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AN
I N Q U I R Y
INTO THE
L A W S,
ANTIEN T AND MODERN,
RESPECTING
FORESTALLING, REGRATING,
AND
INGROSSING:
TOGETHER WITH
ADJUDGED CASES,
COPIES OF ORIGINAL RECORDS,
AND
PROCEEDINGS IN PARLIAMENT,
RELATIVE TO THOSE SUBJECTS.

BY
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THE present Publication had its commencement in a Collection formed from private curiosity, which having been extended beyond the bounds originally prescribed, is, at the desire of some respectable friends, submitted to the public eye in the shape it now appears.

In this compilation, no motives, other than those of yielding information to the lawyer and antiquary, have actuated the author; nor has he ventured to start any speculative ideas upon the subject, being content with merely stating matter of fact, and trusting to the legislature for the adoption of such measures as may be best calculated for the public good.

The author begs leave to express his obligations to JOHN CALEY, Esq. F.A.S. Keeper of the Records in the Augmentation Office, &c. who has not only contributed to this work his complete revision, but has enriched it by various observations, drawn from mines of antiquity peculiarly in his power to explore.

*Inner Temple,
Michaelmas Term, 1800.*

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<i>Agyllum v. Brewose</i> - - - -	- 193.
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<i>Braddon v. Bowen</i> - - - - -	- 138.
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TRADE and Commerce have ever been deemed by legislators, objects of the highest importance, those branches thereof especially, which concern articles necessary for the sustenance of man. Attempts to interrupt or impede commerce of this kind, have in all ages and in all nations, as by common consent, been resisted and guarded against. Thus it was among the Grecians; for by the laws of Athens, the practice of exporting corn, or even of secreting or hoarding it up, was punishable with death (*a*). Amongst the Romans there were certain offences denominated extraordinary crimes, against which, though no positive or special law was enacted, or penalty prescribed (*b*); yet as offences against the republic, they were by discretionary power punishable in various ways; viz. by pecuniary fine, condemnation to the public works, and in some instances even with death, according

(*a*) "Apud Athenienses, pœna capitis statuta erat in eos, qui frumentum aliò comportabant, annonamve suppresserant." *Vidè Lysia contra Dardanarios orationem*, 22.

(*b*) *Elementa Jur. Civ. à Heineccio*, par. 7. tit. 11. §. 126, 128.

ording to the heinousness of the offence. Such were the crimes of raising the prices of provisions, and selling by false weights and measures; and by the Julian law, whoever conspired to raise the price of victuals, such as corn, oil, bread, butcher's meat, salt, &c. whether by detention of vessels, subtraction or suppression of provisions, or other similar malpractices, was punished by pecuniary mulct. Under this offence also, were comprehended all fraudulent acts of the magistrates, who had the regulation of provisions, and were stiled "Præfecti Annonæ;" and as a furtherance of public justice, and the means of bringing offenders to punishment, women and slaves were encouraged to give evidence on these occasions (c).

Less

(c) "Lege Julia de Annona, quâ appellatione veniunt omnia, quæ ad victum humanum pertinent, pœna viginti aureorum statuitur adversus eum, qui annonam publicam fraudaverit, vel vexaverit, aut cujus dolo malo factum est, ut annonâ carior fieret.

"Publicæ utilitati prospexit C. Julius Cæsar lege in eos lata, quorum dolo annonâ, nempe frumentum, oleum, panis, caro, sal, et similia victus elementa cariora reddantur, quique ob eam rem societatem coierint, et conspiraverint, quo vel iter vectoribus ab urbe averteretur, vel naves nautæque detentur; quique annonam quoquo modo vexant, sive subtrahendo, sive supprimendo inopiamque rei cibariæ inducendo, ut publicâ ex egestate privatim ditentur: iique a Dardano quodam, forte hujus teterrimæ artis principe, Dardanarii nuncupantur. Eadem lege plectuntur et ii, qui fraudulentur in

Less enlightened nations, with a view to the same end, have been ever anxious of establishing free and open traffic; their legislators conceiving, that publicity in all transactions of this nature, was essentially necessary to the prevention of fraud. Among the antient Swedes and Goths, no purchase could take place, unless before witnesses; and this not merely as an evidence of the transaction, but that the purchaser should have the commodity bought, at a reasonable sum (d).

So in Lombardy, the emperor Pepin, and king Luitprand, sanctioned laws, that none should purchase horses, oxen, beasts of the plough, or other articles, unless in the presence of witnesses (e). In imitation of the Roman civil law, and that of the northern nations, our Saxon ancestors, and after

in annonæ administratione versantur, sive præfectus ipsius annonæ, sive præfectus urbi. Et quoniam per hoc iudicium, publicæ necessitati, communique salutis consulitur; delationes mulierum, et servorum recipiuntur, convicti autem 20 aureis damnantur: aut si negotiatores sint, negotiatione interdum interduntur, aliquando relegantur, et si humiliores fuerint ad opus publicum dantur, pœnaque pro gravitate delicti variatur." *Eden. Elementa Juris Civilis, p. 296.*

(d) Vide *Stiernh. de Jure Suec. et Gotho. vestusto, c. 5.*

(e) "Inter Longobardos Imperator Pipinus et Rex Luitprandus leges sanciverunt, ut nullus, cabellum, bovem, jumentum, vel aliam rem emat, nisi in præsentia testium." *lib. 2. Ll. Longobard, tit. 18. Vide etiam lib. 3. Capitul. Caroli, et Ludov. Imp. tit. 24. Et lib. 6, tit. 272.*

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after them the Anglo-Danish and Norman kings, introduced into the laws of this kingdom, regulations of the same nature; for upon a review of them, from the times of Lothario and Edric kings of Kent, and Ina king of Wesssex, down to the period of the conquest, it is obvious that scarce a reign elapsed without some laws being enacted for the better regulations of an open and free traffic. The provisions, in those laws, most applicable to the present inquiry, are the following: viz. that no person should buy, sell, bargain for, or exchange any cattle, cloth, or other commodity, except in the public markets within the gates of cities and towns, in the presence of the port-reeve, town-reeve, king's-reeve, or shire-reeve, in the folcmote, or before a priest or an ordeeler, and in the most frequented and open part of the market; and that such sales should not be made unless before witnesses, and with surety and warranty. Whoever had business to transact with any merchant at such market, was to signify the same to the king's reeve, and bring his witnesses ready to bear testimony to the transaction; and when the contract was concluded, to notify the same to the reeve in the folcmote. It was also ordained, that no markets should be permitted, except within walled cities and towns of the kingdom. By the laws of Æthelstan, all sales of any commodity above the value of twenty pence

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pence were to be made publicly; by those of Canute, such public sales were confined to so low a sum as four pence, whether of cattle or goods, and whether in or out of the town, unless the purchaser had four witnesses. Æthelred enacted, that the purchasers of cattle, or sheep, should preserve the head and hide for the space of three days before they sold them. Offences against these laws, which tended as well to diminish fraud, as to promote publicity, were punishable by fine and imprisonment, and in some cases by forfeiture of the offender's chattels, which the lord was empowered to seize upon. As a further restraint on clandestine bargains, which were ever held unlawful, the buyers of corn, cattle, &c. in fairs and markets, paid a toll to the lord or owner of the market (which formed a part of his revenue) in testimony of the contracts there lawfully made; the amount of which was in most cases regular and fixed, all unreasonable toll being forbidden to be exacted; nor were these the laws of one king only, but of the whole body of the Saxon government (*f*).

The

(*f*) As matter of curiosity, it may not be improper to give the passages at length as they exist in the Decem Scriptorum and Wilkins.

Leges Lotharii et Eadrici 16. " Si Cantiorum quis in Londiniensi urbe aliquid rerum emat, habeat sibi tunc duos

B 3

" aut

The institution of fairs and markets in the early period of our history, must be regarded as a wise regulation,

“ aut tres probos plebeios testes, aut Regis urbis Præfectum.”—*Wilkins.*

Leges Inæ 25. “ Si Mercator inter Vulgus mercetur, faciat hoc coram testibus.” *Wilkins.*

Leges Edwardi Sen. 1. “ Et ego volo, ut quilibet habeat advocatum suum, et nullus homo emat extra portam urbis, sed habeat testimonium urbis præfecti, vel alij veracis hominis cui fides haberi possit.” *Wilkins.*

Leges Aluredi 37. “ Etiam jam de mercatoribus statutum est, ut homines quos secum ducunt in negotiationem suam ostendant præposito Regis in publicis actionibus, et edicant quo sint, et eos denique secum assumant quos ad rectum publicum possint adducere. Et cum opus evenerit, ut secum plures habeant simul, hoc notificent præposito in publici conventus testimonio.” *Decem. Scrip. apud Job. Brompt.*

Leges Æthelstani 12. “ Diximus de hoc, quod nemo mercatur mercetur extra portam super 20 denarios, sed mercetur intra eam sub testimonio præfecti urbis, vel alij veracis hominis, vel deinde sub præfecti testimonio in conventu populi.” *Wilkins.*

Leges Edmundi, p. 2, c. 5. “ Et nemo barganniet vel ignotum pecus recipiat, qui non habeat testimonium summi præpositi, vel sacerdotis, vel ordalii, vel portigreve.” *Decem. Scrip. apud J. Brompt.*

Leges Æthelredi 4. “ Et nemo faciat alterutrum, vel emat, vel cambiet, nisi plegium habeat et testes. Si quis hoc præsumat, capiat illum terræ Dominus, et custodiat pecus illud donec sciatur cujus sit secundum rectum.” *Ibid.*

Ibid. p. 2, c. 12. “ Et nemo emat pecus aliquod, si non habeat duorum hominum credibilem testimonium. Custodiat:

regulation, for thereby merchants, traders, and the community at large, might be supplied with such

corium ejus iij. noctes et caput, et ovis similiter. Et si corium ante vendat alicui, reddat 20 oris.” *Ibid.*

Leges Canuti 22. “ Et nemo rem aliquam emat plus quatuor denariis dignam, vivam aut mortuam nisi habeat fidele quatuor virorum testimonium, sive sit infra oppidum, sive ruri.”

Wilkins.

Leges boni Edw. 38. “ Prohibitum erat ne quis emerat vivum animal vel pannum usatum, sine plegiis et bonis testibus.” *Ibid.*

Ibid. 39. “ Cum autem dictum est quod nullus hominum emeret absque plegiis animal vivum, clamaverunt machecarii de civitatibus et burgis quos Angli vocant Flehmongers, quod unaquaque die oportebat animalia viva emere, occidere et vendere; nam in occasione animalium erat vita eorum. Vociferabantur etiam Cives et Burgenses et Populus pro consuetudinibus suis, eo quod circa festum S^{ti} Martini consueverunt animalia in foro mercati sine plegio ad occasiones contra Natale Domini faciendas. Murmur etiam multus super hoc edicto erat in turba.” *Ibid.*

Leges Gul. Conq. 43. “ Nemo emat quantum 4 denarios estimatum, neque de re mortua neque de viva absque testimonio 4 hominum aut de burgo aut de villa.” *Ibid.*

Ibid. 60. “ Interdicimus etiam ut nulla viva pecunia vendatur, aut ematur, nisi infra civitates et hoc ante tres fideles testes, nec aliquam rem vetitam sine fidejussore et warranto. Quod si aliter fecerit, solvat, et persolvat, et postea foris facturam.” *Ibid.*

Ibid. 61. “ Item nullum mercatum vel forum sit, nec fieri permittatur, nisi in civitatibus regni nostri, et in burgis et

such commodities as they wanted, at a particular mart, without the trouble and loss of time, necessarily attendant on travelling (*b*). The law considering it a point of great public policy, that such fairs and markets should be replenished and well furnished with all manner of commodities (especially the articles of food) for the necessary support and use of the people; to that end ordained, that all sales and contracts of any thing saleable in open fairs and markets, should be binding, as well between the parties, as those that might claim right thereto (*i*), provided such sales and contracts were lawfully made, and the parties observed all the formalities prescribed for the occasion.

Herein the law had a two-fold object; first, as it regarded change of property in goods, which never took place, unless sales and contracts in markets were originally and wholly made there, openly and without fraud, as the preceding references evince (*k*); secondly,

muro vallatis, et in castellis, et in locis tutissimis, ubi consuetudines regni nostri, et jus nostrum commune, et dignitates coronæ nostræ, quæ constitutæ sunt a bonis prædecessoribus nostris deperiri non possint, nec defraudari, nec violari, sed omne ritè et in aperto et per iudicium et justitiam fieri debent." *Wilkins.*

(*b*) Bacon's Abridg. Fairs, a. (*i*) 2 Inst. 713.

(*k*) 2 Inst. 713.

Inter leges Æthelredi: "Bonorum, sine fidejussione et testimonio, emptio aut permutatio non est." *leges*

secondly, what was equally important with the former, it had in view the prevention of forestalling, an offence so destructive to public trade, that a forestaller has been termed in one of the antient statutes, *a public enemy to the commonwealth* (*l*).

Previous to the discussion of the nature of this offence, and the several provisions which have from time to time been made to restrain it, it will be proper to give the definition and etymology of the word forestaller, as well as of the terms ingrosser and regrator, so nearly allied to it.

Forestall, or, as it is written in Domesday Book, Foristel, is derived, according to Spelman, from two Saxon words, viz. *forne*, signifying præ or ante, and *stal*, statio; hence, says he, forstallator (forestaller) is one who bargains for or purchases corn in its way to the market, thereby hindering its being publicly exposed to sale.

With great deference to that learned antiquary, it may be noticed, that though his derivation is right, he has forgotten to observe that the word has

— leges Canuti.—"Si quis testibus non adhibitis quicquam fuerit mercatus, idemque alter uti suum proprium vendicaret, emptori nulla fiat advocandi potestas, verum is domino rem reddito, &c."

(*l*) 34 Edw. I. "Nullus forstellarius, &c."

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has considerably departed from its original meaning, which being "interceptio viæ, vel itineris," is rather to be understood of an assault upon the road, or an hindrance of a traveller going upon his lawful business; and so it was antiently interpreted, and a forfeiture incurred to the king on every such occasion, thus:

"DOMESDAY."

"Chenth. Dove, habet Rex has forisfacturas,
"Handfoca, Gribrige, Foristel."

"Sciropesberie si quis pacem regis manu
"propria datam scienter infringebat, utlagatus
"siebat; qui vero pacem regis a vicecomite
"datam infringebat C. fol. emendab' et tan-
"tundem dabat qui Forestel vel Heinfare faciebat.

"Wirecestre pacem vero regis si quis sciens
"fregerit C. fol. emendabit forestellum (*m*) qui
"fecerit C. fol. emend'."

From the context of the above passages, it is presumable that they more nearly apply to an assault or obstruction on the highway, than peculiarly to the particular meaning of the word forestalling, as now understood.

This

(*m*) Upon the word forestellum, forestalling, Dr. Nash, in his collections for Worcestershire, observes, that it was an obsolete word, even in Edward the Confessor's time; for in a charter of his, confirming one from king Edgar, it occurs among other words then considered as obsolete, and is by the Confessor explained, "*Via obstructio,*" "*Itineris interceptio.*"

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This was the sense in which the word forestall was understood by the burgeses of Newcastle-upon-Tyne, in a suit instituted in the reign of Edward the First; though there is great reason to believe that the meaning of the word was then generally conceived to be as it is now (*n*).

As words, however, are perverted from their original acceptation, "si volet usus," so forestall, which in its primitive sense meant merely an obstruction on the highway, became afterwards to be exclusively applied to the prevention of the sale of corn or other victual in the public market.

One reason why the word forestall became exclusively assigned to its present signification, was probably owing to the following circumstance: viz. In antient times the crown granted to many corporate bodies, as well ecclesiastical as civil, and also to individuals, the right of holding fairs and markets at particular places, for the purpose of promoting traffic and preserving order, and for the prevention of frauds and oppression. Some of these markets were free, that is, where no toll was granted;

(*n*) This Record, with the judgment thereon, by reason of its curiosity, is given at length in the Appendix; where also will be found other antient Records applicable to the subject of forestalling. As they are given exactly copied from the original rolls, it has been thought necessary, upon account of the abbreviations, to subjoin literal translations.

granted; others were granted with toll, which is a reasonable sum payable to the grantee or owner of the fair or market upon every tollable commodity sold in such fair or market. Such grantee, if owner of the soil, was also entitled, as of common right, to a reasonable sum from every person who erected a stall on his land, as a satisfaction for the use of the soil; this payment was denominated *stallage*.

The hindrance or obstruction, therefore, of those coming to such fairs or markets, to buy or sell there, by which the owner thereof lost his *stallage*, or was prejudiced in the profits of his market, was an injury as well to such owner as the king's subjects, who were thereby deprived of their right of a free purchase. This kind of hindrance or obstruction was in very early times deemed an offence, and termed *forestalling*.

Regrator, according to Minshew, is derived from the French; "regratier ou regrateur, ex re: " *iterum & grater scalpere,*" and "did antiently " signify such as bought by the great and sold by " *retaille.*"

Ingrosser, by the same author, takes its name from the French language also, "a grossieur " *crassitudo* or *grossier solidarius vendor*; it signifies one that buyeth corne growing, or dead " *victuall*; howbeit (adds Minshew) this definition

" nition rather doth belong to unlawfull engrossing " than to the word in generall."

Spelman's definition of the term (*Ingrosser*) is preferable; his words are:

" Is in genere dicitur qui integram rei alicujus " *copiam emendo fatagit comparare, ut distra-* " *hendo postea carius vendat. a Gall. le gros, pro* " *integro vel plenitudine.*"

Having now described, from the best authority that could be adverted to, the original meaning of *Forestalling*, *Regrating*, and *Ingrossing*, it becomes necessary to state what has been done for their prevention. In treating this subject, I shall consider *Forestalling*, &c. 1st. As an offence at Common Law; 2d. As an offence against Statute Law.

The common law, which is no other than the good old laws and customs handed down to us by our ancestors, has been continued on the same plan, by endeavours to guard against the offences here spoken of, from the encouragement given to traffic in open markets, and by the prohibition of all unlawful endeavours to accumulate inordinate wealth, at the expense and distress of the public; so that *forestalling* has by our law (as well as by those of other nations) been ever deemed an offence against the community at large, and as such punishable.

About

About the reign of king Henry the Third, as commerce increased, and articles (before unknown) were introduced into the kingdom, new cases occurred, and fresh regulations became requisite, as well to protect merchants in their adventures, as to encourage the importation of useful commodities; for these reasons, it was found expedient for the legislature to frame positive laws, declaratory in some instances of the common law, and to inflict on the offenders more severe punishments than were warranted, or at least seemed to have been exercised by the common law of the land.

Forestalling, commonly speaking, means, to market before the public, or, to anticipate or prevent the public market; but, legally understood, it has a greater signification, for it comprehends all unlawful endeavours to enhance the price of any commodity, and all practices which have an apparent tendency thereto, such as, spreading false rumours; buying commodities in the market before the accustomed hour; buying and selling again the same articles in the same market; and other such criminal devices. It also comprehended the offences of regrating and ingrossing; but the names regrator or ingrosser were not known before the reign of Hen. III. (o).

No.

(o) 3 Inst. 195. 196.—1 Hawk. P. Cor. c. 80.—Brown Indict. 40.—Crompt. p. 80. b.

No attempt of this kind can be looked upon in any other light than as an offence against the public, as it apparently tends to put a check upon trade to the general inconvenience of the people, by putting it out of their power to supply themselves with any commodity, unless at an unreasonable expense; which often proves extremely oppressive to the poorer sort, and cannot but give just cause of complaint even to the richest (p).

If a person within the realm buys any merchandize in gross, and sells the same again in gross, it is an offence of this nature; for by this means the price will be enhanced, because passing through several hands, each will endeavour to make his profit by it (q); and if such practices were allowable, a rich man might ingross into his hands a whole commodity, and then sell it again at what price he should think fit; which is of such dangerous consequence, that the bare ingrossing of an entire commodity, with an intent to sell it again at an unreasonable price, is an offence indictable at the common law, whether any part thereof be sold by the ingrosser or not (r).

But any merchant, whether he be a subject or a foreigner, bringing victuals or any other merchandize

(p) Hawkins, P. C. 234.

(q) 3 Inst. 196.—vitiosum fitiunt lucrum.

(r) Cro. Car. 231, 232. Hawk. P. C.

chandize into the realm, may sell the same in gross; but the purchaser cannot sell the same in gross, for then he is an ingrosser, according to the strict sense of the word, and may be indicted thereof at the common law (s).

It was presented that a Lombard did procure to promote and enhance the price of merchandize, and shewed how; the Lombard demanded judgment for two causes:—1. That it did not found in forestalling:—2. That of his endeavour or attempt by words, no evil was put *in ure*, that is, no price was enhanced, *et non allocatur*, and thereupon pleaded not guilty; whereby it appeared, that the attempt by words to enhance the price of merchandize was punishable, and did found in forestalling; and he was fined and ransomed (t). So an abatement, by undue means of our native commodities, is punishable by fine, and

(s) 3 Inst. 195. Hales P. C. 152.—resolved by all the judges, 39 & 40 Eliz.

(t) 43 Aff. p. 38. As the sum of the fine was not mentioned, the Record itself has been examined, and it appears from thence, that the fine was £. 200—an immense sum in those days.—See the Record in the Appendix.

From the registry of the priory of Cokesford, it appears there was a custom, that if any one brought herrings, or any such like commodities to market, and another came and bought them with an intent to sell at an higher price, the same became forfeited to the prior.—Cowell's Interp.

and ransom; for in that case, *Knivet* reported, "that certain persons (and named them) came to Cotefwold, in Herefordshire, and said in deceit of the people, that there were such wars beyond seas, whereby the price of wool was abated, and upon presentment thereof made, they appeared; and upon their confession, they were put to fine and ransome."

And though the ingrossing of some particular commodities has been doubted to be within the exact words of the statute law, when speaking of victuals, yet it has been said, that if a person ingrosses all the salt, or any other commodity, with an intent to sell it at his own price, or at unreasonable prices, it is an offence indictable at common law (u), though it did not come within the statute, under the description of a victual. So it has been declared that the ingrossing of malt, hops, or fish, and selling them again at unreasonable prices, is an offence indictable at common law, for the same reason, that has been said, that the ingrossing apples and other fruit, is an offence indictable at common law (x.) Yet the buying of fish at Billingsgate, and selling it again about the streets, is not an offence (y.)

The

(u) Croke Car. 231.—East. Term, 43 Ed. III. Roll. 19. See copy of Record, Appendix (H.)

(x) Style Rep. 190. 1 Roll. Rep. 11. 2 Bal. 219.

(y) 1 Shaw. Rep. 292. Holt's Rep. 325.

The buying of corn in the sheaf, before it is threshed, is an offence against the common law of the land; because, by this means the market is in effect forestalled, and the price enhanced; for on a presentment to the court, it appeared that a commission was granted to one Robert Hadham, to sell the corn and other things belonging to divers alien priories; he came and confessed he sold two stacks of corn in sheaves, belonging to the priory of Tickford, for £. 10.; and it being contrary to the law and custom of England to sell corn in sheaves before it is winnowed (for the sale should have been made by measure after it was winnowed) he was therefore found guilty, and removed from all office of the king, fined five pounds, and imprisoned (z).

It cannot be doubted but that cases have often occurred where the necessity of the times has occasioned special inquiry into offences committed both against the statute and common law, on the subject of forestalling; an instance of this kind has been discovered upon the antient rolls of the court of king's bench, viz. 12 Hen. IV. where a special commission issued to Thomas lord Morley, Robert Berney, &c. for the purpose of discovering all

(z) Hil. Term. 25 Edw. III. coram Rege. See Record in Appendix (F.)

all forestallers and regraters of corn in the county of Suffolk. On this occasion, a great number of offences were presented; amongst others, the buying of large quantities of corn at 3s. 4d. per quarter, and selling it again at 6s. 8d.; privately and clandestinely purchasing corn at 8s. per quarter, when the same was selling in the market at 6s.; buying it up in one part of the country, and conveying it by night in vessels into other parts; buying corn at six shillings, storing it up, and refusing to sell it until the price advanced to 8s.; exporting it into foreign parts; and in one instance (that of the parson of the parish church of Oustehalle) hoarding up 40 quarters of corn in the granary, and refusing to sell the same at a less price than 7s. per quarter, to the evil example of like offenders, and to the great damage of the king and his people. All which offences were presented as common forestalling of corn (a). Any obstruction of a person's right of free purchase in a market, is an injury for which an action may be maintained; for so long since as the 2d & 3d Edw. I. an action on the case was brought by one Robert Agyllun, against William de Brewose, lord of the manor of Shoreham, in Suffex, for hindering all persons in the market there from selling any

(a) East. Term. 12 Hen. IV. See Record, Appendix (I.)

any victuals or other commodities to the plaintiff, or those belonging to him, by which he, as one of the king's liege subjects, was deprived of his right to make purchases, as was lawful for him to do. It was found by the jury, that the defendant, by his bailiff, had hindered the said persons of Shoreham from so doing, they therefore found a verdict for the plaintiff, with damages one mark (*b*). Amongst the antient records of the court of king's bench, there appear to have been many suits commenced by corporations of towns, against persons infringing their charters, for forfeitures of merchandizes, &c.; and in consequence of their having forestalled corn, merchandize, and other articles, by selling them on the road before they came to the markets, whereby such corporations not only lost their accustomed toll and stallage, but the inhabitants were prejudiced by the want of a plentiful supply of the markets (*c*).

In an indictment certainty is requisite, for a person was indicted for being a common forestaller, without stating with certainty of what, and the defendant had judgment of acquittal (*d*).

I now

(*b*) Mich. Term, 2 & 3 Ed. I. See Record, Appendix (A.)

(*c*) See Records, D. E. & c.

(*d*) 29 Affize, p. 48.

I now proceed to the second point of consideration, namely, forestalling, as an offence against the statute; and 1. what acts of parliament have been made against *forestallors, regrators, and ingrossers*, the reasons for making the several statutes, as also the cases that have been adjudged thereon; introducing at the same time from history, and the works of able commentators, such matter of antiquity and curiosity as may, perhaps, prove not unacceptable to the reader, and tend to elucidate the inquiry.

2. Which of those acts of parliament have been since repealed, with the reasons of their repeal.

3. What are the acts still in force, and the particular provisions in those acts.

4. What cases have been determined on those acts.

(1.) From the period of the 51st Henry III. down to the 31st Geo. II. there have been made, from time to time, a variety of acts against these offences in general, and also as to particular kinds of merchandize, according to the circumstances that gave rise to their being enacted.

The first statute enacted against forestallors and regrators, appears to have been the following, called the "*statute of the pillory and tumbrel, and of the assize of bread and ale, and against forestallors.*"

A. D. 1266, 51 Hen. III. stat. 6.—The first section enacts, “that six lawful men shall be sworn truly to gather all measures of the town (which the act specifies) after which twelve men shall swear to make true answer to such things as shall be demanded of them in the king’s behalf, upon the articles here following; and such things as be secret, they shall utter secretly, and answer privately.”

The act then proceeds to direct the leet to inquire the prices of wheat, barley, and oats, and concerning the affize of bread, and how the prices thereof agreed with the prices of corn; and for defaults in the weight of bread, to adjudge the baker to be amerced, and to the pillory; and the 2d and 3d sections say, “also if they have in the town a pillory of convenient strength (e), as appertaineth

(e) More properly termed the “Stretchneck,” *Collifrigium*. A very antient mode of punishment, and mentioned in the league between Edward and Guthrun, among the Saxon laws. Sir Henry Spelman says, that the pillory was formerly used to signify the offence, and not the mode of punishment. “Est supplicii machina ad ludibrium magis quam pœnam, quo quis super pegmate constitutus comprehensoque inter fauces duarum tabularum, ideo cavatarum collo, spectaculum populo præbetur deridendum.”—Spelm. Gloss. The principal intention of this punishment being, that the offender should become infamous, and known for such afterwards by the spectators. *Barrington on the Statutes*, 49.

“appertaineth to the liberty of the market, which they may use if need be, without bodily pain to man or woman;” to inquire “also if there be any that sell by one measure, and buy by another; also if any do use false ells, weights and measures; and if any butcher sell contagious flesh; also they shall inquire of cooks that feede flesh or fish, with bread or water, or otherwise, that is not wholesome, or after they have kept it so long, that it loseth its natural wholesomeness, and then feede it again and sell it, or if any buy any flesh of Jews (f) and then sell it to christians; and also forestallers, that buy any thing before the due hour, or that pass out of the town to meet such things as come to the market, to the intent they may sell the same in the town unto regrators; when a quarter of barley is sold for two shillings, then four quarts of ale shall be sold for one penny; when for two shillings and six pence, then seven quarts for two pence; when for three shillings, then three

(f) This idea of the meat sold by Jews being unwholesome, seems to have been a vulgar error, as the whole tenor of their laws points to cleanliness; and it has ever been the practice with them not to eat the flesh of any animal, which, on examination of the internal parts, had the *smallest* appearance of disease, or that is not judged to be in *perfect* health.

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“ three quarts for one penny; when three shil-
“ lings and six pence, then five quarts for two
“ pence; when for four shillings, then two quarts
“ at one penny.”

Fleta has incorporated these regulations in his work, without noticing them as being made by the authority of parliament, and has stated it to be part of the duty of the leet to inquire into offences of forestalling; and that the transgressors against these laws (and others rehearsed in that part of his book) shall be punished by fine, amercement, or the pillory, according to the enormity and frequent repetition of the offence (g).

The statute of 8th Anne, c. 18. reciting this statute, repeals so much thereof as relates to the affize of bread; and the statute 31 George II. c. 29, also notices this act, and how much of it was repealed by the statute of queen Anne; from which it may be inferred that the legislature did not

(g) *Fleta lib. 2. c. 12. §. 19.* “ Item si Dominus loci
“ habeat libertatem vis' franc' pleg' tunc dicant si habeat
“ júdicialia, ut furcas, pilloralium et tomborale, per quæ exe-
“ cutiones judiciorum rite fieri poterint, prout postulaverit ordo
“ juris secundum legem et consuetudinem regni;” §. 28.
“ Item de forstallariis, victualibus venalibus, mercatum ob-
“ viantibus, per quos carior fit inde venditio,” §. 30, “ Et
“ sic puniendus erit unusquisque transgressor prout poposcerit
“ quantitas sui delicti.”

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not conceive this statute of 51 Hen. III. so obsolete, as it has been deemed to be.

There is no doubt but that this and several subsequent statutes were made on account of the enormous price of provisions; and when laws are enacted for the purpose of lowering their price, they are made, as lord Bacon says, “ upon the spur of
“ the occasion.” The prices of corn (b), which during this king's reign fluctuated extremely, had risen few years before this statute was enacted, to an enormous height, at one time to 13s. 4d. per quarter, then to 16s. and lastly to £. 1. 4s.

Nearly

(b) The prices of corn during this reign, were as follow:

A. D.	Description	per quarter.			Authors referred to.
		£.	s.	d.	
1223,	7th Hen. III. Wheat very dear, sold for	—	12	—	Stow
1237,	Wheat	—	3	4	} Antiq. Peterborough, page 304.
	Barley	—	2	—	
	Oats	—	1	—	
1243,	Corn so plentiful, that wheat and peas were each at	—	2	—	Matt. Paris.
1246,	Wheat	—	16	—	Tho. Wikes.
1247,	D°	—	13	4	D°
1257,	D° (excessively dear)	—	1	4	Fabian.
1258,	D° (so great a famine that many persons were starved)	—	16	—	} Hemingford, Knyghton,

Nearly about this period, there was so great a scarcity of corn in the country, that numbers perished through want (*i*); though in a few years afterwards, in 1288, a quarter of corn was sold so low as 1 s. 6 d. This variation in the price of corn affords a presumptive evidence either of the bad state of tillage in those times, or of the inactivity of those whose duty it was to have enforced the laws against forestalling; though it may be admitted the difficulty of communication between market towns, might in some instances have been the occasion of these fluctuating prices. This too afforded to the avaricious an opportunity of speculating in the purchase of corn and other provisions, and of exacting from the public their own prices.

It is somewhat singular, that women sat in this parliament; the widows of all the earls and barons killed in battle, and the wives of those taken prisoners, being summoned thereto (*k*). A late learned commentator (*l*) on the statutes, in noticing the statute now under inquiry, says, "it
" is

(*i*) Knyghton, inter Decem. Scrip. 2444.

(*k*) Annals of Waverley, Edit. Gale. vol. 3. p. 220,
"quo vocati sunt omnes magnates terræ et omnes uxores
"Comitum et Baronum, qui in bello occisi fuerunt vel
"captivorum," &c.

(*l*) Barrington, 46.

"is observable, that those who supply the people
"with their necessary food and drink (as bakers,
"millers, and brewers) have not only always
"been suspected more than other traders of im-
"positions, but have likewise been subject to re-
"gulations of particular severity; this is not con-
"fined to Europe, for the late treatise on the laws
"and manners of the Turks (*m*) informs us, that
"it is very common to rub against the body of a
"baker who hath been hung up at his own door
"in Constantinople, for selling bread under weight,
"and that these very frequent executions cannot
"put a stop to the practice of this knavery."

The next statute to be noticed, is that called an
"ordinance for bakers, brewers, victuallers, and for
"ells, bushels, and forestallers, &c." and denomi-
nated "in certis temporibus;" and though it has been
observed, that no editor could say with certainty,
in which of the reigns, whether Hen. III. Edw. I.
Edw. II. or Edw. III. this statute was enacted, yet
it is stated, and with seeming probability by Pul-
ton, to have been made in Edward the First's
reign; he dates it 34 Edw. I. (*n*) so does Sir
Edward Coke in his Institutes (*o*); so also the
stat. 14 Edw. III. c. 12, refers to it as made in
the

(*m*) Printed for Nourse, 1768, 2. vol. 12^{mo}.

(*n*) Pulton de pace regis, 99.

(*o*) 3 Inst. 196—4 Inst. 261.

the reign of Edw. I. The chapter relating to the subject in question is somewhat remarkably penned, and is as follows:

Anno 1306, 34 Edw. I.—“ No forestaller shall
 “ be suffered to dwell in any town, who mani-
 “ festly is an oppressor of the poor, and a public
 “ enemy of the country, who meeting grain, fish,
 “ herring, or other things coming by land or by
 “ water to be sold, doth hasten to buy them be-
 “ fore another; thirsting after wicked gain, op-
 “ pressing the poor, and deceiving the rich; and
 “ by that means goeth about to sell the said
 “ things much dearer than he that brought them;
 “ who cometh about merchant strangers that bring
 “ merchandize, offering them help in the sale of
 “ their wares, and informing them that they may
 “ sell their wares dearer than they meant to have
 “ done, and by such craft and subtilty deceiveth
 “ a whole town and a country. He that is con-
 “ victed thereof, the first time, shall be amerced,
 “ and lose the things so bought, according to the
 “ custom of the town; he that is convicted the
 “ second time, shall have judgment of the pillory;
 “ the third time, he shall be imprisoned and ran-
 “ somed; the fourth time, he shall abjure the
 “ town; and this judgment shall be given upon
 “ all manner of forestallers, and likewise upon them
 “ that have given them counsel, help, or favour.”

This

This seems to be the only instance in our law, of punishment by banishment from a particular place or district; the common mode of abjuration, by criminals, being that of banishment from the island (*p*).

Pulton, in his treatise *de pace regis*, speaking of this statute, inveighs most severely against the offences of forestalling, as thus: “ Forestallers, ingrossers,
 “ and regraters, deserve to be reckoned amongst
 “ the number of oppressors of the common good
 “ and public weal of the realm, for they do en-
 “ deavour to enrich themselves by the impoverish-
 “ ment of others, and respect not how many do
 “ lose, so they may gain. They have been ex-
 “ claimed upon and condemned in parliament
 “ from one generation to another, as appeareth by
 “ the statute; but amongst others, especially by
 “ the statute 34 Edw. I. it was ordained that no
 “ forestaller should be suffered to dwell in any
 “ town; for he is a manifest oppressor of the poor
 “ and a decayer of the rich, a public enemy of
 “ the country, a canker, a moth, and a gnawing
 “ worm, that daily wasteth the commonwealth:
 “ and the act and name of a forestaller was so
 “ odious in that time, that it was moved in par-
 “ liament to have had it established by law, that a
 “ forestaller should be baited out of the town
 “ where

(*p*) Barrington on the Stat. 188.

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“ where he dwelt by dogs, and whipped forth
 “ with whips.”—*Pulton de pace regis, tit. Oppression.*

During the reign of Edw. I. and that of Edw.
 II. the prices of corn, &c. were as under (q).

Anno

A. D. (q)	per quarter.			Authors referred to.
	£.	s.	d.	
1286, Wheat fold for	-	2	8	Fleetwood's Chron. Prét.
D° (in the same year, by reason of the wet)	-	16	-	
1287, D°	-	3	4	Ibid.
1288, D°	-	1	6	Angl. Sacra Annales Wigorn.
D°	-	2	-	
D° (in the north of England, an exceedingly hot summer)	-	-	8	Stow.
Barley	-	-	6	Ibid.
Oats	-	-	4	Ibid.
1289, Wheat	-	-	6	Dugdale's Warwickshire.
Rye	-	-	5	
Barley	-	-	3	
Beans and peas	-	-	2	
Oats	-	-	2	
A swan fold for	-	3	4	Stow.
A duck fold for	-	-	1	
Wheat varied from 2s. to 10s. 8d. and to 20s. by reason of rain	-	-	-	Stow.
1294, Wheat	-	2	-	Fabian.
D° (at times in the same year)	1	-	-	H. Knyghton.

1298, An

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Anno 1349, 23 Edw. III. c. 6.—The *statute of labourers, butchers, &c.* follows next; which (after reciting the plague, and ordaining that every per-

	£.	s.	d.	Authors referred to.
1298, An ox fold at Scarborough for	-	6	8	Monasticon, v. 2. p. 403.
A cow	-	5	-	
An heifer	-	2	-	
A sheep	-	1	-	
1302, Wheat, per quarter	-	4	-	Dugdale's Hist. St. Paul's, p. 32.
Malt, ground	-	3	4	
Peas	-	2	6	
Oats	-	2	-	
A bull fold for	-	7	4	
A cow	-	6	-	
A fat mutton	-	1	-	
An ewe sheep	-	-	8	Stow.
A capon	-	-	2	
A cock or hen	-	-	1½	

In the year 1314, upon the chancellor's and proctor's complaints to the king, that the market of Oxford ran unreasonably high, so that the poor scholars could hardly live; the king sent down his proclamation to regulate the prices of victuals, which were fixed as follow:

	£.	s.	d.	
A stalled or corn fed ox	1	4	-	Stow.
A grass fed cow	-	16	-	
A fat stalled cow	-	12	-	
An ordinary cow	-	10	-	
A fat mutton unshorn	-	1	8	A fat

son able to bear arms, and under 60 years old, not having wherewith to live, shall be bound to hire himself and serve as a labourer, under severe penalties, and fixing the prices of wages, enacts,

“ That butchers, fishmongers, regrators, hostlers, brewers, bakers, poulterers, and all other sellers of all manner of victual shall be bound to sell the same victual for a reasonable price, having respect to the price that such victual

	£. s. d.	
A fat mutton shorn	1 2	} <i>Authors referred to.</i>
A fat hog	3 4	
A fat goose in the city, 3 d. } elsewhere	2	} <i>Stow.</i>
A fat capon 2 d. $\frac{1}{2}$ else- where	2	
A fat hen, 1 d. $\frac{1}{2}$	1	
2 chickens, 1 d. $\frac{1}{2}$	1	
4 pigeons (in the city 3)	1	
24 eggs (in the city 20)	1	

A similar proclamation of provisions in the year 1315 is now in the library of Corpus Christi College, Cambridge.

A. D.	per quarter. £. s. d.	
1315 and 1316.—Wheat	1 — —	} <i>Authors referred to.</i>
Malt	13 4	
Salt	1 15 —	} <i>Fleetwood.</i>
1316.—Wheat rose to	1 12 —	
1317.—D ^o	2 4 —	<i>H. Knyghton.</i>

“ victual be sold at, in the places adjoining, so
“ that the same sellers have moderate gains, and
“ not excessive, reasonably to be required ac-
“ cording to the distance of the place from whence
“ the said victuals be carried; and if any sell such
“ victuals in any other manner, and thereof be
“ convict in the manner and form aforesaid, (by
“ *suit in the county, wapentake, tything, or such other*
“ *the king's courts, as appears in the 4. cap.)* he
“ shall pay the double of the same that he so re-
“ ceived, to the party damnified, or in default of
“ him, to any other that will pursue in this be-
“ half; and the mayors and bailiffs of cities,
“ boroughs, merchant towns, and of the ports of
“ the seas and other places, shall have power to
“ inquire of all and singular which shall in any
“ thing offend the same, and to levy the said pain
“ to the use of them at whose suit such offenders
“ shall be convict.”

