Acts and ordinances of the Interregnum, 1642-1660

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ACTS AND ORDINANCES OF THE INTERREGNUM,
1642—1660.

COLLECTED AND EDITED

BY

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FOR THE STATUTE LAW COMMITTEE.

VOL. III.

INTRODUCTION, CHRONOLOGICAL TABLE AND INDICES.

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# CONTENTS OF VOLUME III.

<table>
<thead>
<tr>
<th>Section</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>iii.—xxxviii.</td>
</tr>
<tr>
<td>Chronological Table of Acts and Ordinances</td>
<td>i.—cix.</td>
</tr>
<tr>
<td>Appendix</td>
<td>cxi.—cxv.</td>
</tr>
<tr>
<td>Index to Subjects</td>
<td>1—144</td>
</tr>
<tr>
<td>Index of Names, Places and Things</td>
<td>145—400</td>
</tr>
</tbody>
</table>
INTRODUCTION.

A student of English legislation who limited his work to an examination of the volumes containing the Statutes of the Realm would entirely overlook one of the most interesting periods in the history of his subject. The Statute Book is a blank from the close of the 16th year of Charles I. (1640-1) to the year of the Restoration, the so-called 12th year of Charles II. (1660). Yet the intervening period was a time of great legislative activity; the attention of Parliament was not solely directed to war, or finance, or constitutional experiments: there was much general legislation of every kind; many legal and social reforms were attempted which, if often premature and abortive, were yet in some instances permanent and far-reaching.

Having regard to the historical importance and the permanant results of this legislation, and to the fact that there does not exist any collection of the Acts and Ordinances passed during these nineteen years, the Statute Law Committee determined to collect and republish them. The work was commenced in 1890, by Mr. F. F. Liddell (now Assistant Parliamentary Counsel), continued by Mr. W. M. Graham Harrison, and completed by the two editors whose names are on the title page.

The intention of these volumes is to present in a complete form, with the omission of enactments which seemed of little interest, the entire parliamentary legislation of the years between the outbreak of the Civil War and the Restoration. By parliamentary legislation is meant legislation enacted by the two Houses of Parliament, so long as there were two Houses, or by the House of Commons alone after it had assumed the sole legislative power; in fact, everything that came to be regarded at the time as standing in the same position as the old statutes. To these are added certain ordinances issued by the Protector and his Council in the years 1653-4, which operated for a time as Acts of Parliament.

The table of Acts included in this volume shows what Acts and Ordinances were passed during the period, distinguishing

A note at p. 178 volume v. of the Statutes of the Realm says, under 1640: "The whole of the Acts of this Session are here printed as having passed in the 16th year of King Charles the First, there not appearing upon the Roll anything to distinguish what Acts passed in the 16th and 17th, and in the 17th and 18th years; the three parts of the Roll being a regular Continuation of Acts under the same Head as to the Session. At the Parliament Office the first 22 Acts are in a Bundle endorsed '16 and 17 Car.' and by 'The long Calendar' in the same Office are stated to have passed 'At the first Recess of Parliament begun at Westm the Third Day of November Ano. R. R. Car. 16' and 17 1640 1641.' And the remaining 15 Acts are in another Bundle, endorsed '17 and 18 Car.' And in the same Calendar are stated to be 'Acts 8734. Wt. 9599. 500. 4/11. Wy. & S., Ltd.
those printed in the first and second volume of this collection from those which were judged of insufficient importance to be reprinted. References are given to collections in which the omitted ordinances may be found. Ordinances of the nature of private Acts, such as those for removing the sequestrations laid upon the estates of particular Royalists, or for the ejectment or appointment of particular ministers, are not included either in the table or the collection. Ordinances for the payment of small sums of money from specified funds to particular persons, and for the addition of particular persons to committees have also been omitted. Ordinances continuing for a limited period the operation of earlier ordinances are mentioned in the table of Acts, but not reprinted. Without the adoption of some such principle of selection the number of these volumes would have been doubled, and the addition to their bulk would not have increased their value to students. The editors believe that every enactment of any historical or legal importance has been included. The matter omitted belongs almost entirely to the period 1642–1649. During those years practically everything was done by orders or ordinances of the two Houses, and the distinction between orders and ordinances was at first neither clearly defined nor systematically observed.

