marriage are directory only, and apply only to cases where the marriage is celebrated in England by licence (*k*).

By sect. 2 provision is made for a marriage, without the Royal consent, of any such descendant, being above twenty-five years of age, after notice to the privy council and the expiration of twelve months after such notice; in case the two Houses of Parliament do not before that time expressly declare their disapprobation of the marriage.

By sect. 3, . . . 'Every person who shall knowingly or wilfully presume to solemnize, or to assist or to be present at the celebration of any marriage, with any such descendant, or at his or her making any matrimonial contract, without such consent as aforesaid first had and obtained, except in the case above mentioned, shall, being duly convicted thereof, incur and suffer the pains and penalties, ordained and provided by the Statute of Provision and *Præmunire* made in the sixteenth year of the reign of Richard the Second' (c. 5, Rev. Stat. (2nd ed.), vol. i. p. 173).

This Act applies to all Royal persons falling within its terms, irrespective of the place where the marriage takes place (*l*); but the penal clause is defective in not providing for the trial of British subjects who violate the Act outside the realm (*m*).

Church of England.—It has not been decided whether refusal by a clergyman of the Church of England to solemnise marriage between a couple who are his parishioners is indictable (*n*). A man and woman who had obtained a certificate of marriage from a registrar under 6 & 7 Will. IV. c. 85, requested a clergyman to appoint a day and hour for marrying them at his church. He refused to marry them unless the man consented to be confirmed. For this refusal the clergyman was indicted as for a statutory offence. The indictment failed for want of proof of a proper demand, but the Court did not decide that the refusal would be indictable even by reference to the statute, and Patteson, J., said that refusal to marry after banns would not be indictable (*n*).

The clergy of the Church of England and of the Protestant Episcopal Church of Ireland are not subject to any obligation to solemnise the marriage of a person whose former marriage has been dissolved on the ground of his or her adultery (*o*); and a clergyman of the Church of England is not bound to solemnise a marriage between a man and his deceased wife's sister (*p*).

The Marriage Act, 1823 (4 Geo. IV. c. 76), which relates only to marriages by licence or banns in churches or chapels of the Established Church of England, enacts (s. 21) that 'if any person shall, from and after the said first day of November [1823], solemnize matrimony in any other place than a church or such public chapel wherein banns may be lawfully published, or at any other time than between the hours of eight in the forenoon and three in the afternoon (*q*) unless by special licence from the Archbishop of Canterbury; or shall solemnize matrimony

(*k*) Per Tindal, C.J., in advising the H.L. on the Sussex Peerage Claim, 11 Cl. & F. 85, 148; 6 St. Tr. (N. S.) 79.

(*l*) Sussex Peerage Claim, *ubi sup.* The marriage took place in Rome by the rites of the Church of Rome.

(*m*) Id. ibid.

(*n*) R. *v.* James, 2 Den. 1; 3 C. & K. 167; 19 L. J. M. C 179.

(*o*) 20 & 21 Vict. c. 85, s. 57. See s. 58, as to right to use his church.

(*p*) 7 Edw. VII. c. 47, s. 1. The Act is silent as to ministers of non-established Churches.

(*q*) The hours were extended from 12 noon to 3 p.m. by 49 & 50 Vict. c. 14.