

# House of Lords Record Office

## The making and keeping of Acts at Westminster

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### **La Reyne le Veult: The making and keeping of Acts at Westminster by M. F. Bond**

One of the great events in our social and political calendar is the Opening of Parliament. Then the Sovereign drives ceremonially through the streets of London to her Palace of Westminster, to be met at the foot of the Victoria Tower by the Lord Chancellor, the Earl Marshal, the Lord Great Chamberlain and other dignitaries. After assuming the parliamentary robes and the Imperial Crown, she walks in procession to the Parliament Chamber, preceded by Peers who bear the Cap of Maintenance and the Sword of State. Seated on the Throne the Queen then makes to the assembly of robed Peers and Judges, with the members of her faithful Commons standing at the Bar of the House, and the Ambassadors and Peeresses seated in the Chamber, as guests of the day, the Speech which outlines the business to be transacted by Parliament in the coming session.

It is a glittering occasion; its importance and brilliance are enhanced by its uniqueness, for at no other time in the year does the Sovereign nowadays participate in the business of Parliament. Yet in the past royal visits were frequent: not only did the Sovereign start Parliament on its way, but from time to time the ruler sat in the Lords, listening to the progress of business, and, after discussion on a Bill had reached its conclusion in both Houses, the Sovereign played his historic part by coming again in person and giving or, indeed, withholding his assent to the Bill in question.

If, for example, we turn back some three centuries to the reign of Charles II, we find the following account in the Lords' Journal of the way in which a group of Bills became Acts of the Parliament. On Monday, March 6<sup>th</sup>, 1671, some twenty-four Bills, having received their three readings in each House, were awaiting the Royal Assent. Then, in the words of the Journal –

"His Majesty sitting in His Royal Throne, adorned with His Regal Crown and Robes (the Peers sitting in their Robes uncovered), the Gentleman Usher of the Black Rod was commanded by His Majesty to let the House of Commons know

‘That it was His Majesty’s Pleasure, that they presently attend His Majesty’.

The Speaker came to the Bar of the Lords, supported by members of the Commons, and since two of the Bills were Supply Bills, these the Speaker brought up in his own hands (the remaining twenty-two were already in the custody of the Clerk of the Parliaments), and presented them to the King, informing him that the Commons had taken "into their serious Consideration the Supply of Your Majesty, for the carrying on the great Charge of the Government and Payment of Your Majesty’s Debts" (they knew nothing, presumably, of the bargain Charles had just made secretly with Louis XIV). They then proceeded to the giving of the Royal Assent. The Clerk of the Crown read out the title of a Bill, and each time the Clerk of the Parliaments, bowing to the King, who returned the bow, pronounced the Royal Assent saying for the two financial grants: "*Le Roy, remerciant Ses bons Subjects, accepte leur Benevolence, et ainsi le veult*"; for the six other public bills: "*Le Roy le veult*", and for the remaining sixteen private bills: "*Soit fait come il est desire*". These formulae were later inscribed by the Clerk at the head of the Acts.

The proceedings were ended by a short speech from the King, who observed, characteristically, that he –

"had nothing to say to you now, but to thank you very heartily for the two Bills now passed for My Supply; and to desire you make what Haste you can in such Public Bills as are in your Hands, that there may be Recess towards the latter End of this Month."

The procedure was not purely formal. It was, at that time, well within the bounds of possibility that the King would refuse his assent: Bills had often been lost in this way in previous centuries, and continued on occasion so to be lost. Thus, Charles II himself, seven years later, on November 30<sup>th</sup>, 1678, rejected the Bill "for preserving the Peace of the Kingdom by raising the Militia, and continuing them in Duty for Two and Forty Days", and instructed the Clerk to pronounce the formula of refusal "*Le Roy S’avisera*", the King will think about it (a formula which the Clerk, perhaps in his agitation, entered in the Journal as "*Le Roy a advisera*"). Charles II roundly informed the two Houses that he had refused to pass the Act because the Militia were his concern and not theirs, and that he intended to employ the Militia as he himself thought fit. His example was followed by Queen Anne, on March 11<sup>th</sup>, 1708, who similarly rejected another Militia Act, this time for Scotland, but this was the last occasion on which it has proved necessary to use the ominous formula "*La Raine (or Le Roy) s’avisera*." <sup>1</sup>

