

## The Law's Resolutions of Women's Rights: or, the Law's Provision for Women (1632)

our lawe may seeme somewhat rigorous towards the wiues, yet for the most part they can handle their husbandes so well and so doulcely, and specially when their husbandes be sicke, that where the lawe giueth them nothing, their husbandes at their death, of their good will, giue them all.

—Thomas Smith, *De republica Anglorum* (1583), p. 104

**WOMEN'S RIGHTS:** The phrase makes no recorded appearance in the English language until 1632, when the London bookseller, John More, published *The Lawes Resolutions of Womens Rights*, a volume billed as “a methodical collection of such statutes and customs (with the cases, opinions, arguments and points of learning in the Law) as do properly concern women.” The treatise was first drafted about 1603, probably by John Dodderidge, who was then a reader and bencher at the Middle Temple. His manuscript was supplemented and brought to the press three decades later by another attorney, T.E. (thought to be Thomas Edgar), who dubs himself “the woman’s lawyer.” Having access to Dodderidge’s original version (no longer extant), Edgar during Lent 1632 copied and revised the work, adding “many reasons, opinions, cases and resolutions of cases to the author’s store.” The additions and interpolations include a good deal of editorializing: Edgar seasons the text with ironic witticisms, frequently noting how little justice women can expect to receive from the justice system. The manuscript was registered for publication on April 30<sup>th</sup> and printed shortly after.<sup>1</sup>

“By whom this following discourse was composed, I certainly know not,” begins Edgar in his Preface, “but the author is to be thanked,” for his treatise, “profitable and useful learning to be well known,” “sets forth law and justice, things honest and things convenient” (sigs. a1v-2r). A quarto of 404 pages, the text reviews divine law, honest or convenient, from the Garden of Eden to the Gospels, and English common law from the Magna Carta through 1598; with occasional reference to canon (Church) law. Edgar’s stated ambition is to provide women readers with a better understanding of their legal status so that, whether maid, wife, or widow, they may protect their narrowly circumscribed rights.

Under canon law, the age of consent to be married was seven for girls, twelve for boys. Under English law, a girl could be promised as an infant, engaged at age seven; but the age of consent, for both sexes, was set at twelve years; after which, a marriage vow, once spoken, was binding and irrevocable. If engaged as a child, the girl could dissent until age fourteen, or until she spoke her vows. It was perfectly legal for a marriage to be consummated between a twelve-year-old girl and a fifty-year-old man, though it was generally considered indecent to consummate before the girl had her first period. At age fourteen, a woman reached her majority and could choose her own guardian; if not yet betrothed, she could make her own binding choice – but only at her peril: if she eloped (and the betrothal alone if not authorized by her father constituted an elopement), she was subject to forfeiture of her dowry and all parental care. (Paupers could afford to marry for love because they had nothing to lose; *true* love for the wealthy had everything to do with property and very little to do with romance.) A landowner sought always to secure a marriage for his daughters before age fourteen, thereby to protect his own dynastic interests, even if the marriages were not immediately consummated. But because the dowry promised by her father could not be collected until consummation, Edgar advises brides to waste no time. For here, “the Law [is] clear as crystal on your side: when supper is done, dance a while; leave out the long measures till you be in bed; get you there quickly; and pay the minstrels tomorrow” (118).

When the marriage was consummated, “man and wife” became “one flesh” and legally one person, that is, the man. The woman was now under *coverture*: her financial and legal obligations were subsumed by those of her husband, and all of her attendant property became his, to dispose of as he saw fit. In accordance with her legal status of *feme covert*, the woman had no more rights than an infant. Moreover, she remained under *covert-baron* – under the protection and influence of her husband, her *baron*, or lord – for life. She could do nothing without his consent. Wages earned by a married woman belonged to her husband. Any goods, money, or jewelry that a married woman inherited from her father or another kinsman likewise became her husband’s property. Yet the husband while living could legally give

<sup>1</sup> *John Dodderidge* ] (1555-1628), later, judge of the Court of King’s Bench; *Thomas Edgar* ] (1602 – 1692), a reader of Grey’s Inn; Edgar late in life married Mary Poule (who lived to be 80); they had 10 children.

nothing of value to his wife, because under the law she did not exist as a separate entity: he would be giving the land or goods to himself.

