

# ◆ The courts of true love

By Peter Wilkinson

*The story of Richard Tayler and Margaret Osborne has two important elements. First, it tells in vivid detail the vicissitudes of a relationship spanning the first 18 years of the 17th century. The events are mainly recounted by observers, ostensibly from the neutral stance of a court witness, yet in many instances revealing their own involvement and sympathies. The range of the subject matter is remarkable. The initial tensions between gentry and yeoman families lead into a saga: courtship, elopement, parental opposition which produces a legal battle, the imposition of an arranged marriage, a young woman's resistance and eventual desertion and, finally, a further legal battle to achieve the remarkable dénouement of annulment (divorce in modern terms) and remarriage. Secondly, the medium through which the story is delivered is as significant as the events themselves. The ecclesiastical court process provides a series of witness statements aimed at establishing an impartial narrative of events, rather than a condemnatory description of crime. The court's principles are based on compromise and negotiation rather than the determination of incontrovertible guilt or innocence. But its final decisions demonstrate real power (underestimated by many modern commentators) to enforce major life changes on the litigants who opted to use the system.*

## THE CHICHESTER DIOCESAN COURTS

Modern historians – probably rightly – paint a bleak picture of male-dominated sexual relations and marriage in the early modern period. Milton encapsulates the themes: after woman is formed from man (and later betrays him in the Garden of Eden) the rule must be ‘He for God only, She for God in him’. And his dismissal of ‘loveless joyless unindeared casual fruition’ sums up many of the stories we read in 17th-century records. (Milton of course also produced a personal reaction with the radical proposals of *The Doctrine and Discipline of Divorce*, but that was a step too far for his contemporaries.)

Yet this picture is oddly in contrast to the world we see in Elizabethan and Jacobean literature, in Donne's *Elegies* and Shakespeare's *Romeo and Juliet*. Some of this contradiction stems from the available source material. If we seek intimate personal accounts from real life, we find the most accessible material in legal records. The ‘correction’ or ‘office’ cases in the church courts and the prosecutions in the secular courts provide a multitude of accounts of misbehaviour and physical abuse. They document the contraventions of the rules of the rigid system established by God and Man.

There is another legal source, however, which is often used in conjunction with these records:

the records of instance causes, which were created by a separate court process dealing specifically with disputes between parties (including, *inter alia*, matrimonial issues). For the most part their records reinforce the established conventions – though they concern themselves more often with verbal contract than physical contact. But they can sometimes tell a story that reflects the world of both the poet and the law enforcer.

In comparison with the secular courts, the importance of the church courts has only in recent years received its due share of attention. They played an important role in their dioceses and in the urban life of major towns, where they operated a busy legal machine in the bishop's diocesan headquarters. While the secular courts continued to enforce the common law machinery dealing with felonies and misdemeanours and civil disputes (through the Assizes, Quarter Sessions and the local magistracy) the ecclesiastical courts had become particularly active during the period 1570–1640 when the maintenance of religious orthodoxy in the newly established church needed to be reflected in the personal morality of its members. The courts (in Sussex usually termed consistory courts) were now expected to bring legal discipline into areas of life where the secular machinery of the law had not entered. In broad terms, they operated procedures similar to the criminal and civil

aspects of the secular system while adopting the processes of canon or civil law.

One consistory process that can, for simplicity, be termed 'office', dealt with cases brought forward by the 'office of the judge'. It operated by a kind of summary jurisdiction, which dealt usually with offences (usually termed 'correction' or 'detection') which had been 'detected' by local churchwardens and clergy. As well as failures in religious observance, it heard a remarkable volume of sexual offences (especially fornication and adultery) – earning its Puritan nickname of 'bawdy court' – and imposed a range of punishments (usually penance or excommunication).

Running parallel was a second process, which can be termed 'instance' – and which will provide the focus for this article. Cases were brought *instancia partium*, at the instance (and expense) of parties, roughly equivalent to a modern civil suit between individuals. There were four principal types of case: tithe, matrimonial, testamentary and defamation.

In Sussex the diocese of Chichester was roughly coterminous with the county (though the bishop's jurisdiction was limited in certain parishes where the Archbishop of Canterbury held superior jurisdiction). In many dioceses there was a hierarchy of courts, the archdeacon's representing the lowest level and the bishop's consistory or commissary court the superior. To deal with the business generated by so large and awkwardly shaped a county as Sussex, by the end of the Reformation a new pattern of church courts had evolved. In the period between the 1480s and the 1530s a series of rearrangements transformed the medieval structure into a relatively simple system.<sup>1</sup> As the diocese was divided into western and eastern halves (the Archdeaconries of Chichester and Lewes), the diocese now provided a single consistory court for each area.

The extensive surviving records show that they dealt with a remarkably heavy workload, making use of professional staff to do so. We can provide a clear picture of the activities for the western half of the county, and these were broadly replicated in the east. In Chichester throughout the year, apart from breaks at Easter, harvest and Christmas, Saturdays in the Cathedral saw lengthy sittings of two consistory courts (office and instance). On court days the Archdeaconry cases could amount to 30 or more in each court. In addition, alternate

Fridays usually saw sittings of two further courts: one for the ten parishes which formed the Dean of Chichester's peculiar jurisdiction, and another for a further ten parishes, scattered through West Sussex, that formed the Archbishop's peculiar of Pagham and Tarring. During the rest of the week the court staff were busy with a multiplicity of tasks, generated not only by court business (including the elaborate process of summoning and examining witnesses), but also by the important administrative responsibilities of dealing with the proving of wills and the issue of marriage licences.

In their later periods the courts acquired a reputation as ineffective and slightly comic – perhaps from the Puritan sneers. But in the decades up to the Civil War their proceedings (and particularly those in instance cases) were thoroughly professional and demanding.

The courts were serviced by a team of judges, registrars, lawyers and apparitors. It is slightly surprising to note that most of the senior officials were associated with the cathedral establishment rather than the bishop – and the consistory sittings were almost always held in the Cathedral's south transept. A snapshot of the court staff over the period of the first case to be described provides a typical view of the establishment before the Civil War. In 1602–3 the principal judge, the bishop's chancellor or commissary, was a highly qualified civil lawyer, Anthony Blencowe, who held office from 1590 to 1606. A Doctor of Civil Law, he was active at Oxford, where he had been Provost of Oriel since 1574 and where he became diocesan chancellor around 1606. Blencowe delegated most of the regular work of sitting as judge in the courts to two surrogates with academic backgrounds, both of them residentiary canons and senior members of the Cathedral chapter: Henry Blaxton, DD, and Francis Cox, BD. The judges were assisted by the bishop's registrar and receiver, Richard Juxon,<sup>2</sup> Notary Public, and occasionally by another notary, Christopher Theker. The registrar was responsible for the important task of recording the depositions of the witnesses. Two proctors served as barristers for the parties in all the cases, performing Box and Cox roles which must have entailed a remarkably heavy workload. The career of one, Hugh Barker, is well documented. A Bachelor (and later Doctor) of Civil Law, he held the prebend of Highleigh and combined his duties with the headmastership of the Prebendal School (where his most famous

pupil was the lawyer and linguist, John Selden).<sup>3</sup> He was also the Dean's Commissary and sat as judge in the Dean's peculiar court. After 1607 he practised in Oxford and London, holding senior posts in the Court of Arches. The career of his fellow proctor, Edward Cooke, is less well recorded, but he certainly practised at Chichester for the period 1602–17 and probably longer. Court work at a humbler level was performed by apparitors, of whom the most active were Thomas Wady and Ellis Hames. Their principal duty was to ensure the appearance of parties and witnesses by serving them with citations at their place of residence – a task which must have demanded continuous journeyings around the parishes of the Archdeaconry.<sup>4</sup>

The court process was based on civil and canon law, and this has ensured a rich archival legacy. Instance cases produced their key evidence in the form of lengthy depositions from witnesses, all of which were recorded verbatim in an impressive series of registers. In the depositions the witnesses responded to an elaborate series of statements and questions posed by the lawyers for each party (Fig. 1). Instance procedure was far more elaborate than office, and leant towards negotiation and compromise between the parties.