The scene at a Royal Assent attended by the Sovereign is shown in a drawing by Gravelot. The occasion is the sitting of February 3<sup>rd</sup>, 1742. Speaker Onslow stands, somewhat threateningly, at the Bar of the House, facing King George II across the ranks of robed Peers and the Judges seated on their woolsacks. The King, seated under the Cloth of Estate, is surrounded by members of the Court, some of whom bear the royal insignia; and on either side stand the heralds. The Clerk of the Crown, who reads out the titles of the four Bills accepted that day, stands on the right facing the King; and the Clerk of the Parliaments, the King’s mouthpiece for the actual Assent, stands on the left. This particular occasion was a famous one. Sir Robert Walpole, after dominating the Commons as Chief Minister for more

than twenty years, was at length resigning. A fortnight later he was introduced as a Peer under the title of the Earl of Orford: no doubt Gravelot made this particular drawing, the earliest known (apart from a dubious Elizabethan drawing) to survive of a Royal Assent, as a commemoration of the close of a political epoch.

The ceremony of enactment clearly goes back, as the use of Norman French suggests, to early days in the history of Parliament, and it seems certain that, except under such exceptional circumstances as the childhood or the incapacity of the monarch, medieval rulers participated directly in this way in the making of laws.

By the time of George II, however, an alternative method of enactment had come into existence, and indeed was firmly established. It had arisen from the unhappy marital history of King Henry VIII. In 1542 that monarch, having discovered the adultery of his fifth wife, Catharine Howard, resolved to end his marriage not by divorce but by execution. When it was appreciated, however, that this would entail the King having to attend a Royal Assent, and there listen (as was then the custom) to the entire text of the Bills being recited, it was represented to him, no doubt after prompting, that "the repetition of so grievous a Story and the recital of so infamous a crime" in the King's presence, "might reopen a Wound already closing in the Royal Bosom." It was therefore decided to proceed in a different way. A clause was inserted into the Attainder Bill provided that Royal Assent by Commission "is and ever was and ever shall be, as good" as the Royal Assent given in person. The Chancellor, at the King's instructions, drew up letters patent, sealing them with the Great Seal, by which he was himself directed to declare in the House the King's assent to the Act of Attainder, and also to another Act waiting to be passed at the same time. <sup>2</sup>

Thus a new constitutional device was born. At first it was not used very frequently – perhaps not more than four times in the rest of the sixteenth century. When Charles I and the Parliament were separated at the beginning of the Civil War the method of the Commission, however, was used some fourteen times, and again in the eighteenth century, as George III's health began to give way, Royal Assent by Commission occurred on a number of occasions. Queen Victoria, faced by a greater avalanche of legislation than any of her predecessors, was clearly unwilling to make frequent visits to Parliament, and eventually ceased to come in order to give Royal Assents. Henry VIII's device finally replaced the older personal Assent, the last occasion of the Sovereign being present at the passing of an Act being on August 12<sup>th</sup>, 1854.

Thus we arrive at the present procedure. When a group of Bills awaits Assent, the Clerk of the Parliaments notifies the Lord Chancellor and prepares two sets of the title of all Bills, one for the Clerk of the Crown to insert (at the Lord Chancellor's bidding) as the schedule of the Commission, the other for the Sovereign's inspection before signing the Commission.

On the day of the passage of the Acts a bench is placed on the floor of the House between the Throne and the Woolsack, and three or more of the Commissioners – Peers who are Privy Counsellors are always chosen for this task – take their seats wearing their scarlet robes and black cocked hats, with the Chancellor in his three-cornered hat. They request the immediate attendance of the Commons, and on their arrival one of the Commissioners declares that Her Majesty "not thinking fit to be personally present here at this time" has "caused a Commission

to be issued under the Great Seal, and thereby given her Royal Assent to divers Acts of Parliament ..." The Reading Clerk then reads out the Commission, bowing to each of the Commissioners severally as he reads his name. The principal Commissioner then, by virtue of the Commission, declares that the Royal Assent has been given, and thereupon the Clerk of the Crown reads out each title, and the Clerk of the Parliaments responds with the appropriate formula in exactly the same way as when the monarch used to be present.