There was no easy escape from a bad marriage. If a man had a quarrelsome wife, it was his responsibility to subdue her. If a woman had an abusive husband, it was her duty to endure. A marriage could be annulled on grounds of the man's impotence, if attested under oath by both parties, provided that the condition existed already at betrothal; or annulled because the marriage was illegal, as in the case bigamy, or a marriage between step-siblings or first cousins. A divorce could be granted upon grounds of unfaithfulness if there were proof of fornication before marriage, or of adultery afterwards – but neither party was then allowed to remarry. A divorced wife was generally left destitute, even if the husband was the offending party. The law therefore provided strong disincentives for a married woman either to commit adultery or to seek divorce from an adulterous husband. If a woman contracted syphilis from a philandering spouse, she was referred to her marriage vows: “in sickness or in health, till death do us part.”<sup>2</sup>

Most prenuptial contracts (that is, among landed families) provided a promised jointure, a guaranteed income for the wife from land rents if she outlived her husband. A woman could also inherit real property from her husband if he expressly left it to her in his will. With his death, she became *feme sole*. A widow could buy or sell land, and could act as her own financial and legal agent. As noted by Thomas Edgar, a woman's best hope for a measure of personal freedom was to marry a wealthy man, and survive him – at which point, however, she could expect a siege by often-unscrupulous suitors in pursuit of her money.

English law accepted wife-beating as a valid exercise of a husband's authority. The discipline could be as bruising as a husband deemed necessary to ensure obedience. The “Rule of Thumb” law (which is widely said to have prohibited beatings with a rod bigger around than the man's thumb) is a myth of the 19th century. No such law was ever recorded. A battered wife who was literate, or who had the pocket-change to hire an attorney, could apply to Chancery for a restraining order, whereby the husband might be compelled to post bond – money that he would forfeit if he once again used “more than reasonable” violence to discipline his wife. But the historical record indicates that this provision was rarely attempted and rarely if ever successful. The only half-effective protections for an abused wife or child was the disapproval of neighbors or the intervention of concerned kin. The clergy generally intervened no further than to counsel husbands to be temperate, and wives to be obedient. The first English law against non-lethal domestic violence was passed by the Massachusetts Bay colonists. The 1641 Body of Liberties declared that a married woman should be “free from bodily correction or stripes by her husband, unless it be in his own defense upon her assault. If there be any just cause of correction, complaint shall be made to authority assembled in some court, from which only she shall receive it.”<sup>3</sup>

After reviewing childhood, wooing, betrothal, dowry, marriage, motherhood, widowhood, and domestic abuse, *The Law's Resolutions of Women's Rights* turns to the problem of rape. The Law sought to protect women from rape but did not try very hard. Rape was essentially construed as a property crime: a child or woman's worth was thereby devalued. But it was the father's or husband's obligation, not the government's, to ensure that it didn't happen; and for the single woman (from age fourteen), her safety was her own responsibility. A rape victim was presumed innocent only if she were attacked at home, under the roof of her male guardian. A sexual assault outside the home constituted the lesser crime of ravishment. A “ravished” woman was presumed to have facilitated sexual assault by providing her assailant with the opportunity. Women therefore left the house only in the company of other women or with an escort. If those precautions failed, and a woman was abducted and raped, the law did not make it easy for her to file a complaint of wrong-doing (an “appeal”). If a woman was transported to another than her home county (whether voluntarily or by kidnapping) and there assaulted, the victim was permitted to file a complaint only with her husband's or father's consent, and only in the county where the sexual assault was consummated. If a wife or widow were ravished and could not disprove her assailant's defense of consensuality, the accused wife was subject to divorce by her husband, and the widow forfeited her jointure.

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<sup>2</sup> *marriage...annulled* ] Under canon law, the Church could also annul the marriage of a Jewish or Islamic couple if either the man or the woman wished to convert and marry a Christian, but this happened only in such states as Venice where there was a significant Jewish or Islamic minority.

<sup>3</sup> *more than reasonable* ] 3.7, “The Baron may beate his wife,” *Laws Resolutions*, 128; *free from...receive it* ] “80. The Liberties of Women.” *The Body of Liberties*. Hutchinson manuscript (1641), p. 36. For representative literature on wife-beating, see “Domestic Violence,” *Women's Works*, vol. 2, pp. 373-5.

In the medieval period, one means for a single man to increase his net worth was to rape the daughter of a gentlewoman and to make amends by offering to marry her. The victim had then a choice: with her father's consent, to wed the man who raped her (as advised by Scripture); or to live out her days as soiled goods. This strategy worked so well and so often that Parliament finally moved to make landed virgins less attractive targets: England in 1383 passed a "shrewd statute" depriving a rape-victim of her property rights and dowry if she consented to marry her assailant. Thereafter, a man by raping a wealthy maid stood to gain nothing but a wife without property; and a maiden was thereby schooled not to conspire with her own chosen love-interest in an alleged rape, thereby to evade her father's choice. In 1632, the Ricardian statute was still in effect. Edgar therefore advises gentle virgins to guard both their chastity and financial security against sexual assault.



