

## COMMONWEALTH CIVIL MARRIAGES.

BY THE REV. HAROLD SMITH, D.D., St. John's Hall,  
Highbury.

THE most important dates in the history of Parish Registers are :—

(1) 1538. Royal Injunctions were issued, drawn up by Thomas Cromwell, "Vice-gerent to the King's Highness for all his jurisdiction ecclesiastical." The twelfth of these ordered that every parson, vicar, or curate should keep a book or register in which to enter weddings, christenings, and buryings. The parish was to provide a sure coffer, with two locks and keys, one to be kept by the incumbent, the other by the churchwardens. Every Sunday the incumbent was to take out the book, and in the presence of one or more wardens make the entries for the past week. Every time this was omitted the party in fault was to forfeit 3s. 4d. towards the reparation of the church. This order was renewed in the Injunctions of Edward VI, 1547, and in those of Elizabeth, 1559. The one difference is that under Elizabeth half the forfeit was to go towards church repairs, half to the "Poor Men's Box"; under Edward all was to go to this Box, nothing to repairs. But one wonders how often this forfeit was actually paid. Over 800 registers still go back to 1538 or 1539.

(2) 1597. It was now ordered by Convocation that parchment books be substituted for paper, and that all past entries during the reign of Elizabeth be copied into them. Every Sunday, after Morning or Evening Prayer, the minister was to read out the list of the past week. Each complete page was to be signed by the minister and churchwardens. The chest was to have *three* keys, so that the minister might do nothing without the wardens, nor the wardens without the minister. But the fine for omission was dropped. This was mostly repeated in Canon 70 of 1604. Into the parchment book were to be copied the day and year of every christening, wedding and burial since the law was first made in that behalf, so far as the ancient books thereof could be procured, but especially since the beginning of the reign of the late Queen. Each warden was to have his own key. The order for reading out the week's list was dropped. These regulations account for two

facts. (1) That so many existing Registers begin in 1558. This is probably rarely due to neglect of the early Injunctions, but to many copyists having thought that, according to the terms of the Canon, they need not go back beyond Elizabeth's accession. (2) That in Registers in general the early entries down to about 1600 or rather later are written in one handwriting, obviously at one time. They are not the original entries, but were copied from the original paper registers, only a few of which still remain. The copying might be done by the incumbent, but was often due to an official scribe, sent round to see that it had been done. Hence it was some time before all the Registers were duly copied. (These Injunctions and Canons will be found in Cardwell's *Documentary Annals and Synodalia*; and in Gee and Hardy, *Documents Illustrative of English Church History*.)

(3) 1653. Elected Registrars, and Civil Marriage by a Justice. (see below).

(4) 1753. By Lord Hardwicke's Marriage Act, books with a printed outline to be filled in and signed by the officiant, were first introduced for Marriages (and for Banns).

(5) 1812. Rose's Act extended this to Baptisms and Burials.

(6) 1837. The Registers took practically their present form.

Until the introduction of these printed books there is great variety in registers, according to the personality of the incumbent (or clerk). Some make very brief and scanty entries, saying nothing e.g. about abode, occupation, or age. Others make very full entries, sometimes at least as full as those required now. Thus when John Venn, afterwards Rector of Clapham, one of the founders of the Church Missionary Society, became Vicar of Little Dunham, Norfolk, in 1783, he started a new register, giving the profession or trade of the father and the maiden name of the mother of each child baptized; and in the entries of burial, the age and not unfrequently the cause of death. He also prefixed to this register seven or eight pages dealing with the history of the parish. We often find in old registers notices of the coming of a new incumbent. But before the days of printed forms entries were not signed by the officiant; though often the incumbent or curate, and perhaps a churchwarden, signed at the foot of the page or at the close of the entries of the year. Thus John Strype signs regularly year after year at Leyton, until his old age, when his curate takes his

place. This signature was enjoined by the Canon, but was most commonly neglected. We also often find miscellaneous notices, especially at the end of the book. E.g., lists of briefs and of money collected upon them are very common.

