(1687)

VIII. Of the King's Revenues

The revenue of the Crown is either ordinary or extraordinary.

The former consists of 1.° the custody of the temporalities of vacant Bishopricks, this was formerly a considerable branch of the revenue, but now reduced to nothing, for the new bishops as soon as consecrated and confirmed does homage to the King and receives the restitution of his temporalities. 2.° first fruits and tenths of all spiritual preferments in the Kingdom; these were originally part of the Papal usurpations over the Clergy of this Kingdom; the former was the profits of the spiritual preferment for one year, the latter was the tenth part of the annual profit of each living, these were by Statutes 26. Henry VIII c. 3. and 1. Elizabeth c. 4. annexed to the Crown and the preferments new valued, by which the Clergy are at present rated; though they discharged from the payments of first fruits all vicarages under ten pounds a year, and all rectories under ten marks and in such livings as continued chargeable with this payment, if the incumbent lives but half a year only one quarter of the first fruits is to be paid; if a year, then the half, if a year and half, three quarters, and if two years the whole. Likewise by Statute 27. Henry VIII. c. 8. no tenths are to be paid for the first year, as the first fruits are then due, and by other Statutes of the 5.th and 6.th Queen Anne if a benefice be under fifty pounds per annum it shall be discharged of the payment of first fruits and tenths.

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2°. A corody out of every Bishoprick, that is the King's right of sending one of his Chaplains to be maintained by the Bishop, or to have a pension allowed him till the Bishop promotes him to a benefice; this is fallen into disuse.

3°. The King is entitled to all tithes of extraparochial places; but indeed it may with reason be doubted whether this article as well as the last can be reckoned a part of the King's own royal revenue, since the former only supports his Chaplains, and these tithes are held under an implied trust that he will distribute them for the good of the Clergy.

4°. First fruits and tenths of all spiritual preferments in the Kingdom; these were originally part of the Papal usurpations over the Clergy of this Kingdom; the former was the profits of the spiritual preferment for one year, the latter the tenth part of the annual profit of each living, these were by St. 26. Henry VIII. c. 3. and 1. of Elizabeth c. 4. annexed to the Crown and the preferments new valued, by which the Clergy at present are rated; though they discharged from the payment of first fruits all vicarages under ten pounds a year, and all rectories under ten marks, and in such livings as continued chargeable with this payment, if the incumbent lives but half a year only one quarter of the first fruits is to be paid; if a year then the half; if a year and half three quarters; and if two years the whole; likewise by Statute 27 Henry VIII. c. 8. no tenths are to be paid for the first year, as the first fruits are then due, and by other Statutes of the 5th and 6th Queen Anne if a benefice be under fifty pounds per annum,

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it shall be discharged of the payment of first fruits and tenths; but this Queen granted a Charter, confirmed by Statute 2. Anne c. 11. by which all the Revenue of first fruits and tenths is vested in trustees for ever to form a perpetual fund for augmenting poor livings; which was highly laudable, as it restored to the Church what had been forced from her, and applied the superfluities of the larger benefices to make up the deficiences of the smaller.

5. The rents and profits of the Demesne lands of the Crown, which are either the share reserved to the Crown of the original distribution of landed property, or such as came afterwards by forfeitures or other means, these were formerly very considerable, but now much contracted by having been almost entirely granted away to private subjects. This occasioned the parliaments frequently interposing, and particularly when King William had greatly impoverished the Crown, an Act was passed 1. Anne St. 1. C. 7. declaring all future grants or leases from the Crown for a longer term than thirty one years or three lives void, except with regard to houses, which may be extended to fifty years; and no reversionary lease can be made to exceed with the estate in being the same term of three lives or thirty one years.

6. The profits arising to the King from military tenures, to which most lands in the Kingdom were subject, which was nearly abolished by St. 12. Charles II. c. 24. also the prerogative of purveyance and pre-emption, or the right of buying provisions and other necessaries for the use of the King's Household at an appraised valuation even without the consent of the owner, and also the forcibly impressing the carriages and horses of the subject to do the King's business on the public roads, in the conveyance of timber, baggage, and the like at a settled price however inconvenient to the Proprietor; besides the King's household, as well as those of inferior lords were supported by specific renders of Corn, and other victuals from the tenants of the respective demesnes; but by degrees the powers of purveyance declined and by

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the suspension of Monarchy fell into disuse; King Charles at his restoration consented to resign these branches of revenue and power, in consequence of which Parliament settled upon him, his heirs and successors for ever, the hereditary Excise of fifteen pence per barrel on all beer and ale sold in the Kingdom; and a proportionable sum for certain other liquors, so that this Excise now makes the sixth branch of the ordinary revenue of the Crown.

7°. Wine Licences, or the rents payable to the Crown by such persons as are licensed to sell Wine by retail throughout England except in a few privileged places; these were first settled on the Crown by St. 12. Charles II. c. 25. but was abolished by 30. George II. c. 19. and an annual sum of upwards of seven thousand pounds per annum out of the new stamp duties one Wine licences settled in lieu thereof on the Crown.