Abraham Bosse, *Le mari qui bat sa femme*  
[The man who beats his wife] (1635)

Rape law as it stood throughout the medieval, Tudor and Stuart periods was chiefly designed to guard the daughters and wives of landowners. A commoner had little protection from an unscrupulous employer, and if raped she had little recourse to justice. A peasant was not entitled to file a complaint or to testify against the lord of the manor. And though rape was (by the book) a hanging crime, no educated man had to fear the death penalty, not even if he raped a gentlewoman: if tried and convicted, he needed only to read his "neck verses" – usually, a Latin text of Psalm 51, "Miserere mei Deus secundum magnam misericordiam tuam et secundum multitudinem miserationum tuarum dele iniquitatem meam" (*Have mercy on me, O God, according to Thy great mercy. And according to the multitude of Thy tender mercies, blot out my iniquity...*). The convicted rapist was thereby accorded the "Benefit of Clergy," and spared: branded on the thumb or palm with a hot iron to denote his crime, the literate rapist was released from custody without further penalty until his next offense involving a woman of property – or until the woman's family found opportunity for revenge. In 1576, Parliament to address an escalating epidemic of rape removed Benefit of Clergy for a rape conviction and enacted the first statute against sexual intercourse with a female child under the age of ten.<sup>4</sup>

Thomas Edgar ends his discourse with a wish that legal scholars will read his work "without open scorn and bitter censuring" (p. 403); it's not clear that his book was read at all, or at least, not by legislators. *The Lawes Resolutions of Womens Rights* (together with Dodderidge's *English Lawyer* [1631]) appears in a 1655 bookseller's catalogue; is noted again in a 1687 bibliography of printed books on "Common and Statute Law"; but it otherwise receives no notice and was not reprinted until 1978.

The question of women's rights was not entirely dead in the water. In Thomas D'Urfey's play, *The Comical History of Don Quixote* (1694), the Hostess awards the hero with a gift of spurs, hoping that these will "Mind thee in thy adventures thick, / How thou for Women's Rights should kick" (p. 15). In 1682 there appeared a tract that condemned the practice of wife-beating. In 1696, Mary Astell published her *Essay in Defence of the Female Sex*. And in 1699, the city of Edinburgh published a statute requiring vintners and taverners, on pain of a £100 fine, to fire from employment any woman who was known to have fornicated, in that such women were "a great snare to youth, and occasion of lewdness and debauchery." The subject of women's rights under the law was not otherwise addressed in print, in Britain, from 1632 until the nineteenth century.<sup>5</sup>

<sup>4</sup> *Benefit of Clergy* ] *Privilegium clericale* was originally a provision by which churchmen could claim that they were outside the jurisdiction of the secular courts and be tried instead in an ecclesiastical court under canon law. But the provision became a mechanism by which any literate first-time offender with an elementary knowledge of Latin could receive a more lenient sentence. It was this means by which the playwright Ben Jonson, for example, escaped hanging for his 1598 killing of Gabriel Spencer.

<sup>5</sup> *bookseller's catalogue* ] *The Illustrious Hugo Grotius of the Law of Warre and Peace* (1655), rear flyleaf; *bibliography* ] Edward Millington, *A Catalogue of the Choicest and Most Valuable Books of the Common & Statute Law* (1687); *Mind thee...kick* ] T. D'Urfey, *The Comical History of Don Quixote* (1694), p. 15.

## The Law's Resolutions of Women's Rights

**The Woman's Lawyer.** Women, only women: they have nothing to do in constituting laws or consenting to them; in interpreting of laws, or in hearing them interpreted at lectures, leets, or charges. And yet they stand strictly tied to men's establishments, little or nothing excused by ignorance. Methinks it were pity and impiety any longer to hold from them such customs, laws, and statutes as are in a manner proper or principally belonging unto them. Laying aside therefore these titles which include only the masculine ([such] as *bishop, abbot, prior, monk, dean* and *chapter, viscount, coroner*), together with those which be common to both kinds (such as *heretic, traitor, homicide, felon, laron, parricide, cutpurse* [...]), I will in this treaty, with as little tediousness as I can, handle that part of the English Law which containeth the immunities, advantages, interests, and duties of *women* – not regarding so much to satisfy the deep learned or searchers for subtlety, as [to inform] womankind, to whom I am a thankful debtor by nature (1.1).<sup>6</sup>  
*T.E.*

