

Nations

Primary Source Analysis

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Source Extracts:

1536 *An Act for Laws and Justice to be Ministered in Wales in Like Form as it is in this Realm* and 1543 *An Act for Certain Ordinances in the King's Majesty's Dominion and Principality of Wales*. Collectively known as the *Laws in Wales Acts* or *Acts of Union*.

Extract 1:

27 Henry 8, c. 26 (1536). *An Act for Laws and Justice to be Ministered in Wales in Like Form as it is in this Realm*

Albeit the Dominion Principality and Country of Wales justly and righteously is, and ever hath been incorporated annexed united and subject to and under the Imperial Crown of this Realm, as a very Member and Joint of the same, whereof the King's most Royal Majesty of Meer Droit, and very Right, is very Head King Lord and Ruler; yet notwithstanding, because that in the same Country Principality and Dominion divers Rights Usages Laws and Customs be far discrepant from the Laws and Customs of this Realm, and also because that the People of the same Dominion have and do daily use a Speech nothing like, nor consonant to the natural Mother Tongue used within this Realm, some rude and ignorant People have made Distinction and Diversity between the King's Subjects of this Realm, and his Subjects of the said Dominion and Principality of Wales, whereby great Discord Variance Debate Division Murmur and Sedition hath grown between his said Subjects; His Highness therefore, of a singular Zeal Love and Favour that he beareth towards his Subjects of his said Dominion of Wales, minding and intending to reduce them to the perfect Order Notice and Knowledge of his Laws of this his Realm, and utterly to extirpate all

and singular the sinister Usages and Customs differing from the same, and to bring the said Subjects of this his Realm, and his said Dominion of Wales, to an amicable Concor and Unity, hath by the deliberate Advice Consent and Agreement of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same, ordained enacted and established, That this said Country or Dominion of Wales shall be, stand and continue for ever from henceforth incorporated and annexed to and with his Realm of England; and that all and singular Person and Persons, born or to be born in the said Principality Country or Dominion of Wales, shall have enjoy and inherit all and singular Freedoms Liberties Rights Privileges and Laws within this his Realm, and other the King's Dominions, as other the King's Subjects naturally born within the same have, enjoy and inherit.

...

20. Also be it enacted by the Authority aforesaid, That all Justices Commissioners Sheriffs Coroners Escheators Stewards and their Lieutenants, and all other Officers and Ministers of the Law, shall proclaim and keep the Sessions Courts ... and all other Courts in the English Tongue ... and also that from henceforth no Person or Persons that use the Welsh Speech or Language shall have or enjoy any Manner Office or Fees within this Realm of England, Wales, or other the King's Dominion, upon Pain of forfeiting the same Offices or Fees, unless he or they use and exercise the English Speech or Language.

Extract 2:

34 & 35 Henry 8, c. 26 (1543).

2. First, That his Grace's said Dominion, Principality, and Country of Wales, be from henceforth divided into twelve Shires; of the which eight have been Shires of long and ancient Time, That is to say, The Shires of Glamorgan, Caermarthen, Pembroke, Cardigan, Flint, Caernarvan, Anglesey and Merioneth; and four of the said twelve Shires be newly made and ordained to be Shires, by an Act made at the Parliament holden at Westminster in the twentieth-seventh Year of our said Sovereign Lord's most noble Reign, that is to say, the Shires of Radnor, Brecknock, Montgomery and Denbigh, over and besides the Shire of Monmouth, and divers other Dominions, Lordships and Manors in the Marches of Wales, united and annexed to the Shires of Salop, Hereford, and Gloucester [sic], as by the said late Act more plainly appeareth ...

5. Item, That there shall be holden and kept Sessions twice in every Year, in every of the said Shires in the said Dominion and Principality of Wales, that is to say, in the Shires of Glamorgan, Brecknock, Radnor, Caermarthen,

Pembroke, Cardigan, Montgomery, Denbigh, Flint, Caernarvan, Merioneth and Anglesey; the which Sessions shall be called the King's great Sessions in Wales ...

