

THE STATE vs. WILLIS.

In an indictment against a minister for solemnizing the marriage of minors without the consent of the parent, it is sufficient to allege that he is authorized by law to solemnize the rites of matrimony in this State, without alleging in terms that his license or credentials of clerical character have been previously recorded.

And it is sufficient to allege that the marriage was solemnized without the consent of the parent, and that the parent resided in the State, without setting out the name of the parent.

Appeal from the Johnson Circuit Court.

This was an indictment against the Reverend Thomas Willis, for solemnizing marriage without the consent of the parent of the young lady, determined in the circuit court of Johnson county

in August, 1847, before the Hon. WM. W. FLOYD, judge. The indictment follows:

“STATE OF ARKANSAS, }
 COUNTY OF JOHNSON. } SCT.

In the Johnson Circuit Court at the March Term thereof, 1847.

The grand jurors for the State of Arkansas, duly selected, impaneled, sworn and charged to inquire in and for the body of the county of Johnson, aforesaid, upon their oath, do present that Thomas Willis, late of said county, on the tenth day of January in the year of Christ eighteen hundred and forty-seven, in the county of Johnson, aforesaid, was then and there a regularly ordained minister of the christian denomination called *Baptist*, and authorized by law to solemnize the rights of matrimony in the State of Arkansas; and that the said Thomas Willis, on the day and year aforesaid, with force and arms, in the county aforesaid, did perform the marriage ceremony and solemnize the rites of matrimony between *Lorenzo Dow Teague* and one *Dicy Ragsdale*, which said *Dicy Ragsdale* was then and there a female over the age of fourteen years, and under the age of eighteen years, and that the said Thomas Willis then and there performed the marriage ceremony, and solemnized the rites of matrimony between the said Lorenzo D. Teague and the said *Dicy Ragsdale* without the consent in person or in writing of the parents of the said *Dicy*, which said parents were then and there living in the State of Arkansas; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Arkansas.”

The defendant's counsel moved to quash the indictment on the grounds: “1st. Because the said indictment does not show that said defendant has had his license or credentials recorded in the office of the clerk of any court in this State: 2d. Because the said indictment wholly fails to show who were the parents of the said *Dicy Ragsdale*.”

The court quashed the indictment, and the State appealed.

WATKINS, *Att. Gen'l.* The indictment is technically good under

the statute. This court has uniformly held that, in misdemeanors, the indictment is good, if it substantially conforms to the description of the offence contained in the statute. The defendant, in assuming to solemnize marriages, would be presumed to have performed his duty in having his credentials recorded, else he would be guilty of a double offence, and he certainly cannot make such an objection to this indictment. So, in regard to the second objection, if the parents of the female resided in this State, the defendant was bound, at his peril, to ascertain and know who they were, and that their consent had been obtained before he solemnized the marriage.

No counsel for the Parson!

SCOTT, J. The indictment in this case is technically good under the statute upon which it is predicated. It describes the offence with which the defendant was charged with sufficient certainty. It is not necessary to allege in terms that the defendant's license or credentials of clerical character had been previously recorded. It was sufficient to allege that he was authorized by law to solemnize the rites of matrimony in this State, as was done. Neither was it necessary to set out the names of the parents whose consent had not been obtained; it was sufficient on that point to allege, as was done, that the marriage had been solemnized without the consent of the parents, and that the parents resided in the State of Arkansas. If the parents resided in the State of Arkansas the defendant was bound, at his peril, to ascertain and know who they were and that their consent had been obtained before he solemnized the marriage. And being an ordained minister of a christian denomination, his assuming to solemnize marriage as such must raise the presumption that he had had his credentials previously recorded, as, otherwise, he must be presumed to have committed another misdemeanor, which the law would not do.

And as the court below quashed the indictment its judgment must be reversed, and the case remanded to be proceeded in.