

ANNO TERTIO

GEORGII IV. REGIS.

CAP. LXXV.

An Act to amend certain Provisions of the Twenty-sixth of *George* the Second, for the better preventing of Clandestine Marriages. [22d *July* 1822.]

WHEREAS it is, amongst other Things, provided, by an Act passed in the Twenty-sixth Year of the Reign of His late Majesty King *George* the Second, intituled *An Act for the better preventing of Clandestine Marriages*, that all Marriages solemnized by Licence after the Twenty-fifth Day of *March* One thousand seven hundred and fifty-four, where either of the Parties (not being a Widower or a Widow) shall be under the Age of Twenty-one Years, which shall be had without the Consent of the Father of such of the Parties so under Age (if then living) 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 or Guardians, 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 Court of Chancery, shall be absolutely null and void, to all Intents and Purposes whatsoever: And whereas great Evils and Injustice have arisen from such Provisions: For Remedy hereof, be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, 26 G. 2. c. 33.

Certain Parts of 26 G. 2. relating to Consent, repealed.

That so much of the said Statute as is herein-before recited, as far as the same relates to any Marriage to be hereafter solemnized, shall be and the same is hereby repealed.

Marriages solemnized by Licence, without Consent as required by recited Act, &c. if not otherwise invalid, shall be deemed good.

II. And be it further enacted, That in all Cases of Marriage had and solemnized by Licence before the passing of this Act, without any such Consent as is required by so much of the said Statute as is herein-before recited, and where the Parties shall have continued to live together as Husband and Wife, till the Death of one of them, or till the passing of this Act, or shall only have discontinued their Cohabitation for the Purpose, or during the Pending of any Proceedings touching the Validity of such Marriage, such Marriage, if not otherwise invalid, shall be deemed to be good and valid to all Intents and Purposes whatsoever.

Act not to render valid any Marriage declared invalid by any Court competent.

III. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to render valid any Marriage declared invalid by any Court of competent Jurisdiction, before the passing of this Act, nor any Marriage where either of the Parties shall at any Time afterwards, during the Life of the other Party, have lawfully intermarried with any other Person.

This Act not to render any Marriage valid, the Invalidity of which has been established on Trial.

IV. Provided also, That nothing in this Act contained shall be taken or deemed to render any Marriage valid, the Invalidity of which has been established before the passing of this Act, upon the Trial of any Issue touching its Validity, or touching the Legitimacy of any Person alledged to be the Descendant of the Parties to such Marriage.

Not to render valid any Marriage, the Validity of which, or the Legitimacy of Children, has been brought into Question, &c.

V. Provided also, That nothing in this Act contained shall be taken or deemed to render valid any Marriage, the Validity of which, or the Legitimacy of any Person alledged to be the lawful Descendant of the Parties married, has been duly brought into Question in Proceedings in any Causes or Suits in Law or Equity in which Judgments or Decrees or Orders of Court have been pronounced or made, before the passing of this Act, in consequence of or from the Effect of Proof in Evidence having been made in such Causes or Suits of the Invalidity of such Marriage, or the Illegitimacy of such Descendant.

Property or Title of Honour on the Ground of Invalidity of Marriage not affected by this Act.

VI. Provided further, and be it further enacted, That if at any Time before the passing of this Act any Property, Real or Personal, has been in any manner possessed, or any Title of Honour has been in any Manner enjoyed by any Person or Persons whomsoever, upon the Ground, or upon the Pretence, or under Colour of the Invalidity of any Marriage, by reason that it was had and solemnized without such Consent as aforesaid, then and in such Case, although no Sentence or Judgment has been pronounced in any Court against the Validity of such Marriage, the Right and Interest in such Property or Title of Honour shall in no manner be affected or prejudiced by this Act, or any thing herein contained, but shall remain and be the same to all Persons, and to all Intents and Purposes, as if this Act had never been made.

VII. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to affect or call in question any Act done before the passing of this Act under the Authority of any Court, or in the Administration of any Personal Estate or Effects, or the Execution of any Will or Testament, or the Performance of any Trust. Not to affect any thing done under the Authority of any Court, &c.