To come to our main subject: the supplanting of the Book of Common Prayer by the Directory in 1645 did not affect the keeping of the registers. But in 1653 the Little (or "Barebones") Parliament passed an Act ordering the election of a "register" (i.e., registrar) in every parish, to be approved and admitted by a Justice of the Peace. He was to keep a book in which to enter all births (not baptisms), burials and notifications of intention to marry. He was to be elected for three years. Marriage was to be performed by a Justice of the Peace, on certificate of such notification having been made publicly thrice, either in church or in market, without any opposition. No other form of marriage was to be legal.

There are several current misconceptions of this ordinance.

(a) It is often regarded as a gratuitous insult to the clergy, an instance of anti-clerical feeling. Considering the composition of this Parliament, an assembly of nominees, largely idealists, such a feeling is not improbable. But the evidence of registers shows quite clearly that their keeping had too often been neglected of recent years, and not only when and where the War was raging. Some "intruders" kept their registers most carefully; we find some, coming after several years' neglect, doing their best to discover and supply past omissions. But there were many cases of neglect, and some of these may have attracted attention.

(b) It is commonly said that this Act established *Lay* Registers. But there was nothing in it to prevent clergy being thus elected; and there are a fair number of known cases of this. E.g., at Epping and at Great Clacton, the mother parish of Clacton-on-Sea, the vicar was so elected; at Barking and at Waltham Abbey the assistant curate.

(c) These registrars are often blamed for the loss of earlier registers, because in a number of parishes the first extant register is that started by them in 1653. But in such cases it is doubtful whether the old register was ever in their hands, although the Act provided that they should have it to keep as a record. If they had it, it is strange that the incumbent did not get it back when he received the one started by them. There could hardly have been

many lost in half a dozen years. The older one has more probably been lost subsequently in the same way as other old registers have been ; some incumbent (or warden, or clerk) of the eighteenth or nineteenth centuries is probably responsible. Many have been lost since 1831.

In some cases, when the new register started in 1653 was filled, the clergy went back to the older one ; in others, the remaining pages of the older register were utilized for special matters, e.g., at Waltham Abbey for entering Briefs, of which there is a very full list. Only when the first existing register begins in 1659 or thereabouts is there much ground for supposing that the loss of all preceding registers may be due to the elected registrars. But even in this case there are other possible causes. The loss of early registers has hardly stopped, though checked by constant enquiries by Rural Deans.

The notices of this change, in registers not started by these registrars, are curiously varied. Often there is no notice whatever of the appointment of such a registrar. This may be due to the fact that no such elections took place in this parish ; or more probably that the incumbent continued to carry on his own register independently. Probably in more cases than we can ascertain the elected registrar was the parish or vestry clerk, in which case he would probably work in with the incumbent. But not unfrequently there is notice of the election of a registrar, and his approval by a Justice ; but the entries continue in the same writing as before. The election may have been a mere formality ; or two registers may have been kept independently.

But some registrars did their work very thoroughly ; the number of their entries marks a great advance upon those of the years immediately preceding. They frequently enter baptisms as well as births, or even instead of them.

Registrars were to hold office for three years, when there might be another election. We occasionally find notices of a new election in 1656, but not later. By 1659 the " Rump " was restored, and was none too much inclined to favour Cromwellian legislation ; and by the end of the year it was tottering to its fall. The Act or Ordinance will be found in Firth and Rait's Ordinances of the Interregnum, II, 715. It was passed on August 24, 1653, to come into force from September 29.

