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## Marriage Acts: Stages in the Transformation of Nuptial Culture

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**In lieu of** an abstract, here is a brief excerpt of the content:

### **Marriage Acts: Stages in the Transformation of Modern Nuptial Culture**

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Lord Hardwicke's Marriage Act of 1753 established the English civil

matrimonial code. It decreed that the only valid marriage was one “performed by an ordained priest according to the Anglican Liturgy in a parish church or public chapel of the Established Church after thrice called banns or the purchase of a license from the bishop.” This imposition of a national protocol for weddings belonged to a broader Whig program of social reform aimed at expanding the reach of the nation-state.<sup>1</sup> More specifically, the Marriage Act was designed “for the better preventing of clandestine marriages,” that is, for closing down on an older code in which marriages could be performed in a wide variety of sites, in many different styles and tones, and to a variety of ends. Before the Marriage Act, marriage was, in essence, a consensual speech act connected to an array of other everyday practices. The Act served to harden the boundaries between legitimate and illegitimate marriages, and, therefore, between marriage and other social states and linguistic performances. Its broader effect, I argue, was to reduce and rigidify matrimony’s social meanings. Whereas it had once been possible to get **[End Page 68]** married for a wide variety of reasons and purposes, the marriage ceremony now became a practical reiteration of governmental regulations that bound citizens to the state, and to a modern English regime of heteronormative culture.

Historians and critics have long debated the Marriage Act’s impact, variously characterizing it as a modernizing force through which marriage and family entered the enlightened civil sphere<sup>2</sup>; a regressive measure whereby the state reinforced the parental power and patriarchal familial structures of the propertied elite<sup>3</sup>; a regularization of matrimonial law that served to protect women and children from uncertain unions; and an intensification of the anomalies through which they could be exploited.<sup>4</sup> Ongoing arguments about the Act’s effects surface most forcefully within accounts of the so-called rise of the companionate marriage where, for Lawrence Stone, the Act was antagonistic to the forces of love, sentiment, and companionacy that underpinned the formation of modern familial norms,<sup>5</sup> while for Randolph Trumbach and Erica Hart the Act was deeply involved in their triumph.<sup>6</sup> Before weighing in on these debates, however, we need to note that all of the various political and

social effects attributed to the Marriage Act turn upon its closure of an indeterminacy attached to marriage within the older, ecclesiastical marriage code, which itself turned upon what Sandra Macpherson has termed “the epistemic uncertainty of consent” (103). Viewed in these terms, the Marriage Act has important implications for historiography itself. In particular, its legacy as a force of order and stability raises a number of pressing questions about our capacity to perceive the history of marriage, family, and sexuality in the period. How can we avoid using the Marriage Act as a filter through which the heterogeneous and unruly history of marriage acts becomes legible to us? Is it possible to approach the history of marriage without mobilizing the Act’s division of legitimate, state-sanctioned marriage acts from illegitimate ones? Lawrence Stone, for instance, has made a distinction between “the history of family, sex, and marriage in England” and the “uncertain unions” that have shadowed this history. His work has been acclaimed for its effort to historicize the family by demonstrating the shifting relations between modern “affective” family structures and aristocratic models of alliance in which marriage and kinship were central institutions of political alliance and property exchange. Yet by relying upon a distinction between legitimate and illegitimate marriage acts, Stone recapitulates the discriminating gesture of the Marriage Act itself. The title of his most influential book on the topic, **[End Page 69]** *Family, Sex, and Marriage in England*, itself annexes marriage, and married relations throughout history, to relations of “family and sex” so as to disclaim the less stable meanings that attended pre-Hardwicke understandings of marriage as a purely performative vow.

Once we recognize that the division of marriage acts from speech acts is fundamental to eighteenth-century state formation and legal reform...



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