

No. XIII.

An Act to authorize the Marriage of Minors MINORS' MARRIAGES.
without the consent of Parents or Guardians
in certain cases. [29th August, 1838.]

WHEREAS by an Act of the Governor and the Legislative Preamble.
Council of the Colony of New South Wales passed in the
seventh year of the reign of His late Majesty King William the
Fourth intituled “*An Act to prevent Clandestine Marriages and to* 7 Will. 4 No. 6.
provide for the issuing of Licenses” it is among other things enacted
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 be no mother living and unmarried then of a guardian or
guardians of the person appointed by the Supreme Court And
whereas

Minors' Marriages.

whereas from the frequent arrival of young persons in this Colony for the purpose of settling therein unaccompanied by their parents and from the residence in other countries of the greater number of relations and connections of families settled in New South Wales and from other causes it frequently happens that persons under the age of twenty-one years are without any parent or guardian residing in the said Colony qualified to consent to their marriage and that the marriage of such persons may under such circumstances be unnecessarily impeded Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That the consent of any Magistrate of the said Colony or other person duly appointed for that purpose as hereinafter mentioned to the marriage of any person under the age of twenty-one years obtained in manner hereinafter provided shall be of the same force and effect to all intents and purposes as the consent of a parent or guardian given in accordance with the provisions of the said recited Act.

The consent of a Magistrate or other person appointed by the Supreme Court to be substituted for that of parent and guardian.

Judges of Supreme Court may appoint such Magistrates or other persons as they shall see fit for purposes of this Act.

Minors in certain cases to make oath before a Magistrate or other person appointed as aforesaid.

Form of oath.

Magistrate or other person appointed as aforesaid when satisfied there is no reasonable objection to give consent.

Manner in which such consent shall be registered.

2. And be it further enacted That it shall and may be lawful for the Judges of the Supreme Court to nominate and appoint from time to time as occasion may require such and so many Magistrates or other persons as aforesaid residing in any district of the said Colony as they shall think fit and necessary for the purposes of this Act.

3. And be it further enacted That in case any unmarried person in the said Colony being under the age of twenty-one years and without a parent or guardian residing in the said Colony authorized to consent to his or her marriage under the provisions of the said recited Act shall appear before any Magistrate or other person duly appointed as aforesaid for the district in which he or she shall be then residing or in case there be no such Magistrate or other person appointed as aforesaid therein before any such Magistrate or other person appointed as aforesaid for the district nearest to that in which he or she shall be then resident and shall make oath in the form and to the effect set forth in the Schedule hereunto annexed (which oath such Magistrate or other person appointed as aforesaid is hereby authorized and required to administer) and such Magistrate or other person appointed as aforesaid shall thereupon make such further enquiry as to him shall seem proper and necessary as to the state and condition of the parties seeking to be married and if there shall not appear to be any reasonable and valid objection to such marriage he shall give his consent thereto by writing under his hand according to the form in the Schedule hereunto annexed Provided always that nothing herein contained shall be construed to prevent the Supreme Court from appointing a guardian or guardians (other than a Magistrate or Magistrates or other person or persons appointed as aforesaid under the provisions of this Act) to give consent to the marriage of any single person under the age of twenty-one years whose parents or guardians shall be absent from the said Colony.

4. And be it further enacted That where any marriage shall be solemnized with the consent of any Magistrate or other person appointed as aforesaid under the provisions of this Act according to the rites of the Church of England such consent shall be specified in the Register of Marriages required by law to be kept and where any marriage shall be solemnized with the consent of any such Magistrate or other person appointed as aforesaid according to the rites of the Church of Scotland or according to the rites of the Roman Catholic Church such consent shall be annexed to and transmitted with the certificate of such marriage required by law to be transmitted to the Registrar of the Supreme Court by the minister solemnizing the same.

Minors' Marriages.

5. And be it further enacted That if any person or persons in any oath to be made or taken in pursurance of the provisions of this Act for the purpose of obtaining the consent of any Magistrate or other person appointed as aforesaid shall knowingly or wilfully swear any matter or thing which shall be false every person so offending shall on conviction thereof be deemed guilty of perjury and shall suffer the like pains and penalties and incur the same disabilities as persons guilty of wilful and corrupt perjury are by law subject to.

Persons making false oath to be guilty of perjury.

6. And be it further enacted That every oath or affidavit required by this Act for the purpose of obtaining any such consent as aforesaid shall be duly preserved by the proper officers appointed by law to keep and preserve the registers or certificates of such marriages respectively and shall for that purpose be transmitted by the Magistrate or other person appointed as aforesaid from whom any such consent shall be obtained to such officer within ten days after such consent shall have been granted.

Affidavit to be kept by proper officer.

7. Provided always and be it enacted That nothing in this Act nor in the said recited Act contained shall be deemed or construed to apply to the marriage of any felon or other offender serving under a sentence of transportation who may be under the age of twenty-one years any thing herein or in the said recited Act contained to the contrary notwithstanding Provided nevertheless that no marriage shall be solemnized where either of the parties shall be a felon or other offender serving under a sentence of transportation whether under the age of twenty-one years or otherwise without the consent of the Governor of the said Colony being first had and obtained.

and to be transmitted by Magistrate or other person appointed as aforesaid.

Nothing in this Act nor in above recited Act to apply to marriages of persons serving under sentence of transportation which shall be solemnized only with consent of the Governor.

Form of Affidavit.

On this _____ day of _____ in the year one thousand eight hundred and _____ A. B. of _____ in the Colony of New South Wales Bachelor or Spinster (*as the case may be*) appeared personally before C. D. being a Magistrate or other person (*as the case may be*) appointed in pursuance of an Act intituled "*An Act to authorize the Marriage of Minors without the consent of Parents or Guardians in certain cases*" for the District of _____ in which the said A. B. is now resident (or being the District nearest to where the said A. B. is resident *as the case may be*) the said A. B. being desirous to intermarry with E. F. of _____ and for the purpose of obtaining the consent of the said C. D. as such Magistrate or other person appointed as aforesaid And the said A. B. maketh oath and saith that he or she is under the age of twenty-one years and that he or she knows of no impediment by reason of any former marriage consanguinity affinity or any lawful cause whatsoever to hinder the said marriage and that he or she hath no parent or guardian resident in the said Colony qualified to give such consent and is not a widower or widow.

A. B.

Sworn before me this _____ day of _____

C. D. J. P. (*or as the case may be*) duly authorized under the Act of the Governor and Council 2 Victoria No. 13.

Form of Consent.

I C. D. of _____ in the Colony of New South Wales Esquire duly appointed under the provisions of an Act of the Governor and Council intituled "*An Act to authorize the Marriage of Minors without the consent of Parents or Guardians in certain cases*" do hereby declare my consent to the marriage of A. B. (who is a young person under the age of twenty-one years and hath no parent or guardian resident in this Colony qualified to give such consent) with E. F. of _____

In witness whereof I have hereunto set my hand this _____ day of _____ in the year one thousand eight hundred and _____

C. D.