The registrar after election took an oath before a Justice to discharge his office diligently, and not to charge illegal fees ; and was then admitted by the Justice. At West Ham forty-five voters elected Edward Lawson as " Register " ; he was sworn in by Robert Smith of Upton, a City alderman, who had been Sheriff of Essex in the critical year 1642 ; he was an active member of the County Parliamentary Committee, but was created a baronet at the Restoration. A new register book was purchased for £1 15s. Lawson kept it most thoroughly ; he had however a curious habit of prefixing or adding the Hebrew names of the months, e.g., " February : the Scripture month is called ' Adar ' ; " " the eighteenth of the month Abib or Nisan, called March." In 1656 he was succeeded by Richard Grane.

The number and character of *marriage* entries in registers vary greatly. In some registers practically none are entered during these years ; perhaps the clergy or clerks thought that marriage being no longer a Church matter, it was none of their business. In other registers, especially those known to have been kept by registrars, the notices of the publication of banns are duly entered, but not the marriage, which took place outside the parish at the residence of some Justice. Combined with the frequent neglect of registers in the year immediately preceding, and with the fact that marriage licences were no longer issued, this makes the period a bad one for the genealogist. But others give not only the dates of publication, but also the date of the marriage and by whom performed. The most full and interesting cases are where an active magistrate lived in the parish, and people came from some distance to be married by him ; in such cases the parochial registrar may record from what parishes they brought certificates, and by whom these were signed. This is the case in several parishes near the London end of Essex : Waltham Abbey, Walthamstow, Wanstead, West Ham. At Waltham Abbey about ninety marriages are recorded as taken by Henry Wollaston, J.P., whose wife Ursula was a grand-daughter of John Foxe, of the *Book of Martyrs* ; in twenty-seven of these both parties were of other parishes. At West Ham a very large number, some from outside, were taken by Robert Smith (and a few others) ; at Walthamstow many by William Conyers, Serjeant-at-Law.

Publication of banns was far more common in the church than

in the market, though the latter had its advantages when the two parties lived in different parishes, and the Justice in the market town ; one set of publications served all purposes. But we have a case of two Walthamstow people being published three weeks in Waltham Abbey Market, and yet married at Walthamstow. There is also a curious case of banns being published (1) at Enfield Market, (2) at Chingford Church, (3) at Waltham Abbey Market ; as the parties were married by Serjeant Conyers, we may suppose that this was strictly legal.

The Waltham Abbey Registers show that the new system was not popular at first. The normal number of marriages there was two or three a month. But in September, 1653, there were as many as *ten*. There was clearly a rush to get married before the new system came in.

The ceremony is thus laid down : " The Man to be married, taking the Woman to be married by the hand, shall plainly and distinctly pronounce these words : ' I, A.B., do here in the presence of God, the searcher of all hearts, take thee, C.D., for my wedded wife, and do also in the presence of God and before these witnesses promise to be unto thee a loving and faithful husband.' And the Woman, taking the Man by the hand, shall plainly and distinctly pronounce these words : ' I, C.D., do here in the presence of God, the searcher of all hearts, take thee, A.B., for my wedded husband, and do also in the presence of God and before these witnesses promise to be unto thee a loving, faithful and obedient wife '." The Justice was authorized in the case of dumb persons to dispense with pronouncing the words aforesaid ; and with joining hands in the case of persons which have not hands.

It is not clear to what extent (1) this civil ceremony of marriage was supplemented by a religious service ; or (2) prayer was offered by a minister at it. Both of these are known to have taken place not unfrequently, but it is hard to say how widely they prevailed.

The former is noted occasionally in registers ; sometimes the church marriage preceded that before the Justice, sometimes it followed. It may have been added not simply from religious motives, but to make quite sure that the parties were recognized by all as legally married ; there was no assurance of the new order lasting. (It seems in fact to have largely gone out as early as 1657. There is no marriage by a Justice at Waltham Abbey after the early

part of that year ; at West Ham, and elsewhere, marriages by clergy are by then replacing those by a Justice.) Similarly when the Directory first replaced the Prayer Book there were doubts about the new marriage service. It is said that a daughter of Stephen Marshall, the noted Puritan preacher, who had taken great part in the composition of the Directory, was married by her father with the Prayer Book service ; he immediately paid down £5 to the churchwardens as fine or forfeiture for using any other form of marriage than that in the Directory. Fuller says that probably some for greater security twisted the Liturgy and Directory together, " as since some have joined to both, marriage by a Justice of Peace ; that so a threefold cable might not be broken." In the event these marriages before a Justice were recognized as valid by an Act of the Convention Parliament, 1660.

