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A
COLLECTION
OF
STATUTES
CONNECTED WITH THE
GENERAL ADMINISTRATION OF THE LAW;
ARRANGED

ACCORDING TO
THE ORDER OF SUBJECTS,
WITH NOTES,

BY
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1817.

No. 5.

26 Geo. II. c. 33.—An Act for the better preventing of clandestine Marriages.

26 Geo. II. c. 33.
Publication of
Banns.

Minister to sign
the Publication;

and the Marriage
to be solemnized
in one of the
Churches where
the Banns have
been published.

WHEREAS great Mischiefs and Inconveniences have arisen from Clandestine Marriages; For preventing thereof for the future, 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, That from and after the Twenty-fifth Day of *March* in the Year of our Lord One Thousand Seven Hundred and Fifty-four, all Banns of Matrimony shall be published in an audible Manner in the Parish Church, or in some publick Chapel, in which publick Chapel Banns of Matrimony have been usually published, (1) of or belonging to such Parish or Chapelry wherein the Persons to be married shall dwell, according to the Form of Words prescribed by the Rubrick prefixed to the Office of Matrimony in the Book of Common Prayer, upon Three (2) *Sundays* preceding the Solemnization of Marriage, during the Time of Morning Service, or of Evening Service (if there be no Morning Service in such Church or Chapel upon any of those *Sundays*) immediately after the second Lesson: And whensoever it shall happen that the Persons to be married shall dwell in divers Parishes or Chapelries, the Banns shall in like Manner be published in the Church or Chapel belonging to such Parish or Chapelry wherein each of the said Persons shall dwell; and where both or either of the Persons to be married shall dwell in any Extra-parochial Place, (having no Church or Chapel wherein Banns have been usually published) then the Banns shall in like Manner be published in the Parish Church or Chapel belonging to some Parish or Chapelry adjoining to such Extra-parochial Place: And where Banns shall be published in any Church or Chapel belonging to any Parish adjoining to such Extra-parochial Place, the Parson, Vicar, Minister or Curate, publishing such Banns, shall, in Writing under his Hand, certify the Publication thereof in such Manner as if either of the Persons to be married dwelt in such adjoining Parish; and that all other the Rules prescribed by the said Rubrick concerning the Publication of Banns, and the Solemnization of Matrimony, and not hereby altered, shall be duly observed; and that in all Cases where Banns shall have been published, the Marriage shall be solemnized in one of the Parish Churches or Chapels where such Banns have been published, and in no other Place whatsoever.

(1) In an Action for Criminal Conversation upon a Marriage solemnized in a Chapel, it seems necessary to give some Evidence that Marriages were celebrated by Banns in such Chapel previous to the Act;—but Instances since are Evidence of such Marriages having been celebrated. See *Tannton v. Wyborn*, 2 Camp. N.P. 297. In Local Acts for erecting Churches, it has been provided, that all Fees for Christenings, Marriages, and Burials, shall be accounted for to the Rector of the Parish, and this has been very generally acted upon as giving an implied Power to celebrate such Marriages, several legal Opinions having been given in Support of such Construction, but I am not aware of any legal Decision upon the Subject. See *Re v. Northfield Doug.* 634.

(2) In *Standen v. Standen*, Peake N.P. 32. the Husband was allowed to prove that the Banns were only published Twice; but his Credit was left to the Jury on Account of the Nature of his Evidence, and he was not believed.

II. Provided always, and it is hereby further enacted, That no Parson, Vicar, Minister or Curate shall be obliged to publish the Banns of Matrimony between any Person whatsoever, unless the Persons to be married shall, seven Days at the least before the Time required for the first Publication of such Banns respectively, deliver or cause to be delivered to such Parson, Vicar, Minister or Curate, a Notice in Writing of their true Christian and Surnames, and of the House or Houses of their respective Abodes within such Parish, Chapelry or Extra-parochial Place as aforesaid, and of the Time during which they have dwelt, inhabited or lodged in such House or Houses respectively. (3)