These depositions provide an attractive and easily accessible (but still under-exploited) source for social and local history for the early modern period. They describe in considerable detail incidents that provide a vivid picture of the daily lives and relationships within their community. The convincing, one might almost say seductive, picture they paint must of course be treated with caution – as must any statement produced at the behest of parties in a legal dispute. But in many cases it is possible to establish a groundwork of factual and verifiable information. The depositions are part of a process constructed to produce a legally accepted solution. Each witness is responding to a set series of statements and questions. These are part of a formal but subtle process created by both parties. The most common sequence can move through a 'libel', a basic narrative set out by the plaintiff, which may be supplemented later by 'additional positions'. The defendant submits interrogatories to investigate the status and sympathies of the witnesses and contested areas of fact. These can be followed up by 'exceptions'. Either side can contest further by submitting

'allegations'. Beyond this there is scope for further processes, though they are less frequently invoked. The witnesses, though initially called by the plaintiff, have to indicate whether they appear voluntarily. Their character and personal history can be scrutinised during the examination. The material submitted to the witness at examination has to be accepted by the judge before submission. The resulting depositions (which respond to both parties in the case) can be surprisingly impartial or ambivalent. The process can certainly bring to the surface the tensions and uncertainties among the parties and the witnesses. Apart from its civil law basis and differences in its terminology, the instance procedure has strong similarities to that of Chancery equity suits.

The very intimacy of the proceedings militates against extreme and deliberately misleading statements. In the course of each weekly court session many cases will move through a stage. Each case will be in the hands of the same two proctors who are acting for plaintiffs or defendants in a string of different cases. The emphasis (despite the adversarial framework) is to move towards negotiation rather than dramatic courtroom confrontations: instance proceedings, while much more elaborate than office, have the capacity to achieve compromise between the parties.

But the court procedure makes the cases difficult to follow. The method of recording their progress in the court's act books can be uninvitingly opaque. They record rigid and complicated procedures in uncompromisingly formulaic and abbreviated Latin. And, frustratingly, the acts do not set out the final verdict. The end of proceedings is marked when the judge gives his 'sentence' (i.e. verdict) – but which party could be considered the winner is not specifically stated. Many cases, in fact, actually lapse before sentence is reached – as frequently also happens in common law litigation. It has been shown<sup>5</sup> that in at least one type of litigation, defamation (and also in some matrimonial cases), the publication of the witnesses' narratives may serve the parties with the opportunity to proclaim grievance or vindication without the necessity of a formal conclusion. Uncertainties such as these emphasise that depositions are at their most valuable when they can be read within a framework of verifiable facts. At the most basic level these should be established within the court proceedings and their

outcome. But they are even more informative if they can be seen in the context of recorded events within the local community where the proceedings have made their impact. The research needed to establish this can be complicated and laborious – but it can add a new dimension to what the witnesses described.

I hope to demonstrate this by the examination of the instance proceedings in two matrimonial cases and the events around them during the period 1600–17. By the beginning of the 17th century, such cases formed the smallest proportion of court business, which probably reflected the difficulty of producing a resolution that could be binding on both sides. Matrimonial suits dealt largely with two basic issues. The more frequent, spousal or betrothal cases, attempted to establish the possibility of a legal marriage; separation or annulment cases tackled the breakdown or invalidity of a marriage. These latter became progressively rarer during the decades before the Civil War.<sup>6</sup> But we can see from these two examples in the Chichester courts that matrimonial litigants could make attempts to bring about a judicial result – and that the verdicts could make quite remarkable impacts on the lives of the parties. They also illuminate contemporary perceptions of the legal nature of marriage transactions.

Certainly, the routine casework of the court must have been enlivened by the two cases introduced in 1602 and 1616 by Richard Tayler, gentleman. Each sets out a remarkable narrative.

#### THE TAYLER OSBORNE CASES

The first episode in a lengthy saga occurred on a Sunday in June 1600 when Richard Bishoppe of Lewes, a prominent member of the town's establishment and currently serving as one of the Constables, was doing his rounds. During the time of divine service, he searched the inns to find anyone failing to attend church. In the Star he found a young couple, Richard Tayler and Margaret Osborne, and elicited the information that they had eloped from near Chichester and intended to get married in Lewes. But Margaret was a minor, and Bishoppe's questioning revealed that she did not have her father's consent. His prompt and kindly reaction was to take her into his own house while a letter home was dispatched. Two years later this episode is described in the first of

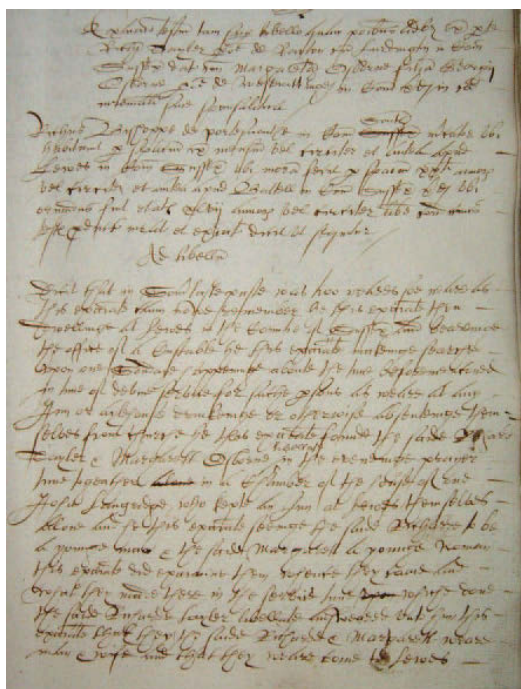


Fig. 1. Deposition of Richard Bishoppe (WSRO Ep I/11/9 f. 160r, by permission of the County Archivist of West Sussex). The opening section of the deposition includes the formal legal title and the witness's mini-biography (both in Latin), followed by his account of the first meeting with the runaways in Lewes.

a series of depositions preserved in the records of the Bishop of Chichester's Consistory Court for the Archdeaconry of Chichester.<sup>7</sup> From its records we can recreate the story, through two decades, of what must have been a rural love affair.