13. Item, That every of the said Justices of Wales shall have Power and Authority to enquire of all Treasons, Murders, Felonies, Riots, Routs, unlawful Assemblies, Extortions, Embraceries, Maintenances, Retainers, Concealments, Contempts, and all other Offences and evil Deeds, of what Natures, Names or Qualities soever they be, done, committed or perpetrated within the Limits of their Commissions and Authorities, against the Form of the Common Law of the Realm of England ...

Analysis

Among the many ways in which 'nations' have been constructed and given a sense of identity in the course of history, the question of law and government has always loomed large. Nations have often been defined by factors of inclusion ('who belongs?') and exclusion ('who doesn't belong?'), and so the role of the law in setting out such terms and the function of the state in their enforcement has been extremely powerful. The law has the capacity to articulate the desirable qualities of members of that nation – how they understand and exercise citizenship or subjecthood, the languages they use, the religion they practise and so on – and to enforce those qualities. As such, legal documents can provide historians with clear examples of how a nation – at least, from the top down – defined itself within the daily practice of the law.

The extracts above provide a particularly challenging example for historians. These are extracts from two legislative acts passed by the English government in the years 1536 and 1543 under the reign of King Henry VIII and, in particular, through the machinations of his chief minister, Thomas Cromwell. They responded to a vast array of issues that dogged the Tudor state as it emerged out of the Wars of the Roses (1455–87), which had torn late medieval England apart as two dynasties competed for the Crown of England, and more immediately, the crises arising from Henry VIII's break from the Roman Catholic church. Together, these events had destabilized the Tudor realm to such a degree that fears of plotting and assassination were rife, if not always substantiated, through much of the 1530s and 1540s. It is no coincidence that other acts to reinforce Henry VIII's power as monarch and as the head of the Church of England were passed in the same years as these 'Acts of Union' in Wales: in 1534 the Act of Supremacy (26 Henry VIII, c. 1) defined Henry's title as supreme head on earth of the Church of England, and in 1541 Parliament passed the Crown of Ireland Act, making

Henry and his heirs Kings of Ireland (this agreed through a sympathetic parliament in Dublin).

Wales, for its part, was seen as a ‘problem area’ within the Tudor ‘dominion’ or ‘imperium’ (as Henry would have known it): it shared a border with England and could serve as a launching point for foreign conspiracies against the Crown, especially through the machinations of European Catholic powers like Spain or France. Unlike in Ireland, where the majority of the population would remain Catholic, Catholic conspiracy in Wales was rather improbable; however, the previous centuries had seen enough opposition to English rule and violent reinforcement of English governance that fears were not wholly unfounded. As in Ireland, too, Wales was seen as disorderly due to its diversity: Welsh, like Irish, remained the common language for the majority of the population. However, where legislation to protect English supremacy had severely limited the use of Irish and intermarriage with the ‘Old’ or ‘Native’ Irish, Welsh language and culture had been much less of a contentious feature in Crown governance. By the sixteenth century, this mixed legacy of English influence in Wales had left a tangle of different administrative and legal structures in both the Principality (formerly ruled by the Princes of Gwynedd) and the Marcher lordships in the east of the country.

From the outset, the preamble to the 1536 *Act for Laws and Justice* articulates a sense of something like ‘nationhood’. Bound by a set of common laws, and in particular the uniting governance of the ‘Imperial Crown of this Realm’, the Act places at the centre of that realm the ‘Head King Lord and Ruler’. As was often the case in the early modern period, the Act also suggests an historical sense of belonging which had seen Wales ‘united and subject to’ this ‘Imperial Crown’. While the Act does distinguish between England and Wales in passages such as this, we can already see an attempt to suggest that those two countries shared a common, united past. This, of course, could have been disputed at the time, as the ‘annexation’ of Wales had occurred through the defeat of Llewellyn ap Gruffudd in the thirteenth century. Nevertheless, through this unifying historical force and custom, the Act sets out a case for subduing any ‘discord’ in that realm: namely, the ‘distinction and diversity’ which the Act was intended to address. Tempting as it may be to see ‘diversity’ as a term solely applicable here to the cultural associations of language and identity, this is not what the terminology of the time meant. In this case, as the preamble sets out, the ‘diversity’ encompassed by the Act first and foremost means ‘divers Rights Usages Laws and Customs ... discrepant from the Laws and Customs of this Realm’. For the Henrician state, the apparent availability of other laws and customs to which Welsh subjects could appeal – the ‘sinister Usages and Customs differing’ from English law – had legitimized disorder in a way it could no longer tolerate, especially amid the wider turbulence of the age. This disunity of government and the varied forms of the law was the primary target of the 1536 Act.

