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WALLIS: The case of the Vintners in Oxford
1674

Transmission:

W Draft paper: OXFORD *University Archives* WPβ/15/8, No. 3, 4 pp.

*w*¹ Copy of paper sent (in scribal hand): OXFORD *University Archives* WPβ/15/8, No. 4, 4 pp. (p. 4 blank). On p. 4 in unknown hand: 'Writmore & Noates against the Licensing the New Taverne in Oxon.' CHECK

*w*² Copy of paper sent (in scribal hand): OXFORD *University Archives* WPβ/15/8, No. 5, 4 pp. (p. 4 blank). CHECK

In this paper, presumably drawn up during the dispute between the University of Oxford and the Wine Licensing Office, Wallis sets out the case of the University against the granting of more than three licenses to run taverns. See SALTER, *Oxford City Properties*, 347–8.

1674

The case of the Vintners in Oxford

Before the Statute of 7° Edw. 6. cap. 5. the Assise & Assay of Bread,
Wine, & Ale, with the Correction & punishment thereof, as likewise of
5 Regraters Forestallers, & the government of Victuals, & Clerkship of the
Markets, belonged to the Chancellor of the University of Oxford, (& the
Mayor & Townsmen not to intermeddle,) by the Charter of 29° Edw. 3.
and all ameracements or penalties concerning the same are granted to the
University for the fee farm rent of 5^l per annum, by the same Charter :
10 & many others in pursuance thereof, are confirmed by Act of Parliament
13° Eliz. who did accordingly set the prices of wine, allow some to sell, &

2 in Oxford. (1) Before the Statute of 7° Edw. 6. cap. 5, there was no certain limitation of the number of Taverns; But (a) the Statutes limit (b) that limits the numbers in particular places, & particularly 3 for Oxford & 4 for Cambridge. Before that time, the Assise [and Assay *add.*] of Bread, Wine, & Ale, with the correction (aa) & fines (bb) & punishment thereof did belong to the University of Oxford, (2) Before the Statute of 7° Edw. 6. cap. 5. the Assise

4 & punishment *add.*

5 & Clerkship of the Markets, *add.*

6 Chancellor of the *add.*

8-9 and all ameracements . . . same Charter: *add.*

forbid others, as there was occasion; & punished miscarriages concerning the same.

The like was enjoyed by the Chancellor of Cambridge, by a grant¹ in Parliament 5° Rich. 2. where it is granted to them than they should
5 have, *custodiam Assisae Panis Vini et Cervisiae, et plenam potestatem inquirendi &c sicut habent Cancellarius et scholares Universitatis Oxon.* Confirmed also by subsequent grants of divers Kings &c. Which with the ameracements & penalties thence arising, and granted to that University at the fee farm rent of 10^l per annum.

10 The Statute of 7° Edw. 6. cap. 5. limits the number of Taverns in several places, & particularly 3 in Oxford & 4 in Cambridge: And appoints the licensing them in Towns & Cities by the Head Officers there of (which in the Universities, are the Chancellors not the Mayors,) with a Proviso to salve the liberties & jurisdictions in both Universities as amply as before,
15 yet so that they license not more then 3 in Oxford & 4 in Cambridge.

Accordingly the Chancellors of Both Universityes did from that time continually enjoy that priviledge without contradiction. As appears (with us) by the Licenses entered upon our Register from time to time. And the like at Cambridge: without the Town intermedling at all.

20 But about the year 1584. Sir Walter Rawleigh², in pursuance of a Patent from Qu. Elizabeth; took upon him to License & incourage one Keimer³, to set up a Tavern in Cambridge, (beside the 4 licensed by the University.)

Hereupon the Proctors in the University, promoted the Office in the

7 divers Kings &c. |(1) and (2) Which with the ameracements . . . 10^l per annum. *add.*||
The Statute
12 them in (1) Corporations (2) Towns & Cities by the (a) chief Governors (b) Head Officers

¹grant: i.e. the grant of 5° Rich. 2. See WALLIS–DILLINGHAM 16/[26].III.1660/1; WALLIS, *Correspondence* II, 32–5, and DYER, *Privileges of the University of Cambridge* I, 88–9.