VIII. And be it further enacted, That no Licence for any Marriage shall, from and after the First Day of *September* in the Year of our Lord One thousand eight hundred and twenty-two, be granted by any Person having Authority to grant the same, until Oath shall have been made by the Persons and to the Effect required by this Act; and if such Licence shall be required for the Marriage of Parties, both or either of whom shall be alledged to be of the Age of Twenty-one Years, such Parties shall respectively make Oath, that they are respectively, and that each of them believes the other to be, of the full Age of Twenty-one Years or upwards; and if both Parties shall be under the Age of Twenty-one Years, but shall be alledged to be a Widower and Widow, then each of such Parties shall make Oath accordingly, as to himself and herself, and as to his and her Belief with respect to the other Party; and if One of the Parties shall be of the Age of Twenty-one Years, but the other Party shall be under that Age, and a Widower or Widow, both Parties shall make Oath accordingly, as to himself and herself, and as to his and her Belief with respect to the other Party; and if both or either of the Parties shall be under the Age of Twenty-one Years, not being a Widower or Widow, both of such Parties shall make Oath accordingly, as to himself and herself, and as to his and her Belief with respect to the other Party; and in such Case both Parties shall also make Oath that the Person or Persons whose Consent shall be required by Law to the Marriage of such Parties has been given, and has been signified in the Manner required by this Act; and if both or either of the Parties shall be alledged to be of the Age of Twenty-one Years, such Licence shall not be granted until there shall be produced, to the Person from whom such Licence shall be required, an Extract or Extracts from the Register of the Baptism of such Parties or Party so alledged to be of the Age of Twenty-one Years, if such Register shall be in *England*, and can be found; and each of such Extracts shall be proved upon Oath, by some other Person or Persons, to be a true Extract from such Register, and to relate to the Baptism of the Party to whom the same shall be alledged to relate, or according to the Belief of the Person making such Oath; but if such Register shall not be in *England*, or cannot be found, then such Licence shall not be granted, unless such Fact shall be proved upon Oath to the Satisfaction of the Person from whom such Licence shall be sought, and unless some Person or Persons, having Knowledge of the Party or Parties so alledged to be of the full Age of Twenty-one Years, shall make Oath of the Fact that such Party or Parties is or are of that Age to the Knowledge or Belief of such Person or Persons so making Oath as aforesaid, stating the Grounds for such Knowledge or Belief; and in all Cases, except Cases of Special Licences to be granted by the Archbishop of *Canterbury* and his Officers, according to the Proviso for that Purpose in the said Act of the Twenty-sixth Year of King *George* the Second, No Licence to be granted till Oath be made to the Effect herein mentioned.

Oath

Oath shall also be made, by each of the Parties for whose Marriage a Licence shall be sought, of the Residence of such Parties for the Space of Four Weeks immediately before the granting of such Licence, according to the said Act of Twenty-sixth Year of King *George* the Second.

Consent of Parents or Guardians shall be given in Writing, signed in the Presence of Two Witnesses, &c.

IX. And be it further enacted, That from and after the said First Day of *September*, the Consent of any Person or Persons whose Consent shall be required by Law to the Marriage of any Person under the Age of Twenty-one Years, not being a Widower or Widow, shall be signified in Writing, signed by such Person or Persons, and the Signature thereto shall be attested by Two or more Witnesses, who shall subscribe their Names to an Attestation of such Signature; and such Consent shall fully describe the Person or Persons giving such Consent, and shall state whether such Person or Persons shall be authorized to give such Consent as lawful Parent or as lawful Guardian or Guardians of the Party to whose Marriage such Consent shall be given; and no Licence shall be granted, from and after the said First Day of *September*, for the Marriage of any Person under the Age of Twenty-one Years, not being a Widower or Widow, unless such Consent in Writing shall be delivered to the Person from whom such Licence shall be sought, and unless One of the Witnesses to the signing of such Consent shall make Oath that he or she saw such Consent signed by the Person or Persons who shall appear to have signed the same, and also saw the other Witness to the Attestation of such Signature sign such Attestation, and that the Names of such Persons so subscribed to such Consent, and attesting the Signature thereof, are of the proper Handwriting of such Persons respectively; and some Person, not being One of the Parties for whose Marriage such Licence shall be sought, shall also make Oath that the Person or Persons, who shall have signed such Consent as lawful Parent or lawful Guardian or Guardians of the Party to whose Marriage such Consent shall be required, is or are, to the best of his or her Knowledge and Belief, the lawful Parent or lawful Guardian or Guardians of such Party, and has or have Authority to give such Consent, and that the Person making such Oath well knows such Parent or Guardian or Guardians, and also the Party to whose Marriage such Consent shall be required.