The second section from the 1536 Act – the so-called ‘Language Clause’ – is arguably the most contentious part of the legislation. Here we must be careful to understand the history that precedes this source and that which has followed it. Undoubtedly the Welsh language became central to Welsh national identity in the centuries that followed the Acts of Union: especially since the late eighteenth century, language and nationhood have often been seen as overlapping, with each language group constituting a nation and vice versa. But that association was not so firmly established in the sixteenth century. It was wholly possible for a Welsh-speaker to also identify with and uphold the liberties afforded by the English crown without any apparent conflict of nationhood. Regardless, the 1536 Act undoubtedly pushed the Welsh language into what Lloyd Bowen terms ‘second-class’ status, requiring that all those occupying significant government and legal offices conduct their affairs in English only: nobody who used ‘the Welsh Speech or Language shall have or enjoy any Manner of office’.¹ However, while the text appears unambiguous in separating the governing and governed according to language within this new vision of Wales, historians have argued that English was increasingly the language of the socially aspirant and power-seeking in Wales well before the Act. The Act simply enshrined into law an established trend from longer-term English (and Anglophone) influence. Here, as ever, we must ensure as historians that we do not allow a single source to speak for the experience of a whole society.

In the second extract, from the 1543 *An Act for Certain Ordinances*, we can see the aspirational elements of the 1536 Act put in motion through the institution of a common legal and administrative system. The renaming and restructuring of the counties listed may appear a very dry piece of reading; remember, however, that in terms of governmental apparatus, these were the lines on maps that determined legal identity before the state. Particularly important here is the extension of a unified court system – the Court of Great Sessions – to apply to all Welsh counties within the terms of English common law. As the source lists in wonderful detail, the Court of Great Sessions tried as wide range of felonies as a Crown prerogative court. This is how the ‘diversity’ of custom referred to in 1536 was to be curtailed, binding these counties together from the local level through to the centre of Tudor governance in London.

There are benefits and significant challenges to using this source to understand notions of ‘nationhood’ in the early modern period. From a ‘top-down’ perspective, we can see how the state could envision and legislate for what a nation might be. The coherence and efficacy of law across the realm was increasingly important in this period, usually consolidated within and personified by the institution of the Crown. The Acts employ this sort of language, suggesting that law, the monarch and a unified church were what bound people together. But the Acts do not provide us with either a clear sense of the efficacy of their implementation or how they were received and applied ‘on the ground’. The wider legal and administrative changes

which the Acts initiated did not seamlessly come into being with the passing of the legislation. As historians, we need to delve into a wider range of sources to gauge opposition to or support for the Acts: who benefitted from these changes and how? What sort of opposition arose, and how were they upheld? How effective was the Court of Great Sessions, and did that vary by region? Ultimately, we need to acknowledge that what came to be known much later as the Acts of Union afford us only one vision of what Wales was or was meant to be in a particular historical moment, and only then from the most elite of perspectives.

Works cited

Lloyd Bowen, *Early Modern Wales c.1536–c.1689: Ambiguous Nationhood* (Cardiff: University of Wales Press, 2022).

Note

- 1 Lloyd Bowen, *Early Modern Wales c.1536–c.1689: Ambiguous Nationhood* (Cardiff: University of Wales Press, 2022), p. 96.

Further reading

You can see the original Acts online here: https://iiif.collectionsbase.org.uk/GB61/GB61_HL_PO_PU_1_1535_27H8n24/e5tD3#?c=0&m=0&s=0&cv=3&xywh=162%2C57%2C948%2C498.

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