²Rawleigh: i.e. Walter Raleigh (1554–1618), courtier and explorer, *ODNB*.

³Keimer: i.e. John Keymer (*fl.* 1579–1622), vintner and writer on commerce, *ODNB*. Granted a licence to sell wine in Cambridge by Walter Raleigh, Keymer soon came into conflict with the University, the ancient holder of the rights to sell wine. After continuing to run a tavern, he was prosecuted in the vice-chancellor’s court and imprisoned 1585–6. He later travelled in Europe and wrote tracts on fishing and commerce, including *Observations touching trade and commerce* (1653), erroneously attributed to Walter Raleigh. See *British Library* MS Lansdowne 42, No. 53, and MS Lansdowne 43, Nos. 42, 43.

Vice-chancellors Court against Keymer for selling Wine without due license contrary to the Statute of 7° Edw. 6. Sir Walter Rawly used all his interest to maintain him, & oppose the University. But their High Steward⁴ the Earl of Leicester, & their Chancellor⁵ the Lord Burleigh, stood
5 their friends: And upon a hearing of Counsell on both sides, the two Lords Chief Justices Wray⁶ & Anderson⁷, delivered their opinions under their hands, that the right was in the University, & not in the Patenter Sir Walter Rawly.] [2]

The Vicechancellor in the mean time proceded in his own Court
10 against Keymar; who refusing there to answeare, was first committed to prison for the contempt; & the Vice chancellor having wasted some time, did at length proceed to sentence ex confesso, & granted execution, whereupon the University seised on his goods, so far as to satisfy the judgement; leaving the rest for him & his creditors. And have never since had their
15 jurisdiction molested.

In Oxford, I do not find that any did ever intermeddle to disturb the University in this right, till about the year 1620. When Mr Alderman Potter⁸ pretending right to sell wine by licence from the town, was forbidden so to do by express commandment from the Vice-chancellor⁹.
20 After which Dr Prideaux then vice-chancellor hearing that the sayd Mr Potter notwithstanding that inhibition was indeavouring to get that grant from the City to be sealed by Mr Oliver Smith¹⁰ then mayor; did on 21

1 against Keymer *add.*

7 was in the |Chancellor of the *del.*| University

17 When (1) Dr Prideaux (2) Mr Alderman |Potter *add.*| pretending

18 the town, (1) the Vice-chancellor (2) was forbidden

21-1 indeavoring to (1) have (2) get that grant (a) sealed (b) from the City to be sealed

⁴High Steward: i.e. Robert Dudley (1532/3–88), earl of Leicester, courtier and magnate *ODNB*. High Steward of the University of Cambridge 1563–88.

⁵Chancellor: i.e. William Cecil (1520/1–98), first baron Burghley, royal minister, *ODNB*. Chancellor of the University of Cambridge 1559–98.

⁶Wray: i.e. Christopher Wray (c.1522–92), judge and speaker of the House of Commons, *ODNB*. Chief justice of the court of queen’s bench from 1574.

⁷Anderson: i.e. Edmund Anderson (1530?–1605), judge, *ODNB*. Chief justice of the court of common pleas from 1582.

⁸Potter: i.e. William Potter (c.1571–1645) a wool draper in the parish of St Mary the Virgin; mayor of Oxford 1610/11, 1618/19, and 1623/4. See CLARK, *Register of the University of Oxford* II, i, 322.

⁹Vice-chancellor: i.e. John Prideaux (1578–1650), bishop of Worcester, *ODNB*. Vice-chancellor of the University of Oxford 1619–21 and 1624–6.

¹⁰Smith: i.e. Oliver Smith (Smythe) (1584–1637), alderman in Oxford; served as

Septemb. 1620, send his Register & one of his Bedles to the Mayor with a Message in writing requiring him to forbear the sealing of such license to Mr Potter, or any other, as not belonging to the City but onely to the University.

