

Rules and orders for the government of Saint Bartholomew's Hospital.

Contributors

St. Bartholomew's Hospital (London, England)

Publication/Creation

London : Smith, Elder, 1839.

Persistent URL

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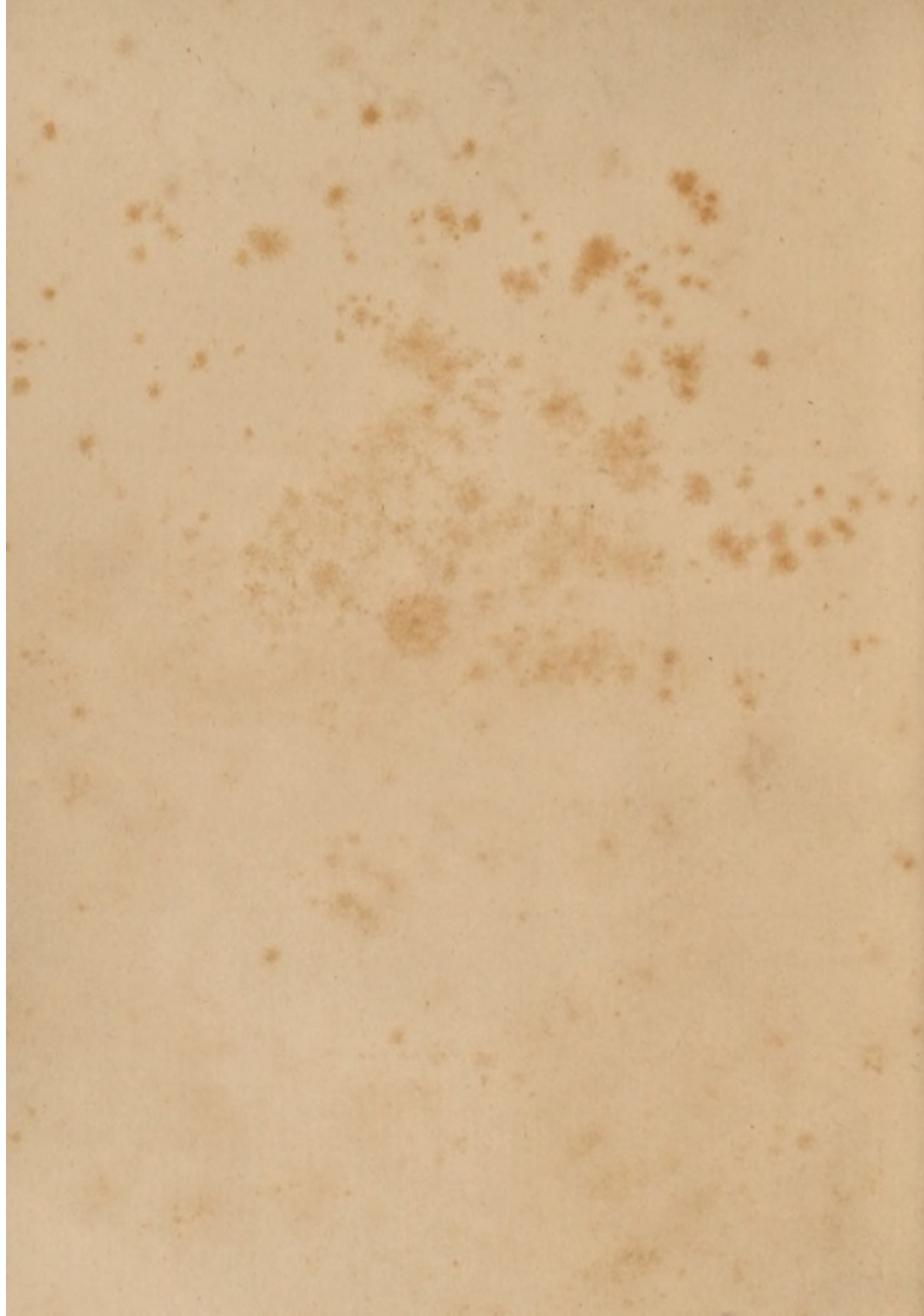
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SAINT BARTHOLOMEW'S HOSPITAL, London

Huntley Clarke
Decr 1898.



O R D E R S
A N D
O R D I N A N C E S,

F O R
The better government of the Hospitall
of B A R T H O L O M E W the lesse.

A s A L S O
Orders enacted for Orphans and
their P O R T I O N S.
M D L X X X.

Together with
A Briefe D I S C O U R S E of the laudable
Customes of L O N D O N.



L O N D O N,
Printed by J A M E S F L E S H E R,
Printer to that Honourable City, 1652.

92337

ORDINANCES

The better Government of the Hospitals
of BATH AND THE TOWN

Orders created for Orphans and

their Parents
M D LXXV

A Briebe of the course of the law
Colours of LONDON



11



A Preface to the Reader.



He wickedness of report at this day, good Reader, is grown to such ranckness, that nothing almost is able to defend it selfe against the venime thereof; but that either with open slander, or privy whispering, it shall be so undermined, that it shall neither have the good success, which otherwise it might, nay the thanks which for the worthiness it ought. It is better known by report unto the number, then weighed in effect almost to any, that for the reliefe of the sore, and sick of the City of *London*, it pleased the Kings Majesty of famous memory *Henry* the eight (father to this our most dread Sovereign Lord now reigning) to erect an Hospitall in *West-Smithfield*, for the continuall reliefe and help of an hundred sore and diseased. And the same endowed with the yeerly revenues of five hundred Marks, to give unto the said City and Citizens conditionally, that they also for their part, should adde other five hundred Marks by the yeer. Which thing with all due thankfulness, they received at his Majesties hands: And (for that they saw it proceed from his Highness, as well of most charitable zeal toward the afflicted members, and his brethren in Christ, as of a singular favour toward the City) very gladly embraced the condition. Thinking it for their parts rather too little then enough. But when they had taken such survey thereof, as was convenient for them in this case to do: Although the Kings Majesties endowment was after the rate of his Highness most gracious gift, yet found they the nature of the same, and the state of the whole, farre under that that they at the first had hoped. The raising of this five hundred Mark-rent, to lye onely in a certain of houses, some in great decay, and some rotten ruinous: And some other to whom better Tenants had happened,

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The Preface.

ed, already leas'd out at term, and rent scant reasonable for the behoof of the poor. So that first to make them again worth the wonted revenue, and then to continue them in the same, was no small charge, and the help thereunto, which out of the better repaired might have grown, was by the former leases and rentings prevented. In the Hospitall it selfe (beside the pensions issuing out of the said five hundred Marks, and granted by the Letters Patents of his said Highness to the Hospitaller there and to other the Ministers of the same) was found so much of household implements and stuffe, toward the succouring of this hundred poor, as sufficed three or four Harlots, then lying in childe-bed, and no more, yea, barely so much, if but necessary cleanliness were regarded, so farre had the godly meaning of the gracious King been abused at at those dayes; and yet was little then smelled and less talked of. The good Citizens nevertheless not so much discouraged with others evill doings, and the great fall of their hope, as moved with the duty of their enterprise and godly regard, not to their own poor and afflicted onely, but to all other sore and diseased, which daily out of all quarters of the Realm resort to the City (as into a commune receipt and refuge of their misery) proceeded with such speed as they could to the redress of all these decayes, disorders and defaults; and bestowed thereabout above their covenant of five hundred Marks yeerly, for their welcomming and beginning not much less then a thousand pounds, whereby (together with other their good endeavours) when they had won it to such point, that it was fit to receive the number, and to succour the same with all necessities requisite, and in such case needfull, and had indeed received, and daily maintained it at the full; certain busie bodies more ready to espy occasion how to blame other, then skilfull how to redress things blame-worthy indeed, yea, I fear me having all their zeal in their tongue onely, not contented privately one, and another, among their neighbours to hinder the profit of the poor, and to slander the good Citizens occupied thereabout, rounded into the eares of the Preachers also, their tender consideration. Who being less circumspect in crediting their matter ministrers then to men of such

such calling appertaineth : and thinking peradventure if the City had done their duty herein, this Hospitall should have made a generall sweep of all poor and afflicted : As though this privy backbiting, could not so sufficiently and weightily set forth this enormity of the Citizens, as seemed behovefull for the querele of charity, took upon them to give speed and authority to the thing, each after his manner. So that the good Citizens, which now for these five yeers space, have shunned for no loathsomeness, to administer the reliefe without other gain then that Jesus Christ God and man, promiseth, and will undoubtedly pay, have here received nothing else but for a commune benefit, an open detraction, and the poor (as shall afterward appear) a larger hinderance. Where in the mean season notwithstanding, there have been healed of the Pocks, Fistulaes, filthy Blains and Sores, to the number of eight hundred, and thence safe delivered, that other having need might enter in their room. Beside eight score and twelve, that have there forsaken this life, in their intolerable miseries and griefes, which else might have dyed, and stunk in the eyes and noses of the City, for all these charity tenderers, if this place had not vouched safe to become a pump alone, to ease a commune abhorring. Wherein although they have at all hands so well deserved, that hard it were with the most favourable report to requite it, yet for that they look for their reward another where, contented to pass that in silence: It may justly be answered to all such charity proctours, that if they well weighed these things already alledged, and the wages of the Chirurgions, and such officers and servants, as needfully are attendant about the poor, the charges of bedding and shift for so many sore, and diseased; and the excessive prices of all things at this day, they might both marvell how so many are there relieved, and daily maintained : And with repentance, of that they have missaid, endeavour themselves with as much good report and praise, to advance both the deed and the doers, to wipe away the slander, as they have to hinder them both by the contrary. But for as much as it is doubtfull, whether they will do as they may, and of conscience are bounden, and the slander is so wide spread, that

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a narrow remedy cannot amend it: It is thought good to the Lord Mayor of this City of *London*, as chief Patron and Governour of this Hospitall, in the name of the City, to publish at this present the overseers and orders by him appointed; and from time to time practised, and used by twelve of the Citizens most ancient in their courses, as at large in the process shall appear, partly for the stay and redress of such slander, and partly for that it might be an open witness, and knowledge unto all men, how things are administred there, and by whom. Wherein if any man judge more to be set forth in word, then in deed is followed, there be means to resolve him. But if there be not so much set forth as is expedient, (as what thing at the first can attain to the top of perfectness?) or that any man spieth, ought in this order worthy to bee reformed, he shall not need to cry it at the Cross, but shall finde those at the Hospitall, that both gladly will and may reform it. And where yet by such means occasion is found, as tofore was signified, to withdraw mens charities, by reason that it is thought but folly to bestow more reliefe where there is enough, for the number already: The City of their endless good will toward this most necessary succour of their poor brethren in Christ, although at the first they seemed bound to the precise number of an hundred, and no more, wish all men to be most assuredly perswaded, that if by any means possible they might, they desire to enlarge the benefit to a thousand, as ordinary as at this day the hundred are. Finally, they wish that all Almoisners and Houses of Almoise, known either by the name of Hospitall, or Savoy, might by these their doings, bee provoked to like endeavour and benefit to the poor, that what one is not able alone to succour, the other might in fellowship supply, at this time namely when the misery of the poor most busily seemeth to awake. The Lord Jesus, kindle in us all, that faith that worketh by love, that we may indeed put on Christ our righteousness before God, and not suffer him to lye up in Presse, that seeketh to be worn, to the glory of his Father, and ours, and to the Testimony of our hope laid up in him. *Amen.*



T H E
 Division of the Governours,
 and Officers : the Names , and
 Nature of them both.

IT behoveth first to understand for the more evidentness of that that followeth, that there are in this administration, two sorts, or kindes of men. The one called Governours (by a name proper to their Authority) placed there by the Lord Mayor, as Patron of this Hospitall : And the other called Officers, that for wages are hired, for to have the necessary doings in the service of the house and the poor.

The Governours so change, that the one halfe remaineth two yeers in their governance, to help and instruct the later elected, which also become Instructors to their followers. And these are in number twelve, whereof four are Aldermen; and the residue Communi-ners, and according to their governance, thus are they named.

The President, alway the Seniour Alderman.

Surveyors four, two Aldermen, and two Communi-ners.

Almoisners four, one Alderman, and three Communi-ners.

The Order of the Hospitall.

The Treasurer a Communer.

Scrutiners, two, both Communers.

The Officers are seven in number, continuable or removable, as the governours shall finde cause, and bee thus called.

{ The Hospiteler.

| The Renter Clerk.

| The Butler.

{ The Porter.

| The Matron.

| The Sisters, twelve.

{ The Byddles, eight.

These are also as in a kinde by themselves, three Chirurgians in the wages of the Hospitall, giving daily attendance upon the cures of the poor.

And a Minister named the visitour of *Newgate*, according to his office and charge.

The Governours are alwayes elected by the Lord Maior and his brethren, who yeerly electeth six, that is to say, two Aldermen, and four Commoners, which are admitted into the Hospitall, after this manner.

The whole Company of the twelve old Governours, sitting in Assembly together, cause their Clerk to read unto the six newly elected, the charge hereafter following.