The enactments contained in these volumes fall chronologically into various classes, according to the legislative authority by which they were passed.

All the enactments passed during the first period of the Long Parliament, that is, from the breach with the King in 1642 to January 1648–9, are termed Ordinances. They received the assent both of the Lords and Commons, but failed to become Acts by reason of never receiving the assent of the King. These occupy pp. 1–1253 of vol. i. of this collection.

The second class of enactments consists of those passed between January 1649 and April 1653, when the Long Parliament was expelled by Cromwell and the Army. They were the work of the House of Commons alone, which having assumed to itself the sole possession of the legislative power, abolished the office of King and the House of Lords, and henceforth styled the measures it passed not Ordinances but Acts. The first enactment to bear the new title was the Act for the trial of the King passed on January 6, 1648. These Acts extend from vol. i., p. 1254, to vol. ii., p. 703.

The third class of enactments consists of those passed by the Assembly of Nominees known as the Little Parliament or of Parliament passed after the first Recess A° 17 and 18 Car. Regis in the Parliamènt begun on the Thirde Day of Novembèr An° 16 Car. Regis.”

These Acts fill pp. 54–178 of vol. v. of the Record edition, but pp. 133–177 consist of the Acts passed in the second session of the Long Parliament. The last Act to receive the King’s assent was chapter xxxviii., “An Act for the further advancement of an effectual and speedy reduction of the Rebels in Ireland” (p. 176). The royal assent was given on June 22, 1642, by commission dated June 14 (Lords Journals v. 154; 5th Report Historical MSS. Comm., p. 29). The Act for the attainer of the Earl of Strafford is placed at the end (pp. 177–8) and numbered chapter xxxviii., though it had received the King’s assent on May 10, 1641.
Barcbole’s Parliament, which sat from July 4 to December 13, 1653. It passed in all twenty-six Acts, which are printed in volume ii., pp. 703–813.

The fourth class of enactments consists of the Ordinances issued by the Protector and his Council from December 1653 to September 1654. By clause xxx. of the constitution known as the Instrument of Government these Ordinances were to be “binding and in force, until order shall be taken in Parliament concerning the same.” Many of them were subsequently confirmed and given the force of statutes by an Act of the Protector’s Second Parliament in 1657. These enactments occupy pp. 823–1029 of the second volume.*

The fifth class of enactments consists of the Acts passed by the second Parliament of the Protectorate during the session of 1656–7. The first Parliament of the Protectorate did not pass a single law, and the second session of the second Parliament was equally barren. The Acts passed between the meeting of the second Parliament of the Protectorate on September 17, 1656, and its prorogation on June 26, 1657, occupy pp. 1036–1270 of the second volume.

The sixth class of enactments consists of the Acts passed by the restored Long Parliament, commonly called the “Rump,” between its re-establishment on May 6, 1659, and its dissolution on March 16, 1660. These occupy pp. 1270–1472 of the second volume.

As no complete collection of these enactments was published during the period to which they belong, and none has been issued since, it is necessary to begin by some account of the sources from which they are derived. These sources are four in number.

I.—A large number of the original Ordinances passed between 1642 and 1649 are to be found amongst the papers of the House of Lords, and are enumerated in the calendars of those papers printed in the fifth, sixth, and seventh Reports of the Historical Manuscripts Commission. But, as shown on pp. 32–34 of this Introduction, a certain number of them were destroyed at the Restoration. The originals of the Acts passed between 1649 and 1660 are naturally not amongst the archives of the House of Lords; some of them, however, are amongst the Domestic State Papers in the Record Office, and from this source and from the Irish Record Office it has been possible to obtain copies of a few Acts which were not printed at the time when they were passed.

II.—Ordinances passed between 1642 and January 1649 are printed in the published journals of the House of Lords for that period. In some cases, however, the compilers of the MS. Journals, instead of entering the Ordinances in writing under their dates, contented themselves with inserting the printed Ordinances issued at the time.