**The creation of man and woman.** In the second chapter [of the book of Genesis,] Moses declareth and expreseth the creation of *woman*, which word (in good sense) signifieth not the “woe of man” as some affirm, but “with man” (1.2). Return a little to Genesis, in the third chapter, whereof is declared our first parents' transgression in eating the forbidden fruit: for which, Adam, Eve, the serpent (first), and (lastly) the Earth itself is cursed. [...] Eve (because she had helped [the serpent] to seduce her husband) hath [had] inflicted on her an especial bane: “In sorrow shalt thou bring forth thy children; thy desires shall be subject to thy husband, and he shall rule over thee.” See here the reason [...] that women have no voice in Parliament, they make no laws, they consent to none, they abrogate none: all [women]<sup>o</sup> are understood either *married*, or *to be married*, and their desires [are]<sup>o</sup> subject to their husband. I know no remedy (though some women can shift it, well enough). The Common Law here shaketh hand with divinity.

But because I am come too soon to the title of *baron* and *feme*, and Adam and Eve were the first and last that were married so young, it is best that I run back again to consider of the things [...] that are fit to be known concerning women *before* they be fit for marriage (1.3).<sup>7</sup>

**The ages of a woman.** A woman hath diverse special ages. At the seventh year of her age, her father shall have aid of her tenants to marry her. At nine years age, she is able to deserve and have dower; at twelve years, to consent to marriage; at fourteen, to be *hors du guard*. [...] A woman married at twelve cannot disagree afterward. But if she be married younger, she may dissent till she be fourteen. (1.4). Those which the Latins call *puberes*, that is, they which are come once to such state, habit, and disposition of body that they may be deemed able to procreate, may contract matrimony [on their own] (1.10).<sup>8</sup>

**Consummation and individuity of marriage.** When, to the consent of the mind, there is added copulation of body, matrimony is consummate [...], the knot whereof is so straight and indissoluble that they which are yoked therein cannot the one without the consent of the other (neither was it ever permitted) abdicate themselves [...]; yea, so unpartable be they, that Law sayeth they may not utterly leave *conjugalem consuetudinem*, though one of them have the very leprosy itself.<sup>9</sup>

And here is moved a question not impertinent: that is, Whether a woman be bound to follow her husband wheresoever he goeth if he require it —whereunto it is answered by Bartol and by some other that if the wife before she married knew the negotiations and occasions of her husband would be such that he must of necessity ever be traveling, she is bounden [to accompany him,] and if the contract seemeth to have consented to go with him at commandment; but if, after the bargain made, he take up a new trick of *circumnavigari*, she may let him go when he list, and tarry at home when she will (1.21).<sup>10</sup>

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<sup>6</sup> *leets* ] special courts of record which the lords of some manors were empowered to convene once or twice a year; *dean and chapter* ] the head and the member canons that governed a cathedral church; *charges* ] indictments, subpoenas, or other decrees of a court of law; *both kinds* ] both genders; *laron* ] robber; *treaty* ] treatise.

<sup>7</sup> *baron...feme* ] In law, baron and feme denote husband and wife, being accounted as one person by coverture. By the old law of evidence, the one party was excluded from giving evidence for or against the other in civil litigation.

<sup>8</sup> *tenants* ] caretakers (in aristocratic families, parents typically hired retainers to perform most functions of care, supervision, and discipline; *hors du guard* ] outside wardship; no longer viewed under the law as a minor.

<sup>9</sup> *conjugalem consuetudinem* ] marital intercourse.

<sup>10</sup> *Bartol* ] Bartolo da Sassoferrato (1313-1357), an Italian law scholar, a prominent continental jurist of Medieval Roman Law; *circumnavigari* ] traveling around.