The Charge.

IT may please you to understand, that yee are here elected and chosen, as fellow governours of this Hospitall, to continue by the space of two yeers: By all which time according to such laudable degrees and ordinances

dinances as have been ; and shall be made by the authority of the Lord Maior chiefe Patron hereof, in the name of the City, and the consent of the governours for the time being, all your other business set apart as much as you possibly may : ye shall endeavour your selves to attend onely upon the needfull doings of this house, with such a loving and carefull diligence, as shall become the faithfull Ministers of God, whom ye chiefly in this vocation are appointed to serve ; and to whom for your negligences or defaults herein ye shall render an accompt. For truly ye cannot be blameless before God, if after you have set hand to this good plough, and promised your diligence to the poor, ye shall contrarywise turn your head backward, and not perform the succour that Christ looketh for at your hands, and hath witnessed to be done to himselfe, with these words: **Whatsoever ye do to one of these needy persons for my names sake, the same ye do unto me.** And contrarywise, if ye neglect and despise them, ye despise me. We therefore require and desire every of you, on Gods behalfe, and in his most holy name, that ye endeavour your selves to the best of your wits and powers, so to comfort, order, and govern this house, and the poor thereof, that at the last day, ye may appear before the face of God, as true and faithfull Stewards, and disposers of all such things, as shall for the comfort and succour of them, (during the time of your office) be committed to your credite and charge. And this to do wee require you, faithfully to promise in the sight of God, and hearing of your brethren. And so doing we here admit you into our fellowship.

That done and the new elected consenting, and yeelding

ing themselves to the charge, the half of the governours that have already fulfilled their two yeers governance, to stand apart : and the other half that shall remain with the new elected , to take them by the hands after their degrees, and so admit them, and not to depart fellowship, before they have dined together all wholly, as well those that come new, as those that have governed their time, and those that remain , every man at his own cost and charge.

The President.

THE President of this Hospitall, is chiefe Ruler and Governour of the same, under the Lord Maior, who hath authority from time to time, to convocate and call together all the Governours for matters concerning the maintenance, and good ordering of the poor, and to demand of every of them, the account of their doings in their severall offices ; and with the assent and consent of the said Governours, to grant Leases, and Fees, and make necessary decrees, and ordinances.

The Treasurer and his Charge.

ALL the Treasure of this house, is committed to your charge, that is to say, all such money as shall rise and grow, either by rents, or by gifts to the use of this house, of the which ye shall keep a true and a just account. And it shall not be lawfull for you to pay any manner of person, any sum or sums of money, (except it be to the Steward of this house, for the victualling of the same, and

and the ordinary fees and wages that goeth out thereof:) but ye shall first have the names of those persons subscribed to the said sum of money, under whose office and charge such payment shall happen to rise and grow, or the names of the most part of them.

Ye shall also keep one severall account between the Renter and you, by which may appear, not onely the charge of the said Renter and his arrerages, but also whether the rents of the lands pertaining to the said house, encrease or decay.

Ye shall also yeerly the 20. day of *October* (within this Hospitall) yeeld and give up in writing unto the President, & Governours of the same, a true and a perfect account of your whole charge, during the yeer of your treasurership; and then the said President and Governours, shall name and appoint among themselves four to be auditours for same. And the second day of *November* next following, ye shall likewise resort to the said Hospitall, at the houre of eight of the clock in the forenoon, that ye may then answer and clear your account, if any doubts or faults shall happen to arise or be found by the auditors of the same. And the same day, then and there ye shall declare unto the new Treasurer that shall be appointed, the whole course and state of the affaires, profits, and commodities of this house, in as large sort as ye possibly can, and deliver unto him all such sums of money due to the house, as shall then rest in your hands, and all such acquitances, rentalls, and other writings, as necessarily shall appertain to the affaires of the said house. And the same day to dine within the said Hospitall, with the Governours thereof. And in recompence of your pains, ye shall be assured of the mercies

cies layed up for you in the promises, and bloud of Jesu Christ our Saviour.

Surveiours.

UNto you is committed the view of all the Lands, and Leases pertaining unto this house, as well such as heretofore have been granted, as also hereafter shall be granted; and ye shall cause the same to be registred in the repertory Book by the Clerk, from time to time, when, and as often as you shall assign him, to the intent that the governours of this house may alwayes be assured, what grants have passed them, and both whereunto they have bound themselves, and also whereunto their Tenants are bound, that the Lands and Tenants may be looked unto accordingly. And ye shall adjoyn unto you the Treasurer of this house for the time being, as a necessary aide in all your doings, for that he most chiefly hath experience of all the affaires and doings of this house. And for the better accomplishing hereof, you or the greatest part of you, shall meet every fourteen dayes in this house on the *Wednesday*, at which time ye may warn the Tenants that have made default in none doing of reparations, or none payment of their rents or other to be before you, to take order with them, according to the Covenants expressed in their Leases. And your grant with the particulars of such reparations as by you shall be allowed, to bee entered into a book with the name of the Tenant and Tenement, whereunto you or the most part of you shall subscribe your names, and then commit the oversight thereof to the Renter, so that it be agreed, that one or more of you
may

may visite and peruse the same in such wise as the greatness or quantity of the thing will require.

Also every yeer at the Feast of Saint *Michael* the Archangell, two new Surveyors to be chosen; and the old with the new to make the 12. day of *October* following, or within two dayes before or after, a generall view and survey of all the Lands appertaining to this house, and truly to keep a Book of the defaults thereof; and for your pains taking here, God hath promised to give you rest and pleasure in heaven perpetually.

Almoners.

YOU shall every *Monday* come unto this house or oftener if you shall think good, but at the least once in the week: Alwayes provided not on the *Saturday*, for that day specially shall be reserved, and kept for the session of the President, and Governours of this house, for the generall affaires of the same.

And at every time of your being here, if there bee cause why, ye shall call before you every particular officer of this house, and enquire if every man do his duty therein according to his charge, and whether there bee peace and quietness maintained in the same. And if ye shall at any time finde any disordered person or persons, then to take such order with him or them for their better reformation, as to you shall seem most meet. And if any refuse to be ordered by you, then to make such person known to the President, and the rest of the Governours, that further order may be taken by the whole house.

Ye shall also diligently enquire, if the Chirurgians of

this house do their duty toward the poor without corruption or partiality, and calling them before you, yee shall enquire what number there were healed that week, and the same deliver, and reward, according to your discretions, and of the same rewards to have your allowance of the Treasurer, so that ye deliver unto him the particulars thereof, signed with the hands of two of you at the least. And in the places of the poor so departed, to admit other, in such sort and manner, as in the charge of the Hospitaler is mentioned and declared.

Ye shall view from time to time this house, keeping one entire and perfect Inventory of the utensils and necessary implements thereof, in a Book, as well that provision may be made in due time, for supplying that which shall be found to lack, as also in due time to provide for Wood, Coale, and other necessary furniture. And whatsoever else shall seem needfull unto you for the benefit of the poor, as the enlarging of rooms, or encreasing the number of beds, the same ye shall signifie to the President and Governours, that by one assent it may be decreed, and by you finished and performed.

Ye shall also see unto the keeping sweet of the poor, and in your proper persons visit them once every week at the least, and to see that their service of bread, meat, and drink, be truly and faithfully delivered unto them. And for your labours and pains, ye shall be sure of the reward that God hath promised to all them that succour his members.

Scrutiners.

Scrutiners.

YE shall bee ready and diligent to make search and enquiry from time to time for all such Gifts, Legacies, and bequests, as have been, or shall be given, or bequeathed to the succour and comfort of the poor of this house. And the same receive at the hands of the givers or executors, together with a bill of the sum, subscribed with their names that make payment, or deliverance thereof: the which Bill, and money, ye shall forthwith deliver unto the Treasurer of this house, receiving his acquittance for the same, keeping nevertheless a Book your selves, wherein ye shall enter and register all such charity, the givers, the time and the sum; and for all such sum or sums of money, as by you, or any of you, shall be procured, had, or received, ye shall (if it be required) make unto the givers, or deliverers thereof, an acquittance in your own names, as the Governours and Scrutiners of this house.

And yeerly at the Election of the new Governours into this house, shall be elected one new Scrutiner, and the old Scrutiner that shall be removed, shall make delivery unto the new Scrutiners, of all such Records, Bills, and Writings as concern the affaires of this house. And also at the audite of the Treasurers account, the Scrutiners Book of gifts and bequests, shall in like manner be examined and allowed.

Finally ye shall in every place where you shall have occasion to come in the company of good, vertuous, and wealthy men, to the uttermost of your power, commend and set forth the good order of this house, and
how

how rightly the goods given to the poor, are here bestowed, to the encouragement of other to extend their charity thereunto. Ye shall also as occasion and opportunity serveth, move those that have the Office of Preaching committed to them, that they may the rather provoke the devotions of the people, to the help and comfort of this house. And thus doing, you shall not lose the reward that God hath promised to all them that seek to glorifie and reverence his name in his poor members.

An admonition to the Auditours.

INto your audite must be brought these sorts of Books, first the Hospitall Book, being in the custody of the Hospitaler, to which also ye shall look, that every page or totall sum thereof be subscribed with two of the hands of the Almoners: And this Book shall ye confer with the Stewards Book, who first maketh the provisions. Ye must also have the Scrutiners Book, to examine the account of the Treasurer for money delivered unto him by gifts and bequests. Also the Book of Survey, to confer the Bills brought in by the Treasurer with the allowances of reparations, expressed in the said Book. Also ye shall demand of the Renter, his rentall for that yeer, not forgetting always to charge him with the arrerages that remaine the yeer before, (if any be) and to confer the sums of money, received by the Treasurer, with the charge and account of the said Renter. And lastly to have speciall regard, if any sum of money have been payed by the Treasurer, by any decree or generall order of this house, to look in the Journall for the same.

And

And thus in the whole affaires of this house, shall yee perfectly be instructed.

An Order for the safe keeping of the evidences and writings appertaining to the Hospitall.

THere shall one faire and substantiall chest be provided, and the same be set in the most convenient and surest place of the house, the which shall have three severall locks, and three keyes, whereof the President alwayes to have one, and the Treasurer one, and a Communer appointed by the whole house, to have the third. And it shall not be lawfull to any of the Governours to have any specialty, evidence, or writing, out of the said chest, neither any other person, to carry any of them out of the house (no, though it be for the affaires of the said house) but onely a Copy thereof, which shall be taken in the presence of the three persons above named, that have the keyes, and the originall forthwith to be locked up againe.

Officers of Household, with their particular charge.

The Renter Clerk and his charge.

YOur office is, with all care and diligence to collect and gather the Rents due of the Lands and Tenements appertaining to this house, and of all sums of money so by you collected and gathered, to make deliverance and payment to the Treasurer of this house, for the time being, receiving his acquittance for your discharge.

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You

You shall also once every week at the least, resort unto the President of this house, or to the Treasurer thereof, for the knowledge of the affaires of the same, and at every of the ordinary sittings of the Governours in this house, for the affaires thereof, as well at the dayes appointed for the assembly of the Surveyors and Almoners, as also when the President, and all the Masters shall assemble, ye shall give your attendance, that from time to time, ye may enter, and register all such decrees, orders and determinations, as by them and every of them in their severall charges shall be decreed, ordained, and determined.

And for that, the good order and governance of this house may the better appear, as well to the governours now being, as to all other worthy personages, that hereafter shall govern, or shall desire the certainty thereof, it shall be requisite that ye keep diligently four severall Books, the names whereof, and the use are here described.

- { A Repertory.
- { A Book of Survey.
- { A Book of Accounts.
- { A Journall.

And first you shall note that before every of these Books ye must have a Calender, into the which ye may enter by order of Letters of the A. B. C. all proper names and matters, that shall be contained in every of them. And for the better accomplishing hereof, yee shall with your pen in the head of the leafe, number the pages of every leafe, in every of these Books, and then adding in your Calender the number of the page, where
the

the name or matter is entred in your Book, the reader without any difficulty may turn to the same.

The use of the first Book called a Repertory.

INto this Book shall ye first enter the foundation of this Hospitall, and also all Deeds, Leases, Obligations, acquitances, and other specialties: using alwayes in the margent of the said Book, to note in a few English words the sum, and content, of every article of those writings that shal appear note-worthy and the same notes particularly to enter into their severall and proper places of your Calender, according to the order of the A. B. C.

The use of the second Book, called a Book of Survey.

First in a severall leafe, yeerly before ye enter any other thing into this Book, yee shall make an abstract of the names and surnames of every of those Tenants, to whom this house is bound to do reparations, and also of them that are bound to finde their own reparations, noting in the margent, the leafe of your Repertory, where every of their Leases is entred. Also every yeer when the Surveiors shall survey the Lands of this house, yee shall be attendant upon them, and aptly and plainly enter into this book all such defaults as by them shall bee found, in the time of their view, making a distinct difference between Tenants at will, and Tenants by Lease, and also between those, to whom this house is bound to finde reparations, and such as have bound themselves to reparations.