The scene of much of the story of the young lovers was West Wittering, a few miles south of Chichester. Richard Tayler was a gentleman, born around 1575. He had substantial property in West Wittering and links with the important gentry family, the Gunters of Earnley and Racton. As I shall show later, it is clear that his circle also included lawyers, which suggests that he had some law training or at least legal interest.<sup>8</sup> The girl he had fallen in love with would not have seemed an obvious match. Margaret was a minor, probably about 13 years of age and of little education.<sup>9</sup> As the daughter of a yeoman she was socially a class below him. The match was implacably opposed by her father George Osborne, of Hale Farm, West





Fig. 2. Hale Farm, West Wittering. The farm was the home of George Osborne and his family. The present house dates from the 18th century but is thought to have replaced an earlier timber-framed building.

Wittering, whose actions cast him firmly as the *eminence grise* in the drama.

By the summer of 1600 Richard and Margaret had become firmly attached to each other; and Richard, both impetuous and determined, must have felt that he could not wait any longer. As they reached the gates of Margaret's home, Hale Farm (Fig. 2), while returning from a local wedding, Richard made a suggestion. Although it was relatively late, nine o'clock in the evening, they could go on to the nearby Court Barn in Birdham 'where there was dancing'. Margaret agreed, but stipulated that she must return home before her father was up next morning. Conveniently, Richard's friend William Hoskin appeared, on horseback, and Margaret was put up to ride behind him. Half a mile further on, at Newark Farm, Richard had his own horse waiting, and at this point he revealed his true plan: that

they should elope to Lewes. Margaret (though she later denied it) does not seem to have needed much persuading. They embarked on a remarkable journey. We can learn from William Hoskin's account how they:

rid all together to Arundel, and from Arundel to Ferring to one widow Waterfield's, and from thence to one Peter's house near unto Shoreham ferries, and from thence to Hurst[pierpoint] to one Whitepaine's house there, and there remained some three or four hours; and Richard both there and at many other places did confess and acknowledge that he and she were man and wife before divers credible witnesses.

The timetable of the journey is hard to disentangle, but it probably involved several overnight stays. It also involved a mixture of practicalities and marriage preparations. The

clothes Margaret had worn for the afternoon's wedding were obviously unsuitable for a 40-mile horseback journey. Her 'sleeves' and petticoats were disposed of at various places en route, and William Hoskin describes a substantial wardrobe which replaced them:

Richard provided for Margaret at Chichester a gowncloth, a changeable taffeta<sup>10</sup> apron, holland to make her a smock, a band and gorgett and a scarf and brought them to Hurst and then carried them and gowncloth to Lewes to be made; which she did wear and rid back again in the same gown to her father's house.

Further, during the stay at Hurstpierpoint, he recounts that 'he being without doors at the house of Whitepaine, Richard went into the house and fetched a measure of the finger of Margaret for to make a wedding ring for [her], which [William] should have provided at church'. A rather more embarrassing incident followed, when William:

coming into a room of a young man's house, near unto the house of Whitepaine found Richard and Margaret lying upon a bed together, he being all unbraced and she looking with a very high colour, whereupon [William] said 'Sister have you lost your maidenhead?' Unto which speeches Margaret made no answer.

Around this point in the journey, perhaps alarmed to hear that a 'hue and cry' had been raised to apprehend them, William left the couple and returned home.<sup>11</sup>

By Sunday Richard and Margaret had completed their journey and ensconced themselves in the Star Inn<sup>12</sup> at Lewes. Their story touched the hearts of the town's establishment and they were warmly welcomed into Lewes society. Richard Bishoppe had established that:

Margaret had her mother's consent and they hoped to have her father's in time; and Margaret did further declare [she] and Richard was contracted together and that she would never forsake him and that she did propose, God willing, to solemnise matrimony with him the next day or next day following but one.

When Bishoppe chided her that 'you will be of another mind when your father cometh' her response was determined: 'no never while she had breath in her body for she never meant to marry

with any man but Richard; and Richard answered the like that he would not marry with any other woman'.

Later they were guests at Bishoppe's family party, where his brother in law, John Stempe, put a question to Margaret: "'I understand that you shall take to husband Richard Tayler which is with you this day?" At which speeches she answered, "Yes I mean so to do and will do so". Then [John Stempe] said "I will drink to you upon that condition"; and then Margaret took her glass and pledged him'.

Richard Bishoppe later firmly stated his conviction that 'Richard Tayler and Margaret were man and wife before God, by reason whereof [he], during the time Richard and Margaret continued in his house, suffered Richard to come unto Margaret which otherwise [he] would not have suffered'.<sup>13</sup>

The arrival of Margaret's father, George Osborne, brought a swift end to this near-honeymoon period. Bishoppe had met him with a heartfelt plea when he told him:

what speeches had passed betwixt [Richard] and his daughter before many witnesses, and he told George he might do well to consent that they might marry. And further he told George that if Margaret were his daughter he would not hinder the marriage for £1000, for they were man and wife before God in his judgement.<sup>14</sup>

The response was not encouraging: 'George answered he would consider of the premises but at that time did neither consent thereto nor dissent therefrom'. The confrontation with the runaways followed, and George delivered his ultimatum: 'if she would forsake Richard and go with him she might, if not let her stay with Richard if she would'; whereupon Margaret said 'No I will go with you father'.<sup>15</sup>

The father and the chastened couple set off on the journey back to West Wittering.

Richard did not give up. At the time of the return he made a proposition 'that if George Osborne would choose two of his friends Richard would choose two of his, and if Margaret did not confess before them four that Richard and Margaret were man and wife, then he would never trouble Margaret any further'.<sup>16</sup>

George's response is not known. Shortly afterwards, however, there was a 'conference' between George, Richard and Robert Brincklowe, the vicar of West Wittering, in the churchyard

there, when George announced:

that, forasmuch as he did perceive that Margaret did bear Richard goodwill in the way of marriage and that because she was young and not fit to make her own choice, that if Richard would stay and forbear marriage the space of two years, and that Margaret did not in the meantime change her mind and determination but continue her good will and love towards him, that George then did and so would at the expiration give his express consent; and that in the meantime he should have such access to her and frequent her company.<sup>17</sup>

So Richard kept up his attentions – and wisely included his potential mother-in-law. Richard Bishoppe's deposition recounts an incident that casts an interesting light on their relationship, and on the divided loyalties within the family. He recounts how:

being in Chichester about Michaelmas last [1601] [Richard Tayler] brought [Thomasine] Osborne unto him and said, 'Goody Osborne this is the man that did apprehend me and your daughter at Lewes and made so much both of her and me and if it had not been for him we had been married for he intercepted us in the same marriage'. Then [Thomasine] Osborne gave [Richard Bishoppe] great thanks for his kindness and said 'I would to God it had not fallen out so but that you had been married there and then all had been ended and past'.

But at the end of the two years George did not keep his promise, and Richard reacted swiftly. In September 1602 he commenced a suit in the consistory court.<sup>18</sup> In the instance cause of Tayler *contra* Osborne, Richard was claiming that he and Margaret were formally contracted so that she could marry no-one else. Whilst the case was in progress it also blocked the creation of any other contract – and perhaps Richard had suspicions of such a possibility.

