaments, in possession, reversion or remainder, or of and in any rents or services incident to any reversion or remainder, holden of the King by knights service in chief, or of the nature of knights service in chief, hath, and by the authority of this present parliament shall have, full and free liberty, power and authority to give, dispose, will or assign to any person or persons (except bodies politick and corporate) by his last will and testament in writing, or otherwise by any act or acts lawfully executed in his life-time by himself solely, or by himself and others jointly, severally or particularly, or by all those ways, or any of them, as much as in him of right is or shall be, two parts as well of all the said manors, lands, tenements, rents and hereditaments, as of all and singular his other rents and hereditaments, or of any of them, or any rents, commons or other profits or commodities, out of or to be perceived of the same two parts, or out of any parcel thereof in three parts to be divided, or as much thereof as shall amount to the full and clear yearly value of two parts thereof, in three parts to be divided, of what person or persons soever the same be holden, at his free will and pleasure.

VI. And that by the authority aforesaid, the said will so declared shall be good and effectual for two parts of the said manors, lands, tenements and hereditaments, although the will so declared be made of the whole, or of more than of two parts of the same: (2) the same division to be made and set forth by the deviser or owner of the same manors, lands, tenements and hereditaments, by his last will in writing, or otherwise in writing, (3) and in default thereof, by a commission to be granted

Fee-simple in coparcenary, or in common, in possession, reversion, remainder, &c.

29 Car. 2. c. 3. s. 12.

1 Bulstr. 62.

Poph. 87, 91.

3 Co. 30.

10 Co. 81.

Dyer 158, 354.

3 Cro. 805.

Dyer 255.

Moor 38.

pl. 124.

Hob. 136.

Devising of rent or com-

mon out of

land.

3 Co. 33.

8 Co. 84.

Lands holden

of the King by

knights service

in chief.

Moor 177. pl.

313, 314.

Ley 41, 51, 65.

10 Co. 80.

Dyer 287.

Co. Lit. 76.

granted out of the King's court of the wards and liveries, upon the enquiry of the true value thereof by the oaths of twelve men, and return or certificate thereof had in the same court, of the said manors, lands, tenements and hereditaments, division to be made by the master of the wards and liveries, if the master of the wards and liveries for the time being, and the parties thereunto, cannot otherwise agree upon the same division: (4) and that the issues and profits of the two parts of the same manors, lands, tenements and hereditaments, upon every such division to be restored to them that shall have right or title to the same from the death of the owner or devisor thereof.

Lands holden
of the King or
others by
knights ser-
vice, and lands
holden in soc-
cage.
Dyer 158.

VII. And further be it enacted and declared by the authority aforesaid, That all and singular person and persons, having a sole estate or interest in fee-simple, or seised in fee-simple in coparcenery, or in common in fee-simple, of and in any manors, lands, tenements, rents or other hereditaments, in possession, reversion or remainder, or of and in any rents or services incident to any reversion or remainder holden of the King, his heirs or successors, by knights service, and not in chief, or holden of any other person or persons by knights service, shall have full and free liberty, power and authority to give, dispose, will or devise to any person or persons (except bodies politick and corporate) by his last will and testament in writing, or otherwise by any act or acts lawfully executed in his life by himself solely, or by himself and other jointly, severally or particularly, or by all those ways, or any of them, as much as in him of right is or shall be, two parts of all the said manors, lands, tenements and hereditaments, or any of them, so holden by knights service, or any rents, common or other profits or commodities, out of or to be perceived of the same two parts, or out of any parcel thereof in three parts to be divided, or as much thereof as shall amount to the full and clear yearly value of two parts thereof in three parts to be divided, at his free will and pleasure.

A will made of
the whole shall
be good for
two parts.
Raym. 249.
Hob. 80.
1 Roll. 192.
Dyer 367.
8 Co. 84.
Goldsb. 84.
Hetley 57.

VIII. And that the said will, so declared by authority aforesaid, shall be good and effectual for two parts of the said manors, lands, tenements and hereditaments, although the will so declared be or shall be made of the whole lands and tenements so holden by knights service, or of more than two parts of the same; (2) and also for the whole of all other such manors, lands, tenements and hereditaments, or any of them, not holden of the King by knights service in chief, or otherwise by knights service, nor of any other person by knights service, and of any rents, commons or other profits or commodities, out of or to be perceived of the same, or out of any parcel thereof, at his free will and pleasure; (3) the same division to be made and set forth by the owner of the said manors, lands, tenements and hereditaments, by his last will and testament in writing, or otherwise in writing; (4) and in default thereof, for as much of the same manors, lands, tenements and hereditaments as shall concern the King's interest, by commission to be directed out of the King's court of the wards and liveries, in manner and form

as is aforesaid, if the master of the wards and liveries for the time being and the parties thereunto cannot otherwise agree upon the same division; (5) and that restitution of the issues and profits of the two parts thereof shall be had and made in manner and form aforesaid: (6) and for such of the same manors, lands, tenements and hereditaments, as shall concern the interest of any other lord or lords, by commission to be granted out of the King's court of the chancery, to enquire thereof by the oaths of twelve men, if the same lord or lords and the parties thereunto cannot otherwise agree upon the same division