III.—From 1642 to 1649 the Ordinances passed by the two Houses were usually printed in quarto as separate pamphlets.

* See also vol. ii. pp. 1029, 1035; and for additional Ordinances, vol. iii.

8734.
and issued immediately after their passing. The Parliament had at first no official printer. The Acts passed in the session of 1640-1, and most of the declarations exchanged between the King and the Parliament in 1642, bear the name of Robert Barker, "printer to the King's most excellent Majesty." But the declarations, orders, and ordinances of the two Houses during 1642 were printed by a number of different printers, with or without authority. In 1643 two of these printers succeeded in ousting their competitors. The House of Lords on January 14, 1643, ordered John Browne, the clerk of the Parliament, to "provide a printer that shall print those things that are appointed by Parliament," and Browne selected for the purpose "John Wright in the Old Bailey." (Lords Journals, v. 554; vi. 147). The House of Commons preferred a different man. Ordinances and declarations the publication of which was authorised by Henry Elsyng, the clerk of the House of Commons, usually bear the words "printed for Edward Husbands," with the addition "to be sold at his shop in the Middle Temple" or "at the sign of the Golden-Dragon near the Inner Temple."*

With the abolition of the House of Lords in 1649 Wright ceased to be one of the Government printers. After the House of Commons declared itself the Parliament, and called its enactments "Acts," they were printed in folio instead of in quarto form, and in much larger and better type. At first they bore the name of Edward Husband (for he had since 1645 dropped the last letter of his name), but after September 1659 the name of John Field was associated with his. By vote of January 25, 1649-50, it was ordered that "John Field, printer, nominated by Mr. Speaker, be joined with Mr. Husband, stationer" for the printing of an Act concerning the estates of Papists, "and that his name be used in printing of the same Act and all other Acts and proceedings." (Commons Journals, vi. 349.) In February 1651 the name of Husband disappears, and from that date to the expulsion of the Long Parliament the Acts bear the name of "John Field, printer to the Parliament of England."

The proclamations and ordinances issued by the Protector during 1653-4 were printed by William Dugard, printer to the Council of State, and Henry Hills, but the name of the latter as "printer to his Highness the Lord Protector" appears alone on the title page of the collection published in 1654. From the commencement of 1654 to the close of the Protectorate Henry Hills and John Field were associated as "printers to his Highness." On the restoration of the Long Parliament in May 1659 Hills was dismissed and John Field became again the official printer. After the second restoration of the Long Parliament in December 1659 John Streater or Streeter was appointed printer, and he took into partnership John Macock. They printed the Act for dissolving the Long Parliament passed on March 16, 1660, which concludes this collection.

* According to a rival neither of the two were properly printers, "Wright being a bookseller and Husbands but a Paper Stationer." The humble Petition and Information of Joseph Hunscot, Stationer, June 1646. British Museum, E. 340, 15.
IV.—Besides these separately issued Acts and Ordinances, issued by the various printers named above, there are several contemporary collections. Edward Husbands published in 1643 a quarto volume of nearly a thousand pages, including declarations, proclamations and orders as well as ordinances. It is entitled "An exact Collection of all Remonstrances, Declarations, Votes, Orders, Ordinances, Proclamations, Petitions, Messages, Answers, and other Remarkable Passages between the Kings Most Excellent Majesty and his High Court of Parliament, beginning at his Majesties return from Scotland, being in December 1641, and continued until March the 21, 1643. Which were formerly published either by the Kings Majesties Command or by Order from one or both Houses of Parliament. With a Table wherein is most exactly digested all the fore-mentioned things according to their several Dates and Dependacies."

"London: Printed for Edward Husbands, T. Warren, R. Best, and are to be sold at the Middle Temple, Grays Inne Gate, and the White Horse in Pauls Churchyard, 1643."

