

THE PRIVILEGES OF THE CITY OF LONDON

IN 1702 Bohun wrote :—

“ In all our accounts of wise men we find that they were extremely careful to preserve their laws and privileges and to transmit them to posterity. This has been a custom almost as old as the world and indeed the advantages that are derived to all communities upon account of it, do sufficiently justify it. London is generally looked upon to be the most happy City in Europe. This happiness is not the bare effect of a lucky situation, or the particular opportunities of concourse, but rather the effect of her good laws and a wise and well-constituted government. London is happy in the enjoyment of many Royal privileges and immunities and happy in many excellent laws peculiar to herself. Her only unhappiness is that her laws are either confined within old charters, in words not very intelligible, or scattered about in such little parcels and fragments that many of them are quite worn out, others almost forgot and the rest of little use to the generality of the inhabitants.”

The latter part of his observations is even truer to-day. There are many books on the privileges of London, but most writers confine themselves to a recital of charters and fail to indicate which provisions are still operative, which have been expressly repealed by Act of Parliament and which have lapsed. Several charters expressly provide that rights and privileges shall not be lost by non-user, but in many cases public opinion and changed circumstances are stronger than clauses in charters. The City had found it impracticable to exercise its very extensive rights in Southwark long before that district was elevated to a metropolitan borough in 1889. Many are the privileges once highly valued and dearly bought that have ceased for various reasons to be operative. At the Law Courts, upon making his declaration before the judges, the Lord Mayor lays claim to all the liberties, privileges and franchises of the Mayor, Commonalty and Citizens, but who can enumerate those privileges? In this paper I can but touch upon a few.

Until a century ago the privileges of most value “ to the generality of the inhabitants ” were those concerned with trade and commerce. The City exercised a beneficial control over imports, exports and marketing of almost all products. Wholesale and retail trade were for long confined to the Citizens, and foreigners could sell only in bulk to Citizens. The City’s control over exports and imports was achieved by the collection of fees for Package, Meterage, Portage, Weighing, Gauging, Measuring and so forth,

all of which duties were voided by Acts of Parliament and generally taken over by Customs Officers. The City no longer appoints Coal, Corn, Fruit and Oyster Meters and it can no longer let to the highest bidder the Offices of Keeper of the Beams, Measurer of Woolen Cloth, Corn Shifter and Clerk of the Cocket. It no longer collects 4*d.* on every hundred of elephants' teeth imported or 1*d.* on every hundredweight of gunpowder exported. The trading privileges of Freemen became inoperative in the 18th century and were officially abandoned by an Act of Common Council of 1856, which abolished all laws or customs prohibiting any persons from exercising any trade or handicraft or other lawful calling within the City.

The Corporation has controlled Markets within 7 miles of the City ever since the charter of 1327, which even then was nothing more than a confirmation of a common law right. A market set up within 7 miles of an existing market was legally a nuisance. However, such privilege could not be enforced against the Earl of Bedford, grantee of Covent Garden from Charles II. It is no new thing for the City to discover that its rights and privileges, confirmed and clearly expressed, are liable to be overridden. In fact I might have limited this paper to a catalogue of powers, privileges and immunities no longer enjoyed by the City, but you will probably agree that it is more profitable to consider existing privileges.

For convenience, the privileges of the Corporation might be divided under three headings—legal, ceremonial and administrative. Of the legal privileges the most important is the automatic status by charter of the Aldermen as Justices of the Peace. No commission appointing new Aldermen to be Justices is necessary and their authority continues until they cease to be Aldermen by death, resignation or otherwise. This privilege, attaching to all the Aldermen, has been built up by five charters, the earliest being granted in 1444 and the latest in 1741. The Crown has no direct power to discharge an Alderman from the position of Justice as is exercisable in the case of Justices for Counties and Boroughs. The Charter of 1638 gave to the Mayor the right to nominate to the Lord Chancellor one Alderman as a Justice for Middlesex and another for Surrey. The Lord Mayor for more than two centuries has felt it to be imprudent to exercise this right. Similarly, the Aldermen who have passed the Chair presume to hold only a formal Quarter Sessions in Southwark, although by charter of 1550 they are Justices of the Borough.