8°. The profits arising from the forests or waste grounds belonging to the King, which are under his protection for the sake of his royal recreation, for the preservation of which there are particular laws, privileges and Courts that will be hereafter treated of; the profits of them consist chiefly in amerciements or fines levied for offences against the Forest laws; but as few such Courts have been held since 1632. Charles I. it is needless to enquire any farther.

9°. The profits arising from the Kings ordinary Courts of Justice, consist not only in fines imposed on offenders, forfeitures of recognizances, and amerciements levied on defaulters; but in certain fees due to the Crown in a variety of legal matters, as for setting the Great Seal to Charters, original Writs, and other legal proceedings, and for permitting fines to be levied on lands in order to bar entails or otherwise insure their title; these have been almost all granted to private persons, or appropriated to particular uses; all future grants of them however are by 1 Anne St. 2. c. 7. to endure only for the life of the prince who grants them.

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10. The right to Royal fish, which is to the Whales and Sturgeons thrown a shore or caught near the coasts, in consideration of his guarding and protecting the Seas from pirates and robbers, the ~~Statute~~ Prerogative Statute 17. Edward II. 9. 11. and the most antient treatises of law now extant mention it, though they seem to make some distinction between Whale and Sturgeon.

11. The right to Shipwrecks, which is declared to be the King's property by the same Statute, and was so long before at common law; it may not be improper briefly to state here how much that has been altered in favour of the distressed proprietors. Wreck, by antient common law was where any Ship was lost at Sea, and the goods or cargo thrown upon land; in which case these goods were adjudged to belong to the King, but this was neither consonant to reason nor humanity; therefore by King Henry I. if any person escaped alive out of the Ship it was to be deemed no wreck; Henry II. by his Charter in 1174. declared that if on the coasts of England, Poictou, Oleron, or Gascony, either man or beast should escape alive the goods should remain to the owners provided they claimed them within three months, but otherwise they should be long to the King or other Lord of the franchise, Richard I. confirmed this with the addition that if the owner perished his children and in default of them his brethren or sisters should retain the property, and in default of these only belong to the King; by Henry III. if any certain mark were set on the goods by which they could be known again it was held to be no wreck. And by 3. Edward I. c. 4. in the Statute of Westminster the first it is enacted that if any thing alive escape it is clearly not a legal wreck, and the Sheriff of the County is bound to keep the goods a year and a day that if any man can prove a right to them they may be restored to him, but if not proved within that time they are to be the King's; if the goods are of a perishable nature the Sheriff is to sell them and the money to be liable in their stead; this revenue is frequently granted out to Lords

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of Manors, as a royal franchise; if the King's goods are wrecked where such a grant exists, he may claim them at any time, even after the year and day.

To constitute a legal wreck the goods must come to land, if they continue at sea they are distinguished by the three following uncouth appellations, of jetsam goods cast out the ship & remain under water, flotsam where they continue on the surface of the Water; ligan where they are sunk in the sea but tied to a cork or buoy in order to be found again; these also are the Kings if the owner does not claim them;

Wrecks are not frequent as it rarely happens that every living Creature on board perishes, and if any should survive the owner is seldom unable within the year and day limited by law to assert his property; and by 4. Anne St. 2. c. 18 confirmed by 4. George 1. c. 12. it is enacted that all head officers and others of towns near the sea, shall on application made to them summon as many as are necessary to relieve any Ship in distress on forfeiture of £100. and in case of assistance given, salvage is to be paid by the owners according to the assessment of three neighbouring Justices, the secreting any goods is liable to forfeiture of treble the value; the making holes in a Ship or stealing her pumps is felony, and lastly by 26. George II. c. 19. plundering any Ship in distress or wrecked, or preventing the escapes of any one on board, or putting out false lights to bring any vessel into danger are declared capital felonies; and by 4. Elizabeth c. 13. the destroying trees, steeples or other stated sea marks is subject to a forfeiture of £200.

12. The right to mines has its origin from the Kings prerogative of coinage, and therefore only regards those of gold and silver; some thought this extended even to base metal if any gold or silver was found in it, which has been thoroughly explained by 1. William and Mary St. 1. c. 30. and 5. William and Mary c. 6. whereby no mines of copper, tin, iron, or lead shall be looked upon as royal mines notwithstanding gold or silver may be extracted from them in any quantities, but that the King or those claiming royal

Mines

mines under his authority may have the ore paying for the same a price stated in the Act.

13. Treasure-trove that is where any coin, gold, silver, plate or bullion is found hidden in the earth or other private place, the owner thereof unknown, the treasure belongs to the King; but if the owner be afterwards found out he is again entitled to it

14. Waifs are goods stolen and thrown away by the thief for fear of being apprehended, belong to the King but if the owner apprehends the thief or convicts him afterwards he shall have his goods again; the goods of a foreign merchant though stolen and thrown away shall never be waifs, from his being generally a stranger to our Laws, and language.

15. Estrays

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