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Commonwealth marriages

A fruitless recent search in the parish registers of Cirencester and Baunton for missing forebears threw up two interesting items illustrating the effect of the Commonwealth legislation on marriages. *An Act touching Marriages and the Registring thereof; and also touching Births and Burials* of 24 August 1653 provided that only Justices of the Peace could perform a marriage ceremony after publication of banns on three holy days (i.e. Sundays) in a church or chapel or, if the couples preferred, in the market place on three market days: 'And no other Marriage whatsoever within the Commonwealth of England, after the 29th of September, in the year One thousand six hundred fifty three, shall be held or accompted a Marriage according to the Laws of England'.

Alexander Gregory, minister or perpetual curate of Cirencester 1632–42 and 1647–62,[21] is best known for his entry on the execution of King Charles I, writing in the margin of the parish register, beside the burials for January 1649: 'Oh! England, what didst thee do the 30th of this month'.[22] Gregory was a Presbyterian, that is a Puritan who remained within the Church of England but was anti-episcopalian. Before the siege of Cirencester in January 1642, he encouraged resistance by saying he had 'begged the town of the Lord'.[23] Fleeing the town after the royalist victory, he was taken prisoner 'armed back and breast' according to the account.[24] He was one of those taken to Oxford in January 1642, but was not one of the signatories to the abject petition to the king

20. Glos. Archives [GA], D855/M2, f. 194.
21. E.A. Fuller, *The Parish Church of St John Baptist, Cirencester* (1882, repr. 2012). The complicated history of the title of the cleric at Cirencester is described in the chapter on 'The Advowson', starting on p. 71.
22. Ibid. 33, stating it was written in a later handwriting: A.G. Mathews, *Calamy Revised* (1934), 235.
23. W.K. Beecham, *History and Antiquities of the Town of Cirencester* (1841), 13.
24. Ibid. 23.

for release.[25] He is next found first as vicar of Camberwell (Surrey) and then as rector of Lambeth (Surrey) until he yielded to the entreaties of three parishioners of Cirencester and returned there as minister. He was one of the 'Triers' set up by Cromwell in 1654 to assess the suitability of future parish ministers in the area.[26] The Restoration showed he was a man of principle, as he resigned rather than accept the Act of Conformity in 1662, for 'he would not barter his conscience for a king's smile and a bishop's mitre'.[27] He remained in the town as a nonconformist minister until forced to leave by the Five-mile Act in 1665; he moved to Minchinhampton and died there in 1666.[28]

Between the entries for marriages in the Cirencester parish register for April and May 1655 is the following note by Gregory:

> That the reason wherefore here wanteth Sevall yeares, and some Sevall monthes, for Weddings, at this time the rump of Parliament sett forth an Act that all banes should bee published three Sevall Markett days at the High Cross, and after such Publishing, the pties to bee married by a Justice of Peace, soe that then was but little to bee done inn Churches, the said Parliament all Consisting of Anabaptist and Independants.[29]

Clearly, Gregory did not approve of the rump parliament. While there were still some marriages recorded in the following years, until 1657 they would have had no legal force. It is not, however, clear whether they merely recorded marriages by a Justice of the Peace rather than ignoring the Act.

The following entry in the parish register of the neighbouring parish of Baunton suggests some still sought religious as well as statutory validity for their marriage:

> Anõ Dñi 1654, ffeebruary 26. Baunton
>
> Richard Whitmore of Nether Slaughter Com Glouc
> Esq, & Elizabeth George sole daughter & hyre of John
> George of Baunton Com prd Esq, were married in the
> Chancel of the Church of Baunton aforesd according
> to the ancient forme and rites prescribed in and by the
> liturgy & comon prayer booke upon the 26th Daye of
> ffebruary, beinge the Shrove Monday, by me Henry
> Topp Curat there in the pnce of the sayd John George
> & Elizabeth his wife parents of the sayd Elizabeth
> now the wife of the sayd Mr Whitmore, Andrew Solace
> one of the Justices of Peace of the sayd County, John
> Dewxell servant to the sayd John George, Willm
> Wilson servant to the sayd Mr Whitmore, Pool
> Byrt & Henry Byrt sons of Henry Byrt of
> Baunton aforesayd yeoma & others; The sayd Richard
> & Elizabeth his wife beinge first married ye

25. K.J. Beecham, *History of Cirencester* (1887), 37, 298–300.
26. Mathews, *Calamy Revised*, 235.
27. J. Stratford, *Good and Great Men of Gloucestershire* (1867), 136.
28. Fuller, *Parish Church*, 95–6 for a fuller account of his life. The Act required Gregory to live at least 5 miles from Cirencester: Mathews, *Calamy Revised*, 235.
29. Fuller, *Parish Church*, 31–2: Anabaptists and Independents were both outside the Church of England, the former rejecting infant baptism and both being anti-episcopalian, like the Presbyterians.

same morninge in the parlor of the dwellinge house
of the sayd M^r George by the sayd Andrew Solace
according as by the Act touchinge Marriages and
Burialls of the 24 of August 1653 is ordered,
in the pnce of most of the psons above mentioned.
Entired by me the sayd
Minister [Clerke *erased*]
Henry Topp Registrar clercs

Alas, the marriage did not last long. A monument in Baunton church records Elizabeth's death on 1 May 1656, aged 22. There were no children, although Richard Whitmore remarried and had issue according to the pedigree of Whitmore of Lower Slaughter.[30]

This is the only marriage recorded in Baunton between 29 September 1653, when the Act came into force, and 26 June 1657, when a new Act in that year repealed the provision in the 1653 Act making marriage which did not follow its provisions invalid. However, the 1657 Act lapsed in October 1657, six months after the end of the parliamentary session; the legal position was then unclear until 1660, when the Confirmation of Marriages Act validated all forms of marriage which had taken place since 1 May 1642. At Baunton, there was one marriage recorded normally in 1658, and four in the following year.

