

THE ACTS OF JAMES II'S  
IRISH PARLIAMENT, 1689

*Edited by*

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*and*

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## INTRODUCTION

The legislation of the pre-union Irish parliament has, for the most part, been published in official compilations which are convenient for the modern scholar to consult. The best known and most comprehensive edition is *The statutes at large*, whose final volume appeared in 1801. Like other compilations of the eighteenth century, however, this edition omits the acts of the parliament convened by King James II in Dublin in 1689. Known to historians as the 'Jacobite parliament' and dubbed the 'patriot parliament' by the nationalist Sir Charles Gavan Duffy in the late nineteenth century, the assembly of 1689 was long regarded by most Irish protestants as a 'pretended parliament'. The exclusively protestant parliament of 1695 passed an act for the destruction of all the official records of the 1689 parliament, and we depend on several different sources for the copies of such of the acts as have survived.

Thomas Davis published an account of the 1689 parliament in 1843. He sought copies of the acts and reprinted the greater part of the text of those he could find. His account, which appeared in a series of articles in a Dublin periodical, was reprinted in abridged book-form by Duffy in 1893. Several additional sources, unknown to Davis, came to light in the twentieth century; these provided further copies of some acts he printed, and copies of others acts he did not know had survived. These sources, some printed and some in manuscript, are dispersed among several libraries and archives; some acts survive in more than one version, while no copy at all of others is known. No modern list of the surviving acts has been published, nor has the authenticity or reliability of the extant copies been assessed.

A new scholarly edition of the acts, collating all the known copies and providing some account of their inspiration, enactment, promulgation, enforcement and subsequent history, is clearly desirable.

### THE SOURCES

Though thirty-five acts were apparently passed by the parliament the text of just twenty-five survives. The only contemporary list of the acts appears in a compilation entitled *An exact list*, printed in London in 1689 (with a licence dated 13 November). There are four acts for which the sole evidence is the appearance of their titles in this work. While no copy of ten of the acts named in *An exact list* is known, more than half of the twenty-five extant acts survive in two or more copies. These appear in several distinct classes, in a number of libraries and archives in Ireland and England.

The most important class comprises the black-letter official editions, printed in the gothic type customary for acts of parliament and proclamations at the time. This

class includes a compilation of acts in the British Library (BL) and a copy of the Act of Repeal in the library of Trinity College, Dublin (TCD); though lacking title pages, they were probably printed in 1689. The remaining black-letter acts have title pages dated 1689. There are four black-letter acts in the library of University College Dublin (UCD), preceded by a single title page. Finally, there are two black-letter acts that were certainly printed separately with their own title pages: the Act of Supply (of which there are copies in the library of King's Inns and the BL) and the Act of Recognition (of which there are copies in the Parliamentary Archives at Westminster and the BL).<sup>1</sup> There are also three unofficial compilations printed in London in 1690 and 1691 containing a number of the acts.

There are several extant manuscript copies of acts: a collection of eleven acts in Marsh's Library which are apparently contemporary with the parliament or nearly so, and a copy of the Act of Repeal in The National Archives (TNA) in London which belongs to a date before mid-August 1691. All of the copies mentioned above have been categorised as 'contemporary or near-contemporary' in the source notes which appear at the foot of each act in this edition. All copies from this category have been collated and the great majority of variant readings have been recorded in footnotes.

The first act of the 1689 parliament to be passed, and almost certainly the first to be printed, was the Act of Recognition. Five black-letter copies of this act are preserved among the records of the English parliament in the Parliamentary Archives with other documents which provide a *terminus ante quem* for their printing as well as information about their provenance. They were among papers on board a vessel intercepted as it approached the port of Liverpool and were, by order of King William III, laid before both houses of parliament on 19 June 1689. The papers included several copies of two Irish proclamations of James II, his letter to the intended Scottish convention, and letters (dated 8, 9 and 10 June 1689) from various persons, most of them apparently Englishmen attending James in Ireland. The letters (some of which were known to be [in] King James's hand') contained news of military affairs at home and references to the progress of the bill for repealing the land settlement, that is, the bill which was to become the Act of Repeal.<sup>2</sup> One letter – presumably referring to the proclamations and Act of Recognition – remarked that 'the inclosed are intended to be reprinted and distributed'.<sup>3</sup> Another copy of this act exists in the collections bequeathed by the English book collector Thomas Grenville

<sup>1</sup> Some further details are given in summary form in Appendix 4.