This has been called a *supposed* statute (r), there being no mention made of the intervention of the commons, which must henceforth be looked upon

(r) Many statutes were not entered on the statute roll, being only entered on the parliament roll with the royal assent. Such bills as were only entered on the parliament roll with the royal assent, were called ordinances, and when entered on the statute roll, were termed statutes.

upon as absolutely essential. *Dugdale* infers that this statute could not have been made this year, as the parliament did not sit on account of the plague. That inference is probably correct, as there appear in *Rymer's* collection of state papers, several proclamations for proroguing the parliament from time to time in that year, on account of the plague (*s*); nor are there any rolls of parliament of that year to be found. In a commission of assize, dated the 10th November 1350, directed to five persons therein named, constituting them justices of assize in the county of Suffolk, this ordinance (as it is more properly termed) is recited at full length, and is said to have been made with the unanimous advice of the bishops, peers, and other able men. This commission commands the justices of assize to put the ordinance in force, and punish offenders in the county of Suffolk, inasmuch as that, although the same had been publicly proclaimed in the said county, as well as throughout the realm, workmen and artificers had disobeyed the same, and victuals continued to be sold dearer than before the said ordinance, in contempt thereof, and to the oppression of the people (*t*).

It

(*s*) *Rymer's Fœdera*, vol. 5. p. 655—658.

(*t*) *Ibid.* 693.

It is here observable, that the melancholy scene of desolation and distress, occasioned by a pestilence of several years endurance, the relation of which cannot be read without horror (*u*), afforded reason for making this statute or ordinance, as well as for the enacting the two subsequent statutes of the 25th and 27th of this king. In consequence of this plague the country became impoverished, and the treasury exhausted; (*v*) and as the inhabitants, through despair, turned abandoned and profligate, clauses of greater severity were introduced in the latter of the two following acts.

The king issued his proclamation of the 1st of December 1349, stating that a great number of his subjects had died of the plague, the treasury was exhausted, and great numbers had departed beyond sea, and taken their monies with them; which, if any longer permitted, the kingdom would be destitute of inhabitants and the treasury of wealth, and thereby would endanger the state; for remedy whereof, he forbade all men, capable of bearing arms, as well foreigners as natives, of whatever rank or condition, except merchants, notaries, or public messengers, from departing the realm, without his special command.

A. D. 1350. In the statute 25 Edw. III.—“ It
“ is

(*u*) *Knyghton*.

(*v*) *Rymer's Fœd.* vol. 5. p. 668.

“ is accorded and established, that the forestallers
 “ of wines, and all other victuals, wares, and
 “ merchandizes, that come to the good towns of
 “ England, by land or water, in damage of our
 “ lord the king and of his people, if they be
 “ thereof attainted at the suit of the king or of
 “ the party, before mayor, bailiff, or justices
 “ thereto assigned, or elsewhere in the king’s
 “ court; and if they be attainted at the king’s
 “ suit by indictment or in any other manner, the
 “ things forestalled shall be forfeited to the king,
 “ if the buyer thereof hath made gree (*x*) to the
 “ feller: and if he have not made gree of all,
 “ but by earnest, the buyer shall incur the for-
 “ feiture of as much as the forestalled goods for-
 “ feited do amount to, after the value as he
 “ bought them, if he have whereof; and if he
 “ have not whereof, then he shall have two years
 “ imprisonment, and more, at the king’s will,
 “ without being let to mainprize or delivered in
 “ any manner. And if he be attainted at the suit
 “ of the party, the party shall have the one half
 “ of such things forestalled, and forfeit, or the
 “ price of the king’s gift, and the king the other
 “ half (*y*).”

This

(*x*) Payment or satisfaction. Cowell.

(*y*) 2 vol. Rot. Parl. 232. “ Accorde est auxint et establie
 “ que les forstallours des vins et des vitailles et des totes
 “ autres

This act was afterwards confirmed by the statute
 of the 2d Richard the Second. The next that
 follows in order of time, is the *statute de stapulis*,
 which inflicts the penalty of *death* on offences of
 forestalling; though this statute chiefly aimed at
 the staple at Calais.

1350. Statute 27 Edw. III. c. 11.—“ All mer-
 “ chants that bring their wine and other wares,
 “ and merchandizes of what kind soever, to the
 “ cities, towns, or ports within the realm, may
 “ safely sell them; and that no merchant, native,
 “ or foreigner, nor other person, shall go by land
 “ or by water to meet such wine, wares, or mer-
 “ chandize coming into the realm, to forestal, buy,
 “ or

“ autres merces et marchandizes que viegnent as les bonnes
 “ villes par terre ou par eawe, en damage nostre seigneur le
 “ roi et de son poeple, si de ceo soient attentz, a la suete le
 “ roi, ou de partie, devant mair, bailiffs, ou justices, a ceo
 “ assignetz, ou aillours en le court de roi, et fil soient a la
 “ feute le roi par enditement, ou en autre manere, soient les
 “ choses forstalles forfaitz au roi, si l’achatour ent eit fait gre
 “ ou vendor, et fil n’eit fait gree de tut mes par arres en-
 “ corge l’achatour la forfaiture de taunt come les biens for-
 “ stalles amon tout solonc la value, qu’il les avera achate, s’il
 “ eit de quei, et s’il n’et, adonques eit la prisone de dewz anz,
 “ et plus a la volonte le roi, sans estre lessé a meinprize ou
 “ delivers en autre manere; et s’il soit atteint a la feute de
 “ partie, eit la partie la moite des tiels choses forstalles et
 “ forfaitz, ou le pris de don le roi, et le roi, l’autre moite.

“ or give earnest for them before they come to
 “ the staple or port to unload, nor enter such ships
 “ for that purpose, till such merchandize be
 “ landed for sale, under the pains and penalties
 “ contained in the 3d article;” namely, the pains
 of felony.

*(The penalty of death was repealed by stat. 38,
 Edw. III. stat. 1, c. 6.; but the forfeiture of goods
 and chattels remains.)*

This statute, of which the above is the 11th
 chapter, has been very justly observed to be a
 complete code of laws for the regulation of the
 merchants who attended the staple of wool, now
 transferred from Flanders to England; and it is
 worthy of remark, that by the preamble, the par-
 liament is styled “ the king’s great council.”

The country not having at this time recovered
 itself from the effects of the plague, the next statute,
 called the *statute of herrings*, was made, as well
 perhaps for that reason, as for the encouragement
 of the herring fishery. The inhabitants being at
 this time all of the Roman Catholic persuasion,
 salt fish formed a part of their winter store, and
 the markets were but indifferently supplied with
 fresh meat, so that the herring fishery was then
 an object of considerable importance (z).

A. D.

(z) Barrington, 256.

A. D. 1357, stat. 31 Edw. III. stat. 1. c. 10.
 enacts—“ That every man that bringeth victuals
 “ whatsoever they be to the said city (*London*)
 “ by land or by water, may freely sell the same
 “ to whom it shall please him, without being in-
 “ terrupted or impeached by fisher, butcher,
 “ poulterer, or any other. And that the mayor
 “ and aldermen of the said city, may rule and
 “ redress the defaults of fishers, butchers, and
 “ poulterers, as they do of those who sell bread,
 “ wine, or ale, notwithstanding charters of fran-
 “ chise and statutes, customs, or other privi-
 “ leges, made or used to the contrary. And that
 “ the said mayor and aldermen do the same, and
 “ put it in execution upon the pain late ordained
 “ touching the City of London, so that the punish-
 “ ment of such be not made in respect of any
 “ singular profit.” (This penalty was, for the
 first default, one thousand marks to the king; for
 the second, two thousand marks; and for the third
 default, the franchise of the city should be taken
 into the king’s hands; by stat. 28 Edw. III. c. 10.)

Provisions still continuing dear, the commons,
 in 1363, in the 37th Edw. III. petitioned the king,
 alledging that merchants, innholders, regraters,
 forestallers, and such like in the merchant town
 and other places of the kingdom, ingrossed all
 kinds of merchandize and victuals, such as stock

D 4

fish,

fish, salt fish, wine, wax, spicery, and other things, and sold them at their own prices; and what they bought for 12 pence, they sold for 3 shillings, or half a mark; and that in inns, the bushel was charged 8 pence, where they bought for 3d. and other like grievances throughout the realm, to the great damage of the king, nobles, and commonalty, and contrary to the ordinances in that case made; they therefore prayed a remedy (a). The answer

(a) 2 Rot. Parl. 276. "Item que coment au darrien parlement estoit grantee, que paiement ferroient faitz sauntz prizes des purveious ou de autres ministers a les coes de la terre pur vitailles et autres despenses, lesqueux paiemens sont bien et gratiousement faitz, si bien l'oustel nostre seigneur le roi come per autres seigneurs de la terre, et jademais les marchantz, hostillers, regraters, forestallers, et autre tiels si bien en portz come en villes marchandes, et aillours parmy la terre, engrossent toutes maneres de marchandizes et vitailles, si bien stok fish, salt fish, vins, cire, et spicerie, come autres, et les vendent volentriement pur tieu pris come ils mesme voillent mettre, et ceo q'ils achatent pur 12d. ils vendent pur 3s. ou pur demy marc. Et en hostilleries le bussell des avient pur 8d. la ou les achatant pur 3d. Et issint en autres matires semblables parmy toute la terre, a grant damage n're dit seigneur le roi, les grantz, nobles, et communes de la terre, nient contre esteantz les ordinances de ce ent faitz, sur quoi ils prient remede."

Responso.—"Soi l'ordinance faite de peison salez, a Blakeneye tenuz et gardez; et soient assignez Willm de Wichingham et Johan de Berneye, par commission d'enquire de touz ces

answer from the king to this petition was, that the said ordinance should be kept, and a commission be granted to William de Wickingham, and John de Berneye, to inquire into offences against the said ordinance, and to punish the offenders in such manner as they might answer thereof to parliament; and as to the other points, that the statutes in that case made, should be put in full force.

At the same time the commons petitioned, stating that by an ordinance, none should export corn and other victuals without special licence; but that contrary thereto, the merchants of London and elsewhere, had bought up the corn and other such victuals, and exported the same, which created a great scarcity of corn, to the great damage of the king, peers, and commonalty, whereupon they craved a remedy to be made. The answer to this petition was, that proclamation and prohibition had been made and should be renewed (b.)

From

"ces q'ont rein fait ou attempte contre nul des pointz de mesme l'ordinance, et de les punir solonc la fourme d'eycelle en manere come ils voillent respondre en preschien parlement. Et quant a les autres pointz de ceste petition, soient les estatutz ent faitz et gardez, et duement executz."

(b) 2 vol. Rot. Parl. 276.—"Item, come autres foits estoit ordeine que nul cariage soit fait hors de la terre de bledz, breecs, n'autres vitailles, faunz especial congie, et sur ce certain peine ordeine nient contreesteant celle ordinance, les marchantz de Loundres et aillours font achater parmy la terre les bleedz et breecs, et autres tieles vitailles, et

From this time there was not any statute made in consequence of these inquiries, until the reign of Richard II.

A. D.

“ et font carier par eawe hors de la terre; a grant cheriffment
 “ des ditz bledz, et a grant damage n're seigneur le roi, les
 “ grantz, et les communes de la terre. Sur quoi ils prient
 “ que remede soit fait.”

Responso.—“ Proclamation et defens ad este fait, et est ore
 “ de novel.”

The rents of lands and prices of corn, &c. during the reign of Edward III. were as follow:

A. D.	£.	s.	d.	Authors referred to.
1326, Arable land per acre	---	---	3	These appear from an inquisition taken in Kent, 1 Edw. III. from which no certain computation can be made; the variation arising perhaps from the difference of the soil. Lambard's Peramb. Kent, 541.
Pasture	---	---	1	
Meadow	---	---	4	
And again in the same year, arable	---	---	3	
D ^o	---	---	4	
Meadow	---	---	10	
1336, Wheat per quarter in London	---	2	---	H. Knyghton.
A fat ox	---	6	8	
A fat sheep (at most)	---	---	8	
6 pigeons	---	---	1	
Fat goose	---	---	2	
A pig	---	---	1	Fabian and Fleetwood.
1338, Wheat per quarter	---	3	4	
Barley	---	---	10	
Peas and beans	---	---	1	
Oats	---	---	10	Fleetwood.
1339, Wheat, and malt (at Berwick)	---	---	9	
Oats, beans, and peas	---	---	5	

1343, An

A. D. 1382, stat. 6 Rich. II. c. 10. enacted—
 “ That aliens being of the amity of the king, and
 “ coming within the City of London, and other
 “ cities and towns, with fish and other victual,
 “ shall be under the special protection of the king;
 “ and they may sell in gross, and make their
 “ profit at retail, or in gross.”

This statute was repealed the following year, 7 Rich. II. c. 11. but revived again, and enforced by 14 Hen. VI. c. 6.

As

A. D.	£.	s.	d.	Authors referred to.
1343, An ox	---	8	---	Kennet's Paroch. Antiq.
1344, A cow	---	5	---	
1348, An horse	---	6	8	During these times the plague raged violently.
Fat ox	---	4	---	
A cow	---	1	---	
An heifer or steer	---	6	---	
A fat mutton	---	4	---	
An ewe	---	3	---	
A lamb	---	---	2	Knyghton.
An hog	---	---	5	
A stone of wool	---	---	9	Fleetwood.
1349, Corn (cheap) per quarter	---	2	---	
1359, Wheat	---	1	6 8	Fabian. Monast. vol. 2.
1361, D ^o	---	---	2	
1363, D ^o	---	---	15	Walsingham.
1369, D ^o	---	---	1 4	
D ^o	---	---	1	Stow.
Barley	---	---	16 4	
Oats	---	---	8	

As this statute chiefly mentions the city of London, it may not be irrelevant to observe, that Henry the Third, by his 9th charter to the city, forbad all *forestalling*, on forfeiture of the goods bought, and imprisonment. Also James I. in his 3d charter to the city, expressly prohibited all *forestalling* and *regrating* of Coals, all selling of coals by retail in lighters, and that no markets should for the future be kept in lighters, (c.)

Coals.

About this period (22 October 1383) proclamation writs were sent to the sheriffs of York, London, and Middlesex, commanding them to make proclamation in their respective bailiwicks, forbidding all merchants and others to export any Corn or Malt, except to the king's dominions in Gascony, on forfeiture of the vessels and freight (d). From this we may infer a great scarcity of corn and other provisions, which rendered this proclamation necessary.

The statute next in order of time was made for the regulation of Victuallers; viz.

Victuallers to have reasonable gains.

A. D. 1389, stat. 13 Rich. II. c. 8.—“ Victuallers shall have reasonable gains, according to the direction of the justices of the peace, and no more, upon pain to be grievously punished according to the discretion of the justices, where no

(c) Privilegia Londini, 1702. (d) 7 Rymer's Fœdera, 368.

“ no pain is limited in certain. And sheriffs, stewards of franchises, mayors and bailiffs, and all other that have assize of bread and ale, shall take no amercement or fine for any default touching the assize, for which a man ought to have bodily punishment, according as it is in another time ordained by statute; but they shall judge them to the same bodily punishment as the offence requireth, and shall do execution thereof. And that mayors, bailiffs, and stewards of franchise, and all other that have the order and survey of victuals in cities, boroughs, merchant towns, and elsewhere, shall put the statute 23 Edw. III. c. 6. in execution.” Confirmed by 4 Hen. VIII. c. 25.

The parliament certainly had in view the statute 51 Hen. III. stat. 6. c. 1. as to judgment of the pillory; this statute empowering justices to adjudge offenders against the assize of bread and ale, to the same bodily punishment as it is in another time ordained by the statute (e).”

A. D.

(e) Prices of corn, &c. during the reign of Richard II. as follow:

A. D.	£.	s.	d.	Authors referred to.
1379, Wheat	4	—	—	Stow.
1387, Barley (at Leicester)	1	—	—	H. Knyghton.
Wheat	2	—	—	
Barley (in the same year)	2	—	—	

Peas

A. D. 1399, 1 Hen. IV. c. 17. (which is the next statute) revives and enforces the statute 6 Rich. II. c. 10. respecting aliens coming with fish and other victuals to London, and other cities and towns, notwithstanding the letters patent granted by Rich. II. to the fishmongers of London.

From this reign to that of Henry the Eighth, a period of upwards of one hundred years, no laws appear to have been made respecting *forestallers*, or relating to provisions, that are worthy of being noticed in this place (*f*). About the 19th year of

A. D.	£.	s.	d.	Authors referred to.
Peas	—	1	—	H. Knyghton.
1390, Wheat (at Leicester)	—	16	8	
D ^o	—	14	—	
D ^o	—	13	4	
Wool (which was forbidden to be exported) per stone	—	3	—	
D ^o	—	2	—	
	—	1	8	

(*f*) Notwithstanding there were not any laws enacted against forestallers during this period, yet the prices of corn and other provisions fluctuated extremely, as will be seen by the following account, from 1401 to 1507:

A. D.	£.	s.	d.	Authors referred to.
1401, Wheat per quarter	—	16	—	Fabian.
An ox	—	11	6	Kennet.
A cow	—	7	—	
1416, Wheat				

of the reign of Hen. VIII. in consequence of violent rains, there was such a failure in the crops of corn, that bread, especially in London, was extremely

A. D.	£.	s.	d.	Authors referred to.
1416, Wheat	—	16	—	Fabian.
1423, D ^o	—	8	—	
Malt	—	5	—	Maddox Form.
1425, A cow	—	8	—	
1426, An ox	—	3	4	Spelm. Gloss. Voc. Graile.
A cow	—	2	8	
An horse	—	3	—	
1434, Wheat	1	6	3	By reason of wet. Hist. Cröyland continued.
D ^o (same year)	—	5	4	
1439, Wheat	1	6	8	Fabian.
D ^o	1	—	—	Stow.
1440, Wheat	1	4	—	Fleetwood.
Malt	—	13	—	
Oats	—	5	4	
1440, Wheat on the average was	—	8	—	
to Malt ditto	—	4	—	
1460, Oats and peas	—	2	9	
An ox	—	11	—	In London.
Sheep (each)	—	2	6	
1463, Wheat	—	2	—	Stow.
Barley	—	1	10	
Peas	—	3	4	
Oats	—	1	2	Sir Robert Cotton's Records.
1464, White wheat	—	6	8	
1475, Oats	—	1	10	Fleetwood.
1486, Wheat (very dear)	1	4	—	Fabian.
1489, Oats,				

tremely scarce. It was deemed expedient on this occasion to send commissioners into every county, to prevent any corn being carried out of one county into another.

This measure was nearly followed by disorders throughout the kingdom, few places being equally well supplied; London on this account felt considerable inconvenience, until its inhabitants were relieved by the importation of corn from the continent. The king also, out of his bounty, made a gift of one thousand quarters of wheat to the city. During this scarcity, wheat rose from 15 s. to 26 s. 8 d. per quarter (g). I do not find that any statute immediately followed this great scarcity, nor was any enacted on the subject of this inquiry, until the 24th Hen. VIII. c. 3. which directed

A. D.	£.	s.	d.	Authors referred to.
1489, Oats	-	-	2	Fleetwood.
1491, Wheat	-	14	8	Fabian.
1493, Oats	-	-	2	Fleetwood.
1494, Wheat	-	4	-	} Fabian.
1495, D°	-	3	4	
1499, D°	-	4	-	Fleetwood.
1504, D°	-	5	8	Antiq. Cantuar.
Oats	-	3	-	} Fleetwood.
1507, D°	-	2	-	
Beans	-	3	6	

(g) Hollinhead, 1540.—Stow, 537.

directed butchers meat to be sold by the weight called avoirdupois, and fixed the prices of beef and pork at one halfpenny per pound, and mutton and veal at three farthings per pound, which was farther enforced by stat. 25 Hen. VIII. c. i. empowering justices to assess reasonable prices; but these statutes were repealed by 33 Hen. VIII. c. 11. The principal statute, during this reign, was one for the proclamation for the price of victuals (h).

A. D.

(h) The prices of corn, &c. from 1 to 34 Hen. VIII. were as follow:

A. D.	£.	s.	d.	Authors referred to.
1510, Oats (per quarter)	-	-	2	} Fleetwood.
1511, Beans	-	3	4	
Oats	-	2	-	
1512, Oats	-	2	-	
Beans	-	4	-	} Stow.
1515, Oats	-	4	2	
1521, Wheat (a dearth)	-	1	-	} Fleetwood.
1526, Oats	-	3	-	
Beans	-	4	2	
1530, Oats	-	4	-	} Fleetwood.
Beans	-	5	4	
1532, Oats	-	2	8½	} Stow.
Beans	-	5	4	
1533, Oxen, each	-	1	6 8	
A fat wether	-	3	4	} Stow.
A fat calf	-	3	4	
A fat lamb	-	1	-	

1535, Oats

A. D. 1533, the statute 25 Hen. VIII. c. 2. sec. 1. declares—“ Forasmuch as dearth, scarcity,
 “ good cheap, and plenty of cheefe, butter, capons,
 “ hens, chickens, and other victuals necessary for
 “ man’s sustenance, happeneth, riseth, and chanceth
 “ of so many and divers occasions, that it is very
 “ hard and difficult to put any certain prices to
 “ any such things; and yet nevertheless, the prices
 “ of such victuals be many times enhanced and
 “ raised by the greedy covetousness and appetites
 “ of the owners of such victuals, by occasion of
 “ ingrossing and regrating the same, more than
 “ upon any reasonable or just ground or cause,
 “ to the great damage and impoverishing of the
 “ king’s subjects: *Enacts*, That (to remedy the
 “ frequent rise of the price of victuals, by ingrossing
 “ and regrating the same) upon every complaint
 “ made of any enhancing of prices of such victuals,
 “ without ground or cause reasonable in any part
 “ of this realm, or in any other the king’s domi-
 “ nions, the lord chancellor of England, the lord
 “ treasurer, the lord president of the king’s most
 “ honourable council, the lord privy seal, the lord
 “ steward,

The prices of victuals shall be assessed by the king’s council, &c. or any seven of them.

	s.	d.	Authors referred to.
1535, Oats (per quarter) - - -	2	8	Fleetwood.
1537, D ^o - - - - -	3	4	
Beans - - - - -	6	-	
1543, Oats - - - - -	3	4	
Beans - - - - -	6	8	

“ steward, the lord chamberlain, and all other
 “ lords of the king’s council, the treasurer and
 “ comptroller of the king’s most honourable house,
 “ the chancellor of the duchy of Lancaster, the
 “ king’s justices of either bench, the chancellor,
 “ chamberlains, under treasurer, and the barons
 “ of the king’s exchequer, or seven of them at
 “ the least, whereof the lord chancellor, the lord
 “ treasurer, the lord president of the king’s coun-
 “ cil, or the lord privy seal to be one, shall have
 “ power and authority from time to time, as the
 “ case shall require, to set and tax reasonable
 “ prices of all such kinds of victuals above spe-
 “ cified (i. e. cheefe, butter, capons, hens, chickens,
 “ and other victuals necessary for man’s sustenance),
 “ how they shall be sold in gross, or by retail, for
 “ the relief of the king’s subjects; and that after
 “ such prices set and taxed in form aforesaid, pro-
 “ clamations shall be made in the king’s name,
 “ under the great seal, of the said prices, in such
 “ parts of this realm as shall be convenient for
 “ the same.”

Sec. 2. “ That all farmers, owners, broggers,
 “ and all other victuallers whatsoever, having or
 “ keeping any of the said victuals to the intent
 “ to sell, shall sell the same to such of the king’s
 “ subjects as will buy them, at such prices as
 “ shall be set and taxed by the said proclamation,
 “ upon

Victuals must be sold at the assessed prices.

52 *INQUIRY into the LAWS*

“ upon the pains to be expressed and limited in
 “ the said proclamation, to be lost, forfeited, and
 “ levied to the king’s use, in such wise as in the
 “ said proclamation shall be declared.”

Head offi-
 cers of cor-
 porate towns
 may set price
 of victuals.

Sec. 3. Proviso.—“ That the mayors and other
 “ officers of cities, boroughs, or towns corporate,
 “ and all other persons having authority to set
 “ prices of such victuals, may set such prices in
 “ such manner as if the said act had not been
 “ made.”

In the same year succeeded the statute, limiting
 the number of sheep to 2,000 in any one person’s
 hands, and prohibiting any person from holding
 more than two farms.

A. D. 1533, 25 Hen.VIII. c. 13. reciting that,
 “ Forasmuch as divers and sundry persons of the
 “ king’s subjects of this realm, to whom God of his
 “ goodness hath disposed great plenty and abund-
 “ ance of moveable substance, now of late within
 “ few years have daily studied, practised, and
 “ invented ways and means how they might ac-
 “ cumulate and gather together into few hands,
 “ as well great multitude of farms as great plenty
 “ of cattle, and in especial sheep, putting such
 “ lands as they can get to pasture, and not to
 “ tillage, whereby they have not only pulled down
 “ churches and towns, and enhanced the old rates
 “ of the rents of the possessions of this realm, or
 “ else

respecting FORESTALLING, &c. 53

“ else brought it to such excessive fines, that no
 “ poor man is able to meddle with it, but also
 “ have raised and enhanced the prices of all
 “ manner of corn, cattle, wool, pigs, geese, hens,
 “ chickens, eggs, and such other, almost double
 “ above the prices which have been accustomed;
 “ by reason whereof a marvellous multitude, and
 “ number of the people of this realm, be not able
 “ to provide meat, drink, and clothes necessary
 “ for themselves, their wives and children, but
 “ be so discouraged with misery and poverty,
 “ that they fall daily to theft, robbery, and other
 “ inconveniences, or pitifully die for hunger and
 “ cold; and as it is thought by the king’s most
 “ humble and loving subjects, that one of the
 “ greatest occasions that moveth and provoketh
 “ those greedy and covetous people so to accu-
 “ mulate and keep in their hands such great por-
 “ tions and parts of the grounds and lands of this
 “ realm, from the occupying of the poor husband-
 “ men, and so to use it in pasture, and not in til-
 “ lage, is only the great profit that cometh of
 “ sheep, which now be come to a few hands of
 “ this realm, in respect of the whole number of
 “ the king’s subjects, that some have four and
 “ twenty thousand, some twenty thousand, some
 “ ten thousand, some six thousand, some five thou-
 “ sand, and some more, and some less; by the
 “ which

" which a good sheep for victual, that was accus-
 " tomed to be sold for two shillings and four pence,
 " or three shillings at the most, is now sold for
 " six shillings, or five shillings, or four shillings
 " at the least; and a stone of clothing wool, that
 " in some shires of this realm was accustomed to be
 " sold for eighteen pence or twenty pence, is now
 " sold for four shillings, or three shillings and four
 " pence at the least; and in some countries where
 " it hath been sold for two shillings and four
 " pence, or two shillings and eight pence, or three
 " shillings at the most, it is now sold for five shil-
 " lings, or four shillings and eight pence at the
 " least, and so are raised in every part of this
 " realm; which things thus used be principally to
 " the high displeasure of Almighty God, to the
 " decay of the hospitality of this realm, to the
 " diminishing of the king's people, and to the
 " let of the cloth making, whereby many poor
 " people have been accustomed to be set to work;
 " and in conclusion, if remedy be not found, it
 " may turn to the utter destruction and desolation
 " of this realm, which God defend:" *Enacts,*
 " That no person shall keep, occupy, or have in
 " his possession, in his own proper hands, nor in
 " the possession, lands, or grounds of any other,
 " which he shall occupy in farm; nor otherwise
 " have of his own proper cattle in use above 2,000
 " sheep

No man to have above 2,000 sheep.

" sheep at one time, within any part of the realm,
 " of all sorts and kinds, on pain of forfeiting 3 s. 4 d.
 " for every sheep above that number."—(Lambs
 under one year old shall not be counted sheep).

Sec. 14.—" No person shall receive or take
 " in farm for term of life, years, or at will, by
 " indenture, copy of court-roll, or otherwise, any
 " more houses and tenements of husbandry, where-
 " unto any lands are belonging in town, village,
 " hamlet, or tithing within this realm, above the
 " number of two such holds or tenements; and
 " that no manner of person shall have or occupy
 " any such holds so newly taken, to the number of
 " two, as is before expressed, except he or they
 " be dwelling within the same parishes where such
 " holds be, upon the pain of forfeiture for every
 " week that he or they shall have, occupy, or take
 " any profits of such holds, contrary to this act,
 " 3 s. 4 d." (One moiety to the king, and one
 moiety to the informer who shall sue for the
 same.) Confirmed 32 Hen. VIII. c. 28. s. 4.

No man to hold above two farms.

This remarkable act originated in the lords house,
 where it was passed through in one day, was sent
 down to the commons, passed there, and returned
 the next day to the lords, and expedited through
 its several stages (i). It is obvious from this ex-
 pedition,

(i) Journals House of Lords, March 1533.

petition, and the sentiments expressed in the preamble, that the parliament was fully convinced, that ingrossing as well of cattle, as large tracts of land, was a principal cause of the dearth of provisions. There was another act passed in this reign, and although it does not relate to the kingdom at large, yet it comes within the scope of this inquiry.

No person to buy cattle in Wales out of market.

A. D. 1543. The statute 34 & 35 Hen. VIII. c. 26. sec. 105. enacts—"That no person or persons (shall) bargain or buy any manner of beast, or other quick cattle in any place within Wales, out of the market or fair, unless he can bring forth sufficient and credible witness of the name of the person, what place and time he bought the same, upon pain and danger of such punishment and fine as shall be set upon him by the president and council, or any of the justices (in the great sessions) shall set upon him."

A. D. 1548.—In this year, 2 & 3 Edw. VI. a bill was brought into the house of lords against regrators of beasts, corn, and other things, where it passed with only one dissenting voice (k); but it does not appear that this bill was ever sent down to the commons this year; though an act passed against conspiracies for raising the price of victuals, which is as follows:

1548,

(k) Journals House of Lords, 24 January 1548.

1548, 2 & 3 Edw. VI. c. 15. which enacts, "That if any butchers, brewers, bakers, poulterers, cooks, costermongers, or fruiterers, shall conspire, covenant, promise or make any oaths, that they shall not sell their victuals but at certain prices, then every person so conspiring, covenanting, swearing, or offending, being lawfully convicted thereof by witness, confession, or otherwise, shall forfeit for the first offence £. 10." (And if he pay not the same in six days, shall suffer 20 days imprisonment, and shall be fed on bread and water; for the 2d offence shall forfeit £. 20. and in default of payment in 6 days, shall suffer judgment of the pillory; for the 3d offence, £. 40. or, in like default, to stand in the pillory, and lose one of his ears).

Victuallers conspiring to sell victuals at certain prices.

Punishment.

Sec. 3. "That all justices of assize, justices of peace, mayors, bailiffs, and stewards of leets, at all and every their sessions, leets, and courts, shall have full power and authority to inquire, hear, and determine all and singular offences committed against this statute; and to punish or cause to be punished the offender, according to the tenor of this statute."

Offences to be determined at the assizes, sessions, or leets.

This act was revived, continued, and confirmed by the 22d and 23d Car. II. c. 19.

The

The following year an act passed, intituled, "An act for buying and selling of rother beasts and cattle."

No cattle to be bought but in open fair or market.

1549, Statute 3 & 4 Edw. VI. c. 19.—" That no person shall buy or commune, and conclude to buy any manner of oxen, steers, ronts, kine, heifers, or calves, but only in the open fair or market where the same shall happen to be brought and put to sale; and shall not sell the same again alive, at and in the market or fair where he bought the same, during the time of the said fair or market, upon pain of forfeiture of the double value of such cattle bought or sold."

Cro. Eliz. 309, Latch. 192. See case afterwards, 30, 31.

Proviso, any person may buy the same out of market for provision of his own household, or for his teem or dairy.

Sec. 3. " No butcher shall at any time buy any such cattle and sell the same alive, under forfeiture of such cattle so bargained or sold."

Butchers not to buy cattle and sell same again alive.

Sec. 4. Proviso, Butchers may buy cattle out of open market, so they do not sell the same again alive. (One moiety of the penalty to go to the king, the other to the party who will sue for the same in any of the king's courts of record.) To continue to the end of the next session (farther continued by 3 Car. I. c. 4. for one year, and enforced by 16 Car.

16 Car. I. c. 4. and to continue until some other act should be made concerning the continuance or discontinuance of the same; altered by 15 Car. II. c. 8. which inflicts a double penalty on butchers; which last act was repealed by 12 Geo. III. c. 71. so that it may be presumed the stat. 3 and 4 Edw. VI. c. 19. still continues in force in its original state.

The same year another act passed to prevent the ingrossing of butter and cheefe.

1549, Stat. 3 and 4 Edw. VI. c. 21. sec. 1. which enacted—" That no person shall buy to sell again any butter or cheefe, unless he sell the same again by retail in open shop, fair, or market, and not in gros, on pain of double value, half to the king, and half to him that will sue."—2. " This act not to extend to innholders or victuallers."—3. That the word "retail" shall be expounded only where a weight of cheefe (225 lb. in some places 256 lb. in others 336 lb.) or a barrel of butter, or less quantity, and not above, shall be sold at any time to any person or persons in open market."

Repealed by 12 Geo. III. c. 71.

All kinds of provisions grew very dear about this period, in consequence of which, the king, by the advice of the council, taxed the price of provisions under the authority of the statute of 25 Hen. VIII. c. 2. the particulars of which taxation are

are to be found in the Ecclesiastical Memorials of Strype (1), who states as follows:

“ All provisions this summer grew very dear, and the prices of victuals so enhanced above the accustomed value, and this without ground or reasonable cause, as thereby great loss and danger, without speedy remedy, must happen to the subject. Therefore the king resolved to take some remedy herein, and especially being backed with the authority of former good statutes, and particular two made in 25 Hen. VIII. The effect of the latter whereof was, that the lord treasurer, the lord chancellor, and divers others of the king's great officers there mentioned, should have power and authority from time to time to set and tax reasonable prices on all kinds of victuals, how they should be sold in gross or by retail, for the relief of the king's subjects; and that after such prices be set, proclamation should be made, under the great seal, of the said prices. And that all farmers and other victuallers should sell all kind of victuals according as they should be taxed by the said proclamation, upon certain pains and penalties. In pursuance of this and other acts, the lord treasurer, and lord chancellor and others, set and taxed reasonable prices upon all kinds of victuals; and the king confirmed the same with his

(1) Strype's Eccl. Memor. 2 v, p. 151. Anno 1549.

“ his proclamation, dated July 2, which taxation was after this manner (m).”

And

(m) From Midsummer to Hallowmas:		s.	d.
Every ox, being primed and well stricken, of the largest bone	}	38	—
Of a meaner sort		28	—
An ox fat, and of the largest bone		45	—
Of the meaner sort, being fat		38	—
Steers or runts, being primed or well stricken, and large bone	}	20	—
Of a meaner sort		16	—
Being fat, of the largest bone		25	—
Being fat, of a meaner sort		21	—
Heifers and kine, being primed and well stricken, and large of bone	}	16	—
Of a meaner sort		13	4
Being fat and large of bone		22	—
Being fat, and of a meaner sort		18	—
From Hallowmas to Christmas:			
Every ox, being fat and large of bone		46	8
Being fat, of a meaner sort		39	8
Steers and runts, being fat and large of bone		26	8
Being fat, of a meaner sort		22	8
Heifers and kine, being fat and large of bone		23	—
Of a meaner sort		19	—
From Christmas to Shrovetide:			
Every ox, being fat and large of bone		48	4
Of a meaner sort		41	4
Steers and runts, being fat and large of bone		28	4
Of a meaner sort		24	4
From sheering time to Michaelmas:			
Every wether, being a sheer sheep, lean and large of bone	}	3	—
bone			

Of

And in consequence of the dearth in 1550, and the continuance of the high price of provisions, the king, about September in that year, issued another proclamation, prohibiting the exportation of corn unless at certain prices; besides which he authorized the justices of the peace in every county, or any two of them, to repair to all farmers granaries, and search for corn, and inquire by the verdict of a jury what quantity each man had; and after ascertaining the quantity, to appoint a sufficient quantity for the maintenance of the owner's household, or for the performance of any contract for the supply of the king's household, or that of any nobleman or gentleman, and also for seed corn; they were to order the overplus to be brought to the

	s. d.
Of a meaner fort - - - - -	2 4
Being fat, and large of bone - - - - -	4 -
Ewes, being lean and large of bone - - - - -	2 -
Being lean, of a meaner fort - - - - -	20
Being fat, and large of bone - - - - -	2 -

From Michaelmas to Shrovetide:

Every wether, being a sheer sheep, lean and large of bone - - - - -	} 3 -
Being lean, of a meaner fort - - - - -	2 4
Being fat, and large of bone - - - - -	4 4
Being fat, of a meaner fort - - - - -	3 4

And besides these, bacon, butter, and cheese were rated; and all farmers, graziers, and others, that had cattle or corn, were bound to bring a certain number and quantity of them to market.

the next adjoining market, in such portions as the justices should think fit; when the justices were to signify to the clerk of the market what quantity of corn they had appointed to be brought by every man to market; and in case of non-compliance by the owner of such corn, he was to forfeit £. 10. for every default, and suffer imprisonment. An account of this proclamation is also to be found in Strype, who says, "that proclamations were issued, prohibiting the exportation of all kind of cattle, corn, and other provisions." He adds, (n)

"But this dearth still continuing in the realm, notwithstanding all former endeavours (partly by reason of conveyance of commodities beyond sea, and partly by men's buying up of corn in the markets to be sold again; and also by not bringing any quantities to the market), the king issued out yet another proclamation, dated September 24th, signifying, in the preface, how the insatiable greediness of divers ill-natured people, neither minding the due obedience of good laws, nor any preservation of natural societies within their own country, and contrary to the provision of divers good laws and statutes, by frequent unlawful exportation of victuals, and by many detestible frauds and covins, had occasioned

" great

(n) Strype's Eccl. Memor. 2 v. p. 222. Anno 1550.

“ great scarcity and unreasonable prices of victuals ;
 “ and therefore forbad transport of provisions to
 “ Scotland or elsewhere : but that it might be
 “ lawful to carry over grain when at the following
 “ prices, viz. (o)—Also, that no person after
 “ eight days should buy in open market or
 “ otherwise, to be sold again, any wheat, malt,
 “ barley, rye, peas, oats, beans, or any kind of
 “ meals, upon pain of forfeiture of the same grain,
 “ and the moiety of their goods, chattels, leases,
 “ and farms for term of life, excepting brewers
 “ and bakers, innkeepers, and innholders.”

“ Also, that justices of the peace in every shire
 “ should divide themselves into hundreds, rapes,
 “ wards, and wapentakes, according as heretofore
 “ in other the king’s business they had done.
 “ And they or any two of them within the limits
 “ of their division were to repair to all farms,
 “ barns, stacks, and garners; and there to view
 “ and try out, as well by the verdict of honest men,
 “ as by good and lawful means, what quantity and
 “ kind of grain every person had within their
 “ respective divisions; and after the certainty
 “ thereof known, or as near as could be, they
 “ were

(o) “ Wheat - - - - -	} at or under	} per quarter.
“ Malt, of the best sort - - -		
“ Beans and peas - - - - -		
“ Oats - - - - -		
“ Rye - - - - -		

“ were to allot and appoint to the owners of the
 “ corn and grain, sufficient and competent for the
 “ finding and maintenance of their houses and
 “ payment of their rent corns, and performance of
 “ any bargains for supply of the king’s majesty’s
 “ house, or to any nobleman, gentleman, or others
 “ for the only maintenance of his or their house-
 “ hold, until the 20th of September then next
 “ ensuing; and also for necessary feed corn. And
 “ the overplus of such grain, the justices shall
 “ have authority to charge and command them in
 “ the king’s name to bring to the markets next
 “ adjoining; and that, in such portions, as the
 “ justices should think fit. And then the justices
 “ were to signify unto the chief officer or officers
 “ of the respective markets, what quantity of
 “ grain is appointed to every man within their
 “ limits to bring to market. And if the owner
 “ of such corn should refuse to bring to the
 “ market his corn, he should forfeit for every such
 “ default £. 10. and suffer imprisonment for three
 “ months. But notwithstanding, there came but
 “ little corn to markets; whereupon letters were
 “ sent down to the gentlemen of every shire for
 “ the well observing the last proclamation, and to
 “ punish the offenders. On the 20th of October
 “ a proclamation was issued, founded on the
 “ statute

“ statute 25 Hen. VIII. regulating the then prices
“ of corn (o).”

Stat. 5 and
6 Edw. VI.
cap. 14.
Repealed 12
Geo. III.
cap. 71.

A. D. 1550.—But the principal statute against
forestalling, ingrossing, and regrating was the 5
and 6 of Edw. VI. c. 14. (since repealed). The
bill was first introduced in the commons, and sent
to the lords, where it was new modelled, and
passed with only one dissenting voice, (Lord Went-
worth)

	per quarter.	s.	d.
(o) White wheat, of the best fort	- - - - -	13	4
White wheat of the second fort, red and grey, of the best fort	- - - - -	11	-
All other wheat, as well white, red and grey, of the meanest fort, not clean, or tayed	- - - - -	8	-
Malt, clean and sweet, of the best fort	- - - - -	10	-
Malt, of the second fort	- - - - -	8	-
Rye, of the best and cleanest	- - - - -	7	-
Rye, of the second fort	- - - - -	6	-
Barley, of the best fort	- - - - -	9	-
Of the second fort	- - - - -	7	-
Beans and peas, of the best fort	- - - - -	5	-
Of the second fort	- - - - -	3	-
Oats of the best fort clean and sweet	- - - - -	4	-
Accounting 8 bushels to the quarter.			
	per pound.	s.	d.
A pound of sweet butter, not above	- - - - -	1	$\frac{1}{2}$
Barrelled butter, of Essex, not to be sold to any of the king's subjects above	- - - - -	} half farthing.	
And barrelled butter, of any other parts	- - - - -	} $\frac{3}{4}$	
Cheese of Essex, to be sold from Hallowmas till	- - - - -	} $\frac{1}{2}$	
New Year's Crofs	- - - - -	} half farthing.	
Cheese, of other parts	- - - - -	} $\frac{3}{4}$	

worth) and was returned to the commons, where
the provisos we find in the act were added to it;
it was then sent again to the lords and passed
unanimously (p): the act is somewhat long,
but will be found in the subsequent pages; the
substance is as follows:

1. “ That whoever shall buy or contract for
“ any merchandize, victual, or other thing, com-
“ ing in the way to market, to the intent to sell
“ the same again; or persuade any person by any
“ means whatsoever, to enhance the price when
“ there; or dissuade any person from bringing
“ their goods or provisions to market, shall be
“ deemed a *forestaller*.”