5 But finding that the Mayor did notwithstanding proceed to seal the license, he did on 12. Octob. following, convent the sayd Alderman Potter & Alderman Smith (then out of his Mayoralty) before himselfe, assisted by Sir Henry Savil¹¹ Warden of Merton College, Dr Kilby¹² & Dr James¹³ Drs in Divinity, Dr Corbet¹⁴ Dean of Christ-church, Dr Hawly¹⁵ Dr of
10 Law, & Mr Flexney¹⁶ a Justice of the Peace; Where Mr Findel¹⁷ then Mayor, appeared with the sayd Aldermen, & Mr Radclif¹⁸ the Town Clark. Where, the matter being fully argued on both sides, the Vicechancellor did in Court order & require the sayd Mr Potter & Mr Smith to bring
15 unto him the sayd License within 10 days, cancelled or to be cancelled, with an indorsent that it was so cancelled or to be cancelled by the privity & consent of the then Mayor.

Accordingly on 21 Octob. then following, the sayd Mr Smith & Mr Potter brought the reliquit of the sayd license to the Vice-chancellor; But

(*aa*) by the (*bb*) did on (*cc*) by Mr Oliver Smith then mayor; did on (*aaa*) St James's day (*bbb*) 21 Septemb. 1620, send (*aaaa*) the R *breaks off* (*bbbb*) his Register
6 he (*1*) convented the sayd (*2*) did on 12. Octob. following, convent
7 himselfe, (*1*) accompanied with (*2*) assisted by
13 in Court *add.*
14 sayd License |lately sealed *del.*| within

mayor 1619/20, 1624/5, and 31/2. CLARK, *Register of the University of Oxford* II, i, 322.

¹¹Savil: i.e. Henry Savile (1517/18–69), mathematician and classical scholar, *ODNB*. Warden of Merton College, Oxford, from 1585.

¹²Kilby: i.e. Richard Kilbye (1560/1–1620), Hebraist, *ODNB*. Fellow, and from 1590 rector of Lincoln College, Oxford.

¹³James: i.e. Thomas James (1572/3–1629), librarian and religious controversialist, *ODNB*. Served from 1599 to 1620 as Bodley's librarian.

¹⁴Corbet: i.e. Richard Corbet (1582–1635), theologian, *ODNB*. Dean of Christ Church from 1620, consecrated bishop of Norwich 1632.

¹⁵Hawly: i.e. John Hawley (Haulye) (c.1566–1626), rector of St John's College, Oxford, and later principal of Gloucester Hall. Made doctor of civil law 1614.

¹⁶Flexney: i.e. Ralph Flexney (c.1554–1624), butcher, mayor of Oxford 1612/13.

¹⁷Findel: i.e. Anthony Fyndall (Findall) (c.1575–1650), butler, later grazier, mayor of Oxford 1620/1.

¹⁸Radclif: i.e. Ralf Radcliffe (*fl.* 1614–21), Oxford town clerk since 1614. See SALTER, *Oxford Council Acts (1583–1626)*, 233, 294.

because it was so torn & defaced that the contents thereof could not be read; He caused them to make Oath that the parchment there exhibited with the label annexed, was part of the sayd License, & that the sayd Mr Potter never had any other then it. Which was done before the sayd
5 Vicechancellor, in the presence of Sir Chilston Calmady¹⁹ a knight, Mr Carpenter²⁰ & Mr Stiles²¹ fellows of Exeter College, Dr Hack²² one of the Bedles, & Mr Jones²³ the Register; who all attested it under their hands; in the Book of Acts of his Court.

In the mean time, hearing that there had been some other dormant
10 licenses granted by the City; the Vicechancellor ordered those allso to be brought in to him to be cancelled; & accordingly on 19. Octob. & within few days after they were delivered up to the sayd Vicechancellor, as appears, by the Register. viz. one granted to Martin Powdril²⁴, another to John Davenant²⁵, & a third to Katherine Harris²⁶ widdow & her son
15 Francis Harris²⁷.|

[3]

And on 2^d of January following; having convented before him William Grise²⁸, William Brookes²⁹, Martha Garbrand³⁰, & John Davenant (the

4 Mr *add.*

11 to be cancelled; *add.*

13 Vicechancellor, (1) viz one (2) as appears

¹⁹Calmady: i.e. Shilston Calmady (1585–1646) of Wembury, Devon. Killed at the siege of Ford House during the Civil Wars.