On 20 May 1658, Gregory's daughter Bridget was married at Preston near Cirencester to Mr (later Bishop) Bull by Mr William Master, 'according to the rites of the church of England'.[31] This appears to be an example of the 1653 Act being ignored. The Master family were well known royalists.

John George was the head of the George family of Baunton, descended from the bailiffs of Cirencester abbey. He was elected as a borough Member of Parliament for Cirencester on 10 October 1640. He assisted in organizing the town's fortifications at the beginning of the Civil War, in August 1642, when the royalists threatened the town with 'fire and sword' after the expulsion of Lord Chandos.[32] He was, like Alexander Gregory, taken as a prisoner to Oxford after Prince Rupert conquered the town in January 1642/3. As he was not one of those who signed the petition to the king, he must have remained a prisoner for some time. In May 1643, Colonel Fiennes, the parliamentary governor of Bristol, determined to execute the conspirators who had tried to open the gates of that city to the royalists. In a vain attempt to save them, the earl of Forth, who was then in charge of the royalist army, threatened to execute George and others if he did so. But, although Fiennes did execute two of the conspirators, the earl relented. This caused George to moderate his views, and with other leading Presbyterian members of parliament, he sided with more moderate members in favour of the king. As a result, he was 'expelled from the house' in September 1645 for following the king to Oxford in 1644. He was buried at Baunton on 6 January 1678/9.[33]

30. T. Fitz-Roy Fenwick and W.C. Metcalfe, *The Visitation of the County of Gloucester 1682–1683* (1884), 201.
31. Stratford, *Good and Great Men*, 137. The 'Clergy of the Church of England' database (https://theclergydatabase.org.uk/, accessed June 2019), sourcing the Visitation or *liber cleri*, gives William Masters as rector of nearby Coates in 1635, and is presumably referred to.
32. K.J.Beecham, *Hist. of Cirencester*, 32, 34.
33. W.R. Williams, *The Parliamentary History of the County of Gloucester* (1898), 157; W.S. Baddeley, *A History of Cirencester* (1924), 246, n. 11, on following the king to Oxford; H. Chitty and J. Phillipot, *The Visitation of the County of Gloucester taken in the year 1623* (1885), 247–9, which includes a pedigree and details of the George family.

Henry Topp matriculated at Oriel College, Oxford, on 8 May 1607 aged 18. He became a B.A. on 26 November 1610 and an M.A. on 5 May 1620.[34] He was appointed schoolmaster of Cirencester Free School in 1615.[35] Following complaints in 1639, he was asked to appoint an usher as an assistant. He ignored the request and was then asked to leave, which he also ignored. But in 1641 he agreed to leave for payment of £80. He took the money, but did not leave until 1649.[36] Topp's wife Elizabeth was buried in Cirencester on 27 February1642/3.

It is difficult to establish the years when Topp was curate of Baunton. Writing in the parish register on 24 August 1653, he refers to his being curate then and on St Mathias' day (24 February) 1646/7.[37] He signed marriage entries there not only in 1654, but also in 1662 and 1664. The handwriting in the parish register appears to be Topp's from 1639 to 1658 and then again from 1661 until at least 1664, but different in the latter part of 1658 until 1661. Although he has an entry in *Walker Revised*, it is not clear what his suffering was. Possibly he lost the schoolmastership because of royalist views, or possibly he lost the Baunton curacy in 1658 and was reinstated after the Restoration.

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34. *Alumni Oxonienses 1500–1714*, 1496.
35. A.G. Mathews, *Walker Revised* (1948), 177, gives the date 1615. The 'Clergy of the Church of England' database, sourcing the visitation, or *liber cleri*, shows he was in office on 6 June 1616. GA, P86/1/SC/1/1, notes that he signed the school ordinances on 1 January 1619/20, but incorrectly puts his appointment on this date.
36. Mathews, *Walker Revised*, 177–8; E.A. Fuller, 'Cirencester Free Grammar School', *Trans. BGAS* 11 (1886–7), 124–5.
37. See also *Glos. Notes & Queries* 3 (1887), 71, for these dates and Topp's note on water the colour of blood running from a table board.
38. B. Frith (ed.), *Bigland's Gloucestershire Collections*, *Part 4* (1995), 1418. Bigland (1711/12–84) was a herald and a king of arms from 1759 until his death. His *Collections* appeared posthumously, and some material of variable quality was added between his death and their protracted publication. Frith's work publishes for the first time the alphabetically late parishes, for which plates had long existed.
39. My reading of the printed <r> is uncertain but probable.