III. Provided always, and be it enacted by the Authority aforesaid, That no Parson, Minister, Vicar or Curate solemnizing Marriages after the Twenty-fifth Day of *March* One Thousand Seven Hundred and Fifty-four, between Persons, both or one of whom shall be under the Age of Twenty-one Years, after Banns published, shall be punishable by Ecclesiastical Censures for solemnizing such Marriages without Consent of Parents or Guardians, whose Consent is required by Law, unless such Parson, Minister, Vicar or Curate shall have Notice of the Dissent of such Parents or Guardians; and in case such Parents or Guardians, or one of them, shall openly and publickly declare, or cause to be declared in the Church or Chapel where the Banns shall be so published, at the Time of such Publication, his, her, or their Dissent to such Marriage, such Publication of Banns shall be absolutely void.

IV. And it is hereby further enacted, That no Licence of Marriage shall, from and after the said Twenty-fifth Day of *March* in the Year One Thousand Seven Hundred and Fifty-four, be granted by any Archbishop, Bishop, or other Ordinary or Person having Authority to grant such Licences, to solemnize any Marriage in any other Church or Chapel, than in the Parish Church or Publick Chapel of or belonging to the Parish or Chapelry, within which the usual Place of Abode of one of the Persons to be married shall have been for the Space of four Weeks immediately before the granting of such Licence; or where both or either of the Parties to be married shall dwell in any Extra-parochial Place, having no Church or Chapel wherein Banns have been usually published, then in the Parish Church or Chapel belonging to some Parish or Chapelry adjoining to such Extra-parochial Place, and in no other Place whatsoever.

V. Provided always, and be it enacted by the Authority aforesaid, That all Parishes where there shall be no Parish Church or Chapel belonging thereto, or none wherein Divine Service shall be usually celebrated every *Sunday*, may be deemed Extra-parochial Places for the Purposes of this Act, but not for any other Purpose.

VI. Provided always, That nothing herein before contained shall be construed to extend to deprive the Archbishop of *Canterbury* and his Successors, and his and their proper Officers, of the Right which hath hitherto been used, in virtue of a certain Statute made in the Twenty-fifth Year of the Reign of the late King *HENRY* the Eighth, intituled, *An Act concerning Peter Pence and Dispensations*; of granting Special Licences to marry at any convenient Time or Place.

VII. Provided always, and be it enacted, That from and after the Twenty-fifth Day of *March* in the Year One Thousand Seven Hundred and Fifty-four, no Surrogate deputed by any Ecclesiastical Judge, who hath Power to grant Licences of Marriage, shall grant

No. 5.
26 Geo. II. c. 23.
Notice of the Names, Places of Abode and Time of Residence of the Parties to be given to the Minister seven Days before Publication of Banns.

Minister not punishable for solemnizing Marriage after Banns published, where the Parents or Guardians give no Notice of Dissent; but where such Dissent shall be given, Publication of Banns to be void.

Licences to be granted to solemnize Matrimony in the Church or Chapel of such Parish only, where one of the Parties shall have resided for four Weeks before, &c.

Places which may be deemed extra-parochial by this Act.

Archbishop of *Canterbury's* Right to grant Special Licences reserved.

Surrogate deputed to grant Licences to take an Oath of Office, and give Security.

(3) A Clergyman who omits taking the Precautions directed by this Clause, is in great Hazard of incurring the Animadversion of the Court of Chancery, in case either of the Parties is a Ward of that Court. See *Nicholson v. Squire*, 16 Vesey, 259.

No. 5. any such Licence before he hath taken an Oath before the said Judge
 50 Geo. II. c. 33 faithfully to execute his Office, according to Law, to the best of his
 Knowledge, and hath given Security by his Bond in the Sum of One
 Hundred Pounds to the Bishop of the Diocese, for the due and faithful
 Execution of his said Office.

Persons convicted
 of solemnizing Matrimony without
 Banns or Licence
 or in any other
 Place, &c. except
 by Special Li-
 cence,

to be transported,

and the Marriages
 to be null

Prosecutions for
 the same to be
 commenced.