²⁰Carpenter: i.e. Nathanael Carpenter (1589–1628), Church of England clergyman and philosopher, *ODNB*. Fellow of Exeter College, Oxford, from 1607.

²¹Stiles: i.e. Matthias Styles (c.1590–after 1645), fellow of Exeter College, Oxford, 1610–28. Rector of St George, Botolph Lane, London, until 1645.

²²Hack: i.e. William Hack (Heck), sometime inferior bedell of arts. See CLARK, *Register of the University of Oxford* II, i, 259, 322.

²³Jones: i.e. Roger Jones (1566–1644?), registrar of the chancellor's court.

²⁴Powdril: i.e. Martin Powdrell (*fl.* 1620–1), Oxford vintner.

²⁵Davenant: i.e. John Davenant (d. 1622). Oxford vintner. See SALTER, *Oxford City Properties*, 349.

²⁶Harris: i.e. Katherine Harris (*fl.* 1620–1), wife of Francis Harris senior. Sometime keeper of the Swindlestock (or Mermaid) tavern at Carfax. See CLARK, *Register of the University of Oxford* II, i, 322–3, and SALTER, *Oxford Council Acts (1583–1626)*, 293.

²⁷Harris: i.e. Francis Harris (1600–c.1666), second son of Francis Harris senior (d. 1617) and his wife Katherine. Granted licence to run the Swindlestock (or Mermaid) tavern with his mother. Served later as mayor of Oxford.

²⁸Grise: i.e. William Grise (Griffe) (*fl.* 1620–1), Oxford vintner. See CLARK, *Register of the University of Oxford* II, i, 323.

²⁹Brookes: i.e. William Brooke (*fl.* 1620–1), Oxford vintner.

³⁰Garbrand: i.e. Martha Garbrand (*fl.* 1620), widow of John Garbrand, and later of

Vintners licensed by the University & the Assignes of such,) the Vicechancellor did peremptrously admonish & require them & every of them, not to pay any pension or summe of mony for any other license or for the suppressing of any other license granted to any, other then the University
5 license. Which seems to be done to prevent their taking of concurrent licenses from the town, beside those they had from the University, or giving mony to such as had such licenses for the use of their licenses or for suppressing the same; the better to serve the trade to themselves; whereby the town would underhand keep up a pretense of having granted licenses.

10 After this I do not find, that any other did interpose, till about the year 1635. when the Lord Goring³¹ & other Patentees for the Wine Office did interpose. For the Statute of 21 Jacobi cap. 3 against Monopolies, excepting that for Wine-licenses; and the Statute of 7^o Edw. 6. cap. 5. prohibiting others then so many as are therein allowed, onely under a
15 forfeiture to the King, which it was presumed the King might dispense with; gave occasion to the Patent for the Wine office then granted to the Lord Goring & others: Who (beside the three University licenses) granted licenses to Humphry Bodicot³², & Anne Barnes³³; during their lives if not exceeding 21 years.

20 Whereupon, the University right being pleaded & asserted, & found just: the matter was thus compromised. Those two were by the connivence

1 the Vicechancellor *add.*

5 license. (1) For (2) After this, (it seemes) some of them had before (3) Which seems

8 the same; (1) whereby the town woul *breaks off* (2) the better

11 Wine Office (1) (Grounded, I suppose, up *breaks off* (2) (occasioned, I suppose, by the Statute of 21 Jacobi, cap. 3. against Monopolies, excepting that of (3) did interpose.

For the Statute of 21 Jacobi

14 prohibiting (1) all (2) others then

14 onely *add.*

17 three *add.*

20 right (1) was (2) being pleaded

Christopher Rogers, principal of New Inn Hall. See CLARK, *Register of the University of Oxford* II, i, 323.

³¹Goring: i.e. George Goring (1585–1663), courtier and diplomat, first earl of Norwich, *ODNB*.

³²Bodicot: i.e. Humphrey Bodicott (*fl.*1635), Oxford vintner, sometime keeper of the Three Tuns. See CLARK, *Register of the University of Oxford* II, i, 323, and SALTER, *Oxford City Properties*, 350.