Also ye shall diligently enter into this book, all such

orders and grants of reparations or other, as the Surveyours from time to time shall make or take with the Tenants.

And every yeer when the Treasurer shall bring in his account, and before the Auditours shew such bills of reparations, signed with two of the hands of the Surveyours, as he hath payed, ye shall after the admission of the said bills by the Auditours, enter every of them into this book particularly under this title.

Reparations done in the yeer that A.B. was Treasurer of this Hospitall (that is to say) from the Feast of Saint *Michael* in the fifth yeer, &c.

And then shall ye write first the name and surname of the Tenant, the Tenement, and the day of the moneth, and then the reparations. And thus shall ye do with all other. And it is to be noted, that in your Calender must be entred the name of every Treasurer, and the leaf where the reparations brought in his account are entred. And next after the reparations, ye shall enter yeerly your whole rentall, being first examined by the Surveyours, and having two of their names at the least, subscribed thereunto. And in a particular and plain manner ye shal expresse and declare the encrease of Rents that yeer, and that shall yee enter into your Calender under this title, *Augmentation of Rents*, titling from lease to lease, where the said encreasings be noted; and in like manner shall ye do with Rents decayed, entring them into your Calender by this word, *Decayed Rents*; likewise with Tenements or Rents altered or changed, by this name *Alteration of Rents*.

*The use of the third Book, called a Book
of Accounts.*

IN this Book ye shall first enter all the Accounts (being allowed by the auditours) of all the Treasurers that have been since this Hospitall was first committed to the City of London. And from henceforth at the foot of every account made by the Treasurer, ye shall expressly and plainly adde, and enter the arrerages of the Renter for that yeer, which also first by the auditours shall bee examined, and subscribed as aforesaid.

And forasmuch as in all accounts, divers and many things at sundry times, are requisite to be known, ye shall therefore in your Calender first note the name of the Treasurer, with the leafe where his account is entered, and also in the margent at the entrance of the said account, ye shall note the leafe of your Book of Survey, where the reparations mentioned in the same account, are particularly entered.

And for the ready finding of every matter, contained in every account, ye shall in the margent of this book use as is aforesaid, to note divers generall words, *Accompts, Provisions, Liveries, Gifts, Legacies, Rewards, Agreements, Surrenders, Bargains, Suits, Recoveries, Pensions, Fees, &c.* Adding to every one of these being placed in your Calender, the leafe where every of them is mentioned in any of the accounts contained in this book, that at a word may be seen what hath been done in all these things, from the first Treasurer to the last.

And for a perfect declaration of the whole affairs of this house, ye shall also out of another book (which shall

containe the doings of the Almoners, and shall be called the Hospitall book) enter into this book of accounts, as well a perfect Inventory of all such Implements, as then shall be found within this Hospitall: as also a full remainder of all the provisions and victuals first subscribed by two of the said Almoners. And in the end ye shall manifestly declare the names and surnames of so many diseased persons, as that yeer have been cured and delivered out of this house, and also the names and surnames of so many as that yeer have dyed in the house. The names and surnames also of as many as then shall remain sick and diseased in this house, together with the name of the shire wherein each was born, and their faculties, exercise, or occupations.

The use of the fourth book called a Journall.

THIS book must also have a Calender, and it shall alwayes be brought forth at such time as the President and most part of the Governours shall sit within this Hospitall, for the generall affaires of the same. And into this book shall ye enter all such orders and decrees, as from time to time, shall by the said Governours, or greatest part of them, be decreed and ordained. And in the margent thereof, ye shall do as before is assigned in the book of Repertory, in few words set forth the sum of every decree, order, &c. contained therein. And chiefly ye shall use the generall words before described in the book of accounts, that by the entrance of them into your Calender, every matter may easily and readily be found. And ye shall not faile, but in five dayes next after the enterance of any thing into this book, to
enter

enter the same by a general word into the Calender, that as well when you are absent; as present, the governours may without difficulty be satisfied of that they seek for therein.

The officer of the Hospitaler.

YOUR office is chiefly and most principally to visit the poor in their extremes and sicknesses, and to minister unto them the most wholesome and necessary doctrine of Gods comfortable word, as well by reading and preaching as also by ministering the Sacrament of the holy Communion at times convenient.

To receive also into this house, of the Steward, to the use of the same poor, such victuals and other provision as by him shall be provided, entring the same into your book, and safely to keep them to their use.

Also to deliver unto the Cook of this house, from time to time, so much of the same victuals, as shall be needfull for the present time, to be dressed for the poor. And the same being dressed to see seasonably, and truly delivered, and distributed unto them.

Also whensoever any poor person shall be here presented or sued for, to be admitted into this house, you shall receive the same presentation, calling unto you, two of the Chirurgians of this house, to view and examin the disease of the said person, whether it be curable or not curable; if they Judge it curable, then you, by a bill of your hand, to certifie the name, and surname of the said diseased person, unto the Almoners, or two of them at the least, desiring them to subscribe their names thereunto, and that being done, you to keep upon a file the same

same bill for your warrant. And then ye shall commit the same poor to the Matron of this house, to bee placed accordingly as the case shall require.

Also at the admission of every poor person into this Hospitall, ye shall enquire what money, or other things of value he, or she hath, and the same together with his, or her name, to enter into your book, & you to receive and safely keep the same to the use of the same poor, to bee delivered again unto him, her, or them, when they shall be cured out of this house. And monethly to deliver to the said Almoners, a copy of your book of entrances, that they may register the same in the book of their ordinary doings. And if any such poor fortune do decease and dye in this house, then you to deliver all such money and other things, as shall be in your custody, to the Treasurer of this house for the time being, entering the same into your book, to be committed, and disposed, to the use of the poor.

And as often as any of the poor shall bee cured and made whole, you with the Chirurgians to present them to the Almoners of this house, at their next assembly here, and to register in your book their names and surnames of them, and every of them, with the day and yeere of their delivery, and departure out of this house. And at their departure to give unto them a passe-port, to be made according to the Precedent and form that is expressed in the end of this book.

This is your charge, and ye have not to do with any other thing in this house. Howbeit, if ye shall perceive at any time, any thing done by any Officer of this house, or other person, that shall maintain disorder, or procure slander to this house, that ye then declare the same to
some,

some, one or two of the governours of this house, and to none other person, and no further to meddle therein.

The office of the Steward and Butler.

YOur charge is faithfully and truly to make provision of such needfull victuals, as from time to time yee shall be appointed by the Almoners to provide, for the poor of this house, remembring alwayes that wherein so ever you shall hinder, or negligently burden this house, either with excessive prices, or not making your provision in due time, the same dammage and hurt you do unto **GOD** whose members the poor are, and therefore yee ought the rather to study to serve in this house with fear of God, and conscience, as one that manifestly and plainly walketh before the face of God, who perfectly seeth and beholdeth the very thoughts of your heart.

Your charge is also to keep a true, and perfect account of all such victualls as by you shall be bought, and to make deliverance of the said victualls unto the Hospitaller of this house, declaring unto him the just weight, number, and prices of the same, that he may make due and true entrance and account thereof.

Also at all such times as shall be needfull for the poor, to be served of their ordinary meales or otherwise, either of Bread or Drink, yee shall not be absent, but with all diligence and readines ye shall give your attendance.

Ye shall have to do in none other mans office in this house, but onely with your own in manner as is above described. But if yee shall perceive at any time, any thing done by any officer or other person of this house, that shall be unprofitable thereunto, or that may be oc-

D

casion

caſion of any diſorder, or ſhall engender ſlander to the ſame: That then ye declare the thing to ſome one or two of the Governours of this houſe, and to none other perſon, nor farther to meddle therein.

The Office of the Matron.

YOur office is to receive of the Hoſpitaler of this houſe, all ſuch ſick and diſeaſed perſons, as he by his warrant ſigned from the Almoners of this houſe, ſhall preſent unto you, and the ſame perſons to beſtow in ſuch convenient places within this houſe, as you ſhall think meet.

You have alſo the charge, governance, and order of all the Siſters of this houſe, to ſee from time to time, that every of them in the wards committed to their charge, do their duty unto the poor, as well in making of their beds, and keeping their wards, as alſo in waſhing and purging their unclean clothes, and other things. And that the ſame Siſters every night after the houre of ſeven of the clock in the Winter, and nine of the clock in the Sommer, come not out of the womans ward, except ſome great and ſpeciall cauſe (as the preſent danger of death, or needfull ſuccour of ſome poor perſon.) And yet at ſuch a ſpeciall time it ſhall not be lawfull for every Siſter to go forth to any perſon or perſons (no though it be in her ward,) but onely for ſuch as you ſhall think vertuous, godly and diſcreet. And the ſame Siſter to remaine no longer with the ſame ſick perſon, then needfull cauſe ſhall require.

Alſo at ſuch times as the Siſters ſhall not be occupied about the poor, ye ſhall ſet them to ſpinning, or doing
of

of some other manner of work, that may avoid idleness, and be profitable to the poor of this house.

Also ye shall receive the flax provided by the Governours of this house, and the same being spun by the Sisters, ye shall commit to the said Governours, that they may both put order for the weighing of the same to the Weaver, and for the measuring of it at the returning thereof.

You shall also as the chiefe Governeresse, and worthy Matron of this house, have speciall regard to the good ordering and keeping of all the Sheets, Coverlets, Blankets, Beds, and other implements committed to your charge, that now do or hereafter shall appertain unto the poor.

Also ye shall suffer no poor person of this house to sit and drink within your house at no time, neither shall yee so send them drink into their wards, that thereby drunkenness might be used and continued among them, but as much as in you shall lye, ye shall exhort them to vertue and temperance, declaring this house to be appointed for the harbour and succour of the deer members of Christs body, and not of drunkards, and unthankfull persons.

Herewith yee are charged, and not with any other thing. But if there shall bee any thing done by any officer or other person of this house, that shall be unprofitable thereunto, or that may be occasion of any disorder, or shall engender slander to the same, that yee then declare it to some one or two of the Governours of this house, and to none other person, nor no further to meddle therein.

The Sisters.

YOur charge is, in all things to declare and shew your selves gentle, diligent, and obedient to the Matron of this house, who is appointed and authorized to bee your chief Governeresse and Ruler.

Ye shall also faithfully and charitably serve, and help the poor in all their griefes and diseases, as well by keeping them sweet and clean, as in giving them their meats and drinks, after the most honest and comfortable manner. Also ye shall use unto them good and honest talk, such as may comfort and amend them, and utterly to avoyd all light, wanton, and foolish words, gestures and manners, using your selves unto them with all sobriety and discretion. And above all things see that ye avoyd, abhor and detest scolding, and drunkenness, as most pestilent and filthy vices.

Ye shall not haunt or resort to any manner of person out of this house, except ye be licenced by the Matron, neither shall yee suffer any light person to haunt or use unto you, neither any dishonest person, either man or woman, and so much as in you shall lye, ye shall avoid and shun the conversation and company of all men.

Ye shall not be out of the womans ward, after the hour of seven of the clock in the night, in the winter time, nor after nine of the clock at night, in the Sommer; except yee shall be appointed and commanded by the Matron so to be for some great and speciall cause that shall concern the poor, (as the present danger of death or extream sickness) and yet so being commanded, yee shall remain no longer with such diseased person, then just cause shall require. Also

Also if any just cause of grief shal fortune unto any of you, or that ye shall see lewdness in any officer, or other person of this house, which may sound or grow to the hurt or slander thereof, ye shall declare the same to the Matron, or unto one or two of the Governours of this house, that speedy remedy therein may be had, and to none other person, neither shal you talk or meddle therein any further. This is your charge, and with any other thing you are not charged.

The Chirurgians.

YOur charge is, faithfully and truly to the uttermost of your knowledge and cunning, to help to cure the griefes and diseases of the poor of this Hospitall, setting aside all favour, affection, gain or lucre, and that as well to the poorest destitute of all friends and succours, as to such as shall peradventure be better friended, yee shall with all favour and friendship procure the speedy recovery of their health.

Also for your stipend and fee, given and paid out of this house, yee shall be ready at the commandement of the Almoners of this house, and Hospitaler of the same, to view and look upon such diseased persons, as here from time to time shall be presented. And after your view to signifie to the said Almoners or Hospitaler, your Judgement of the said diseased person, without all affection, whether he or she be curable or not, to the intent there may be none admitted into this house, that shall be incurable, to the great let and hinderance of the curing and helping of many other; nay, none rejected and put back that are curable, to the great slander of this house, and displeasure of God.

Also at all such times as ye shall goe to the dressing of any diseased person in this house, as much as in you is, ye shall give unto him or her, faithfull and good counsell, willing them to minde to sin no more, and to bee thankfull unto Almighty GOD, for whose sake they are here comforted of men. And above all things, ye shall take nor receive of no person, any gift or reward for the curing or helping of them, either of them, or their friends, but yee shall first make the same offer or reward known unto the Almoners of this house.

Also we utterly forbid and command you, that yee by no colour pester or burden this house with any sick or diseased person, for the curing of which person, ye before have received a sum or sums of money, upon pain to be dismissed this house.