Oaths to be taken before a Surrogate.

X. And be it further enacted, That all such Oaths as are required by this Act for the Purpose of obtaining any Licence shall be respectively sworn and taken before a Surrogate of the Person from whom any such Licence as aforesaid shall be sought, or before a Surrogate of some other Person having Power to grant Licences of Marriage; and if any Person or Persons in any Oath to be made and taken in pursuance of this Act, for the Purpose of obtaining any Licence of Marriage, shall knowingly and wilfully swear any Matter or Thing which shall be false or untrue, 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 subject to and incur; and if any Person shall knowingly and wilfully obtain any Licence for the Marriage of such Person, or of any other Person, by Means of

Punishment for false swearing, or obtaining Licence on false Oath, &c.

any false Oath, or by Means of any false Instrument in Writing, contrary to the Provisions of this Act, knowing such Oath or Instrument to be false, such Person being thereof convicted by due Course of Law, shall be deemed guilty of Felony, and shall be liable to Transportation for Life as a Felon; and if the Person convicted of such Offence shall be One of the Persons who shall have contracted Marriage by Means of such Licence, such Person shall forfeit and lose to the King's Majesty all Estate, Right, Title, Interest, Benefit, Profit, and Advantage, which such Person may derive from or be entitled to by virtue of such Marriage, and such Forfeiture shall and may be disposed of in such Manner as to His Majesty shall seem fit; any Grant of Forfeitures or other Matter or Thing to the contrary notwithstanding.

Oaths to be preserved by the proper Officer.

XI. And be it further enacted, That all and every the Oaths and Instruments required by this Act for the Purpose of obtaining any such Licence as aforesaid, shall be duly preserved by the proper Officer or Officers of the Person authorized by Law to grant such Licence, and shall for that Purpose be transmitted by the Officer from whom any such Licence shall be obtained, to the Registrar of the Diocese within which such Licence shall be granted, within Ten Days after such Licence shall have been granted, together with a Copy of the Licence so granted, and shall be there filed and preserved; and the Registrar of such Diocese shall cause an Entry to be made of such Licence, and of the several Instruments on faith whereof such Licence shall have been granted, in a Calendar to be kept for such Purpose, so that the Copy of such Licence, and such several Instruments on faith whereof such Licence shall have been granted, may be easily found and resorted to; and all Persons shall be at liberty to inspect such Calendar and such Copy of Licence, and all such other Instruments as aforesaid, at all seasonable Times.

Licences shall state the Facts on which granted.

XII. And be it further enacted, That in every Licence for the Solemnization of any Marriage, which shall be granted after the said First Day of *September*, the Facts on which such Licence shall have been founded shall be stated, and it shall also be stated that such Facts have been fully proved as required by this Act.

Officer granting Licences not duly observing the Provisions of this Act, guilty of a Misdemeanor.

XIII. And be it further enacted, That if any Officer of any Person authorized by Law to grant any such Licence shall not duly observe all the Provisions contained in this Act respecting such Licence, such Officer shall be deemed guilty of a Misdemeanor, and being thereof duly convicted, shall suffer all the Penalties and Punishment which may be inflicted by Law on a Person guilty of a Misdemeanor.