<sup>2</sup> The papers are in the Parliamentary Archives, HL/PO/JO/10/1/409/101, and calendared in HMC, *Twelfth report*, appendix, part vi, *The manuscripts of the house of lords, 1689–1690* (London, 1889), pp 144–59; see also *Commons' jn.* [Eng.], x, 186–7 and *Lords' jn.* [Eng.], xiv, 248. According to Narcissus Luttrell the common council of London in addition 'had communicated to them' the same papers at their meeting of 19 June, on which date he also noted the arrests in London of several of the intended recipients of the papers (N. Luttrell, *A brief historical relation of state affairs from September 1678 to April 1714* (6 vols, Oxford, 1857), i, 549).

<sup>3</sup> Parliamentary Archives, HL/PO/JO/10/1/409/101, a7 and a8. A manuscript minute of the house of lords journal quoted in HMC, *Manuscripts of the house of lords, 1689–1690*, p. 147, suggests that printed acts were enclosed with Parliamentary Archives, HL/PO/JO/10/1/409/101, a4; this is not evident however from the present arrangement of the papers.

(1755–1846) to the British Museum (British Library from 1973).<sup>4</sup> The act is in a volume which appears to have been a gift to Grenville from his nephew Charles Watkins Williams Wynn.<sup>5</sup> The contents, dating from 1657 to 1691, bear manuscript item numbers which may have been added in the late seventeenth century. The item numbered 59 and those immediately following it are official documents issued in the name of James II and printed outside England. Items in close proximity to the Act of Recognition in this volume have further manuscript notes which appear to be contemporary. The items numbered 59, 63 and 65 are inscribed ‘Mat Turners in Holborn April 25. 89. By R Stephens’. Matthew Turner was described in 1680 as ‘the common notorious popish bookseller of the town’,<sup>6</sup> and was active in the reign of James II. The item numbered 64 (*A declaration of his most sacred majesty king James II. to all his loving subjects in the kingdom of England*, dated 8 May 1689 at Dublin Castle) is inscribed ‘Found in ye street by John Mokar[?] near the Savoy’. The Act of Recognition, which is numbered 68, is not annotated, but its association with the other documents is probably not accidental. The annotations, with the evidence of the intercepted packet in the Parliamentary Archives, hint at efforts to distribute Jacobite proclamations, declarations and acts of the Irish parliament (or the Act of Recognition, at least) in England in 1689.

The only act other than the Act of Recognition which is known with certainty to have been printed separately with its own title page is the Act of Supply. Two copies survive, one in King’s Inns and the other in the BL. Nothing is known of the provenance of either copy, but the King’s Inns copy was apparently in the possession of that body’s library by 1819.<sup>7</sup>

A compilation of acts of the 1689 parliament printed in black letter in the BL is of special importance. It contains the text of fourteen acts and part of a fifteenth, and no fewer than six of these are unique copies. This compilation has continuous page numbering and the acts are given chapter numbers (in the form ‘CAP. 1’, etc.). It appears to be a contemporary official compilation but is, most unfortunately, incomplete: it ends on the fifty-sixth page in the middle of an act and lacks a title page. But the style of the printing is in many details very similar to those acts whose title pages leave no doubt that they were officially printed. This compilation must when intact have included the remainder of the act that appears in part on pages 55 and 56 and probably additional acts. We have no means of knowing how many further acts it contained, but it appears that the Act of Attainder was never officially printed and it is unlikely that the five acts of local or personal scope would have been included in such a compilation (or indeed printed at all).

<sup>4</sup> For Grenville, who acquired other important works of Irish interest, see *ODNB* and Karen Limper Herz, ‘“A monument of the love of letters”: the Right Honourable Thomas Grenville and his library’ (Ph.D. thesis, University of London, 2012).

<sup>5</sup> BL, G.5302, which bears the following a note on a blank page preceding the first printed item in the volume: ‘e dono Caroli W. Wms. Wynn. 1811’.

<sup>6</sup> *Commons’ jn.* [Eng.], ix, 689.

