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WESTERN AUSTRALIA.

ANNO DECIMO,
VICTORIÆ REGINÆ.

*By His Excellency Lieutenant Colonel
FREDERICK CHIDLEY IRWIN, Knight
Companion of the Royal Hanoverian
Guelphic Order, Governor and Com-
mander-in-Chief of the Territory of
Western Australia, and Vice-Admiral
of the same; with the advice and con-
sent of the Legislative Council thereof*

NO. XVIII.

An Ordinance to repeal the existing Laws respecting the Solemnization of Matrimony; and to make other regulations respecting the same.

Whereas an act was passed in the fourth and fifth years of the Reign of her present Majesty entitled "*An Act to regulate the Solemnization of Matrimony in the colony of Western Australia*;" and whereas it is expedient to repeal the same, and to make other regulations in lieu thereof—Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies by and with the advice and consent of the Legislative Council thereof, the said act shall be and the same is hereby repealed, save and except so far as relates to any act matter or thing heretofore done under the provisions of the said Act, or to any penalty or forfeiture which shall have been incurred under the said Act.

II. And be it enacted, that the words Registrar and Registrar-General shall throughout this ordinance be deemed and taken to mean the Registrar and Registrar-General respectively of Births, Deaths, and Marriages.

III. And be it enacted, that notwithstanding anything in this ordinance contained, marriage may be solemnized by persons in holy orders of the Church of England according to the rites and rubric of that Church—Provided always that the registrar's certificate if tendered shall be used and stand instead of the publication of banns; and that marriages may be solemnized in any place employed for public devotion according to the forms of the Church of England—Provided also, that every such marriage be solemnized in the presence of a registrar or his deputy and of two witnesses.

IV. And be it enacted, that licenses or dispensations for marriages according to the rites of the Church of England without banns may be issued by any person having episcopal authority or the jurisdiction of ordinary within this colony, or in the absence of such jurisdiction or authority by the Governor or any other person appointed for that purpose under the hand of the Governor, and of whose appointment notice shall be given in the Government Gazette: and for every such license it shall be lawful to demand and receive the sum of two pounds to be appropriated in like manner as fees for like licenses in England—Provided always, that before any such license shall be issued the like declaration shall be made and subscribed before the person issuing the same as is hereinafter required in the case of a registrar's licence; and that in all proceedings at law or otherwise having relation to any marriage under any such license, proof of such marriage shall be deemed proof of such declaration having been made, unless evidence of the contrary be adduced.

V. And be it enacted that in every case of marriage to be solemnized in this colony after the passing of this ordinance (unless by such license as aforesaid, or by a registrar's license, or after publication of banns by a minister of the Church of England, or in pursuance of some proceeding heretofore taken under the provisions of the said act hereby repealed) one of the parties shall give notice under his or her hand, in the form of Schedule A to this ordinance an-

nexed, or to the like effect, to the registrar of the district within which the parties shall have dwelt for not less than seven days then next preceding, or, if the parties dwell in the districts of different registrars, shall give the like notice to the registrar of each district provided that if either party shall have dwelt in the place stated in the notice more than one calendar month, it may be stated therein that he or she hath dwelt therein one month and upward.

VI. And be it enacted, that the Registrar shall file all such notices and keep them with the records of his office, and shall also forthwith enter a true copy of every such notice fairly into a book to be for that purpose furnished to him at the public expense by the Colonial Secretary, to be called the Marriage Notice Book; and the Marriage Notice Book shall be open at all reasonable times without fee to all persons desirous of inspecting the same; and every such notice or a true and exact copy thereof under the hand of the registrar shall be suspended in some conspicuous place in his office during twenty one successive days if the marriage be without licence, before any marriage shall be solemnized in pursuance of such notice.

VII. And be it enacted, that after the expiration of twenty one days from such entry, the registrar upon being requested so to do by or on behalf of the party by whom the notice was given, shall issue under his hand a certificate in the Schedule B to this ordinance annexed, or to the like effect, provided that no lawful impediment be shown to the satisfaction of the registrar why such certificate should not issue, and provided that the issue of such certificate shall not have been sooner forbidden in manner hereinafter mentioned.