With whom the Power of granting Licences lies.

XIV. And be it further enacted, That no Person shall, from and after the passing of this Act, be deemed authorized by Law to grant any Licence for the Solemnization of any Marriage, except the Archbishops of *Canterbury* and *York*, according to the Rights now vested in them respectively, and except the several other Bishops within their respective Dioceses, for the Marriage of Persons One of whom shall be resident at the Time within the Diocese of the Bishop in whose

whose Name such Licence shall be granted, such Residence to be proved in Manner herein-before directed; and such Archbishops and Bishops shall make such Orders and Regulations for the Observance of their respective Officers within their respective Jurisdictions, as they shall deem necessary for the more effectual Performance of the Duties of their several Officers within the true Intent and Meaning of this Act; and if any such Officer shall not duly observe all such Orders and Regulations, such Officer shall be deemed guilty of a Misdemeanor, and being thereof duly convicted, shall be subject to Punishment as guilty of a Misdemeanor.

Marriage by Licence not to be impeached on the Ground of Informality.

XV. Provided always, and be it further enacted, That after the Solemnization of any Marriage by Licence, it shall not be lawful to impeach or invalidate any such Marriage, on the Ground that any of the Forms necessary to entitle Parties to receive a Licence as herein-before enacted have been neglected, or have been executed in a Manner different from what is herein-before required.

Before Publication of Banns, Affidavit as to Residence, &c. shall be delivered to the Minister.

XVI. And be it further enacted, That before the Publication of Banns of Matrimony in any Church or Chapel, pursuant to the Provisions for that Purpose in the said Act of the Twenty-sixth Year of the Reign of His said late Majesty King *George* the Second, there shall be delivered to the proper Minister of the said Church or Chapel an Affidavit or Affidavits in Writing, sworn before such Minister or One of His Majesty's Justices of the Peace, by the Parties for whose Marriage such Banns shall be required to be published, stating truly the Christian and Surnames of such Parties respectively, and the House or Houses of their respective Abode within such Parish or Chapelry, or within an Extra-parochial Place adjoining to such Parish or Chapelry, if both shall abide therein, or of One of such Parties if One only shall abide therein, and the Time during which such Parties respectively, or One of them, if One only shall abide therein, shall have dwelt in such House or Houses, as Occupier or Occupiers thereof, or as Lodger or Lodgers therein; and such Affidavit or Affidavits shall also state, either that both the Parties for whose Marriage such Banns shall be required to be published have attained the Age of Twenty-one Years, or if both of them shall be under such Age, then such Affidavit shall state that both of them are under such Age, and if One of them only shall be under such Age, then such Affidavit shall state that such Party is under such Age; and such Affidavit or Affidavits shall be delivered to such Minister before the Publication of such Banns; and in case any Person shall in any such Affidavit wilfully swear falsely in any Matter contained therein, such Person shall be deemed guilty of wilful and corrupt Perjury, and being thereof convicted by due Course of Law, shall suffer the Pains and Penalties of wilful and corrupt Perjury, and shall forfeit and lose to the King's Majesty all Estate, Benefit, Profit, and Advantage which such Person shall derive from the Marriage of such Person in consequence of the Publication of Banns of Matrimony in pursuance of such Affidavit, to be disposed of by His Majesty as he shall see fit; any Grant of Forfeitures or other Matter or Thing to the contrary notwithstanding.

XVII. And

XVII. And be it further enacted, That such Banns shall not be published until the true Christian and Surnames of the said Persons, and the House or Houses of their respective Abodes within such Parish or Chapelry or Extra-parochial Place as aforesaid, as stated in such Affidavit, shall be affixed on the principal Door of the Church or Chapel, and in some conspicuous Place within the said Church or Chapel, in which such Banns shall be published as aforesaid, and shall remain so affixed until the Expiration of the Three *Sundays* on which such Banns shall be published.

Before Publication, Banns shall be affixed on the Principal Door of the Church.