For seven centuries the Lord Mayor has been a Commissioner of Gaol Delivery and Oyer and Terminer at the Central Criminal Court. The former customary appointment was confirmed and made permanent by a charter of 1327. Other charters, declaring that none but Citizens shall be justices over the men of London for Pleas of the Crown, have constituted the Aldermen and certain City Officers to hear and determine all manner of felonies, trespasses and misdemeanours. The area of jurisdiction of the Court was

increased, resulting in the development of a Central Criminal Court from the original local criminal court, and Judges of the High Court were added to the Commission. The Lord Mayor is still named first as principal Commissioner and takes precedence even of the Lord Chancellor.

Another privilege enjoyed by the Corporation which can be classed as legal is the right to elect its own sheriffs, officers who elsewhere are appointed by the Crown. This rare privilege was first granted to the Citizens by Henry I in 1132. The City of London had long been grouped with Middlesex for financial purposes, and the Citizens, having farmed the county from the Crown for £300 per annum, acquired thereby the dual shrievalty of London and Middlesex. The two offices were so interwoven that the sheriffs were joint sheriffs and not individually one of London and the other of Middlesex. This emancipation from the control of a royal financial and judicial officer became really effective under the charter of 1199 and in it we may see a great victory for what is now termed democracy—"the citizens of London from among themselves may make sheriffs whom they will, who shall answer to our Exchequer, and should the sheriffs make default the citizens may answer and satisfy us." The Citizens continued to appoint the sheriffs of Middlesex until the Local Government Act of 1888, since which date two sheriffs have been appointed for the City alone.

Not only did the Citizens obtain control of the administration of criminal justice but through their elected Mayor, Sheriffs and Aldermen they appointed their own judges in civil matters. As early as 1227 a charter provided that none should plead without the walls for anything that happened within the liberties. The Husting, Mayor's Court, Sheriff's Courts, the Chamberlain's Court and the Court of Requests provided all necessary remedies. Causes of action were recognized that would not then have been entertained in the Royal Courts. As regards justice, the Citizens were indeed well served. Appeals from the City Courts were to Special Commissioners and profits of justice appertained to the Citizens. At the present time the Corporation has an action in the High Court to recover penalties imposed on a newspaper on the ground that the offence of publication occurred in the City and the Corporation is entitled to such fines under the charter of Henry VI. Of the many lesser legal privileges enjoyed by the City perhaps I might mention the appointment of Coroner. This right was acquired by the Corporation in 1478. The Coronership of Southwark was also possessed by the City from 1550 until 1926, at which latter date the appointment passed to the London County Council. This right to appoint the Coroner is but one of many recognitions of the county status enjoyed by the City. Charters of James I and Charles I granted to the Mayor, Commonalty and Citizens the right to claim all treasure trove, waifs and strays and goods of felons found within the City, which elsewhere are perquisites of the Crown.

Now to pass to the more attractive privileges which I have classed as ceremonial. Apart from the Lord Mayor's Procession, which has been a customary feature of the Lord Mayor's admission since the 14th century, the best known ceremony is that performed at Temple Bar. The significance of this ceremony is often quite wrongly expressed in the popular press. There ought to be no suggestion that the King cannot enter the City unless admitted by the Lord Mayor. Rather is the ceremony a submission of authority, as indicated by the fact that the sword is lowered, point downwards, upon surrender, and returned by the Sovereign with some such expression as that attributed to Queen Elizabeth: "No one could better govern my Capital City." The Lord Mayor is then privileged to ride before the Sovereign bearing the sword erect. Similarly, on a royal visit to St. Paul's, the Lord Mayor leads the procession up the steps of the Cathedral holding the sword aloft. It is interesting to notice that a charter of 1354 had authorized the carrying of gold or silver maces before the Mayor and Aldermen within the City, and elsewhere when meeting or escorting royal persons. Such ceremonies are loved by the populace and therefore a valuable City inheritance. They should not be weakened by modern innovations, in which class I am bound to place the "Knollys Rose" now annually delivered at the Mansion House. Other towns and councils, often quite modern, have been eager to copy the ancient City ceremonies, although to them they can be but puppet shows.