Proof of the Par-
 ties dwelling in
 the Parishes, &c.
 where Marriages
 shall have been so-
 lemnized, not ne-
 cessary to the Va-
 lidity of such Mar-
 riage.

Marriages solemn-
 ized by Licence
 without Consent
 of the Parents or
 Guardians, where
 either of the Par-
 ties (not being a
 Widower or Wi-
 dow) shall be un-
 der age void.

VIII And whereas many Persons do solemnize Matrimony in
 Prisons and other Places without Publication of Banns or Licence of
 Marriage first had and obtained; Therefore, for the Prevention there-
 of, Be it enacted, That if any Person shall, from and after the said
 Twenty-fifth Day of *March* in the Year One Thousand Seven Hun-
 dred and Fifty-four, solemnize Matrimony in any other Place than a
 Church or Publick Chapel, where Banns have been usually published,
 unless by special Licence from the Archbishop of *Canterbury*; or
 shall solemnize Matrimony without Publication of Banns, unless
 Licence of Marriage be first had and obtained from some Person or
 Persons having Authority to grant the same, every Person know-
 ingly and wilfully so offending, and being lawfully convicted thereof,
 shall be deemed and adjudged to be guilty of Felony, and shall be
 transported to some of his Majesty's Plantations in *America* for the
 Space of Fourteen Years, according to the Laws in Force for Trans-
 portation of Felons; and all Marriages solemnized from and after the
 Twenty-fifth Day of *March* in the Year One Thousand Seven Hun-
 dred and Fifty-four, in any other Place than a Church or such Publick
 Chapel, unless by Special Licence as aforesaid, or that shall besolemn-
 ized without Publication of Banns, or Licence of Marriage from a
 Person or Persons having Authority to grant the same first had and
 obtained, shall be null and void to all Intents and Purposes
 whatsoever.

IX. Provided, That all Prosecutions for such Felony shall be
 commenced within the Space of Three Years after the Offence
 committed.

X. Provided always, That after the Solemnization of any Mar-
 riage, under a Publication of Banns, it shall not be necessary, in
 Support of such Marriage, to give any Proof of the actual Dwelling
 of the Parties in the respective Parishes or Chapelries wherein the
 Banns of Matrimony were published; or where the Marriage is by
 Licence, it shall not be necessary to give any Proof that the usual
 Place of Abode of one of the Parties, for the Space of four Weeks as
 aforesaid, was in the Parish or Chapelry where the Marriage was
 solemnized; nor shall any Evidence in either of the said Cases be
 received to prove the Contrary in any Suit touching the Validity of
 such Marriage.

XI. And it is hereby further enacted, That all Marriages solemn-
 ized by Licence, after the said Twenty-fifth Day of *March* One
 Thousand Seven Hundred and Fifty-four, where either of the Parties,
 not being a Widower or 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. (4)

(4) A Bastard is within this Provision, and the Consent of the Mother or
 putative Father is not sufficient. See *Priestley v. Hughes*, 11 East, 1. and the
 Authorities there cited—especially *Dr. Croke's Report of the Case of Horner*
v. Liddiard, before Sir William Scott.

XII. And whereas it may happen, that the Guardian or Guardians, Mother or Mothers, of the Parties to be married, or one of them, so under Age as aforesaid, may be *Non compos mentis*, or may be in Parts beyond the Seas, or may be induced unreasonably, and by undue Motives to abuse the Trust reposed in him, her, or them, by refusing or withholding his, her, or their Consent to a proper Marriage; Be it therefore enacted, That in case any such Guardian or Guardians, Mother or Mothers, or any of them, whose Consent is made necessary as aforesaid, shall be *Non compos mentis*, or in Parts beyond the Seas, or shall refuse or withhold his, her, or their Consent to the Marriage of any Person, it shall and may be lawful for any Person desirous of marrying, in any of the before-mentioned Cases, to apply by Petition to the Lord Chancellor, Lord Keeper, or the Lords Commissioners of the Great Seal of Great Britain for the Time being, who is and are hereby empowered to proceed upon such Petition, in a summary Way; and in case the Marriage proposed shall upon Examination appear to be proper, the said Lord Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal for the Time being, shall judicially declare the same to be so by an Order of Court, and such Order shall be deemed and taken to be as good and effectual to all Intents and Purposes, as if the Guardian or Guardians, or Mother of the Person so petitioning, had consented to such Marriage.