There is irony in the court proceedings in that the two lovers play the roles of plaintiff and defendant. Margaret's statements to the court suggest the gradual weakening of a young girl's resolve under pressure, in contrast to her enthusiastic declarations at Lewes. At the initial stage, in November 1602, she made her first statement, her *responsa personalia*, to the formal

case presented in the libel. While denying a marriage, she did admit a relationship and a clear understanding between the couple – in fact a conditional contract:

About three years ago Margaret being free from all other contract of matrimony did often talk and had divers times conversations with Richard of marriage to be had betwixt him and Margaret and at length by the importunate suit and request of Richard, Margaret did promise unto Richard that she would hereafter become his wife and be contented to marry with him upon this condition that her father and her mother would consent thereunto; otherwise if she could not get her parents' good will to marry with him she never would marry with him.

She ended by making a formal request to be released from her conditional contract (*a contractu matrimoniali conditionali*) and to be left free to marry any suitor, subject to her parents' consent.

Richard countered with additions to the libel, attempting to establish that she had eloped willingly and that she had accepted tokens that established a contract between them. But the tone of her response perhaps evidences an increase in parental pressure. She speaks as a completely submissive (it is tempting to say 'bullied') daughter. The elopement, she said, was 'by cunning and a trayne',<sup>19</sup> and she ends:

'That since Richard was a suitor in way of marriage she never made him any other promise of marriage than if her parents would consent thereunto; neither will she ever marry with him now while she liveth'.<sup>20</sup>

Conversations reported in the statement of her mother, Thomasine Osborne, heighten the sense of domination imposed by George over both wife and daughter. Thomasine admitted that:

she hath said unto Richard that for her part she would be contented, if so be that it were to the liking of Richard and Margaret and to the good liking of George, that they should be married. And that she spoke unto her husband at a time when Margaret was sick and told him that some folks thought that Margaret was sick for the love of Richard, which if it were so he might do well to give his consent that Richard and Margaret ought to be married; then George answered 'no sure it is not' and said he would never give

his consent; and [Thomasine] further saith that George bid her ask Margaret whether she did take any [conceit *difficult reading*] for the love of Richard, which [Thomasine] did accordingly and [Margaret] answered, 'No mother I take no thought for him. You are much deceived'.<sup>21</sup>

Both father and mother added a sinister touch by recounting an incident in early 1602 when:

Richard caused Margaret by cunning dealing to go with him from her father's house, [and] Richard presently stopped the mouth of Margaret because she would not cry out, and carried her a good way distant from her father's house by violence, and there did draw his dagger and threatened her that except she would consent to be his wife he would make an end of himself presently.<sup>22</sup>

All the remarkable detail of the story emerges through the depositions, which were arranged and taken during the five months after the commencement of the case. Once the court had received them – the last was made on 9 February 1603 – the case was set to move through its final stages. But then came a curious twist in the proceedings. The question was raised: had there been 'carnal copulation' between Richard and Margaret? Perhaps this had been sparked off by William Hoskin's brief account of the 'bedroom scene' at Hurstpierpoint.

The legal context for this issue is difficult to disentangle. In the pre-Reformation period it was generally accepted that intercourse after the public exchange of vows could mark the consummation of a legally valid marriage: '*verba praesenti carnali copula subsecuti*'. The Reformation produced a much greater emphasis on the church ceremony as a means of confirming a legal relationship. The courts condemned intercourse before marriage as fornication, even when there had been an accepted contract.

In the case of Richard and Margaret we have to base our interpretation on the limited formal record of the court act book. During the proceedings in February 1603, the Osbornes' proctor introduced an allegation against Richard. He denied it, and refused to be examined upon it. Even through the legal formalities of the act we can sense a strong reaction from him: on two occasions he takes over the conduct of his case from his proctor (*citra revocationem proctoris sui*). On 19 March his

proctor produced an apparent counter-allegation. Both stages of the proceedings are difficult to interpret, because the written allegations have not survived and the phraseology of the act book leaves much unstated or undefined. Richard's argument seems to be that he and Margaret made their promises and their contract, and that they then consummated it. He therefore invoked the traditional procedure, which demanded that Margaret should be physically examined by an approved team of women to establish whether or not she was a virgin.

The demand is a little surprising. By the 17th century such examination was rarely used – and if invoked it would be most likely to represent an attempt to establish that, by consummation, a promise of future intention to marry (*verba de futuri*) had been converted into a firm and presently binding contract (*verba de praesenti*). In framing the depositions of the Lewes witnesses, Richard and his proctor had obviously set out to establish a firm contract by the repeated references to the couple regarding themselves as man and wife before God. But if the defence had managed to cast doubt on this (perhaps by emphasising the lack of parental consent and the absence, as yet, of a church ceremony), Richard would be left with a *de futuri* promise and an unenforceable contract. His claim of consummation would provide his last attempt to establish a valid contract. Unsurprisingly, the defence proctor, Barker, contested his demand. He argued that Richard's intervention was a '*causa ardua*': that it could not provide the full proof necessary in such a serious matter. He therefore demanded that it should be rejected and the case should proceed to sentence. The judge accepted, and the case ended on 7 May 1603.<sup>23</sup>

The terms of his verdict have not survived, but he must have ruled that there could be no valid contract. The swiftness of George's action at the end of the proceedings matched, and even exceeded, that of Richard at the beginning.<sup>24</sup> On 14 May a licence was granted for the marriage of Margaret, daughter of George Osborne, and John Markwick; the wedding followed on 19 May.<sup>25</sup> There can be little doubt that the match was arranged by her father as a device to exclude Richard from his daughter's life.

Everything we learn about the marriage suggests the controlling hand of George Osborne. John Markwick was probably of similar or slightly



lower social status than his father-in-law, and if his baptism is the one recorded in the Bosham parish register on 2 September 1581,<sup>26</sup> he was only a few years older than Margaret and barely out of minority. There may also have been some property connections between the two families.<sup>27</sup> It is significant that the couple spent most of the first two years of their married life in George Osborne's house. After their move to Bosham, they provided lodging for an ambivalent figure, Nicholas Hoskin. Although his younger brother William was the friend of Richard Tayler and accompanied him on the early stages of the elopement trip, Nicholas seems to have been a friend (and relation by marriage)<sup>28</sup> of George Osborne, and went with him when he followed the couple to Lewes to prevent the match.

Margaret's behaviour before and during the marriage reveals a striking succession of changes. As an impressionable 13 year old her public protestations of love for Richard are fully credible, but equally so is her immediate submission to her dominating father. When she was only two years older, her further submission and her acceptance of the arranged marriage are still understandable. But her actions afterwards suggest that she summoned up considerable determination. Her refusal to associate with her husband while living in her father's house must have been obvious to all, and she maintained her defences after the move from her father's house and throughout the six years that they lived together. (One is drawn to a little grudging sympathy for John Markwick, who is described as treating her kindly.)<sup>29</sup> It is perhaps significant that no records of children of the marriage have been found. Finally, it took considerable courage, when still young and without resources of her own, to make the decision to leave her husband and to face public opprobrium – even with the likely protection of Richard.

The disastrous course of the marriage is graphically displayed in the records of the second consistory case, which commenced in May 1616. Richard, now living in London, proceeded – ostensibly against Margaret but in reality against her husband – to seek the annulment of the marriage to John Markwick.