Who deem-
ed a Fore-
staller.

On this first clause it has been determined, that
an indictment, charging the defendant with meet-
ing J. S. at such a place near B, and there buying
of him certain goods, which he was about to sell
in the market of B, is insufficient, without alledg-
ing expressly, that the goods were coming to the
market to be sold, *Roll. Rep.* 421. (vide Case 13,
infra.) So a contract in market for corn not in
market, has been holden not to be within the statute,
God. Rep. 131. (ca. 1.)

2. “ Whoever shall obtain or get into his hands
“ any corn, &c. or other dead victual, in any
“ market,

Who is a
Regrator.

(p) Com. Journ. vol. i. 22.—Lord's Journ. vol. i. 424.

“market, and sell the same again in the same market, or within four miles thereof, shall be deemed a regrator.”

On the 2d clause it has been said, that the buying of corn with an intent to make starch of it, and then to sell it, is not within the statute, because it is not bought to be sold again in the same nature in which it was bought, but to be first altered by a trade or science, and then sold again; *Bridg.* 5, 6. (ca. 17); yet some authorities are otherwise, *Owen*, 134, 135; 2 *Brown*, 108. (ca. 6, 7.) So the buying of corn with an intent to make meal of it, has been determined not to be within the statute, *Moor*, 595, pl. 810, *Cro. Car.* 231. (ca. 3 and 19.) contra *Owen* 135; so the buying of barley with intent to make malt of it, *Cro. Car.* 231, 3 *Inst.* 196. (ca. 19.) contra *Owen*, 135, *Roll. Rep.* 12. But this last is excepted by the proviso, §. 7, in the statute. Yet the buying of corn, and turning it into malt in another man's house, is not within the benefit of this exception, *Owen*, 135. (ca. 6.) It has been holden that buying salt is a victual within the statute, as being necessary for the food and health of man, and making wholesome other victuals, 3 *Inst.* 195, *Cro. Car.* 231. (ca. 19.) *H. P. C.* 152, contra *Roll. Ch. Just. Style Rep.* 190. (ca. 22.) But neither apples, cherries, nor other such like fruits, are vic-
tuals

tuals within the meaning of the statute, 3 *Inst.* 195, *H. P. C.* 152, 13 *Coke's Rep.* 18, 19, *Cro. Car. Owen* 135, *Cro. Jac.* 214. (ca. 4 and 22.) nor hops within the statute, *Cro. Car.* 231, nor malt, 3 *Inst.* 196, *H. P. C.* 152. Yet contra *Owen*, 135, *Roll. Rep.* 12: And by *Coke, Ch. Just.* if a man buys malt and sells it at unreasonable prices, this is within the statute; so is the buying of fish, and selling again at unreasonable prices, *Jones* 320, 1 *Roll. Rep.* 11, 2 *Bull.* 249. (ca. 9, 20, 26).

3. Whoever shall ingross or get into his hands, Who an In-
grosser. by buying, contracting for, or otherwise “any corn growing, or any corn, grain, &c. (otherwise than in the act specified) or other dead victual, with the intent to sell the same again, shall be deemed an ingrosser.”

(For the 1st offence, two months imprisonment, and forfeiture of the corn, &c. bought: 2d offence one year's imprisonment, and double the value: 3d offence, to be set in the pillory, forfeiture of the goods, &c. bought, and imprisonment during the king's pleasure.)

On the 3d clause, it has been holden, not sufficient to charge the defendant with having bought so much corn, for the words are, “shall ingross or get into his hands, &c.” and therefore must be precisely followed, 3 *Leon.* 39. (ca. 2.) There is no need to alledge that defendant did not come

by it by a demise of land, &c. for defendant, if he have such matter to shew in his defence, may give it in evidence, *Jones* 156. (ca. 18.) any thing in the same statute upon which the suit is commenced, may be given in evidence, *Hard.* 231. (ca. 23.) If a feme covert be indicted as an ingrosser, without her husband, it is error, *2 Keb. Rep.* 468, 469, 479, 503. (ca. 24.) It hath been adjudged, that no information for ingrossing corn, &c. contrary to the statute is good, which doth not expressly alledge the quantity of the thing ingrossed, therefore an information for ingrossing corn, the quantity whereof was expressed by the word *cumulus*, was holden insufficient, for uncertainty, *2 Bulst.* 317. (ca. 10.) So where defendant had ingrossed, "magnum et excessivum numerum voluminum ferarum mortuarum," the indictment was quashed for the same cause; *Lord Raym.* 475. (ca. 29.) Also, where several were indicted for ingrossing "magnam quantitatem straminis et feni," the indictment was quashed for uncertainty, though the court refused to quash it on the objection that it did not alledge "quolibet eorum" ingrossed. *Cro. Car.* 380. *6 Mod.* 32. (ca. 21.) The court on this statute had power to mitigate the forfeiture, *1 Roll. Rep.* 194. (ca. 11.)

There are several exceptions in the 7th section of

of the act, which see infra. This act, so far as related to the buying of fish unsalted, mud fish, or any wine, oil, or salt, for so much thereof as any buyer upon the sea, by way of forestalling or regrating, should bring and discharge in any port or haven, was repealed by stat. 5 Eliz. c. 5, sec. 13; and as to the rest thereof, it was made perpetual by 13 Eliz. c. 25; but the whole act has been since repealed by the 12th Geo. III. c. 71.

No new offence was created by this statute, it being merely *declaratory*, and defining what constituted the offence of forestalling, &c. at the common law (q); and it has been so said in many cases.

The same year an act passed against regraters and ingrossers of tanned leather, as follows:

A. D. 1552, 5 and 6 Edw. VI. c. 15; reciting,
 "where by the covetousness of divers greedy persons, regrating and ingrossing all kinds of tanned leather into their hands; and selling the same again at excessive prices, to sadlers, girdlers, cordwainers, and such other artificers and handi-
 "crafts"

(q) *2 Brown* 108, *M. 9. Jac. Cross v. Westwood*; so said in this case by Montagu, Serjeant, arguendo; so by Dodridge, Serjeant, S. C.—Also in the case of *Bridgman qui tam v. Collins*, reported in a valuable MS. Vol. of Reports of this reign, in the possession of Mr. Caley; the Information, as there inserted, is given in the Appendix to this Work, (K.)

“ crafts’ men, as make wares of tanned leather,
“ the king’s loving subjects are enforced to buy
“ the said wares at unreasonable prices,” enacts,
“ that no person or persons, of what estate, degree,
“ or condition soever he or they be, shall buy or
“ ingross, or cause to be bought or ingrossed any
“ kind of tanned leather, to the intent to sell the
“ same again, upon pain to forfeit the said leather
“ so bought, or the just price thereof,” (the one
moiety to the king, and the other to him that
shall seize, or sue for the same in any of the
king’s courts of record.)

None shall
ingross any
tanned lea-
ther.

(Proviso, that saddlers, girdlers, cordwainers,
and other artificers, &c. of leather, may buy
such kinds of tanned leather as shall be necessary
for their occupying, to be wrought or made by
them or their servants in their wares. And per-
sons may buy tanned leather for the purpose of
exporting the same, having the king’s licence.)

This statute was in part repealed by the statutes
1 Mary, sess. 3, c. 8, 5 Eliz. c. 8, and finally by
1 Jac. I. c. 22.

No country
person shall
sell wares by
retail in
towns cor-
porate, ex-
cept in open
fairs.

A. D. 1554, 1 Phil. & M. c. 7.—“ That any
“ person or persons which do now inhabit and
“ dwell, or hereafter shall inhabit or dwell in
“ the country any where, or county within this
“ realm of England, out of any of the cities, bo-
“ roughs, towns corporate, or market towns, shall
“ not

*

“ not sell or cause to be sold by retail, any woollen
“ cloth, linen cloth, haberdashery wares, grocery
“ wares, mercery wares, at or within any of the
“ said cities, boroughs, towns corporate, or mar-
“ ket towns, or within the suburbs or liberties of
“ the said cities, boroughs, towns corporate, and
“ market towns within the said realm of England
“ (except it be in open fairs) upon pain to for-
“ feit and lose for every time so offending, the
“ sum of 6s. 8d. and the whole wares so sold,
“ proffered and offered to be sold contrary to the
“ form, intent, and effect of this present act as
“ above is said; (one moiety of all which forfeitures
“ to the crown, the other moiety to the informer
“ that shall sue in any of the king’s courts of
“ record).”

Provisos; any person may sell such wares in
gross, though not by retail; any person may sell
cloth of his own making by retail.

The next statute in this reign is the 2d and 3d
Philip and Mary, for keeping of milch kine.

Milch kine.

A. D. 1555, 2 & 3 Ph. & Mary, c. 3, which
enacts, “ that every person keeping 60 sheep,
“ shall keep one milch cow, and for every 120
“ sheep, shall yearly breed and rear one calf, under
“ forfeiture of 20 shillings per month for every
“ cow so not kept.”

Repealed by
12 Geo. III.
c. 71.

“ Every person keeping above 20 oxen or
“ feeding cattle, shall keep one milch cow for every
ten

“ ten oxen or other feeding cattle so kept, under the like penalty (r).”

Shortly after this, in the following reign, a statute was enacted, explanatory of the 5 and 6 Edw. VI. c. 14, touching badgers of corn, and drovers of cattle.

A. D. 1562, 5 Eliz. c. 12. which, after stating the inconveniences ensuing to the public from the great number of drovers of cattle, and badgers of corn, and other victuals, by the enhancing the prices

(r) The prices of corn, &c during the reign of Philip and Mary, were as follow:

A. D.		£.	s.	d.				
1553,	Wheat per quarter	—	—	8	} Authors referred to.			
	Malt	—	—	5				
	A tun of wine	—	5	—				
	Muscadel per quart	—	—	6				
	Malvesy ditto	—	—	5				
	Red wine ditto	—	—	3	} Stow, and Fleetwood.			
1554,	Wheat per quarter	—	—	8				
	Rye	—	—	6 8				
	Malt	—	—	5				
1555,	Wheat	—	—	8		} Stow.		
	Rye	—	—	16				
	Malt	—	—	5				
		£.	s.	d.	£.	s.	d.	
1557,	Wheat, before harvest	2	13	4	after	5	—	} Stow.
	Malt, ditto	2	—	—	ditto	6	8	
	Beans and Rye	2	—	—	ditto	3	4	
	Peas	2	6	8	—	—	—	

prices thereof, enacts “ that no persons should be licensed to be drovers and badgers, but in open sessions, or unless they were or had been married men and householders, and 30 years old at the least, such license to be taken out yearly ;” and other restrictions, which see in the act inserted in the following pages.

(This act was made perpetual by statute 13 Eliz. c. 12; but repealed by the statute 12 Geo. III. c. 71.) (s).

No

(s) The prices of corn, &c. during the reign of Elizabeth, were as follow:

A. D.		£.	s.	d.		
1558,	Wheat per quarter	—	—	8	} Authors referred to.	
	Rye	—	—	8		
	Barley	—	—	5		
	A good sheep	—	—	2 10		
	Load of old hay	—	12	6		
	D ^o of new ditto	—	—	6 8		
	Straw	—	—	6	} Stow, and Fleetwood.	
N. B. These prices varied little (except rye, which was 13 s. 4 d. in 1563) till the year						
1574,	Wheat (a dearth) per quarter	2	16	—		} Stow, and Fleetwood.
	Beef per stone	—	—	1 10		
	After harvest wheat fell to and so continued about a year.	1	4	—		
1587,	Wheat per quarter	3	4	—		
N. B. This was occasioned by excessive exportation.						

No other act appears to have been made during this reign, nor any regulations on the subject, until the 1st James I. 1603; in which year an act passed respecting tanners.

No forestalling of hides.

A. D. 1603, by 1 Jac. I. c. 22, sec. 7. " No tanner or other person or persons shall forestall any hides coming towards any fair or market, nor shall buy any hide any other where than in open fair or market, unless it be of such person or persons as shall kill the same beast whereof the hide shall be, for the provision of his or their own house or houses, upon pain of forfeiture, for every hide so forestalled or bought, six shillings and eight pence."

No regrating or ingrossing of oaken bark.

Sec. 19. " No person or persons shall regrate, ingross, or get into their hands by buying, contracting, or promise-taking, any oaken bark, before it be stripped, or after, to the intent to sell

1594, Wheat	- - - - -	2	16	-	} <i>Authors referred to.</i>
Rye	- - - - -	2	-	-	
1595, Wheat (by too great exportation)	- - - - -	2	13	4	} <i>Stow.</i>
A hen's egg	- - - - -	-	-	1	
Fresh butter per pound	- - - - -	-	-	7	} <i>Fleetwood.</i>
1596, Wheat (by reason of rain)	- - - - -	4	-	-	
Rye	- - - - -	2	8	-	} <i>Fleetwood.</i>
Oatmeal (per bushel)	- - - - -	-	8	-	
1597, Wheat fell from 5 <i>l.</i> 4 <i>s.</i> per quarter, to	- - - - -	-	8	-	

" sell the same again, upon pain of forfeiture of all such bark so by him or them regrated, ingrossed, or bought, or the full value thereof."

By the statute of the third of James I. for the relief of such persons as lawfully use the trade of skinners :

A merchant shall not buy or sell any coney or lamb skins under a certain number.

A. D. 1605, 3 Jac. I. c. 9, sec. 3. " No merchant shall buy, bargain, or contract for any coney skins or lamb skins, commonly called morkins, of the breed of this realm, under the number of 1,000 black coney skins, or 3,000 grey coney skins, or 2,000 lamb skins, called morkins, at a time, and those not to be bought or contracted for in or by parcels, but to be contracted for, bargained, and delivered at one time entirely, and not by parcels (except it be to the artisan skinners) nor shall utter or sell the same again, nor any part thereof, to any person under the number of 1,000 black coney skins, and 3,000 grey coney skins, and 2,000 morkins at a time (unless it be to the artisan skinners) upon pain of forfeiture of the said skins, or the full value of the same."

In 1623, the king issued a proclamation by which he established public magazines, observing that in times of dearth, the poorer sort were in great want of provisions, and in times of plenty, farmers, by the low prices, and want of sale of their

their corn, were unable to support their expenses, nor landlords to uphold their rents; therefore, as well by the example of other nations, as for the increase of tillage, he empowered merchants to erect storehouses for the stowing of English corn, which they might buy in such quantities as they thought fit, whenever English wheat was at 32 s. rye 18 s. and oats at 16 s. per quarter; and that no person should be prosecuted for buying it in gross when under those prices (t). The bread usually ate by the poor at this time was made of barley (u).

In this year there was an act passed explanatory of the statutes 3 & 4 and 5 & 6 Edw. VI. concerning the sale of butter and cheese.

Repealed by 22 Geo. III. c. 71.

A. D. 1623, 21 Jac. I. c. 22, which enacted, that the said acts, so far as related to butter and cheese, should not extend to charge any freemen of the city of London, being cheesemongers or tallow-chandlers, trading in butter and cheese, as ingrossers thereof, for such as they should sell in London, Westminster, or Southwark, not exceeding at one time four wey of cheese, or four barrels of butter.

Provided, that justices of the peace might restrain traders

(t) Rymer, vol. xvii. p. 526.

(u) Rymer, vol. xx. p. 15.

traders in butter and cheese from buying those commodities in the country (x).

(This act was continued by the 3 Car. I. c. 4, and 16 Car. I. c. 4, but repealed by 12 Geo. III. c. 71).

During the reign of king Charles the first, no acts were passed on the subject of this inquiry, though several proclamations issued for the regulation of the prices of provisions, and for the preventing the dearth of corn and victuals; the most material of these are the following, viz. a proclamation dated the 20th September 1630 (y), which recites (among other matters) "that his Majesty hath, with the advice of his privy council, caused a book of orders for preventing and remedying the dearth of grain and victuals, which was first conceived and made in the time of the late Queen Elizabeth, and afterwards renewed in the time of his majesty's royal father of blessed memory to be again revised and enlarged, with some necessary additions grounded upon the statutes made since the first publishing thereof, and hath taken care for reprinting of the same; whereby particular directions are given for suppressing the abuses and offences of ingrossers, badgers, broggers, carriers, and buyers of corn, malt-makers, brewers, bakers,

20 September 1630. 6 Car. I.

Proclamation respecting the abuses of ingrossers, &c.

(x) See this act at large in the subsequent pages.

(y) 19 Rymer.

“ bakers, milners, and others trading in corn, as
“ also for the causing the affize of bread and beer
“ to be truly kept, and the markets duly supplied
“ with corn, and the poor first served and pro-
“ vided for; with other like clauses to the good
“ purpose aforesaid; his majesty strictly chargeth
“ and commanded the lord mayor, &c. &c. (and
“ all other magistrates throughout the realm)
“ that they do carefully and diligently put in due
“ and speedy execution the said orders and di-
“ rections.”

Proclama-
tion regu-
lating the
prices of
poultry,
rabbits,
butter,
candle,
fuel, &c.

A. D. 1633. 9 Car. 1.—A proclamation dated
12th of February, 1633, 9 Car. 1. sets forth;
“ Where of late by several inquisitions taken
“ before Charles Walker, gentleman, deputy
“ to Hugh May, esq. clerk of the market of
“ our household, and throughout our kingdom
“ of England, in our city of Westminster, and
“ elsewhere in our county of Middlesex, and
“ in our borough of Southwark in our county of
“ Surrey, which was done in the presence and
“ with the advice of our justices of the peace of
“ our said counties and city; we then in our royal
“ person, being at our court of Whitehall, it was
“ found and presented by the oaths of three in-
“ quests of twelve lawful men of the said counties
“ and city, severally sworn to inquire of the prices
“ of several things in the said inquisitions men-
“ tioned;

“ tioned, that the prices after-mentioned are
“ reasonable prices to be observed by poulterers,
“ victuallers, woodmongers, and all others within
“ three miles of any of the gates of our city
“ of London, for the several sorts of victuals
“ and other things after specified, that is to
“ say:

[Here follows a very long list of the prices of all
kinds of poultry, wild fowl, rabbits, butter, candles,
charcoal, &c.] (z)

“ Our will and pleasure therefore is, and we do
“ hereby strictly charge and command, that no
“ manner of person or persons whomsoever within
“ our city of London, or the said three miles, pre-
“ sume, upon any colour or pretext whatsoever, to
“ sell

(z) The average prices of the principal articles extracted
from this list are as follow: viz.

	s.	d.		s.	d.
A turkey cock	4	6	A dozen of pigeons	6	—
A ditto hen	3	6	Three eggs	—	1
A wild duck	—	8	A pound of salt butter	—	4
A tame ditto	—	8	Ditto of fresh ditto	—	6
A goose	2	4	A pound of candles	—	4
A capon	2	2	4 bushels of charcoal	1	—
A pullet	1	6	1000 billets of wood	16	—
A hen	1	—	(of affize)	—	—
A chicken	—	6	100 faggots	—	7
A rabbit	—	7			

“ fell or utter any of the provisions aforefaid, at
 “ higher or greater rates than in the faid inqui-
 “ sition before specified is expreffed, until we fhall
 “ publifh and make further fignification of our
 “ pleaſure, wherein we fhall not be wanting to any
 “ of our ſubjects in the due adminiſtration to all,
 “ that juſtly with relation to the times ſhall be
 “ fit; and for the more effectual execution of our
 “ will and pleaſure herein declared, the lord
 “ mayor of our city of London for the time being,
 “ and other our juſtices of the peace within the
 “ faid city, and the juſtices of the peace within
 “ our faid counties of Middlefex and Surrey, and
 “ city of Weſtminſter, are hereby required ſtrictly
 “ to ſee this our proclamation be carefully ob-
 “ ſerved and put in due execution, and the of-
 “ offenders puniſhed according to their de-
 “ merits.”

As the ſtatutes made during the protector-
 ſhip of Cromwell, are in themſelves of no force
 as poſitive laws, I notice merely that a ſtatute
 paſſed during that period, prohibiting perſons from
 buying any wheat or other grain, with intent to
 ſell the ſame in meal, without the licence of five
 juſtices in open ſeſſions, and forbidding the ſame
 to be ſold unleſs in open market, and that the
 buying of corn with ſuch intent, ſhould be deemed
 ingroſſing,

ingroſſing, within the ſtatute 5 and 6 Edw.
 VI. (a).

Seobel 142. A. D. 1650. Oct. 23. Act of the
 commonwealth.—1. “ No perſon, directly or in-
 “ directly by himſelf or others, ſhall buy any
 “ wheat or other grain with intent to put the ſame
 “ to ſale in meal, without licence granted in open
 “ ſeſſion, and under the hands and ſeals of five juſ-
 “ tices, under forfeiture of treble value of the faid
 “ grain or meal, and two months imprifonment.”

None to buy
 wheat with-
 out licence.

2. “ No meal to be ſold in any ſhops, houſes, or
 “ warehouſes, or other place in London, or twenty
 “ miles thereof or elſewhere, in any houſes, ſhops,
 “ or warehouſes, but only in the common public
 “ market

No meal to
 be ſold but
 in public
 markets.

(a) The average prices of wheat and malt during the period
 of the commonwealth were as follow:

A. D.	Wheat per quarter.			Malt per quarter.		
	£.	s.	d.	£.	s.	d.
1648	-	-	4 5	2	-	-
49	-	-	4	2	2	-
1650	-	-	3 16 8	1	18	6
51	-	-	3 13 4	1	9	-
52	-	-	2 9 6	1	8	-
53	-	-	1 15 6	1	8	-
54	-	-	1 6	1	-	8
55	-	-	1 13 4	1	-	-
56	-	-	2 3	1	4	-
57	-	-	2 6 8	1	8	4
58	-	-	3 5	1	9	4
59	-	-	3 6	2	8	8
1660	-	-	2 16 6	1	12	8

Fleetwood.

“ market usual for that purpose, under a like
“ penalty.”

And as it goes from the mill.

3. “ No meal to be sold but in the same
“ quality and kind as the same goes really and
“ truly from the mill, without any mixture what-
“ soever; and no person shall use any boulting
“ mill or other instrument for dressing, boulting,
“ or sifting any corn or grain, with intent to sell the
“ same meal, under the like penalty. That the
“ buying of corn to the intent to sell the same
“ again in meal or flour, without licence, should be
“ deemed ingrossing within the 5 and 6 Edw. VI.”

No writ of certiorari or habeas corpus to be granted thereon.

“ And because the punishment of many abuses
“ are daily presented and discouraged by the fa-
“ miliar bringing of writs of certiorari and habeas
“ corpus in indictments on penal statutes, it is
“ further enacted, that no writ of certiorari or
“ habeas corpus shall be granted or allowed in any
“ action, bill, plaint, indictment, or information, or
“ any penal law concerning the buying, selling,
“ &c. of any corn, wine, beer, ale, fish, salt, butter,
“ cheese, or other dead victual whatsoever; and
“ all judges, justices, stewards of courts, prose-
“ cutors, plaintiffs, &c. interested therein, or who
“ have cognizance thereof, shall and may pro-
“ ceed as if such certiorari or habeas corpus had
“ never been granted and allowed.”

Storing up of corn.

A. D. 1663. 15 Car. 2. c. 7. sec. 4.—“ When
“ the quarter of wheat (Winchester measure)
“ doth

“ doth not exceed 48 s. rye 32 s. barley or malt
“ 28 s. buck wheat 28 s. oats 13 s. 4d. and peas
“ or beans 32 s.—any person (not forestalling, or
“ selling again in the same market in three
“ months) may buy such corn in open market at
“ or under such prices, and lay the same up and sell
“ the same again, without incurring any penalty.”

Repealed by 31 Geo. III. c. 30. sec. 2

[This act was Repealed by 31 Geo. III. c. 30. sec. 2. as to buying grain and laying the same up in granaries.]

A. D. 1663. 15 Car. II. c. 8. recites, that the
statute 3 and 4 Edw. VI. c. 19. had not wrought
the effectual reformation as was intended, by reason
of the great difficulty of the proof of such buying
and selling, being for the most part at places far
distant, by means whereof the parties so offending
have escaped unpunished, and enacts, “ That no
“ person using the trade of a butcher shall sell,
“ offer, or expose to sale in any market or fair, any
“ fat oxen, steers, runts, kine, heifers, calves, sheep,
“ or lambs alive, upon pain to forfeit the double
“ value of the cattle so sold, or offered, or exposed
“ to sale.”

No butcher to sell live cattle.

Repealed by 12 Geo. III. c. 71.

A. D. 1670. 22 and 23 Car. II. c. 19. enacts,
“ That the statute 2 and 3 Edw. VI. c. 15. touching
“ victuallers and handicraftmen, and the act of 15
“ Car. II. c. 8. for the preventing the buying and
“ selling of live fat cattle by butchers, be revived,
“ continued, and confirmed for ever.”

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By sec. 6. proof to lie on the party accused, as to interval or distance of time or place between the buying and selling; and on salesmen, that the cattle are their own.

[This act was to continue for 3 years;—further continued by 11 and 12 W. III. c. 13. sec. 5. for 7 years from 1700.] (b).

A. D.

(b) The average prices of wheat and malt during the reign of Charles II. James II. and William and Mary, were:

A. D.	Wheat per quarter.			Malt ditto.			A. D.	Wheat per quarter.			Malt ditto.				
	£.	s.	d.	£.	s.	d.		£.	s.	d.	£.	s.	d.		
1661,	3	10	0	-	1	13	4	1682,	2	4	0	-	1	8	0
62,	3	14	0	-	2	2	0	83,	2	0	0	-	1	8	8
63,	2	17	0	-	1	12	8	84,	2	4	0	-	1	5	4
64,	2	0	6	-	1	10	0	85,	2	6	8	-	1	8	0
65,	2	9	4	-	1	8	4	86,	1	14	0	-	1	5	4
66,	1	16	0	-	1	6	0	87,	1	5	2	-	1	4	0
67,	1	16	0	-	1	2	8	88,	2	6	0	-	1	2	0
68,	2	0	0	-	1	4	0	89,	1	10	0	-	1	0	0
69,	2	4	4	-	1	7	4	1690,	1	11	8	-	0	19	4
1670,	2	1	8	-	1	6	6	91,	1	14	0	-	0	17	4
71,	2	2	0	-	1	5	4	92,	2	6	8	-	1	4	4
72,	2	1	0	-	1	2	0	93,	3	7	8	-	1	10	0
73,	2	6	8	-	1	4	0	94,	3	4	0	-	1	12	0
74,	3	8	8	-	1	14	0	95,	2	13	0	-	1	12	0
75,	3	4	8	-	1	14	0	96,	3	11	0	-	1	8	0
76,	1	18	0	-	1	6	0	97,	3	0	0	-	1	8	0
77,	2	2	0	-	1	8	0	98,	3	8	4	-	1	12	0
78,	2	19	0	-	1	8	8	99,	3	4	0	-	1	19	4
79,	3	0	0	-	1	6	8	1700,	2	0	0	-	1	11	4
1680,	2	5	0	-	1	2	8	1701,	1	17	8	-	1	4	0
81,	2	6	8	-	1	4	8								<i>Fleetwood.</i>

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A. D. 1707. By the statute of 5 Anne, c. 34. Repealed by 12 Geo. III. c. 71.
 " No butcher shall sell or offer to sale in any
 " market, or elsewhere, either by himself, or any
 " servant or agent whatsoever, within the cities
 " of London and Westminster, or within ten
 " miles thereof, to any other butcher, any fat
 " cattle or sheep, dead or alive, upon pain to
 " forfeit the value of the cattle, or of each sheep
 " so sold or offered to sale."

(But by the 7 Anne, c. 6. one butcher might sell to another any dead calves, sheep, or lambs.)

From this period to the 31st Geo. II. there was not any act passed on the subject of these laws; though it may be proper to remark, that in this last reign, several petitions were from time to time presented to the house of commons, from different parts of the kingdom, complaining of the iniquitous practices of ingrossing of corn, and regrating of cattle and other necessaries of life. Among these the principal were, a petition from the bailiff, constable, freeholders, and inhabitants of Haslemere, in the county of Surrey (c); one from the mayor, alderman, and burgeses of the borough of Helfton, in Cornwall (d); and another from the gentlemen, farmers, and others, breeders

(c) Com. Journals, 2 and 22 March 1733. See Appendix.

(d) Ibid. 2 April 1733. Appendix.

breeders and feeders of sheep in the county of Lincoln (e); a fourth from the inhabitants of Westminster (f); and lastly, a similar one from the inhabitants of Spital Fields (g). The reader will find from the perusal of these petitions, and the allegations they contain, much information on the subject of forestalling, ingrossing, and regrating, of every species of provisions.

The result of these petitions, so far as regarded cattle, was the enacting a law to prevent salesmen, brokers, or factors, from buying cattle on their own account to sell again.

Salesmen employed to sell cattle for others, are not to buy or sell on their own account.

A. D. 1757, 31 Geo. II. c. 40. sec. 11. enacts,
“ That no salesman, or other broker or factor,
“ who shall be employed to buy or sell cattle by
“ commission, &c. shall by himself or otherwise,
“ directly or indirectly on his own account, buy
“ any live ox, bull, cow, steer, bullock, heifer,
“ calf, sheep, lamb, or swine, in London, or the
“ bills of mortality, or on the road, driving up
“ to be sold, &c. (other than for the necessary
“ provision of his house) and that no such sales-
“ man, &c. shall sell or expose, or offer to sale,
“ on his own account in London, or the bills of
“ mortality, by himself, or otherwise, any live
“ ox,

(e) Com. Journals, 14 January 1755. Appendix.
(f) Ibid. 10 April 1766. Appendix.
(g) Ibid. 22 April 1766. Appendix.

“ ox, &c. &c. on penalty of forfeiting double the
“ value (b).”

Having traced all the principal statutes made against these offences, from the earliest period, I now come to inquire which of them have been repealed, with the reasons that induced the legislature to annul them.

(2.) In an early period of the present reign, several petitions were presented to the house of commons, from the metropolis and other parts, complaining of the high price of provisions, which the petitioners alledged was owing to the practices of jobbers, forestallers, and ingrossers. These petitions were referred to committees to consider of the policy of enforcing the laws against forestallers, regrators, and ingrossers; evidence was from time to time examined in support of the allegations contained in these petitions, and the committees made reports to the house, of the result of their inquiries; and at one period, a bill was ordered to be brought in for the better enforcing these laws. No bill, however, was brought in; but on the contrary, in April 1767, the committee appointed to consider of these laws, came to the following resolutions; viz.

- 1. “ That it is the opinion of this committee,
“ that

(b) See the Act at large, infra.

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“ that the several laws relating to badgers, ingrossers, forestallers, and regrators, by preventing the circulation of, and free trade in corn and other provisions, have been the means of raising the price thereof in many parts of this kingdom :

2. “ That it is the opinion of this committee, that the house be moved for leave to bring in a bill to remedy the evils occasioned by the said laws (i).”

Notwithstanding these resolutions, fresh petitions were presented to the house, signed by the principal gentlemen, clergy, and freeholders, and gentlemen of the grand inquests of the counties of Somerset and Dorset, complaining heavily of the high and increasing prices of provisions, arising principally from the employment of jobbers, and the evil practices of forestallers, ingrossers, and regrators, and the want of one uniform standard of weights and measures, and a better regulation of all markets. These petitions were in like manner referred to a committee, who made further inquiries; and after long and tedious investigation of the subject, the house still adhered to its former resolutions, and after moving to have those resolutions read, which was accordingly done, a motion was made for leave to bring in a bill to remedy

(i) Com. Journ. 8 April 1767.

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remedy the evils occasioned by the laws then in being, relating to badgers, ingrossers, forestallers, and regrators (k); which was accordingly done, and the following act passed, viz.

A. D. 1772, stat. 12. Geo. III. c. 71. which (after reciting, that “ whereas it hath been found by experience, that the restraints laid by several statutes upon the dealing in corn, meal, flour, cattle, and sundry other sorts of victuals, by preventing a free trade in the said commodities, have a tendency to discourage the growth, and to enhance the price of the same; which statutes, if put in execution, would bring great distress upon the inhabitants of many parts of this kingdom, and in particular upon those of the cities of London and Westminster) enacts, That the 3 and 4 Edw. VI. c. 21. concerning butter and cheese; the 5 and 6 Edw. VI. c. 14. against regrators, forestallers, and ingrossers; 3 Ph. and Mary, c. 3. respecting milch kine, &c.; 5 Eliz. c. 12. touching badgers of corn, and drovers of cattle to be licensed; 15 Car. II. c. 8. to prevent selling of live fat cattle by butchers; and so much of the stat. 5 Anne, c. 34. as relates “ to

Repeals the statutes, 3 and 4 Edw. VI. c. 21. 5 and 6 Edw. VI. c. 14. 3 Ph. and M. c. 3. 5 Eliz. c. 12. 15 Car. II. c. 8. and part of the 5 Anne, c. 34.

(k) Com. Journ. 20 January 1768. 8 Feb. 1768. 22d Feb. 1768. and 15 March 1772. Appendix.

“ to butchers felling cattle alive or dead, in Lon-
 “ don and Westminster, or within ten miles thereof;
 “ and all acts made for the better enforcement of
 “ the same, being detrimental to the supply of the
 “ labouring and manufacturing poor of this king-
 “ dom, shall be, and the same are hereby declared
 “ to be repealed.”

And here it is submitted to consideration, whether the antient statutes on this subject, made previously to the 3 and 4 Edw. VI. are not still in force, and that notwithstanding the statute of the 5 and 6 Edw. VI. virtually repeals many of them, whether they were not again revived in consequence of the statute 12 Geo. III. c. 71. repealing the statutes of the 3 and 4, and 5 and 6 Edw. VI. and others downwards?—for by the repeal of a repealing statute, the statute first repealed is revived (*l*); and until the subject itself is annihilated, every statute not directly ordered to cease, has power to operate over that subject upon which it was made to act. When the reason which induced the legislature to enact these statutes ceases, then only ought the law to cease.

Considering, therefore, many of the antient statutes to be still in force, I shall with that view proceed,

(3.)

(*l*) 4 Inst. 325.

(3.) To inquire which of them are so, and in doing this, consider them under the following order; viz. such as relate,

- 1st. To forestalling, regrating, and ingrossing in general:
- 2d. Sales by victuallers at unreasonable prices:
- 3d. The allowing foreigners to import and sell victuals:
- 4th. Taxation of the price of victuals by the great officers of state:
- 5th. Conspiracies to raise the price of victuals.

As to the first, *the forestalling of any thing vendible in a market* is, by virtue of the statute 51 Hen. III. stat. 1. sec. 2 and 3. inquirable in the leet, upon presentment, and may be there punished by amercement or the pillory; the leet being a court of record, instituted for the common weal (though much fallen into disuse) has still cognizance to inquire and punish all offences committed within its jurisdiction, that are public nuisances and grievances. It may, therefore, inquire as well at common law, as by virtue of this statute, of all offences of forestalling, ingrossing, and regrating, and of the sale of corrupt and unwholesome victuals, being public grievances, tending to the oppression of the people (*m*); and although

(*m*) Brown. Leet. 26.—4 Inst. 261. 262. 263.—Fleta, lib. 2. c. 1. sec. 8. “Est autem atrox,” &c.—Ibid. c. 11. sec. 28. “Item si dominus.”—Britton, f. 33. “et les forestallers.”

other

other statutes have made these offences cognizable in other courts, they have not taken away the jurisdiction of the leet; but each has a concurrent jurisdiction, and offenders may be prosecuted in this or in any of the other courts of criminal judicature, for there are no negative words to deprive the leet of its jurisdiction (*n*).

So by virtue of the statute or ordinance for bakers and forestallers, &c. 34 Edw. I. (or rather *incerti temporis*) the forestalling of any corn, fish, or other thing, is cognizable in the courts of towns and franchises, and punishable therein; for the 1st offence, by amercement and forfeiture of the goods bought, according to the custom of the town; 2d, offence by the pillory; 3d, by imprisonment and ransom; 4th, by abjuring the town.

The statute of the 25 Edw. III. c. 4. seems rather explanatory of this statute, than any virtual repeal of it; for until then, it appears the forfeiture was applicable according to the custom of the town; whereas the latter statute does not vary the punishment, but directs to whom the forfeiture shall go; namely, if the offender is attainted at the suit of the king, the forfeiture belongs to the king, and in default of payment, he is to suffer two years imprisonment; if at the suit of the party,

(*n*) 11 Rep. 63.

party, then one half to the king, and the other half to the party. It also extends the cognizance of the offence to the courts of assize, and other the king's courts of criminal judicature, being before confined, perhaps, to the courts of towns and franchises, in order that the offenders might meet with more immediate and summary punishment, whilst the fact was recent.

It is one of the articles of the inquest, to inquire of such offenders that sell at unreasonable prices, as may be seen in the book of assize, 27 Edw. III (*o*).

Butchers buying and selling live cattle, are punishable by virtue of the statute 3 and 4 Edw. VI. c. 19 (continued and confirmed by the 3 Car. I. c. 4. and 16 Car. I. c. 4.) in any of the king's courts, by forfeiture of the cattle bought or bargained

(*o*) "Ceux font les articles que font a enqr' per enqt' doff' en bank le roy. Item de ministr' en cites ou en bourgh q' per reson de lour offyce devient garde les assises des vitail. queux marchandent des vinx blz. ou brees ou autre manere de vitail. en gros ou a retailer puis lestatur dev'wik. lan. xij le roy E. le pere et de ceux que vendaunt vinz contre lassise et contre lestatur de ce ordeine combien sount vendus et ou et qux' ils sount. &c."

"Item de forstallers de vitail et dez purveourz dez vitail sanz duement e'e prisez per les vill ou ils lez parvent sanz gree faire as gentz des q'ux ilz lez parvent soloncq' lestatur de ce purveu." 27 Ass. pl. 44. pag. 138. 139. 140.

gained for; one moiety whereof is to go to the king, and the other moiety to the informer: (See the cases on this statute, 30, 31.) (p.)

Salesmen, brokers, or factors, buying on their own account to sell again, any live cattle in London, or within the bills of mortality, or which are driving up thereto (unless for their necessary provisions) are punishable by virtue of the 31. Geo. II. c. 40. upon complaint before a justice of the peace, on the oath of one witness, by forfeiture of double the value of such cattle, to be levied by distress and sale (q).

The buying of any cattle in Wales, unless in the public market, is punishable by virtue of the statute 34 and 35 Hen. VIII. c. 26. sec. 105. by discretionary fine and imprisonment (r).

The having more than 2,000 sheep, unless in certain cases, or *the holding more than two farms* (s), is punishable by virtue of the 25 Hen. VIII. c. 13. by forfeiture of 3s. 4d. for every sheep above that number; and of 3s. and 4d. per week, for every week the occupier shall hold any farm contrary to the said act; one moiety

whereof

(p) Cro. Eliz. 309. Latch. 192.

(q) See the Act at length, infra.

(r) See the clause, ante, p. 56.

(s) No one shall hold more farms than one in the Isle of Wight, exceeding the value of 10 marks, on pain of £. 10. to the king for every such holding, by stat. 4 Hen. VII. c. 16.

whereof to the king, and the other moiety to the informer, to be recovered by information before a justice of the peace (t) (confirmed by 32 Hen. VIII. c. 28.)

Any country person selling by retail, any cloth, haberdashery, grocery, or mercery wares, in towns corporate, except in open fairs, is punishable by virtue of the statute 1 Ph. and Mary, c. 7. by forfeiture of 6s. 8d. for every such sale, and the whole wares so sold; one moiety to go to the king, and the other moiety to the informer, and to be recovered in any of the king's courts of record.

Tanners forestalling hides, coming towards any fair or market, or who shall buy any hide elsewhere than in open market, are punishable by virtue of the statute 1 Jac. I. c. 22. sec. 7. by forfeiture of 6s. 8d. for every hide so forestalled or bought.

Oaken bark; the regrating or ingrossing thereof, or contracting for the same before stripped, or after, to the intent to sell again, is punishable by virtue of the 19 sec. of the same act, by forfeiture of the bark so bought, or the value thereof. Penalties by this act are to be divided into three parts; one third to the king, one third to the informer,

and

(t) See Act, ante, p. 52 to 55.

and the remaining third to the town, &c. where the offence was committed; and to be recovered in any of the king's courts of record; and justices of assize and gaol delivery, justices of the peace, and stewards of franchises, leets, &c. may inquire of, and punish these offences committed within their jurisdiction.

The buying or selling of skins.—By stat. 3 Jac. I. c. 9. no merchant shall buy any coney skins, or lamb skins, called morkins, under the number of 1,000 black coney skins, or 3,000 grey coney skins, or 2,000 lamb skins, &c. nor utter the same again in less quantities (unless to the artisan skinner) under the penalty of forfeiture of the skins, or the value thereof; one moiety to the king, and the other to the informer, who may seize the said skins, or sue for the penalty in any court of record.