VIII. And be it enacted, that any person authorized in that behalf may forbid the issue of the registrar's certificate by writing at any time before the issue thereof the word 'forbidden' opposite to the entry of the notice of such such intended marriage in the Marriage Notice Book, and by subscribing thereto his or her name, and his or her place of abode, and his or her character in respect of either of the parties by reason of which he or she is so authorized; and in case the issue of any such certificate shall have been so forbidden, the notice and all proceedings thereon shall be utterly void; and every person whose consent to a marriage by certificate is herein after required is hereby authorised to forbid the issue of the registrar's certificate.

IX. And be it enacted, that the father, if living, of any party under twenty one years of age (such party not being a widower or widow), or, if the father shall be dead, 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 the mother, if unmarried, of such party, shall have authority to give consent to the marriage of such party; and such consent is hereby required for the marriage of such party so under age, whether by licence by whomsoever issued, or by certificate.

X. And be it enacted, that if the father or mother, guardian or guardians of any party desirous to be married and under age as aforesaid, shall be "non compos mentis," or shall be absent from the colony, or if any such guardian shall from undue motive refuse his, her, or their consent to a proper marriage, it shall be lawful for such party so desirous to be married to apply by petition to the Civil Court of this colony, which is 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 court shall judicially declare the same to be so; and such judicial declaration shall be deemed to be as good and effectual to all intents and purposes as if the guardian or guardians of the person so

petitioning had consented to such marriage.

XI. And be it enacted, that every registrar shall have authority to grant licenses for marriage in any place of worship (save as hereinafter excepted) or other public building within his district, or in his office, in the form of schedule C to this ordinance annexed—Provided that nothing herein contained shall authorise any registrar to grant any licence for any marriage according to the rites of the Church of England, or for any marriage to be solemnized in any building usually employed for public devotion according to such such rites.

XII. And be it enacted, that before any license or certificate for marriage shall be granted by any such registrar, one of the parties intending marriage shall appear personally before such registrar, and in case the notice of such intended marriage shall not have been given to such intended registrar, shall deliver to him the certificate of the registrar or registrars to whom such notice shall have been given, and such party shall make and subscribe a solemn affirmation or declaration that he or she believeth that there is not any impediment of kindred or alliance or other lawful hindrance to the said marriage, and that one of the said parties hath for the space of fifteen days immediately before the day of the grant of such licence had his or her usual place of abode within the district within which such such marriage is to be solemnized, 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 by law, has been obtained thereto, or in lieu thereof a judicial approval as hereinbefore provided.

XIII. And be it enacted, that any person may enter a caveat with the registrar against the grant of a license or certificate for the marriage of any person named therein; and if any caveat be so entered, and be duly signed by or on behalf of the person entering the same, together with his or her place of residence, and the ground of objection on which such caveat is founded no licence or certificate shall be granted until the registrar shall have examined into the matter of the caveat, and is satisfied that it ought not to obstruct the grant of a license or certificate for the said marriage, or until the caveat be withdrawn by the party who entered the same; provided that in cases of doubt it shall be lawful for the registrar to refer the matter of any such caveat to the registrar general, who shall decide upon the same; provided likewise that in case of the registrar refusing the grant of the license or certificate, the person applying for the same shall have a right of appeal to the registrar general, who shall thereupon either confirm the refusal or direct the grant of the license or certificate.

XIV. And be it enacted, that no marriage after such notice as aforesaid, unless by virtue of a license shall be solemnized or registered until after the expiration of twenty one days after the day of the entry of such notice as aforesaid.

XV. And be it enacted, that whenever a marriage shall not be had within three calendar months after the date of the registrar's license issued therefor, or within three calendar months after the notice shall have been so entered as aforesaid, such license and such notice and any certificate granted thereupon, shall be utterly void; and no person shall proceed to solemnize the marriage, nor shall any registrar register the same, until a new licence shall have been issued, or a new notice given and certificate granted in the manner aforesaid.

XVI. And be it enacted, that the Registrar's certificate, or in case the parties shall have given notice to the registrar's of different districts, the certificate of each registrar shall be exhibited to the officiating

minister, and shall be delivered to the registrar present at the marriage.

