CATHOLICS AND THE CLANDESTINE MARRIAGES ACT OF 1753

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Introduction

In 1753 the Clandestine Marriages Act was passed, putting the formalities required for a valid marriage on a statutory footing for the first time. Only Jews, Quakers, and members of the Royal Family were exempted from the requirement that marriage should be celebrated according to the rites of the Church of England. The marriage ceremonies of Catholics and other Protestant dissenters had no legal status.

There has been much debate as to the extent to which the Act was a radical break with the past, and to how far couples married according to the forms it prescribed. Rather less attention has been paid to the effect of the Act on those who might have had religious objections to marriage according to the Anglican form, although some commentators have speculated that non-observance was widespread, without providing any supporting evidence. Certainly, there is no evidence that Protestant dissenters married according to their own religious rites after 1754: when dissenting congregations submitted their registers to the commission set up to examine non-parochial registers in the nineteenth century, only one was found to continue beyond 1754, and this was simply a register of marriages that had taken place elsewhere. Catholic congregations, by contrast, refused to submit their registers to the commission. A number of Catholic marriage registers relating to the second half of the eighteenth century have been published, while others lie in county record offices. But is the existence of such registers evidence of non-compliance with the 1753 Act?

The key question is not whether Catholic couples went through an invalid Catholic ceremony of marriage, but whether they also submitted to the legally binding Anglican rites. At first sight the very idea might appear unlikely, on the grounds that it would be incompatible with one’s status as a Catholic to attend the religious services of the Church of England. But such an approach
Benedict XIV had considered the question of whether Catholics in Protestant countries should submit to legislation requiring them to be married by a minister of the established church, and had held that ‘it was quite legitimate for Catholics to obey the civil law in this matter’. 6

But what happened in practice? There have been some studies on the extent of compliance among Catholics. One carried out by Williams suggested that a number of Catholics in Wardour, Wiltshire, married solely according to their own religious rites. 7 Similarly, Rowlands, having examined the register of Catholic marriages at Brindle in Lancashire, concluded that ‘most of the Catholics of Brindle in the heart of Catholic Lancashire regarded Hardwicke’s Marriage Act as something to be ignored’. 8 However, as explained below, the methodology adopted in these studies was not unproblematic. The findings set out in this paper provide a very different perspective on the extent of compliance, and show why other studies have been less successful in tracing the Anglican marriages of Catholic couples. The evidence illustrates not only the importance that was attached to a legally binding marriage but also the way in which couples accommodated the demands of the law with their religious faith.

The test group

The test group consisted of 95 couples who married in a Catholic ceremony at the Catholic stronghold of Coughton Court in Warwickshire between 1758 and 1795. 9 Coughton, one of the seats of the Throckmorton family, has been described as ‘one of the earliest recusant houses in the country’, and from an early date operated as a place to celebrate mass. 10 On a tour of the house, the authors were shown the saloon where the ‘mass chest’ was kept in the eighteenth century, as well as the priest-hole that facilitated a quick disappearance if necessary. The Coughton marriage register was chosen for study because of the level of detail it provided (including information about the parties’ parishes of residence in most cases, and often whether both parties were Catholic or not), and because other Catholic registers in the Warwickshire archives recorded only a few marriages. 11

The hypothesis of compliance tested

The main research finding can be simply stated. Every single one of the 95 couples who went through a Catholic ceremony at Coughton also went through an Anglican ceremony. But how and when they married throws an interesting light on this picture of universal compliance.

Thirty-one couples had married in the contiguous Anglican parish church of Coughton with Sambourne. Following up the other parishes of residence specified in the register of Catholic marriages enabled a further 51 Anglican marriages to be traced in 12 different parishes. 12 The final 13 were traced using the electronic database of the International Genealogical Index: in six cases it was clear that the parties had married in a parish other than that stated in the
Catholic register, while in the remaining five the absence of details for one or both parties made it impossible to ascertain whether the parties had married in a parish where one of them was resident or not. It should be noted that those six marriages that took place in an Anglican parish where neither party was resident would still have been valid: the 1753 Act directed, rather than mandated, that a marriage should take place in a parish in which one or both of the parties resided, with the result that once a marriage had been celebrated it could not be invalidated on the ground that the parties had not resided in the place where the banns had been published or the marriage solemnised.13

As one would expect, in most cases the Anglican ceremony took place in a parish not too far distant from Coughton. Measuring the distances from Coughton Court to the relevant parish church establishes that 70 couples travelled five kilometres or less from the Catholic chapel to the Anglican church where they were legally wed. For a further 19 couples the distance was between 6 and 15 kilometres. The remaining six had travelled some distance: one couple from Bromsgrove, 17 kilometres away; one from Aston juxta Birmingham and three from Birmingham St Martin, both 27 kilometres distant; and the last from Winchcomb in Gloucestershire, some 34 kilometres away.