Wood, coals, or fuel.—By the stat. 7 Edw. VI. c. 7. no person or persons shall buy any tall-wood, billet, faggot, coals, or fuel, but only such as will burn or consume the same, or such persons as shall sell the same again by retail, to such as shall burn or consume the same for their own occupying, without fraud or covin, of wharfingers or bargemen, upon pain to forfeit treble the value of such wood, coals, or fuel, as shall be otherwise bought for any lucre or gain; one moiety to the

the king, and the other to the informer, to be recovered in any of the king's courts of record. In default of payment of the sum forfeited, the offender to be set in the pillory in the next market town to the place where he shall so offend, by a justice of the peace, or other of the king's officer, at eleven of the clock upon the market day, with a billet or a faggot bounden to some part of his body, and so to be discharged of the said forfeiture (u).

2d. *Viſtuallers ſelling at unreaſonable prices;* viz. butchers, bakers, fiſhmongers, regrators, hoſtlers, brewers, poulturers, and other victuallers, are puniſhable by the ſtatutes 23 Edw. III. c. 6. and 13 Rich. II. c. 8. (confirmed by 4 Hen. VIII. c. 25.) by forfeiture of double the price of the commodity to the perſon damnified, to be recovered in the courts of boroughs, towns, or ports, county, wapentake, or tything, and to be levied by diſtreſs. It has been ſaid, the court-leet has not cognizance of this office; though this ſhould ſeem doubtful. On this ſtatute it has been adjudged, that the ſelling any commodity above the current market price, is an offence with-
in

(u) This ſtatute was, through miſtake, omitted to be noticed in its proper place in the former part of this inquiry.

in the meaning of it; an inn-keeper in Holborn, having been indicted thereon for selling oats above the market price, and found guilty; which was the first case heard before lord chief justice Lee (x).

3d. *The allowing foreigners to import and sell victuals.*—This depends on the statutes 6 Ric. II. c. 10. 11 Ric. II. c. 7. and 1 Hen. IV. c. 17. and 14 Hen. VI. c. 16.—During the present century, there have been so many acts respecting fisheries, and the importation of corn, and other commodities, that the provisions of these acts are almost entirely at an end.

4th. *The taxing the prices of provisions by the great officers of state.*—By virtue of the statute of the 25 Hen. VIII. c. 2. they may, upon complaint of any enhancing of the prices of victuals, without reasonable cause, set prices, except in cities, boroughs, or towns, having authority to set the prices thereof; and after proclamation made, farmers and owners keeping victuals, to the intent to sell the same, shall be obliged to sell the same to buyers at the fixed prices; and selling contrary thereto, to incur the penalties in the proclamation. This has, in several instances, been done; particularly

(x) See Ca. 32.

larly in the 5th year of the reign of king Edward VI. (anno 1550); and in the 9th year of the reign of Charles I. (anno 1633), as before noticed (y). By the first it has been seen, that the magistrates were empowered by the king's proclamation, to repair to all granaries, and inquire into the quantity of corn each individual possessed; and to order such portions to be brought to market as they thought fit, and to be sold at such prices as mentioned in the king's proclamation.

5th. *Conspiracies to raise the prices of victuals.*—The only act in force, as to this offence, is the statute 2 and 3 Edw. VI. c. 15. Offences against this act are determinable at the assizes, sessions, or court leet; and the offenders are liable to be punished for the first offence £. 10; and in default of payment in six days, imprisonment for twenty days, and to be fed on bread and water: second offence £. 20; and in like default of payment, suffer judgment of the pillory: and for the third offence £. 40; and in like default, the offender to stand in the pillory, and lose one of his ears.

(y) See ante, pages 60, 63, 79, 80.

THE STATUTE LAWS, which by the wisdom of the Legislature have been, from times of early antiquity, enacted on the subject of this inquiry, it is conceived, are to be viewed in no other light than as merely declaratory and explanatory of the common law, and descriptive of the several acts which should or should not be deemed offences of this nature: Therefore, as the preceding observations have shewn that *Forestalling, Regrating, and Ingrossing*, are *mala in se*, and as such liable to punishment, though it should be deemed that no additional delinquency is, in consequence of the statute law, to be attributed to acts in themselves intrinsically evil, yet the original crime certainly remains, which the excellent foundation of the legal jurisprudence of this country, namely, the COMMON LAW, is undoubtedly in some measure adequate to the correction of.

The statutes yet in force being few in number, are perhaps ineffectual for the prevention of these increasing offences; the common law can, however, punish the offenders by fines and imprisonment,

respecting FORESTALLING, &c. 103
ment, adapted to circumstances, and proportionate to the degree of guilt. Our common law (like the law of the Romans) has prescribed no precise penalty for these offences, inasmuch as the degree of delinquency cannot in all instances be defined; and therefore the power of punishment must be discretionary. On such occasions, the law not being exactly to be defined, the judgment of the magistrate must be interposed. That this will be just and equitable, there is no reasonable cause to doubt; no country has ever experienced greater wisdom or integrity in the distribution of justice than this; and the vigilance and activity of our legislators, afford a well-grounded hope of the adoption of measures calculated to supply any deficiencies in the existing laws, and adequate to the correction of any grievances and evils that may have arisen from misconception or ignorance on this subject.

Having thus explained the statute law to be merely *declaratory* of the common law, and not *abrogatory*; the several statutes, 5 and 6 Edw. VI. cap. 14. intituled, "An Act against Regrators, Forestallers, and Ingrossers:" 5 Eliz. cap. 12. "touching badgers of corn and drovers of cattle to be licensed:" 21 Jac. I. cap. 22. "An Act

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for the Explanation of the Statutes made in the
3d, 4th, 5th, and 6th years of king Edw. VI.
concerning the Traders of Butter and Cheese;
together with the cases on the first of these statutes,
now require insertion at full length; they are as
follow:

respecting FORESTALLING, &c. 105

for the Explanation of the Statutes made in the
3d, 4th, 5th, and 6th years of king Edw. VI.
concerning the Traders of Butter and Cheese;
together with the cases on the first of these statutes,
now require insertion at full length; they are as
follow:
Stat. 5 and 6 Edward VI. c. 14.—*Repealed*
12 Geo. III. c. 71.

An Act against Regrators, Forefallers, and
Ingrossers.

Sec. I. **A**LBEIT divers good statutes here-
tofore have been made against fore-
fallers of merchandises and victuals, yet for that
good laws and statutes against regrators and in-
grossers of the same things, have not been hereto-
fore sufficiently made and provided, and also for
that it hath not been perfectly known what per-
son should be taken for a forestaller, regrator, or
ingrosser, the said statutes have not taken good
effect, according to the minds of the makers
thereof: Therefore be it enacted and declared
by the king our sovereign lord, with the assent of
the lords spiritual and temporal, and the commons
in this present parliament assembled, and by the
authority of the same, That whatsoever person or
persons that after the first day of *May* next coming
shall

A. D. 1552.
Stat. 5 & 6 Ed. VI.
cap. 14.
Who shall be
judged a fore-
staller.

Stat. 5 & 6 Ed. VI. cap. 14.

shall buy or cause to be bought, any merchandise, victual, or any other thing whatsoever, coming by land or by water toward any market or fair, to be sold in the same, or coming toward any city, port, haven, creek, or road of this realm, or *Wales*, from any parts beyond the sea, to be sold; or make any bargain, contract, or promise, for the having or buying of the same, or any part thereof, so coming as is aforesaid, before the said merchandise, victuals, or other things, shall be in the market, fair, city, port, haven, creek or road, ready to be sold; or shall make any motion by word, letter, message, or otherwise, to any person or persons, for the enhancing of the price, or dearer selling of any thing or things abovementioned; or else dissuade, move, or stir, any person or persons coming to the market or the fair, to abstain, or forbear to bring, or convey, any of the things above rehearsed, to any market, fair, city, port, haven, creek or road, to be sold as is aforesaid; shall be deemed, and taken, and adjudged, for a forestaller.

Who shall be deemed a regrator.

Sec. II. Further be it enacted and declared, by the authority aforesaid, That whatsoever person or persons, that, after the said first day of *May*, shall by any means regrate, obtain, or get into his or their hands or possession, in a fair or market, any corn, wine, fish, butter, cheese, candles, tallow, sheep,

Stat. 5 & 6 Ed. VI. cap. 14.

sheep, lambs, calves, swine, pigs, geese, capons, hens, chickens, pigeons, conies, or other dead victual whatsoever, that shall be brought to any fair or market within this realm, or *Wales*, to be sold, and do sell the same again in any fair or market holden or kept in the same place, or in any other fair or market within four miles thereof, shall be accepted, reputed, and taken for a regrator or regrators.

Sec. III. And be it also enacted and declared, by the authority aforesaid, That whatsoever person or persons, that, after the said first day of *May*, shall ingross or get into his or their hands, by buying, contracting, or promise-taking, other than by demise, grant, or lease of land or tithe, any corn growing in the fields, or any other corn or grain, butter, cheese, fish, or other dead victuals whatsoever, within the realm of *England*, to the intent to sell the same again, shall be accepted, reputed, and taken an unlawful ingrosser or ingrossers.

Who shall be deemed an ingrosser, explained by 21 Ja. I. c. 22. sect. 6.

Repealed as to fish. 5 Eliz. c. 5. sect. 13.

Sec. IV. And if any person or persons shall at any time after the said first day of *May*, offend in any of the things before recited, and being thereof duly convicted and attainted by the laws of this realm, or after the form hereafter mentioned, shall, for his or their first offence, have or suffer imprisonment for the space of two months, with-

The punishment of the offenders aforesaid for the first offence.

out

108 *INQUIRY into the LAWS*

Stat. 5 & 6 Ed. VI. cap. 14.

The punishment for the second offence.

The punishment for the third offence.

To what retailing or other acts this statute doth not extend.

out bail or mainprise; and shall also lose and forfeit the value of the goods, cattle, and victual, so by him or them bought or had.

Sec. V. And if any person lawfully convicted or attainted of or for any the offences abovesaid, be thereof eftsoons lawfully convicted or attainted, that then every person or persons so offending, shall have and suffer for his or their said offence, imprisonment by the space of one half year, without bail or mainprise, and shall lose double the value of all the goods, cattle, and victual, so by him bought or had, as is aforesaid.

Sec. VI. And if any person, being lawfully twice convicted or attainted of or for any of the said offences, shall eftsoons offend the third time, and be thereof lawfully convicted or attainted, that then every such person, for the said third offence, shall be set on the pillory in the city, town or place where he shall then dwell and inhabit, and lose and forfeit all the goods and cattle that he or they have to their own use, and also be committed to prison, there to remain during the king's majesty's pleasure.

Sec. VII. Provided alway, and it is enacted and declared by the authority aforesaid, That the buying of any such barley, bigg or oats, as any person or persons (not forestalling) shall buy to convert into malt or oatmeal, in his or their own house

respecting FORESTALLING, &c. 109

Stat. 5 & 6 Ed. VI. cap. 14.

Badger, &c. to be allowed by the quarter-sessions, &c. by 5 Eliz. cap. 12. sect. 4.

house or houses, and so shall be converted indeed; or the buying of any such thing by any such fishmonger, butcher, or poulterer, as concern his or their own faculty, craft, or mystery, (otherwise than by forestalling) which shall sell the same again upon reasonable prices by retail; or the taking of any cattle, corn, grain, butter, cheefe, or any other thing above-mentioned, reserved without fraud or covin, upon any lease for term of life or lives, year or years, heretofore made or hereafter to be made; or the buying of any wine or other dead victual above mentioned, being apt and meet for man's sustenance, by any inn-holder or other victualler, to sell the same by retail within his house, or to any of his neighbours for their sustenance, for reasonable prices: or the buying of any dried or salted fish, herring or sprats (not forestalled) and sold for reasonable prices; or the buying of any corn, fish, butter, or cheefe, by any such badger, lader, kidder or carrier, as shall be assigned and allowed to that office or doing, by three justices of the peace of the county where the said badger, lader, kidder or carrier shall dwell, which shall sell or deliver in open fair or market, or to any other victualler, or to any other person or persons, for the provision of his or their house or houses, all such corn, grain, butter and cheefe, as any such person shall buy or cause to be bought

Stat. 5 & 6 Ed. VI. cap. 14.

bought, and that within one month next after he shall so buy any such corn, grain, butter or cheese, so that the same shall be bought without forestalling; or else that any common provision made, or hereafter to be made without fraud or covin, by any person or persons, of any of the things abovesaid, for any city, borough, or town corporate, or for provision of victualling of any ship, castle, or fort within the king's dominions, without forestalling, which shall be employed only to that use and purpose; or the buying and providing of any of the victuals above mentioned, necessary and requisite for the furniture and provision of the inhabitants of Calice, Guisnes, and other the marches of the same, or of the town of Berwick, Holy Island, or the marches of England against Scotland, which without fraud or covin shall be transported and conveyed, as soon as wind and weather may serve, to such of the places aforesaid for the which the same shall be so provided, shall not be in any wise deemed, adjudged, or taken any offence contrary to this act.

Changing of feed-corn.

Sec. VIII. And it is also further enacted, by the authority aforesaid, That, if any person or persons, after the said first day of May next coming, having sufficient corn and grain for the provision of his or their own house or houses, and sowing of their grounds for one year, do buy any corn in any fair or market, for the change of his or their feed,

Stat. 5 & 6 Ed. VI. cap. 14.

feed, and do not bring to the same fair or market, the same day, so much corn as he shall fortune to buy for his feed, and sell the same, if he can, as the price of corn then goeth in the said market or fair, That then every such person or persons so buying corn for feed, shall forfeit and lose the double value of the corn so bought.

Sec. IX. Or if any person or persons, after the said first day of May, shall buy any manner of oxen, ronts, steers, kine, heifers, calves, sheep, lambs, goats or kids, living, and sell the same again alive, unless he or they do keep and feed the same by the space of five weeks in his or their own houses, ground, ferm-ground, or else in such ground or grounds where he or they have the herbage, or common pasture, by grant or prescription, That then every person or persons so buying and selling again, shall lose the double value of the cattle or things so bought and sold again: The one moiety of all which forfeitures afore rehearsed shall be to the king, and the other moiety to him or them that will sue for the same, in any of the king's courts of record, by bill, plaint, action of debt, or information; in the which bill, plaint, action, or information, no wager of law, essoin, or protection, shall be admitted.

No person may sell his cattle within five weeks after he bought them.

Sec. X. Be it also further enacted, by the authority aforesaid, That the justices of the peace in every county within this realm, or Wales, at their quarter

The justices of peace may inquire, hear, and determine, the offences aforesaid.

Stat. 5 & 6 Ed. VI. cap. 14.

quarter sessions, shall have full power and authority, by virtue of this act, to inquire, hear, and determine all and every the defaults and offences, perpetrated, committed or done, contrary to this act, within the county where any such sessions shall be kept, by inquisition, presentment, bill, or information, before them exhibited; and by examination of two lawful witnesses, or by any of the same ways or means, by the discretion of the said justices, and to make process thereupon, as though they were indicted before them by inquisition, or by verdict of twelve men or more; and upon the conviction of the offender, by information or suit of any other than the king, to make extracts of the one moiety of the forfeitures to be levied to the king's use, as they use to do of other fines, issues, and amerciaments grown in the sessions of peace; and to award execution of the other moiety for the complainant or informer against the offender, by *feri facias* or *capias*, as the king's justices at *Westminster* may do and use to do: And if any such conviction or attainder shall hereafter happen to be at the king's suit only, that then the whole forfeitures to be extracted and levied to the king's use only.

But one punishment for one offence.

Sec. XI. And it is further enacted, by the authority aforesaid, That whatsoever person shall, at any time hereafter, be punished by virtue of this act, for any thing mentioned in this act, that then the same person shall not otherwise be vexed, troubled,

Stat. 5 & 6 Ed. VI. cap. 14.

troubled, sued, or put to any pain or punishment for that thing wherefore he or they shall have been so punished.

Sec. XII. Provided always, and it is enacted by the authority aforesaid, That it shall be lawful to every person or persons which shall be assigned and allowed by three justices of the peace of the county where he shall dwell thereunto, to buy (otherwise than by forestalling) corn, grain, or cattle, to be transported or carried by water from any port or place within this realm, or *Wales*, unto any port or place within the said realm or dominions, if he or they shall, without fraud or covin, ship or embark, within forty days next after he or they shall have bought the same, or taken covenant or promise for the buying thereof, and with such expedition and diligence as wind and weather will serve, to carry and transport the same to such port or place as his or their cockets shall declare; and there do disembark, unlade, and sell the same, and do bring a true certificate thereof from one justice of peace of the county, or mayor, or bailiff of the town corporate where the same shall be unladen, and also of the customer of the port where such unlading shall be, of the place and day where the said corn or cattle shall be disembarked, unladen and sold, to be directed unto the customer and comptroller of the port where the same

Transporting corn, &c. from one port to another by licences of the justices.

I were

Stat. 5 & 6 Ed. VI. cap. 14.

Every man may ingross corn being at these prices.

were embarked; any thing mentioned in this act to the contrary notwithstanding.

Sec. XIII. And over that, that at all times hereafter, when wheat shall be commonly at the price of six shillings and eight pence the quarter, or under; malt and barley at three shillings and four pence the quarter, or under; oats, or oats malted, at the price of two shillings the quarter, or under; pease or beans at the price of four shillings the quarter, or under; and rye or misteline at the price of five shillings the quarter, or under; all which quarters shall be intended to be of London measure; that then it shall be lawful to every person and persons (not forestalling) to buy, ingross, and keep in his or their granaries or houses, such corn of the kinds aforesaid, as without fraud or covin shall be bought at or under the prices afore expressed; any thing in this act to the contrary notwithstanding.

Within what time the offender must be sued.

Sec. XIV. Provided always, and be it enacted by the authority aforesaid, That this act, or any thing therein contained, extend not to charge any person or persons for any the offences above mentioned, unless he or they be sued for the same within two years next after such offence done or committed. This act to endure until the end of the next parliament.

Sec.

Stat. 5 & 6 Ed. VI. cap. 14.

Regrating of fresh fish.

Sec. XV. Provided always, and be it enacted by the authority aforesaid, That it shall be lawful to all and every of the king's majesty's subjects now dwelling or inhabiting, or that hereafter shall dwell or inhabit within one mile of the main sea, to buy all manner of fish, fresh or salted (not forestalling the same) and to sell the same again at reasonable prices; this act, or any thing therein contained to the contrary in any wise notwithstanding.

Sec. XVI. Provided also, and be it enacted by the authority aforesaid, That it shall be lawful to all and every person and persons, known for a common drover or drovers, being licensed, authorized and allowed in writing by three justices of the peace, whereof one to be of the quorum, of the county or counties where the same drover or drovers shall be most abiding and dwelling, to buy cattle in any such shires or counties where drovers have been wont, in times past, accustomedly to buy cattle at their free liberty and pleasure, and to sell the same, as is aforesaid, at reasonable prices, in common fairs and markets distant from the place or places where he or they shall buy the same, forty miles at the least, so that the same cattle be not bought by way of forestalling; this act or any thing therein contained to the contrary in any wise notwithstanding.

Drovers of cattle licensed by the justices, may buy and sell again. Drovers to be allowed by the quarter sessions, by 5 El. c. 12. sect. 4.

Stat. 5 & 6 Ed. VI. cap. 14.

Sec. XVII. Provided always, That such licence of justices of peace shall not endure above one year, unless the same be yearly renewed by so many justices as is aforesaid.

Made perpetual by 13 El. c. 25.—*Repealed* 12 Geo. III. c. 71.

Stat. 5 Eliz. c. 12.

An Act touching Badgers of Corn, and Drovers of Cattle, to be licensed.

Stat. 5 Eliz. c. 12.

Who shall be accounted an ingrosser by the statute of 5 and 6 Ed. VI. c. 14.

WHERE in the session of parliament holden upon prorogation at Westminster the three and twentieth day of January, in the fifth year of the reign of our late sovereign lord king Edward the Sixth, amongst other things it was enacted, That whatsoever person or persons, after the first day of May then next ensuing, should ingross or get into his or their hands, by buying, contracting, or promise-taking (other than by demise, grant, or lease of land, or tithes) any corn growing in the fields, or any other corn or grain, butter, cheese, fish, or other dead victuals whatsoever, within the realm of England, to the intent to sell the same again, shall be accepted, reputed, and taken an unlawful ingrosser

ingrosser or ingrossers; with a proviso, and ordinance contained in the same act, that it should be lawful to every person or persons, being a common badger, kidder, lader, or carrier, which shall be licensed, assigned, and allowed thereunto by three justices of the peace of the county where the said badger, lader, kidder or carrier shall dwell, which shall sell or deliver in open fair or market, or to any other victualler, or to any other person or persons for the provision of his or their house or houses, all such corn, butter, or cheese, as any such person or persons shall buy or cause to be bought, and that within one month next after he or they shall so buy any such corn, grain, butter, or cheese, so that the same shall be bought without forestalling, shall not be in any wise deemed, adjudged, or taken an offence contrary to the said act.

Stat. 5 Eliz. c. 12.

A proviso for a badger, carrier, &c. licensed.

Sec. II. And where also it is provided and enacted by the same act of parliament, That it shall be lawful to all and every person and persons known for a common drover or drovers, being licensed, authorized and allowed in writing by three justices of peace, whereof one to be of the quorum, of the county or counties where the same drover or drovers shall be most abiding and dwelling, to buy cattle in such shires or counties where drovers have been wont, in times past, accustomedly to buy cattle, at their free liberty and pleasure, and

A proviso for a drover of cattle, or for buying of corn, to be transported from one port to another.

Stat. 5 Eliz. c. 12.

to sell the same again; and that it shall be law-
ful to every person and persons which shall be
assigned and allowed by three justices of the peace
of the county where he shall dwell, to buy (other-
wise than by forestalling) corn, grain, or cattle, to
be transported or carried by water from any port
or place within this realm, or *Wales*, unto any
other port or place within the said realm or do-
minions; as in the said act, amongst other things,
doth appear:

The inconveni-
ences ensuing
the number of
drovers of cat-
tle, and badgers,
&c. of corn and
other victuals.

Sec. III. Since the making of which act, such
a great number of persons, seeking only to live
easily, and to leave their honest labour, have and
do daily seek to be allowed and licensed to the said
offices or doings, being most unfit and unmeet for
those purposes, and also very hurtful to the com-
monwealth of this realm, as well by the enhancing
of prices of corn and grain, and other the said vic-
tuals, as also by the diminishing of the number of
good and necessary husbandmen; which said number
of drovers of cattle, and badgers, laders, kidders,
and carriers of corn and grain, are many times
without good orders, and due consideration, as-
signed and allowed thereunto, to the great preju-
dice of the commonwealth:

To what kind
of persons, and
at what places
only, licence
shall be granted
to be badgers,
drovers, &c.

Sec. IV. In consideration whereof, Be it enact-
ed by the queen our sovereign lady, with the as-
sent of the lords spiritual and temporal, and the
commons in this present parliament assembled, and

by the authority of the same, That no drover of ^{Stat. 5 Eliz. c. 12.}
cattle, badger, lader, kidders, carrier, buyer, or
transporter of corn or grain, butter and cheese, be
from and after the feast of Easter next, after the
first day of this present parliament, licensed, ad-
mitted, assigned, or allowed to those offices or do-
ings, or to any of them, but only in the general
and open quarter sessions of the peace, to be hold-
en in the shire where such person or persons so to
be admitted, assigned, or allowed, doth or shall
dwell, and hath or shall have dwelled there by the
space of three years next before the teste of his
said licence: And that no person or persons,
after the first day of May next coming, be admitted
to the said offices or doings, or to any of them,
but such only as be or have been married men,
and shall be, at the time of such licence to be
granted, householders, and not household servants,
nor retainers to any person or persons, and of the
age of thirty years at the least: And that all
licences being made and granted, as is above said,
shall have continuance and be good only for one
year next after the date hereof, and for no more
nor longer time.

Sec. V. Which said licences, and every of them, <sup>The date of the
licences, and
the justices
hands and seals.</sup>
shall bear date of the day and place where the said
sessions shall be holden, and shall be signed and
sealed with the proper hands and seals of three of
the

by the authority of the same, I 4

Stat. 5 Eliz. c. 12.

the said justices of the peace, being present at the same sessions, at the least, whereof one to be of the quorum; upon pain that every person or persons that shall take any licence contrary to this ordinance, to lose and forfeit to our sovereign lady the queen, her heirs and successors, five pounds sterling: And that all licences made and granted, or hereafter to be made and granted, otherwise than is before expressed, shall from and after the said first day of May next coming, be void and of none effect.

Bonds with sureties shall be taken of drovers, carriers, &c. not to infringe this act.

Sec. VI. And further, Be it enacted by the authority aforesaid, That the justices of the peace in the said general and open sessions, shall or may, by their discretions, take bond and surety from time to time by recognizance, of such as shall be admitted or allowed hereafter a common drover of cattle, badger, lader, kidder, carrier, or buyer of corn, grain, butter or cheese, that they or any of them shall, by colour of his or their licence, forestall or ingross, or otherwise practise or do any act or thing contrary to the tenor and true meaning, or in defrauding the said former statute, or of any matter or thing therein contained: All which licences, and every of them, and the said recognizances, shall be made and written by the clerk of the peace of every county where such licence shall be granted, or by his lawful deputy, and by none other person or persons: And every person

son that shall have any such licence, shall pay to the clerk of the peace, or his deputy, for making thereof, twelve pence at the most; and for every recognizance in form aforesaid, to be made and acknowledged, eight pence at the most; and for registering of the same licence and recognizance, four pence at the most: for which said fee, the said clerk, or his deputy, shall have and keep one register-book, and therein shall register and write all the names, surnames, and dwelling-places of such as shall be licenced, as aforesaid, with a brief declaration or entry of the said licence, and of the day, time, and place where such licence or licences shall be granted: which book or register the said clerk of the peace, or his deputy, shall have and bring to every sessions, to the intent that it may appear what number of licences be and shall be from time to time granted, whereby the better consideration may be had thereof.

Stat. 5 Eliz. c. 12.

The fees of the clerk of the peace.

Sec. VII. Provided always, and be it further enacted by the authority aforesaid, That no person or persons shall or may, by authority of any such licence above-mentioned, buy any corn or grain out of open fair or market to sell again, unless such person and persons shall be thereunto licenced, and shall have special and express words contained in such licence or licences, that he or they may so do; upon pain to forfeit for every such

None shall buy corn to sell again without special licence.

Stat. 5 Eliz. c. 12.
Who shall have the forfeitures.

time that any such person or persons shall do to the contrary, five pounds: The moiety of which forfeitures above rehearsed, shall be to the queen our fovereign lady, her heirs and successors, and the other moiety to him or them that will sue for the same in any of the queen's courts of record, by bill, plaint, action of debt or information; in the which bill, plaint, action or information, no wager of law, effoin, or protection shall be admitted.

Justices of peace in their sessions shall inquire of, and determine these offences.

Sec. VIII. Be it also enacted by the authority aforesaid, That the justices of peace in every county within this realm, or *Wales*, at the quarter-sessions, shall have full power and authority, by virtue of this act, to inquire, hear, and determine all and every the defaults and offences perpetrated, committed, or done contrary to this act, within the county where any such sessions shall be kept, by inquisition, presentment, bill, or information before them exhibited, and by examination of two lawful witnesses, or by any of the same ways or means, by the discretion of the said justices, and to make process thereupon, as though they were indicted before them by inquisition, or by verdict of twelve men or more: And upon the conviction of the offender, by information or suit of any other than the queen, to make extracts of the moiety of the forfeitures to be levied to the queen's use, as they

Stat. 5 Eliz. c. 12.

they use to do of other fines and amerciaments grown in the sessions of peace, and to award execution of the other moiety for the complainant or informer against the offender, by *feri facias* or *capias*, as the queen's justices at Westminster may do, and use to do: And if after any such conviction or attainder shall hereafter happen to be at the queen's suit only; then the whole forfeitures to be extracted and levied to the queen's use only.

A city, &c. may appoint purveyors for their provision.

Sec. IX. Provided always, That this act, or any thing therein contained, shall not in any wise extend to the prejudice of the liberty of any city or town corporate; but that they and every of them shall and may lawfully assign and licence purveyors for the provision of the same city or town corporate, in such manner and form as they might lawfully have done before the making of this act.

To the inhabitants of which counties this statute doth not extend.

Sec. X. Provided further, That this act, nor any thing therein contained, shall be in any wise hurtful or prejudicial unto any the inhabitants within the counties of Westmorland, Cumberland, Lancaster, Chester, and York, or any of them, but that they may do as heretofore they have lawfully used to do; any thing in this present act to the contrary notwithstanding.

Made

Stat. 5 Eliz. c. 12.

Made perpetual by stat. 13 Eliz. c. 12. And by sect. 21. of the last mentioned act, it is provided, that the said act of 5 and 6 Ed. VI. against regrators and ingrossers, shall not extend to any wines, oils, sugars, spices, currants, or other foreign victuals imported from beyond sea, (fish and salt only excepted.)—*Repealed* 12 Geo. III. c. 71.

Stat. 21 Jac. I. c. 22.

An Act for the Explanation of the Statutes made in the third, fourth, and fifth Years of King Edward the Sixth, concerning the Traders of Butter and Cheese.

Stat. 21 James I.
The statutes of 3 and 4 Ed. VI. c. 21. and 5 & 6 Ed. VI. c. 14. explained.

WHEREAS in a parliament holden at Westminster, in the third and fourth years of the reign of the most excellent prince of happy memory, king Edward the Sixth, it was enacted, That no person or persons, after the feast of the Annunciation of our Lady then next coming, should buy to sell again, any butter or cheese, unless he or they sold the same again by retail in open shop, fair, or market, and not ingross, upon pain of forfeiture of double the value of the same butter and

and cheese so sold contrary to the tenor of the said act :

Stat. 21 James I. c. 22.

Sec. II. In and by which act it is provided and enacted, That the said word of *Retail*, mentioned in the said act, shall be expounded, declared, and taken only where a wey of cheese, or a barrel of butter, or a less quantity, and not above, should be sold at one time to any person or persons in open shop, fair or market; and that to be done without fraud or covin :

Sec. III. And whereas also by one other act made in a parliament holden at Westminster, in the fifth year of the reign of the said late king, it was enacted, amongst other things, That whatsoever person or persons should ingross or get into his hands any butter or cheese within the realm of England, to the intent to sell the same again, should be accepted, reputed, and taken to be an unlawful ingrosser, and should lose and forfeit the value of the said goods: In which act there is no proviso for retailers at all; by occasion whereof, the traders for butter and cheese for the city of London are continually vexed and molested by common informers, sometimes upon the one statute, and sometimes upon the other, to their great loss and charge :

Sec. IV. Now for that by daily experience it is found, that the traders of butter and cheese for the city

Stat. 21 James I. c. 22.

city of London, which fetch and provide the said butter and cheefe out of divers counties, upon their great travel, charge and adventure, for provision of the said city, and of others thereunto resorting, and there sell the same in their shops in open market, not only for the general use and service of the said city, and the countries adjoining, but also for any occasion which may be offered for the better expedition of his majesty's service; as also for victualling of ships which daily are victualled from this port of London, which possibly cannot be performed by the small quantities aforesaid, and according to the said statute:

Sec. V. And whereas the common informers finding that the letter of the said statute extendeth against such as do sell above the quantity of a wey of cheefe, or of a barrel of butter at one time, though it be in open shop, fair or market, and that in the other act no proviso at all is made, as aforesaid, for retailers, have of late years much troubled the traders of butter and cheefe within the city of London, with many informations, as well upon the one statute as the other, and have gotten several fums of money for composition of them, albeit were they then and are men that have apprentices, trained up in the said trade, and have no other living or trade of life, to their great hindrance and impoverishment:

Sec.

Sec. VI. For the remedy whereof, be it enacted by the authority of this present parliament, That the said act, or any of them, or any other act, statute, law, ordinance, or other provision whatever heretofore, for or concerning the sale of butter or cheefe in open shop, fair or market, or the providing or buying of any butter or cheefe, shall not in any wise extend to any person or persons, being cheesemongers, or tallow-chandlers, free of the said city, and having been brought up as apprentices by the space of seven years, trading in butter and cheefe, for such butter and cheefe, and either of them, as he and they shall utter and sell within London, and the liberties thereof, or within the borough of Southwark, or the city of Westminster, for the victualling of any of the shipping of his majesty, his heirs or successors, or for the ships of any other his majesty's subjects, or to such butter or cheefe which he or they shall sell by any quantities at one time, and to one person, not exceeding four wey of cheefe, or four barrels of butter, without fraud or covin, so as he or they sell the same in open shop, fair or market; any thing in the said acts and statutes, or any of them, to the contrary notwithstanding.

Sec. VII. Provided nevertheless, and be it enacted by the authority aforesaid, That if the justices of the peace of any of the counties of this realm of England,

Stat. 21 James I. c. 22.

The aforesaid acts shall not extend to London, Westminster, or Southwark.

The justices of peace may restrain the traders in butter and cheefe, to buy those commodities in the country.

Stat. 21 James I. c. 22.

England, or the dominion of *Wales*, at their quarter-fessions of any of the said counties, shall declare and publish in open sessions, that the traders aforesaid in butter and cheese shall forbear to buy any butter or cheese, for any time within the said county or counties, or within any parts or places of the same; that then, for and during the time of such restraint, the said traders in butter and cheese that shall buy any such butter or cheese, and sell the same again by retail, contrary to any the acts aforesaid, shall not be freed of or from any the penalties of the said acts, but shall be subject to the same, as if this act had never been made.

(2) This act to continue unto the end of the first session of the next parliament.—Continued by 3 Car. I. c. 4. and 16 Car. I. c. 16. — Repealed 12 Geo. III. c. 71.

Stat. 31 Geo. II. c. 40. made (among other purposes) to restrain Salesmen, Brokers, or Factors in Cattle, from buying, on their own Account, to sell again, any live Cattle in London, or within the Weekly Bills of Mortality, or which are driving up thereto.

Sec. XI. **W**HEREAS salesmen, brokers, or factors, employed by feeders of cattle, or farmers, to sell their live cattle within the city of London, or within the limits of the weekly bills of mortality, may be guilty of many abuses greatly to the prejudice of their employers, by indirectly selling such cattle, and by that means stocking lands, which they may hire for that purpose, near the market within the said city of London, or weekly bills of mortality, where such cattle may be brought to be sold again, whenever they shall find a proper time or opportunity of selling the same to advantage; Be it therefore further enacted, by the authority aforesaid, That from and after the twenty-ninth day of September, 1758, no salesman, or other broker or factor, who shall be employed to buy or sell any sort of cattle for others, by commission or for reward to be paid or taken, shall by himself, or any servant or agent, directly or indirectly, on or for his own account, buy any

Stat. 31 Geo. II. c. 40. unrepealed.

This act unrepealed.

Salesmen, &c. employed to buy or sell cattle for others, are not to buy or sell on their own account.

Stat. 31 Geo. II. c. 40. unrepealed.

any live ox, bull, cow, steer, bullock, heifer, calf, sheep, lamb, or swine, in London, or within the said limits of the said weekly bills of mortality, or at any place whilst any such cattle shall be on the road, or be driving, bringing, or coming up, to be fold, or offered to or for sale in London, or at any other place within the said limits of the said weekly bills of mortality (other than such cattle which any such salesman, broker, or factor, shall actually purchase for the necessary use or provision of his family, and shall actually use accordingly): and no such salesman, broker, or factor, after the said twenty-ninth day of September, shall sell or expose, or offer to or for sale, on his own account, in London, or at any place within the said limits of the said weekly bills of mortality, either by himself or his servant, or agent, any live ox, bull, cow, steer, bullock, heifer, calf, sheep, lamb, or swine; upon pain that every person who shall so offend in the premises, shall, every time he shall be convicted of any such offence in manner hereinafter mentioned, forfeit and pay for every such offence double the value of any live cattle which he shall so buy or sell, on his own account, contrary to the tenor of this act.

(Exceptions)

On penalty of forfeiting double the value.

Recovery and application of the forfeitures: viz. on complaint made, on

Sec. XV. For the more speedy recovery of all and every the money which shall be forfeited by breach or non-observance of any part of this act, and for the

the disposing thereof; Be it further enacted by the authority aforesaid, That, on complaint being made on oath, to any justice or justices of the peace, of any offence committed against this act, within his or their respective jurisdictions, such justice or justices is and are hereby required and authorized to issue his or their summons, to convene the person or persons charged with being an offender or offenders against this act: and also any witness or witnesses for any of the parties, at a certain time and place in such summons to be specified; and if any one so summoned shall not appear on such summons, or offer some reasonable excuse for the default, then any such justice or justices shall issue his or their warrant or warrants for apprehending the party or parties so making default within the jurisdiction of any such justice or justices: And, upon the party or parties complained against, appearing, or being brought before any such justice or justices, on his or their warrant or warrants; or in case the party or parties complained against shall not appear on such summons being served on him, or left for him or them at his or their usual place of abode, and proof shall be made thereof, by oath, before any such justice or justices; then every such justice or justices is and are hereby authorized and required to proceed to make inquiry touching the matter complained of,

Stat. 31 Geo II. c. 40. unrepealed.

oath, of the offence, the justice is to summon, &c. the offender and witnesses.

On the parties appearing or not appearing thereupon, the justice is to proceed to hear and determine the matter of complaint in a summary way:

Stat. 31 Geo. II. c. 40. unrepealed.

and, on non-payment of the forfeiture, on conviction, is to issue his warrant for the levying thereof by distress and sale :

and, for want of distress, to commit the offender, for any time not exceeding one month, nor less than ten days, unless payment be sooner made.

and to examine into the same by the oath or oaths of a credible person or persons as shall be requisite, and to hear and determine the matter of every such complaint; and, on confession of the party, or proof of one credible witness, upon oath, to convict or acquit the party or parties against whom complaint shall be made; and if the money forfeited shall not be paid down on every such conviction, every such justice or justices shall issue his or their warrant or warrants, under his hand and seal, or their hands and seals, for levying thereof within his or their jurisdiction, by distress on the goods and chattels of every such offender or offenders, and to cause sale to be made of such goods and chattels, in case the money forfeited, together with the charges of such distress and sale, shall not be paid within five days after the making any such distress and sale; rendering the overplus (if any) to the owner thereof, upon demand, after deducting the reasonable charges of every such distress and sale : And if any such offender shall not have any goods or chattels within the jurisdiction of such justice or justices, whereon the money forfeited can be levied, any justice or justices within whose jurisdiction any such offender or offenders shall be, shall and may issue a warrant or warrants, under his hand and seal, or their hands and seals, on the application, or on the behalf of any informer or informers,

Stat. 31 Geo. II. c. 40. unrepealed.

Witness refusing to be examined, may be committed for any time not exceeding ten days.

Seller aggrieved by the judgment of a justice may appeal to the quarter-sessions;

informers, to apprehend every such offender and offenders, and to commit him or them to some public prison, or house of correction, of the county, division, city, town, or place, in which any such offence shall have been committed; there to remain for any time not exceeding one calendar month, nor less than ten days, from the time of every such commitment; unless such offender or offenders shall sooner pay the money forfeited: And if any witness who shall appear, or be brought by any warrant before any such justice or justices, shall refuse to be examined, any such person refusing to be examined, may be committed by any such justice or justices to some prison of the county, city, or place, where such witness shall so make default, for any time not exceeding ten days from the time of every such commitment, as any such justice or justices shall think fit.

Sec. XVI. Provided always, and be it further enacted, That if any person or persons convicted of any offence punishable by this act, shall think him, her, or themselves aggrieved by the judgment or determination of any justice or justices as aforesaid, such person or persons may appeal against the same to the justices at the general or general quarter-sessions of the peace of the county, city, or place, in which any such conviction shall have been made, which shall be held next after such conviction;

Stat. 31 Geo. II. c. 40. unrepealed.

conviction; unless such next general or general quarter-sessions of the peace for any such county, city, or place, shall be held within six days next after such conviction: and if any such general or general quarter-sessions of the peace, shall happen to be held within the said space of six days next after such conviction, then it shall be lawful for any such person or persons to appeal against such judgment or determination to the justices at the second general or general quarter-sessions of the peace which shall be held for any such county, city, or place, next after any such conviction: but the party or parties who shall think fit so to appeal, shall, before any such appeal shall be received, enter into a recognizance with two sufficient sureties, before such justice or justices as aforesaid, in double the sum which such person or persons shall have been adjudged to pay or forfeit, to prosecute every such appeal with effect, and to be forthcoming to abide by and obey the judgment and determination of the justices at any such general or general quarter-sessions of the peace on every such appeal; and shall also give three days notice, in writing, of every such appeal, to, or leave the same at the usual place of abode of the person or persons who shall prosecute to conviction the party or parties so appealing: And the justices of the peace at such general or general quarter-sessions,

entering into recognizance, and giving security to prosecute the appeal with effect:

and giving due notice thereof to the prosecutor.

Justices to hear and determine the matter of

are

are hereby authorized and required, on every such appeal being made, finally to hear and determine the matter of every such appeal; and to make such order, and award such costs therein, as they in their discretion shall deem meet: And the determination of such court of general or general quarter-sessions, on every such appeal, shall be final and conclusive to all parties thereto appealing; and no *certiorari* shall be allowed to remove any such proceedings or determination.