XVII. And be it enacted, that immediately after the issue of a registrar's license or after the expiration of the said period of twenty-one days, if the marriage is to be by certificate, marriages may be solemnized in the church, registrar's office, or other public building stated in the registrar's license or notice of such marriage between and by the parties described in the license or notice and certificate according to such form or ceremony as they may see fit to adopt—Provided that every such marriage shall be solemnized with open doors, between the hours of eight in the forenoon, and four in the afternoon, in the presence of the registrar of the district within which such church, office, or other building is situate or of his deputy, and of two or more credible witnesses—Provided also that in some part of the ceremony, and in the presence of such registrar, or his deputy, and of such witnesses, each of the parties shall declare.

I do solemnly declare that I know not of any lawful impediment why I, A.B., may not be joined in matrimony to C.D., and each of the parties shall say to the other—

I call upon these persons here present to witness that I, A.B., do take thee, C.D., to be my lawful wedded wife (or husband)—

Provided also, that there be no lawful impediment to the marriage of such parties.

XVIII. And be it enacted, that after any marriage shall have been solemnized it shall not be necessary in support of such marriage to give any proof of the actual residence of either of the parties previous to the marriage within the district wherein such marriage was solemnized for the time required by this ordinance; or of the consent of any person whose consent thereunto is required by law; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

XIX. And be it enacted, that every marriage under this ordinance shall be good and cognizable in like manner as marriages before the passing of this ordinance according to the rites of the Church of England.

XX. And be it enacted, that it shall be lawful for the registrar before whom any marriage is solemnized according to the provisions of this ordinance to ask of the parties to be married the several particulars required to be registered touching such marriage.

XXI. And be it enacted, that all marriages celebrated in this colony before the passing of the said act hereby repealed, in whatever form and place, and by whomsoever the same were solemnized, shall be as valid to all intents and purposes as if the same had been solemnized under the provisions of the said repealed act or of this ordinance—Provided that no lawful impediment to the same shall have existed at the time of such marriage.

XXII. And be it enacted, that every person who shall enter a caveat with the registrar against the grant of any license, or issue of any certificate, on grounds which the registrar general shall declare to be frivolous, and that they ought not to obstruct the grant of the license or issue of any certificate, shall be liable for the costs of the proceedings, and for damages to be recovered in a special action upon the case by the party against whose marriage such caveat shall have been entered; and that a copy of the declaration of the registrar general, purporting to be sealed with the seal of his office shall be evidence that the registrar general has declared such caveat to have been entered on frivolous grounds as aforesaid.

XXIII. And be it enacted, that every person who shall knowingly and wilfully make any false declaration, or sign any false notice or certificate required by this ordinance for the purpose of procuring any marriage, and every person who shall forbid the issue of any registrar's certificate by representing himself or herself to be a person whose consent to such marriage is required by law, knowing such representation to be false, shall suffer the penalties of perjury.

To be continued.

Proclamation.

By His Excellency, FREDERICK CHIDLEY IRWIN, ESQUIRE, Knight Companion of the Royal Hanoverian Guelphic Order, Governor and Commander-in-Chief of the Territory of Western Australia and its Dependencies, and Vice Admiral of the same,

In pursuance of the authority in me vested, by a certain act of the Imperial Parliament of Great Britain and Ireland, and passed in the fifth and sixth years of Her Majesty's reign, intituled 'an act for regulating the sale of waste lands belonging to the Crown in the Australian colonies,' I do hereby notify and proclaim, that the following portion of land in the District of the Swan, will be offered for sale by Public Auction, by the Collector of Revenue at Perth, on Wednesday the 10th day of November, 1847, at the upset price affixed thereto, on the terms and conditions set in certain forth regulations, dated the 14th June, 1843.

Swan Location, No. 111—comprising 9 acres more or less, adjoining the West boundary of Swan location, No. 94, and in form of a double square with its N.E. corner 10 chains South from N.W. corner of location 94 aforesaid. Upset price £2 per acre.

Given under my hand and seal at Perth this seventh day of October, 1847.

F. C. IRWIN,

GOVERNOR, &c.

By His Excellency's command,

G. F. MOORE.

Colonial Secretary.

GOD SAVE THE QUEEN !!

Colonial Secretary's Office, Perth
October 9, 1847.

His Excellency the Governor has directed to be published for general information the following regulations relative to Licenses to cut Sandal Wood on Crown Lands.

By His Excellency's command,
G. F. MOORE.

Colonial Secretary.

1.—No sandal wood is to be cut under any general timber licence issued after this date.

2.—The application for a licence to cut sandal wood must mention the District in which it is intended to cut.