Nicholas Hoskin had deposed in the earlier case; he now reappeared. In his deposition, he reported that:

Margaret hath divers times confessed unto

[him] that she did not know above three or four days of her marriage to John Markwick that she should be married unto him, and that she hath likewise confessed that she married John for fear of her father's displeasure, as being constrained thereunto against her will.<sup>30</sup>

Elizabeth Lymskin, a former servant of George Osborne, painted a sad picture of Margaret's domestic life. She recounted how:

Margaret did live much discontented in mind after she was married to John and did oftentimes absent herself from him and was not willing to keep him company neither at bed nor board [and when Elizabeth asked] why she did not delight in his company she answered that she could not love him because Richard was her husband and that John was not. ... Margaret was very unwilling to be in the company of John at any time and would many times and very often sit with [Elizabeth] when John went to bed and not go to bed unto him until he was asleep. ... And that many and sundry times, when [Elizabeth] went up into their chamber to make their bed, she should find Margaret sat weeping alone by herself in the chamber; and [when Elizabeth], knowing she had no cause so to do having all things fitting and sufficient for her degree and wanting nothing, asked the cause of her discontent and grief, ... Margaret said that she married John Markwick against her will and therefore she would not love him; but Richard had her heart and he was her husband.<sup>31</sup>

This situation continued for six years. But a visit by John to Lewes in August 1609 gave Margaret the opportunity to leave him.<sup>32</sup> She never returned. In October 1609 Richard made another appearance in the consistory court – this time as a defendant in office proceedings – accused of 'carrying away' Margaret, 'another man's wife'.<sup>33</sup> John did not, however, make any attempt to recover her. And by 1616 we can assume that Richard was living with Margaret, while John was probably cohabiting with a Mary Holderness.

The sentence was given in May 1617, and in February 1618 Richard Tayler and Margaret Osborne were married in London. There was a striking parallel. On 16 April 1618, in Chichester, John Markwick was granted a licence and married

Mary Holderness on the same day; next day he made his will (making Mary, his 'now wife', his executrix); three months later he was dead.<sup>34</sup>

After 15 years the court had produced a quite remarkable result. Linked cases are rare; information on the impact of the cases beyond the court is also rare. Two such cases, spanning so long a period and the second resulting in the total and dramatic reversal of the consequences of the first, are unique in my experience of the Sussex courts – nor have I found anything similar elsewhere. I hope they will demonstrate the impact that the instance courts – so frequently regarded as picturesque but ineffective – could make on real life. I hope, too, that they will emphasise also how a comprehensive study of instance cases, including their process and their local impact, will enhance the already established value of their depositions.

#### PARTIES AND WITNESSES

At a distance of four centuries it is rare to uncover in such detail – and over two decades – such a romantic story. But it is clear that in the course of events the romantic elements are firmly reinforced by the practical legal expertise of Richard Tayler – and particularly from his involvement with the Chichester church courts. His connections there emphasise the tiny, close-knit world of the legal and clerical establishment. A kinsman, also Richard Tayler, was a protégé of Bishop Bickley in the 1590s and held the cathedral prebend of Sidlesham from 1594 to 1639. Richard Bickley and Thomas Bickley figured in the Tayler family's property transactions as late as the 1670s, as did Thomas Briggs, the Chancellor of the bishop's consistory court. In the 1590s, Richard lodged with a Chichester scrivener,<sup>35</sup> Robert Adams, and his son of the same name, and was involved in his legal work. A Robert Adams was Margaret's proctor in the second case, while John Swayne, another proctor in the case, was appointed overseer in Richard Tayler's will (which also names two other likely Chichester lawyers).<sup>36</sup> He certainly had the confidence and the social position to steer himself through the very different processes of the two consistory courts – as is witnessed by the fact that he represented himself (temporarily superseding his proctor) on several occasions in the earlier case. While he was ready and determined to use the

instance courts to achieve important changes in his own life, he displayed a relatively casual attitude to the correction charges in the office courts. It is noteworthy that, although he appeared in the latter on two occasions (and certainly admitted the second charge), he did not undergo the penalties of excommunication or penance that might have been expected. Prosecutions in the latter court seem to have been most effective when the defendants were of relatively low social status and lacked the resources to contest the accusations. Members of the gentry rarely suffered much inconvenience from them. One is left with the impression that he felt he need pay minimal attention to the strictures of this court – and perhaps also that the bishop's officials did not feel capable of pursuing him. There certainly seem to have been no repercussions affecting his instance proceedings.

It is much more difficult to achieve a clear understanding of the actions of Richard's adversary, George Osborne. Although George had the respectable status of yeoman, there was a wide social and financial gap between the two men. In 1603 George valued his assets at £20; Richard (at an admittedly later date) valued himself at £300.<sup>37</sup> In the period before the elopement George was aware of what seems to have been a conventional courtship, and of the appropriate presents Richard made in its course (and which were supplemented during the elopement). It is clear from the depositions, however, that no question of a dowry was raised. And it is also clear that, while his wife was sympathetic to the match, George would say or do nothing to encourage it. Perhaps the ages of the couple were a factor in his attitude. Margaret was above the legal marriageable age of 12, but was still young, at probably 13; Richard was in his mid-twenties and obviously confident and self-sufficient. Superficially, the match could have seemed advantageous to the Osborne family, and it is certainly odd that George should have gone to such lengths to arrange a marriage to a husband of considerably inferior status. It is difficult to avoid speculation about personal antipathies between the two men; but the surviving documents do not give us licence to do so. But one man's elopement is another man's abduction. During the second case, one is forced to admit that George is very much the elephant in the room. He was certainly still active – and litigious.<sup>38</sup> In many ways it would have seemed logical to call him as a witness in

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the second case, but court acts give no indication of this being attempted, even on behalf of John Markwick. Yet at the conclusion of the case it would appear that the judge accepted that George, in compelling Margaret to marry, had actually invalidated the marriage.

Among the *dramatis personae* of the case, perhaps the strangest are the apparent 'outsiders': the Lewes witnesses, Richard and Alice Bishoppe, Edward Newton and John Stempe. They represented the town's elite. All three men were either members of, or connected with, the Fellowship of the Twelve, the town's governing body which provided its senior officials, the Junior and Senior Constables. Newton was a draper and served as Junior Constable during 1600–01. John Stempe, Bishoppe's brother in law, was a gentleman, currently of Ringmer after 30 years in the town, and a member of a family which had provided constables between the 1540s and the 1590s. Richard Bishoppe was probably the most prominent of the three, and served as Junior and Senior Constable in the 1590s. A merchant, he traded in England and France through the port of Chichester, dealing in salt, iron, malt, barley, ironware and ordnance. By 1603 he had moved to Portsmouth, presumably to pursue his mercantile interests.<sup>39</sup>

Their very involvement has its share of contradictions. All testified unwillingly, under threat of court compulsion, undertaking, for most of them, a lengthy and inconvenient journey, to describe events then two years in the past. Yet when examined they produced a united chorus in celebration of the young couple. Two runaways picked up in a pub could have been put under some kind of restraint until necessary steps had been taken. Instead, the Bishoppes took the young girl into their own house<sup>40</sup> as a guest, inviting her and her suitor to family parties and giving Richard 'access' to her in their home. That Richard was a gentleman and their social equal, if not their superior, must have been apparent from the start. Not only did the Bishoppes take Margaret into their own home and keep an indulgent eye on the couple's activities – they actually promoted the match. Writers like O'Hara<sup>41</sup> have highlighted the communal element in betrothals. Depositions in contract cases often depict gatherings of family and influential friends who assemble to encourage and to endorse declarations. The couple would vow that

they were 'man and wife' and the company would drink to pledge them. The Bishoppes and their circle appear to have been performing precisely this role – and yet they had absolutely no connection in kinship or locality with the two strangers they had adopted. Somehow, and inexplicably, the cautious burghers of Lewes succumbed to sentiment at the young couple's romantic escapade. Or perhaps we may detect, both in the actual events at Lewes and in the way the witnesses' evidence is framed, some skilful guidance from Richard Tayler?