Stat. 31 Geo. II. c. 40. unrepealed.

appeal accordingly, and award costs.

Their determination to be final, &c.

Sec. XVII. And be it further enacted by the authority aforesaid, That one moiety of all money forfeited by this act, shall, when recovered, go and be paid to the person or persons who shall prosecute to conviction any offender or offenders against this act; and that the other moiety thereof shall go and be paid to or for the use of the poor of the parish or place where the offence shall have been committed.

Forfeitures to be applied; one moiety to the prosecutor, the other to the poor of the parish.

Sec. XVIII. Provided always, and it is hereby further enacted, That any inhabitant of the parish or place in which any offence shall be committed against this act, shall, notwithstanding such inhabitancy, be good and competent witness.

Inhabitants deemed competent witnesses.

Sec. XIX. And be it further enacted, by the authority aforesaid, That if any plaint, action, or suit, shall be commenced or prosecuted against any person or persons, for what he or they shall do or

Limitation of action.

Stat. 31 Geo. II. c. 14. unrepealed.

General issue.

Treble costs.

have done in pursuance or in execution of this act, the same shall be commenced within six months after the offence committed; and shall be laid in the county or city where the offence shall have been committed; and such person or persons so sued, in any court whatsoever, shall and may plead the general issue, not guilty; and may give this act and the special matter in evidence, at any trial to be had thereupon: and if a verdict shall be found for the defendant or defendants, or if the plaintiff shall become nonsuit, or discontinue his action, after the defendant shall have appeared; or if judgment shall be given, upon a demurrer, against the plaintiff or plaintiffs, the defendant or defendants, in every such action, shall recover treble costs, and have the like remedy for the same as any defendant or defendants hath or have in other cases for recovery of his or their costs.

ADJUDGED CASES

UPON THE

STATUTE 5 and 6 EDWARD VI. C. 14.

ANON.

Godbolt, Rep. 131. Hil. 29 Eliz. In the Common Pleas.

AN Information was upon the statute of 5 and 6 Edw. VI. for buying of seed-corn, having sufficient of his own, and not bringing so much unto the market of his own (see sect. 8.) corn; and a general issue was found upon it. And it was delivered for the law to the jury by the justices, that a contract in market for corn not in the market, or which was not there that day, is not within the branch of the statute. But if corn or grain be in the market, although that the contract be made in a house out of the market, and delivered to the vendee out of the market, yet it is within the statute. And in the argument of that case, Anderson said, *That the market shall be said,*
the

Ingrossing corn.

Adjudged Cases. *the place in the town where it hath used to be kept, and not every place of the town: and a sale in market overt in London, ought to be in a shop which is open to the street, and not in chambers or inward rooms, otherwise the property is not altered. And so it is of all statutes in open markets. And the recorder of London said, That such was their custom in London.*

Martin Van Hubeck's Case.

2 Leon. 39. Argued Trin. 30 Eliz. In the Exchequer.

(Case 2.) *Corn.* UPON the statute of 5 Edw. VI. of ingrossers, if the information be, that the defendant hath bought corn, &c. it is not sufficient; for the words of the statute are, "Get into his hands." (See sect. 2.)

ANON.

Moore's Rep. 595. Pasch. 35 Eliz.

(Case 3.) *Corn.* IT was held clearly by Popham and Fenner, that a buyer of corn, to convert it into meal, and then sell it, is not ingrossing within the statute of 5 Edw. VI. c. 14.

Braddon versus Bowen.

Cro. Jac. 214. Mich. 6 Jam. I. In the King's Bench.

(Case 4. a.)

Information for ingrossing apples.

INFORMATION in the exchequer upon the statute of 5 & 6 Edw. VI. for the ingrossing of apples, being

Adjudged Cases being dead victual, the defendant being a costermonger: and it was thereupon demurred, that it was out of the statute, and is not such victual as the law intends: and it was adjudged accordingly, and error thereof brought in the exchequer chamber; and, upon conference, the two chief justices resolved, that it was not within the statute: and Coke said, there was not any thing prohibited within the statute, but it had a proviso, how, in some kind, it might be bought; but there was not any such proviso for apples, therefore it never was intended to be restrained: and for that cause the judgment was affirmed.

Baron and Boys's Case.

13 Coke's Rep. 18, 19. Mich. 6 Jac. I. In the Exchequer. (Case 4. b.)

Apples. IN the case between Baron and Boys, in an information upon the Statute of 5 and 6 Ed. VI. c. 14. of ingrossers, after verdict, it was found for the informer, that the defendant had ingrossed apples against the said act: The barons of the exchequer held clearly, that apples were not within the said act, and gave judgment against the informer upon the matter apparent to them, and caused the same to be entered in the margin of the record where the judgment was given; and the informer brought a writ of error in the exchequer chamber, and the only question was, whether apples were within

Adjudged Cases.

within the said act? The letter of which is, "That whatsoever person or persons, &c. shall ingross or get into his or their hands, by buying, contracting, or promise-taking (other than by demise, grant, or lease of land, or tythe) any corn growing in the fields, or any other corn or grain, butter, cheese, fish, or other dead victual, within the realm of England, to the intent to sell the same again, shall be accepted, &c. an unlawful ingrosser." And although that the statute of 2 Ed. VI. cap. 15. made against sellers of victual, which for their great gain conspire, &c. numbereth butchers, brewers, bakers, cooks, costermongers, and fruiterers, as victuallers; yet apples are not dead victuals within the statute of 5 Ed. VI. for the buyers and sellers of corn, and other victuals, have divers provisos and qualifications for them, as it appeareth by the said act; but costermongers and fruiterers have not any proviso for them: Also, always after the said act, they have bought apples and other fruits by gross, and sold them again; and before this time no information was exhibited for them, no more than for plumbs or other fruit, which serveth more for delicacy than for necessary food. But the statute of 5. Ed. VI. is to be intended of things necessary and of common use for the sustentance of man; and therefore the words are, "corn, grain, butter, cheese, or other dead victual;"

Adjudged Cases.

tual;" which is as much as to say, victual of like quality, that is of like necessary and common use: but the statute of 2 Ed. VI. cap. 15. made against conspiracies to enhance the prices, was done and made by exprefs words to extend it to things which are of more pleasure than of profit: So it was said, that of those fruits a man cannot be a forestaller within this act of 5 Ed. VI. for in the same branch the words are, "Any merchandise, victual, or any other thing." But this was not resolved by the justices, because that the information was conceived upon that branch of the statute concerning ingrossers.

Vaux v. Austin, et al.

Lane 59. Trin. 7 Jac. I. In Scacc.

INFORMATION against several for ingrossing one thousand quarters of corn, upon not guilty pleaded, the jury found one of the defendants guilty for seven hundred, and the others not guilty at all. After much debate, judgment was given against him.

(Case 5.)

Corn.

Information against *West* in *C. B.*

Owen 134. Trin. 9 Jac. I.

(Case 6.)

IN an information upon the statute of 5 & 6. Ed. VI. cap. 14. for buying of wheat-meal, and converting it into starch; it was resolved by three of the

Information for buying wheat-meal, and converting it into starch; resolved by three judges that it is not within the statute.

Adjudged Cases.

the justices, Coke being against it, that this is not within the statute; but they agreed that if one bought corn, and thereof made meal or oatmeal, and sold it, that this was within the statute; for that is usual, and is no alteration, and therefore remains the same corn; but starch is altered by a trade or science, which is a mystery, and so it is not the same thing that was sold. But Coke, chief-justice, *contra*, and cited one Franlingham's case, Mich. 39 and 40 Eliz. in B. R. where one bought barley; and because it was of such quantity that he could not make malt of it in his own house, he made malt thereof in another's house. And it was resolved,

First, That the conversion of corn into malt in his own house, with an intent to sell it, was within the statute, unless there be a saving for it.

Secondly, Forasmuch as it was in another's house, he is out of the proviso, and so within the penalty of the statute. And in Pasch. 42 Eliz. between Reynolds and Gerret, that if a miller buys corn, and grinds it, and sells it within his house, this is within the statute; and in the exchequer chamber, in a writ of error there between Baron and Boys, adjudged there, that a cofermonger, who buys pippins to sell them again, was out of this statute, because they are not necessary victual. And divers exceptions were taken to the information;

viz.

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viz. where he saith, *ligamen* anglice starch; whereas there is no such word, but it is *legumen*, and the anglice will not help this mistake: Coke 10 Rep. 134. And this exception was taken by justice Winch.

But Warburton justice, *cont.*—For starch is a thing newly devised, and there is no latin word for it, and therefore the *anglice* there is good.

Foster justice took an exception, because the information concluded, *contra formam statuti*; whereas it ought to have been *contra formam statutorum*. For this statute was of force until the 8 Eliz. and then was determined until the 13 of Eliz. and then it was revived, so there are two statutes; but it was agreed that where a statute continued *de tempore in tempus*, and was never discontinued nor determined, there it shall be said *contra formam statuti*; and this diversity hath been twice adjudged upon the very statute; viz. 9 Eliz. in Palmer's case, and in the 35 Eliz.

Warburton *cont.*—For the information doth intend only the statute 5 & 6 Ed. VI. c. 14. and he did recite the words thereof in his information; also this statute only makes the offence, and declares the manner of it; and no other statute makes any addition to it, or increaseth the penalty, but only revives it to endure in perpetuum. But if a statute doth prohibit a thing, and another gives a pe-

nalty,

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nalty, there, upon information upon the penalty, both statutes ought to be recited, and to conclude *contra formam statutorum*. And so the statute of usury, 37 H. VIII. is revived by 13 Eliz. and an addition made to it, there such conclusion ought to be *contra formam statutorum*; but where the statute is only revived, it is otherwise: as the statute of perjury, 5 Eliz. was continued until the 14 Eliz. and then it was determined, and 27 Eliz. was revived; yet all informations upon that statute are *contra formam statuti* 5 Eliz.

Coke.—This is no good exception, and cited Talbot and Sheldon's case. Hilar. 33 Eliz. who were indicted for recusancy *contra formam statuti* 23 Eliz.; and in a writ of error the judgment was reversed, because the penalty was demanded; for the 10 Eliz. made the offence, and 13 Eliz. gave the penalty; but if the information be for the offence only, there it had been good. See The New Book of Entries, 182. But if there be divers statutes in the point of information, *contra formam statuti* is good, because the information shall be taken for the king. Vid. 8 Ed. III. 47. 5 Hen. VII. 17.

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Ferdinando Crosse, informer, against *Westwood*.

2 Brownl. 108. Mich. 9 Jac. 1611.

(Case 7.)

INFORMATION upon the statute of 5 & 6 Ed. VI. cap. 14. exhibited by *Crosse* against *Westwood*, for that the defendant had bought in gross and gotten into his hands, by buying and not by lease, forty quarters of wheat-meal, price of every quarter forty shillings, to the intent to put that in water; and after that being dried again, then of that to make starch, against the form of the said statute; and so demanded fourscore pounds for the king and himself, according to the statute, and upon this the defendant demurred in law, upon the information this case came in question: and it was argued by *Nichols* serjeant, for the defendant, that there was not any law against ingrossers known what ingrossing was, before the making of this statute, which declares and describes who shall be an ingrosser. Then he considered if the ingrosser described in the information, be such an ingrosser which is intended by the statute, and he seemed that no; for he said the ingrosser contained in the information is not one which bought corn growing in the field, nor corn, nor dead victuals, which are the words contained in the statute; but he is charged for buying of wheat-meal, and it seems that that is not within the

Information for buying wheat-meal and converting it into starch; resolved by three judges that it is within the statute.

Adjudged Cases.

words of the statute. Also ingrosser intended within the statute, ought to buy that, to sell the same again, and so is not the ingrosser in the information charged; and if he be not within the words, he shall not be within the punishment; for it is a penal law, and shall not be taken by equity; and so much the more, because it inflicts corporal punishment upon the offender. And then to consider the words of the statute, he supposed that wheat-meal is not within the words, corn growing, nor corn; but the question is, If it be within the words dead victuals? And to that he said, that it hath been adjudged, that a costermonger, which buys apples to sell again, is not within the words dead victuals; and he said that flour and meal are things of which victuals are made, and not victuals themselves; but there ought to be another thing done to them by the industry of man to make them victuals; as if a baker buy wheat and make into bread, this is out of the provision of the law, and not aided by the proviso, which provides for fishmonger, poulterer, and butcher, which buy such things which concern their faculty, craft, or mystery, if it be not by forestalling; but this doth not extend to all crafts: But he supposed, that when the nature is altered, that is out of the purview, and is another thing, and shall not be replevied, notwithstanding that

6 replevin

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replevin lieth of fow and pigs, where the fow only was imparked, but not of leather made in shoes. Also he seemed that the defendant is not charged, that he had an intent to sell the same again; and if a man buy corn for the provision of his house, this is out of the statute, notwithstanding that it be by ingrossing. And so if a man buy barley and make that into malt, and sell it again in malt; or if a man buy oats and convert that into oatmeal or other flour, and then sell it again, this is out of the statute; and if so it be, then upon this he inferred, that this is not so much as if he had sold that afterwards, when he had altered it in nature, as in making of wheat-meal into starch; for in the cases before cited, things bought are of another nature: so if a man hath many farms, or ground sowed with corn, and he sells them to another, this is no forestalling within the statute, if it be not driving to market; and he saith, that regrator is defined by the statute to be him which buys in one market and sells that in another market within four miles; and he is an ingrosser and regrator also. So if a man buy wheat, and makes cakes of that, this is out of the statute; or if a merchant buy corn beyond sea, and sell that here, this is out of the statute; for it ought to be bought and sold also within the realm: So if corn reserved for rent be sold again, this is out of the statute. And so concluded: First, That the buying of wheat-

meal

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meal is not buying of corn growing, corn, nor dead victuals; and the sale of that in starch is not the sale of the same thing again; and prayed judgment for the defendant.

Dodridge, serjeant of the king, for the king and the informer, supposed the contrary; and to him it seemed that there are three things considerable upon the statute: that is, the scope, the letter, and the offence; and to the offence, he intended that it is the offence which is contained in the information which is provided to be punished by the statute; and he said that the offence is confessed by the demurrer: and he said *there were divers good laws against ingrossers before making of this statute: but it was not defined who was an ingrosser*; and this was the evasion that such malefactors escaped by without punishment. And he saith, *there are three notable enemies to the commonwealth: first, forestallers: secondly, regrators: thirdly, ingrossers*: and forestaller is he which prevents the sale in open market; ingrosser is he which ingrosseth in his hands; and regrator is he which sells again; and he which will be an ingrosser, will be a forestaller also; and so of the contrary, and these offences make dearth, and for that their gain is called wicked gain: (See the statute of 31 Ed. I. Rastal forestallers &c.) and they are safely to be esteemed which merchandize of merchants, because

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cause they cannot gain unless at least they lie: and this statute hath given a livery to those malefactors by which they may be known; for he hath them described and defined; and this is the scope of the statute: thirdly, he considered the letter; and for the better intelligence of that, he considered the body and proviso of the statute, and ties himself to an ingrosser, and would not meddle with the other offences contained in the statute; the words of which are, "Whatsoever person or persons shall ingross, or get into his or their hands by buying, &c. (other than by lease, &c.) and corn growing in the fields, or any other corn or grain, &c. or other dead victuals whatsoever, shall be accepted, reputed, and taken, an unlawful ingrosser, &c." And it hath been objected, that it is a penal statute; and for that shall not be taken by equity, and also is declaratory, and for reason also shall be taken strictly. But he supposed, that, admitting that the offender contained in the information be out of the letter of the statute, that yet he shall be within the equity, and that the statute shall be taken by equity: but he intended first, what was within the letter of the statute; for wheat made into meal is wheat, and barley made into malt is barley; and so it is contained in the information: that is, that he hath bought wheat made into meal: and allowing that corn is victual, then, *a fortiori*, meal is

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is dead victual; for it is a degree nearer to the use of man and to sustenance; and by the same reason that it is not victual, inasmuch that another thing ought to be made to it before it may be used; by the same reason flesh shall be no victual, for that ought to be boiled or roasted, which is another thing also, before it can be used; and he said that meal is the staff of sustenance; and, of all dearths, the dearth of meal and corn is the greatest; and he which wants bread, wants all other victuals; for all others, without this, breeds diseases; and for that corn is the victual of victuals; and so he supposed this remains corn: and admitting that not, yet it is within the words dead victuals. Also he intends that the statute shall be taken by equity, notwithstanding it be penal, inasmuch that it is for public good, as the statute of 25 Ed. III. of petty-treason, contains the matter only: and yet, if a servant kills his mistress, that shall be taken within the statute; and so if the servant kills his master, after that he is departed out of his service, upon malice conceived during the time that he was in his service, this shall be also within the statute, and yet is not within the words of the statute; and so of the statute of 13 and 27 Eliz. of fraud upon taking by equity; and yet all these statutes are penal. But inasmuch that they are made for the public good, and for punishment

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ment of offences which tend to the contrary, they shall be out of the general rule. But he intended that the same thing which was bought was sold again; for it is confessed by the information, that he hath sold meal, and it was not the thing that was first bought; and if it were sustenance before that the water was put to it, the putting of water to it doth not make alteration, and is contained in the information that the defendant sold the same meal that he had bought by the name of starch; and this is confessed by the demurrer, and by that, if meal be victual, then he hath sold meal-victual by the name of starch; and to the objection, that it is not the same thing, inasmuch that the replevin doth not lie for the meal after that is made in starch, he saith, replevin doth not lie for the corn itself, if it be not in bags; and if the meal were in bags, notwithstanding that water were put to it, yet replevin lies; and it is reason that this shall have a large and beneficial construction, inasmuch as it appears by the preamble that this is made against the caterpillars of the commonwealth; and to the objection that the statute is declaratory, and for that it shall not be taken by equity, if this rule shall be observed, then all the questions in the court of wards, and in Butler and Baker's case, 3 Coke, they have been in vain. And yet it appears that equity was there taken for equity: but in these

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cases the exposition may be besides, but not contrary to the words: and also he intended, that the proviso expounds the body of the statute: and by the proviso it appears, that the buying of barley, and converting it into malt, and the sale of that afterwards, and the buying of oats, and the converting of that into oatmeal, and the sale of that afterwards, should be within the statute, if it had not been excepted by the proviso: and yet there is an alteration of the thing which is bought: and if a man buy barley by forestalling, and make that in malt, and then sell it again; this is within the statute: and there is no difference betwixt this case and malt, for the barley is put into water and dried again; and so it is here, the meal is put into water and dried again, and yet that is within the statute; and the manner and nature of offence every one which hath a household and family knows; for the finest wheat meal makes sustenance for the master of the family, and the other makes several sorts for the residue of the family, and the bran makes bread for horses; so that the virtue of that is, that it feeds both man and beasts; and all this is prevented by making that new-devised vanity, and the quantity of wheat which is employed is incredible, and may feed many; and if the makers of that have gained the name of an occupation, this is worse, for this furthers vanity, against the law as justice requires. *Ad illud* unity, *ovillo*

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nity, and takes away the sustenance of many, and enhanceth the price of wheat; and is so new an invention that there is not a Latin word for it; and so he concluded that he is an offender, and within the scope of the letter of the law, and that the preamble and proviso hath been so expounded, and that as to mean occupations, *as tanners, and such like, which bought hides and sold them again:* and he said that they did them further for the use of man, and made that more apt and fit for use, and without that a man could not use them; but in this case the starch makers further the abuse; and prayed judgment for the king and for the informer, *per quod dicitur quod dicitur per quod dicitur*. And at another day this cause was argued again by Houghton for the defendant, that the statute is penal for forfeiture of goods, as for corporal punishment; and for that it shall not be taken by equity, nor by interpretation, but strictly according to the letter, as in Reniger and Fogasse's case, Commentaries 18. By Polard, it is a principle in law, that a penal statute shall not be taken by equity, as in the statute of Westminster 1. chap. 35. gives an attaint in real actions; and notwithstanding that perjury be an offence against both the tables, and in attaint it is of necessity that it be perjury in the petty jury, and yet this doth not extend to personal actions; 5 Ed. III. 6. 13. 4 Ed. IV. 17. 1 Ed. III. 6. gives attaint as well for damages excessive

Sic in orig.

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cessive as for the principal; and this shall be taken strictly: also as it is said by Eineva, 14 H. VII. 14 a. and in 27 H. VI. 8. general penal statutes shall be limited to certain times; as the statute of Westminster 2. cap. 11. which gives power to auditors, which find accountants in arrearages, to commit them to prison; but it ought not to be forthwith; and this for the favour of the defendant: and this is the reason also of the judgment in Fogasse's case by the statute of agreements, that every agreement shall be taken within the statute; and so the statute of the 23 Hen. VI. provides that the sheriff shall not let out his county: and 20 H. VII. 21. it is agreed that the letting out of a hundred is not within the statute: and it is also agreed, in Partridge's case, Com. 87. that the statute of 32 H. VIII. of buying of tithes, shall not be taken by equity; and the reason is there given, inasmuch that it is a penal law; and if it be so that the statute shall not be taken by equity, he considered if it be within the words; and to that he intended that it is not corn which is bought, for it is changed into another thing; and also it is not dead victual, for it is not victual till another thing is made of it; also the same thing that was bought ought to be sold again, or otherwise it shall not be within the words of the statute, and by consequence out of the penalty; as if a man buy corn, and make that into meal, bread,

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bread, or puddings; this is not within the statute: so the buying of apples, and selling them again, it is no victual within the statute; so a butcher which buys cattle, and though he kills and sells again, is not within the statute; and he says that starch is no good food when it is dry again, which proves that this is another thing than the meal which was bought, and so out of the letter of the statute; and to the proviso which excepts barley that is bought and made into malt, and oats made into oatmeal and sold again, it seems that this is an idle proviso and surplufage, as in Porter's case, 1 Coke 24. 6. in the statute of 27 H. VIII. proviso to except good uses out of the statute, enables men to devise to such uses: and so the statute of 5 Ed. VI. cap. 16. the body of which extends only to offices, covenant, administration of justice, or the revenue of the king as receiver, controller, &c. And yet a keeper of a park is excepted out of this, more for the satisfaction of the ignorant burgeses than for any necessity; and so he concluded and prayed judgment for the defendant.

Montague, serjeant of the king, for the king and for the informer, argued to the contrary, that, as to the objection that coftermongers are not within the statute, he saith, that that is a thing of delicacy, and not victuals within the statute; but he saith it was adjudged

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adjudged in the Exchequer, that the buying of meal, and the felling of that again, was within the statute; and in this case the information is that the defendant had bought meal and sold the same again by the name of starch, which is confessed by the demurrer: and for the exposition of the statute, he considered the mischief before the making of that, the remedy which is provided by the statute, and the office of a good judge, that is to advance the remedy and to suppress the mischief: and he intended that this was punishable by the common-law in another form, as waste; notwithstanding an action doth not lie, yet prohibition lies at the common law; and by the statute of 27 E. III. justices in Eyre ought to inquire of all grievances and oppressions to the people, and there cannot be greater grievance or oppression than that is which deprives them of their food; and for that he is called the oppressor of the poor, and Fleta calls him Wolf, which ought to be hunted from place to place; and 43 Assize, a man was punished by fine and ransom, and yet then the offence was uncertain; but now it is made certain by defining it by this statute; so that this is a statute of definition only, and the statute of 31 Ed. I. inflicts the punishment; and to the objection, that it is not the same thing which is sold which was bought, he said it is the same in intent, for it produceth the same mischief. See
condly,

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condly, it is the same substance, and the same form (that is, the formal substance) which gives the being, but not an accidental form: and he saith that if a man have corn, and another by wrong takes it from him, and doth convert it into meal, he may take that back again; otherwise of iron made into an anvil; but trees made into timber, and plate altered in fashion, may be taken back again; otherwise if it be converted into coin: and so upon the statute of 12 H. VIII. if a servant sells the goods of his master, and steal the money, that is out of the statute; but if the servant carry corn to the mill, and this is converted into meal, and then the servant steals it, this is within the statute; for this is the same thing, 28 H. VIII. A man pleads (he appearing seized to the same use) it shall not be intended the same, but such uses, and Browning and Beeston's case in the Com. A man is bound to pay twenty pounds at Michaelmas, and also afterwards to pay twenty pounds at the same feast, and that was intended the same feast in another year; and not in the same year; so that the word same shall not be so precisely taken, but as patent of the king for making of a thing, of which a man hath made a new invention is good, if it be limited for certain time only, as Hastings hath a patent for making frizado only, as a thing newly
invented

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invented by him, but inſomuch that this varies only in the form of making of that, and not in ſubſtance, the patent was adjudged void: ſo a patent made to a cutler for gilding, inſomuch that this varies only in form; this was not allowed to be a new invention: ſo a patent made to Johnson for new caſting of lead, inſomuch that this varies only in form, and not in ſubſtance, this agreed with the antient, this was alſo void; and if the ſtarch made be another thing than the meal which was bought, then it ought to be another in nature and quality: but this is not, for ſtarch is uſed for victual in Spain and other countries, as rice is uſed: ſee 46 Affize 8. 27. And he intended that the proviſo made that clear and without queſtion, for there cannot be a difference made between that and malt; and if malt had not been within the body of the act, this would not be exempted by ſpecial proviſo: and ſo the ſtatute of 25 H. VIII. c. 2. for transportation of victual in Ireland, except meal; which proves alſo that meal is included within the words dead victual; and which hath been within the body of the ſtatute if it had not been excepted: and to the objection that it is a penal law, and for that ſhall have ſtrict oppoſition, and not by equity: but he ſaith that this rule fails as to the intereſt of the commonwealth; that is, when

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when the commonwealth is intervenient: and to the objection that this is a thing invented after the making of the ſtatute, he answered, that, with the caſe of Saint John, 5 Coke 71 b. which inhibits hand guns; and it is there adjudged, that dags and ſtone-bows, which are of later invention, ſhall be within the ſtatute, for they are their invention, and their form of the things which are inhibited; and ſo Vernon's caſe, 4 Coke, if he to whoſe uſe enfeoffs his ſon and heir, this ſhall be taken within the ſtatute of Marlebridge; and yet he to whoſe uſe cannot make a feoffment, nor uſes were not not known till many years after the making of this ſtatute: and baker furthers the meal for the uſe of man, and for that he may ſell it in bread without any puniſhment; and then he ſaid it was the office of a good judge to ſuppreſs the miſchief and to advance the remedy, as the lord Anderſon ſaith in Brown's caſe, 3 Coke: and ſo he concluded and prayed judgment for the king and the informer. And note that this caſe was ſolemnly argued by all the juſtices of this court; and it was adjudged, that this was ingroſſing within the ſtatute by Warburton, Foſter, and Winch. But the lord Coke argued the contrary, Walmſley being abſent that term.

The ſame queſtion was argued the ſame term in

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* So in Brownlow; but it should have been against Collins. by an informer.

the Exchequer, upon an information there exhibited by one Collins, * an informer; (1) and it was there argued by Hitchcock, of Lincoln's-Inn, for the defendant; and he argued that the starch was not the same thing which was bought, no more than if it had been made in bread; and he cited the book of 5 H. VII. 15, 16. where it is agreed, that if a man takes barley and makes malt of that, that he from whom it was taken could not take the malt, for that, that there the thing is altered in another nature; and he intended that the starch is not the same in number nor quality; but he agreed, that if wheat be only ground, that this, notwithstanding, is within the statute; but if it be made into bread, and then sold, it is not within the statute, for then it is another body, and other things added to it; and the form is also altered, and the form gives the being and the name; and if water be turned into wine, it is no water, though it be by miracle; so if a person be made bishop, he is not the same person, for honours change manners; and this is his reason that the writ shall abate, for

(1) A copy of the information in this case, under the name of Bridgman, qui tam, &c. v. Collins, from manuscript Reports of the early part of the reign of James I. (in the possession of Mr. Caley) where the case is better reported, will be found in Appendix K.

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it is newly created, as of nothing. 7 H. VI. 15. 22 R. II. Brev. 93 b. 2 R. III. 20. Also the statute of 21 H. VIII. which provides that the party from whom any goods are stolen, after that the felon is indicted, shall have restitution of the same goods; but if the corn be stolen and converted into meal, the owner shall not have restitution, for it is not the same which was stolen; but if plate be stolen and altered in other form, yet the owner shall have restitution of that, as he said, which was adjudged for the king, 40 Eliz. But where restitution upon a writ of error, where the judgment is that the same thing shall be restored, that if yet term, shall be sold by *fieri facias*, and after the judgment is reversed by error, he shall not be restored to the term, but shall have the money for which it is sold: also he saith it is not the same in number and substance; for the first thing was corrupt, and the corruption of that was the beginning of the new; and the wheat is the matter of which, and also water is, and fire, and the heat of the sun; and after that it is made in starch, it will not be dissolved and made into victual no more than bread, and the worst wheat will make the best starch; also he intended, that it is not in the same condition nor similitude; also he objected, that *legumen*, which is the word contained in the count, is no Latin word at all, but *legumen* is the Latin word,

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word; and that is Latin for pulse; and that not being any Latin word, the English which is added will not help it: and so he concluded and prayed judgment for the defendant.

Dodrige, the king's serjeant, for the king and for the informer, argued, that the starch is the same (numero) in number, quality, and substance, not in likeness; and that the statute is no law of explanation, but of definition of three severals, which make dearth without want; and the forestalling prevented the punishment of law before the making of this statute; but now these are in several degrees; that is, forestalling is commonly ingrossing, and regrating; and ingrosser is always regrator; and that the defendant in this case is ingrosser of victuals; that is, victuals which is the staff of man's health; and the want of that is more grievous than the want of all other things, and the dearth of that is the most pinching dearth which may be, and the gain of that is a base gain; and they which basely buy of merchants, that they may straightways sell not any thing unless they may get great gains, or save in the measure; and they are called regrators, *as grators of the faces of the people*; and if this statute had been executed, this had prevented many dearths; and to the objection that it is a penal law, and for that shall be taken strictly; and there is a general rule, and as true as it is general;

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neral; but it is true if it be not within the exception, that is, if public good doth not intervene; and here it concerns the commonwealth as much as the lives of men; and many other penal statutes have been taken by equity; as the statute which makes that to be petty-treason if the servant kill his master: and in the 19th H. VI. it is agreed, that, if the servant, after he is departed out of the service of his master, kill him upon any malice conceived during the time that he was in his service, this shall be taken within the equity of the statute; and so the statute of 33 H. VIII. was made precisely against hand-guns, and daggs are taken within the equity of that, notwithstanding that they were invented after the making of that statute, and were not known at the time of the making of that; for they are the same in intention, at it is resolved in *Streche's case*, in *Coke* 71. b. and to the words of the statute, "who shall sell the same," it intends that starch is not the same in all, but only in similitude, for a thing which is of the same similitude, is not the same, but like the same, for no like is the same. Also he intended, that it is the same both in number and form; and he agreed, that the form gave the being, for that is not the accidental as here it is, but it is the substantial form; and every one knows that meal of wheat is the same as pepper beaten in a mortar, and pepper and all other spices;

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fo that it is the same in number, existence, substance, and essence; and he intended also the same in intention; for meal is victual, and is dead victual, be it corn or meal; and corn ground and made in meal, then sold, yet that remains dead victual, though that it be not the same corn; and to prove that corn is victual, he cited the statute of 25 Ed. III. stat. 5. chap. 7. which provides that no forrester shall make any gathering of victuals by colour of their office; and he intended that corn was within this statute; and so also of the statute of the 3 P. and M. chap. 15. Rastal, universities, which provides that, to the purveyor, bargainer for any victuals within five miles of any of the universities of Oxford or Cambridge, where grain and victual are joined together. So the statute of 25 H. VIII. chap. 2. abridged by Rastal, victual, 15. which inhibits the transportation of victual, if it be not of meal and butter into Ireland; by which it appears that meal is dead victuals: and he said, that victual is that which refresheth man; and victuals are those things which to the use of eating and drinking are necessary. So that meal is the same in number, though that the corn were turned into meal. And he cited Peacock and Reynold's case to be adjudged 42 Eliz. that if a man buy corn, and convert that into meal, and so sell it, it is within this statute: and he said, that if a man be made a knight, hanging his action,

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tion, that this shall abate his action; but yet he remains the same person, but his name is changed; which is the cause of the abatement of his action, 7 H. VI. 15. Also the defendant is concluded by his demurrer upon the information, to say that it is not the same thing, for this is confessed by the demurrer; and though that the name be changed, this is not material, if the substance be the same: and he agreed, that a baker which buys wheat, and makes it into bread, is not within the statute; for he furthers that to the use of man, as a carrier makes the leather more fit and apt for use; but so doth not he which makes it into starch, for he furthers the abuse: for it is no lawful occupation, but idle and frivolous furtherance of vanity of men. And in 35 Hen. VI. 2. if a man enter into the land of another man, and cut trees, and that square, and make it into boards, yet if the owner enter, he may take them: but if it be made into a house, otherwise it is, for there it is mingled with other things; as it is 5 Hen. VII. 15, 16. for iron made in anvil: but of leather made in shoes otherwise it is, inasmuch that it is mingled with other things, 12 Hen. VIII. 11, 2. A dead stag is not a stag, but is a certain dead thing and flesh; as a man dead is not a man: but agreed the books of Hen. VII. 15 and 16. that corn converted into meal cannot be restored nor reprized;

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no more may that if it remains in corn, if it be not in bags : and he said, that upon the statute of Merton, the re-disseisin after the recovery in assize, if the same disseisor makes re-disseisin, the sheriff may examine that, &c. ; and it is agreed in 27 Hen. VI. that if a tenant in tail be disseised, and recover in assize, and is put in possession, and after his estate is altered, and he become tenant in tail after possibility of issue extinct, and then the disseisor makes re-disseisin, that this is aided by the statute, not that it is alteration of the estate : and also he saith, it appears more fully by the proviso, by which it is provided that barley turned into malt, and oats turned into oatmeal, if it be by ingrossing, it is within the purview of the statute : so if it be by way of forestalling, or if they sell them again before that they are converted, shall be regrators ; and to the objection that other things, that is, water and fire, are added to that, he saith that none of them remains ; for the fire dries the water, and the fire also goeth out ; and so he concluded, and prayed judgment for the king and the informer ; and it was adjourned.

(Case 8.)

Arg. in Robert Scarlet's Case. 12 Co. Rep. 99. Trin. 10 Jac.

THE statute 5 Ed. VI. c. 14. of forestallers, ingrossers, and regrators, gives the penalty to be recovered in any court of record.

The

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The King v. Davies.

1 Roll. Rep. 11. Pasch. 12 Jac. I. in B. R.

(Case 9. a.)

ONE was indicted and convicted, by the name of Davies, fishmonger, for ingrossing and buying several salmons *quas tenuit & vendidit* ; it was objected, that every fishmonger, by the statute, might buy and sell at pleasure ; but the contrary was adjudged if at unreasonable prices ; and the book says, that ingrossing fish going to market is punishable. And per Coke, if a man buys malt and sells it again at unreasonable prices, this is within the statute.

Indictment for ingrossing salmon.

Suckermann and Coates v. Sir Hen. Warner.

(Case 9. b.)

2 Bullst. 249. Mich. 11 Jac. per Coke, C. J.

Fishmongers may justify the buying of fish, if they sell this again at reasonable rates ; but if they sell again at unreasonable rates, then they shall be taken to be within the statute of *ingrossers* ; and so it shall be also of *maltsters*, if they buy and sell again, at unreasonable rates, they shall be within the statute of *ingrossers* ; if they do impose upon these their commodities great prices at pleasure, they shall then clearly be taken to be *ingrossers*, and be punished for the same.

(8. 10. 11.)

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The

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(Case 10.) *The King and Goldesborow against Wbider, defendant.*

2 Bull. 317. Hil. 12 Jac. I. in B. R. 1. Roll. Rep. 134. S. C.

Information for ingrossing corn upon stat. 5 Edw. VI. c. 14. 7 Hen. IV. Cumulus uncertain.

IN an information, exhibited upon the statute of 5 Ed. VI. cap. 14. for ingrossing of corn, divers stacks of corn, and it is by this word, *cumulus*, the certainty of this ought to appear; for the quantity thereof, what this *cumulus* is, for by this *non constat curia*, upon this information, for what he should be found guilty by the 7 H. IV. fol. 30.

In an affize of rent, the quantity of land ought to be shewed, out of which the rent is issuing.

Coke, chief justice.—I never did see an information in this kind, but for so many loads of corn, or quarters of corn, but never with this word *cumulus*, being altogether uncertain; for the same might be a heap threshed, or in shocks, but most properly when threshed; here it is altogether uncertain.

quedam portio terre, not good for uncertainty, 11 H. IV. and so of an *ejectione firme*, for a ridge of land not good, being uncertain; for that in some countries a ridge of land is more, and in some countries less; also a detinue lieth not, *de uno cumulo*, no indictment can be, *de uno cumulo tritici pretii*, this is not good, for uncertainty.

Dodderidge.

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Dodderidge.—There cannot be a good bar to this information; this information here is framed upon a penal law, and therefore the certain quantity of corn ingrossed ought to appear to the court: and it was never heard to have an action brought for an heap of salt.

Houghton, justice.—An *ejectione firme*, brought *de uno clauso vocat. Green acre*, is not good.

Coke.—We have adjudged this to be bad for uncertainty; *præcipe quod reddat viginti libras terre*, in ancient time this was good; but now *explosa est illa opinio*, for the same ought to contain certainty, or not good, because of the *habere facias possessionem*; and therefore certainty ought to appear, or not good; the whole court clear of an opinion, that the information here was not good, for the uncertainty in it.

The King v. Wray.

Roll. Rep. 194. Pasch. 13 Jac. in B. R.

INFORMATION against a foretaller, who pleaded guilty, and prayed the court to mitigate the forfeiture. Coke, on hearing the statute 5 Ed. VI. c. 14. read, seemed to think they might mitigate the forfeiture, because it was only of the value.

(Case 11.)

Court may mitigate forfeiture.

Edward

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Edward Smith, qui tam, &c. against Stephen Bointon.

(Case 12.)

Information for ingrossing barley and beans.

Bridg. Rep. 48, 49. Hil. 13 Jac.

IN an information, because the defendant, between the twentieth of June, 12 Jac. and the fourth of July next after, at Westminster, in the county of Middlesex, did buy in gross, and obtain into his hands, by buying and contracting of divers persons unknown, three hundred quarters of barley, of the value each quarter of twenty pounds; a hundred quarter of beans, of the value of twenty pounds every quarter, *ad revendendum contra formam statuti, &c.* whereupon an action accrued to the king, and the informer to have of the defendant four hundred pounds; *viz.* the value of the barley and beans, whereof the informer prayed a moiety, &c.

The defendant, as to the ingrossment, between the twenty-second of May, 13 Jac. and the fourth of July next after, pleaded not guilty.

And as to the ingrossment between the said twentieth day of July, 12 Jac. and the said twenty-second of May next after, the defendant saith, that before the exhibiting of the said information, *sc.* the twenty-second of May, 13 Jac. one Robert Beadow did exhibit an information in the exchequer for the king and himself against the defendant,

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defendant, because the defendant, between the first of June last, and the day of the said information, did ingross five hundred quarters of wheat, of price every quarter thirty pounds; five hundred quarters of barley, of price every quarter twenty pounds; five hundred quarters of oats, of price every quarter twenty shillings; and five hundred quarters of beans and peas, of price every quarter twenty shillings, *ad revendendum contra formam statuti, &c.* And did aver, that Stephen Bointon, named in the first information, and Stephen Bointon, named in the last information, are one person, and not divers; and that the said three hundred quarters of barley, and a hundred quarters of beans, specified in the last information, are parcel of the aforesaid barley and beans in the first information, *unde petit judicium*, of the last information, the said first information depending determinable.

Upon which plea Mr. Attorney demurred in law.

And I conceive that judgment ought to be given for the king and the informer for two reasons.

The offence in the first information is alledged to be between the first of June, 12 Jac. and the two and twentieth of May, 13 Jac. so that, for any thing appears to the contrary, this may be done between the first of June, 12 Jac. and twentieth

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tieth of July next, which is not any part of the time contained in the last information; and then that is no answer to the ingrossing between the twentieth of July, 12 Jac. and the two and twentieth of May next, unless he had averred in fact that it was within the time contained in the last information.

The twenty-second of May, 13 Jac. is not answered to at all; and it may be that the ingrossment was on that day; for the plea of not guilty goes only between the two and twentieth of May, 13 Jac. and the fourth of July next; and the last information is between the first of June, 12 Jac. and the twenty-second of May; so that the twenty-second of May is utterly excluded; and that is part of the time contained in the last information.

The first information is for ingrossing of beans and peas, being a mixed grain; and the last information is for beans only; and beans by themselves cannot be parcel of beans and peas, being a mixed grain.

And after judgment was given for the king and the informer, and that principally for the second exception.

(Case 12.)

(Case 13.)

(Case 14.)

The

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The King v. Hook.

1 Rol. Rep. 421. Mic. 14 Jac. in B. R.

(Case 13.)

It ought to be alledged that the goods were coming to the market to be fold.

ONE was indicted on the statute 5 Ed. VI. 6. as a forestaller; and the indictment was, that he met with J. S. at D. near Bristol, and bought so much lead of him, which was to have been fold at Bristol market. It was objected, that the indictment was ill, because it did not set forth that J. S. was coming towards the market with the lead; for the statute is, that a forestaller is he who buys any thing of one coming to the market with it; and the averment ought to be, that it was coming to the market at that time.