3.—The licence is to cover both cutting and removal, and all wood remaining on the ground at the expiration of the licence is to be the property of the Government.

4.—No licence will be given for a shorter period than three months in the first instance, but it will be renewable from month to month, on application ten days before its expiration.

5.—The price chargeable, payable in advance, is at the rate of £2 10s. per month for two men, and £1 5s. per man additional.

6.—All men engaged in cutting, lopping, loading, or carting sandal wood on crown lands are to have a licence, or to carry a ticket from a licensed person, in a form to be specified. This ticket may be cancelled and a new one issued.

7.—Any licensed person finding wood cut which is not protected by an existing licence, may apply to a Justice of the Peace, and receive an order to seize and appropriate the same to his own use.

8.—Licenses may be issued by the Collector of Revenue, or by a Resident Magistrate of the District.

9.—All licenses issued, and all tickets cancelled are to be published in the Gazette.

The Government will also be ready to receive any special proposal for lease or purchase of the exclusive right to cut any particular sandal wood, which may suit the views of individuals.

Form of Licence to cut Sandal Wood.

These are to certify that under the provisions of the Act of Council 7th Vict. No.

14 is duly licensed

the day of to the

day of to cut and remove Sandal

Wood from unoccupied Crown Land in the district of subject to such regulations as may from time to time be made and published in the Government Gazette.

And I do hereby further certify that the said has paid into my hands for said licence the sum of Pounds Shillings.

Collector of Revenue.

Form of Ticket to be given by Licensee to men employed by him.

A. B. is employed by me under authority of Licence granted to me for three months from day of to

(Signed)

C. D.

Colonial Secretary's Office, Perth
October 7, 1847.

Weekly Report of Licenses issued to Depasture Stock.

Messrs. Lefroy, 12,000 acres, Avon.

L. Lukin, 6,000, do. do.

T. W. Hazlewood, 8,000, acres, Melbourne

J. Hardey, 12,000 acres, Avon.

J. Lockyer, 4,000 do. do.

G. & J. Gooch, 4,000 do. do.

Sandal Wood Licences.

Oct. 1—W. Doust and one man, 3 months

York district

" R. Smith and one man, ditto

" G. Shenton to employ two men, 3 months, York.

" J. Seabrook, ditto

Timber Licences issued by the Government Resident, York, from Aug. 1 to Sept 30.

Aug. 1—T. Wall, 1 month, 2 men

" J. H. Monger, do do

4—J. Ridley, do do

5—C. Heal, do do

6—Capt. Meares do do

" G. Embleton, do do

12—J. Byrn do do

" R. Strange do do

14—Messrs. Carter do, 4 men

18—J. Cheveril do, 2 men

26—J. H. Monger do, 6 men

Sept. 5—G. Embleton do, 2 men

" S. Parker do do

" J. Ridley do do

7—J. Giblet do, 6 men

" J. Smith do, 2 men

14—Messrs. Carter, do do

Issued by Government Resident, Toodyay.

Sept. 3—J. Herbert, 1 month, 2 men

12—J. Drummond, do do

23—S. P. Phillips do do

25—A. O'G. Lefroy do, 4 men

Oct. 1—T. N. Yule do, 2 men

By His Excellency's command,

G. F. MOORE,

Colonial Secretary.

Colonial Secretary's Office, Perth,
October 6, 1847.

Depasturing Licenses.

The following applications have been received:—
1847.

Sept. 13—4,000 acres, W. Padbury, Swan River District, adjoining the lands of G. F. Moore, Esq.

Sept. 13—J. Yorke, 12,000 acres, Swan River District, adjoining the lands of Messrs. W. L. Brockman and G. F. Moore, Esqrs.

Sept. 15—Messrs. Carter, 12,000 acres, Williams District, adjoining the lands of Messrs. Tanner, Leake, Phillips, and MacDermott.

Sept. 30—James Payne, 6,000 acres, on the Ferguson River, adjoining the lands of James Henty, Esq.

Oct. 1—G. M. Whitfield, 4,000 acres, Avon District, adjoining the lands of Messrs. Boley, Anderson, and F. Whitfield.

* Particulars of boundaries have been forwarded to the respective Government Residents.

By His Excellency's command,

G. F. MOORE.

Colonial Secretary.

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