<sup>7</sup> The King’s Inns copy is in a volume entitled ‘Bolton’s Irish Statutes, 1621’, shelfmark H.H.12. A printed document dated 18 May 1819 inserted at the end of the volume has been endorsed with a list of some of the items contained, including ‘Statute of the 5th of King Jas. 2d. passed in Dublin. Dublin 1689.’. The BL copy (shelfmark 1325.i.11) bears a red stamp indicating that it was a purchased item.



nominated in that behalf, and authorized by commission under the great seal of this kingdom, by direction of the lord lieutenant, or other chief governor or governors for the time being, of this kingdom, such commission to be returned under the hands and seals of the commissioners to the clerk of the council for the time being; and that after such allotment so made, and summe or summs of money ascertained, charged, and set forth to be paid as aforesaid, and approved by the lord lieutenant, or other governor, or governors and council of this kingdom, such charge on such inhabitant of each house, shall be as good and effectual in law, as if the very same summe or summs which shall be so charged, had been particularly expressed, and inserted, to be paid out of each house; and that the said summe so allotted, or charged upon each inhabitant, should be received by the church-wardens respectively, and by them paid to the severall and respective incumbents, and their successors, by four portions every year by the inhabitant, or respective inhabitants thereof, with power of distraining for the same, as by the said act more at large appeareth.

And whereas the duties and payments aforesaid appear to be a new imposition, and are become very grievous and oppressive to the inhabitants of cities and towns corporate within this kingdom, [s. 1] be it therefore enacted by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament assembled, and by the<sup>466</sup> authority of the same, that so much of the said act as extends to the granting, imposing or securing the duties or payments of twelve pence in the pound as aforesaid, be and is hereby repealed and that the residue of the said act relating to the making of the said church of St Andrew<sup>467</sup> presentative for ever, and providing for the building thereof, and for purchasing lands and livings for the use of the said church, shall remain in full force.

## SOURCE:

BL, G.6022 (122), pp 38–40.

## OTHER CONTEMPORARY OR NEAR-CONTEMPORARY COPIES:

Marsh's Library, MS. 1.7 (96); *A list* (1690), pp 43–4.

## LATER PRINTING:

*The acts* (1740), pp 22–5; *The acts* (1751), pp 22–5; *The acts* (1756), pp 17–19; 'Statutes of 1689' (Jan. 1843), p. 33; *Patriot parliament* (1893), pp 48–9 (omits most of the act).

AN ACT FOR REPEALING THE ACT FOR KEEPING AND CELEBRATING THE 23D OF OCTOBER AS AN ANNIVERSARY THANKS-GIVING IN THIS KINGDOM

Whereas the keeping and celebrating the twenty third of October as an anniversary thanksgiving in this kingdom according to the act of parliament made in the fourteenth and fifteenth yeares of King Charles the second,<sup>468</sup> is the occasion of great strife, quarrels, and animosities between his majesties subjects of this kingdom.

<sup>466</sup> 'the' omitted in *A list*.

<sup>467</sup> 'St. Andrew()'s' in Marsh's Library and *A list*.

<sup>468</sup> 14 & 15 Charles II, chapter 23 [Ire.] (20 Dec. 1662).

[s. 1] Be it therefore enacted by the kings most excellent majesty, by and with the advice and assent of the lords spiritual and temporal and commons in this present parliament assembled, and by the authority of the same, that the said act of parliament made in the said fourteenth and fifteenth yeares of Charles the second for keeping and celebrating the said twenty third day of October as an anniversary thanksgiving in this kingdom, be and is hereby repealed and made void.

SOURCE:

BL, G.6022 (122), p. 40.

**10. AN ACT DECLARING THAT THE PARLIAMENTS<sup>469</sup> OF ENGLAND CANNOT BUNDE IRELAND, AND<sup>470</sup> AGAINST WRITS OF ERROR AND APPEALS, TO BE BROUGHT FOR REMOVING JUDGMENTS, DECREES AND SENTENCES GIVEN IN IRELAND INTO ENGLAND**

Whereas this his majesties realm of Ireland is and hath been always a distinct kingdom from that of his majesties realm of England, always governed by his majesty and his predecessors according to the ancient customs, laws, and statutes thereof, and as the people of this kingdom, did never send members to any parliament ever held in England, but had their laws continually made and established by their own parliaments, so no acts passed in any parliament held in England, were ever binding here, excepting such of them as by acts of parliament passed in this k[i]ngdom, were made into laws here, yet of late times and<sup>471</sup> especially in the times of distractions some have pretended that acts of parliament passed in England mentioning Ireland were binding in Ireland.