Dawkes v. Hills.

Mo. 879. Hil. 14 Jac.

(Case 14.)

INFORMATION for ingrossing cattle; the defendant justified as to a certain number under two several licences, without shewing how many by one, and how many by the other; and on demurrer it was adjudged for the plaintiff.

Licence.

ANON.

Noy, 27 Hil. 15. Jac. in C. B.

(Case 15.)

IT was said by Hubbard, chief justice, and Winch, but Warburton *contra.*—That if a man hath

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hath a licence of forestalling upon the 5 Ed. VI. c. 14. he need only recite the statute 5 Ed. VI. in his pleadings, without pleading 13 Eliz. for the licence is grounded only upon 5 Ed. VI. and the 13 Eliz. only qualifies the person.

The King and Smith v. Carter.

(Case 16.)

Licence.

INFORMATION on 5 Ed. VI. for ingrossing corn; the defendant justified as to part, by licence from three justices of peace, but did not aver his selling it again in one month after. It was held not good without such averment, it being parcel of the statute, and not in nature of a condition subsequent, which is to be alledged by him that will take advantage thereof.

Davison against Culier, in the city of Norwich.

Bridg. 5 Trin. 18. Jac. I.

(Case 17.)

Information for ingrossing wheat.

THE plaintiff, at the sessions of peace held at Norwich, 16 *Jacobi*, did inform, for the king and himself, that the defendant, being a grocer, the first of September then last past, at Norwich, did ingross and get into his hands, by buying, contract, or promise, of divers persons unknown, four hundred quarters of wheat, each quarter at the price of forty shillings, to the intent to sell the same

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same again, contrary to the form of the statute; whereof he prayed, that the defendant might forfeit the value of the corn, and that he might have half the value, &c.

The defendant pleaded not guilty.

The jury find that by 5 Ed. VI. it was enacted, that every person, who, after the first of May thence next ensuing, shall get into their hands by buying, contract, or promise, &c. otherwise than by devise, grant, or lease of land or title, any corn growing in fields, or any other grain, butter, &c. or dead victuals, to the intent to sell them again, shall be taken to be an ingrosser; and for the first offence shall be imprisoned two months without bail, and shall forfeit the value of the things ingrossed. And as to three hundred eighty quarters of the said wheat, they found the defendant not guilty; and as to the twenty quarters residue, they found that the defendant, the first of September, 10 *Jacobi*, and continuing afterwards till the tenth of August next following, at the said city, did use the art and trade of starch making; and that he, on the twenty-first of September, 15 *Jacobi*, did get into his hands by buying, and not by devise, grant, or lease, twenty quarters of wheat, residue of the said four hundred quarters, to the intent to convert the same into starch; and on the twentieth of October in the same year, did convert the same into

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into starch, and the twenty-sixth of October did sell the same to several persons; and that every one of the said quarters, at the twenty-first of September, was of price thirty-six shillings. But whether the defendant were guilty of the ingrossing aforesaid, according to the form of the statute, the jury knew not, and therefore desired the opinion of the court; but if otherwise, &c. and this record was removed into the king's-bench by a certiorari, and judgment was given against the king and the informer.

(Case 18.)

Information for ingrossing butter and cheese.

Bedoe v. Alpe.

Sir Will. Jones's Rep. 156. Mich. 20 Jac. I. in B. R.

INFORMATION in the exchequer for ingrossing butter and cheese. Upon not guilty pleaded, it was found against the defendant; and a writ of error being brought in the exchequer chamber, the exceptions, amongst other things, were, for that the forfeiture was prayed *legalis monete Angl.* (with a blank) *ad valorem predict.* *Butyri & Casei*, but held well enough, without mentioning any particular sum, that being to be settled by the jury. Another exception was, that it was not alleged in the information, that the defendant had it not by demise, grant, &c. but this was also held good; it being a matter for the defendant himself to give in evidence; for that the plaintiff demanded his

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his own moiety, and took no notice of the moiety belonging to the king; but this was disallowed, for all the precedents agree therewith, and accordingly the judgment was affirmed.

ANON.

2 Rol. Rep. 400. Pasch. 21 Jac. I.

(Case 18.b.)

INFORMATION in the common-pleas upon the statute 5 Ed. VI. of ingrossing; and the judgment was, that he be *in mercy*, when it should be *capiat*, because an offence against the statute. Adjourned.

(31-320)

Indictment for ingrossing salt.

The King versus Maynard.

Mich. 7. Car. I. in B. R. Cro. Car. 231.

(Case 29.)

INFORMATION for ingrossing one hundred bushels of salt to sell again, contrary to the form of the statute *quinta Edw. Sexti, cap. decimo quarto.* Upon the declaration, it was demurred, and argued by Noy and Mason, that this information is not maintainable: First, because ingrossing is no offence in itself, nor forestalling and regrating were not in themselves offences punishable before the statute; nor is ingrossing in itself unlawful, but by consequence, or by reason of the things bought and made dearer, which ought to be shewn in the indictment or information: Secondly, because it is not any

Adjudged Cases. any victual within the words or intent of the statute; for it is not victual, but only *condimentum*, and for preservation of victual; and he cited a record, Pasc. 18 Eliz. adjudged that buying of barley and converting it into malt, and selling it, was no offence punishable in a mayor who sold it, nor made him to be a victualler (the mayor being prohibited to sell victuals) and *vicefimo Jacobi*, adjudged likewise that *hops* were not *victuals* within the statute; and Pasc. 15 Jac. rot. 36. adjudged, that *buying of apples to sell again* was not *within the statute* of 5 Ed. VI. and where it is mentioned, 13 Eliz. cap 25. that the statute of 5 Ed. 6. doth not extend to buying of oils, wine, and other merchandize, except fish and salt, it is to be intended that was not in the point of ingrossing, but for forestalling and regrating, which is prohibited: and it would be a great inconvenience if salt should be within the law to be victuals, to be prohibited to be ingrossed, for then it should extend to those that carry salt in wains to be sold, and would enforce every one to buy salt by the bushel or peck, at ships or salt-pits, which the law never intended; but the law intends those things which are sold in great quantity usually, at every market in every county, as corn, cattle, butter, cheese, &c. *But if any ingross all the salt, with an intent to sell it at his own price, and at unreasonable prices, he may be thereof indicted,*

Adjudged Cases. *indicted; as for an offence, at the common law; and if it be found, he is finable, as appears by a record, Pasc. 43 Ed. III. rot. 19.* shewn in court; whereupon it was adjourned. *Vid.* Record; Appendix H.

Fenn's Case.

Trin. 9 Car. I. in B. R. Cro. Car. 314. Sir W. Jones, 320. S. C. (Case 20.)

FENN, a fishmonger of London, was indicted at Newgate sessions, for that he ingrossed divers kinds of fish; *viz.* smelts, whittings, &c. *ea intentione ad revenden. contra form. statuti.* Unto this he pleaded not guilty, and the indictment was removed hither by *certiorari*. Henden serjeant moved, in arrest of judgment, that by the express words of the act of 5 Ed. VI. fishmongers, butchers, &c. are not said to be ingrossers, nor within the statute for ingrossing, if they buy only things belonging to their trade; for it is not the intent of the statute to restrain them, it being necessary, and for the benefit of the subjects that they should buy such things. But the court held, that although they be not within the statute for ingrossing, yet if they regrate and sell at unreasonable prices, they are expressly within it; and he is indicted, that he bought *ea intentione ad revendendum contra formam statuti*, and is found guilty; so it shall be intended that he ingrossed and did not sell at reasonable prices; and if he ingrossed

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groffed and sold at reasonable prices, it ought to have been shewn to the jury upon evidence, as all the court agreed; there being a proviso contained in the act, that one may take advantage by giving in evidence, without formal pleading thereof. And forasmuch as he is here found guilty, it shall be intended, that he ingrossed *contra formam statuti*; wherefore rule was given, that judgment should be for the king against the defendant, unless other matter were shewn to the contrary upon the Monday following; at which day Grimston moved, that the trial was ill, because it was tried at the same sessions that he was indicted, which ought not to have been; but to have a *venire facias* returnable at the next sessions, and he relied upon 22 Ed. IV. *corone* 44; *sed non allocatur*, for it is the usual and common course to try at the same time the party is indicted, especially as this case is being at the gaol-delivery, and the party in prison. Vide 9 H. VIII. Keilway 159. that trial before justices of gaol-delivery may be the same day: thirdly, he shewed that the entry is, that the defendant pleaded not guilty, *et de hoc ponit, &c. et Johannes Michaell qui pro rege sequitur similiter, &c.* and it doth not appear by what authority he joined that issue; for the king's attorney, or one that is in *loco suo*, ought to have joined; *sed non allocatur*, for the said John Michaell is the clerk of the peace in London,

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London, and he is an officer known to the said court where the indictment was taken, and it needs not to be mentioned in the record, and the court here knows it well enough; wherefore it was adjudged accordingly for the king.

ANON.

Cro. Car. 380. Mich. 10 Car. I.

(Case 21.)

SEVERAL were indicted, for that they ingrossed *magnam quantitatem straminis & feni*, at C, with an intent to sell and make it dearer; it was objected, that the indictment was ill, because it did not say, *quilibet eorum* ingrossed, *sed non allocatur*. Then it was objected, that it was ill, for that the indictment did not mention how many loads of hay and straw they ingrossed; and for that cause the indictment was quashed.

Indictment for ingrossing hay and straw.

Styl. Rep. 190. Hil. 1649. in B. R.

(Case 22.)

UPON an indictment preferred 22 Car. at the assize in Kent, against one ingrossing apples, pears, and cherries, framed upon the statute made against ingrossers of victuals, the defendant pleaded and was found guilty; formerly judgment was arrested, and the counsel heard. Edward Johnson of the Inner Temple prayed for judgment for the keep-

Indictment for ingrossing apples.

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ers of the liberty, &c. notwithstanding what had been objected formerly; and that upon those reasons: 1. Because that apples, pears, and cherries, are victuals within the statute; and that because the statute is not to be abridged; and the statute of 2 Ed. VI. made concerning fruiterers, expounded this statute, that apples, pears, &c. are victuals, for the fruiterers are called sellers of victuals; and for *Bois*, his case that is objected that apples are not victuals; it is not to be meant of all sorts of victual in a general acceptation; and without doubt ingrossing of them is ingrossing at the common-law, 26 Eliz. Salt is no victual *per se*, nor is used as victual in any country; yet it is there said to be victual. But apples are victual *per se*; no costermongers are called victuallers by their charters. Roll, chief-justice, said, That, 4 Jac. apples were adjudged *no victuals*; and after, upon a writ of error, this judgment was affirmed in the exchequer-chamber, and therefore that judgment is not to be lightly passed over; and if they should be adjudged victuals, the trade of the costermongers would be destroyed; and for salt, it is no victual (a), but a preservation of victual; and hops were adjudged to be no vic-

(a) By the acts of the commonwealth (though of no force) salt is described as a victual.

tual,

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tual, 20 Jac. upon a reference made to the judges. Neither are apples to be accounted victual within the statute. Jerman, justice, differed; and Nicholas, justice, held, that apples are victual within the statute, because they are better than fish. *Ask, justice, held that apples are victual, but not within the statute*; for a statute cannot alter by reason of time, but the common-law may. It was adjourned.

Charles Hamond, qui sequitur tam, &c. plaintiff,
v. William Taylor, defendant.

Hard. Rep. 231. Trin. 14 Car. II. in Scaccario.

(Case 23.)

IN debt upon the statute of 5 and 6 Ed. VI. c. 14, concerning ingrossers, &c. for ingrossing two thousand quarters of oats; after *nil debet* pleaded, it appeared in evidence upon a trial, that they were foreign oats, and exempted by the 13 Eliz. c. 23. as foreign victuals; to which the court agreed, and also that the defendant was a licensed badger, and by that too exempted from the penalty of the statute. And it was held by Hall, chief baron, that any thing in the same statute upon which the suit is commenced, may be given in evidence; but if it be in another statute, it must be pleaded; but that since the statute 21 Jac. I. upon the general issue, any thing may be given in

Debt for ingrossing oats.

N 4

evidence

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evidence and excuse of the party; and thereupon the plaintiff was nonsuited.

The King against Fenner.

(Case 24.)

2 Keb. Rep. 468, 469, 479, 503. Hil. 20 & 21 Car. II. in B. R.

Feme covert ought not to be indicted as an ingrosser, without her husband is joined; if she is, it is error.

THE defendant as spinster, alias the wife of William Fenner, was indicted on the 5 Ed. VI. cap. 14. for ingrossing; in arrest of judgment, Symson excepted, that she being a feme-covert, her husband ought to be joined, because a feme-covert cannot ingross. Jones, for the plaintiff, that, as Hob. 93. Moor and Hufey, the husband shall not be joined where fine and imprisonment is to be; sed per curiam, Hob. 179. Loveden's case, as on the statute of recusancy, or of keeping ale-houses, the husband must pay the fine, therefore must be joined; for it cannot be levied upon her, albeit she alone keeps the ale-house or commits the fault. Et adjournatur.

Afterwards, in Easter term, Jones moved to have his judgment in indictment against 5 Ed. VI. of F. spinster, alias dict. the wife of such a man, 1. that this is no sufficient allegation, she is a wife, and so this doth not appear on record. 2. She is not chargeable without the husband, as Hob. 93. Moor and Hufey: and Dr. Hufey's case, the statute on which his indictment is grounded for ingrossing,

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grossing, gives only a penalty and no corporal punishment; and the husband cannot be joined to the wife in indictment as in action or information for her offence. Twifden doubted this alias dict. void, albeit in criminal cases the alias be good; and the clerks agreed that in indictments the husband is never named, but only in informations. 3. Twifden doubted the wife cannot be said to fell or ingross; but per curiam, the wife may as well ingross and fell as convert or eject, which must be actually proved against the wife; and the court agreed the addition is never put in the alias dict. but all conceived, that after verdict she may be intended a single woman, the alias dict. being usual and doth not necessarily imply she was a wife, but so called, and judgment pro rege nisi.

Afterward, in the same term, Symson, for the defendant, that she being a feme-covert, no judgment can be against her for ingrossing and selling one hundred of mackerel upon the statute, all she hath being her husband's; and she doth here sufficiently appear to be a feme-covert by the alias dict. which is as applicable to her as such as otherwise, therefore shall be intended such; sed non allocatur, for the alias dict. is nothing, and the verdict hath found her guilty, which they could not do were she a feme-covert; and this may be assigned for error in fact that she was covert, and judgment

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ment *pro rege*; and after she was fined fifteen shillings, the value, &c.

Rex versus Copeland.

(Case 25.)

Comb. 3 Mich. 1 Jac. II. in B. R.

Indictment in London for ingrossing in Surry.

INDICTMENT for ingrossing upon 5 Ed. VI. exception was taken, that the indictment was laid in London, and the sale in Surry. Ruled, that it is well enough on a special verdict.

ANON.

(Case 26.)

1 Show. Rep. 292. Holt Rep. 325. S. C. Mich. 3 W. and M.

Fish.

INDICTMENT for forestalling, by buying fish at Billingsgate, and held by Holt at *nisi prius*, that the party was not guilty; for Billingsgate was a market time out of mind; and so the party was acquitted, and by him; were it otherwise, all the fishmongers were liable to prosecution.

Note, this was at the instance of that company, against a poor woman that cried fish.

The King v. Galle.

(Case 27.)

Carth. Rep. 465. Mich. 10 Will. III. in B. R.

Informations brought by the attorney-general upon any penal statutes, are void.

AN information was brought by the attorney-general against the defendant, founded on the statute of Ed. VI. for that he had sold cattle alive in Norfolk within the space of five weeks after he had

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had bought them; by which he had forfeited double the value of the cattle.

Upon not guilty pleaded, there was a verdict against the defendant; and now it was moved, in arrest of judgment, that no such information would lie in this court, because the statute 21 Jac. expressly enacts, that all informations brought by the attorney-general upon any penal statute in any of the courts at Westminster, shall be void and of no effect.

But, on the other side, it was endeavoured to distinguish this case from those cases upon statutes, which give justices of peace in their sessions the ordinary jurisdiction only; because this statute of Ed. VI. gives the sessions power to proceed upon it, as well in a summary way, by examining two witnesses to the fact (which is an extraordinary jurisdiction) as well as by trial by a jury.

And it was never intended by the statute 21 Jac. to confine any proceedings to inferior courts, but in cases only where the trial of the fact is directed by the statutes to be by jury in such courts, because of the great entrenchment upon the common-law, which allows no trial but that of twelve men on oath.

But the court, upon reading both the statutes, was of opinion, that, since it was clear the defendant might have been prosecuted at the sessions, by way

Adjudged Cases.

way of indictment upon this statute of Ed. VI. therefore this case was plainly within the restraint of the statute 21 Jac. and against the express words thereof, it being an information by the attorney-general.

That it hath been always ruled, this statute 21 Jac. doth not give any new jurisdiction to justices of peace, justices of oyer and terminer, &c. where they had none before; and therefore it doth not extend to any penal laws, upon which the prosecutions can only be in the superior courts at Westminster.

And upon this reason are the opinions founded in those books, where it hath been held, that an action of debt upon a penal law will still lie in the superior courts, because no such action can be commenced before the court of sessions, or before justices of nisi prius, or oyer and terminer.

The information was quashed.

Dominus rex versus Gaul.

1 Salk. 372. Hil. 10 Will. III. B. R.

(Case 28.)

Information or popular action on penal statute made before 21 Jac. I. c. 4. cannot be brought in B. R. unless for facts done in the county where the court sits.

AN information on the 5. and 6 Ed. VI. cap. 14. for buying and felling live cattle, not having kept them the time the statute appoints, was exhibited in this court. The buying and felling was alleged to be in Norfolk; and it was insisted, that

A judged Case.

that the information ought to have been brought in Norfolk, where the fact was done, and not in Middlesex; and that the statute of the 21 Jac. I. was made for the ease of the subject. On the other side it was objected, that the king's bench is not restrained, and that the attorney-general may exhibit informations in this court for the king, notwithstanding the statute; and he cited Latch 192. 1 Sid. 360. 2 Keb. 340. 1 Vent 8. Jones, 193. 3 Keb. 247. 2 Cro. 178. 3 Inst. 176. 191. 1 Cro. 112.

And now Holt, chief-justice, said, ten judges had agreed in the following resolutions:

First, That the 21 Jac. I. c. 4. does not extend to any offence created since that statute; so that prosecutions on subsequent penal statutes are not restrained thereby; but that statute is as to them, as it were, repealed *pro tanto*.

Secondly, That all informations and popular actions on penal statutes made before that act, must by force of 21 Jac. I. c. 4. be laid, brought, and prosecuted in the proper county where the fact was done.

Rex versus Foster.

Lord Raym. 475. Trin. 11 Will. III.

(Case 29.)

FOSTER was indicted for that he had ingrossed *magnos et excessivos numeros volucrum ferarum*

Uncertain indictment.

Adjudged Cases. *rum anglie*, wild fowl *mortuarum*, with a design to make them dearer, &c. Mr. Robert Eyre moved to quash it for the uncertainty, because they do not shew how much, &c. and he cited Cro. Car. 380. *magnam quantitatem straminis et feni*, held ill (see 2 Bullt. 317. 1 Roll. Rep. 134. and the case of the King and Roberts, Show. 389.) since the revolution; where a ferryman was indicted for extortion, in taking four pence a score for sheep carried over, where he should have taken but two pence a score, &c. The defendant, upon not guilty pleaded, was convicted; but judgment was arrested, because the indictment did not shew for how many score he had taken four pence; and the indictment against Foster was quashed.

Cases on the Statute 3 & 4 Edw. VI. for buying Cattle.

The Queen v. Ingershall.

Cro. Eliz. 309. K. B.

(Case 30.)

Information for buying cattle out of market.

AN information was brought against defendant for buying cattle out of a fair or market, and supposeth he bought them of one Pierpoint *et aliis ignotis*; defendant pleaded not guilty, and the jury found for the defendant. And upon an attaint brought, the grand jury found, that it was given

in

in evidence before the petit jury by one Whitworth, that the defendant out of the fair or market bought forty live cattle, which were the cattle of Pierpoint, but they found that in truth the cattle were bought of Whitworth as his cattle, and that it was not given in evidence that they were bought of Whitworth, as the cattle of Whitworth; therefore the jury acquitted him. And it was said the buying cattle of any other person is sufficient to maintain the information; and although it be matter of law, yet the jury finding the contrary to it, an attaint lies. But *the court held* there was no sufficient matter to attaint the jury. For it appeared that the evidence given to them was false in part, and although the falsity was in a point not material, *scil.* that the cattle were the goods of Pierpoint, whereas they were the goods of Whitworth, yet by reason of this falsity the jury need not give him credit for the other part; and so they had no cause to find their verdict upon oath against the defendant. And here, though it was found he sold them *ut averia* Whitworth, yet there is no express averment that they were the cattle of Whitworth.

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ANON.

Latch. Rep. 192.

(Case 31.)

AN action was brought in London, in the sheriff's court, upon the statute 3 and 4 Edw. VI. for buying

An action on 3 & 4 Edw. VI. for buying live cattle cannot be brought in the sheriff's court,

Adjudged Cases.

buying and selling of live cattle in the same market, and by the court it cannot be done; and the party having removed it here by habeas corpus was discharged. The suit in this case being upon a penal statute, it ought to be brought in the court of sessions of the justices of the peace. And it was held by Doderidge, Whitlock, and Jones, that the statute 21 Jac. c. 4. does not restraint suits to the king's bench, because the king's bench is not named.

On the Statutes against Victuallers selling at unreasonable Prices.

Johnson's Case.

(Case 32.)

Cro. Jac. 609.

An innkeeper indicted for selling oats at unreasonable prices.

JOHNSON, an inn keeper in Holborn, was indicted on the statutes 13 Rich. II. c. 8. and 4 Hen. VIII. c. 25. for selling oats above the market price, which was twenty pence per bushel; for defendant being a common inn-keeper sold to divers of the king's subjects at his inn, in Holborn, two hundred bushels of oats for 2s. 8d. per bushel—divers exceptions of matter of form were taken to the indictment, which were over-ruled; and defendant was found guilty.

N. B. This was the first cause tried by Sir James Lee, after his being made chief justice.

A P P E N D I X.

PLACITA coram Dño Rege & Rado de Henghm̄ & fociis suis Justic^o ad placita Dñi aud̄ & t̄minanda in Octab̄ S̄ci Michis Anno r̄^o r̄^o Edward̄ sc̄do incipiente anno t̄cio.

Appendix (A.)

2 & 3 Edw. I.

Adhuc de Quindena S̄ci Mich.

Rot. 9.

Suffex ff. **W**ills de Breüs attach fuit ad respond̄ Robo Agyllun de p̄to q̄r cū de jure liceat quibz̄cūqz fidelibz̄ r̄^o & omibz̄ qui

PLEAS before the Lord the King and Ralph de Hengham, and his companions, Justices (assigned) to hear and determine Pleas of the King, on the octave of Saint Michael, in the 2d and 3d year of the reign of King Edward.

2 & 3 Edw. I.

As yet in 15 days of Saint Michael.

Roll. 19.

Suffex, **W**ILLIAM de Brewose was attached to wit. ed to answer to Robert Agyllun, of a plea, for that whereas of right it was lawful

Action on the case for prohibiting the sale of victuals.

for

Appendix (A.)

qui de fide p̄ sūt ubicūq; locorū cū quibz cūq; p̄sonis emp̄coēs & vendicoēs suas face in p̄ p̄ put s̄ viderint expedire p̄dcs Wills hoibz vill de Shorhm̄ inhibuit ne p̄dco Robo aut suis victualia vendat aut ipos ad aliqs emp̄coēs v̄ vendicoēs admittat in vill p̄dca un̄ dicit qd̄ detiorat̄ est & dāpnū h̄t ad valenc̄ cent̄ libr̄. Et ind̄ p̄duc̄ sec̄ tam, &c.

Et Wills ven̄ & defend̄ vim & injur̄ & qn̄, &c. Et bn̄ defend̄ qd̄ nūq; inhibuit p̄ se nec p̄ aliū

for all the liege subjects of the king, and all those who are in the king's allegiance, of what places soever they might be, to make purchases and sales with such persons in the king's dominions as to them might seem expedient (*nevertheless*) the aforesaid William forbid the men of the town of Shoreham to sell provisions to the said Robert, or those belonging to him, or to admit them to make any purchases or sales in the said town; wherefore he says, he is injured, and hath damage to the value of one hundred pounds, and therefore he brings suit, &c.

And (the said) William comes and defends the force and injury when, &c. and alleges, that he never forbid by himself, nor by any one else, the aforesaid

Appendix (A.)

aliū quomin̄ p̄dco Robs & sui possent em̄e & vende in p̄dca villa de Shorhm̄ put s̄ viderint expedire et de hoc pon̄ se sup̄ priam et Robs similit̄ Jō p̄cept̄ est v̄c qd̄ venire fac̄ a die m̄rtini in xv. dies ubiq; &c. xij. &c. p̄ quos, &c. Et qui n̄, &c. ad rec̄ in for̄ p̄dca quia tam, &c.— Postea a die S̄c̄e T̄nitat̄ in tres septim̄as ven̄ Jur̄ qui dicūt sup̄ facī suū qd̄ qdam Nichs Balis p̄dci Willi de Brewose p̄ p̄cept̄ p̄dci Willi inhibuit hoibz suis de Shorhm̄ ne p̄dco Robo aut suis victualia

aforesaid Robert, and those belonging to him, to buy and sell in the aforesaid town of Shoreham, such matters as to them might seem expedient, and of this he puts himself upon the country. And (the said) Robert in like manner; therefore it is commanded to the sheriff, that he cause to come from the day of Saint Martin, in fifteen days, wheresoever, &c. by whom, &c. and who neither, &c. to recognize in form aforesaid, because as well, &c.—Afterwards from the day of the Holy Trinity in three weeks, come the jury aforesaid who upon their oath say, that one Nicholas, bailiff of the aforesaid William de Brewose, by the command of the said William, forbid his men of Shoreham to sell provisions to the said Robert, or those

Appendix (A)

Mia. 1 m.

Appendix (B. & C.) 18 & 20 Edw. I.

Rot. 58. Int. Burg. Novi Cast. & priore de Tynemuwe.

Mercy. 1 m.

Appendix (B. & C.) 18 & 20 Edw. I.

Roll. 58. between the burgeses of Newcastle and the prior of Tynemouth (respecting forestallage.)

victualia vendent aut ipsos ad alijs empcoñes vindicōnes admittent in p̄dca villa. Idō p̄dcs Wills in Mīa et Robs recuperet dāpna sua que taxant ad r̄m̄q̄ mōq̄ q̄ d̄hibet̄ q̄ d̄ms̄ sup̄ r̄gōn̄

PLETA coram dno rege apud Westm̄r̄ t̄mino sci Hillar̄ anno regni reḡ Edwardi fil̄ reḡ Henr̄ vicefimo.

Recordum missum d̄ consilio.

Northumb? Prec̄ fuit vic Northumb̄ qd̄ scire fac̄et priori de Tynemuth, quod esset coram dno rege in parlamento suo à die pasche in tres septimanas

those belonging to him, or to permit them to make any purchases or sales in the aforefaid town. Therefore the said William in Mercy (and the said) Robert, recover his damages, which are taxed at one mark.

PLEAS before the Lord the King at Westminster of the term of Saint Hilary, in the 20th year of the reign of King Edward, son of King Henry.

Record sent from the council.

Northumber? It was commanded to the sheriff of Northumberland, that he caused to be made known to the prior of Tynemouth, that he be before

Appendix (B. & C.)

septimanas ad respondendum predicto dno regi et burgensibus suis Novi Castri super Tinam super quibusdam gravaminibus et injuriis tam prefato dno regi quam burḡ predictis p̄ ipsum priorem illatis ut dicitur et ad ulterius inde faciend̄ quod d̄ns rex de consilio suo duxerit ordinand̄ et qd̄ haberet ibi, &c.

Pretextu cujus mandati venerunt pred̄ prior et pred̄ burgeses similiter modò hic. Et pred̄ burḡ p̄ dno rege dicunt quòd ipse d̄ms̄ rex habeat et habere debeat totum portum in aqua de Tyne, à mari

before the lord the king in his parliament, from the day of Easter in three weeks, to answer to the said lord the king and his burgeses of Newcastle-upon-Tyne, concerning certain wrongs and injuries as well to the said lord the king as to the said burgeses by the aforefaid prior, committed as it is said, and farther to do thereupon what the lord the king of his council shall think fit to ordain, and that he have there, &c.

By pretext of which mandate came the aforefaid prior and the burgeses aforefaid likewise here; and the aforefaid burgeses for the lord the king say, that the same lord the king hath, and of right ought to have the whole port in the water of Tyne, from

Appendix (B. & C.)

mari usque ad locum qui dicitur *Hidewyne Stremes*, ita liberè quod non liceat alicui carcare seu discarcare mercandisas aliquas seu denarratas nec *forestallum* facere de hmd̄i mercandisis seu denarrat emendo vel vendendo eadem, nisi infra villam *Novi Castr̄i* pred̄. Ita quod dominus rex tolmeta sua prisas et custumas et alia ad dominicum suum ibm̄ spectantia percipere possit, pred̄ prior qui h̄t dominicas terras suas pred̄ aque adjacentes inter mare et villam pred̄ carcare et discarcare facit ibm̄ mercandisas et denarratas quacumque ibm̄ applicantes emendo et vendendo in terris suis pred̄

from the sea to a place called *Hidewyne Streams* so freely, that it is not lawful for any person to load or unload any merchandizes or small wares, nor to make *forestallage* of like merchandizes or small wares, by buying or selling the same, unless within the town of Newcastle aforesaid, so that the lord the king may be able to receive his tolls, prices, and customs, and other things belonging to his demesne there. The aforesaid prior who hath his demesne lands aforesaid, adjoining to the water between the sea and the said town, causes persons coming thither to load and unload their merchandizes and small wares whatsoever; and to buy and

sell

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pro voluntate sua, faciend̄ inibi portum ubi nullus portus prius fuit, et etiam *forestall* mercandisarum in prejudicium domini regis et ville sue pred̄ manifestum. Dicunt etiam quod cum dominus rex habeat et habere debeat sua forna cōia apud *Novum Castrum* ita liberè quod panis venalis ibm̄ et non alibi in partibus illis fornari debeat, ac idem dominus rex percipit et percipere debeat de quolibet quarterio ibm̄ furnato quatuor denar̄ de cons̄ hactenus usitata, pred̄ prior levavit novam villam apud *Sbeles* inter mare pred̄ et *Novum Castrum* et habet ibm̄ piscatores pistores et braciatores suos residentes, de quibus idem prior precipit pro annum

triginta

sell in his lands at his pleasure, thereby making a port, where no port was before, and also *forestallage* of merchandize, to the manifest injury of the lord the king and his aforesaid town. They say also, that whereas the lord the king hath and of right ought to have his common ovens at Newcastle so freely, that bread for sale ought to be baked there, and not elsewhere, in those parts; and the same lord the king receives, and ought according to custom theretofore used, to receive for every quarter of corn there baked four pence. The aforesaid prior hath built a new town at Shields, between the sea and Newcastle, and hath his fishermen, bakers, and brewers, residents there,

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triginta et sex marcas et amplius, et dominus rex proinde amittit p̄ annum de exitibus fornagii sui p̄ced ad valentiam decem librarum et etiam per forstallag p̄ced apud Sheles ad valentiam viginti librarum. Dicunt etiam quod predictus prior capit ibm wreccum maris cum acciderit quod specialiter spectat ad dominum regem, &c. &c. Et unde dicunt quod preter dampna que dominus rex sustinuit et sustinet in premissis, p̄ced villa ipsius dñi regis, inde deteriorata est et dampnum habet inestimabile, &c.

Et p̄ced prior dicit quod ista premissa sibi imposita

from whom the same prior annually receives thirty-six marks and upwards, and the lord the king thereby loseth yearly, for issues of the baking houles, to value of ten pounds, and also for the forstallage aforesaid at Shields, to the value of twenty pounds. They say also, that the aforesaid prior taketh there wreck of the sea whenever the same happens, which specially belongeth to the lord the king, &c. &c. Wherefore they say that, besides the damage which the said lord the king hath sustained, and doth sustain in the premisses, the aforesaid town of the same lord the king is thereupon injured, and hath grievous damage, &c.

And the aforesaid prior saith, these premisses charged

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posita contingunt solum liberum ten, et libertatem, et fre directum vic p̄ced propter qd̄ premunitus est essendi modò hic, explanat quod respondeat de quibusdam gravaminibus et injuriis tantum, nulla facta mentione de libero ten vel de spectantibus ad liberum ten unde non intendit quod de aliquo libero ten suo vel ad liberum ten suum seu libertatem spectant, sola premunitione respondere debeat sine sum et sine bri domini regis in casu speciali et maxime contra stat suum, qd̄ vult, qd̄ nullus de libero ten suo respondeat sine bri nisi velit, &c. Et postea respondit

charged to him concern only his frank tenement and liberty, and that the writ, directed to the sheriff aforesaid, upon which he was forewarned of being now here, states that he should answer concerning certain wrongs and injuries only, no mention being made of his frank tenement, or any matters belonging to frank tenement, wherefore he is not able to shew any thing concerning his frank tenement, or any matters which to his frank tenement or liberty belong; but by this premunition only, is he bound to answer without summons or the king's writ in such case made, and especially contrary to the form of the statute, which directs, that no one shall answer concerning his frank tenement without writ unless he be willing, &c. And afterwards

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spondit idem prior, et quoad *wreccum* maris, et *forestall* mercandisarum dicit, quod ipse prior, et predec^o sui wreccum maris habuerunt et perceperunt haecenus cum acciderit et *forestallum* mercandisarum videlt victualium, et ad sustentationi domus sue predec^o necessariorum infra terram suam predec^o emendo fecerunt, sicut eis bene licuit p^o cartam dmi Ricⁱ regis avi dmi regis nunc quam profert in hec verba: " Ricardus Dei gra rex Angl. dux Normann. Aquit. comes Andig. archiep^o ep^os abbatibus comitibus baronibus justic. vic. ministris et omnibus suis

" fid.

afterwards the said prior answered; and as to wreck of the sea, and *forestallage* of merchandize he says, that he the said prior and his predecessors have hitherto had and taken wreck of the sea, when the same hath happened, and have made *forestallage* of merchandizes, to wit, of victuals and other necessary things for the support of his aforesaid house, by buying the same within his lands, as was lawful for them to do, by charter of the lord king Richard, grandfather of the lord the king that now is, which he proffers in these words:

" Richard, by the grace of God, king of England, duke of Normandy and Aquitain, and earl of Anjou, to his archbishops, bishops, abbots, earls,

1 Ric. I. (A. D. 1189.) Grant of forestallage, &c. to the town of Newcastle-upon-Tyne.

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" fid. Francis et Anglis in omnibus comitatibus in quibus sc^os Albanus Martyr terras habet amicabiliter saltem. Notum facimus vobis nos concessisse et presenti carta confirmasse Deo et sc^o Albano et ecclesie sue scⁱ Oswyni de Tynemouth celle scⁱ Albani et monachis ibm Deo servientibus omnes terras suas et omnes homines suos cum sacha foca oustronde et streme on wode et felde, tol, them, et gridburgh, hamfokne, murdrum et *forestall*, danegelde, infangenethef, et utfangenethef, flomnenefremeth blodwit, wrec, et habeat super omnes terras

" suas

" earls, barons, justices, sheriffs, ministers, and all his faithful people, French and English, in all counties in which Saint Alban the Martyr hath possessions, sendeth greeting friendly: We make known to you that we have granted, and by this present charter have confirmed, to God and Saint Alban, and his church of Saint Oswyn of Tynemouth, cell of Saint Alban, and the monks there, serving God, all their lands and men with sac, foc, overstronde, and streme on wode and felde, toll, them, and gridburgh, hamfokne, murder, and *forestall* danegeld, infangetheft and outfangetheft, flomnenefremeth, blodwit, and wreck: and

" that

that the said prior and his predecessors have hitherto had and taken wreck of the sea, when the same hath happened, and have made forestallage of merchandizes, to wit, of victuals and other necessary things for the support of his aforesaid house, by buying the same within his lands, as was lawful for them to do, by charter of the lord king Richard, grandfather of the lord the king that now is, which he proffers in these words:

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"suas et super oēs homines suos ubicumque
 "fuerint intra burgum et extra in tant, et tam
 "plenè sicut proprii ministri nri exquirere de-
 "berent ad opus nrm, et nolumus ut aliquis ho-
 "minum nec Francus nec Anglus de teri, eorum
 "neque de hominibus eorum ullo modo se intro-
 "mittat nisi ipsi et ministri sui quibus ipsi com-
 "mittere voluerint. Preterea quia nos concessi-
 "mus Deo et s̄o Albano et ecclesie s̄i Oswyni
 "de Tynemuth celle s̄i Albani pro redemptione
 "anime nre et parentum nror omnes libertates
 "et omnes liberas consuetudines quas regia
 "potestas

" that they should have the same upon all their
 " lands, and upon all their men wherefoever they
 " might be within the borough and without, as
 " fully and freely as our own ministers ought to
 " acquire to our use. And we are unwilling
 " that any of our men, either French or English,
 " as to their lands or men in any wise shall in-
 " termeddle, unless they and their ministers are
 " willing to commit that matter to their charge.
 " Moreover, inasmuch as we have granted to
 " God and Saint Alban, and to the church of
 " Saint Oswyn of Tynemouth, a cell of Saint
 " Alban, for the redemption of the soul of us,
 " and our forefathers, all liberties, and all free
 " customs

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" potestas liberiores alicui ecclesie conferre potest.
 " Et prohibemus super forisfacturam nram ne quis
 " eas aliquo modo infringere presumat. Prohibe-
 " mus etiam ne in ipsorum teri, vel domibus
 " minister, dapifer, viz. vel pincerna, vel dispen-
 " sator janitor vel prepositus contra ipsorum
 " voluntatem et assensum tempore nro aut succ.
 " nror per manus alicujus principis vel justic.
 " quocumque tempore ponatur. T. Cantuar.
 " archiepō, et G. Eborum electo, &c. Dat. per
 " manum Willi de Longo Campo Cancelli nri
 " Eliensis elect. iiii^o die Dec. anno primo R. n.
 " apud Cantuar."

Et

" customs which the royal power might confer-
 " more freely upon any church: and we forbid
 " upon our forfeiture any one to presume in any
 " manner to infringe the same. We also forbid
 " any minister, steward, butler, or dispenser, por-
 " ter or prepositor, against their will and assent in
 " our time, or that of our successors, into the
 " hands of any prince or justice, at any time to
 " be put. Witness T. archbishop of Can-
 " terbury, and G. archbishop of York. Dated at
 " Canterbury, by the hands of William de Long
 " Champ, bishop of Ely, our chancellor, the
 " 4th day

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Et quoad foundationem nove ville apud Sheles, &c. Et quoad Mercatum de Tynemuth, &c. Towagium, &c. Dicit insuper quod ante confectionem dicte carte et a tempore confectionis ejusdem que prior est unaquaque libertate burgo domini regis de Novo Castro et burgenfibus ibm p̄ dñm regem Johannem concessa, predecessores sui priores domus præd̄ oīa premissa cesserunt et habuerunt modo quo est recognitum liberè et quietè sine temporis interruptione virtute consuetudinum et libertatum per cartam præd̄ sibi concessarum in terra et aqua et de quibus invenit ecclesiam suam seisitam,

“ 4th day of December, in the first year of our reign.”

And as to the building of a new town at Shields, &c. ; and as to a market at Tynemouth, &c. Towage, &c.—Moreover he saith, that before and from the time of the making of the said charter, which was before any liberties granted to the borough of Newcastle and the burgesfles there, by king John, his predecessors, the priors of the aforesaid house, took and had all the premisses in manner aforesaid, freely and quietly, without intermission, by virtue of the customs and liberties by the said charter to them granted, by land and by water, of which he found his church

seized :

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seisitam, et unde hactenus liberè et quietè usus est illis, prout præd̄ fui præd̄ eisdem utebantur consimili modo et in eisdem locis, quod paratus est verificare, &c. et petit judicium sicut prius si de alieno facto, et de hiis de quibus invenit ecclesiam suam seisitam rōne soli et consuetudinum ac libertatum expressarum que tam liberè limitantur quam regia potestas eas alicui ecclesie liberiores conferre potest, si absque b̄ri speciali et sum contra legem cōem debeat respondere, &c.

Et Willūs Inge et Johannes de Infula et alii qui sequuntur pro rege dicunt, quod præd̄ carta in hoc

seized: and wherefore he hath freely and quietly used the same in like manner, and in like places, as his predecessors used them, which he is ready to verify, and prays judgment as before, if of any other matter, and of these which he found his church seized by reason of the soil, and of the customs and liberties expressed, which are as freely declared as the royal power could grant the same to any other church, if without special writ, and by summons against the common law he ought to answer, &c.

