

No. XXX.

An Act to amend and consolidate the Laws
affecting the Solemnization of Marriage.
[30th November, 1855.]

MARRIAGE.

WHEREAS it is expedient to amend and consolidate the Laws relating to the solemnization of Marriage in this Colony Be it enacted by His Excellency the Governor of New South Wales by and with the advice and consent of the Legislative Council thereof as follows:—

Preamble.

1. This Act shall commence on the first day of March one thousand eight hundred and fifty-six on and from which day the Acts of Council enumerated in the Schedule hereto marked A shall be repealed except as to Marriages solemnized and things lawfully done by virtue of any such Act before that day.

Repeal of Acts.

2. No Marriages shall be celebrated except by some Minister of Religion ordinarily officiating as such whose name designation and usual residence shall have been registered and shall then continue registered in the office of the Registrar General for Marriages in Sydney.

By whom Marriages to be celebrated.

3. Provided that where the parties to be married shall before the Registrar for Marriages of the district within which the intended wife ordinarily resides sign a declaration in the form set forth in the Schedule to this Act marked B the Marriage may be celebrated between such parties by such District Registrar in the form of words set forth in the Schedule hereto marked C to be repeated and signed by the parties to such Marriage respectively.

Declaration of Marriage before District Registrar.

4. No Marriage shall be celebrated until after a declaration (upon oath or solemn affirmation) shall have been made before some Surrogate for licenses or before the Minister or District Registrar celebrating the Marriage by each of the parties to be married in the form set forth in the Schedule hereto marked D.

Banns or license.

5. Every Marriage which shall be celebrated by any such Minister or Registrar as aforesaid after oath or solemn affirmation so made shall be a legal and valid Marriage to all intents and purposes and no other Marriage except as hereinafter provided shall be valid for any purpose.

Essentials for valid Marriage.

6. Provided that no Marriage in fact shall be avoided by reason only of the same having been celebrated by a person not being a Minister or ordinarily officiating Minister of Religion if either of the parties to the Marriage shall at the time *bonâ fide* have believed that he was such ordinarily officiating Minister.

Provision for certain special cases.

Marriage.

Witnesses and certificate.

7. Every Marriage shall be celebrated in the presence of two witnesses at least who shall sign a certificate which shall be also signed by the Minister or Registrar celebrating the Marriage and by the parties thereto and shall be legibly written (or partly written and partly printed) in the form contained in the Schedule hereto marked E and such Minister or Registrar shall deliver a copy of such certificate immediately after the Marriage signed by himself to one of the parties to the Marriage and the said Minister shall within one month thereafter transmit the original certificate to the Registrar of the District within which such Marriage was celebrated.

Quakers and Jews.

8. Nothing in this Act shall extend to any Marriage between parties of whom both shall be Quakers or Jews A certificate of every such Marriage shall nevertheless within ten days next following be transmitted to the Registrar of the district within which it was celebrated by the person celebrating the Marriage or by one of the parties thereto stating the date and place of such Marriage and the name designation and usual residence of each of those parties.

Such Marriages valid.

9. Every Marriage celebrated between parties being both Quakers or both Jews shall be as legal and valid as if duly solemnized under the provisions of this Act if such Marriage was when celebrated a valid Marriage according to the usages of the Quakers or Jews as the case may be.

Consent in case of minority.

10. If either party to any intended Marriage not being a widower or widow shall be under the age of twenty-one years such Marriage shall not take place without production to the Minister or Registrar about to celebrate the same of the written consent of the father of such party if within the Colony or if not within the Colony then of a guardian appointed by the father or if there be no such guardian in the Colony then of the mother of such party if within the Colony or where there is no such parent or guardian in the Colony or he or she is incapable of duly consenting by reason of distance habitual intoxication or mental incapacity then the written consent of some Justice of the Peace appointed for that purpose as hereinafter mentioned Provided that such Justice shall make inquiry on oath as to the facts and circumstances of the case before giving such consent.

Judges to appoint persons to consent in certain cases.