Among those thus doubly married were Cromwell's two younger daughters, Frances and Mary. According to Clarendon, " It was observed, that though the marriages were performed in public view according to the rites and ceremonies then in use, they were afterwards in private married by ministers ordained by bishops, and according to the form in the Book of Common Prayer ; and this with the privity of Cromwell, who pretended to yield to it in compliance with the importunity and folly of his daughters." Frances was married November 19, 1657, to Robert Rich, grandson of the Earl of Warwick, by Henry Scobell, Clerk of the Parliaments, a Justice for Westminster ; after however " a godly prayer made by one of his Highness' divines." It is not clear who took the subsequent religious service. In the case of Mary Cromwell, married to Lord Fauconberg, it was taken by Dr. Hewitt, Vicar of St. Gregory by St. Paul's, where she used secretly to attend. When, only a few months later, Dr. Hewitt was condemned to death for his share in a royalist plot, the Fauconbergs " used their utmost credit with the Protector to preserve his life ; but he was inexorable."

Cases of prayer being offered by a minister at the marriage before the Justice are naturally not recorded in registers ; but probably the practice at Frances Cromwell's marriage was not at all uncommon. Ralph Josselin, Vicar of Earl's Colne, Essex, notes in his Diary, April 10, 1655, " This day the Justice and I married Peg Nevill to Butcher ; the first I intermeddled with since the late Act."

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e.g., in 1655 Henry Osbaston was appointed Vicar of Little Ilford, then a very small parish of some ten or twelve families only. He had previously been in West Kent. The law was that any one presented to a living had to be approved by the "Triers"; or, to give them their proper title, the "Commissioners for Approbation of Public Preachers." Their certificate of approval was equivalent to institution and induction. They required, besides a personal interview, at least three certificates from godly men personally acquainted with the minister presented; one at least of these must be a minister. In practice, very few risked bringing merely the minimum; most brought at least six, all or nearly all from ministers. But Osbaston was not taking any risks, so he brought *fifteen*, from the ministers of Tonbridge, Sevenoaks, Ightham, etc. He was married to Joyce Richards, widow of his predecessor, Humphrey Richards, on April 2, 1657, at Walthamstow, by Serjeant Conyers. He conformed in 1662, and got also the Rectory of Stapleford Abbots.

The Register of Prittlewell, the mother parish of Southend, is very interesting for this period. Their elected Registrar was Nathaniel Benson, schoolmaster. Couples had to go for marriage to magistrates living near Chelmsford or Maldon, some fifteen or twenty miles away. Among the marriages entered by Benson are those of Samuel Keeble, minister of Ashingdon, married at Hasely by Isaac Aleyn, J. P.; of Thomas Peck, minister of Prittlewell, married at Stowmarket by George Groome, J. P.; and his own, at Hasely church by Mr. Hewetson, minister of Woodham Mortimer, in the presence of Isaac Aleyn, J. P. This is the only marriage so described.

Thus civil marriage was the law in England from Michaelmas 1653 till 1659 or 1660, though in fact it largely went out in the summer of 1657.

There are two marked differences between this and the civil marriages of the present day. (1) The solemn recognition of God. (2) The absence of secrecy. Marriages before the registrar are now largely sought on account of this privacy, which is desired on one ground or another. But in 1653 the only alternative to publication in church was publication in the market. There is much to be said for more real "publication," e.g., by a list placed *outside* the church or registrar's office. However much one may sympathize with desire for a quiet marriage, the present system encourages rash and unfit marriages. This our fathers guarded against.