And William Inge and John de Infula, and others, who sue for the king, say, that the aforesaid

said

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hoc casu prefato Priori, valere non debet. Dicunt enim quoad wreccum maris, &c. — *Et quoad forestall dicunt quod cum libertates diverse pred' domui concessæ fuerint ut sacham socham overstronde et streme, &c. et forstal, hoc totum intelligendum est, in terris suis infra libertatem suam de Tynemuth, et non in portu de Tyne. Et similiter hoc verbum forstal interpretari debet et intelligi ad impediendum aliquem vel insultand' in regia strata, et non alio modo sicut predictus prior illud intelligat. Et quoad ea etiam; et quoad carcationes et discarcationes navium emptiones mercandiarum et denarratarum victualium et aliarum*

saïd charter in this case ought not to avail the saïd prior; for they say as to wreck of the sea, &c. &c. — *And as to forestall, they say, that when the divers liberties aforesaid were granted to the house, such as sac, soc, overstronde, and streme, &c. and forestal, this ought to be understood wholly as to his lands within his liberty of Tynemouth, and not within the port of Tyne; and likewise this word forstal, ought to be interpreted and understood, the obstructing or assaulting any person on the king's highway; and in no other signification, as the aforesaid prior understands it. And as to these things, and as to loadings and unladings of ships, purchases of merchandizes and small wares, victuals, and other things.*

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aliarum dicunt; &c. — Dicunt etiam quod cum naves vel batella majora vel minora cum piscibus vel aliis mercandis quibuscumque ibm applicuerint, venit idem prior et homines sui et alii patrie cum equis et summagiis, et inde sibi necessaria comparant; ita, viz. quod aliquando naves vel batella illa vacua, vel semicartata ad portus illos quam ad Novum Castrum predictum revertuntur, vel saltem ibm cum relictis hñdi piscium de pluribus batellis in uno batello vel duobus translatis. Et unde dñs rex qui prisas suas et custumas debitas p vic suum percipit apud Novum Castrum percipere non potest nisi, &c. &c. — Petunt inde iudicium pro dño rege et burgo suo pred', &c.

(They

things, they say, &c. They say also, that when ships, or large or small boats, apply there with fish or any other merchandizes, the aforesaid prior and his men, and others of the country, come with horses, &c. and there procure themselves necessaries, so that sometimes those ships or boats return empty, or half laden, as well to their ports as to Newcastle aforesaid, or at least with the refuse of the like fish, transferred from many boats into one or two. Wherefore the lord the king who receives his prizes and customs due by his sheriff at Newcastle, cannot receive them unless, &c. &c. — Wherefore they pray judgment for the lord the king, and his borough aforesaid.

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(They

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(They afterwards state, that certain of these grievances were presented before John De la Vall and others, justices itinerant, 7. Edw. I. and call to warrant the rolls of purprestures upon the lord the king, made according to the verdict and presentment of the jury thereupon.)

Et dicunt quod nunquam fuerint ille presentaciones hactenus determinate sive discusse neque in iudicium deducte, &c.—Et petunt qđ hec domino regi et consilio suo manifestentur, &c. Et predictus prior dicit quod ista presentatio si qua fuerit, que est quedam accusatio, sibi obesse non debet, eo quod tempore illo quo presentatio illa facta

(They afterwards state, that certain of these grievances were presented before John De la Vall and others, justices itinerant, 7. Edw. I. and call to warrant the rolls of purprestures upon the lord the king, made according to the verdict and presentment of the jury thereupon.)

And say, that these presentments were never heretofore doubted or discussed, or brought in question, &c. and pray that the same may be manifest to the lord the king, and his council. And the aforesaid prior saith, that that presentment, if such there was, which is a certain accusation, ought not to affect him, because at the time in which the said presentment was made, he

was

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facta fuit non fuit ipse prior, quod paratus est verificare, nec de alieno facto sine hri speciali tenetur respondere. Et petit inde iudicium, sicut prius, &c.—Postea coram ipso dño rege et ejus consilio in presentia domini regis venerunt partes pred et pred burgenses petierunt iudicium suum super recordo et processu predictis. Et pred prior petit quod si domino regi placeret et ejus consilio qđ de libertatibus suis de quibus ipse prior invenit ecclesiam suam seistam tempore quo factus fuit prior non responderet sine hri domini regis, et super hoc similiter petit iudicium, &c. Et

was not prior, which he is ready to verify; nor is he bound to answer of the deed of any other person, without special writ, and prays judgment as before, &c. Afterwards, before the lord the king, and his council, in the presence of the lord the king, came the parties aforesaid, and the burgeses aforesaid prayed judgment of the record and process aforesaid. And the aforesaid prior besought, if it so pleased the lord the king, and his council, that he was not bound to answer concerning his liberties, of which he the said prior found his church seized, without the writ of the lord the king; and upon this in like manner prayed judgment, &c.—And

inasmuch

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Et quia idem prior p̄ bre dñi regis predictum coram ipso dño rege in curia sua venit, et coram ipso dño rege personaliter comparuit, et ad respondendum tam ipsi domino regi quam burḡ suis p̄ced̄ super quibuscumque gravaminibus et injuriis ipsi domino regi et burgenſibus suis p̄ced̄ illatis ad certum diem coram certis justic̄, ad hoc in presentia sua nominatis et assign̄ p̄ os ipsius domini regis ad quecumque gravamina seu injurias ipsi domino regi seu burgenſibus suis p̄ced̄ illata audiend̄ placitand̄ coram ipso domino rege referend̄ prout

inasmuch as the same prior, by the said writ of the lord the king, came before the king himself in his court, and before the king himself, personally appeared to answer as well to the said lord the king, as his burgesſes aforeſaid, concerning certain wrongs and injuries to the said lord the king, and his burgesſes aforeſaid, done upon a certain day before certain justices, for that purpose, in his the king's presence, nominated and assigned from the mouth of the same lord the king, to hear the like grievances and injuries to the same lord the king, or his burgesſes aforeſaid, done, by plea before the same lord the king, to be referred, which as well by the same lord the king, as by his

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prout tam p̄ ipsum dominum regem quam justic̄ ad hoc assign̄ plenarie est recordat̄ recept̄ et coram eisdem justic̄ sponte et de mero jure suo in articulis sibi superius impositis precise respondit, et etiam cartam dñi regis Ric̄i, et alias responsiones pro jure suo defendendo et sustinendo gratis et non coactus p̄posuit, et etiam se precise tenuit ad illam responsionem q̄d ecclesiam suam invenit seſſitam licet in quibusdam articulis sic se excuſaverit prout patet per recordum p̄ced̄, dictum est ei quod aliud pro se ostendat vel dicat si quid habeat vel sciat quod ei prodesse debeat, &c.

Et

his justices thereto assigned, fully is recorded, and he (the same prior) before the same justices, freely and of his mere motion, hath precisely answered to the articles above thereupon laid to his charge; and also freely and voluntarily hath set forth the charter of king Richard, and other answers in his defence, and also hath precisely confined himself to this answer, that he found his church seized, although in certain articles he thus excused himself, as appears by the record aforeſaid; yet it is commanded to him, that he shew other matter for himself, or say, if he may have or know what may avail him, &c. And the aforeſaid prior says nothing, unless as

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before,

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Et idem prior dicit nichil nisi ut prius, set petit qd dominus rex intellecta carta regis Ric̄i progenitoris sui predicta faciat qd sibi placuerit faciend. Et quia dominus rex certiorari vult si predictus prior et predecessores sui a tempe confectionis pred̄ carte p̄ cartam illam continuè et absque aliqua interruptione libertatibus pred̄ plenariè usi fuerint necne, vel etiam si pred̄ prior tempore suo aut predecessores sui post confectionem carte illius tempibus suis super ipsum dominum regem aut progenitores suos libertates supradictas seu earum aliquas usurpaverunt vel purprestarunt, et ubi,

before, but prays that the lord the king, understanding the aforesaid charter of king Richard, his progenitor, will do what pleaseth him. And inasmuch as the lord the king is willing to be certified, if the aforesaid prior and his predecessors, from the time of the making of the aforesaid charter, have by virtue of the same charter, continually and without any interruption, quietly enjoyed the aforesaid liberties, or not, or even if the said prior in his own time, or that of his predecessors, after the making of the said charter in their time, have usurped or infringed upon the said lord the king, or his predecessors, the liberties above mentioned, or any of them, and where, by what, and by whom, and at

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ubi, a quibus, et per quos, et a quo tempore, et quo modo, idem dominus rex assignavit Willm de Wesci, Thomam de Normanvill, Johannem de Lythereyns et Ric̄m Knout, vic̄ Northumb̄ ad inquirendum veritatem omnium et singulorum articulorum premissorum in recordo isto contentorum. Ita quod inde certificent dñm regem ad prox̄ parliamentum suum post festum Sancti Mich̄s. Et datus est dies partibus ad eundem terminum, &c. &c.

Et quia pred̄ inquisitio p̄ defaultam pred̄ Willi de Vesci in Hibernia, existentis multo tempore remansit capiend, et dominus rex et villa sua pred̄ dampnum

at what time, and in what manner, the same lord the king assigned William de Vefey, Thomas de Normanville, John de Lytheraynes, and Richard Knout, sheriff of Northumberland, to inquire the truth of all and singular the matters aforesaid, in the said record contained, so that they certify the lord the king, at his next parliament (to be holden) after the feast of Saint Michael; and day is given to the parties at the same term, &c. &c.

And because the aforesaid inquisition by default of William de Vefey, being in Ireland, remained for a long time to be taken, and the lord the king, and his aforesaid town sustained no small damage, by

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dampnum non modicum rone pred̄ inquisitionis non capte sustinuerunt, dominus rex in termino S̄c̄e Trin̄ anno regni sui nono decimo existens assignavit Rogū le Brabanon, Willm de Beresford, et Willmum de Roubiri, ad veritatem premissō̄ inquirend̄ juxta formam pred̄, et articulos in pred̄ recordo contentos. Qui inquisitionem pred̄ ceperunt et illam coram d̄mo rege in pliamēto suo apud Westm̄ in c̄ro ep̄e anno regni sui vicesimo retornaverunt sub sigillis suis et sigillis eorum p̄ quos facta fuerit. Postea a die S̄c̄e Trinitatis in xv. dies anno regni reḡ nūc vicesimo venit p̄d̄es prior et

by reason of the said inquisition so not being taken, the lord the king, in the term of the Holy Trinity, in the 19th year of his reign, assigned Roger le Brabanon, William de Beresford, and William de Roubiry, to inquire the truth of the premisses, according to the form aforesaid, and the matters in the said record contained; which said inquisition they took, and returned the same before the lord the king, in his parliament, on the morrow of the Epiphany, in the twentieth year of his reign, under their seals, and the seals of them by whose oath the same was made. Afterwards, from the day of the Holy Trinity in fifteen days, in the twentieth year of the reign of the king that now is, came the aforesaid prior,

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et simili? Riēs de Bretvill qui sequit̄ p̄ rege et d̄ns Roḡs le Brabanon, d̄ns Will̄s de Beresford & Gilb̄ts de Robirs, justic̄ ip̄us reḡ alias miserūt inq̄sicōem sup̄ p̄cis articulis sc̄am que quidē inq̄sicō inveniri potest in̄ recorda de t̄m̄o S̄c̄i Mich̄is anno decio nono finiente: cuj̄ inq̄sicōis tenor est.

ff. Inq̄sicō capta apud Novū Castrū sup̄ Tynā die Jovis in crastino assump̄cōis be Marie anno regni regis Edwardi decimo nono coram Rogō le Brabanon, Will̄o de Beresford, & Gilb̄to de Roubiry, justic̄ ejusdem d̄ni reḡ ad hoc assignatis de dīvis ḡaminibus & injuriis ip̄i d̄no regi

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prior, and likewise Richard de Bretvill, who sues for the king; and Roger le Brabanon, William Beresford, and Gilbert de Roubiry, justices of the same king, sent the inquisition upon the aforesaid articles made; which same inquisition may be found amongst the records of the term of Saint Michael, in the 19th year, the tenor of which inquisition is as follows; to wit:

An inquisition taken at Newcastle-upon-Tyne, on Thursday, on the morrow of the assumption of the blessed Mary, in the 19th year of the reign of king Edward, before Roger le Brabanon, William de Beresford, and Gilbert de Roubiry, justices of the same lord the king, hereto assigned, concerning certain wrongs

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regi & burgenſibus ſuis ville p̄ce p̄ priorem de Tynemuth apud Tynemuth & Scheles illatis et de quibusdam libertatibus quas idem prior clamat h̄re p̄ cartam d̄ni Ric̄i regis p̄deceſſoris d̄ni reḡ nunc juxta articulos in recordo & p̄ceſſu inde int̄ ip̄m d̄m regē & burgenſes ſuos p̄cos & p̄c̄m priorem coram ip̄o d̄no rege & conſilio ſuo hitis contentos p̄ fac̄m Joh̄is de Hertweyton &c. [the 12 jurymen named] qui dicunt ſup fac̄m ſuū q̄d portus in aqua de Tyne a mare uſq̄ ad locum qui dicit̄ Hydewymestremes eſt d̄ni regis liber

wrongs and injuries to the ſaid lord the king, and his burgeſſes, of the aforeſaid town, by the prior of Tynemouth, at Tynemouth and Shields committed, and of certain liberties, which the ſame prior claims to have of the charter of king Richard, predeceſſor of the lord the king that now is, according to the articles contained in the record and proceſs thereupon, between the ſaid lord the king and his burgeſſes aforeſaid, and the aforeſaid prior before the king himſelf, and his council, had by the oath of John de Hertweyton, &c. [the 12 jurors named] who upon their oath ſay, that the port in the water of Tyne, from the ſea to the place called Hydewyme Streams, is a free port belonging to the lord the king, and that no per-
ſon

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liber & q̄d nullus in portu illo carc̄are aut diſcar- care poteſt aut debet. Et d̄nt q̄d p̄ces prior qui nunc eſt & p̄deceſſores ſui a tempe confecc̄ois carte d̄ni regis Ric̄i uſi ſunt m̄candifas & bona apud Scheles applicancia diſcarcare & ea que voluerunt ad uſus p̄prios emere abducere & aſpor- tare & hoc aliquando p̄ licenciam captorū & ballivorū priſarū d̄ni regis & aliquando ſine licencia. Set dicunt exp̄ſſe q̄d om̄i tempe quo p̄miſſa ſine licencia fecerunt injuſte fecerunt & injur̄ d̄no regi. Reqūis quis p̄deceſſorū p̄c̄i prioris ſine licencia p̄miſſa

ſon may or ought to load or unload in the ſaid port, &c. &c.—And they ſay, that the aforeſaid prior that now is, and his predeceſſors, from the time of making of the charter of king Richard, have been uſed to unload merchandizes and goods, applying at Shields, and to buy, take, and carry away the ſame at pleaſure, to their proper uſes, and this ſometimes by the licence of the captors and bailiffs of the prizes of the lord the king, and ſometimes without licence. But they ſay exp̄ſſly, that during all the time when they ſo acted as to the premiſſes without licence, they acted unjuſtly and injuriouſly to the lord the king. And being demanded which of the predeceſſors of the aforeſaid prior began thus to act as to the premiſſes

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pmissa facere incepit & quo tempe dicunt qđ
 quidam Wills de Hecton quondam prior de
 Tynemuth pdecessor pcedi prioris primo &
 tempe regis Henrici prs regis nūc cito post bellū
 de Eveshm̄ jam viginti annis elapsis pmissa facere
 incepit. Quesiiti de dampnis que dñs rex hūit
 occasione p̄ca dicunt qđ prior qui nunc est jam
 extitit prior p undecim annos & qđ dampna
 p̄ca de tempe suo se extundunt ad quatuor libras
 & de tempibus pdecessorū suorū ad sexaginta solidos.
 Dicunt etiam qđ homines & tenentes p̄ca prioris
 de Tynemuth & de Scheles p ipm priorem apud
 Scheles

premises without licence, and at what time, they
 say, that one William de Hecton, formerly prior
 of Tynemouth, predecessor of the aforesaid prior,
 first, and in the time of king Henry, father of the
 king that now is, soon after the battle of Evesham,
 twenty years last past, began thus to act as to
 the premises. Being demanded as to the da-
 mages which the lord the king had by the occa-
 sion aforesaid, they say that the now prior hath
 been prior for eleven years, and that the damages
 aforesaid in his time, amount to ten pounds, and
 in the time of his predecessors to sixty shillings.
 They say also, the men and tenants of the said
 prior of Tynemouth, and of Shields, protected
 by

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Scheles receptati carcant & discarcant m̄candifas
 & denarratas ac si essent m̄catores sēdm quanti-
 tate bonorū suorū & ita portū & *forestillū ibidem*
faciunt ubi nullus portus de jure fieri debereī &
 hoc tempe quo apud Scheles edificare domos ad
 adunare & inhitare cepunt & sēdm qđ facultates
 se obtulerunt & bona sua multiplicāvunt ad dampnū
 regis decem libr. Et a tempe quo hoies p̄ca
 prioris apud Scheles inhitare cepunt elapsi sunt
 tm̄ ut credunt sexaginta & sex anni ante quod
 tempus non fuerunt ibi nisi tres stale tm̄ ad opus
 piscatorū ad mare eunciū & redeuncium. Item
 quoad

by the said prior at Shields, load and unload
 merchandizes, and small wares, as if they were
 merchants, according to the quantity of the goods,
 and so make a port and *forestillage* there, where
 no port ought of right to be made; and at the
 time when they began to build houses to dwell
 and inhabit in at Shields, and according to their
 power obtained property, and multiplied their
 goods to the damage of the king of ten pounds;
 and from the time when the men of the aforesaid
 prior began to dwell at Shields, are only elapsed,
 as they believe, sixty-six years, before which time
 there were there only three stals for the use of
 the fishermen coming from and returning to the
 sea;

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quoad piscatores pistores braciatores & furna dicunt qd apud Scheles sūt piscatores & braciatores qui accrescunt de die in diem racone m̄catoꝝ ibidem venientium qui pisces & c̄visiam emunt & qd non sunt ibi furna immo apud Tynemuth sunt quatuor furna in quibus panis venalis furnit? & venditur tam apud Tynemuth qm̄ apud Scheles nautis & aliis venientibus in p̄judiciū dñi regis & forstallū ville sue Novi Castr? ad dampnū regis decem libr. Item quoad wreckum maris dicunt, &c. &c. Item quoad prisas & cūstumas regis, &c. &c. Item quoad m̄catum dicunt, &c. Item quoad fundacōem ville de Scheles, &c. In cuj?

rei
sea; also as to fishermen, bakers, brewers, and ovens, they say, that at Shields there are fishermen and brewers, who daily increase by reason of merchants coming there, who buy fish and ale, and there are not there any ovens, but at Tynemouth there are four ovens, in which bread for sale is baked, and sold as well at Tynemouth as at Shields, to seamen coming there, to the prejudice of the lord the king, and *forestallage of his town of Newcastle, &c. &c.* to the damage of the said king of ten pounds. Also as to wreck of the sea, &c. also as to prizes and customs of the king, &c. also as to a market they say, &c. &c. also as to the foundation

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rei testimonium p̄dci jur? sigilla sua p̄fenti inquisitioni apposuerunt data anno die loco p̄dci, &c. Et sciendū qd p̄dca inquisico capta fuit p̄ p̄dicos justic? anteq p̄dca loquela missa fuit de consilio regis justic? de banco regis.—Postea a die Scī Johis Bapte in tres Septs anno r? r? nūc vicesimo apud Novū Castrum sup Tynam venit Ric̄s de Bretevall qui seq̄ p̄ rege & sim̄lr prior in pp̄a p̄sona & etiam jur? veniūt et quia comptum est p̄ veredictum jur? sicut in recordo patet supius qd portus in aqua de Tyne a mari usq̄

tion of the new town of Shields, &c.—In witness whereof the jurors aforesaid, to this inquisition, have put their seals, dated the year, day, and place aforesaid, &c. And be it known, that the aforesaid inquisition was taken by the aforesaid justices, before the said cause was sent from the king's council to the justices of the king's bench, afterwards from the day of Saint John the Baptist, in three weeks, in the 20th year of the reign of the king that now is, at Newcastle-upon-Tyne, came Richard de Bretevall, who sues for the king, and likewise the prior in his proper person, and also the jurors came, and inasmuch as it was found by the verdict of the jurors, as in the record above appears, that the port in the water of Tyne, from the

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usq; ad locum qui dicitur Hydewynstremes est lib portus regis & qd nullus in portu illo carcare aut discarcare potest sine licencia regis aut ballivorum suorum. Io quoad hoc cons. est qd pacs portus rem dno regi & hered suis liber cu pns suis towagio & omibz libertatibz ad portu spectantibz. Ita qd apud Tynemuth neq; apud Sheles naves carcant five discarcant bona vel mcimonia ibidem de ceto vendant infra cooptum nec ext. &c. et recuperat dns rex damna sua que taxant p jur? ad qtuor librone carcacois & discarcacois naviu ibid p pdem priorem scm. Et simitr versus hoies & tenentes

the sea, to the place called Hydewyne Streams, is a free port of the king, and that no person may load or unload in that port without the licence of the king, or his bailiffs, therefore as to that, it is considered that the said port remain free to the lord the king, and his heirs, with his prizes, towage, and all liberties to the said port belonging, so that neither at Tynemouth, nor at Shields, ships for the future shall be laden or unladen, nor shall goods or wares there be sold in future, within covering or without; and that the lord the king recover his damages, which are taxed by the jury at four pounds, by reason of the lading and unloading of ships, there made by the aforesaid prior, &c. &c. And likewise as to the men and tenants

of

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pdci poris de Tynemuth & Sheles qui forstallu fecunt & faciunt dno R & burg suis de villa Novi Castri, p carcacois discarcacois empcois & vendicois, &c. Itm quoad wreccu maris, &c. &c. Itm quoad incatu & feriam cons est qd non fit apd Tynemuth five apd Sheles meatu neq; feria & qd apud Tynemuth neq; apud Sheles non fiat comunir exposico reru venaliu ut in cibus potib nec aliis rebz quicunq; venalibz nec aliquod forstallu apud Tynemuth five apud Sheles p quod dns rex hered sui five burgei sui Novi Castri in aliquo deñorent et pceptu est Hug Gobion vic? Northubi? qd no pmittat fore apud

Tynemuth

of the aforesaid prior of Tynemouth and Shields, who made and make forestallage to the lord the king, and his burgesies of his town of Newcastle, by loading and unloading, buying and selling, &c. And as to wreck, &c. Also as to the market and fair, it is considered that there be not at Tynemouth or Shields, any market or fair, and that neither at Tynemouth or Shields, there be any common sale of things saleable, as in meats, drinks, or other things whatsoever saleable, nor any forestallage at Tynemouth or at Shields, whereby the lord the king, his heirs, or his people of Newcastle, may any ways be damnified; and it is commanded to Hugh Gobion, sheriff of Northum-

berland,

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Tynemuth neq̄ apud Seles aliq̄d̄ m̄catū feriam five signa m̄cati ferie vel portus de cetro, &c.— Et quoad cayas, &c. &c.—Et p̄dcs prior in Miā, &c. &c.

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1 Edw. III.

PLACITA corā Dño Rege ap̄d Eboꝝ de t̄mio S̄cē Trinitat̄ anno regni regis Edwardi Tercii post conquestorem primo.

Rot. 34. (dorso.)

Adhuc de xv. S̄cē Trinitatis.

Norff. ff. } Coītas ville dñi E. nup̄ R. Angl̄ p̄ris
R̄s nūc Magne Jernemuth, &c. op̄
se iiij. die v̄sus Wiltm le Man Simonē de Belton̄
[&

berland, that he do not permit at Tynemouth or Shields; any market or fair, or sign of market, fair, or port, in future, &c. And as to the quays, &c. and the aforesaid prior in Mercy, &c.

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Roll 34. (back.)
Action upon
forestallage of
fish and mer-
chandize.

PLEAS before the lord the king at York, of the term of the Holy Trinity, in the first year of the reign of king Edward the Third, after the Conqueror.

Norfolk. } The commonalty of the town of the
lord Edward, late king of England,
father of the king that now is, viz. of the town
of

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[& at] de plito quare cū p̄ cartā Dñi E. q̄nd̄ R. Angl̄ avi R̄s nūc, &c. &c. concessū sit burgen- sibus, &c. q̄d̄ om̄ia m̄candisē & m̄cimonia que- cūq̄, &c. que infra portū ville p̄dce in navib̄ aut batell̄ seu alio modo adduci, &c. ut ibidē ne- gociet̄, &c. licite & apte apud eandē villā, &c. & non alibi, &c. discarcent, &c. &c. abiq̄ ali- quo forstallamento vel abrocamento seu alio quo- vis impedimento, &c. &c. subforisfcura rei empte, &c. &c. p̄fati Wills Simon [& at] forstallamenta &

of Great Yarmouth, offered themselves on the fourth day against William le Man, Simon de Belton (and others) of a plea, for that, Whereas by a charter of the lord Edward, formerly king of England, grandfather of the king that now is, &c. it was granted to the burgessees, &c. that all merchandizes and wares whatsoever, &c. that might be brought within the port of the said town in ships or boats, or in any other manner, to be sold there, should be fairly and openly landed at the same town, &c. and not elsewhere, &c. without any forestalling or brocage, or any other kind of obstruction, &c. under forfeiture of the commodity bought, &c. &c. (Nevertheless) the aforesaid William, Simon (and others) at sundry times, heretofore

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& abrocamenta diſſa de piſcib; & aliis m̄can-
 diſis, &c. in eodē portu plur⁹ ante hec tempa fe-
 cunt necnō burgenſes, &c. vi & armis mlti-
 plicit impediverut in contemptū dei. pris Rs. ipi:uſq̄
 coitatis gve dapnu & contra tenore cartū p̄dcaz
 & contra pacē. Et ipi nō ven. Et p̄c⁹ fuit vic⁹
 qd̄ diſtr⁹ eos, &c. Et vic⁹ retorn qd̄ p̄dcus Wiſſ
 le Man diſtr⁹ unde exit vi. d̄ & m̄ p̄ Wiſſm Atte Gap,
 &c. &c. [ten of them are diſtrained in 6d. each,
 three in 12d. each, and three in 10d. each.]
 Iō ipi in m̄ia et de p̄dcis Wiſſo de Gapeton &
 aliis
 heretofore made divers *foreſtallages* and brocages
 of fiſh and other merchandizes, &c. in the ſame
 port, and alſo the ſaid burgeſſes, &c. with force
 and arms, many times have obſtructed, in con-
 tempt of the ſaid lord the king, and to the great
 damage of the ſaid commonalty, and contrary to
 the tenor of the charters aforeſaid, and againſt the
 peace, &c. And they came not. And it was
 commanded to the ſheriff, that he diſtrain, &c.
 and the ſheriff returned that the aforeſaid William
 le Man is diſtrained, the iſſues whereof 6d. and
 manucaptured by William Atte Gap, &c. (ten
 others diſtrained in 6d. each, three in 12d. each,
 and three in 10d. each) therefore they are in
 mercy;

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Appendix
(D.)

aliis vic⁹ retorn qd̄ nich hent, &c. p̄ quod, &c.
 Iō ſicut p̄us p̄c⁹ eſt vic⁹ qd̄ diſtr⁹ p̄dcos Wiſſm le
 Man (and the others naming them) p̄ omes. tras,
 &c. Et ſimili⁹ qd̄ capiat p̄dcos Wiſſm de Ga-
 peton & alios ſi, &c. Ita qd̄ heat corpa omiū
 p̄dcaz corā R. a die S̄ci Michis in xv. dies ubi-
 cuq̄, &c. Et unde vic⁹, &c.
 mercy; and concerning the aforeſaid William de
 Gapeton and others, the ſheriff returned that they
 have not any thing whereby, &c. therefore as be-
 fore, it is commanded to the ſheriff, that he diſ-
 train the aforeſaid William le Man (and the
 others naming them) by all their lands, &c.;
 and likewise, that he take the aforeſaid William de
 Gapeton, and others, if, &c. ſo that he have the
 bodies of all the aforeſaid perſons before the king,
 from the day of Saint Michael, in 15 days, where-
 ſoever, &c. and whereupon the ſheriff, &c.
 PLITA

Award of alias
diſtringas.

23

Appendix (E.)
1 Edw. III.

PLITA coram dño rege apđ Eboꝝ de tmino Scī Michis anno regni reg^o Edwardi t̄tii post conquestorem p̄mo.

Ret. 109.

Norff. ff. } Coitas ville dñi E. nup R. Angl p̄ris R. nūc Magne Jernemuth, &c. op se iiij. die v̄sus Wiltm Man Riēm de Enges [and 16 others] de plito quare cum p̄ cartam dñi E. qñd reg^o Angl avi reg^o nūc, &c. concessum sit burgenlibz, &c. qđ omīa mercandise & m̄ci- monia

Appendix (E.)
1 Ed. III.

PLEAS before the lord the king at York, of the term of Saint Michael, in the first year of the reign of king Edward the Third, after the Conqueror.

Roll. 1091
Continuation of the preceding action upon forestallage of fish and merchandize.

Norfolk. } The commonalty of the town of the lord Edward, late king of England, father of the king that now is, viz. of the town of Great Yarmouth, &c. offered themselves on the fourth day, against William Man, Richard de Enges (and sixteen others) of a plea for that, Whereas by a charter of the lord Edward, formerly king of England, grandfather of the king that now is, &c. &c. it was granted to the bur- gesses,

Appendix (E.)

monia quecūq, &c. que infra portū ville p̄dce in navibz aut bateſſ seu alio modo adduci, &c. ut ibidem negociet̄ de eisdem licite & apte apud eandē villam, &c. & nō alibi infra portu p̄dcm discarcent, &c. absq̄ aliquo forſtallamento vel abrocamento seu alio quovis impedimēto, &c. sub forisfactura rei empte, &c. p̄fati Wiltz & alii simi cum Thom̄ Costyn (and two others) for- ſtallamenta & abrocamēta diſſa de piscibz & aliis mercandis, &c. in eodē portu plur^o ante hec tempa fecerūt necnō burgenſes, &c. vi & armis multipliciū impediverunt in dēi p̄ris reg^o, &c.

gesses, &c. that all merchandizes and wares what- soever, &c. that might be brought within the port of the said town, in ships or boats, or in any other manner to be sold there, should be fairly and openly landed at the same town, &c. and not elsewhere, &c. without any forestalling or bro- cage, or any other kind of obstruction, &c. under forfeiture of the commodity bought, &c. (Never- theless) the aforesaid William and others, together with Thomas Costyn (and two others) at fundry times heretofore, made divers forestallages and brocages of fish, and other merchandizes, &c. in the same port, and also the said burgesſes, &c. with force and arms, many times have obstructed, in

Appendix (E.)

&c. contemptu ipiusq coitatis grave dampnu & cont tenore cartay pdeau & cont pacē, &c. Et ipi non ven et pceptu fuit vic qd difringet pdcos Willm Man, &c. Et vic? retorn qd pdcus Wills le Man distr? est p car? ad valenc? vij d. & man p Willm Reed, &c. (another is distrained in 12 d. and one in 10 d.) Io ipi in mia et p? est vic? sicut plur? qd difring? pdcos Willm Man Ricm de Enges & Hnr Man p omes ter?, &c. Et qd de exit, &c. Et qd heat corpa eoz corā rege, &c.

Award of pluries.

in contempt of the said lord the king, and to the great damage of the said commonalty, and contrary to the tenor of the charters aforesaid, and against the peace, &c. And the sheriff returned that the said William le Man is distrained by his chattels, to the value of 12d. and manucaptured by William Reed, &c. (another in 12d. and one in 10d.) Therefore they are in mercy; and it is commanded to the sheriff, as oftentimes he hath been commanded, that he distrain the aforesaid William Man, Richard de Enges, and Henry Man, by all their lands, &c. And that the issues, &c. and that he have their bodies before the king, &c. wheresoever, &c. And concerning the aforesaid Simon de Bolton, and others, the sheriff returned,

Appendix (E.)

&c. ubicuq, &c. Et de pdcis Simon de Bolton & aliis vic? retorn qd non sunt inventi nec aliquid, &c. Io p? est vic sicut alias qd cap eos s, &c. salvo, &c. Ita qd heat corpa eoz coram rege ad pdcem eminu, &c.

Appendix (F.)

PLEAS cor? reg? tmo Hil? A xxiii Ed. 3. Bucks. } Comissio fca fuit Robto de Hadham ad vendend? blada & alia bona divsa? ab bathia? alienigena? qui Robtus cognovit hic cor? justic?

24 Edw. III. Rot. 21. (dors.)

returned, that they are not found, nor have any thing whereby, &c. Therefore it is commanded to the sheriff as before, that he take them, if, &c. and them safely, &c. so that he have their bodies before the king, at the aforesaid term, &c.

Appendix (F.)

PLEAS before the king, of Hilary term, 24 Edw. III. } A commissio was made to Robert Hadham, to sell the corn and other goods of divers alien abbies, which Robert acknowledged here before the justices, that he sold corn

24 Ed. III. Roll 21. (back.) Judgment of imprisonment, &c. for selling corn in sheaves unwinnowed.

of

Appendix (F.)

justic^o qd̄ vendidit blada prior^o de Tykford in garbis in duab^{us} tassis existen^t p^{er} xⁱⁱ que vendico fca fuit contra legem & consuetudinem regni Anglie vendendo blada in garbis priusq^{ue} fuere triturata qd̄ fieri debuisset & mensuram post eor^{um} trituracoem pro quo comittitur prisone & adjudicat qd̄ ab omi officio dñi regis amoveatur & qd̄ finem faciat cum dño rege.

of the priory of Tickford, in sheaves, being in two stacks, for ten pounds, which sale was made contrary to the law and custom of the realm of England, by selling corn in sheaves before it was winnowed, whereas it ought to have been done by measure, after the winnowing thereof; for which he is committed to prison, and it is adjudged that he be removed from all office of the king, and that he make fine with the lord the king.

Appendix (G.)

IT appears by the roll of fines (Buck. Middx. 24 Edward III.) that he was fined £.5. for exceeding his commission.

PLITA

PLITA cor^o rege t^{er}mio Pasche, A^o xliij^{to} Ed^o 3^o.

London. } Dñs rex misit breve suū majori vic^o recordatori & al^oman civitatis p^{ro} p^{ro}ce qd̄ mittent ei oīa indictamenta tangentia Nichum Sardouch m^{er}catorem de Lumbardia, &c. &c. qui return^o qd̄ mittunt indictamenta, &c. &c. Et inter ea que retornavunt continetur petitio fca dño regi p^{ro} paupes mulieres vocat^{ur} *silkerwemen* contra d^{omi}um Nichum criminando ipm esse forstallatorem

Appendix (H.)

43 Edw. III. Rot. 19.

PLEAS before the King of Easter term, 43 Edward III.

Appendix (H.)

43 Edw. III. Roll 19. Indictment for forestalling and regrating of silk.

London. } The lord the king sent his writ to the mayor, sheriffs, recorder, and aldermen of the said city, that they should send to him all indictments touching Nicholas Sardouch, merchant of Lombardy, &c. who returned that they send the indictments, &c. &c.; and amongst those which they returned, is contained a petition made to the lord the king, by the poor women called *Silkerwemen*, against the said Nicholas, charging him with being a forestaller and regrater of all the silk, as well raw as spun, to the intent to raise

Appendix (H.)

latorem & regratorem omnium cericum tam crudoz qm colatorum ad exaltacōem p̄ciorum eorundem p̄ qm̄ inquis̄ & commis̄ inde f̄cam p̄ jur̄ contra ipm̄ p̄sentacōes plurime f̄ce sunt. Et nunc p̄ breve R̄s mittitur corp̄ d̄ci Nichi cor̄ rege qui dicit qd̄ non est culpabilis & ponit se sup̄ priam, &c. &c. Et xij^{im} jur̄ electi & triati ven̄, viz. sex de indigenis & sex de alien̄ qui dicit qd̄ p̄dcus Nichus culpabilis est de oib̄ articulis in p̄sentacōib̄ p̄dcis content̄, &c. &c.— Postea p̄dcus Nichus p̄ summa £. 200. p̄donatur & in carta sua recitantur p̄sentacōes de quib̄ p̄ jurat̄

raise the pices thereof, by which inquisition and commission thereupon taken upon oath, many presentments were against him; and now by the king's writ, is sent the body of the said Nicholas before the king, who says, that he is t guilty, and puts himself upon the country, &c. &c. and twelve jurors being chosen, and tried, came, to wit, six natives, and six foreigners, who say, that the said Nicholas is guilty of all the articles in the aforesaid presentments contained, &c. &c. Afterwards, the aforesaid Nicholas is pardoned for the sum of £. 200.; and in his charter (of pardon) are recited the presentments of which by the jurors

Appendix (H.)

jurat̄ convict̄ fuit. Ideo cons̄ est qd̄ d̄cus Nichus eat inde sine die, &c. &c.

27 Edw. III. cap. 3.

COMMISSIONS shall be granted to inquire of offenders, contrary to the statute of 23 Edw. III. cap. 6.

Ensement pur les grantz et outraiufes chiertees des vitailles qe les hostelers des herbergeries et autres regraters des vitailles fount par tout le roialme a grant damage du poeple qi passe parmie le

jurors he was convicted; therefore it is considered, that the said Nicholas go thereupon without day, &c. &c.

27 Edw. III. cap. 3.

COMMISSIONS shall be granted to inquire of offenders, contrary to the statute of 23 Edw. III. cap. 6.

Likewise for the great and unreasonable dearnels of victuals, which the hostlers of inns and other regraters of victuals, make throughout the realm, to the great damage of people travelling through the

Statute empowering commissions to inquire of hostlers, regraters, &c.

Appendix (H.)

le roialme accorde est et establi qe justices sachantz de lei qi soient bones et covenables soient de novel eslutz denquere des faitz et des outrages de tieux hostelers regraters laborers et touz autres compris en lestatut autrefois ent fait et de les punir et outre faire droit au roi et au poeple sauvent totes soitz a chefcun seignour et autres leur franchises en toutz pointz.

The statute here noticed, it is conceived, was the origin of divers commissions, one whereof, in the 12 Hen. IV. is as follows.

the kingdom, it is agreed and established, that justices knowing in the law, good and convenient, shall be elected anew to inquire of the acts and misdeeds of the like hostlers, regraters, labourers, and all others comprized in the statute heretofore made, and to punish them, and otherwise to do right to the king and the people; saving always to every lord, and to all other persons, their franchises, in all points.

ROTLUS

ROTLUS' Plitoꝝ coram dño rege de tercio pasch anno regni regis Henrici quarti duodecimo.

Adhuc de Tmino Pasche - - - Rex.

Suffolk. } Alias coram Thoma dño de Morle }
Is. } Robto Berneye & fociis suis justiciar^o
dñi regis ad inquirendā & cōtificandā de omibz for-
stallatoribz & regratoribz bladaꝝ in com̄ p̄sco,
&c. extit̄ p̄sentat̄ qđ Galfrūs Russell sen^o de
Becles die sabti p̄x^o ante fm̄ sc̄i Blasii epi anno
regni regis Henrici quarti post conq̄m undecimo
apud

ROLL of pleas before the lord the king, of the term of Easter, in the 12th year of the reign of King Henry IV.

As yet of the term of Easter - - - Rex.

Suffolk. } Otherwise before Thomas Lord Mor-
ley, Robert Berney and his compa-
nions, justices of the lord the king, to inquire and
certify of all *forestallers* and *regraters of corn*, in
the county aforesaid; it hath been presented, that
Geoffrey Russell, the elder, of Becles, on Satur-
day next, before the feast of Saint Blase, the
bishop, in the eleventh year of the reign of king
Henry

Appendix (I.)

Appendix (I.)

Roll 6.

Special commission to inquire of forestallers and regraters.

Appendix (1.)

apud Beccles emebat lx q̄rtias ordeī de Henr^o Kyberd de Brook, q̄rt^o p̄ xl̄d in forstallariā & t̄m ordeū vendebat cuidm̄ Henr^o Wayneſiet de Southwoolde exaltand̄ p̄c̄^o cujuſt̄ q̄rt̄ ad xl̄ d̄ sic capiend̄ p̄ q̄rt^o vjs. viijd. in p̄judiciū d̄ni regis ac cont̄ formā ſtatutoꝝ d̄ni regis ante hec tempa editoꝝ ad maximā carenciā p̄rie, &c.—Itm̄ extitit p̄ſent̄ qd̄ Johes Cok & Johes Joye de Walberſwyk circa ſm̄ purificaōis be Marie Virḡis anno r̄^o Henrici quarti poſt conq̄m xi^{mo} apud Herleſton Halleſworthe & Saxmondhm̄ & in aliis diſiſ

Henry IV. after the conqueſt, at Beccles, bought ſixty quarters of barley, of Henry Kyberd, of Brook, at forty pence per quarter, in foreſtallage, and the ſaid barley ſold to one Henry Wayneſiet of Southwolde, raiſing the price thereby of each quarter forty pence, ſo taking per quarter ſix ſhillings and eight pence, to the damage of the lord the king, and contrary to the form of the ſtatutes of the lord the king heretofore enacted, to the great dearth of the country; alſo it hath been preſented that John Cok, and John Joye, of Walberſwyk, about the feaſt of the purification of the bleſſed Virgin Mary, in the eleventh year of the reign of king Henry IV. after the conqueſt at Halleſworth and Saxmundham, and in divers other

Appendix (1.)

diſiſ locis p̄rie emebāt ſecrete in angulis & in ſecretis locis ſexaginta quartia frumenti de Willmo Gorhed de diſiſ hoib̄ viz q̄rt̄ p̄ viij s. ubi in pleno foro vendebāt q̄rt̄ p̄ vjs. &c. Et ſic p̄dict̄ Johes & Johes ſunt coi forſtall bladon, &c.—Itm̄ extitit p̄s̄ qd̄ Simon Baſket de Henſted circa ſm̄ oīum ſcoꝝ anno r̄^o Henrici quarti xi^{mo} emebat apud Beccles, Owtehale, & Brampton & in aliis diſiſ locis xl. q̄rt̄ frumenti p̄c̄^o q̄rt̄ vjs. & illi cariavit p̄ liſ mar^o in aliis diſiſ patriis p̄ quod p̄c̄^o q̄rt̄ frument̄ levat̄ fuit ad x s. &c. Et

other places of the county, ſecretly bought, in private and ſecret places, ſixty quarters of wheat, of William Gorhed, and of divers other men, viz. a quarter at eight ſhillings; whereas, in open market, the ſame was ſold for ſix ſhillings per quarter, &c. and ſo the aforeſaid John and John are common foreſtallers of corn, &c. Alſo it hath been preſented, that Simon Baſket, of Henſted, about the feaſt of All Saints, in the eleventh year of the reign of king Henry IV. bought at Beccles, Owtehale, and Brampton, and in divers other places, forty quarters of wheat, of the price of ſix ſhillings per quarter, and conveyed the ſame coaſt-wiſe into divers other parts, whereby the price of a quarter of wheat was raiſed to ten ſhillings, &c.