XVIII. And be it further enacted, That every Minister to whom any such Affidavit shall be delivered, for the Purpose of obtaining the Publication of Banns of Matrimony, shall deliver such Affidavit to the Churchwarden or Chapelwarden of the Church or Chapel in which such Banns shall be published, and the same shall be deposited by such Churchwarden or Chapelwarden in a Chest to be provided for that Purpose, and kept in the Church or Chapel in which such Banns shall be published.

Affidavits to be delivered over to the Churchwardens.

XIX. Provided always, and be it further enacted, That after the Solemnization of any Marriage, under a Publication of Banns, it shall not be necessary, in support of such Marriage, to give any Proof of any such Affidavit, nor shall any Evidence be received to prove that such Affidavit was not made and delivered as required by this Act, in any Suit touching the Validity of such Marriage; nor shall such Marriage be avoided for Want of or by reason of any Defect in any such Affidavit, or on account of the true Name or Names of either Party not being used in the Publication of such Banns, or for such Name or Names not having been affixed as aforesaid; but it shall be lawful in support of such Marriage to give Evidence, that the Persons who were actually married by the Names specified in such Publication of Banns were so married, and such Marriage shall be deemed good and valid to all Intents and Purposes, notwithstanding false Names, or a false Name, assumed by both or either of the said Parties in the Publication of such Banns, or at the Time of the Solemnization of such Marriage.

After Solemnization of Marriage under Banns, Proof of Affidavit having been made not necessary in support of Marriage, nor shall false Names, &c. invalidate the Marriage.

XX. And be it further enacted, That whenever a Marriage shall not be had within Three Months after the complete Publication of Banns, no Minister shall proceed to the Solemnization of the same until the Banns shall have been re-published on Three several *Sundays*, in the Form and Manner prescribed in this Act and in the said recited Act of the Twenty-sixth of *George* the Second, or by Licence duly obtained according to the Provisions of this Act.

Re-publication of Banns necessary, if Marriage be not solemnized within Three Months;

XXI. And be it further enacted, That all and every the Clauses and Provisions in this Act, touching the Publication of Banns of Matrimony, and touching Marriages solemnized by such Banns, shall commence and have effect on and after the First Day of *September* One thousand eight hundred and twenty-two, and not before.

Commencement of the Act.

XXII. And be it also enacted, That whenever a Marriage shall not be had within Three Months after the Grant of a Licence by

If Marriages by Licence be not solemnized

within Three Months, new Licences to be obtained.

by any Archbishop, Bishop, or any Ordinary or Person having Authority to grant such Licence, no Minister shall proceed to the Solemnization of Marriage until a new Licence shall have been obtained, or by Banns duly published according to the Provisions of this Act.

Not to extend to the Royal Family.

XXIII. Provided always, That nothing in this Act contained shall extend to the Marriage of any of the Royal Family.

Not to extend to Marriages among Quakers or Jews.

XXIV. Provided likewise, That nothing in this Act contained shall extend to any Marriages amongst the People called *Quakers*, or amongst the People professing the Jewish Religion, where both the Parties to any such Marriage shall be of the People called *Quakers*, or Persons professing the *Jewish* Religion respectively, nor to any Marriages solemnized beyond the Seas.

Act to be read in Churches, &c. at certain Times.

XXV. And be it further enacted, That this Act shall be publicly read in all Churches and Public Chapels, by the Parson, Vicar, Minister, or Curate of the respective Parishes or Chapelries, on some *Sunday* immediately after Morning Prayer, or immediately after Evening Prayer, if there shall be no Morning Service on that Day, in each of the Months of *October*, *November*, and *December*, in the Year of our Lord One thousand eight hundred and twenty-two; and at the same Times on Three several *Sundays* in the Year One thousand eight hundred and twenty-three, that is to say, the *Sundays* next before the Twenty-fifth Day of *March*, Twenty-fourth Day of *June*, and Twenty-ninth Day of *September*.

Act to extend only to England.

XXVI. And be it further enacted, That this Act shall extend only to that Part of the Kingdom called *England*.

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