11. For the purposes mentioned in the foregoing section the Judges of the Supreme Court shall appoint from time to time one or more Justice or Justices of the Peace in every Registrar's District who shall by virtue of such appointment give consent in such cases as aforesaid every such appointment to be notified by the said Judges in the *New South Wales Government Gazette*.

Consent to be indorsed on certificate.

12. When any Marriage shall be celebrated upon the production of any such written consent as aforesaid a statement of the fact of such consent shall be indorsed on the certificate of such Marriage and on the copy thereof signed respectively by the Minister or Registrar celebrating the same.

Certain Marriages made legal.

13. No Marriage shall be deemed to have been unduly celebrated by reason only of any mere defect or error in the declaration made respecting the same where the identity of the parties to the Marriage shall not be in question.

Confirming all existing Marriages.

14. Every Marriage celebrated in this Colony before the commencement of this Act by any Minister of Religion or person ordinarily officiating as such shall be and be deemed to have been from the time of the celebration thereof a perfectly legal and valid Marriage (notwithstanding any non-compliance with forms or other irregularity attending the celebration) to all intents and purposes.

Certain Marriages not made legal.

15. Provided that nothing in the previous section or in the fifth section of this Act shall legalize any Marriage declared or made (or which shall hereafter be declared or made) invalid by any competent

Court

Marriage.

Court or by Act of Council nor any Marriage where either party thereto had another wife or husband then living nor any Marriage which would have been or would be void but for those sections by reason of relationship kindred or alliance or of fraud or incapacity to contract Marriage nor any Marriage where (the same being at the time of its celebration invalid) either of the parties thereto shall afterwards and before the passing of this Act have intermarried with some other person.

16. A copy of the registry of any Marriage in the office of the Registrar General under his hand shall be received as evidence in all proceedings civil and criminal of the fact of such Marriage having been duly celebrated—until the contrary be shewn.

Registration proof of Marriage.

17. Every Minister District Registrar or other person who shall celebrate or profess or attempt to celebrate Marriage in the case of any person under the age of twenty-one years not being a widower or widow without some such written consent as aforesaid knowing him or her to be under that age or knowing that the consent produced is not by the appropriate person or who shall wilfully celebrate or profess or attempt to celebrate any Marriage in any other case contrary to any of the provisions of this Act or where any provision of this Act shall not have been complied with knowing the same not to have been complied with shall be guilty of a misdemeanor and being convicted thereof shall be liable to a fine not exceeding five hundred pounds either alone or with imprisonment not exceeding five years.

Punishment for unlawful celebration of Marriage.

18. Every person who shall object to take an oath under the provisions of this Act may make in lieu thereof a solemn affirmation or be examined (as the case may be) upon his or her solemn affirmation And any person who shall wilfully make any false statement on oath or by solemn affirmation before any Surrogate District Registrar or Minister or before any Justice appointed as aforesaid under any of the provisions of this Act or intended or purporting so to be shall be deemed guilty of perjury and be liable to prosecution and punishment accordingly.

False statements deemed perjury.

19. Every person who shall wilfully marry a person under the age of twenty-one years (and whom he or she shall know to be under that age) without having previously obtained the written consent of the father or guardian or (where the mother is competent) of the mother of the person so under age or the written consent of some Justice appointed in that behalf or who shall induce or endeavour to induce any Minister Registrar or other person to celebrate Marriage between parties one of whom he or she shall know to be under age without such consent and every person who shall abet or assist the offender in any such act knowing the same to be illegal shall severally be guilty of a misdemeanor and be liable to such punishment by fine not exceeding five hundred pounds or imprisonment not exceeding five years or both as the Court may award.

Marrying minors.

20. If any person shall forge or assist in forging or procure to be forged (or shall utter or assist in uttering or cause to be uttered as true knowing the same to be forged) any consent or writing purporting to be a consent of or by the father guardian or mother of a person under the age of twenty-one years or to be the consent of a Justice appointed as aforesaid under the provisions of this Act or any certificate or writing purporting to be a certificate under the provisions of this Act or any copy of registry or writing purporting so to be or shall sign or transmit to any Registrar any certificate or writing purporting so to be containing to his or her knowledge any false statement therein—the person so offending shall be guilty of felony and be liable to imprisonment with hard labor or hard labor on the roads in the discretion of the Court for any term not exceeding five years.