The issues on which the cases were fought are complex and difficult to reconstruct. Despite the vivid story the depositions tell, we still lack the terms of the final verdicts; while the court act books give little help in reconstructing their arguments and progress.<sup>42</sup> But the crucial element is the contract, which ostensibly both cases try to prove. If a couple made a public vow that they held themselves to be man and wife, that vow must override any subsequent actions. Although they had not undergone a marriage ceremony in church, neither of them could marry (or contract with) another partner. One result of this principle has been that legal and literary commentary over the past four centuries has often asserted the concept of a 'civil marriage' which had been established by a public exchange of vows but without a church ceremony.<sup>43</sup> It is tempting to read parts of the depositions in this way – but almost certainly mistaken. While the crucial justification was made that the couple regarded themselves as 'man and wife in the sight of God' (phrases repeated in varying forms by the Lewes witnesses), beneath that phrase there is an awareness that the eyes of God and the eyes of man are different. In his deposition, Edward Newton provided the appropriate and cautious proviso that Richard and Margaret 'are man and wife if a man and a woman may be man and wife without solemnisation in a church'. So the assumption and encouragement of the Lewes circle were that the couple were going to turn their contract into marriage by a swiftly arranged church ceremony. It was a reasonable assumption in 1600 – though it would have been less so three years later, when the newly revised Canons of 1603 attempted to ensure that marriages should be solemnised after licence or banns. It remained undisputed, however, that a solemnised marriage, even without licence or banns or, more important, parental consent, would be valid.

A contract hinged on consent – and, most important, that of the two parties. Despite the heart-warming narrative of the elopement and the ‘honeymoon’ at Lewes, the first case must have virtually collapsed when Margaret made her answers. Her denials were effectively a statement that she had not consented. When the judge accepted that, Richard’s case was lost.

The purpose of the second case was to dissolve a marriage. But it took a seemingly curious route to this destination. As marriage was accepted as life-long and divinely constituted, there was no possibility that a breakdown in relations could end it. Divorce was available: but it simply meant separation, *mensa et thoro*, from board and bed. It was rarely granted on grounds other than adultery or cruelty, and when granted it offered no opportunity of marriage to a new partner. The only chance of remarriage came through annulment, and by the early 17th century suits that attempted to achieve this were extremely rare.<sup>44</sup> The grounds for annulment were almost entirely confined to bigamy, kinship (marrying within the degrees forbidden by the church), minority of age, or (rarely) sexual impotence or frigidity. With these grounds unavailable, Richard’s strategy must be to overturn the previous case and thus establish that there was a valid original contract.

The act book records that the case started in the same way as its predecessor, with the drawing up of a libel to be submitted to the first defendant, Margaret. We have to assume that it was in much the same terms as in the first case – though, frustratingly, neither the libel nor her response has survived. We have also to assume that she completely reversed what she had said 13 years earlier while acting under duress, and that she now accepted that she and Richard had agreed to a contract. Her acceptance would thus bring about the unusual form of the case. With no libel to be put to the witnesses and no defensive interrogatories submitted, both parties simply produced a short series of allegations. The purpose of the examinations would simply be to establish the factual record of the marriage – and to demonstrate that Margaret’s behaviour had never implied that she had accepted it as valid. It was a risky strategy; but it succeeded.

So the case proceeded in this unusual form. Margaret and John were treated as separate defendants, each with their own proctor (Robert

Adams for Margaret and John Swayne for John Markwick – both probably members of Richard’s circle). There were no contributions that could be regarded as adversarial, and, unsurprisingly, no allegations emanated from Margaret’s side. John’s first allegation related to a relatively trivial question over the expenses of the earlier case; his second aimed at establishing the factual events of the 1603 wedding. Richard’s main allegation concerned Margaret’s role in the marriage, and his final one produced the account of the attempted negotiation between the elopement and the first case.

There is another unusual feature to the case. Throughout the stages of an instance case the proctors were required to express their agreement or dissent from the judge’s rulings. It was important to record dissent, because it enabled the dissenting party to introduce defensive material at a later stage; consent or abstention would block that avenue. Both the defendants’ proctors followed the normal procedure during the first stages of the case. Once the depositions had been published, Richard’s proctor demanded the final sentence and Margaret’s proctor initially abstained (*tacente*) for two sessions, and then consented for the remainder. John’s proctor, in orthodox fashion, dissented throughout.

These technicalities raise a final question. Do they reflect a contest – or some kind of arbitration or even collusion? Margaret’s role is relatively uncontroversial; she cannot contest Richard’s claim, but must provide factual information to support it. John’s role is more ambiguous but certainly not adversarial, and the depositions make no hint of criticism of his behaviour.<sup>45</sup> The sequence and arrangement of the marriages after the verdict are perhaps significant. Richard’s takes place in London after a short but decent interval of nine months; John’s follows a couple of months later, perhaps hastened by illness. Both sides appear to have exercised a certain amount of discretion to avoid drawing attention to the case.

The two cases provide a testimony to Richard’s remarkable determination. Equally, they confirm his belief in the power of the court in which he was prepared to pursue his claim over a period of 15 years. He was vindicated when his actions made possible two apparently impossible marriages and transformed the lives of the four people involved.

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Fig. 3. West Wittering church, the scene of the beginning and the end of Richard and Margaret's saga (WSRO PD 2011 f. 1, by permission of the County Archivist of West Sussex). This view by Adelaide Tracy Borrer in 1852 shows the building before the Victorian restoration which removed the memorial to Margaret.

### CONCLUSION

Parish registers and probate records give us an outline of the rest of Richard and Margaret's story. Sadly, they did not have long together. Margaret was buried at West Wittering on 24 January 1619 (Fig. 3). After an unexplained interval, a daughter, Margaret, was baptised in Chichester in March 1621. In October of the same year Richard married Katherine Rishton, a member of a local gentry family and inheritor of the manor of Almodington in the nearby parish of Earnley.<sup>46</sup>

The church court records provide one further brief but dramatic episode. In 1623, Richard was summoned before the office court for abusing Thomas Hudson, the vicar of West Wittering. Although Richard admitted his offence, he did provide background information which gives us some sympathy. In the course of a 'conference' –

more realistically a row – about the non-payment of tithes, Hudson's comments were, to say the least, unwise. Richard, he claimed, was a 'base fellow, one that robbed the church ... and that he had carried away another man's wife, upon which words Richard Tayler called him shitbreech priest or some like words'.<sup>47</sup> Parish gossip was obviously still hot, and Richard still raw from Margaret's death.