Appendix
(I.)

Et sic p̄cūs Simon est cois forstallator, &c. Itm̄
extit̄ p̄sent̄ qđ Henricus Childerhous de South
Cove die Sabi p̄x̄ ante festū invencōis scē crucis
anno regni regis Henrici quarti xj^{mo} apud Beclēs
emebat de Nicho Duk in forstallariam iij bushell
frum p̄c̄ buffett xij d. ubi buffett vendebat in foro
p̄ xj d. in forstallariam & p̄judiciū dñi regis & ad
maxiam depaupacōem dñi dñi regis, &c.—Itm̄
extit̄ p̄s qđ Willms Bilton de Carleton die Sabi
p̄x̄ post fm̄ Pasche anno r̄^o r̄^o Henrici quarti
decimo apud Beclis Marke & aliis dieb sequent̄
forstallavit

&c. and so the aforesaid Simon is a common
forestaller, &c. Also it hath been presented, that
Henry Childerhous, of South Cove, on Saturday
next before the feast of the invention of the Holy
Cross, in the eleventh year of the reign of king
Henry IV. at Beccles, bought of Nicholas Duke
in forestallage, four bushels of wheat, of the
price of 12 d. per bushel, whereas the bushel was
sold in the market for eleven pence in forestall-
age, and to the prejudice of the lord the king,
and the great impoverishment of the said lord the
king, &c. Also it hath been presented, that Wil-
liam Bilton, of Carleton, on Saturday next after
the feast of Easter, in the twentieth year of the reign
of king Henry IV. at Beccles market, and on
divers other days following, forestalled ten quar-
ters

Appendix
(I.)

forstallavit decem q̄rt̄ fr̄ p̄cii q̄rt̄ii vij s. iij d. de
p̄sona de Gislam jam defunct̄ & at̄ ita qđ p̄ for-
stallacōem p̄dcam p̄cm̄ uniq̄ q̄rt̄ii exaltabat̄ ibm̄
p̄ iij d. & dca decem q̄rt̄ sic forstallať ad cof-
teram maris duxit & ibm̄ regratavit in magnū
p̄judiciū dñi regis & p̄p̄ti sui.—Itm̄ extit̄ p̄sent̄
qđ Henricus Darby de Kyrkelee die lune p̄x̄
ante fm̄ pur̄ be Marie anno r̄^o r̄^o Henrici quarti
undecimo apud Kyrkelee emebat de Willmo
Bilton j q̄rt̄ fr̄ p̄cii vij s. iij d. & noctant̄ portabat
dcm̄ q̄rt̄ in una nave apud Kyrkelee in malū
exemplū

ters of wheat, of the price of seven shillings and
four pence per quarter, from the Parson of Gislam,
now deceased, and others, so that by the fore-
stalling aforesaid, the price of a quarter was raised
there four pence; and the said ten quarters so
forestalled, conveyed along the sea coast, and
there regrated the same, to the great prejudice
of the lord the king, and his people. Also it hath
been presented, that Henry Darby, of Kyrkelee,
on Monday next before the feast of the purifica-
tion of the blessed Mary, in the eleventh year of
the reign of king Henry IV. at Kyrkelee, bought
of William Bilton one quarter of wheat, of the
price of seven shillings and four pence, and by
night conveyed the said quarter in a ship at
Kyrkelee,

Appendix (I.)

exemplū alioꝝ malefcoꝝ & p̄judiciū dñi regis & p̄p̄i sui, &c. — Itm̄ extit̄ p̄sent̄ qđ Thom̄ Clement de Haleſworth die Martis px̄ post̄ fm̄ ſc̄i Michis Archi anno regni reḡ Henrici quārti post̄ conqm̄ xj̄o in marcato de Haleſworth, emebat v. q̄rtia frumenti in forſtallariam p̄ q̄rtio vj̄s. de Nigello Smyth de Walpol & illud custo- diend̄ usq̄ cariffimū p̄dci bladi emebat & illud detinuit quouſq̄ illud vendebat q̄rt̄ ad viij̄s. Et sic in eodm̄ foro & aliis foris in diuſis locis ut in anno p̄dco tanto p̄c̄ emenc̄ ut ſup̄ & majori p̄cii

Kyrkelee, to the evil example of other offenders, and to the prejudice of the lord the king, and his people, &c. Also it hath been presented, that Thomas Clement, of Haleſworth, on Tuesday next after the feast of Saint Michael the Arch- angel, in the eleventh year of the reign of king Henry IV. after the conquest, in the market of Haleſworth, bought five quarters of wheat in fore- stallage, for six shillings per quarter, of Nigel Smyth, of Walpol, to keep the same until the highest price of corn, and the same did accord- ingly detain until he sold them for eight shillings per quarter, and so in the same market and other markets in divers places, so that in the year afore-

Appendix (I.)

p̄cii vendent̄ ut ſup̄ de aliis legeis dñi regis ad ſummam v. q̄rt̄ f̄ri in p̄judiciū dñi regis & de- paupacōem p̄li ſui. — Itm̄ extit̄ p̄sent̄ qđ Johes p̄ſona ecclie de Outeshale anno r̄o r̄o dñi reḡ nunc xj̄mo usq̄ in hodiernū diem custodit xl. q̄rtia fru- menti in grangia & granario ſuo & recusat vendere dē m̄ fr̄m legeis dñi regis minori p̄cio qm̄ p̄ vij̄s. q̄rtio in p̄judicio dñi reḡ & p̄p̄i ſui. — Itm̄ extit̄ p̄s̄ qđ Simon Basket de Henſted die Martis px̄ ante fm̄ ſc̄i Marci Evangeliste anno regni dñi reḡ xj̄mo

said, purchases were made at the high price above mentioned, and sales were made at still higher prices with the liege subjects of the lord the king, to the amount of five quarters of wheat, to the prejudice of the lord the king, and to the im- poverishment of his people: Also it hath been presented, that John, *Parson* of the church of Outeshale, from the eleventh year of the reign of the lord the king that now is, until this present, hath kept forty quarters of wheat in his grange and granary, and refuseth to sell the same wheat to the king's liege subjects, at a less price than seven shillings the quarter, to the prejudice of the lord the king, and his people: Also it hath been presented, that Simon Basket, of Hensted, on Tuesday next before the feast of Saint Mark the

Appendix (I.)

xj^{mo} emebat in forstallariam lx qrtia fri de Thoma Crane apud Frostendē & de Wiltmo Totelke de Reyden apud Reyden pē qrt^o iij s. & dēm finī vsus ptes extias ducebat ad maxiūm pjudiciū p̄ie es. — Quam quidm̄ p̄sentacōem dñs rex nunc coram se venire fecit t̄minand p̄ quod p̄reō fuit vic qd non omī, &c. quin venire facer eos ad respondend, &c. Et modo sc̄lt a die Pasche in tres Septiās coram dño rege apud Westm̄ venī p̄dci Galfrus Russell Johes Cok Johes Joye Simon Basket Henr Childerhous Wiltus Bilton Henr Derby

Evangelist, in the eleventh year of the reign of the lord the king, bought in forestallage sixty quarters of wheat at Reyden, of the price of four shillings per quarter, and the said wheat exported to foreign parts, to the great prejudice of the country of one hundred shillings; which same presentments, the lord the king that now is, hath caused to come before him to be determined, whereupon it was commanded to the sheriff that he omit not, &c. but that he should cause them to come to answer, &c. And now, that is to say, from the day of Easter in three weeks, before the lord the king at Westminster, came the aforesaid Geoffrey Russell, John Cok, John Joyce, Simon Basket, Henry Childerhous, William Bilton, Henry Derby, Thomas

Appendix (I.)

Derby Thom̄ Clement Johes Parsona eccie de Outeshale p Robm Hore attorn̄ suū et allocuti sunt qualī de p̄missis sibi impositis se velunt acquietari dicunt sepatim qd ipi in nullo sunt inde culpabiles et de hoc poñ se sup p̄riam ideo venī inde jur̄ coram dño rege in Octab̄ sc̄e Trinitat̄ ubicunq, &c. Ad quem diem coram dño rege venī p̄dci Galfrus Russell Johes Cok Johes Joye Simon Basket Henr Childerhous Wiltus Bilton Henr Derby Thom̄ Clement & Johes Parsona eccie de Outeshale p attorn̄ suū p̄cem et vic^o retorn̄

Thomas Clement, John, Parson of the church of Outeshale, by Robert Hore their attorney, and being asked, if they have any thing whereby they can acquit themselves of the charges laid to them, say severally, that they are in no wise guilty thereof, and of this they put themselves upon the country, therefore let the jury come before the lord the king, in the octaves of the Holy Trinity, where-soever, &c. At which day before the lord the king, came the aforesaid Geoffrey Russell, John Cok, John Joyce, Simon Basket, Henry Childerhous, William Bilton, Henry Derby, Thomas Clement, John, Parson of the church of Outeshale, by their attorney aforesaid, and the sheriff returned

Appendix
(1.)

retorn noia jur^o xxiiij^{or} quoz nullus &c. ideo
p̄c est vic, &c. &c. Ad quem diem coram dño
rege apud Westm^o ven̄ p̄dci Galfrus Russell &
alii, &c. et Johes Cokayn & Ricus Norton justic,
&c. coram quib, &c. miserunt hic recordum
vedci jurate p̄dce coram eis hite in hec verba—
Postea die & loco infracontentis coram Johē
Cokayn & Rico Norton justic dñi ad assias in
com Suff^o capienđ assign p̄ formam statuti, &c.
ven̄ Galfrus Russell Johes Cok (and the others)
infranōiat in ppriis p̄sonis suis et scā p̄clamacōe
put

turned the names of 24 jurors, of whom none,
&c. therefore it is commanded to the sheriff, &c.
At which day before the lord the king at West-
minster, came the aforesaid Geoffrey Russell (and
the others, &c.) and John Cokayn, and Richard
Norton, justices, &c. before whom, &c. sent here
the record of the verdict of the jury aforesaid,
before them had in these words: Afterwards, at the
day and place within contained, before John
Cokayn and Richard Norton, justices of the lord
the king, assigned to take assizes in the county
of Suffolk, by form of the statute, &c. came
Geoffrey Russell, John Cok, (and the others)
within named, in their proper persons, and procla-
mation

Appendix
(1.)

put moris est si quis inquis^o p̄ dño rege ibm
capienđ informare vel calumpniare voluit nullus
p̄ dño rege ad informand vel calumpniand in forma
p̄dca se pfert ideo p̄cessum est ad capcōem ju-
rat, &c.

mation being made, as the custom is, if any one
was willing to inform thereupon for the lord the
king, and no one offered himself to inform for the
said lord the king, therefore process to the cap-
tion of the jury, &c.

(No further proceedings appear to have been had
on this commission).

IT is scarcely to be doubted that special com-
missions have frequently issued upon the subject
of forestalling in times of antiquity. Besides the
one just noticed, another of the same nature has
been discovered among the records of the lord
treasurer's remembrancer's office, in the court of
exchequer, directed to W. bishop of Norwich,
the duke of Norfolk, sir Ralf de Hungerford, &c.
to inquire of artificers, travelling men, &c. as
also of transgressors, *forestallers*, *regrators*, and
extortioners, in the county of Norfolk, teste rege,
5 Dec. 7 Hen. VI.; and it appears by the roll,
that similar commissions were issued at the same
time into other counties.

Exchequer

Exchequer. Mich. 9 Jacobi.
 Appendix (K.)
 Starch. Pasch' Record.

MEMORAND' quod Johannes Southerton
 unus baron' hujus scaccarij presens hic in curia a
 die Pasch' in quindecim dies hoc termino per ma-
 nus suas proprias deliberavit curie hic intelli-
 quendam informationem ei per Thom' Bridg-
 man de London gen' exhibit' cujus tenor se-
 quitur in hec verba:

Surr. } Memorandum quod Thom' Bridgman
 Middx. fs. } de London gentleman qui tam pro
 domino rege quam pro seipso sequitur in propria
 persona

Michaelm. 9 James.
 Appendix (K.)
 Easter Record.
 Starch.

MEMORANDUM, That John Southerton, one
 of the barons of this exchequer present here in
 court, from the day of Easter in 15 days in
 this term, with his own proper hand, delivered
 to the court here, to understand a certain infor-
 mation to him by Thomas Bridgman, of Lon-
 don, gentleman, exhibited, the tenor whereof
 followeth in these words:

Surrey, } Memorandum, That Thomas
 Middx. (to wit.) } Bridgman, of London, gentle-
 man, who sues as well for the lord the king, as
 for

persona sua venit quinto die Martij, anno regni
 domini regis nunc Jacobi Angliæ octavo et tam
 pro eodem domino rege quam pro seipso dedit
 baronibus hujus scaccarij intelli et informari
 quod quidam Richardus Collins de Peckham in
 comitat' Surrey gen' inter primum diem Aprilis
 anno regni dicti domini regis nunc Angliæ 8^{vo} et
 die exhibitionis hujus informationis apud West-
 monasterium in comitatu Middlesex' ingrossabat et
 obtinebat in ejus manus et possessionem per
 emptionem et non per dimissionem concessionem
 vel traditionem terre sive decimam de diversis
 personis

Appendix (K.)

for himself, came in his proper person, on the fifth
 day of March, in the eighth year of the reign of
 the lord the now king James of England, and as
 well for the same lord the king, as also for him-
 self, gave to the barons of this exchequer to un-
 derstand and be informed, that one Richard
 Collins of Peckham, in the county of Surrey,
 gentleman, between the first day of April, in the
 eighth year of the reign of the said lord the now
 king of England, and the day of the exhibiting of
 this information at Westminster, in the county of
 Middlesex, ingrossed and got into his hands and
 possession, by buying, and not by demise, grant,
 or lease of land or tythe, of divers persons, whose
 names

Appendix
(K.)

personis quorum nomina prefatus Thom' Bridgman adhuc incognit' existit 20 quarter' tritici precij cujuslibet quarterij inde 20s. ea intentione ad triticum predictum (&) quālibet inde pcellam in formam Anglicè meale redact' et in aqua posit' et exinde excit' et refac' p nomen *ligaminis*. * Anglicè *starch* revend' contra formam statuti in hujusmodi casu nuper edit' et provis' unde predict' Thom' Bridgman tam pro dicto domino rege quam pro seipso petit avisamentum curie in premissis ac quod predictus Richardus Collins acceptetur et habeatur pro illegittimo ingrossatore et

* Sic in orig.

names the aforesaid Thomas Bridgman as yet knoweth not, twenty quarters of wheat, of the price of each quarter 20s. with the intent to reduce the said wheat, and every parcel thereof, into the form (*anglicè*) of meal, and to put the same in water, and afterwards, being manufactured and converted, to sell the same again by the name (*anglicè*) of starch, contrary to the form of the statute in such case lately made and provided; wherefore the said Thomas Bridgman, as well for the said lord the king, as for himself, prays advice of the court in the premisses, and that the aforesaid Richard Collins may be deemed and accounted for an unlawful ingrosser, and for this

first

Appendix
(K.)

et pro hac prima offens' forisfact' £. 20. legalis monete Angliè viz. valoris predict' 20 quarter' tritici predict' per ipsum Richardum, contra formam statuti predicti empt' et ingrossat' et habeat imprisonamentum per duos menses absque ballio five manucaptione aliquali quodque ipse idem Thomas Bridgman medietat' forisfacture predictæ habere valeat juxta formam statuti ac quod antedict' Richardus Collins veniat hic ad respondend' in premissis.

Liberat' per predictum Thomam Bridgman
5^o die Martij anno 8^{vo} regis Jacobi.

Johannes Sotherton.

first offence, may be fined £. 20. of lawful money of England (to wit) the value of the twenty quarters of wheat aforesaid, by the said Richard, contrary to the form of the aforesaid statute bought and ingrossed, and that he be imprisoned for two months, without any bail or mainprize; and that the said Thomas Bridgman may have the moiety of the aforesaid forfeiture, according to the form of the statute, and also that the aforesaid Richard Collins come here to answer the premisses.

Delivered by the aforesaid Thomas Bridgman,
the 5th day of March, in the 8th year of
king James.

John Sotherton.

Petitions to Parliament

PETITIONS

TO THE HOUSE OF COMMONS

Respecting the Forestalling, Re-grating, and Ingrossing of Cattle, Corn, &c. with the Proceedings of Committees thereupon; extracted from the Journals.

Petition from Haslemere Surrey, against abuses of millers, &c.

2d March 1733. A PETITION of the bailiff, constable, freeholders and other inhabitants of the antient borough of Haslemere, in the county of Surrey, was presented to the house and read; setting forth that divers millers and mealmen, who had ingrossed the greatest part of the corn trade near the said borough in the twelve months last passed, secretly bought great quantities of corn by small samples, refusing to buy such as hath been pitched in open market; whereby the tolls of the said borough, which are applied towards the maintenance of the many poor inhabitants thereof, have been greatly reduced, and the trade thereof been almost entirely lost. And that these illegal practices have of late years been carried on in divers parts of England, by millers and mealmen, combining to fix the price and measure of corn, and compelling the farmers to carry the same to their houses, whereby the trade of several considerable market towns hath been destroyed;

Petitions to Parliament

destroyed, the laws made for punishing regrators, forestallers, and ingrossers, being become obsolete, or the execution thereof being attended with great expence and difficulty; and therefore praying leave to bring in a bill for the making the said laws more effectual to prevent such practices for the future, or that the petitioners may be otherwise relieved in the premisses as to the house shall seem meet.

Ordered to be referred to the consideration of a committee; and that it be an instruction to the committee to consider of the abuses by salesmen in the buying and selling of cattle, and to report their opinion.

Referred to a committee.

22d March 1733.—Committee report:—That the mealmen and millers have combined together to fix the price of corn brought to the market, and thereby ingrossed the whole trade thereof.

Report of committee.

That such combination, and their forestalling of corn markets, tend very much to the prejudice of the farmers using such markets, and to the oppression of the poor, and ought to be redressed.

2d April 1733.—A petition was presented from the mayor, aldermen, and burgeses of the borough of Helston, in Cornwall, to the same effect; was ordered to lie on the table.

Petition from corporation of Helston.

Petitions to Parliament.

Petition from gentlemen, farmers, &c. of the county of Lincoln, against jobbers of cattle.

14th January 1755.—A petition of several gentlemen, farmers, and other persons, breeders and feeders of sheep, in the county of Lincoln, reciting, that by an act made in the 5th and 6th years of king Edward VI. it was enacted that no person should buy any sheep or lambs, and sell them again alive, unless such person should keep and feed the same for the space of five weeks in his own house or ground, or in such ground where he should have herbage or common of pasture by grant or prescription, under a penalty by the said act inflicted; and setting forth that of late years the said act hath been evaded by certain persons called *jobbers*, who have for their own private emolument in a great degree monopolized the sheep and lambs in the said county, whereby the breed of sheep hath been greatly injured, and the price of sheep and lambs considerably enhanced; and therefore praying the house to take this grievance into consideration, and to grant such relief to the petitioners as the house should think proper.

The same was referred to a committee.

18th February 1755.—Report brought up.

30th April.—Report read, and a bill ordered to be brought in.

Petition from the inhabitants of Westminster, against jobbers, forestallers, &c.

10th April 1766.—A petition of the inhabitants of the city and liberty of Westminster, whose names

Petitions, &c. to Parliament.

names are thereunto subscribed, on behalf of themselves and others, was presented to the house and read; setting forth, that the petitioners are greatly affected by the grievous distresses under which the lower order of the people labour, through the exorbitant price of provisions of every kind, particularly butcher's meat, arising principally, as the petitioners apprehend, from the iniquitous practices of *jobbers, forestallers, and ingrossers*, whereby several considerable profits are unnecessarily and oppressively made to the great grievance of the petitioners, and more especially to the poorer sort of the inhabitants of the said city and liberty; and therefore praying the house will take the premises into consideration, and grant such relief as to the house shall seem meet.

Ordered to be referred to the consideration of a committee, to examine and state the matter of facts.

22d April 1766.—A like petition from the inhabitants of Spital Fields, was read, and ordered to be referred to the same committee.

Petition from Spital Fields.

25th April 1766.—Report from the corn committee read; as follows:

Mr. John Warrington, a considerable farmer at Morden, in the county of Surrey, said, that persons,

Report from the corn committee.

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to
Parliament.

persons, who are called *jobbers*, constantly attend the corn market at London, and buy up great quantities of oats, which they lay up in their granaries, in order to bring to market again :

That these persons, by their agents, buy great quantities of oats of the farmers about harvest time, when the farmers are in want of money, which they lay up in granaries in the country, and bring to town sparingly, as they are wanted, by which practice they keep up the price :

That when the port of London has been opened, great quantities of oats have been brought from abroad ; but being brought sparingly to market, the price has still been kept up ; and the witness said he thought this practice might be remedied, if the port of London was to be opened for the importation of oats four times in the year.

Then witness mentioned the names of several persons who had bought up corn at the market in London, and laid it up in granaries in the manner he had mentioned.

And being desired to explain the difference between corn factors and corn jobbers, he said, that by a *corn jobber*, he meant a person who buys corn in one market and carries it to another market within a little time, or buys it in the country, before it comes to the market ; and that by a factor, he meant a gentleman who kept a stand

Petitions, &c.
to
Parliament.

stand at market, and received corn from the different counties, and sold it for the owners by commission, and did not deal in corn upon his own account.

And being asked, whether the corn so sent up by the farmers to their factors, was not laid up by their factors in granaries, he said he believed they might lay it up in their granaries when it was cheap, and send it into the market when it was dear ; which practice, in his opinion, kept up the price of corn at the market.

That he was of opinion, if the port of London was to be opened four times in the year, it would be of advantage to the farmers, as they would find a better market for their corn than at present, and would tend to prevent the practice of buying corn upon speculation, and the farmer would then bring his corn to market, where it would be bought by the people, who are the real consumers, and not by jobbers.

That when the time is near for opening the ports, the jobbers bring great quantities to market in order to lower the price ; and that when the time for opening the ports has elapsed, the witness has constantly observed the price of corn to rise ; and that he thinks this grievance would be remedied, if the power was given to open the port of London four times in the year.

Petitions, &c.
to
Parliament.

Report of
committee
on Westmin-
ster and Spital-
Fields petition.

The committee had considered the prices of corn at the markets at Oxford, Cambridge, and Winchester, for a long period back, from 1660 to 1765. The prices during this period are printed in the Journals of the House of Commons, 1766.

1st May 1766.—The committee to whom these petitions were referred, reported the examination of many salesmen, innkeepers, tallow chandlers, graziers, &c. the substance whereof, as to cattle, is as follows: That the general complaints were, that when farmers want hogsheep and sheerlings, and lean beasts, in the spring of the year, and go to market to buy them, they find them all in the hands of jobbers; not one in ten but what are sold to jobbers, by the breeding farmer, before they come to the market, by which means they are in a few hands, who supply the market as they please, and raise the price to the graziers, twenty shillings in ten pounds: that the grazier can sell to the butcher in Smithfield full as well as the jobber, by means of a drover; the jobbers buy sheep of breeders, sound or unsound, mix them, and bring them to market in great number, and set a high price on them, as the feeders have no where to buy but of them, and at such price as the jobbers set: that the advantage would be great to the breeders, to bring their own stock to market, as they would sell for

more

Petitions, &c.
to
Parliament.

more to the grazier than to the jobber: that in the north, one half of the lean cattle are in the hands of jobbers, who buy them from the farmer and breeder, and carry them to fairs and markets, so that the grazier is obliged to buy of the jobber; that many jobbers who have no land of their own, buy lean cattle, and contract with the breeder to take them away at a certain time, according to the next fair or market day. In this manner they go about the country, and get to the farmers before any other people can, and possess themselves of more than half the market. That the rise of provisions is greatly owing to this practice with respect to lean cattle; if the grazier could buy of the farmer, it would save the expence of a middle man; but jobbers, who have no land of their own, buy up and carry cattle to the London markets, and sell them again to other jobbers, who sell to graziers.

In consequence of this report, a bill was ordered to be brought in, to explain, amend, and enforce the several laws in force against *ingrossers and fore-stallers of cattle, and other provisions*, which was accordingly done by Sir George Yonge, but the same was dropt after the second reading.

8th April 1767.—Report from the committee appointed to consider of the laws relating to badgers, *ingrossers,*

Bill ordered to
be brought in
against in-
grossers and
fore-stallers;
read a second
time only.

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Petitions, &c. Parliament.

Corn committee resolve that the laws against forestalling are the means of raising the prices.

ingrossers, forestallers, and regrators, was read, and their resolutions were as follow:

Resolved, That it is the opinion of this committee, that the several laws relating to badgers, ingrossers, forestallers, and regrators, by preventing the circulation of, and free trade in corn and other provisions, have been the means of raising the price thereof in many parts of this kingdom:

Resolved, That it is the opinion of this committee, that the house be moved for leave to bring in a bill to remedy the evils occasioned by the said laws.

The question being put was carried, and leave granted, and ordered to be prepared.—No bill was then brought in.

Petition from gentlemen, &c. of the county of Somerset, complaining of monopoly of cattle.

20th January 1768.—A petition from the gentlemen, graziers, and others, feeders of cattle of the eastern part of the county at Somerset, at a numerous meeting held at Yeovil, in the said county, the 8th day of January 1768, was presented to the house and read; complaining of the very high prices of flesh meat, which they apprehend are in a great measure occasioned by the excessive monopoly of cattle, so prejudicial to the fair trader, and which is become so general in the western counties, that very few oxen can be bought by the petitioners for feeding, but what have passed through

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Petitions, &c. Parliament.

through five or six hands, from the breeder to the feeder, who has advanced the price near £. 40. per cent.; that the petitioners cannot stock their lands without buying of those jobbers, who will have such immoderate prices for them, that many oxen have been bought of the breeders by those monopolizers at unreasonable prices, and have by them been sold to the grazier in a few days after, at the advanced price of two or three pounds per ox, and which have not yielded the grazier at Smithfield market, for forty weeks feeding, above twenty shillings per ox more than they cost, and yet have been sold very dear; and that the present law for preventing such monopoly is found defective, and expressing the hopes of the petitioners, that the house will take that important matter into their most serious consideration, and provide such speedy and effectual means for redressing those grievances, as they shall think most proper.

Same day.—The like petition from the county of Dorset, was read, containing the same allegations.

Same day.—A petition of the justices of the peace for Somerset, assembled at their general quarter sessions for the county of Somerset, and of the gentlemen of the grand inquest, and of other gentlemen,

Petition from Dorset.

Petition from justices and grand jury of Somerset.

Petitions, &c.
to
Parliament.

gentlemen, clergy, and freeholders of the said county, was also presented to the house, setting forth, that the illegal practices of *drovers of cattle* enhance the prices thereof; and that the want of *one uniform standard of weight and measure*, and of a *better regulation of the markets* throughout the kingdom, many people enrich themselves at the expense of the poor; and that the great increase of late in the breed of horses, is a check to the breed of horned cattle, and consequently contributes to raise the price; and therefore praying the house to take into consideration the several laws now in being, with respect to those several practices, and to make such amendments and alterations thereunto as shall seem meet.

The said petitions were severally ordered to be referred to a committee.

Report of the committee on three last petitions.

8th February 1768.—Report brought up by Sir Charles Kemys Tynte; that the Committee had examined the matter in the said petitions, and reported as follows:—That to prove the allegations in the said petitions, Sir Abraham Elton, bart. being examined, said that he acts as a justice of the peace for the county of Somerset; that he has had frequent complaints from graziers of illegal practices made use of by *jobbers of cattle*, but could give no remedy, as the law requires two witnesses

Petitions, &c.
to
Parliament.

witnesses to prove the offence, which it is almost impossible to procure; the transaction being only between buyer and seller.—That the justices at the general quarter sessions complain of this grievance, and of the impracticability of bringing offenders to justice as the law now stands; and that he thinks the only check to this illegal selling of cattle would be, that one justice should have power, where there is sufficient cause to suspect a breach of the law, to bind the supposed offender to the sessions, where the *onus probandi* should lie on the accused.—That if this practice was suppressed, it would be beneficial to counties near London, as the frequent shifting of cattle from hand to hand, for half a crown profit, is the reason they are never fed properly. Upon the whole matter, the committee

Resolved, That it is the opinion of this committee, that the illegal practices of *drovers, jobbers, and persons buying and selling again of live cattle, tend greatly to enhance the price of meat provisions.*

That the present laws for restraining such practices are insufficient and ineffectual for want of the more easy method of convicting offenders.

22d February 1768.—The said report was ordered to be taken into further consideration; when the same was re-committed.

Petitions, &c.
to
Parliament.
Statutes re-
pealed.

15th March 1772.—The house was moved that the resolutions of the 8th April 1767, be read; which being done, it was ordered (nem. con.) That leave be given to bring in a bill for remedying the evils occasioned by the laws now in being, relating to badgers, ingrossers, forestallers, and regrators, be referred to a committee of eighteen gentlemen; which was done accordingly; and the statute 3 & 4, and 5 & 6 Edw. VI. and several other acts downwards, were in consequence thereof repealed.

Petition from
the city of
London for re-
viving the laws
against fore-
stallers.

4th May 1787.—A petition was presented from the mayor, aldermen, and commons of the city of London, in common council assembled, which was read, setting forth; that the great advance in the price of meat, and other provisions, of late years, by distressing the middling and lower classes of people, has a tendency, in the apprehension of the petitioners, immediately to injure, and at length to destroy the manufactures and commerce of the kingdom; and that the petitioners are advised and believe such advance had been partly occasioned by, and is likely to increase, by the repeal in the twelfth year of his present majesty, of most of the laws which the wisdom and experience of our ancestors had found necessary to prevent forestalling and regrating of cattle, and other articles of provisions; and the petitioners apprehend

by the repeal
of the laws
against fore-
stallers.

Petitions, &c.
to
Parliament.

apprehend the said evils may in some degree be removed, by reviving to a proper extent the laws against forestalling and regrating, and by ascertaining, licencing, and regulating the persons employed as salesmen or factors in cattle and other provisions; and that the petitioners have entered into a very serious investigation of the cause of the said evil, which from the importance of the subject, has occupied their attention for a great length of time, and has thereby prevented them from presenting a petition within the time limited by the house for receiving petitions for private bills; and therefore praying that they may now be at liberty to present a petition for leave to bring in a bill or bills to prevent forestalling and regrating, and for licencing salesmen, factors, and others, employed in the sale of cattle and other provisions, or to have such other relief as to the house shall seem meet.

Leave granted to present the said petition, which was presented and ordered to lie on the Table.

16th May 1787.—House moved, that the said petition presented 4th March, be read, which being done, a motion was made, and the question put, that the said petition might be referred to the consideration of a committee, to examine allegations, and to report thereon to the house; which was carried.

Motion for re-
ferring the same
to a committee
negatived.

Petitions, &c.
to
Parliament.

Petition from
the cutting re-
tail butchers
of London, &c.

tions, and report opinion.—It passed in the negative.

4th April 1796.—A petition was presented from the cutting retail butchers of London, Westminster, and the borough of Southwark, and places adjacent, complaining of the practices of monopolizing jobbers, forestallers, regrators, and ingrossers, and of carcase butchers, and their prevention of a free and open market of live cattle, by which they were obliged to have recourse to jobbers and carcase butchers for a supply of cattle, which they formerly had an opportunity of buying alive at the first hand; which practices enhanced the price of meat; and that those persons ingrossed to themselves not only the greatest part of the live stock brought into Smithfield market, but also the stock brought weekly into the small markets within fifteen miles of the metropolis; which system of forestalling was another cause of the rise in the price of meat, and tended to concentrate a great part of the trade into the hands of those middle men, to the injury of fair traders, who were the original purchasers and venders of that article of sustenance to the public, and praying the house to take the same into consideration, and to grant relief.

Ordered to lie on the table.
On

Petitions, &c.
to
Parliament.

Report of
committee.

On the 13th of the same month read again, and referred to a committee; and on the

29th April 1796, the committee to whom the same was referred, made their report, after having examined several witnesses, and came to the following resolutions:

Resolved, That it is the opinion of this committee, that the practices of carcase butchers, in monopolizing Smithfield, and other markets, is one cause of the dearness of butchers meat within the bills of mortality; which practices have of late years much increased, and therefore the trade of carcase butchers ought to be regulated.

Resolved, That it is the opinion of this committee, that the practices of jobbers and others, who buy cattle and sheep on speculation, which are afterwards sold at advanced prices several times before they are purchased by the cutting retail butchers (by which several unnecessary profits are obtained between the farmer and consumer) are principal causes of the dearness of butchers meat within the bills of mortality; these practices having increased of late years to an excessive height, ought to be abolished.

Resolved, That it is the opinion of this committee, that forestalling and regrating tend greatly to enhance the price of butchers meat; and that these practices having increased of late years, to the great detriment of the public, ought to be more

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Petitions, &c. to Parliament.

Bill for preventing the forestalling, &c. of live cattle, ordered.

more effectually prevented by a summary mode of conviction.

6th May 1797.—The house was moved, that the entry in the journal of the house, of the 29th day of April, in the last session of parliament, of the resolutions which were reported from the committee, to whom the petition of the cutting retail butchers of London, Westminster, the borough of Southwark, and the places adjacent thereto, was referred, might be read;

And the same having been read accordingly;

Ordered, That leave be given to bring in a bill for the more effectually preventing the forestalling, regrating, and ingrossing of live cattle: And that Mr. Mainwaring and Mr. Alderman Combe do prepare and bring in the same.

2d May.—Bill presented by Mr. Mainwaring, read a first time, and ordered to be printed.

Petition from county of Somerset in favour of the bill for preventing forestalling of live cattle.

17th May 1797.—A petition of the several persons, owners, and occupiers of farms and lands in the county of Somerset, was presented to the house and read; taking notice of the bill for preventing the forestalling, regrating, ingrossing, and jobbing of live cattle; and praying, that the said bill (which they conceive will tend to prevent those evils) may pass into a law.

Ordered to lie on the table.

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19th May.—Bill read a second time, and committed, and the report of 29th April 1796, referred to the said committee; reported and considered, after being recommitted, amended, &c.

June 29th.—The bill was lost, upon a motion being carried that the second reading of the amendments be put off for three months.

By the KING,

A PROCLAMATION,

For putting the laws in execution against Forestalling, Regrating, and Ingrossing of Corn.

GEORGE R.

WHEREAS several good statutes have been made against Forestallers, Regrators, and Ingrossers, who are thereby declared open oppressors of the poor, and enemies of their country: And by an act made in the parliament holden in the fifth and sixth years of the reign of king Edward the Sixth, the buying, bargaining, or contracting for any corn coming by land or by water to any market or fair, or to any city, port, haven,

Petitions, &c. to Parliament.

Bill lost.

Proclamation. 10th Sep. 1766.

Proclamation:

haven, creek, or road, of this realm or Wales, from any parts beyond the sea, to be sold before the same shall be brought into the markets, fairs, cities, ports, havens, creeks, or roads, to be sold; and the making any motion by word, letter, message, or otherwise, to any person, for the enhancing of the price, or dear selling of the same, and the dissuading any person from bringing his or her corn to any of the said markets, fairs, cities, ports, havens, creeks, or roads, to be sold, are prohibited, and adjudged forestalling: And whereas by the same act it is declared, that the obtaining or getting into any man's possession any corn, in any fair or market, and selling the same in any fair or market held in the same place, or within four miles thereof, shall be adjudged regrating: And whereas by the same act it is likewise declared, that it shall be adjudged an unlawful ingrossing to buy or contract for any corn, to sell the same again, otherwise than is therein particularly allowed of (that is to say) buying of barley, bigg, or oats (not by forestalling) to be converted into malt or oatmeal in the house of the buyer, which shall be so converted indeed; or the taking of any corn reserved without fraud, upon any lease for term of any life or years; or the buying of any corn (not by forestalling) by any badger, lader, kridder, or carrier, who is to be licenced so

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to do, and shall sell the same in open fair or market, or to some victualler or other person, for the provision of his or their houses, within one month after the same shall be so first bought; or providing, without forestalling, the usual quantity of corn for any city, borough, or town corporate, or for provision, or victualling any ship, castle, or fort, within the dominions of the crown; all which sorts of dealing in corn are not offences against the statute; nor the buying of corn (except by forestalling) by any person licenced so to do, to be transported by water from any port or place in England or Wales, unto any other port or place within our dominions; so that the same be, without fraud, shipped within forty days after the same shall be bought, and carried with such expedition as the wind and weather will permit, to the port the cocquet of the same shall declare, and there to disembark and sell the same, and bring a certificate thereof from a justice of the peace of the county, or mayor or bailiff of the town, and of the customer of the port, of the place and day where the corn was unladed and sold, to the customer and comptroller of the port where the same was shipped; the punishments of which said offences are enacted to be imprisonment for two months, without bail or mainprize, for the first offence, besides forfeiture of the corn so bought or

had;

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had; for the second offence, imprisonment for the space of half a year, without bail or mainprize, and loss of double the value of the corn so bought or had as aforesaid; and for the third offence, setting on the pillory, in the place where the offender shall dwell, and forfeiture of all his goods and chattels, and imprisonment during our pleasure; the one moiety of all which forfeitures is given to the prosecutor in case he will sue for the same; but the whole forfeiture will belong to us where the conviction shall be at our suit only. And it was thereby likewise enacted, that if any person, having sufficient corn for provision of his house, and sowing of his ground for one year, shall buy any corn in any fair or market, for the change of his seed, and shall not bring to the same fair or market the same day, so much corn as shall be bought for his seed, and sell the same, if he can, at the price the same shall then go at in the said fair or market, every such person shall forfeit the double value of the corn so bought. And whereas by an act made in the fifth year of the reign of queen Elizabeth, it was enacted, that no badger, lader, kidder, carrier, buyer, or transporter of corn, shall be licenced but in the general quarter sessions of the peace for the county where such person shall so dwell, and hath dwelt

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for the space of three years before the date of his licence, and who is then an householder, not a servant or retainer to any person, and who, at the time of granting such licence, is or hath been a married man, not under the age of thirty years; which licences are to continue but for a year, and must be signed and sealed by three of the justices then present, whereof one to be of the quorum, on pain of forfeiting five pounds by every person taking any licence not pursuant to the said act; and all such licences are by the said act declared to be null and void: And the said justices are by the said act impowered to take bond and surety by recognizances of the person licenced, that he shall not forestall or ingross, or otherwise practise or do any act or thing contrary to the said statute of Edward the Sixth. And it is likewise further provided by the said act, that no person shall buy any corn or grain out of open fair or market to sell again, unless such person shall be thereunto licenced by special order and express words, upon pain of forfeiting the like sum of five pounds; all which several offences the justices of the peace, at the quarter sessions for the county where such offences shall be committed, have power to hear and determine. And whereas the prices of corn are already very much increased, and the same is

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likely to grow much dearer, to the great oppression of the poor, partly because the said acts are not duly put in execution: We have thought fit, by the advice of our privy council, to issue forth this our royal proclamation; and we do hereby strictly charge and command all and every our judges, justices of the peace, mayors, sheriffs, bailiffs, and all other magistrates, officers, and ministers, whatsoever and wheresoever, within England, Wales, and our town of Berwick upon Tweed, that they, and every of them, within their respective places and jurisdictions, do cause the said acts, and all other acts relating to the same matters, to be in all and every the parts and branches thereof put in speedy and effectual execution; and that they do take care that no licence be granted to any badger, lader, kidder, carrier, or buyer of corn or grain, but to such persons as are or shall be qualified for the same, according to the directions of the acts of parliament relating thereunto, and under such sureties as those acts do require; and that they do take care that all offenders against the said acts be effectually prosecuted according to the purport of the said acts. And we do hereby require and charge all our officers, ministers, and loving subjects whatsoever, to be aiding and assisting in the due execution of this our royal proclamation,

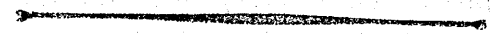
on

Proclamation.

on pain of our high displeasure, and of such pains and punishments as may by law be inflicted upon the contemners of our royal authority.

Given at our court at St. James's, the Tenth day of September, One thousand seven hundred and sixty-six, and in the Sixth year of our reign.

GOD save the KING.



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