This is your charge and office, with the which ye have to do, and not with any other thing, neither with any other office in this house. But if you shall perceive at any time, any thing done by any officer or other person of this house, that shall be unprofitable thereunto, or that may be occasion of any disorder, or shall engender slander to the same, that ye then declare it to the Almoners, or one of them, and no farther to meddle therein.

The office of the Porter.

YOur charge is, to keep the doors, opening and shutting them in due time, and to give good heed to all such persons as shall at any time passe to and fro out of this house, as well for the conveighing, or embezelling of any thing that appertaineth to the poor of this house, as Wood, Coale, Bread, Meat or Drink, as also for all suspicious

suspicious persons, as men to resort to the womens ward, or women to the mens wards, or such suspicious men to resort unto the men, or women, to the women, as shall be thought to bee pety pickers, or persons otherwise of naughty disposition.

And also every night at the hour of seven of the clock in the Sommer, yee shall go into every ward where the poor men be, and see them in good order; and suffer no Sister, nor other woman to remain among them (except just cause be declared by the Matron) and cause them to say the appointed Prayers.

And whatsoever poor person shall be found a swearer or an unreverent user of his mouth, towards God or his holy name, or a contemner of the Matron, or other officer of this house, or that shall refuse to go to bed at the lawfull houres before appointed, him shall ye punish (after once warning given) in the stocks, and further declare his follie unto the Almoners of this house, that they may take such order with him or them, as shall seem meet by their discretions.

Ye shall also be diligent and ready from time to time, to do such other things, as the Governours of this house shall assign and appoint you. This is your charge, and more you have not to do, but if ye perceive at any time, any thing done by any officer of this house, or other person that shall maintain disorder, or procure slander to this house, that ye then declare the same to some one or two of the Governours of this house, and to none other person, and no further to meddle therein.

The Bedells.

YOur office and charge is to give attendance from time to time, upon the Governours of this house, and to do such businesse as they shall assign you.

And also all such dayes as the Governours of this house shall not sit in this Hospitall for the affaires of the same, ye shall separate and divide your selves into sundry parts and liberties thereof, every man taking his severall walk. And if in any of your walks yee shall happen to espy any person infected with any lothely grieve or disease, which shall fortune to lye in any notable place of this City, to the noyance and infection of the passers by, and slander of this house, yee shall then give knowledge thereof unto the Almoners of this Hospitall, that they may take such order therein as to them shall be thought meet.

Ye shall also have a speciall eye and regard unto all such persons, as have been cured and healed in this house, that none of them counterfeit any grieve or disease, neither begge within the City and liberties thereof. And if ye shall fortune to finde any so doing, ye shall immediately commit him, or them, to some Cage, and give knowledge thereof to the Governours of this house, that they may take further order, as they shall think best.

Ye shall not haunt nor frequent the company of any poor and beggerly persons (that is to say) to drink or eat with them in any victualling house, or other place, neither shall yee receive any bribe or reward of any of them, lest by occasion thereof ye should winck at them, and so lewdly licence them to begge, upon pain to be dismissed this house.

Also

Also ye shall not suffer any sturdy or idle begger or vagabound, to begge or ask almes within this City of *London*, or Suburbes of the same, but yee shall forthwith commit all such to ward, and immediatly signifie the name and surname of him or them, to the Alderman of that ward, where ye shall apprehend any such begger, or else to the Lord Mayor, that execution may be done as the Law in that case hath provided. This is your charge.

The visitour of Newgate.

YOUR charge is faithfully and diligently to visit all the poor and miserable captives within the Prison of *Newgate*, and minister unto them such ordinary service at times convenient, as is appointed by the kings Majesties book for ordinary Prayer.

Also that ye learn without book the most wholsome sentences of holy Scripture, that may comfort a desperate man, that readily ye may minister them to such persons as yee shall perceive them most needfull to be ministered unto.

Also yee shall faithfully and truly use and bear yourself between party and party, excluding bribes and all other corruption, that is to say, between the prisoners and the parties to whom they have offended, exhorting them to the uttermost of your cunning, to make restitution of their things falsely gotten, shewing them the burthen of conscience depending thereupon. And that also they disclose all such other persons as they know living, which by robbery or murther may hurt a common weale. And in all their extremes and sicknesses, ye shall

The Order of the Hospitall.

be diligent and ready to comfort them with the most pithy, and fruitfull sentences of Gods most holy word.

And whatsoever person you shall perceiue to have substance, and to be minded to bestow somewhat thereof in deeds of charity, ye shall exhort him or them, to bestow some part to the reliefe of the needy and diseased persons of this house. And of all such gifts from time to time, to give knowledge to the Almoners or Scrutiners of this house.

And for as much as you are numbred among the Ministers of Christs Church, yee shall therefore four times in the yeer at the least, (that is to say) every quarter once, do such service in the said Church as is requisite for such a Minister to do.

This is your charge, which see that ye do, and with any other thing ye are not charged.

The estimate of the yeerly charges of this Hospitall.

IT is first here to bee considered, that although the charges were very great to bring the endowment of the Hospitall into such point as behoved, and to furnish the house with necessary Implements and bedding for such number (as hath been afore touched in the beginning) yet is there of all these charges, no parcell here under mentioned, but the yeerly expences onely, sustained for the maintenance and continuance of the same. And albeit these charges following, be all and every of them ordinary, and of necessity, yet for that there is a difference in the certainty of the one and the other, they are
divided

divided into two kindes, with these titles. Charges certain, and Charges uncertain.

Charges certain.

Are first the yeerly Wages and Fees of those Officers and Servants, that necessarily serve and attend for the poor, as ensueth, and after them the charges of household, Reparations, and such like.

To the Hospitaller. x. l.

To the Renter-clerk. x. l.

To the Butler. vi. l. xiii. s. iiii. d.

To the Cook, for his meat, drink, and wages. vi. l.

To the Porter. vi. l.

To three Chirurgians. lx. l.

To eight Bedles. xxvi. l. xiii. s. iiii. d.

To these and to the other, for their liveries. x. l.

To the Matron, and twelve Sisters for their wages.

xxvii. l. vi. s. viii. d.

To the Matron for her boord wages, at xviii. pence the week. iii. l. xviii. s.

To the xii. Sisters, for their boord wages at xvi. d. the week for every of them. xl. l. xii. s.

To the Matron for her livery. xiii. s. iiii. d.

To the Sisters for their liveries. vi. l.

To the Ministers of Christs Church, by the Kings Majesties assignment, that is to say, a Vicar, a Visitour of *Newgate*, five Priests, two Clerks, and a Sexton, yeerly. C. and vi. l.

To the Ministers of the Church within the Hospitall, by the same assignment, that is to say, to a Vicar, a Clerk and a Sexton. xxiii. l. vi. s. viii. d.

The Order of the Hospitall.

To certain men of Law and other persons, given in Fees by the Kings said Majesty, yeerly by Patent.
xxviii.l.iiii.s.

Charges of Household.

For the Dyets of an C. persons, at two pence the person for every day,	iii.C.l.vi.s.viii.d.
For lxviii.load of Coals, at xvi.s. the load.	liiii.l.viii.s.
For Wood yeerly.	xxiii.l.
For Candles yeerly.	v.l.
For yeerly reparations of the Hospitall and Tenements, appertaining to the same.	xl.l.

Sum of the Charges } vii.C.lxxx.
certain. } xviii. l.ii. s.

The charges uncertain (for as much as it cannot certainly be known to what they may amount) are here set forth without Sums, onely to signifie unto you, that there are many charges more to be considered, then certain account can be made of.

Charges uncertain.

For Shirts, Smocks, and other apparell for the poor, needfull, either at their comming in or departure. For Sugar and Spices for Cawdles for the sick, Flax for Sheets, and Weaving of the same, Soltwich Cloth for winding Sheets, Bolls, Brooms, Baskets, Incense, Juniper, Ashes to buck their Clothes. And also money given to the poor at their departure, which is measured
ac-

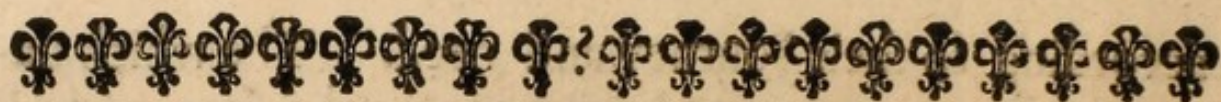
according to their Journey and need. The which uncertain charges amounted one yeer to the sum of lx.l.

So commeth the certain charges of this house yeerly, to the sum of vii. C.lxxx. xviii.l. ii.s. besides the uncertain expences, and other extraordinary charges, which cannot be rated, nay, accounted.

Toward the which is yeerly received by the endowment of the Kings Majesty, iii. C. xxxiii. l. vi. s. viii.d. And by the like endowment of the City of *London*, iii. C. xxxiii. l. vi. s. viii.d. The which in the whole is, vi. C. lxvi. l. xiii. s. iiii. d.

So is the Hospitall charged yeerly of certain (besides the uncertain expences) over and above the summe of their revenues, C. xxx. l. viii. s. viii. d.

Which onely riseth of the charity of certain mercifull Citizens, for whose continuance with the encrease of moe, we earnestly pray unto the fountain of mercy, Jesus Christ, the Lord of all, to whom for ever appertain, the Kingdome, the power and the glory, world without end. *Amen.*



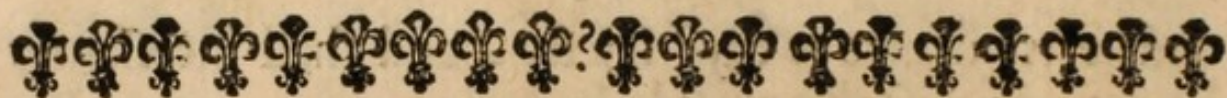
A Thanksgiving unto Almighty
God to be said by the poor that are cured
in the Hospitall, at the time of their delive-
ry from thence, upon their knees in the
Hall before the Hospitaler, and two
Masters of this House at the least.

*And this the Hospitaler shall Charge
them to learn without the Book, before
they bee delivered.*

WE magnifie and praise thee O Lord, that so mer-
cifully and favourably hast looked upon us mise-
rable and wretched finners, which so highly have offend-
ed thy divine Majesty, that wee are not worthy to bee
numbred among thy elect and chosen people : our sins
being great and grievous are daily before our eyes, we la-
ment and be sorry for them, & with sorrowfull heart, and
lamentable teares, we call and cry unto thee for mercy,
Have mercy upon us O Lord, have mercy upon us, and
according to thy great mercy, wipe away the multitude
of our sins, and grant us now O Lord, thy most holy
and working spirit, that setting aside all vice and idleness,
we may in thy fear walk, and go forward in all vertue
and godliness. And for that thou hast moved O Lord,
the hearts of godly men, and the Governours of this
house, to shew their exceeding charity towards us, in cu-
ring of our maladies and diseases, we yeeld most humble
and

and hearty thanks to thy Majesty, and shall incessantly laude and praise thy most holy and glorious name : Beseeching thee, most gracious and mercifull Lord, according to thy holy word and promise, so to bleſs this thine own dwelling house, and the faithfull Ministers thereof, that there be here found no lack, but that their riches and substance may encrease, that thy holy name may thereby bee the more praised and glorified, to whom be all laud, honour, and glory, world without end. *Amen.*

A



A Passe-port to be delivered to the T O O R E.

To all Mayors, Bailiffes, Constables, &c.

K Now ye that A. B. Taylour born in the Town of S. T. in the county of *Northampton*, being cured of his disease in the Hospitall of S. *Bartholomews* in West *Smithfield* in *London*, and from thence delivered the 13. day of *August*, in the sixt yeer of the Reign, &c. hath charge by us A. B. C. the Governours of the same to repair within dayes next ensuing the date hereof, to his said place of nativity, or to *Westhandfield*, the place of his last abode, and there to exhibite this present Passe-port to the head officer or officers, in either of the places appointed, that they may take further order for his demeanour.

ORDERS

ORDERS
TAKEN
AND ENACTED
FOR
ORPHANS
AND THEIR
PORTIONS.

M D LXXX.



LONDON,
Printed by JAMES FLESHER,
Printer to that Honourable City, 1652.

ORDER

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AND

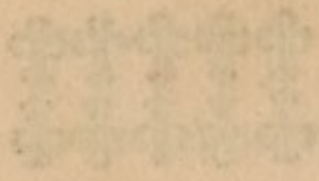
FOR

ORPHANS

AND THEIR

PORTIONS

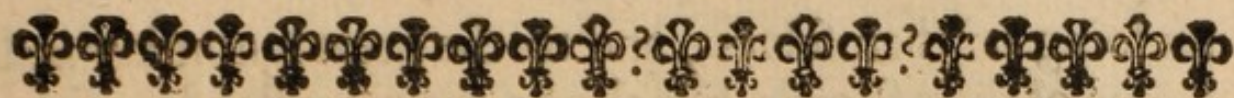
M D LXXX



LONDON

Printed by James Flesher

Printer to the Honorable City of London



Ad Commune concilium, tentum in
Guildhaldia civitatis Londini, xiii. die Octob.