Richard does not figure again in the church court records. He lived in considerable prosperity with Katherine, and was now the owner of a substantial estate. Over the next 12 years she bore him six or more children. In 1633 he died (of the plague, according to one source) and his will adds the final detail to the story with a touching, if perhaps tactless, request that he be buried in West Wittering church with his first wife.<sup>48</sup>

Richard's status, personality and wealth enabled him to occupy a respected place in his

community. At the end of his life he left his special mark on the parish of West Wittering. By his will he established a charity for the poor, the Poor Sevens Charity, which survived into the 20th century. In the church, he provided a monument for Margaret – but this was less lasting, and was swept away by the Victorian restoration.<sup>49</sup> But his greatest legacy is the story of his 20-year battle to marry the woman he loved.<sup>50</sup> And in the marriage perhaps he

managed also to fuse the apparent contradictions of a patriarchal and an emotional relationship.

### Acknowledgements

I am grateful to Dr Ruth Brown for extensive advice and encouragement in the preparation of this article, and to Mr Christopher Whittick for guidance on all aspects, and especially for his generous expertise in unravelling the legal issues and the Latin which enwrapped them. I acknowledge with thanks the County Archivist of West Sussex for permission to quote from the depositions.

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## APPENDIX

The principal sources for this article are the depositions of the witnesses in the two cases preserved in the records of the bishop of Chichester's Consistory Court for the Archdeaconry of Chichester and now deposited in the West Sussex Record Office, Chichester (hereafter abbreviated to WSRO). Although these depositions are intended to reproduce the oral statements made by the witnesses, they are recorded in a highly repetitive and formalised style. To overcome this I have omitted repetitious legal and formulaic phraseology such as 'aforesaid', 'as this examine remembereth' and a host of others which can make the reading tedious and often confusing. Spelling is modernised. As the original is largely unpunctuated, I have inserted minimal punctuation to make reading easier. Personal names appear in a bewildering variety of forms; I have rendered them by the most appropriate forename and/or surname for the context. The depositions, with their references are as follows.

Case 1: Richard Bishoppe, n.d. c. Jan. 1603 (Ep I/11/9 ff. 160r–162r); Alice Bishoppe, n.d. c. Jan. 1603 (Ep I/11/9 ff. 162r–163r); John Stempe,

28 Jan. 1603 (Ep I/11/9 ff. 163v–164r); George Osborne, 3 Feb. 1603 (Ep I/11/9 ff. 164r–167r); Thomasine Osborne, 3 Feb. 1603 (Ep I/11/9 ff. 167r–169v); William Hoskin, 3 Feb. 1603 (Ep I/11/9 ff. 169v–171r); Edward Newton, 3 Feb. 1603 (Ep I/11/9 ff. 171r–172v); Nicholas Hoskin, 5 Feb. 1603 (Ep I/11/9 ff. 174v–176v).

Margaret Osborne's responses are to be found among the Miscellaneous Court Papers (Ep I/15 1602).

Case 2: Robert Brincklowe, n.d. c. July 1616 and 19 Oct. 1616 (Ep I/11/12 ff. 187r–187v, 193v–194r); Nicholas Hoskin, n.d. c. July 1616 (Ep I/11/12 ff. 187v–189r); Elizabeth Lymskin, n.d. c. July 1616 (Ep I/11/12 ff. 189r–189v); Thomas Godman, 19 July 1616 (Ep I/11/12 ff. 190r).

A transcript of the depositions in both cases will be found on the website of the Sussex Record Society ([www.sussexrecordsociety.org](http://www.sussexrecordsociety.org)). The process of the cases are recorded in the series of instance court act books (Ep I/10), and some additional material is preserved among the series of Miscellaneous Court Papers (Ep I/15). The proceedings of the office court are recorded in a separate series of act books (Ep I/17).

## NOTES

Abbreviations used in the text and, for archive repositories and sources, in the notes.

CCEd – Clergy of the Church of England database viewed at <http://theclergydatabase.org.uk>.

ESRO – East Sussex Record Office, The Keep,

Moulsecoomb, Brighton.

ODNB – H. C. G. Matthew and B. Harrison (eds), *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004), viewed with later revisions at [www.oxforddnb.com](http://www.oxforddnb.com), article for person named in the text.