And as these late opinions are against justice and natural equity, so<sup>472</sup> they tend to the great oppression of the people here, and to the overthrow of the fundamentall constitutions of this realm: and to the end that by these modern and late opinions no person may be further deluded;

[s. 1] Be it therefore enacted by the kings most excellent majesty, by the advice and consent of the lords spiritual and temporal, and the commons in this present parliament assembled, and by authority of the same, and it is so<sup>473</sup> hereby declared, that no act of parliament past, or to be past, in the parliament of England tho Ireland should be therein mentioned, can be, or shall be any way binding in Ireland, excepting such acts past, or to be past in England, as are, or shall be made into law by the parliament of Ireland.

[s. 2] And whereas several writs of error, were formerly sued out and returnable into the kings bench in England in order to reverse judgments given in his majesties

<sup>469</sup> 'parliament' in *An exact list* and Marsh's Library.

<sup>470</sup> 'and' omitted in Marsh's Library and *A list*.

<sup>471</sup> 'and' omitted in Marsh's Library and *A list*.

<sup>472</sup> 'and soe' in Marsh's Library.

<sup>473</sup> 'so' omitted in Marsh's Library and *A list*.

court of kings bench in Ireland; and whereas most of the said writs of error have been brought for delay, and thereby many of his majesties subjects of this realm were greatly hindred from recovering their just rights, and put to vast charges in attending such suits in England; for the prevention whereof, be it hereby enacted by the authority aforesaid, that no writ of error shall be hereafter brought out of England in order to remove any record, or<sup>474</sup> transcript of record out of his majesties court of kings-bench in Ireland, or out of any other court of record here, into England, in order to reverse any such judgments.

[s. 3] But in regard judgments to be given in his majesties court of kings bench in Ireland may happen sometimes to be erroneous; be it enacted, by the authority aforesaid, that where any judgment shall at any time hereafter be given in the said court of kings-bench in Ireland in any suit or action of debt, detinue, covenant accompt, action upon the case, ejectione firmæ, or trespass, first commenced, or to be first commenced there, other than where the king's majesty shall be partie, the<sup>475</sup> plaintiff, or defendant, or other person or persons against whom any such judgment shall be given, may at his election sue forth of the high court of chancery in Ireland, a special writ of error to be devised in the said court of chancery directed to the chief justice of the said court of kings-bench in Ireland for the time being, commanding him to cause the said record, and all things concerning the said judgments to be brought before the justices of the common-pleas, and the<sup>476</sup> barons of the exchequer here into the exchequer chamber in Ireland, there to be examined by the said justices of the<sup>477</sup> common-pleas, and the<sup>478</sup> barons of the exchequer; which said justices of the common-pleas, and barons of the exchequer, or any four, or more of them, by vertue of this present act, shall thereupon have full power and authority to examine all such errors as shall be assigned or found in or upon any such judgment as the law shall require, other than for errors to be assigned, or found for, or concerning the jurisdiction of the said court of kings-bench in Ireland, or for any want of form in any writ, return, plaint, bill, declaration, or other pleadings, process, verdict, or proceeding whatsoever, and other than for such mistakes, errors, or failings, as are now supplied, or helped by some statute or statutes in force within this realm.

And that any one or more of the said justices and barons in the absence of the rest, shall have power to adjourn the said court, and continue the proceedings of the said writ of error from time to time; and that after that the said judgment shall be affirmed, or reversed; the said record, and all things concerning the same shall be removed, and brought back into the said court of kings-bench, that such further proceedings may be thereupon, as well for execution as otherwise, as shall appertain.

[s. 4] And be it further enacted by the authority aforesaid, that such reversal, or affirmation of any such former judgment shall not be so final, but that the party who

<sup>474</sup> 'or' omitted in Marsh's Library.

<sup>475</sup> 'the' omitted in Marsh's Library and *A list*.

<sup>476</sup> 'the' omitted in *A list*.

<sup>477</sup> 'the' omitted in Marsh's Library.