Anno regni Edvardi sexti, Dei gratia Angliæ, Franciæ
& Hiberniæ Regis, fidei defensoris, & in terra Ecclesiæ An-
glicanæ, & Hibernicæ supremi capitis, quinto : coram An-
urea Judde Milite, tunc Majore, & Aldermannis Civitatis illius, ordina-
ta sunt inter alia, inactitata, concessa & stabilita, omnia & singula subse-
quentia.

Inasmuch as the City of *London*, is of late
yeers fore decayed, and daily is like to de-
cay, more and more : A great cause and
occasion whereof among other, hath been,
for that free mens children, (Orphans
of the said City) sometimes in the lives of their Pa-
rents, and sometimes after their deceases, being left weal-
thy and rich, do bestow themselves in ungodly Mariages,
for the most part in their young age, at their own wills
and pleasures, without the consent and against the minds
of their friends, saying and affirming, that the Law and
custome of the said City giveth unto them their porti-
ons, whether they mary by the assent of their friends or
not, and so do daily cast away and undo themselves, in
trust to have their said portions, whether their Parents
or friends will or will not. And thereby do they be-
stow themselves upon simple and light persons, having
neither cunning, knowledge, substance, nay, good or
honest conditions. By reason whereof, such Orphans,
inordinately, and insolently do spend and consume their
Patrimony and Portions in short time, not onely to the
F 2 undoing

undoing of themselves, and to the great ignominy and shame of their friends, but also to the great slander of the Lord Mayor and Aldermen of this City (who been reputed and taken as Fathers and Protectors of the same Orphanes) and to the great losse and hinderance of the said City.

And forasmuch as the said Lord Mayor and Citizens, have by their Laws, and Customes, Power and Authority to make Lawes and Ordinances, by their common Counsell, for redrese of the same; It is therefore now (to the intent to reduce the same to a more godly, more profitable and decent order and conformity) by the said Lord Mayor, and Communalty, and Citizens, in this present Common Counsell assembled, and by authority of the same Common Counsell, Enacted, Ordained, Authorized, and established for a Law perpetually to be observed and kept within the said City, That if any Orphan, or Childe of any free man or free woman of the said City do offend in any the things hereafter expressed, and bee thereof lawfully convicted, afore the Lord Mayor and the Aldermen or elsewhere, that then they and every of them, shall to all intents, purposes, constructions and meanings, be unable and barred to demand and claime their portion or portions, and also shall lose and forgoe and be barred for ever, of all and every his, her, or their part or parts, and portions to him or them belonging, by and after the death of his or their said Father or Mother, of the goods and Chattels, of every such Father and Mother, by reason of any Law, Custome, Ordinance, Usage, Franchise, Priviledge, Act of Common Counsell, or other thing, heretofore had or used, within the said City. The same Law, Custome,
Or-

Ordinance, or other thing whatsoever, heretofore had, made, ordained, allowed, and put in ure, to the contrary in any wise notwithstanding. That is to wit. First, if any man-childe, or woman-childe, shall maliciously go about or attempt to do, or cause to be done, any bodily harm, death, or destruction to his or their Father or Mother: Or if any man-childe do hereafter marry or contract mariage in the life of his Father or Mother (by whom he will claim any portion) under the age of xxi. yeer, without the consent of his said Father, or Mother, by whom he will claim any portion: Or if any woman-childe do hereafter marry or contract mariage, in the life of her Father, or other Parent, by whom she shall claim any portion, before the age of xviii. yeers, without the consent of her Father, or such other Parent by whom she shall or may claim any portion: Or if any man-childe be a Theefe, or a Fellow, or a common whore-haunter, a common Dicer, or a common Player at unlawfull games notoriously known: Or if any woman-childe shall hereafter commit any whoredome, or be a common Picker, that then every of the persons so offending, shall be barred and excluded to have, or demand any portion.

¶ Provided alwayes, that it shall be lawfull, for the Father, or Mother of any such childe, or children, to give and bequeath in Legacy, to such childe or children, as much as the portion of such childe so offending shall amount unto, by the custome of the said City, and then such childe thereby to be enabled to have, and demand the same, as portion, this Act notwithstanding, so that the same Legacy be contained in his or their Testament in writing, and not otherwise. And that then, and from thenceforth, his said childe, or children, to be admitted

and restored to claime such Legacy, or Legacies, in such sort, manner and form, as if there had been never any such offence done, or committed by any such childe.

Item, it is further Ordained, enacted, authorized and established, by the authority aforesaid, that if any womanchilde, being an Orphan, and under the age of xxi. yeers, at any time hereafter, after the death of her Father, do ensure and contract her selfe in mariage, or else according to the Ecclesiasticall Lawes of this Realm, do perfectly solemnize or consummate Mariage, with any free man of this City, the consent and agreement of the Lord Mayor and Aldermen of this said City of *London* for the time being, not obtained and had, that then for every such default and offence committed or done, by any Orphan or Orphans, of the said City, the same being confessed, or sufficiently proved by two witnessses, or otherwise before the said Lord Mayor and Aldermen of this said City of *London*, for the time being, at and in a Court of Aldermen, she or they that so happen to behave her or themselves, as is aforesaid, shall forfeit, forgo and lose xii. pence, of and for every pound, so due or to be due unto her, or them, by reason of any such Orphanage, the sum of xii. pence of every pound, to go, or to be to the use of the chamber of the said City, according to the ancient custome before this time, in such case used. And if the said contract or mariage of the said Orphan or Orphans, be made with any foreiner, not being free of this City, at the time of any such contract or mariage made, that then the said Orphan or Orphans, and every of them shall forfeit and lose three shillings of every pound due, or to be due unto her or them, by vertue of any Orphanage or custome had and used within

in the said City. The one shilling of the said three shillings of every pound, to go, or to be, to the use of the chamber of the said City, in such manner and form as is aforesaid. And the other two shillings so forfeited of every pound, to go to the use of such other Orphan, or Orphans, as then shall remain unmarried; or else for default of such Orphans, or Orphan, to remaine to the next of the kindred of the Orphan so offending.

Also be it further Ordained, enacted, and established by authority aforesaid, for, and in eschewing of divers variances, contentions, and sutes, that daily heretofore have, and hereafter may ensue: that if any free-mans childe, man or woman, fortune to be married hereafter, in the life time of his, or their Father, by his consent, and not fully advanced of, and to his, or her full part, or portion, of his, or her, said Fathers goods, as he shall be worth at the time of his decease, according to the ancient Laws and customes of this said City: that then every such free mans childe, so being married in the life time of his, or her Father shall be to all intents and purposes, disabled to demand any further part or portion, of his or her Fathers goods, after the decease of his, or her Father, but shall be adjudged, reputed and taken to bee fully advanced, according as the Law and custome of this City, hath been long time out of minde, except his or her said Father do mention certainly in his last Will, or Testament, or by other writing signed with his own proper name, or mark the certainty of the sum or sums of money, goods and Chattels, and the value of them that the Father gave, payed, or departed withall, or otherwise assured, or hereafter shall give, pay, depart withall, or otherwise make assurance of unto him, or her, before, at or after the marriage

riage of him or her, or otherwise in his life time, for and towards their advancements, in the name of his, or her part, or portion.

And then every such Orphan, or Childe, which after the decease of his or her said Father, can bring forth the said Testament or other writing signed or marked with the Fathers hand or mark, wherein the certainty of such money, goods, or chattells, as they have, or shall have received of their said Father, or by the same Father, assured by especialty, or otherwise shall have as much of the ready money, goods, chattells, and debts, of the said Father, as (with that which he or they shall have received towards their advancements, in the life of their said Father) shall make up a full childes part, of his goods, and chattells, as hee shall be worth at the time of his decease; The same to be demanded, asked, and claimed, or sued for against the Executor, or Executors, Administrator, or Administrators, of the goods, and chattells of the said Father, by bill originall, to be commenced to our Sovereign Lord, the Kings Court, holden in the utter chamber of the *Guild-hall*, of the said City, before the said Lord Mayor and Aldermen of the same City for the time being, any Law or custome, heretofore made, or used to the contrary, notwithstanding. In which action, no wager of Law, or Essoin shall be admitted or allowed.

Provided alway, and it is further enacted, that if any free mans Son, being of full age (which shall hereafter be married with the consent of his Father, or any other person, being of full age, which shall hereafter marry any free mans daughter) do at the time of the espousalls, or any time after, confess themselves, by writing fully satisfied,

tified of his, or their portion, or do otherwise acquit and discharge the Father of such frees mans sonnes, or daughters, of all their part and portion due, or to be due, by the Law and custome of the City, that then every such person, so confessing, acquiting, or otherwise discharging, shall be reputed and taken, as fully advanced of his or their whole part, or portion, and shall not be enabled, to demand any further, or greater part of the substance, goods, and chattells, of his or her Father: this Law, or any other Law or custome heretofore had, made or used to the contrary, notwithstanding.

And further, for as much as it is thought very prejudiciall and hurtfull to the fatherless children and Orphans, when the Mother, or Mother-in-law, being executrix of the last Will and Testament of her late husband, by whom, and after whose death, the Orphans are intituled to an Orphanage, (according to the laudable customes and this City) do divers times marry or contract matrimony, some with foreiners, and persons unknown, and some with free men, or ever a just Inventory of the Goods, Chattells, Plate, Jewels, ready money of the Testatours, be by them brought in: By reason whereof, many times, they (either for fear or affection of their husbands, or for some other sinister cause) do bring in very suspicious Inventaries, omitting therein either ready mony, plate, Jewels or debts, or some other thing, or things, whereby some benefit should redound to the fatherless children, to the great loss and hinderance of the Orphans, and sometime slander to the Lord Mayor, and Aldermen of the City, notwithstanding their great care, and travaile that they take for the good ordering, and true answering of the said Orphans.

It is therefore, by like authority, ordained, established, and enacted, that if after the first day of *November* next ensuing, any widow, which is, or shall be made executrix of the Testament and last Will of her late husband, (being a free man) or shall take upon her the administration of the goods, and chattells, of her late husband (being a free man) do not upon her oath bring in, and exhibit, or cause to be brought in, and exhibited before the Lord Mayor, and Aldermen of this said City, for the time being, at, and in a Court of Aldermen, a just and perfect Inventory (to their knowledge,) of all the goods, chattells, Plate, and Juells, ready Money, and debts, as were her said husbands, at the time of his death, appraised according to the Law of the said City, before she do ensure her self in mariage, or contract mariage, or else according to the Lawes of the Realm, do perfectly solemnize, or consummate mariage with any person, before such time as aforesaid, that then every person so offending, shall forfeit and lose viii. s. of every pound, of her portion, of the goods of her late husband, due to her by the laudable custome of this said City, the same to go to the use of such Orphan, or Orphans, as then shall be entituled to have or demand any Orphanage, or portion, after the death of his or her late Father, the same to be demanded, asked, claimed, or sued for, against such executrix, or administratrix, by bill originall of debt, to be commenced, in our Sovereign Lord the Kings Court, holden in the utter chamber of the *Guild-hall*, of the City, before the Lord Mayor, and Aldermen of the same City, for the time being, Any Law, &c. In which action, no wager, &c.

A BRIEF
DISCOURSE,
DECLARING
And approving the necessary and
inviolable maintenance of
THE
LAUDABLE CUSTOMES
OF
L O N D O N.

Namely, of that one, whereby a reasonable
partition of the goods of husbands among their
Wives and Children is provided:

With an answer to such objections and pretenced
reasons, as are by persons unadvised or evill perswaded,
used against the same.

L O N D O N,
Printed by JAMES FLESHER,
Printer to that Honourable City, 1652.

**Juris civilis de consuetudine Axiomata
sive Maximæ.**

Consuetudo vim habet rei Judicatae.

Consuetudo est optima legum interpretres.

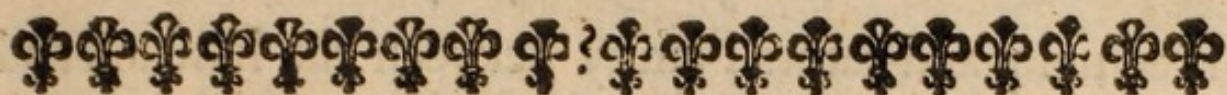
Conventio & consuetudo vincunt legem.

*Consuetudo firmata est ubi simili aliquando contra-
dicto, Iudicio quid est obtextum seu Iudicatum.*

*Cæpta usucapio vel præscriptio per defunctum, conti-
nuatur per heredem, cum in omne jus defuncti
succedat heres.*

*Profunda requie humano generi prospexit usucapio.
Barro.*

*Usucapio est quies periculi sollicitudinisque litium.
Cicero.*



A Briefe Discourse, declaring and approving the necessary and inviolable maintenance of the laudable Customes of *London*.