XIII. And it is hereby further enacted, That in no Case whatsoever shall any Suit or Proceeding be had in any Ecclesiastical Court, in order to compel a Celebration of any Marriage in *facie Ecclesie*, by Reason of any Contract of Matrimony whatsoever, whether *per verba de presentis*, or *per verba de futuro*, which shall be entered into after the Twenty-fifth Day of March in the Year One Thousand Seven Hundred and Fifty-four; any Law or Usage to the contrary notwithstanding.

XIV. And for preventing undue Entries and Abuses in Registers of Marriages; Be it enacted by the Authority aforesaid, That on or before the Twenty-fifth Day of March in the Year One Thousand Seven Hundred and Fifty-four, and from Time to Time afterwards as there shall be Occasion, the Churchwardens and Chapelwardens of every Parish or Chapelry shall provide proper Books of Vellum, or good and durable Paper, in which all Marriages and Banns of Marriage respectively, there published or solemnized, shall be registered, and every Page thereof shall be marked at the Top, with the Figure of the Number of every such Page, beginning at the second Leaf with Number one; and every Leaf or Page so numbered, shall be ruled with Lines at proper and equal Distances from each other, or as near as may be; and all Banns and Marriages published or celebrated in any Church or Chapel, or within any such Parish or Chapelry, shall be respectively entered, registered, printed, or written upon or as near as conveniently may be to such ruled Lines, and shall be signed by the Parson, Vicar, Minister or Curate, or by some other Person in his Presence, and by his Direction; and such Entries shall be made as aforesaid, on or near such Lines in successive Order, where the Paper is not damaged or decayed, by Accident or Length of Time, until a new Book shall be thought proper or necessary to be provided for the same Purposes, and then the Directions aforesaid shall be observed in every such new Book; and all Books provided as aforesaid shall be deemed to belong to every such Parish or Chapel respectively, and shall be carefully kept and preserved for publick Use.

XV. And in order to preserve the Evidence of Marriages, and to make the Proof thereof more certain and easy, and for the Direction of Ministers in the Celebration of Marriages and registering thereof,

No. 5.
26 Geo. II. c. 33.

Where the Guardians or Mother shall be *Non compos mentis*, or in Parts beyond the Seas, or shall unreasonably withhold their Consent, the Parties may apply to the Lord Chancellor, &c. and being approved by Order of the Court shall be effectual.

No Suit to be in the Ecclesiastical Court to compel a Marriage in *facie Ecclesie*, by Reason of any Contract.

Churchwardens to provide Books in which are to be registered all Marriages and Banns.

the same to be signed by the Minister;

and the Books to belong to the Parish, and to be kept for publick Use.

No. 5. Be it enacted, That from and after the Twenty-fifth Day of *March* in the Year One Thousand Seven Hundred and Fifty-four, 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, an Entry thereof shall be made in such Register to be kept as aforesaid; in which Entry or Register it shall be expressed, That the said Marriage was celebrated by Banns or Licence; and if both or either of the Parties married by Licence, be under Age, with Consent of the Parents or Guardians, as the Case shall be; and shall be signed by the Minister with his proper Addition, and also by the Parties married, and attested by such two Witnesses; which Entry shall be made in the Form or to the Effect following; that is to say,

and signed by the Minister, Parties, and Witnesses.

Form.

A. B. of [the] Parish
 and C. D. of [the] Parish
 were married in this [Church] by [Banns] with Consent of [Parents]
 this [Chapel] Day of [Licence] in the Year [Guardians]
 by me J. J. [Rector]
 [Vicar]
 [Curate]
 This Marriage was solemnized between us A. B. in the Presence of
 C. D. E. F.
 G. H.