1 Anderf. 348.
How the division of the two parts in three shall be set forth.

IX. And be it further enacted and declared by authority aforesaid, That the savings, reservings and provisions concerning saving of the custody, wardship, relief and *primer seisin* to the King of such manors, lands, tenements and hereditaments, or as much thereof as shall appertain unto him by virtue of the said former act, and by the declaration and exposition thereof declared by this present act, during the King's interest therein, and also of the custody and wardship to other lords, of as much of such manors, lands, tenements and hereditaments holden of them, as shall amount and extend to the clear yearly value of the third part thereof, over and above all charges, without any diminution or abridgment of the third part, or of the full profits thereof, comprised and mentioned in divers articles in the said former act contained, by the authority aforesaid, be and shall be intended, expounded and taken as hereafter ensueth; that is to say, That the King shall have and take for his full third part of all such manors, lands, tenements and hereditaments, whereunto he is or shall be intituled by the said former act, and by this present act, such manors, lands and tenements as shall by any means descend, or come by descent, as well of estate of inheritance in fee-tail as in fee-simple, or in fee-tail only, to the heir of any such person that shall make any will, gift, disposition or devise by his last will in writing, or by any act or acts lawfully executed in his life, immediately after the death of the same devisor or owner thereof.

An exposition of the savings, reservings and provisions made in this act, and the statute of 3^d H. 8. c. 1.
3 Co. 27.

X. And that the will, gift and devise of every such devisor or owner, of and for the two parts of the said manors, lands, tenements and hereditaments residue, shall by the authority aforesaid be and stand good and effectual in the law, albeit the same will, gift or devise he had and made of all his fee-simple lands, tenements and hereditaments, or of the more part thereof.

Devise of all the fee-simple lands, leaving the third part of entailed lands to the King or other chief lord.
Dyer 150.
3 Co. 28.
10 Co. 10.

XI. And in case the same manors, lands, tenements and hereditaments, which after the death of any such owner or devisor, which shall make any such gift, disposition or devise by his last will in writing, or otherwise by any act or acts lawfully executed in his life, to his wife, children or otherwise, as is aforesaid, which shall immediately after his death descend, revert, remain or come to his heir or heirs, as well of estate of inheritance in fee-tail, as of estate in fee-simple, or fee-tail only, be not or shall not amount or extend to the full clear yearly value of the full third part, with the full profits thereof, of all the said manors,

A remedy where a full third part is not left for the King or other lords.

manors, lands, tenements or other hereditaments of the said devisor or owner, according to true intent and meaning of the said former act, and of this present act; that then the King shall and may have and take into his hands and possession to make up his full third part, with the full profits thereof, according to his interest therein, as much of the other manors, lands, tenements and hereditaments, willed, given, disposed or assigned by any such person to his wife, children, or otherwise as is aforesaid, as with such of the same manors, lands, tenements and hereditaments, descended or by any means come unto the heir, as heir of any such devisor or owner, shall make up the clear yearly value of the said full third part, with the full profits thereof, of all the said manors, lands, tenements and hereditaments of every such owner or devisor, so to be had to the King in title of wardship or *primer seisin*, as the case shall require; (2) and the division thereof to be had and made, and with the restitution of the profits of the two parts of the said manors, lands, tenements and hereditaments, in such manner and form as is above rehearsed; (3) and like advantage and benefit to be given, had and taken by the said authority to every lord and lords, of whom any such manors, lands, tenements or hereditaments been or shall be holden by knights service, in manner and form as is aforesaid, concerning only his or their third parts thereof, according to their said interest therein.

A remedy for the King or other lords, if the third part be entailed.

XII. And be it further enacted by the authority aforesaid, That if it happen the same third part, or any part thereof, left, willed or assigned to the King or other lord, at any time during their interests therein, to be lawfully evicted or determined; that then the King and the other lord shall have as much of the two parts residue as shall accomplish and make up a full third part in clear yearly value, after the rate and portion of such manors, lands, tenements and hereditaments, as shall then happen to remain of the same third part, not evicted nor determined, and of the other two parts of such manors, lands, tenements and hereditaments, as the King or other lord should or ought to have had by virtue of the said former act and this present act; (2) and the same to be divided in manner and form above rehearsed; any clause in the said former act notwithstanding.