E finde it necessary in all common-wealths, for subjects to live under the direction of Lawes, constitutions or customes publickly known and received, and not to depend onely upon the commandement and pleasure of the governour, bee the same never so just or sincere in life and conversation. For that the Law once enacted and established, extendeth his execution towards all men alike without favour or affection: whereas if the word of a Prince were a Law, the same being a mortall man, must needs be possessed with those passions, and inclinations of favour or disfavour that other men be: and sometimes decline from the constant and unremoveable levell of indifferency, to respect the man besides the matter, if not to regard the person more then the cause. Wherefore it was well agreed by the wisest Philosophers and greatest Politicks, that a dumb Lawes direction is to be preferred before the sole disposition of any living Prince, both for the cause afore touched, and for other reasons which I will here omit. But to descend to the particularities of my intention, and to treat of the validitie and inviolable observation of some laudable (I might term them sacred) customes, being the principall joynts, and very sinews of all good Corporations and Fellowships, and being also the maintainers of a sacred

cred unity and naturall amity between the husband and his wife, the parents and their children, which (as *Aristotle* the wise Philosopher termeth it) is the beginning of a City. For what is a City but a manifold and joynt society consisting of many households, and living under the same Lawes, Freedomes and Franchises? so I must needs confess them to be the procurers and causes of sundry good effects to the generall estate of the City wherein they be observed: as of the other side they may breed sundry inconveniences in such a City where the same are violated and broken with allowance and impunity. I will therefore shortly shew the nature of a custome, and the difference which it holdeth from a publick Law. And next I will declare how necessary the same are to manage the government, and to entertain the prosperity and traffique of this City: and namely that one good custome which I intend to speak of. Lastly, I will endeavour to answer those pretended reasons, and colourable objections made against the precise maintenance and defence thereof.

First then I suppose that a custome which justly deserveth that name, is of no less reverent regard and authority then a written Law, passed and allowed in Parliament: which notwithstanding I do grant that there are certain differences between a Law and a custome: for the custome taketh his force by degrees of time, and consent of a certain people, or the better part thereof, but a Law springeth up in an instant, and receiveth life from him that is of soveraign authority to command. A custome enlargeth it selfe by plausible entertainment, and acceptable circumstances of time and occasion, with generall liking and allowance, whereas a Law is com-
manded

manded and published by power and received by duti-
full constraint, and that often against the good will of
them that are bound by it, for which cause *Chrysostome*
not improperly compared the Custome to a King, and
the Law to a Tyrant. Moreover the custome doth nei-
ther promise a reward for observation, nor inflict a pu-
nishment for violation thereof: whereas the Law al-
wayes importeth either a consideration of gain, or a
terroure of punishment or damage, if the same be not a
Law of enlargement or permission that disanulleth the
prohibitions of a former Law. Finally a custome is
applyed to the commodity of some one province, cir-
cuit or City, and grounded upon a speciall reason of con-
veniencie or commodity, for those persons or place
where it is observed: whereas the Law hath a generall
reason, extended to the whole Nation bound by the
same, without private consideration of the due impor-
tances of any peculiar place or people. Therefore it
is well said, and put in ure by the common Lawyer, *Quod*
consuetudo ex rationabili causa profecta privat communem le-
gem, That a custome grounded upon reasonable and
honest consideration abridgeth or altereth the judge-
ment of the common Law. So that in customes the
estate or condition of the people are to be respected, and
such customes as are consonant to reason, and most ap-
pliable to the estate and quality of such people, are to be
allowed. For example; the custome of *Boroughenglish*, yet
in force in sundry places of *England*, whereby the youn-
ger sonne is to inherite his fathers land, hath taken
strength by this reason, that the father may (if he be not
careless and secure to do his children good) train up his
elder Sons in some good Trade or Occupation by which
they

See 34 H.
8. B. cu-
stome, 59.
A man
may not
prescribe
or plead a
custome
per totam
Angliam,
for that is
common
Law and
no custom
otherwise
if the cu-
stome had
been plea-
ded to be
in such a
City or
Coun: y, as
Gavelkind
Gloc. Fee
and such
like.
Borough-
english.

But see
now the
Statute of
32 H.8. c.
2. and 34.
H.8. c. 5.
of Expla-
nation.

they may be able to get their own living : whereas the youngest, by the impotency and tenderneſs of his yeers, may be perchance unapt and unable for ſuch inſtruction. And ſo the Cuſtome commendable that provideth for the reliefe of the young and impotent. Alſo by an old cuſtome of this Land, in ſundry Boroughs and Towns, Lands were deviſable by Will, though the Lawes of *England* pronounced ſuch deviſes to be void ; and the reaſon was, for that inhabitants of Boroughs or Cities, whoſe traffique and Trade reſteth much upon mutuall truſt and credite, are oftentimes indebted at the time of their death. Wherefore it was thought meet, that they might deviſe their land for the due ſatisfaction of their creditours, which to do, they were enabled by the cuſtome. In *Kent* and other places of this land, the cuſtome of *Gavelkinde* is maintained, which importeth an equall diviſion of the inheritance to be made among all the brethren : a cuſtome partly grounded upon a naturall conſideration, for that all the Sonnes hold the like obligation of nature and deſert with their Parents, in the which they have an equall intereſt : and alſo ſuffered to take place in *Kent*, and other places of this Land, in thoſe dayes moſt inclinable to rebellion, to the intent to enfeeble their forces, and to bring their great houſes and families to impuiſſance and decay, thereby to diſable and diſcourage them from ſuch unlawfull and violent attempts.

And to come neerer to the matter, this famous and renowned City of *London* hath many laudable and ancient cuſtomes : which though they derogate and differ much from the rules of the common Law, yet have they been not onely approved by inviolate experience of ſundry

dry ages, but also have been of old ratified and confirmed by sundry Acts of Parliament, & Charters of Princes, and namely by the Statute of *Magna Charta*, by these words following, *Quod civitas London habeat omnes libertates suas antiquas & consuetudines quas habere consuevit*, which is, *That the City of London have all their ancient liberties and customs which they have used to have.* The words following for other Cities, &c. be, *Quod habeant omnes libertates & liberas consuetudines suas*, which signifieth, *that they shall still retaine their liberties and free customs*, that is to say, their freedoms and immunities, as to bee discharged of toll, pontage, and such like: Whereas the City of *London* hath provision made by that estatute, for all usages and customs whatsoever. Verily as the City of *London* beareth oddes, and prerogative over other Cities in *Engl.* being the *Metropolis* or mother City thereof, so are the inhabitants of it no less necessary then profitable members of the Commonwealth, in transporting our commodities into other lands, and enriching us with the benefits and fruits of other countries. The City of *Rome*, and Citizens of the same had that prerogative as in other things, so also in their executions for causes capitall, that they should not be crucified, being a death of great torment and infamy, but onely beheaded. The benefit of which custome Saint *Paul* claimed and obtained in the time of *Nero*: pretending that hee was a Citizen of *Rome*. The said Citizens also by the dignity and reputation of their City were not for any transgression or offence to be fettered, whipped, or scourged, which priviledge likewise the said Saint *Paul* took hold of, who being oppressed by the calumnious accusations and outcries of the Jewes, was by commandement of

Magna
Charta. ca.
9.

Acts. 22. *Claudius Lysias* the Captain to be examined by torture of whips, what was the cause of that generall murmure and exclamation of the people against him: yet Saint *Paul* by alleaging that hee was a free man of *Rome*, not onely delivered himselfe from the injury and rage of the people, but also made the Captain much afraid of question or punishment for the indignity offered unto him, so great was the Majesty of that City, and so reverent the reputation of all such as were accounted members thereof. *Athenaus* termed *Rome* in those dayes very fitly, *Epitome totius orbis*, an abridgement of the whole world, for the continuall concourse and resort of all Nations thither. We may derive thence an argument for our purpose, that *London* being worthy that title, *Epitome totius Angliæ*, in respect of the necessary repair and frequent assembly of all estates therein, whether it be for Justice by the Lawes of this Land, which are here administered, or by trade of marchandise, which is here so great that it may bee termed *totius occidentis emporium*: and chiefly because of the favourable and often sojourn of our most royall and gracious Soveraign, whose Majesties chamber this is as it alwayes hath been of her most noble progenitors: the same is no less worthy of fundry preeminences which by Custome and Charter it enjoyeth above other Cities of this Land.

43 E. 3. fo.
17. Vide
Brook
Prescr. 8.

We finde in our Law Books, that the Scholers of *Oxford* claimed a priviledge by custome, to have preferment of any house or lodging, that was to be let in the City of *Oxford*, and the same was allowed in the Common place in *Westminster*, where Justice *Finchden* a man of great reckoning at that time said, that it is reason that they which are principall Instruments of great good in
the

the Commonwealth, should have beneficiall customes for the maintenance of their societies : the like reason (saith he) serveth for the Merchants of the staple in *Westminster*, and also for the Justices of Assises, or Justices in Eyre, to have the like prerogative. Also it is not unfit to remember, that the Barons of the Land have divers prerogatives above other subjects, that is, they shall not be sworn when they pass upon their Peers, and if they bring an appeal, the defendant shall not wage battaile against them, and they are exempted out of all returnes in Juries, and shall not be sworn in Leets, and all in respect of their dignity, and for the necessary use of them in government of the Commonwealth. So that persons of needfull employment in the estate, have alwayes been favoured in all their honest customes or prescriptions, and especially the Citizens of *London*, and the rather for the great presumption and opinion conceived of their experience, who being trained by hard education, in great use of service and affairs : and also by their travaile and traffique beyond the Seas, by continuall negotiation with other Nations must needs (by all reasonable likelihood) procure unto themselves great judgement and sufficiency, to manage a politick Regiment in their City, according unto that verse of the Poet *Homer* in the beginning of his Treatise of wise *Ulysses* his adventures remembring his travaile into sundry Nations and Cities.

*Dic mihi Musa virum capta post tempora Troie,
Qui mores hominum multorum vidit & urbes.*

The sense whereof may be well expressed in English verse without rime thus :

All travaillers do gladly report great praise of Ulysses :

For that he knew many mens manners, and saw many Cities.

Which opinion of their policy and experience conceived and approved by the noble Princes of this Land in all ages doth evidently appear by the manner of their government, whereat strangers do no less envy then admire seeing so populous a City, containing by true estimation more then 500 thousands of all sorts of Inhabitants, managed not by cruell Viceroyes, as is *Naples* or *Millain*, neither by proud *Podestà*, as be most Cities in *Italy*, or insolent Lieutenants or Presidents, as are sundry Cities in *France*, (whose Presidents are noble men or Captaines, having their persons environed with a guard of Souldiers, and holding their Cities possessed with a Garrison, as well in the quietest calm of peace, as in the hottest combustion of war :) but by a man of Trade or a meer Merchant, who notwithstanding, during the time of his Magistracy, carrieth himselfe with that honourable magnificence in his port, and ensignes of estate, that the Consuls, Tribunes or Pretors of *Rome*, (namely, when as the same was reduced to a Monarchy) much less the *Podestà* of any City in *Italy*, never bare the like representation of dignity, and that not onely in peaceable seasons but in time of greatest warre : for such credit the Princes of this Land have still reposed in their fidelity and wise direction, that we have few examples in any Chronicle of any noble man or other appointed to assist the Lord Mayor in his government, much less to be sole Ruler or Lieutenant for the time, were the state never so troublesome, and the affaires of never so great consequence and importance.

And to adde a little more in prooffe of the singular good

good conceipt had of their service to the Commonwealth, and that the same hath in all ages from the Conquest given them prerogative above other Cities of this Land, we read in the vii. yeer of *Henry* the vi. that in a *7 H.6. 32.* *nativo habendo* brought by the Lord to recover his villain, it was adjudged a good return made by the Sheriffe of *London*, that such was the Custome of *London*, that a villain having remained there the space of one whole yeer and a day, could not bee fetched or removed out thence. For so great is the prerogative of that place, that it giveth protection to the villain or bondman against his Lord, while the said bondman shall be resiant there.. Likewise it was taken for a good custome in the City of *London*, that no attaint should be maintained for a supposed false verdict given in that City. In the *7 H.6. 32.* which case the Sheriffe of *London* made return upon a writ of attaint sued against a *Londoner*, that such was and had been alwayes the custome of the City, that no attaint should be allowed against any Commoner or other Citizen of the same, for which cause he might not *salvis libertatibus* without impeachment of their liberties, serve or execute the writ. Then was there a writ directed out of the Chancery to the Justices of the Kings Bench with expresse commandement to allow to the Mayor, Sheriffes and Citizens all their liberties, immunities and customes, and further out of that writ was a *Venire facias* directed to the Mayor and Sheriffes, whereby was day given them to come and make declaration of their custome, at which day the parties plaintiffe and defendante being present, the Mayor and Sheriffes had full allowance of their customes, the Sheriffes were holden excused for their return, and the parties writ was abated, and

and the same case was adjudged in *2 E.3.*

himselfe punished by imprisonment for his vexation. I have here at large remembred this case, to the end it may appear both what credit and opinion of conscience and truth, the Law ascribed to the Citizens of *London*, and also how carefull and vigilant the Mayor and Sheriffs have alwayes been to preserve and uphold their customes, although sithence that onely custome was for especiall causes abrogated by the Statute of 11. *H. 7.* and an attaint given in *London*. Moreover, we finde it recorded in *M. 2. E. 3.* that whereas a Citizen of *London* brought an appeal of Robbery, and the defendant would have tryed his innocency by battail, as he may in sembla-
11 H. 7. c. 21.
M. 2 E. 3. cor. pl. 157.
 ble case against another man, *wilby* then Justice answered him, that he was not to have allowance of battaile in an appeal commenced by a Citizen of *London*, for that by custome of their City they were exempted from it.