Persons convicted of making a false Entry in the said Register,

or of forging, &c. any Licence,

or of destroying with an ill Intent, such Register,

to suffer Death.

Marriages of the Royal Family,

XVI. And be it further enacted by the Authority aforesaid, That if any Person shall, from and after the Twenty-fifth Day of *March* in the Year One Thousand Seven Hundred and Fifty-four, with Intent to elude the Force of this Act, knowingly and wilfully insert, or cause to be inserted in the Register Book of such Parish or Chapel as aforesaid, any false Entry of any Matter or Thing relating to any Marriage; or falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or act or assist in falsely making, altering, forging or counterfeiting any such Entry in such Register; or falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or assist in falsely making, altering, forging or counterfeiting any such Licence of Marriage as aforesaid; or utter or publish as true any such false, altered, forged or counterfeited Register as aforesaid, or a Copy thereof, or any such false, altered, forged or counterfeited Licence of Marriage, knowing such Register or Licence of Marriage respectively, to be false, altered, forged or counterfeited; or if any Person shall, from after the said Twenty-fifth Day of *March*, wilfully destroy, or cause or procure to be destroyed, any Register Book of Marriages, or any Part of such Register Book, with Intent to avoid any Marriage, or to subject any Person to any of the Penalties of this Act; every Person so offending, and being thereof lawfully convicted, shall be deemed and adjudged to be guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy.

XVII. Provided always, That this Act, or any Thing therein contained, shall not extend to the Marriages of any of the Royal Family.

XVIII. Provided likewise, That nothing in this Act contained shall extend to that Part of *Great Britain* called *Scotland*, nor to

any Marriages amongst the People called *Quakers*, or amongst the Persons 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. (5)

No. 5.
26 Geo. II. c. 38.
and of Quakers
and Jews, and of
Persons in Scot-
land, or beyond
the Seas excepted.

(5) Soon after the passing of the Act it was decided in the Court of Delegates in a Case of *Bearcroft v. Bearcroft*, that a Marriage between two English Persons who go to Scotland solely for the Purpose, is valid; and such is now the established Law.

Upon a Trial, on the Home Circuit, for Polygamy, (in which it is necessary to prove an actual Marriage,) Evidence was required of the Law of Scotland with Respect to the Legality of the first Marriage, which was there contracted; and the Evidence of such, being the known Law of the Country, was rejected in Consequence of the unfitness of the Person whose Testimony was adduced upon the Subject;—and the Judge said to have intimated, that such Evidence should be by the Certificate of the Lord Advocate or other authorised Person, and that the Court, upon such Subject, would not attend to the Information of a *Tobacconist*. This Case which I partly cite from Recollection of Newspaper Reports, but which, since composing the principal Part of this Note, I find referred to in the Case of the King and Brampton, 10 East, 285. involves in its Decision Principles which would require a very serious Examination before they were generally adopted. In the first Place—the Necessity of requiring any Evidence at all upon the Subject, is a great and important Question, when considered as a general Question respecting the mutual Recognition of the Laws of the different Parts of the same United Kingdom. Information may be often very properly applied for, for the mutual Assistance of the Tribunals of the respective Parts of the United Kingdom, but that is the Information of Science, the Counsel of an Assessor, and not the Information of Evidence, which is of a perfectly different Nature—and if such Evidence was necessary in the particular Case, it is equally necessary in all Cases when a Question of the Law of one Member of the Kingdom becomes a Matter of incidental Enquiry in the other.—2. But if it was necessary that Evidence should be given upon the general Principle that the Law of other Countries is Matter of Fact, and as such ought to be proved, it seems a most extraordinary Doctrine to hold that the mere Situation in Life of a Witness can be taken as an Objection to the Reception of his Testimony. The Situation in Life, or the Habits and Character of a Witness, may be fairly taken into Consideration, in determining the Effect of his Evidence as to adequacy of Knowledge, or as to the Degree of Credit which he shall receive, but cannot, upon any correct judicial Principles, be opposed as a Bar to his Admissibility, and it cannot be supposed that in the particular Case, if the Evidence had been regarded as otherwise than legally exceptionable, a serious Doubt could have been made to the Jury upon its Credit or Accuracy with Respect to a Matter of such general and undoubted Notoriety.—3. As the Subject may come in Question with Respect to Marriages contracted in distant Countries, it is proper to consider whether a Proof of two Persons having in any Manner or Form agreed to, enter into the Relation of Husband and Wife, and having afterwards reputed as such, should not be taken as sufficient until positive Evidence is offered of its Invalidity. Marriage, however important it may be, is only a Contract to which no particular Ceremony or Solemnity is requisite in its own Nature, or according to the Laws of some Countries, especially in Scotland, actually subsist.—In most Countries however, peculiar Solemnities are very judiciously superinduced upon the Validity of this Engagement—but the Necessity of such Solemnities is not to be presumed; and the primary Evidence which I have mentioned would therefore seem sufficient until contradicted by other Evidence, showing the Necessity of further Requisites than such as upon general Principles would be sufficient.