**Causes of divorce.** The civil law hath many causes of divorce, but by [both] divine and common law, the only sufficient cause is adultery and fornication (which by canons is “carnal” [or] “spiritual” – the *spiritual*, is heresy and idolatry: they dissolve matrimony for spiritual fornication only where one of the parties is converted to Christian faith and the other for hatred of his religion will not cohabit, etc. And this is taken also from Saint Paul (1 Corinthians 7) where he sayeth, “If the unbelieving depart, let him depart; a brother or sister is not in subjection”) (1.23).<sup>11</sup>

**Impotency or disability of procreation.** There is admitted also in dissolution of marriage the complaint of impotency. And this is more than a bare divorce or separation *a toro*, for it dissolveth marriage, avoiding it as it had never been; so that he or she whose fellow is convicted of impotency may choose a new friend and presently marry again. But this is to be understood of impotency which was before the *marriage* [was] made [consummate]. For indeed, where the impediment was so precedent, there could not any matrimony exist or have being, *etc.* Otherwise it is, when this disability betideth *after* marriage [is] perfected and consummate: for in that case, he or she which remaineth potent shall not leave and depart from the impotent, but be compelled to bear the discommodity as well as any other ill fortune (1.24).<sup>12</sup>

**That no crime dissolveth marriage.** Of old time, some crimes were numb’red amongst the causes of dissolving marriage. But Justinian changed the Law here in part, and the Canons (upon the saying of Christ, “*Quos deus conjunxit,*” *etc.*) will not [permit] by any means that matrimony, rightly made and consummate, can be dissolved. [...] ([But] if a wife cannot dwell with her husband without manifest danger of death because he is cruel and bloody, why may not she be *separated?*) (1.27).<sup>13</sup>

**Of wooing.** (I am afraid my feminine acquaintance will say I [have] writ as I live: I talk much of marriage, but I came not forward! Stay a while yet, I pray you! I know many an honest woman more repenting her hasty marriage ere she was wooed than all the other sins that ever she committed!) It were good reason we speak a little of wooing. But to handle that matter, per genus and species, would take up as much room as the Indian fig tree – every thread whereof, when it falleth to the ground, groweth to a body. I will slip by it, only observing that the giving of gloves, rings, bracelets, chains, or anything that is *ex sponsaliorum largitate* (as a man would say, “of love’s liberality”), or as a pledge of future marriage betwixt them that are promised, have a condition (silent for the most part) annexed unto them: that if matrimony do not ensue, the things may be demanded back and recovered. Yet there is a distinction of like [...]: if he had a kiss for his money, then the one half of that which was given, is the woman’s own good. And *she* hath yet more favor in the case: for whatsoever *she* gave, were there kissing or no kissing betwixt them, she may ask all, and have all again (1.23).<sup>14</sup>

**Of sponsion or first promising.** The first promising and inception of marriage is in two parts. Either it is plain, simple and naked; or confirmed and born by giving of something. The first is when a man and woman bind themselves simply by their word only to contract matrimony hereafter; the second, when there is an oath made, or somewhat taken as an earnest or pledge betwixt them (on both parts, or on one part), to be married hereafter. There is not here (to be stood upon) the age definitively set down for making of marriage irrevocable; but all that are seven years old (betwixt whom matrimony may consist) may make sponsion and promise. But if any that is under the age of seven begin this vow and betrothing, it is esteemed as a mist, and vanisheth to nothing (2.2).<sup>15</sup>

**In what case the betrothed may refuse one another.** If – after the sponsion or first betrothing, and before matrimony contracted – some evil disease (as leprosy, or some violent cause or casualty) make one of the parties unfit for generation, the other may repudiate and abandon him or her which shall be so diseased or unabled. Spousals are also dissolved for fornication, specially if it be committed by either of the parties with their kindred [...], for which cause not only spousals, but marriage itself, when it is contracted, may be dissolved (2.8).

<sup>11</sup> *canons* ] laws, rules, or decrees of the Church.

<sup>12</sup> *separation a toro* ] abstinence from the marriage bed.

<sup>13</sup> *Quos deus conjunxit* ] “What God hath joined [let no man put asunder]” (Mat. 19:6, Mark 10:9).

<sup>14</sup> *ex sponsaliorum largitate* ] from the generosity of the betrothal; *own good* ] her own money, property.

<sup>15</sup> *sponsion* ] pledge of marriage; *betwixt whom matrimony may consist* ] *i.e.*, if a seven-year-old girl swear an oath of betrothal to her next of kin or to a married man, the oath is not binding;

**The [husband]° may beat his wife.** [I]f a man beat an outlaw, a traitor, a pagan, his villein, or his wife, it is dispunishable, because by the Law Common, these persons can have no action (God send gentlewomen better sport, or better company!). [...] The sex feminine is at no very great disadvantage. [...] because the poor wench can sue no other action for it, I pray, why may not the wife beat the husband again? What action can *he* have, if she do? [...] The actionless woman beaten by her husband hath retaliation left – to beat him again, if she dare (3.7).<sup>16</sup>