The like appeal was sued *P. 20. E. 3.* wherein the defendant made offer of the same Triall. And although hee that sued the appeal, would have joyned battaile without regard of this franchise, the Lord Mayor with the rest of the Corporation sued a writ out of the Chancery, reciting their custome or franchise, and prayed allowance of it in disturbance of the battaile. *20. E. 3. Coron. 125.*
P. 20 E. 3. cor. pl. 125

If a free man or free woman of *London* be committed to *Ludgate*, they are to be excused from the ignominy of Irons, if they can finde sureties to be true prisoners, and if the sum be not above an hundred pounds. Upon the like reason is that custome established for the liberall and milde imprisonment of the Citizens in *Ludgate*, whereby they have indulgence and favour to go abroad into any place by *Baston* as we term it, under the gard and superintendency of their Keeper, with whom they must
 return

return again to the Prison at night : a custome verily, though quarrelled with by some, and supposed to be the hinderance and delay of Justice, and oftentimes a mean to defraud men of their true debts and executions, yet the ground thereof being well examined, it wanteth not a sound maintenance in the course of reason (as I think.) For the prescription or custome is but a mitigation of the extremity of their imprisonment, serving rather for the expedition of their discharge, and speedy satisfaction of their creditours, then for any other purpose : so that this scope and licence in proper construction and sense of Law, cannot be termed an enlargement or liberty. For to remain in the materiall Prison in the night, and to go forth out of the same in the day, under the restraint and controll of a continuall Keeper, is alwayes an imprisonment, though exercised with greater mildness and lenity. And divers causes there are to warrant the same in *London* rather then in other places: the one is for that the City of *London* standeth chiefly upon the traffique and intercourse of Merchants, and the use of buying and selling of their sundry commodities, which is not alwayes performed by themselves, but by their factours and servants, and oftentimes one factour or agent serveth the turn of many Merchants, whereby hee is pressed to sundry and severall accounts. Wherefore to the end the prisoners may enform themselves upon their mutuall reckonings, both what they owe, and what is due unto them, and also that upon conference and account with their agents returning from other countreys, they may be made acquainted with the increase of their adventures or commodities, it is necessary they should have places of meeting, which will not be so convenient in a close

close prison, the same being no place of assembly or free
 accesse (especially it being no common duty in the
 Gaoler to permit any person to come among his priso-
 ners for any such occasion) and if the Gaoler were bound
 to endure and suffer such common and voluntary repair
 unto his prisoners : yet will it be no fit place for Mer-
 chants to treat and negotiate their causes, which cannot
 be well determined without their Books of accounts, and
 witnesses of their contracts, and oft must the same bee
 decided before the Masters of their Trades or Compa-
 nies. So that this custome made in furtherance of mutu-
 all accounts, doth very much enable the prisoner to
 procure his liberty and pay his debt. Also if the priso-
 ner be poor and of himselfe unable to pay, this tolerati-
 on of their going abroad with the Keeper, is a good
 meane for him to procure the Alms, and reliefe of other
 charitable people, thereby the sooner to purchase his li-
 berty. Whereby it appeareth what reckoning the Law
 maketh of them, in consideration of their great hazzard
 by Sea (through danger of shipwrack or piracy) and ad-
 venture in strange Countreys (by falshood and negli-
 gence of Factours) or by wars between Princes, the in-
 conveniences and mischiefes whereof, are not so offen-
 sive or prejudiciall to any, as to Merchants, whose con-
 dition as it may by a fortunate voyage be much enriched
 and advanced : so may it by any of the mischances
 aforesaid, be so empaired and overthrown, that it may
 turn himselfe, his wife, and family to utter calamity and
 distresse. Therefore as the hope and comfort of the wife
 (having commonly no assurance of joynture in the City,
 nor expectation of dower as other women have) and also
 of the children (being for the most part born to no great
 patrimony,

Vide 4 E.
 com o.
 .36.

patrimony, other then that which their fathers shall by their vertuous industry acquire) doth onely depend upon the fortune of their husbands or fathers travaile, it hath laudably and conscionably been observed for a custome, and is yet by the wiser and better sort religiously regarded that when any Citizen of *London* dyeth, his wife shall have the third part of his goods, and the children another third part, equally to be divided among them, according to the proportion of his goods, and himselfe another third part to dispose by his last Will and Testament at his pleasure. A partition so reasonable and grounded upon so good consideration, (the quality and estate of the *Londoners* considered,) that if it were not approved by custome, but to be proposed in the wisest and highest Court of Parliament, whether it were fit to have the force of a Law, I think no man (unlesse he were a *Timon* by nature, or a *Diogenes* by disposition) no man I say possessed with common humanity would gainsay or impugn it. Doth not the common Law now in force give the husband presently by the intermarriage, all the goods and chattells of his wife, though the same bee of the value of 10000 pounds, so that when shee is once his wife, the Law disableth her to give or dispose any thing that was hers before? And shall not the husband be bound by semblable Obligation of reason to leave his wife the third part of his goods, and if the Law be in that respect defective (as what Law in the world, except the Law of God, is without his imperfections?) shall not the custome supply it in such sort, that no barbarous and uncharitable or cautelous, and unkinde practises by deed of gift, or otherwise, shall disappoint or defraud the same? especially here in *London*, where the good estate of men,

for the most part consisteth in movables, by reason of their continuall Trades and Exchanges, so that their wives cannot assure themselves of their dowry commonly called thirds, as they might if their husbands were seised of Lands in Fee-simple. Also the comfortable society between husband and wife, is of that pretious estimate and honourable reputation before God and man, that there may not possibly a more sacred and strait conjunction be imagined among the children of men. *Charondas* the Philosopher calleth them *Homosipios*, which signifieth, fed with the selfe same food. And *Epimenides* another Philosopher calleth them *Homocapnos*, which is as much to say, as using the selfe same smoke, and the selfe same manger, and as it were drawing the selfe same breath. Finally, the Scripture giveth expresse charge to each man to tender his wife with extraordinary good offices by saying, *Thou shalt leave thy Father and Mother, and cleave to thy wife.* If the force of custome did not enforce the matter, these onely considerations were sufficient to prove, that there should be nothing private, nothing peculiar, nothing proper, but every thing in common, every thing equally interested between the husband and the wife. The like though not equall affection is commanded by the Apostle to the *Col. 3.* by the Fathers towards their children. *You fathers be tender and loving unto your children, and discourage them not.*

But let us see what account our common Law hath made of the like customes, founded upon the love and affection between man and wife. It was used of ancient time in Gavelkinde Land, and hath received the allowance and judgement of a good and lawfull custome, that if the husband be attainted and executed for a Felony by him

Matth. ca.

19.

Mark. cap.

10.

1 Cor. ca. 7.

Ephes. ca. 5.

3 H. M. 3.

Pres. 60.

him committed, yet shall his wife for the solace of her
 losse and desolation have her dowry of his Land, and also
 the heire shall inherite the same according to that old
 saying: *The Father to the Bough, & the Son to the Plough*: al-
 though the common law by rigorous imputation to make
 man more fearfull to offend in crimes of such quality,
 extendeth the punishment though not to the persons of
 the wife and children, yet to their fortune so farre as it
 may turn to their utter impoverishment and discomfort.
 In the City of *York* there is a custome, that the husband
 may enfeoffe his wife of such Land as he shall purchase,
 which though it bee against the rule of the common
 Law (which disableth the husband to convey any Land
 to his wife) by feoffement or deed, yet by force of the
 custome it was adjudged to be lawfull and effectuell. Al-
 so the custome of many places in *England* is, that the wife
 shall enjoy the whole Land of her husband in name of her
 dowry, as it appeareth by *M. Litt.* himselfe, and the
 husband cannot by any cautele or devise defeat her there-
 of. And in some other Countries they have the moiety
 or tone part, and generally by the common Law the
 third part. In *Northwales* the custome is so beneficiall
 for wives, (that although they be sure of their thirds of
 such Land as their husbands shall chance to be seised of
 at any time during the mariage) yet are they to have the
 moiety or tone part, not onely of his goods and movea-
 bles, but also of his Leases, be the terms thereof never
 so long. Not many yeers ago the custome of *Taundean*
 was alleaged and allowed by the Court of the Kings
 Bench, that the husband or wife whether so ever of them
 did happen to over-live should have the inheritance or
 Fee-simple Land of the other by survivor, a custome ve-

8 E. 2.
 It in. can.
 Prescr. 50.

P. 35 H. 6.
 58.

12 H. 3.
 Pres. 6. 1.

Litt. ti.
 Dower.

14 Eliz.

Read the
Epistle to
the Ephes.
ca. 5.

rily neither contrary to reason nor repugnant to Religion, as no well disposed or good husband can deny, when he entreth into consideration of those holy duties and good observances that are commended and commanded in holy Scripture. If then these customes bear sway in sundry places, and are publickly approved by judiciall sentences, what Citizen will be so senselesse, what *Londoner* so loose; what Merchant or other free man so inconsiderate, and unregardfull of his own good estate, and so ready to defile his own nest, as once to attempt or practise the violation or breach of so good a custome? What is he who seeing the Estate of *London* is preferred before other Cities of the Land, by the benefit and means of their most profitable customes, that will give a dangerous example to abrogate the same, and to call their usages in question? A custome, if it have been once notoriously discontinued, or interrupted, loseth the title and appellation of a custome, and by instance given of the time when it was disused lacketh a great part of his authority. Then unnaturall or at least wise unadvised is that Citizen which to serve his private humour bringeth a generall custome either into question by his fraud, or by his example into contempt. Pernicious also is the president of one custome called in question to the ruine of the rest: Namely, when as the City by their Counsell in her Majesties Courts of *Westminster*, claiming the benefit of their customes, may be encountred and confronted, with a counterplea given by themselves, that such of their own Aldermen and commons have by their deeds and devises either disaffirmed or disannulled the same. A practise as of great condemnation in them that do it, so no doubt of great oversight and incircumspection in them that suffer it.

See before
in the case
of Robbery,
how carefull
the City
was to avoid
this danger
and to preserve
their custome,
and also in the
case of the
attaint before
7 H. 6, &c.

But

But somewhat to satisfie the idle cavils pretended to the contrary, saith some one, is not the generall Law of *England* sufficient to manage the government of *London* as well as of all other Subjects, but that *Londoners* must have private customes and usages of their own? This objection made by the enviers or enemies of the wealth of *London* (howsoever they make shew to the contrary) rather deserveth a hisse then a reply, and is sufficiently confuted in the former discourse.

But it is further urged by some hard husbands, My wife is froward and undutifull, and hath not deserved it. Shee is a fool and cannot rule it. She will marry again, and enrich some other with the fruit of my travaile. Wherefore I think it necessary to abridge her of that liberality which the custome doth extend. Also my children be evill enclined, disobedient or untractable, or some of them be. Wherefore I may with reason deprive them of the benefit of this custome. First to answer the undutifulness, I wish thee whosoever thou art to summon and convent thy selfe to the tribunall seat of thy inward minde, as Saint *Augustine* saith, and to make conscience thy Judge, thy cogitations the Witnesses, thy actions the accusers, thy memory the register or record to give in evidence: and let it be discussed in all due circumstances, whether thou didst not likewise forget the offices of a good husband and defraud her of her duties, (as Saint *Paul* saith) or provoke her to impatience which the same Apostle forbiddeth in these words, *You husbands be loving to your wives, and no way be bitter unto them.* Which also S. *Peter* remembreth in advising husbands to dwell with their wives sincerely and according to knowledge in doing honour unto them as to the weaker Vessel.

Aug. in lib.
conf. ff.

1 Cor. in 7.

Col. ca. 3.