<sup>478</sup> 'the' omitted in Marsh's Library.

findeth himself grieved therewith, shall and may sue in the high court of parliament in Ireland, for the further and due examination of the said judgment, any thing herein<sup>479</sup> to the contrary notwithstanding.

[s. 5] And be it further enacted by the authority aforesaid, that from the end of this present session of parliament no execution shall be stayed in the said court of kings-bench, by writ of error, or supersedeas thereupon, after verdict and judgment thereupon in any action personal whatsoever, unless a recognizance with condition, according<sup>480</sup> the statute made in the tenth year of the reign of our late sovereign lord King Charles the First,<sup>481</sup> shall be first acknowledged in the said court of kings-bench.

[s. 6] And further, that in writs of error to be brought upon any judgment after verdict in any action of ejectione firmæ, no execution shall be thereupon, or thereby stayed, unless the plaintiff or plaintiffs in such writs of error, shall be bound unto the defendant in such action of ejectione firmæ in such reasonable summe as the said court of kings-bench shall think fit, with condition, that if the judgment shall be affirmed in the said writ of error; or that the said writ of error shall be discontinued in default of the plaintiff or plaintiffs therein, or that the plaintiff or plaintiffs be non-suited in such writs of error, that then the said plaintiff or plaintiffs shall pay such costs, damages, summe and summs of money as shall be awarded upon, or after such judgment affirmed, discontinuance, or non-suit had; and to the end that the same summe and summs, and damages may be ascertained; be it further enacted by the authority aforesaid, that the said court of kings-bench, upon such affirmation, discontinuance or non-suit, shall issue a writ to inquire as well of the measne profits, as of the damages by any waste committed after the first judgment in ejectione firmæ; and upon the return thereof judgment shall be given, and execution awarded for such measne profits, and damages and also for the costs of suit.

[s. 7] And whereas of late times several persons have brought appeals before the house of lords in England, in order to reverse decrees granted in the high court of chancery in Ireland, which tend to the great charge, trouble and vexation of such of his majesties subjects as have obtain'd such decrees, and is an apparent new encroachment upon the fundamental constitutions of this realm, and also appeals before delegats in England: be it therefore<sup>483</sup> enacted by the authority aforesaid, that no person or persons whatsoever, do hereafter presume to sue out any such appeals, or to tender, or produce any such appeal to the lord chancellor, or lord keeper of Ireland, or to any of the officers of the said court of chancery, and that such appeals shall be void, and that no appeal whatsoever to reverse any decree or sentence past, or to be past in Ireland, shall be brought into England, either before the house of lords there, or any commissioners or delegats of appeal, and that all such appeals shall be disallowed.

<sup>479</sup> 'herein contained' in *A list*.

<sup>480</sup> 'according to' in *A list*.

<sup>481</sup> Probably 10 Charles I, session 3, chapter 8 [Ire.] (21 Mar. 1635).

<sup>482</sup> 'or that the said writ of error' omitted in Marsh's Library and *A list*.

<sup>483</sup> 'be it further' in Marsh's Library and *A list*.

[s. 8] And for rendering this present act the more effectual; be it hereby enacted by the authority aforesaid, that it shall be a high misdemeanor in any person or persons whatsoever, that shall in drawing of pleadings either in law or equity, or in any bill of exception to be filed in any court in Ireland, or that at any tryal, before any court within this realm, shall deliberately insist that any act of parliament made or to be made in England, wherein Ireland is or shall be mentioned, is or can be binding in Ireland, though it should not be made into a law here by any act made, or to be made, in a parliament held or to be held here; and also that<sup>484</sup> it shall be a high misdemeanor in any person or persons whatsoever, who within this realm shall tender or produce any writ or writs of error out of England in his majesties court of kings bench in Ireland, or to all or any the judges of the said court for the time being, returnable to the court of kings bench in England, or that shall tender or produce any appeal to the lord chancellor, or lord keeper, of Ireland for the time being, or to any of the officers of the said court of chancery, or to the chancellor, treasurer and barons of the exchequer from the house of lords in England, or that shall tender any appeal out of England to any spiritual judge or spiritual court, or delegats within this realm, in order to reverse any sentence given in Ireland, by any court of delegats in England; and that if any person or persons shall offend herein, he shall be fined and imprisoned according<sup>485</sup> the discretion of the court where he shall be prosecuted for the same.