One of the most famous of all Assents by Commission represents the last stage in the progress of the 1832 Reform Act. William IV, who had been made to promise, against his will, to create sufficient Peers to pass the Bill, if it were necessary, had refused to attend in person, although Grey and his colleagues had tried to persuade him to do so. Therefore Lord Chancellor Brougham with five fellow Commissioners appeared, taking their seats on the customary bench placed in front of the Throne. The Whig Peers attended in force on the government benches, the Tories boycotted the Assent, and it seems unlikely that many Tory M.P.s accompanied the Speaker at the Bar. The Clerk of the Parliaments turns towards the Commons as he pronounces the formula "*Le Roy le veult*" which ushers in a new period in parliamentary history and indeed a new age in the history of the nation.

### **The Recording of the Acts**

Nowadays, the text lying on the Table of the House at the Royal Assent is not in the form of a parchment roll, but is a book entitled the "House Bill". This is the version which is prepared in the House into which the Bill was first introduced after it has passed all three readings there. The House Bill is then sent to the second House, receiving on its sheets, and interleaves, the various amendments made in the second House, and carrying on its first page the messages by which the Clerks of the two Houses have sent it backwards and forwards. Thus the Coal Nationalization House Bill is inscribed "*Soit baillé aux Seigneurs*", "*A ceste bille avecque des amendmens les Seigneurs sont assentus*", "*A ces amendmens avecque une amendment les communes sont assentus*". This complicated text is obviously not suitable as the master copy of the new law. Therefore after the Royal Assent two master copies are printed by H. M. Stationery Office on parchment. Each has the appropriate formula of Assent written at the head by an official of the House after the Act has been checked and counter-checked. At the end may be seen the initials of those checking, and the final authenticating signature of the Clerk of the Parliaments, the Clerk Assistant or the Reading Clerk. One copy is sent to the Public Record Office to be preserved among the records of Chancery; the other is placed in the Victoria Tower at the Houses of Parliament. Thenceforward, if any question arises as to the authentic text, these two copies of the Act provide the indisputable answer.

The Acts are now each in a separate book, but this is a relatively recent innovation, dating only from 1849. Before then, the Act was written on a parchment roll, which might consist of a single skin, or more frequently of skin sewn to skin, until the roll took on formidable proportions. One of the longest is in fact nearly a quarter of a mile long, and took two men recently a whole day to re-wind.

A number of misconceptions frequently arise concerning these Acts. It is said, for example that they are signed by the Sovereign. As we have seen, the modern books are signed by the

Clerk only; but, strangely enough, the rolls of two and a half centuries, from 1603 to 1849, lack any signature at all. Before 1603 the Acts were sometimes signed by the Sovereign at the head; Henry VII was particularly diligent in signing "H.R." on each separate skin annexure; Henry VIII, Edward VI, Mary and Elizabeth I signed occasionally with their full names; but thereafter no signatures ever appear; none of the Stuarts or the Hanoverians authenticated Acts in this way, although, as we have seen, they were frequently present when the Acts were passed. Authentication was guaranteed solely by continuous custody of the Acts in the care of the Clerk of the Parliaments. If question arose as to the text of an Act, a certified copy or extract by the Clerk was, and remains in English law, a sufficient answer.

It is also thought that a seal is appended to Acts. This is not so. Where Commissions have been preserved with the Acts to which they referred, the Commission itself has the Great Seal on it (in modern days, a smaller wafer seal). But Parliament possesses no seal, perhaps a mark of its *ad hoc* character in the Middle Ages; Parliament was no continuous abiding institution, but merely one from the King's Court took when and if the King so desired.