**That which the husband hath is his own.** [T]he prerogative of the husband is best discerned in his dominion over all extern things in which the wife by combination divesteth herself of propriety in some sort, and casteth it upon her governor: for here, practice everywhere agrees with the theoric of Law, and forcing-necessity submits women to the affection thereof: whatsoever the husband had before coverture, either in goods or lands, it is absolutely his own. The wife hath therein no *seisin* at all. If anything when he is married be given him, he taketh it by himself, distinctly to himself. If a man have right and title to enter into lands, [...] the wife taketh nothing [from the rents] (Dyer, fol. 10). The very goods which a man giveth to his wife are still his own, her chain, her bracelets, her apparel, are all the goodman’s goods. [...] A wife how gallant soever she be, glistereth but in the riches of her husband, as the moon hath no light but is the sun’s (3.8).<sup>17</sup>

**That which the wife hath is the husband’s.** For thus it is: if, before marriage, the woman were possessed of horses, neat, sheep, corn, wool, money, plate, and jewels, all manner of moveable substance is presently by conjunction the husband’s, to sell [or] keep; or [to] bequeath, if he die. And though he bequeath them not, yet are they the husband’s *executor’s*, and not the wife’s which brought them to her husband (3.9).

**Of widows.** Death [...] hath called the husband hence [and] left the house full of mourning – and specially the wife cannot choose but sorrow and lament. If my four-legged beast should fall into halves – the one half, stark dead without motion or spirit; and the other half, standing still upright – scenting, seeing, feeling, gazing – must it not, think you, be wonderfully astonished? If an *elephant* (in whom, as some do write, is understanding of his country’s speech, a wonderful memory and recenting of things past, a great delight in love and glory, besides prudence, equity, and religion – should have his head cut off, his body remaining still [...], would he not (trow ye) be exceeding sorrowful for the forgoing such an ornament? I dare be bold to give a woman as much as Pliny gave the elephant: She hath understanding and speech, firm memory, love-natural and kindness, desire of glory and reputation, with the accomplishment of many meritorious virtues. But alas, when she hath lost her husband, her head is cut off, her intellectual part gone. The very faculties of her soul are, I will not say “clean taken away,” but they are all benumbed, dimmed, and dazzled, so that she cannot think or remember when to take rest or refection for her weak body. And [even] though her spirits and natural moisture, being inwardly exhausted with sorrow and extreme grief, she be called and enforced to seek restauration by such aliments as life is prolonged by, yet is she nothing desirous of life, having lost a moiety of herself – yea, the principal moiety, now best prized and esteemed (but never best loved).

Time must play the physician! —and I will help him a little. Why mourn you so, you that be widows? Consider how long you have been in subjection under the predominance of parents, of your husbands. Now you be free in liberty. [...] The vow of a widow (or of a woman divorced), no man [hath]° power to disallow of, for her estate [is]° free from controlment. [...] Let her learn to cast her whole love and devotion on Him that is better able to love and defend her than all the men in the world (4.pro). [...] She remaineth from henceforth a widow, giving herself to alms and deeds of charity; and of this good mind are many of our widows, which purpose constantly to live out the residue of their days in a devout remembrance of their dear husbands departed (4.20).<sup>18</sup>

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<sup>16</sup> *villein* ] tenant farmer; *again* ] in return, blow for blow; *if she dare* ] Edgar’s attempt at irony.

<sup>17</sup> *forcing...therefore* ] women are obliged to comply whether they like it or not; *seisin* ] legal possession; *Dyer* ] James Dyer, (1510–1582), law reporter and speaker of the House of Commons.

<sup>18</sup> *recenting* ] recollection; *Pliny* ] “In the earth there is no beast greater than the elephant. They have knowledge to understand their country[‘s] speech; they have obedience, and understand their duties and charges. [...] They are full of clemency, and if they chance to find a man strayed out of his way, they know it and will lead him through the forest into his way; but if they find a company of men seeking to chase them, then naturally they know their enemies, as other beasts do. The elephants never commit adultery.” *Natural History*, Book 8, 1-13, trans. I.A. (London, 1566), ed. DWF; *refection* ] food, nourishment.