SAC – *Sussex Archaeological Collections*

SRS – Sussex Record Society

TNA – The National Archives

WSRO – West Sussex Record Office, County Hall,  
Chichester

- <sup>1</sup> The changes are described by S. J. Lander in his 'Church Courts and the Reformation in the diocese of Chichester 1500–1558' in R. O'Day and F. Heal (eds), *Continuity and Change: Personnel and Administration of the Church in England 1500–1642*, 215–37 (Leicester: Leicester University Press, 1976).
- <sup>2</sup> Juxon was the father of Archbishop William Juxon, who attended Charles I on the scaffold.
- <sup>3</sup> See his entry in *ODNB*. Selden paid tribute to Barker is his *Table Talk*. Curiously but coincidentally, Selden paralleled Milton's views on divorce in remarking that 'Marriage is nothing more than a civil contract'.
- <sup>4</sup> Court activities of the officials are recorded in the Instance Act Books (WSRO Ep I/10/21, 22); biographical information on Blencowe and Barker is given in B. Leveck, *The Civil Lawyers in England 1603–1641: A Political Study* (Oxford: Clarendon, 1973) and also *ODNB* for Barker; for Juxon see J. Comber, *Sussex Genealogies: Horsham Centre* (Cambridge: Heffer, 1931), 193, and also *ODNB* for Archbishop William Juxon; for Blaxton and Cox see J. M. Horne, *Fasti Ecclesiae Anglicanae 1541–1857* Vol. 2 Chichester Diocese (London: University of London Institute of Historical Research, 1971).
- <sup>5</sup> L. Gowing, *Domestic Dangers: Women Words and Sex in Early Modern London* (Oxford: Clarendon, 1996), 43, has demonstrated this convincingly in the London consistory courts. No comparable analysis on Chichester has yet been published. I hope to make some comparisons in the course of preparing my forthcoming edition of Chichester Archdeacons' depositions, 1603–1607.
- <sup>6</sup> Gowing, *Domestic Dangers*, 182–3, found them statistically negligible in London; M. Ingram, *Church Courts, Sex and Marriage in England, 1570–1640* (Cambridge: Cambridge University Press, 1987), 172, found only two nullity suits in the Chichester archdeaconry in 12 years during the period 1587–1640.
- <sup>7</sup> WSRO Ep I/11/9 ff. 160–2.
- <sup>8</sup> A brief account of his family is given in the final endnote.
- <sup>9</sup> Her personal statement in the first case is signed with a mark (WSRO Ep I/15 1602).
- <sup>10</sup> Shot silk.
- <sup>11</sup> The account of the journey from West Wittering to Hurstpierpoint is described in William Hoskin's deposition (WSRO Ep I/11/9 ff. 169v–171r).
- <sup>12</sup> The town's most highly reputed establishment. Its cellars are now part of Lewes Town Hall in the High Street. I am grateful to Mr Christopher Whittick for this information.
- <sup>13</sup> WSRO Ep I/11/9 ff. 160r–162r; Ep I/11/9 ff. 163v–164r.
- <sup>14</sup> WSRO Ep I/11/9 ff. 160r–162r.
- <sup>15</sup> WSRO Ep I/11/9 ff. 160r–162r; Ep I/11/9 ff. 164r–167r.
- <sup>16</sup> WSRO Ep I/11/9 ff. 174v–176v.
- <sup>17</sup> WSRO Ep I/11/12 ff. 193v–194r.
- <sup>18</sup> The proceedings are recorded in the Act Books WSRO Ep I/10/21, 22.
- <sup>19</sup> A trick.
- <sup>20</sup> WSRO Ep I/15 1602.
- <sup>21</sup> WSRO Ep I/11/9 ff. 167r–169v.
- <sup>22</sup> WSRO Ep I/11/9 ff. 167r–169v; Ep I/11/9 ff. 164r–167r.
- <sup>23</sup> I am most grateful to Professor Richard Helmholz for valuable guidance in interpreting the latter stages of the case.
- <sup>24</sup> It would have been illegal for Margaret to make a contract of marriage while the case was in progress.
- <sup>25</sup> E. H. W. Dunkin, *Calendar of Sussex Marriage Licences for the Archdeaconry of Chichester 1575–1730*, SRS **9**; WSRO Ep I/11/12 ff. 187r–189v.
- <sup>26</sup> WSRO Par 25/1/1/1.
- <sup>27</sup> There is evidence or at least suggestion for this in his will (WSRO STD I/3 f. 188v).
- <sup>28</sup> He married George Osborne's niece.
- <sup>29</sup> WSRO Ep I/11/12 f. 190r.
- <sup>30</sup> The proceedings are recorded in the Act Books WSRO Ep I/10/32, 33; Ep I/11/12 f. 187v–189r.
- <sup>31</sup> WSRO Ep I/11/12 f. 189r–189v.
- <sup>32</sup> It is perhaps significant that by this date Margaret would have certainly reached the age of 21 and so would be beyond any residual powers her father might have.
- <sup>33</sup> WSRO Ep I/17/13 ff. 7v, 14v.
- <sup>34</sup> A. W. Hughes-Clarke, *The Register of St. Mary Magdalen, Milk Street, 1558–1663, and St. Michael Bassishaw, London, 1538–1625*, Harleian Society **72**, 1942; WSRO STD I/3/158; E. H. W. Dunkin, *Calendar of Sussex Marriage Licences for the Peculiar of Chichester ... 1597/8–1730*, SRS **12** (1911); WSRO Par 25/1/1/1.
- <sup>35</sup> A scrivener (often also a notary) at this date was a recognised legal professional.
- <sup>36</sup> WSRO Ep I/11/13 f. 138r; TNA PROB 11/164/37.
- <sup>37</sup> WSRO Ep I/11/9 f. 164r, Ep I/11/13 f. 138r.
- <sup>38</sup> In 1618 he pursued an acrimonious case against Robert Brincklowe disputing the rights to the title of furze in West Wittering (WSRO Ep I/11/13 ff. 28–33).
- <sup>39</sup> J. Goring, 'The Fellowship of the Twelve in Elizabethan Lewes' *SAC* **119** (1981), 157–72; WSRO Ep I/11/9 ff. 160r.
- <sup>40</sup> ESRO SAS/E 402. The house was probably on the site of the present 177 High Street in the commercial heart of the town; see Colin Brent, *Pre-Georgian Lewes: c. 890–1714: The Emergence of a County Town* (Lewes: Colin Brent Books, 2004), and his analysis of the descent of Lewes properties, available at ESRO.
- <sup>41</sup> D. O'Hara, *Courtship and Constraint. Rethinking the Making of Marriage in Tudor England*. (Manchester: Manchester University Press, 2000).
- <sup>42</sup> Even the local vagaries of the court filing system further obscure our reading. While the Chichester registrar recorded in meticulous volumes depositions of the witnesses, the statements of the disputing parties were relegated to files of loose papers and rarely survived (Margaret's *responsa* is a fortunate exception).
- <sup>43</sup> A notorious case based on this misapprehension involved the Revd John Goole and resulted in his *The Contract Violated, or the Hasty Marriage* (1733). I am grateful to Dr Richard Saville for drawing my attention to this example. For an account of contracts *verba de praesenti* see Rebecca Probert, *Marriage Law and Practice in the Long Eighteenth Century: A Reassessment*, (Cambridge: Cambridge University Press, 2009).
- <sup>44</sup> Gowing (*Domestic Dangers*) in her study of the London courts calculated that they were statistically negligible. Ingram (*Church Courts, Sex and Marriage*) could identify

only two nullity suits in the Chichester Archdeaconry within a 12-year sample during the period 1562–1640.

<sup>45</sup> Interestingly, and perhaps significantly, Swayne was a close enough friend of Richard to be appointed overseer of his will.

<sup>46</sup> WSRO Ep I/24/137A; WSRO Par 44/1/1/1; WSRO Par 72/1/1/1. The daughter Margaret was still alive at the time of Richard's death in 1633, but I have been unable to find any further record of her.

<sup>47</sup> WSRO Ep I/17/20 ff. 109v, 111v, 122v.

<sup>48</sup> WSRO Par 72/1/1/1; WSRO MP 4661; TNA PROB 11/164/37.

<sup>49</sup> Fortunately it was recorded by Sir William Burrell in 1776 (British Library, Add Ms 5699 ff. 324–325).

<sup>50</sup> A sketch of Richard Tayler's family history may help to conclude this story. Richard was the son of John Tayler, who described himself as a yeoman and had substantial property in West Wittering and Itchenor (his estate included Redlands Farm, which made an appearance in later history in 1967 as the scene of the

Rolling Stones' drug bust). In the 1590s Richard was living in Chichester; in 1603, describing himself as a gentleman, he was of Racton; in 1616 he was of London; and he was back in Chichester at the end of the decade. After his second marriage he lived at Almodington in Earnley. After his death his substantial estate, mainly in the Manhood, passed to his son Richard. This Richard with his brother, John, supported the Royalist cause in the Civil War and compounded for their estates after capture at Truro in 1646. On the second Richard's death in 1663 he was succeeded by his son, also Richard. The male line eventually came to an end with the death of the third Richard's brother, John, in 1706. (STC I/17 f. 42; WSRO Ep I/11/13 f.135 ; Ep I/10/21, 22 ; WSRO Add MSS 1638–1664; WSRO Ep I/11/7 f. 138; TNA PROB 11/164/37; W. E. P. Done, *The Parish Church of West Wittering* (West Wittering: West Wittering P.C.C., 1965); [www.theclergydatabase.org.uk](http://www.theclergydatabase.org.uk). An inaccurate and misleading pedigree of the Tayler family appears in W. Berry, *County Genealogies ... Sussex* (1830).