Other misunderstandings arise concerning the time-honoured phrase "the Statute Book". Originally there was a "Statute Roll" – at the end of a medieval Parliament a collection of those Acts of a Public character was made and given the title of the King's regnal year; each particular Act forming a section, or a chapter, of the complete Statute, so that, e.g. the Vagabonds Act of 1383 became VII Ric. II, c.5. Since 1483, although enrolment (on the "Parliament Rolls") of Public Acts continued until 1850, an annual volume of Public Acts has been printed under authority, and this has clearly become the immediate and normal source for English law. In these volumes have been included not only Public Acts but also, on occasion, a few Private Acts, and various "Local and Personal Acts declared Public" – the full complexities of the system of classification defy any brief description. Three points emerge, however: the "Statute Book" was originally the Statute Roll; there are nowadays as many Statute Books as there are parliamentary years; and throughout the centuries many Acts of a private, personal or local character have never formed chapters in the roll or book. These Private Acts, of course, have been numbered separately (a trap for unwary researchers) and often have not been printed, surviving only in the single manuscript copy in the Victoria Tower.<sup>3</sup>

## The Housing of the Acts

The Acts in the Victoria Tower are part of the much greater accumulation of records of Parliament which are now in the immediate charge of the Record Office of the House of Lords and accessible to all *bona fide* students. There are some one and a half million of these records, and they constitute a major source for research into English history.<sup>4</sup> They have had some three separate homes since they began to be preserved at the end of the fifteenth century. At first they were kept in rooms in the old Palace of Westminster which were burnt in the Great Fire of 1834 which destroyed most of the Houses of Parliament. Then in 1621 they were transferred to a stone tower, standing at the far south-western corner of the Palace and surrounded by a moat. This tower had been built in 1365 in the days when the Sovereign in fact resided at Westminster and the building was the premier Palace of the Royal Family. The stone tower was built to house the Privy Wardrobe of the King, and became known as the Jewel Tower.<sup>5</sup> Jewels were certainly the most valuable contents, but as Mr. A. J. Taylor has

recently told us,<sup>6</sup> kings also kept here such various objects as looking-glasses, dolls and chessmen. By 1551, however, "the whole of this remarkable collection, some of the pieces of which had doubtless contributed their share to the magnificence of the Field of the Cloth of Gold, had been sold and dispersed by command of the boy king, Edward VI". In any case, the kings had departed from Westminster for the more up-to-date comforts of Henry VIII's Palace of St. James's. The Jewel Tower was left empty, for a time to be leased to private occupants, and then, in 1621, to be renovated, and turned into a fire-proof repository for the records of Parliament. To this Tower therefore came the Acts of Parliament, and in it they stayed until the fire which destroyed most of the Palace in 1834. In the rebuilding that ensued they were shifted eventually (in 1864) to the still more magnificent Tower constructed immediately opposite, and named after the Sovereign, the Victoria Tower.

This, the present home of the Acts, was acclaimed as one of the finest pieces of building of the nineteenth century. In the words of the contemporary official description, the Tower, 363 feet tall, was "the grandest feature of the building and the largest and highest square tower in the world". And although now it is a diminutive building in comparison with American skyscrapers, it is still the highest square tower in the world, and still the highest occupied building in London.

Unfortunately, the stone in which it was originally built, magnesian limestone from Anston, has not proved very resistant to London atmosphere, and, in addition, it has suffered from being set in the wrong plane, so that whole layers of it have weathered and fallen away. Therefore, in 1926 a complete programme of stone repair was started for the Tower. This is only just being completed, thirty years later; an enormous and costly undertaking, which had to be totally discontinued during the war. Indeed, the whole system of scaffolding was then dismantled and taken down to the beaches of the south coast, where it was erected as coastal defences, returning to London in 1946 for re-erection at the Victoria Tower.

The final disappearance of the external scaffolding has, however only precluded the remaking of the interior. This, as it was constructed as a home for the Acts in 1850s, had a grim gaol-like appearance. It was approached by a winding turret staircase of 100 steps, which led to the bottom floor over the State entrance, and from there by a central winding cast-iron staircase to the twelve floors above, each with its eight rooms a floor. These rooms in 1946 were without light; indeed there was only one trailing electric light lead for all the rooms in the Tower; they were also without natural light, as bomb blast had blown the windows out, and the glass had been replaced with matchboarding. The Tower was without heat of any sort; in the winter temperatures often fell below freezing point and the staff could only work there for a quarter of an hour at a time. Dampness prevailed most of the year – humidities of 90 per cent or more were common, whereas documents, for safe preservation, need a maximum humidity of not more than 68 per cent. Damp, cold, dirty: the Tower repository was not unlike many other record repositories up and down the land which were in fact wholly unsuitable for their business of preserving the documents placed within them. It was therefore not surprising when the House of Lords set up a specialist department, a Record Office, to care for the Acts and other MSS. in 1946, that it was found that many MSS. were beginning to suffer from their environment. Luckily the decay was caught at an early stage, and a complete programme of re-organization is now well under way.