This pattern explains why other researchers may have underestimated the extent of compliance. The inferences of Williams and Rowlands were based on the absence of entries in the registers of only one parish. But, as the above discussion showed, less than one-third of the couples who went through a Catholic ceremony at Coughton married in the Anglican church of that parish. Had our researches ended with the parish register for Coughton, a very different picture of compliance would have emerged.

Significantly, however, these couples complied with the law on their own terms. In only 5 cases out of 92 did the Anglican ceremony precede the Catholic rite.14 In 46 cases the Catholic ceremony took place a day or more before the Anglican. In the final 41 cases, the two ceremonies were held on the same day. While it is impossible to determine which came first in this third group, it would seem likely that the Catholic ceremony preceded the Anglican in the same proportion of roughly 9:1. The favoured option was for the Catholic ceremony to take place on a Sunday (presumably when the couple attended mass) and for the Anglican marriage to take place the day after.

This pattern is perhaps surprising given the number of mixed marriages that took place: almost one-third are known to have involved a Protestant partner. The true proportion may be higher, since the religious status of both parties is not always stated in the register.15 Over a third of cases definitely involved two Catholics, but in the remaining 30 marriages the status of one or both parties is not specified. One would tend to assume that less weight would be given to religious convictions held by only one spouse. Yet the pattern observed in marriages involving Protestant spouses is virtually the same as that noted above. Of the cases where we can be sure of the relative dates, Catholic couples were marginally more likely to have the Catholic ceremony first (21 out of 36, or 58 per cent), but mixed couples showed no equivalent preference for going
though the Anglican rites first, with only two of them choosing this option. One might speculate that the willingness of a Protestant spouse to marry in the Catholic ceremony first, or indeed at all, might depend on the balance of power within the relationship. There are, however, no obvious differences in practice to support this. There were roughly equal numbers of Protestant husbands and wives: in 13 cases only the wife was Catholic, in 14 cases only the husband. Protestant husbands were just as likely to ‘marry’ in a Catholic ceremony first as were wives. If the order was dictated by the relationship of the parties, the relevant factors are not apparent from the bare bones of the register.

Conclusion

The findings in this paper cast light on an important aspect of legal and religious observance among Catholics. It would be erroneous to assume that their willingness to go through an Anglican ceremony raises any doubts about the strength of their faith. After all, many couples today who marry in a religious ceremony of marriage are also required to go through a civil ceremony, and we would not interpret this as evidence of creeping secularism. What the findings do show is the importance that was attached both to a legally binding marriage and to religious conscience: the former was satisfied by the Anglican ceremony, the latter by having the Catholic ceremony first. The Clandestine Marriages Act can be seen as achieving its aim of channelling marriages into a set form, even if it had failed to convince Catholic couples to put the Anglican ceremony first.

Of course, the fact that all those who went through an invalid Catholic ceremony at Coughton also chose to enter into a legally binding marriage by means of an Anglican wedding does not mean that all of their co-religionists would have behaved in the same way. But the case-study of Coughton does show that a survey based on a single parish register, or even on the registers of all the adjacent parishes, will give a seriously misleading impression of the extent of compliance with the Act. It should be acknowledged that luck played a part in the tracing of the 95 marriages examined here: if the Anglican registers had been missing, or incomplete, the result would have been very different. Nevertheless, the evidence presented in this paper suggests that it is necessary to revisit any conclusions of non-compliance based solely on the fact that a number of marriages could not be traced. This study does not only contradict the findings of earlier studies; the changing nature of the technology available for research has undermined the methodology used in those other studies.

NOTES

1. 26 Geo II c. 33.
2. See ss. 28 and 27 respectively.
3. See, for example, J. Gillis, For better, for worse: British marriages 1600 to the present (Oxford, 1985).
5. The National Archives, RG 4/3102.
9. Warwickshire Record Office (hereafter WRO), MI 163.
11. See, for example, WRO, MI161 (4 marriages before 1836); MI162 (8 marriages before 1836).
12. Alcester (12 marriages); Arrow (11 marriages); Great Alne (8 marriages); Bidford-on-Avon (4 marriages); Fecennham (4 marriages); Exhall and Wixford (3 marriages); Studley (2 marriages); Haselor (2 marriages); Salford Priors (2 marriages); Sperwall (1 marriage); Inkerrow (1 marriage); Bromgrove (1 marriage).
13. 26 Geo. III c.33 s.10.
14. In three cases there are inconsistencies in the surviving records as to the exact date of one or other of the marriages, and these have not been included.
15. Higher levels of intermarriage have been found in other samples: Gooch, for example, found that in his 1767 sample only half of the 916 marriages involving Catholics in the north-east of England were between Catholics: L. Gooch, “Chiefly of low rank”: The Catholics of north-east England, 1705–1814” in Rowlands ed., *English Catholics*, 250.