Peter Epist. 1. ca. 11

fell. Let it I say be examined in the consistory of thy
 conscience whether thou either by thy fault wittingly, or
 negligently by thy default, or by thy unkindness undu-
 ly, hast caused her being the weaker vessell to bee the
 more intolerable. If thou find thy selfe condemned by
 thy conscience, let remorse be thy executioner, and a-
 mendment with kindness towards thy wife be thy pe-
 nance: but if thou finde thy selfe guilty of no want of af-
 fection, love or good carriage of thy selfe towards her, so
 that her undutifulness proceeded of her selfe: yet I pray
 thee remember the benefits which God hath given thee
 by her means, whether they be gifts of fortune in bet-
 tering of thy estate, or eschewing of sin, by her lawfull
 and comfortable company, or the blessing of children, a
 soveraign good in this world, thy children being the
 monuments of thy life and being upon earth, and the re-
 payrers of thy decay. And let these favours and graces
 enjoyed by her company cover and countervaile her o-
 ther imperfections whatsoever. Follow therein the ex-
 ample of the wise *Socrates*, who being demanded how he
 could endure the continuall scolding and vexation of his
 wife *Xantippe*, likewise asked of the other why he suffer-
 ed the cackling and unpleasant noise of Hens and Tur-
 keyes in his house, Because said the other they lay Egges
 and breed Chickens for me: and so said *Socrates* *Xantippe*
 beareth me Children, which good turn alone covereth
 and dispenseth with infinite defects. *Callicratides* the
 Athenian being demanded why hee a man so nobly de-
 scended, but having matched with a base *Thessalian* wo-
 man, yet by his last Will bequeathed unto her all his sub-
 stance, leaving his other friends and kinsfolkes unregar-
 ded: because (said he) she is my wife, meaning that shee
 who

who was by his judgement and choice made worthy to be his wife, should bee unworthy of nothing that was his. Which may also satisfie that second point of supposed folly in the wife, & want of discretion to marshall so great a proportion of wealth, as the custome will give her. Wherefore wouldest thou mary with a fool, if thou thoughtest her unworthy of the rights of mariage? then seeing thy choice hath estopped thy Testimony of her folly, thy duty towards thy wife shall binde thee to favour and conceale her weakeness, and to perform that which the custome pronounceth to be convenient. It cannot be evill bestowed upon her, whose right by custome demandeth it, and whose estate and imperfections have need of it, whereas if the husband may be permitted by this colour to defeat his wife, many inconveniences and disorders might ensue.

First a generall custome, which is as also a generall Law, never provided for such rare accidents as seldome fall in experience, but for things that ordinarily and commonly happen, should be broken, to the generall scandale and offensive example of all through the inhability of one, which were a thing unreasonable. Likewise then might husbands, (if that were admitted for a just allegation) easily devise and publish that or some other imperfection to be in their wives, and thereby bereave them of their right. No more then it is a just counterplea or barre to a womans dower to alleage that she is a fool, no more is the imputation of such simplicity honest and sufficient to exclude her from her Portion. No it is well said and maintained for a *Maxime* in the Common Law, *Better it is to suffer a mischiese then an inconvenience.* Lesse harmfull and hatefull it is for a man to swallow
twenty

*Leges se
accommo-
dant ad ea
que fre-
quentius
non que
raro acci-
dunt.
Bartolus.*

twenty of these light offences, and to digest sundry of these pretended scruples, then by violating of a custome no lesse common then commendable to leave to posterity an odious memory and obloquie of his name.

The last objection against wives is no lesse ridiculous then Tyrannicall, grounded upon an unjust desire to restrain them from mariage. Mariage is an honourable Ordinance of God, fit and necessary for all persons disposed thereunto, to the avoiding of sinne, and maintenance of a comfortable and sociable Christian life. To restrain or prohibit the same either in maides or widows,

Tim. ep. 1.

ca. 4.

43 E. 3. 6.

(as Saint Paul saith) is the doctrine of divells. And to indent or condition with any that he or she shall not marry, is a condition limited against Law, and by the same pronounced unlawfull and unreasonable. Make it thine own case, admit thou didest match with a wealthy wife, whose furniture and riches hath increased thy Estate, if God should call for her, wouldest thou in a kinde memoriall of the benefits attained by her meanes, make thy selfe a votary to live unmarried? Do those which marry great Heires being women, and after their wives deaths enjoy their whole inheritance by the curtesie of *England*, making their wives heires to expect during their lives, take it for any matter of conscience or scruple to marry again? Unlesse it be in some place where the force of the custome and the benefit of the living joyned together work a contrary resolution in some husbands: which custome annexed to *Gavelkinde* Lands in *Kent* and other places is of this quality, that the husband shall after the decease of his wife be Tenant by the curtesie of her land as long as he remaineth unmarried, whether he have issue by her or not: but upon his next mariage shall utterly forgo

16 E. 3.

aid 129.

19 E. 3.

aid 144.

forgo all his interest therein. A custome therefore the lesse unreasonable because the restraint of mariage of the one side is countervailed by the beneficiall favour of the other side to have the land by the curtesie without issue, and also for that hee is to deprive the next Heire of his wife, who perchance hath been married with him but few moneths or dayes, of the profit and commodity of the whole Land during his life. But chiefly because it is a custom grounded and grown in continuance to such religious observation and regard, that it seemeth an offence of conscience to infringe it. But in our case sithence there is neither custome nor conscience to warrant thy will, why shouldest thou then seem to quarrell with the lawfull liberty of thy wife, if she survive thee, she being weak by kinde and education, and thereby lesse able to direct her occasions, and govern her estate without a companion and coadjutor? no, on Gods name referre her to her own choice and conscience therein, and make it no pretense and colour to abridge her of her right, because shee seemeth inclinable unto that, which God hath ordained, and all men and women do embrace. As to the fear and suspicion pretended, that another in matching with thy wife should be enriched by thy travaile, what should move thee to make that superstitious account of thy goods when thou art gone? Were they any longer thine, then while thou hadst life and licence to employ them? Thou must needs know and acknowledge besides thy daily experience, by the very Etymologie and signification of the word, the true nature and quality of the thing. These worldly goods are called temporall, because they serve one but for a time; they are termed transitory, for that their property is fleeting from one

owner unto an other; they are named moveable or current, because all their grace and credite is in running and removing into divers hands, according to that rude and old (but yet true) Latine rime.

*Omnia mundana per vices sunt aliena,
Nunc mea, nunc hujus, post mortem sunt alterius.*

This worldly wealth each day doth change

Their owners as we see,

Now mine, now his, and after death

An others goods they be.

Then sithence thy wealth hath waited upon thee all thy life long, wouldest thou require the same to rest at thy devotion after thy death? If that seem impertinent and unprofitable unto thee, then relinquish this care and suffer the goods of this world to have their naturall course and condition, which is to be still in exchange, passage, and posting from hand to hand, serving all men, *ut peregrinationis viaticum*, That is, *A Pilgrims charge or defrayment in his journey*, as Saint Hierome termeth it. And address thy minde to the desire of such goods as are neither temporal, transitory, current nor moveable, but perpetuall, permanent, constant, and not onely immutable but inestimable.

Hieronymus in Epist.

But finally to satisfie the last objection against thy children, I wish thee to look back unto that I have said, that thou mayest not for a private injury or displeasure, seem as much as lyeth in thee to supplant and abrogate a publick custome, to the no lesse prejudice then offence of a great number that have interest therein. In enriching thy Son, thou dost discharge the duty of a naturall father towards him, which if hee prodigally or wickedly mispend or abuse, he carryeth his own condemnation and proveth

proveth a wilfull enemy to himselfe. The good father mentioned in the Gospell, who at the suite of his undutifull and disobedient Son, (that would needs abandon the service and attendance on his father to run the course of an extravagant Libertine with lewd company) gave him a great portion of his wealth, is not any way blamed by our Saviour for that indulgence, but rather recommended to all posterity as a true Pattern of a kind father. Saint *Paul* commandeth the father to be well affected to his children, and no way to discourage them. What may breed greater discouragement or discontentment in any childe, then to see himselfe by the place of his birth, and the good fortune of the City intituled to the commodity of a good custome, and yet injuriously by his own father, (whose affection should be alwayes occupied and earnest in procuring the good of his children) disappointed of his hope & defrauded of his right. And as well as some having just cause of displeasure against their Sonne and childe, may in this unlawfull and disorderly sort practise their revenge, so may some other inconsiderate and wilfull father upon a conceipt taken against a good Sonne and of singular desert, for that he concurreth not with him in some humour or disposition, most wrongfully distresse and undo him by such a president. Thus the mischiefes objected on the one side are light and of small moment, whereas the inconveniences apparent on the other side be manifold and of dangerous consequence.

I will not vouchsafe to answer that undiscreeet *Sarcasms* or bitter scoffe that some use, *We may play our wealth at dice without offence to the custome, wherefore should wee not then dispose the same from our wife and children* by our

deeds of gift? This amounteth to as much as if a married man would say, I may commit felony or treason, and be attainted and hanged therefore, and then the Law giveth my wife no dower, nor my heire no patrimony, then why should I not in reason use my discretion with the Land without incumbrance by the one, or injury to the other? Match these two cases together with judgement, and thou shalt perceive they have a sensible concurrency in their address and application to this purpose. It is well said by the Poet:

il juvat exemplum quod litem lite resolvit.

The example of one wilfull or wicked act giveth no just countenance or allowance to another. Let so much said to thy objections take some place to alter thine humour, or at least be a preparative for thine own reason in the fear of God to purge thee of the same.

But to conclude this short discourse with one consideration of great importance, I wish thee to consider, that this City of *London* is and hath been happily preserved in this flourishing prosperity by the wise and politick consent that all and alwayes the particulars have had to increase the generall good estate thereof, thinking it their duty as they got and acquired their substance in this City, so also to spend and defray it in the same: in-somuch that whatsoever falleth from the one commeth and groweth unto another, and by alteration of private fortunes (as chances and changes of times doe require from one Citizen to another) the generall estate hath flourished, and never wanted particular men of wealth and ability to sustain the offices and functions of the City. Upon which consideration by most laudable and antient Custome, the Lord Maior and Senate of *London*.

don have been and are intituled to the tuition and custody of young *Orphans* and their goods, and likewise are made acquainted by ordinary good means of inventaries taken and produced, what substance and wealth each man dyeth possessed of, to the intent that although that man which by his good travaile and Trade hath grown to be rich among them, be departed hence, yet his goods may remain as among his wife and children in use and property, so to the generall strength of this City in account and reckoning. For wee often see that one rich mans wealth passeth to the increase of the good estate of another Citizen, either by mariage of the widow, or of the Orphan: so that the City though deprived of a member or inhabitant, yet is not destitute of such as may discharge his employment and place. Whereas if this pernicious practise and uncharitable liberty might take root by deeds of gifts and cautelous conveyance to strangers, not onely the wife and children may be distressed, but also the state of the City much weakened, and in danger of a great disreputation and decay, from that that it hath bin and yet is. For if it be adjudged lawfull in one, of what degree soever he be, it is neither impossible nor unlikely, that the same will be used by many, and consequently may be practised by all: which if it befall, what will become of the happy condition of this City, it is not hard to conjecture. I mean not to extend my speech to the prejudice of any true debts that a man oweth without fraud or collusion, seeing the custome very providently careth for the discharge thereof; but my purpose is to dissuade men from evill example, from insolent violation of good customes, and from odious and unseemly practises of deceit and evill meaning

towards their wives and children : Which perswasion I would wish all professors of the Law seriously and carefully to use and enforce to their clients, being Citizens of *London*, as in good conscience and discretion they ought to do.

An Apop-
strophe
to the
Reader,
and the
motive of
this Trea-
tise.

Blame not my bold enterprise (gentle Reader) nor reprove my simple censure herein presented unto thee, which might I know both for the matter & manner of it have been by any other, and perchance by my selfe more largely and effectually delivered : if the opportunity of my leasure might have answered the quality of the argument which I had in hand. But fearing lest I should with too long a discourse in so plain a proposition breed more lothsomness then liking, I would not, for want of leasure I might not, and if I had had time at will I minded not (seeing for any urgent occasion, the error being yet fresh, the practise rare and not grown to an enormity, I needed not) but in a word or two to make thee acquainted with the cause that moved me to addresse these few reasons to thy gentle view, So it happened, that I being in company and conference with some persons (though otherwise wise & wel-affected, yet in this matter strangely conceited) it chanced that the lawfulnessse and conveniency of this custome came in question and debate among us, and was by some of them (being men for sufficiency, of great opinion, and for countenance and credite of good apparance and regard in the City) so pressed with objections, that the most part of those which were present seemed to encline to that perswasion. Wherefore lest the authority of the men might the sooner seduce the simple multitude unto their error, and for that

that I thought it a charitable policy to prevent the perill
in the prime, before it grew to a festering sore, or incurable
evill, according to the Poet *Ovids* advise,

*Principiis obsta: sero medicina paratur,
Cum mala per longas invaluere moras.*

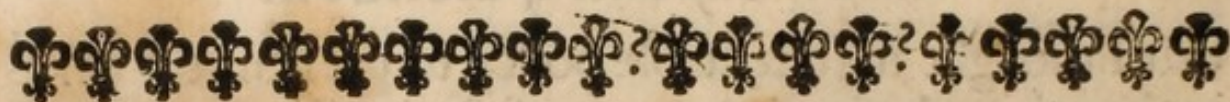
Withstand at first the springing evill

With medicines fit therefore,

Too late it is to take the cure

Of old and festred sore.

I thought good to apply this simple Receipt of reason
to the minds of all such as shall chance to be distempered
be these dissuasions: hoping that they will yeeld me that
friendly requitall of good construction, which my offer-
red good will may seem to deserve: and although I keep
my selfe unnamed, and unknown, it may please them to
have this opinion of me, no more favourable then reason-
able, that he which is well devoted to the defence of
good customes, is rather to be justified in his good mean-
ing, then condemned or held suspected of any sinister
concept.



The Table.

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FINIS.