As we have seen, the Acts were, until 1849, each written on parchment rolls. These rolls are being repaired, new parchment being grafted in to replace what has been worn away or torn; often the skins have to be re-sewn to each other, as the original thread has perished, and then the entire roll is interleaved with a special tissue paper itself impregnated with a fungicide known as "Santobrite" which will kill all latent fungoid growth. [Note for web version: This article was written in the 1950's when Santobrite was an acceptable treatment but it is no longer recommended for the preservation of documents.] The Acts are then replaced on their shelves in the Tower in chronological order, to await production in the House of Lords' Record Office search room for the use of historians and others who may wish to consult them.

### **The Acts as materials for history**

Since the opening of the Office such consultation has increased tenfold. Today historians and others come to the office daily, and in many ways are enriching our understanding of English history by a more thorough analysis of the Acts and their subsidiary material than was ever previously possible.

A particularly good example of such research is that provided by a recent discovery of Professor Sir John Neale. As we have seen, the original Acts, until the change-over to printing in 1849-50, were the Bills as engrossed in the first House (similar, that is, to the modern House Bills described above). These Acts then passed to the second House, perhaps receiving many additions and deletions there, if amended being returned to the first House for further debate and, on occasion, further amendment. It is therefore possible to reconstruct from the amendments on the final Act some of the earlier stages in the history of the Bill. Sir John Neale applying this technique to the text of the Elizabethan Subscription Act of 1571 discovered that the original text, emanating from the Queen and her Ministers, had been considerably altered in a Puritan direction by the Commons. From the quantity and quality of these amendments he was able to contribute important new material to the history of the Elizabethan Reformation.

Other historians have made increasing use of the Private Estate Acts of the sixteenth and seventeenth centuries. These have shown landowners resorting to Parliament for power to break entails, to sell estates, and to group and mass their property in more manageable units: from these Acts, hitherto little known, and unpublished, valuable material is thus being acquired towards the as yet unwritten history of the English landed classes after the Reformation.

A third group of historians is dealing with the latest period, in which economic and social power has slowly passed from the land to capital, and is making exhaustive enquiry into the Acts empowering the establishment of railways, canals, and other large undertakings. Subsidiary to the Acts in the Victoria Tower are many lists of subscribers to such companies, detailed estimates of their proposed works, large-scale original plans, and other invaluable evidence which in total documents the gradual development of the Industrial Revolution.

Political, social and economic history are thus all being served by the great accumulation of Acts and other MSS. at Westminster. Meanwhile the work of Parliament goes on. Each new session is opened by Her Majesty; each new Bill after its passage through the two Houses receives the Royal Assent by Royal Commission, and is then placed, alongside its many

thousands of predecessors, in the Victoria Tower. There it awaits the investigation of future generations of historians, the raw material of the history of the future.

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1. The spelling of all the historic Parliamentary formulae has varied over the centuries, eg. *s'avisera* and *se advisera* were used indiscriminately and *La Reyne* has now replaced *La Raine*
2. A full account of the origin of Royal Commissions of Assent is given by R W Perceval in *Parliamentary Affairs*, Vol, III, pp 307-315.
3. Cf. the article by R. W. Perceval on the Classification and Recording of Acts in *Parliamentary Affairs*, Vol. III, pp. 506-513.
4. A general account of these MSS. is given by the present writer in *Parliamentary Affairs*, Vol. VIII, pp. 482-491. They are calendared in a series of volumes published by H.M.S.O.
5. It has recently been opened to the public, free of charge, by the Ministry of Works. The entrance is opposite the Victoria Tower.