In a Trial for Polygamy, before Mr. Serjeant Marshall, as Judge of the Lancaster Summer Assizes, 1814, Evidence of a Marriage in Scotland by a Dissenting Clergyman, was held sufficient, without giving any Proof of the Law of Ireland upon the Subject.

No. 5.

86 Geo. II. c. 33

This Act to be read in all Parish Churches and publick Chapels.

XIX. And be it further enacted by the Authority aforesaid, That this Act shall be publickly read in all Parish Churches and publick 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

With Respect to the actual Law of Ireland, it is expressly provided, by Stat. 21 and 22 Geo. III. c. 25, that Marriages between Protestant Dissenters, solemnized by Dissenting Ministers or Teachers, shall be valid. The Acts of the Irish Parliament, containing Provisions against the Marriage of Protestants with Catholics, or Protestants with Protestants, by any Popish Priest, acknowledge, by necessary Implication, the Validity of such Marriages between Catholics.—See 1 Gabbett, 410-411.

In the late Case of *Dalrymple v. Dalrymple*, before the Consistory Court of London, and afterwards before the Delegates, for Restitution of Conjugal Rights, Evidence was given of the Law of Scotland, by the principal Lawyers of that Country, upon regular Depositions.—See the Report of the Case by Dr. Dodson.

In the Case of the King and the Inhabitants of Brampton, 10 East, 582, a British Soldier in Saint Domingo being desirous of marrying the Widow of another Soldier there, they went to a Chapel where the Ceremony was performed by a Person appearing as a Priest, and officiating as such, the Service being in French, but interpreted into English by one who officiated as Clerk, and which was understood to be the Marriage Service of the Church of England, after which there was a Cohabitation of several Years. The Court of Quarter Sessions thought, upon a Question of Settlement, that this was not sufficient Evidence of a legal Marriage;—but fortunately, not considering it as a Case affected by the Hints so often thrown out to that Tribunal, of the Confidence which they ought to entertain in their own Opinion, they stated a Case for the Opinion of the Court of King's Bench. Bench, who considered that there was sufficient Evidence of a good Marriage either according to the Law of England or according to the Law of the Country where it took Place.—The Case contains some important Information respecting the Doctrine of Marriages *per verba de presenti*, previous to this Statute, for the Validity of which it appears that the Presence of a Clergyman was requisite; but that a Marriage by a Roman Catholic Clergyman was sufficient.