³³Barnes: i.e. Anne Barnes (*fl.*1635), daughter of Joseph Barnes and oxford vintner. See CLARK, *Register of the University of Oxford* II, i, 323.

of the University permitted to enjoy their license: But no more to be granted. And the Lord Goring & the rest of the Patentees, by an Instrument under their hands & seals inrolled in Chancery did disclaim their right of licensing within the precincts of the University. And the King in
5 consideration thereof, abated part of their rent payable to him.

And consequently hereunto, the New Statutes of the University, granted & confirmed to the University by a particular patent under the great seal in the year following, viz 1636. do ordain that the 5 then in
10 being should be permitted to continue during their time; but no more to be granted till two of them expire: & thenceforth no more to be permitted then those three allowed by the Statute of Edw. 6. & those to be licensed by the University.

And the large Charter of 11° of K. Charles the first; grants the same to the University in expresse words.

15 So that, if for the reasons above mentioned there were any such right in the Crown; it is by these two Charters granted from the Crown to the University.

In the time of the Wars, while Oxford was a garrison, there were it seems about a dousen that sold Wine, some with, some without licenses,
20 but never under pretense of license from the town.

After the Wars, about the year 1653, Mrs Turton³⁴ setting up a Tavern upon pretense of a Town license: was prosecuted for it in the Vice-chancellors Court; & John Owen³⁵ then Vice chancellor proceeded to sentence against her Dec. 2. 1653. From which sentence she appealed
25 to the Delegates of Congregation; who approved the sentence & remitted the Cause Iudici aequae, Apr. 29. 1654. then next following. | [4]

This incroachment of the Town on our rights in licensing Mrs Sturton³⁶ was, amongst other things complained of to the King & Counsell soon after the kings restauration; who upon a hearing at Worcester house,
30 in the year 1661, did settle some of the particulars then complained of; but not having leisure to hear all at large; ordered as to the rest (of which

7 particular *add.*

15 for the (1) pretenses (2) reasons

27 in our rights *add.*

³⁴Turton: i.e. Anne Turton, Oxford vintner; sometime keeper of the Crown. See SALTER, *Oxford City Properties*, 350.

³⁵Owen: i.e. John Owen (1616–83), theologian and Independent minister, *ODNB*. Vice-chancellor of the University of Oxford 1652–7.

³⁶Sturton: i.e. Turton.

this of wine licenses was one) that the University should enjoy all their privileges that they were in possession of in the year 1640 or any time before.

There are at present (I hear) some dormant licenses of the Town in
5 being; but those (it seemes) are bought in or suppressed by those who
have the University licenses; so that none such do publicly appear to sell
wine, but those licensed by the University.

The new Statute about wine licenses, anno 12^o. Car. 2. on which the
present Wine-office doth proceed; doth by expresse Proviso referre to both
10 University their Privileges which before they had. So that the sole right
being before in the University by the several Charters above mentioned;
it there remains.

So that the present New Tavern, now intended to be erected by license
from the Wine Office, is manifestly destructive to our Rights.

15 And it is so much the more manifest; because all ameracements fines
& penalties arising for the undue selling of Wine &c (& consequently
those against the Statute of 7^o Edw. 6.) are granted out of the Crown to
the University, not onely by the Charters above mentioned, but by that
also of 14^o Hen. 8. & by that of 11^o Car. 1. which grants & the right
20 thereupon, are reserved to the Universities by express proviso, both in
the statute of 7^o Edw. 6. & in that of 12. Car. 2.

6 licenses; |(though (1) aga *breaks off* (2) it be against the order of Dr Prideaux 1620)
del.| so that

9 doth (1) expressly (2) by expresse Proviso

10 Privileges |& Jurisdictions *add. and del.*| which

14 manifestly (1) against (2) destructive to

15 because (1) the penalties (2) all penalties (3) all ameracements

16 Wine &c (1) (as well as others are granted) (2) (& consequently ... 7^o Edw. 6.) (a)
belonging (aa) to the (bb) not to the Crown (b) are granted out of the Crown