Forging any consent certificate &c.

21. No Marriage shall be affected by reason of the omission by the Minister celebrating the same to cause his name designation or usual

Non-registration of Minister's name.

Marriage.

usual residence to be registered according to this Act but every Minister or person officiating as such who shall celebrate any Marriage knowing that his name designation or usual residence has not been so registered or is not then duly registered shall be liable to be dealt with under the seventeenth section of this Act or if the omission was accidental or by inadvertence to a fine not exceeding twenty pounds to be recovered by proceeding in a summary way before two Justices.

Omission to transmit certificate of Marriage.

22. If any Minister or person having celebrated any Marriage shall fail to comply with the provisions of this Act or any of them respecting the certificate to be transmitted to the District Registrar he shall be liable to a fine of not less than ten pounds and not exceeding fifty pounds to be recovered by proceeding in a summary way before two Justices And in cases within the eighth section of this Act where no person shall have celebrated the Marriage other than the parties thereto themselves the like penalty shall attach to the husband in case the certificate thereby required shall not be duly transmitted.

SCHEDULE A.

Acts Repealed.

6 Geo. IV. No. 21 .. Passed 1st November 1825.	3 Vic. No. 7 Passed 5th September 1839.
5 William IV. No. 2. .. 4th July 1834.	3 Vic. No. 23.. .. " 19th November 1839.
7 William IV. No. 6. .. 5th August 1836.	4 Vic. No. 14.. .. " 23rd September 1840.
2 Vic. No. 13 " 29th August 1838.	

SCHEDULE B.

Form of Declaration to authorize Marriage before District Registrar.

WE *Thomas Williams* of (*usual place of residence and designation or employment*) and *Mary Edwards* of (*usual place of residence and employment*) do hereby declare that we are desirous of being married but that we conscientiously object to be married by a Minister of Religion [Or "but that there is no Minister of Religion accessible for the purpose of solemnizing our Marriage."]

Signed by the parties this _____ day }
of 18 before me } [Signatures.]

SCHEDULE C.

[*Form of Marriage before Registrar.*]

I *Thomas Williams* of (*usual place of residence and designation or employment*) do hereby declare in the presence of A. B. Registrar of Marriages for the District of *Bathurst* that I take *Mary Edwards* of (*usual place of residence and designation or employment*) to be my lawful wife And I the said *Mary Edwards* do declare that I take the said *Thomas Williams* to be my lawful husband.

[Signatures.]

SCHEDULE D.

Declaration before Surrogate District Registrar or Minister.

I *Thomas Williams* of (*usual place of residence and designation or employment*) being duly sworn do on my oath declare (*or if objecting to take an oath "do solemnly and sincerely declare and affirm"*) that I believe there is no impediment or lawful objection by reason of any kindred relationship or alliance or any former Marriage or the want of consent of parents or guardians or any other lawful cause to my being married to (*Mary Edwards*) of (*usual place of residence and designation or employment*) daughter of (*James Edwards*) of (*usual or last place of residence and designation*).

(Signature of *Thomas Williams*.)

And I the said (*Mary Edwards*) do on my oath declare (*or do solemnly and sincerely declare and affirm*) that I believe there is no impediment or lawful objection by any such reason or other lawful cause as aforesaid to my being married to the said (*Thomas Williams*).

(Signature of *Mary Edwards*.)

Declared and sworn (*or "and affirmed"*) by both the parties }
named this _____ day of 18 before me }
(Signature and Designation.)

SCHEDULE E.

Certificate of Marriage.

I (*name of Minister or Registrar*) being (*designation*) do hereby certify that I have this day at (*place*) duly celebrated Marriage between (*name designation and residence of husband*) and (*name designation and residence of wife*) after declaration duly made as by law required.

Dated this _____ day of _____ 18
Signature of Minister or Registrar.

A. B.

Signatures of parties { C. D. Signatures of { G. H.
to Marriage .. { E. F. Witnesses.. { I. K.