By order of the House of Commons on March 24, 1642–3, Husbands was given the profits of the collection, and no one was to print it without his leave for the next six months. The House of Commons was satisfied with the result. On August 5, 1644, it ordered "that Mr. Husband the printer do print all the Orders, Ordinances, and Declarations, that have passed since the setting forth of the last volume of Ordinances and Declarations formerly set forth by him; and that he do take care diligently to compare his copies with the originals; and that no other presume to print the same."*

The new collection appeared in December 1646, or thereabouts, as a folio volume bearing the following title:

"A Collection of all the publicke Orders, Ordinances, and Declarations of both Houses of Parliament, from the Ninth of March 1642, Untill December 1646. Together with several of his Majesties Proclamations and other Papers Printed at Oxford. Also a convenient Table for the finding of the severall Date and Title of the Particulars herein mentioned.

"London: Printed by T. W. for Ed. Husband, Printer to the Honorable House of Commons, And are to be sold at his shop at the signe of the Golden Dragon in Fleet street, Nere the Temple Gate, 1646."

Husband made no similar collection of the ordinances passed during 1647 and 1648. There are, however, in the British Museum two volumes entitled "A Collection of the several Acts of Parliament from the 16 of January 1649 to the 8 of April 1653, printed for Edward Husband," the pressmark of which is E. 1060, 1061. But these two volumes are not a reprint of the Acts, but merely the original Acts bound together, with the addition of a title page. The two volumes contain 1,942 pages. Cromwell's Ordinances were bound together in the same way, with the addition of a table of contents as well as a title page, and issued by Henry Hills in 1654 under the following title:

* The votes of the Houses are printed in the volumes they authorise. See also Commons Journals iii. 16, 580. The British Museum pressmark for the first collection is E. 241 and 243: that for the second, E. 1058.
“A Collection of all the Proclamations, Declarations, Articles and Ordinances passed by his Highness the Lord Protector and his Council, and by their special command published, beginning December 16, 1653, and ending September 2, 1654. London: Printed by Henry Hills, Printer to his Highness the Lord Protector, and are to be sold at the sign of Sir John Oldcastle near Pycornel, 1654.” The volume contains 476 pages.

Lawyers and officials who were obliged constantly to refer to the enactments passed by Parliament since 1642 found these various collections cumbersome and inconvenient. They contained a vast mass of matter of a non-legal character, and were neither properly arranged nor indexed. Several attempts were therefore made to collect into one volume all the legislation of the period which it was necessary for practising lawyers and persons engaged in public affairs to have in an accessible form. Parliament took the matter in hand. On June 21, 1650, it passed the following votes:

“Ordered, That it be referred to a Committee, to collect the several Statutes and Ordinances of Parliament, concerning Justices of the Peace, and the Administration of Justice; and forthwith to present such of them to the Parliament, as they shall think fit, to be bound up in one Volume, and printed: Viz, unto Mr. Myles Corbett, Mr Sollicitor-General, Lord Commissioner Whitelock, Mr Attorney-General, Mr Blagrove, Mr Darley, Mr Long, Mr Ellis, Mr Fell, Lord Commissioner Lisle, Mr Garland, Mr John Corbett, Mr Lechmere, and all the Lawyers of the House; or to any Three of them: Who are to meet this Afternoon, in the Speaker’s Chamber; and so de die in diem: And the Clerks are to attend this Committee.

And the particular Care hereof is referred to Mr Garland and Mr Darley.

Resolved, That it be referred to the same Committee, to revise all former Statutes and Ordinances now in Force; and consider as well which are fit to be continued, altered, or repealed, as how the same may be reduced into a more compendious Way, and exact Method, for the more Ease, and clearer Understanding, of the People: And this Committee shall have Power to advise with the Judges; and to send for, and to employ, and call to their Assistance herein, any other Persons whom they shall think fit, for the better effecting thereof; and to prepare the same for the farther Consideration of this House; and to make report thereof: And the special care hereof is committed to Mr Sollicitor-General.”

The Committee employed Henry Scobell, who had succeeded Elsyng as Clerk of the House of Commons on January 5, 1649, and been made Clerk of the Parliament in place of Browne by an Act passed on May 14, 1649. (Commons Journals vi. 111, 209).

In 1653 Scobell published a collection bearing the following title:

“A Collection of severall Acts of Parliament, Published in the Years 1648, 1649, 1650 and 1651, Very useful, especially for

* Commons Journals vi. 427.