**Of rape.** When sweet words, fair promises, tempting, flattering, swearing, lying, will not serve to beguile the poor soul [of women], then with rough handling, violence, and plain strength of arms, they are (or have been, heretofore) rather made *prisoners to lust's thieves* than *wives and companions to faithful honest lovers*. So drunken are men with their own lusts (and the poison of Ovid's false precept, "*Vim licet appellat, vis est ea grata puellis*"), that if the rampire of laws were not betwixt women and their harms, I verily think none of them being above twelve years of age and under an hundred, being either fair or rich, should be able to escape ravishing. This is therefore a matter concerning maids, wives, widows, and women of all degrees and conditions, if either they be or possess anything worth the having. [...] (4.20) <sup>19</sup>

**Ravishment.** There are two kinds of rape, of which though they [both] be called (by the common people and by the Law itself) "ravishment," yet in my conceit it borroweth the name from *rapere*, but unproperly: for it is no more but species *stupri*, a hideous, hateful kind of whoredom in him which committeth it: when a woman is enforced violently to sustain the fury of brutish concupiscence, but she is left where she is found, as in her own house or bed, as Lucrece was (and not hurried away, as Helen by Paris, or as the Sabine women were by the Romans -- for that is both by nature of the word, and definition of the matter, the second and right "ravishment") [...] It seemeth the first kind of "rape" deserved always death by God's laws, unless the woman ravished were unbetrothed, so that the ravisher might marry her -- as you may read Deuteronomy, chap. 22, verse 23 (4.21). <sup>20</sup>

In the sixth year of King Richard's reign, and about the sixteenth of his age -- this villainy of rape was so increased -- and women so little offended with the injury, or so ashamed to confess the outrage -- that a new law was made to punish women which *consented* to [marry] their ravishers, *ut sequitur*: "Against ravishers of ladies and daughters of noblemen (and other women, in every part of the Realm, nowadays more violently offending, and, than was wont), it is ordained that: Wheresoever and whensoever such ladies, daughters, or other women be ravished, and after rape do consent to [wed] such ravishers, that as well the ravishers as they which be ravished be from henceforth disabled to have or challenge heritage, dower, or joint feoffment after the death of their husbands and ancestors." [...] This is a shrewd statute! Till this time, he that had ravished a woman might hope for a clemency -- at the least, at her hands, because he had ventured his life for her sake -- but what shall lusty lechers now do? The more a woman is worthy to be won (because she hath, or shall have, [property] wherewith to keep a man), the more danger it is to meddle with her (4.25). <sup>21</sup>

**Within what county appeal of rape shall be brought.** Appeal of rape must be brought within the county where the ravishment was committed. And if a man take a woman against her will in one county and leading or carrying her into another county he there ravisheth her, the appeal must be where the ravishment was committed; and though the declaration be of taking in another county, yet the trial shall be only where the writ was brought (4.31) <sup>22</sup>

<sup>19</sup> *Vim...puellis* ] "You may call it "force." That force *pleases* girls!" Adapted from Ovid's *Ars Amatoria* (Art of Love) 1.673; *ravishing* ] rape; *rampire* ] fortress, protection.

<sup>20</sup> *stupri* ] gen. sing. of *stuprum*, violation; *Deuteronomy* ] <sup>23</sup>"If a damsel that is a virgin be betrothed unto an husband, and a man find her in the city, and lie with her; <sup>24</sup>Then ye shall bring them both out unto the gate of that city, and ye shall stone them with stones that they die; the damsel, because she cried not, being in the city; and the man, because he hath humbled his neighbor's wife: so thou shalt put away evil from among you. <sup>25</sup>But if a man find a betrothed damsel in the field, and the man force her, and lie with her: then the man only that lay with her shall die. <sup>26</sup>But unto the damsel thou shalt do nothing; there is in the damsel no sin worthy of death: for as when a man riseth against his neighbor, and slayeth him, even so is this matter: <sup>27</sup>For he found her in the field, and the betrothed damsel cried, and there was none to save her. <sup>28</sup>If a man find a damsel that is a virgin, which is not betrothed, and lay hold on her, and lie with her, and they be found; <sup>29</sup>Then the man that lay with her shall give unto the damsel's father fifty shekels of silver, and she shall be his wife; because he hath humbled her, he may not put her away all his days" (Deut. 22:23-29).

<sup>21</sup> *ut sequitur* ] as follows; *was wont* ] than was usual in the past; *ventured his life for her sake* ] since, by raping her, risked his own hanging under the law, he could hope for compensation in gaining her property; but under this law, he stood to gain nothing by raping her because if she agreed then to marry him, her dowry and any property rights were forfeited; *joint feoffment* ] investing of both husband and wife in a freehold estate.

<sup>22</sup> *appeal* ] filed complaint.

