

No. VI.

An Act to prevent Clandestine Marriages and to provide for the issuing of Licenses. [5th August, 1836.]

CLANDESTINE
MARRIAGES.

WHEREAS it is expedient and necessary to provide against the mischiefs and inconveniences that may arise from the Clandestine Marriages of Minors for the prevention thereof be it enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That no marriage shall be solemnized where either of the parties not being a widower or widow shall be under the age of twenty-one years without the consent of the father of such of the parties so under age (if then living) being first had and obtained or if dead of the guardian or guardians of the person of the party so under age lawfully appointed or one of them and in case there shall be no such guardian then of the mother (if living and unmarried) or if there shall be no mother living and unmarried then of a guardian or guardians of the person appointed by the Supreme Court.

Preamble.

No marriage to be solemnized between parties under age without consent of parents or guardians.

Gunpowder.

Penalty for knowingly solemnizing marriages between minors without consent.

2. And be it enacted That if any person shall from and after the passing and publication of this Act solemnize matrimony between any persons one or both of whom shall be under the age of twenty-one years without such consent as aforesaid first had and obtained every person knowingly and wilfully so offending and being lawfully convicted thereof shall be deemed and adjudged to be guilty of felony and shall be transported beyond the seas for the term of seven years Provided that all prosecutions of such felony shall be commenced within the space of three years.

Marriages not compelled by reason of contract.

3. And be it further enacted That in no case whatsoever shall any suit or proceedings be had in any Ecclesiastical Court in order to compel a celebration of any marriage in *Facie Ecclesiae* by reason of any contract of matrimony whatsoever whether *per verba de presenti* or *per verba de futuro* any law or usage to the contrary notwithstanding.

Certain oaths to be taken before the Surrogate before license granted.

4. And be it enacted for avoiding all fraud and collusion in obtaining licenses for marriages in such cases as the publication of banns may be dispensed with That before any such license be granted one of the parties shall personally swear before the Surrogate or other person having authority to grant the same that he or she believeth that there is no impediment of kindred or alliance or of any other lawful cause nor any suit commenced in any Ecclesiastical Court to bar or hinder the proceeding of the said matrimony according to the tenor of the said license and where either of the parties not being a widower or widow shall be under the age of twenty-one years that the consent of the person or persons whose consent to such marriage is required under the provisions of this Act has been obtained thereto Provided always that if there shall be no such person or persons having authority to give such consent then upon oath made to that effect by the party requiring such license it shall be lawful to grant such license notwithstanding the want of such consent.

Marriages to be solemnized before witnesses and certified.

5. And in order to preserve the evidence of marriages and to make the proof thereof more certain and easy and for the direction of Clergymen in the celebration of marriages and registering thereof Be it enacted That from and after the passing and publication of this Act all marriages shall be solemnized in the presence of two or more credible witnesses besides the Minister who shall celebrate the same and that immediately after the celebration of every marriage the same shall be certified as in manner now by law directed.

Not to apply to marriages between Quakers or Jews.

6. Provided always and be it further enacted That nothing in this Act contained shall extend to any marriages amongst the people called Quakers or among persons professing the Jewish religion when both the parties to any such marriage shall be of the people called Quakers or persons professing the Jewish religion respectively.