Many boroughs have conferred the Freedom upon Regiments of the Army with the idea that the Regiment might then march within the borough with flags flying and drums beating. In the City a Charter of 1321, confirmed in 1327, recited that the men of London could not be compelled to serve in the armed forces outside the City. That they did so on certain occasions was not to be called in precedent. In the 16th century the Lord Mayor gave certain Regiments permission to march in the City with beat of drums to enlist recruits for foreign service. It is these Regiments which still have that privilege, which has no connection with the Freedom. To this day no troops may pass through the city without permission of the Lord Mayor. His Lordship is also acquainted with the password of the Tower of London.

In the 12th and earlier centuries the Barons of London claimed and exercised considerable influence in the choice of the Sovereign. The Lord Mayor is informed immediately of the death of any Member of the Royal Family and gives instructions for the tolling of the State Bell at St. Paul's. The Lord Mayor and Aldermen and other principal Citizens are summoned to attend the meeting of the Lords of the Privy Council at which the Proclamation is signed declaring the Successor to the Throne. In 1901 one quarter of those who signed the proclamation were Citizens of London. At the ceremony of the Coronation the Lord Mayor, carrying the City Sceptre, has a prominent place in the procession and stands in close proximity to the King's Chair during the ceremony. At

the Coronation Banquet the Lord Mayor and twelve Citizens have the privilege of serving the King with wine. The Corporation also has the privilege of presenting Addresses to the King on the Throne and of receiving a reply from the Royal lips. In 1936 the Home Secretary wrote: "I am writing to assure you that the fact of the Corporation agreeing to a departure now from the traditional procedure is not to be regarded as prejudicing in any way the ancient privilege of personally presenting an Address to the Sovereign and of receiving an individual reply from His Majesty's lips."

The City is closely bound to Parliament by reason of the services it has rendered to the development of representative institutions and the example it has given of method in the business of government. Accordingly, it enjoys peculiar privileges of access to Parliament. Both the Court of Aldermen and the Court of Common Council have the privilege of presenting petitions at the bar of the House of Commons by the hands of the Sheriffs. This privilege was shared by the Corporation of Dublin, but it may now be regarded as the sole right of the City of London. The liverymen assembled in Common Hall also formerly exercised the privilege of Addressing the Sovereign and presenting petitions to the House of Commons. The Aldermen and Common Council may present petitions to the House of Lords by a Lord in Parliament.

For more than five centuries prior to 1885 the City was represented by at least four Members in the House of Commons, on one occasion (Barebone's Parliament) it elected seven Members. At the opening of a new Parliament the Members for the City exercise the privilege of sitting on the Treasury Bench, and they wear their hats in order that they may be distinguished from the Ministers, who sit uncovered. This privilege has often been connected, erroneously, with the refuge afforded to the Five Members of Parliament whom Charles I sought to arrest; or, alternatively, with the fight waged by the Lord Mayor and Aldermen in 1771 to secure the right to report proceedings in Parliament. The Commons committed the Lord Mayor and an Alderman to the Tower, but the freedom of the Press was vindicated and Parliament ceased to be a secret society. That these stirring events had nothing to do with the privileged position on the front bench is obvious from the fact that Hooker, writing in 1569, mentions that the Members for both London and York always occupied that position. At the opening of Parliament by the King, the Lord Mayor has a seat in the Peers' Gallery in the House of Lords. Should he be called as a witness to the House of Commons he has the privilege, with the Peers and Judges, of a chair within the Bar. The Chair, however, is not to sit upon but only to rest his hands upon; Peers alone are permitted to be seated.