## SOURCE:

BL, G.6022 (122), pp 41–5.

## OTHER CONTEMPORARY OR NEAR-CONTEMPORARY COPIES:

Marsh's Library, MS Z 2.1.7 (100) *A list* (1690), pp 5–8.

## LATER PRINTINGS:

*The acts* (1740), pp 1–9; *The acts* (1751), pp 1–9; *The acts* (1756), pp 1–7; 'Statutes of 1689' (Jan. 1843), pp 3–42; *Patriot parliament* (1893), pp 43–8; *EHD*, pp 749–50 (omits most of the act); J. C. Simms, *The Jacobite parliament of 1689* (Dundalk, 1966), p. 82 (omits most of the act).

#### 11. AN ACT FOR ADNULLING AND MAKING VOID ALL PATTENTS OF OFFICES<sup>486</sup> FOR THE LIFE OR DURING GOOD BEHAVIOUR

Whereas several offices within this realm, were passed in pattent to several grantees during the life or lives or one or more persons, or during good behaviour, by which many of them were encouraged to misuse their authorities, and that many of the said offices were granted in reversion to others, by letters pattents, and even grants made in reversion, upon reversions of such offices which hath been, and is like to be the occasion that many offices requiring skill, and knowledg, are and will be

<sup>484</sup> 'that' omitted in *A list*.

<sup>485</sup> 'according to' in *A list*.

<sup>486</sup> 'officers' in *An exact list*.

executed by unskillfull persons, to the great prejudice of many of his majesties subjects;

And whereas several of the said offices relating to his majesties revenue are past in pattent to some who having not skill or knowledg to execute the same, his majesty is obliged to imploy others to act therein, and allow them a yearly allowance to the great diminution of his majesties revenue, and for that several of the said officers have with drawn themselves beyond the seas, who being commanded to repair hither refused or omitted to come; for remedy whereof. [s. 1] Be it enacted, and it is hereby enacted by his most excellent majesty, by the advice and consent of the lords spiritual and temporal and commons in this present parliament, and by authority of the same that all pattents past in reversion or reversions of any office or offices of what kind soever, within this kingdom, shall be and are hereby declared to be null and void; and of no effect whatsoever; [s. 2] and be it further enacted by the authority aforesaid, that all pattents whereby any office or offices whatsoever within this kingdom, were granted for life or lives, or during good behaviour, shall be and are hereby ipso facto void to all intents and purposes whatsoever, and that all such pattents are and shall be void, from the 20th day of May in the year of our lord God 1689, without any suit, action or process to be prosecuted for voiding the same.

Provided that nothing in this act contained, shall extend or be construed to extend to any office or offices heretofore granted to any person or persons whatsoever, by any charter or charters heretofore passed for erecting of any corporation.

SOURCE:

BL, G.6022 (122), pp 45–6.

12. AN ACT FOR THE PUNISHMENT<sup>487</sup> OF PERSONS WHO BRING IN THE COUNTERFEIT COYN OF FOREIGN REALMS BEING CURRANT IN THIS REALM,<sup>488</sup> OR COUNTERFEIT THE SAME WITHIN THIS REALM, OR WASH, CLIP, FILE OR LIGHTEN THE SAME

Whereas divers, and sundry coyns of gold, and silver of other realms, not being the proper coyn of the realm of Ireland, yet by the sufferance and consent of our sovereign lord the king are currant in payment within this realm, many ill-disposed persons, for<sup>489</sup> their own corrupt lucre and advantage, have for these many years last past, and especially now of late brought into this realm from the parts beyond the seas great quantities of forged and counterfeit mony like to the said coyn of other foreign realms, and others have counterfeited within this realm, such foraign coyn made by the kings sufferance and consent currant here, and wash, file, clip and lighten the same, and have uttered the same here, by merchandizing and otherwise to divers of the subjects of this realm to their great deceit, hurt and damage the said ill disposed persons, believing (and it being doubted by some) that there was not, nor yet is any sufficient law, or statute made or provided for the condigne punishment of the offenders in that behalf;

<sup>487</sup> 'for punishing' in *An exact list*.

<sup>488</sup> All the words before 'realm' are missing in Marsh's Library.

<sup>489</sup> 'of' in Marsh's Library.