The Clandestine Marriages Act of 1753 in action: investigating a contemporary complaint

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In 1765 the Rector of Hinton Ampner, Thomas Wingfield DD, inveighed against the Act for the Better Preventing of Clandestine Marriages that had been passed in 1753, requiring all marriages to be celebrated in the parties’ local parish church after the calling of banns or the obtaining of a licence. In his response to the Bishop’s inquiries about compliance with the legislation, he expressed the wish that it should be repealed, ‘because I think it is attended with very bad consequences, having not had any one marriage for more than seven years, the time that I have been rector of this parish’.1

Wingfield’s evaluation of the 1753 Act fits with that of many modern scholars. John Gillis, for example, talks of ‘massive non-compliance’ and suggests that cohabitation actually increased in the wake of the Act.2 More tentatively, Lawrence Stone suggests that while ‘the lower levels of the middling sort’ would have complied with the Act, others would have ‘relapsed into concubinage’.3 Others have similarly contended that the Act was a failure, and that many couples did not comply with its requirements.4 Drawing on such analyses, Douglas Hay and Nicholas Rogers portray the popular response to the Act as a rare example of a situation in which custom was able to triumph over law.5 That these analyses of the Act appear to be supported by the evidence of one who was actually ‘on the spot’ and in a position to observe the impact of the Act might be thought a weighty consideration in their favour. But how far were Wingfield’s criticisms justified?

3 L. Stone, Road to divorce (Oxford, 1990), 129.
A first glance at the register might seem to confirm his story: since his induction as rector of the parish on 28 April 1758 he had not personally celebrated a single marriage. But this does not mean that the parishioners of Hinton Ampner were choosing not to marry. One marriage had in fact taken place in Hinton Ampner during this period, on 6 December 1759, but it was solemnised by James Richardson, the curate. The reason for this is likely to have been Wingfield’s state of health: as he noted in his response to his bishop’s inquiries, he had been away from his parish during the winter, ‘labouring under a very grievous paralytic disorder’.

Indeed, further perusal of the registers suggests that dissatisfaction with Wingfield, rather than opposition to the 1753 Act, accounts for the decline in the number of marriages in this period. After all, marriages had been celebrated in Hinton Ampner in 1755 and 1756—after the Act came into force on 25 March 1754 but before Wingfield’s arrival in 1758. And in the wake of Wingfield’s complaint in 1765, marriages began to be celebrated in the parish once more. But again they were not solemnised by Wingfield himself: the officiating minister was usually Thomas Durnford, rector of the neighbouring parish of Bramdean, although occasionally a curate—or, once, a chaplain of the Royal Navy—took the service. While it is not possible to ascertain Wingfield’s whereabouts while others were officiating on his behalf, the dates of the marriages celebrated during this period do sometimes suggest that the parishioners took advantage of their rector’s absences from the parish. Of the three marriages celebrated in 1767, for example, two were in July, while, in 1769, two of the three marriages occurred within ten days of each other, in October, and in 1768 one marriage was solemnised on 11 October and one a mere two days later.

Further confirmation that the absence of marriages in the Hinton Ampner register was not attributable to any dislike of the new Act may be found by examining the marital status of those whose children were baptised in the parish during Wingfield’s incumbency. Of the 24 couples whose children were baptised between 1758 and 1773, marriages have been traced for at least 18, or 75 per cent, a figure that is certainly comparable to the proportions traced in other parishes from sources of this nature and quality. In the remaining cases, one suspects potential misrecordings may be responsible for obscuring potential matches. We know, for example, that Charles Hawkins married Catharine Camiss in December 1762 in the neighbouring parish of East Meon, and that two of their children were baptised in Hinton Ampner in 1769 and 1774. It seems likely, therefore, that the entry in the baptism register that records the baptism of a child of Thomas and Catharine Hawkins in 1763 was erroneous. Similarly, the baptism of a child of Charles and Mary Kemp in 1769 followed shortly after the marriage of Charles Kemp to Elizabeth in 1768. The lack of continuity in recording—the entries in

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6 Ward, Parson and parish, 193.
the baptism register are in a variety of different hands—made such mistakes all the more likely. 8

It should be admitted that relying on the baptism register to provide a cohort of couples whose marital status can be tested poses its own problems: is such a sample genuinely representative of the parish as a whole? In this case the problems are exacerbated by the suspicion that the baptism register itself is deficient. In the decade before Wingfield’s arrival, the average number of baptisms per year was 6.9. After his arrival in April 1758, the register shows an average of 2.2 children being baptised in the first seven years of his rectorship. This rose to an average of 5.3 per year in the following nine years—the period during which Thomas Durnford and others were solemnising marriages. And, under a new incumbent, the average number of recorded baptisms for the years 1774 to 1779 rose to 10.2 per year. But while this deficiency in the baptism register may make it unsafe to draw more general conclusions about compliance with the 1753 Act from a case study of Hinton Ampner, it does at least reinforce the point that the behaviour of the parishioners cannot be attributed to that particular piece of legislation, but rather to their reluctance to involve Wingfield in such important rites.

Of course, the fact that Wingfield’s fulminations about non-compliance in his own parish can be shown to be ill-founded does not of itself establish that the population as a whole did comply with the Act. But there is ample evidence elsewhere that this was the case. One very visible result of the Act was that record-keeping improved considerably, making it easier to trace those marriages that did take place. 9 Another consequence was an increase in the number of marriages celebrated in those parishes that had previously lost out to places that conducted clandestine ceremonies. This was particularly marked in London, where prior to the 1753 Act many couples had taken advantage of the option of being married by parsons operating out of the Fleet Prison. 10 A survey conducted in the early 1760s found that almost all London parishes had witnessed an increase in the number of marriages celebrated after the Act: at St Clement Danes, for example, the number more than doubled, 11 while at St James Westminster the rise was even more dramatic, as shown in Table 1. 12 The extent of the increase clearly came as a surprise to some of those who responded to the survey: the clerk of St Botolph Aldersgate—which had seen the number of marriages increase from 83 in the six years before the Act to 281 in the six that followed it—frankly admitted that ‘[b]efore I examined I expected to have

11 Lambeth Palace Library, Fulham Papers, Terrick 6, fol. 2.
12 Ibid., fol. 3.
the Difference on the contrary side’, which reinforces the importance of not taking contemporary statements at face value.13

Outside London, by contrast, some parishes saw an increase and some a fall in the wake of the Act.14 But this simply reflected the fact that the provinces had not had the same facilities for celebrating marriages clandestinely as had been available in London. Rural clandestinity had tended to involve marriages being celebrated in the wrong church—that is, one in a parish where the parties were not resident—rather than in no church. As a result of the Act, any parish which had previously attracted a high number of couples—whether because of cost, convenience, or other factors—experienced a fall in the number of marriages after the Act, as couples dutifully complied with the residential requirements. But if one examines the numbers marrying across a large number of parishes, the gains and losses of individual parishes evened out.15

That compliance with the 1753 Act was—contrary to Wingfield’s claim—almost universal can therefore be clearly demonstrated.16 What Wingfield’s story does tell us is that even apparently unequivocal evidence from contemporary commentators must be treated with caution. Thomas Wingfield may have convinced himself that the lack of marriages at Hinton Ampner was due to the Act; that it was due to some failing on his part may have been a painful truth that he did not wish to contemplate.

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13 Ibid., fol. 67.
14 Ibid., fols 6–8.
15 See R. Probert, Marriage law and practice in the long eighteenth Century: a reassessment (Cambridge, 2009), chapter 7.
16 See further, Probert, Marriage law and practice, chapter 7.