Within the City the Lord Mayor takes precedence of everyone save the Sovereign. There are many other ceremonial privileges enjoyed by the Lord Mayors, Sheriffs and the Corporation, the significance of which can be explained only by history. I will

content myself with mentioning only two more. First, the privilege of entertaining Royalty—soon after the Coronation, on return from travel over-seas and on other historical occasions—and secondly, the privilege of representing the Nation in returning thanks, in giving honour, and expressing by the mouth of the Lord Mayor and the Chamberlain of London, the sentiments of the People to those who have served the country well.

Finally, administrative privileges. The greatest privilege of all is the privilege of governing the City of London, the nucleus of that Greater London which for centuries has been the hub of the Empire. The constitution and powers of the Corporation are the result of a thousand years of development. The charter of William the Conqueror confirmed the privileges enjoyed under Edward the Confessor. Henry II, in 1155, granted that the Citizens should have all their former liberties and free customs even more freely and fully than before. As these early privileges are unexpressed we can only conjecture what they were from other evidences. Those other evidences are custom, which plays a large part in the constitution of the City. Such customs are stated legally by the Recorder by word of mouth and require no documentary evidence in a court of law. Charles I, being willing that the customs be rather enlarged than diminished, confirmed in 1638 that in any action the Mayor and Aldermen may declare City Custom by the mouth of the Recorder and no jury shall be called thereon. Unlike other municipal corporations the constitution of the City is not contained in any written document. Custom itself is not inflexible. A charter of 1341 assured the natural, but controlled, development of the Corporation in these words: "if any of the customs in the said City heretofore obtained and used be in any part difficult or defective, or any things anew arising in the same City, where before no remedy hath been ordained, should need amendment, the Mayor and Aldermen with the assent of the Commonalty, whenever and as often as it shall seem to them expedient, may apply and ordain a suitable remedy, consonant with good faith and reason, for the common profit of the Citizens and others resorting to the City."

This power to amend the custom and constitution of the City should never be forgotten because thereby the Corporation is enabled to keep abreast of the times and, maybe, to forestall criticism. When the elective privilege of Freemen was seen to be undemocratic, because it was no longer necessary or usual for the inhabitants, occupiers and traders to take up the Freedom, then the franchise was broadened to encompass the ratepayers. When the representation of the Wards ceased to correspond with the rateable value or number of ratepayers in each Ward, then the ratio of Common Councilmen as between the Wards was altered. In 1840 the total number of voters appeared to justify some reduction in the number of Common Councilmen, accordingly the size of the Court was reduced from 240 to 206. The power to reform, inherent in the constitution of the Corporation, is very wide.

Other administrative privileges enjoyed by the Corporation are to a large extent bound up with the possession of City Lands and funds apart from Rates, a matter which has been the subject of a previous paper read to this Association. It is interesting to notice that, as early as 1319, the Common Council had power, expressed in a charter, to assess the inhabitants by common consent for the necessities of the City. The Court has continued ever since to be the Rating Authority. The charter also provided that Aldermen should be taxed as other Citizens and that all assessments should be made by men of the Wards. A provision for appeal by aggrieved inhabitants against assessments to the Court of Aldermen is contained in an Act of Parliament of 1725. Apart from levies on the Livery Companies, taxes in the City were always assessed on a Ward basis, by neighbours having full knowledge of the circumstances. Even as one was tried by one's peers, so was one assessed by one's equals in civic standing.

Although valuation and assessment have remained under the control of the citizens through their elected Common Council, the bulk of rate expenditure has passed to the London County Council. It remains to be seen if the citizens will have any voice in assessing their own taxes under the new Rating Act.

It would seem, therefore, that the legal and ceremonial privileges enjoyed by the Corporation have received far more respect than the administrative privileges attached to local government. The merits of unification and centralisation of services have been deemed to outweigh the value of very local democratic control with the result that great inroads have been made into the privileged position of the City. It behoves the Corporation to see that the true significance of such changes is publicly expressed, particularly where the influence of democracy is weakened by the transfer of functions from the elected representatives of the people to non-elected Boards or officials.