**The statute 18 Elizabeth, chap. 7** [*anno* 1576]. I am at the end of my voyage. But before I take shore I will show you how our late most excellent lawgiver, renowned Queen Elizabeth (whose vigilant care hath always been that all her people might live under her in peace and without oppression) hath given strength and perfection to the former functions of other princes, to make [the laws]<sup>o</sup> a firm bulwark against all manner of injurers that possibly might oppress women; and I can but marvel – that when so damnable a crime as rape had given so often, to the whole Realm, such cause of bitter complaint; and men in sundry ages had beaten their brains so carefully in finding out remedy against it – how it was possible, so long space together, to leave such a “privilege” to him that could read the blessed Psalm of *Miserere*, etc. that – though he had ravished the fairest lady in the land – he might almost go away without touch of breast for it! Therefore, the eighteenth of Queen Elizabeth – for repressing of felonious rapes and ravishments of women, and of felonious burglaries – it was enacted that they which were found guilty (by verdict or by confession) or outlawed of or for such felonious rapes or burglary, they should suffer *death* and *forfeit* [...] without allowance of privilege, or Benefit of Clergy [...] (4.38).<sup>23</sup>

As you may perceive in Dyer, fol. 304. in the case of a Scot which had ravished a girl being not past seven years old, the justices were in doubt whether “rape” could *be*, of a child of such tender years, not yet nine years old; and therefore, they went not to judgment of the Scot [even] though (by evidence of divers matrons), he seemed guilty! This Statute ordaineth that if any person, unlawfully and carnally, know and abuse any woman-child under age of ten years, every such unlawful and carnal knowledge shall be felony. And the offender, being duly convicted, shall suffer as a felon without allowance of Clergy. And as Master Lambard and Master Crompton do both of them note, it is not material whether she consent or no, for the Law adjudgeth her unable to consent at so tender age (4.38).<sup>24</sup>

**The conclusion.** Thus have I sailed betwixt the capes of Magna Carta and Quadragesima of Queen Elizabeth, [having] collected the statutes principally belonging to women, conjoining customs, cases, opinions, sayings, arguments, judgments, and points of learning of like sort and subject, dispersed in our law-books. Now coming to take haven, God grant I may fall in at Port Grace, and [find] good acceptance of all that shall read what I have gathered. They which are less learned than myself in this study (which I account to be those that have but newly taken acquaintance of Littleton) may spend some time here, not without some fruit and profit. They that are better learned than I (into which company, some [scholars] may crowd that perhaps might be challenged of intrusion) will give me no thanks for my pains. Rather, I must thank them if they vouchsafe to read [my work]<sup>o</sup> without open scorn and bitter censuring. But they to whom my travails are chiefly addressed are women (so many as bear the title of *honest* women). How good and virtuous soever they be, I see not how they can scape the taint of ingratitude if they give not a reasonable favor and applause to my good intention and labor, whereby things behoveful for them to know are laid plain together (and in some orderly connection), which heretofore were smothered or scattered in corners of [Latin,] an uncouth language clean abstruded from their sex; which concealment, because it seemed to me neither just nor conscionable, I have framed this work, admonishing them not to take it for so strong and substantial a piece as London Bridge is, whereon you may boldly set up great buildings; but I will say to you as Littleton said in his *Tenures* to his son: “There be some things in these books which are not *law*, yet even those may enable you the better to understand the reasons and arguments of Law, and to confer and inquire what the Law is, amongst the sage masters thereof” (4.40).<sup>25</sup>

*finis*

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<sup>23</sup> *forfeit* ] forfeiture to the Crown of a felon’s lands and titles; *forthwith enlarged* ] then released from custody; *burning in the hand* ] marked with a hot brand as a sexual offender (but not hanged).

<sup>24</sup> *by evidence of divers matrons* ] by the testimony of women who examined the girl; *Lambard* ] William Lambard (1536–1601), legal writer; *Crompton* ] William Crompton (c. 1529–c.1600), author of *L’authoritie et iurisdiction des courts*, an important digest of case law (1594, 1637).

<sup>25</sup> *Quadragesima* ] Lent; *Magna Carta...Elizabeth* ] from the signing of the Magna Carta (in 1215) to the death of Elizabeth (during Lent, 1603); *uncouth* ] unknown, unfamiliar; *abstruded* ] hidden; *Littleton* ] Sir Thomas Littleton (d. 1481), judge and legal writer, author of the treatise known as *Littleton*, the Bible of English law, which since 1481 has never been out of print.