A pardon of alienation must be sued by those to whom lands be devised, paying the third part of the yearly value of the lands holden in chief.

XIII. And be it further enacted and declared by the authority aforesaid, That the saving and reserving for fines for alienation by any such last will and testament of such manors, lands, tenements and hereditaments, holden of the King by knights service in chief, or of the nature of knights service in chief, or by soccage in chief, or of the nature of soccage-tenure in chief, or for fines for alienation of such manors, lands, tenements or hereditaments, whereof there shall be any alteration of freehold or of inheritance, made by any such last will, comprised in divers and sundry articles mentioned in the said former act, be and shall be

in-

intended, expounded, taken, deemed and judged, by the authority aforefaid, that all fuch person or persons to whom the faid manors, lands, tenements or hereditaments, or any of them, be or fhall be given, difpofed, willed, or devised by any fuch laft will, fhall be exonerated, acquitted, and difcharged for ever againft the King, his heirs and fucceffors, for all fuch fines for alienations by any fuch laft will or teftament without licence, by fuing forth of the King's pardon for alienation out of the King's court of chancery, paying to the King, his heirs or fucceffors, for the fine of every fuch alienation, the third part of the yearly value of the fame manors, lands, tenements, or other hereditaments to him or them willed or devised. (2) And this act from time to time fhall be a fufficient warrant to the lord chancellor of *England*, or keeper of the great feal for the time being, for the granting out of the faid pardon or pardons under the King's great feal, as heretofore hath been ufed for pardons for alienation, without any further fuit to be made to the King for the fame.

XIV. And it is further declared and enacted by the authority aforefaid, That wills or teftaments made of any manors, lands, tenements, or other hereditaments, by any woman covert, or person within the age of twenty-one years, idiot, or by any person *de non fane* memory, fhall not be taken to be good or effectual in the law.

6 Co. 23. Dyer 354. Hob. 225.

XV. And be it further enacted by the authority aforefaid, That if any person or persons having eftate of inheritance of or in manors, lands, tenements or hereditaments, holden of the King by knights fervice in chief, or otherwife of the King by knights fervice, or of any other person or persons by knights fervice, hath given at any time fithen the twentieth day of the faid month of *July*, or hereafter fhall give, will, devise, or affign by will or other act executed in his life, his manors, lands, tenements or hereditaments, or any of them, by fraud or covin, to any other person or persons for term of years, life or lives, with one remainder over in fee, or with divers remainders over for term of years, life, or in tail, with a remainder over in fee-fimple to any person or persons, or to his or their right heirs; (2) or at any time fithen the faid twentieth day of *July* hath conveyed or made, or hereafter fhall convey or make, by fraud or covin, contrary to the true intent of this act, any eftates, conditions, menalties, tenures or conveyances, to the intent to defraud or deceive the King of his prerogative, *primer feifin*, livery, relief, wardfhip, marriages or rights, (3) or any other lord of their wardfhips, reliefs, heriots, or other profits, which fhould or ought to accrue, grow, or come unto them, or any of them, by or after the death of his or their tenant, by force and according to the former eftatute, and of this present act and declaration: (4) and the fame eftates and other conveyances being found by office to be fo made or contrived by covin, fraud

Women covert, persons within age, ideots, or infane, cannot devise their lands.

Assurances by covin to defraud the King and other lords of their wardfhips, marriages, &c. 52 H. 3. c. 6. Dyer 123, 276. 6 Co. 76.

A remedy for the King to avoid fraudulent conveyances.

fraud or deceit, as is abovesaid, contrary to the true intent and meaning of the said former act and of this act; (5) that then the King shall have as well the wardship of the body, and custody of the lands, tenements and hereditaments, as livery, *primer seisin*, relief, and other profits, which should or ought to appertain to the King, according to the true intent and meaning of the said former act and of this present act, as though no such estates or conveyances by covin had never been had or made; until the said office be lawfully undone by traverse or otherwise.

A remedy for other lords to avoid fraudulent conveyances.

9 Co. 129.

XVI. And that the other lord and lords, of whom any such manors, lands, tenements, or hereditaments shall be holden by knights service, as is aforesaid, shall have their remedy in such cases for his or their wardships of bodies and lands, by writ of right of ward; (2) and shall distrain and make avowry or cognisance by themselves or their bailiffs, for their reliefs, heriots, and other profits, which should have been to them due by or after the death of their tenant, as if no such estate or conveyance had been had or made:

The rights of the donees, &c. saved, after the King's or other lord's interest expired.