One of the Mischiefs against which the Act was intended to provide, was the establishing Officers in the Fleet and other Places for the Celebration of Clandestine Marriages. Books have been preserved of the Entries of such Marriages, but from the many fabricated Entries which they have been found to contain, different Judges have refused to receive them in Evidence, but they were admitted by Mr. Justice Heath in *Passingham v. Lloyd* at Shrewsbury Assizes, 1794. See Peake's Evidence, 89. In *Cooke v. Lloyd*, Append. *ibid.* 74. Mr. Justice Le Blanc refused to receive such an Entry in Evidence, as being no more than a private Memorandum made by Somebody who had no Authority to make it, and who might put down any Thing he pleased, whether true or false. But it is observable, that in none of these Cases the Question was carried farther than the Court of Nisi Prius—and the Case of *Lloyd and Passingham* coming before the Court of Chancery after an Interval of Fourteen Years upon some Grounds for imputing actual Forgery to the particular Entry in that Case, the Lord Chancellor considered the general Question as one which was still open. See 16 Vesey, 59. Considering the State of the Law before the passing of the Act, it certainly does not seem desirable in the Nature of the Thing to exclude a Species of Evidence which would continually result from and accompany the actual Occurrence of the Fact recorded, and any Experience of improper Practices with Respect to the Custody and Management of the Books at a particular Place, would hardly seem sufficient to prevent the Admissibility of the Evidence whatever Cautions it might reasonably suggest with Respect to its Credibility.

Many Doubts have been entertained of the Policy and Justice of this Act, as giving an undue Weight to Parental Authority; and an unsuccessful Attempt was made in 1781 to Repeal it. Mr. Burke's Speech against the

be no Morning Service on that Day, in each of the Months of *September, October, November, and December*, in the Year of our Lord One Thousand Seven Hundred and Fifty-three, and afterwards at the same Times, on four several *Sundays* in each Year, (that is to say,) The *Sundays* next before the twenty-fifth Day of *March*, twenty-fourth Day of *June*, twenty-ninth Day of *September*, and twenty-fifth Day of *December* respectively, for two Years, to be computed from and immediately after the first Day of *January*, in the said Year One Thousand Seven Hundred and Fifty-four.

No. 5.
26 Geo. II. c. 22.

Repeal, contained in his Works, vol. 9. 8vo. 135, is a very satisfactory and able Vindication of the Act. Considering the Motives which usually lead to an Infraction of this Act, and the Opinions manifested by the Laws of almost all Countries, in Favour of giving to Parents an Interposition with Respect to the Marriage of their Children under a certain Age, I conceive it would be desirable that Provisions should be made for rendering it effectual. For this Purpose it may not be improper to require that every Direction for the Publication of Banns, should specify the Ages of the Parties, their particular Habitation, their Parentage and other proper Requisites; and that some authentic Testimony should be given to the Minister of the Particulars certified: and that upon Marriage by Licence, the Documents should specify the Time and Place of the Birth of the Parties, confirmed by Registers or other suitable Certificates, or that the Officer should have some other authentic Testimony of their being of the requisite Age; and that all such Consents as are required by Law, should be registered with the other Documents necessary for obtaining the Licence.

The Exemption of Marriages in Scotland being subject to such great Abuse, it would be an easy Remedy to prohibit all such Marriages as are at present irregular, and as such subject to Punishment. This would have the Effect of preventing an Engagement, in the Certainty of which so many Interests may be involved from depending upon the Precariousness of verbal Evidence, and would also prevent a Party from being involved by Presumptions in an Engagement which it was never his intention to contract. It might be of some public Benefit in facilitating the Evidence of Marriages after the Death of the Parties, if a particular Part of the Parish Registers were appropriated to the Entry of Minutes of Reference respecting Marriages contracted elsewhere.

By an Act of the Irish Parliament, 9 Geo. II. c. 11. Marriages are prohibited of Minors, without the Consent, in Writing, of the Father or Guardian, or, in Case no Guardian is appointed, of the Lord Chancellor, if either of the Parties is entitled to a real Estate of the Value of £100 per Annum, or a personal Estate of the Value of £500,—or if either of the Parents of the Minor is entitled to a real Estate of the Value of £100 per Annum, or a personal Estate of the Value of £2000;—but if no Suit is instituted by the Father or Guardian, or a Person appointed by the Lord Chancellor, for the Purpose of annulling the Marriage, within one Year after it is contracted, it is to be deemed good. By Stat. 23 Geo. II. c. 10. Ir. Provisions are made for the Removal of certain Difficulties with Respect to such Suits.—See 1 Gabb. 404.