Dyer 287.

XVII. Saving and reserving always, by the authority aforesaid, the right and title of the donees, feoffees, lessees and devisees thereof, against the said devisor and his heirs, after the interest and title of the King or other lord therein ended and determined.

Certain persons to whose wills this statute extendeth not.

XVII. Provided always, That this act of explanation or declaration, or any of them, or any thing in this said act, explanation and declaration contained, shall not extend to the will or devise of Sir *John Gainsford*, late of *Crowberst* in the county of *Surrey*, knight, deceased; nor to the will or devise of *Richard Creswell*, late of *Mattingly* in the county of *Southampton*, gentleman, deceased; nor to the will or devise of *Thomas Unton*, late of the county of *Berks*, gentleman, deceased, son of Sir *Thomas Unton*, knight, also deceased; (2) or shall be in any ways prejudicial or hurtful to any person or persons for or concerning any manors, lands, tenements or hereditaments, contained or specified in the said wills or devises, or in any of them, but that the said last wills and devises, and every of them, shall stand, abide, remain, and be in the same case, force, and effect in the law to all intents, purposes and constructions, as the said last wills and devises, and every of them, were before the making of this act, declaration and explanation, and of none other effect or force; this act, declaration and explanation, or any of them, or any thing therein contained to the contrary thereof in any wise notwithstanding.

Contribution for him from whom the King taketh any lands to make up his third part.

Note; the 19th section does pre-

XIX. Provided alway, and be it enacted by the authority aforesaid, That all and every person and persons, from whom the King or other lord or lords shall take any manors, lands, tenements or hereditaments, for his or their full third part, or to make up his or their full third part, shall and may by authority of this present act, in any of the cases aforesaid, upon his or their bill exhibited in the King's high court of chancery, against

all

all and every such person and persons which shall be intituled by ^{cede the 18th on} or under any such will, gift, disposition or devise, to the other ^{the roll.} two parts, have such contribution or recompence for the same, as by the lord chancellor of *England*, or by the keeper of the great seal of *England* for the time being, shall be thought good and convenient.

3 Co. 25.
Co. Lit. 76. a.
78. a. 111. b.

CAP. VI.

No person shall put to sale any pins, but only such as shall be double-headed, and have the heads soldered fast to the shank of the pin, well smoothed, the shank well shaven, the point well and round filed, cauted and sharpened.

REP. 37 H. 8.
c. 13.

CAP. VII.

The lords authorized by the statute of 28 H. 8. c. 14. to set the prices of wine in grois, may mitigate and enhance the prices of wines to be sold by retail, as time and occasion shall require.

EXP. 37 H. 8.
c. 23.

CAP. VIII.

A bill that persons, being no common surgeons, may minister medicines, notwithstanding the statute.

WHERE in the parliament holden at Westminster in the third year of the King's most gracious reign, amongst other things, for the avoiding of sorceries, witchcrafts, and other inconveniencies, it was enacted, That no person within the city of London, nor within seven miles of the same, should take upon him to exercise and occupy as physician or surgeon, except he be first examined, approved, and admitted by the bishop of London and other, under and upon certain pains and penalties in the same act mentioned: (2) sithence the making of which said act, the company and fellowship of surgeons of London, minding only their own lucre, and nothing the profit or ease of the diseased or patient, have sued, troubled, and vexed divers honest persons, as well men as women, whom God hath endued with the knowledge of the nature, kind, and operation of certain herbs, roots and waters, and the using and ministering of them to such as been pained with customable diseases, as womens breasts being sore, a pin and the web in the eye, uncomes of hands, burnings, scaldings, sore mouths, the stone, strangury, saucelim and morpew, and such other like diseases; and yet the said persons have not taken any thing for their pains or cunning, but have ministred the same to poor people only for neighbourhood and God's sake, and of pity and charity. (3) And it is now well known, that the surgeons admitted will do no cure to any person, but where they shall know to be rewarded with a greater sum or reward than the cure extendeth unto: for in case they would minister their cunning unto sore people unrewarded, there should not so many rot and perish to death for lack or help of surgery, as daily do; but the greatest part of surgeons admitted been much more to be blamed, than those persons that they trouble.

Abuses of
the statute of
3 H. 8. c. 11.
by the sur-
geons of London.

II. For although the most part of the persons of the said craft of surgeons have small cunning, yet they will take great sums of money, and do little therefore, and by reason thereof they do oftentimes impair and hurt their patients, rather than do them good: (2) in considera-