

same Act the boundaries of the Province had been enlarged so as to take in all of what is now Ontario and the present Michigan. Marriage was in French Canada a matter of canonical law; to be a valid civil marriage there must be a religious marriage; and the decree of the Superior Council of June 12th, 1741, enjoined the cures to observe the canon law strictly in marriage. By the canon law a marriage to be valid required the presence of a priest. The English law was equally strict—at that time and for sometime after the presence of a clergyman of the Church of England (before the Reformation, of a priest) was necessary.

In the new country it was generally impossible to secure the presence of a priest of either communion; but Love laughs at locksmiths and at law.

Young people appealed to the principle of necessity which proverbially knows no law; remembering the fire-side law that the captain of a ship might perform the ceremony of marriage on his ship when on the high seas, they applied to the commanding officers of the military posts, to magistrates, to adjutants and even to surgeons at the posts acting as chaplains to perform the ceremony—and it was performed accordingly. Some of those so married took care on their return to civilization to have the ceremony regularly performed: for example Captain James Mathew Hamilton, whose descendants we yet have among us, was married at Michilimackinac to Louisa Mitchell, daughter of Dr. David Mitchell, Surgeon-General to the Indian Department there, the father performing the ceremony. On their arrival at Niagara they found the Rev. Robert Addison, a clergyman of the Church of England there and were remarried by him. The register (which was Mr. Addison's own but became that of St. Mark's Church) reads, "August 24th, 1792, Captain James Hamilton to Louisa Mitchell his wife. They had been married by some commanding

officer or magistrate and thought it more decent to have the office repeated". The Hamiltons were great favourites with our first Lieutenant-Governor Simcoe and his wife. The English law in civil matters was re-introduced in this Province in 1792 and it is dangerous to attempt to apply the doctrine of necessity to English law.

Richard Cartwright, junior, who had been appointed a member of the Legislative Council, was strongly impressed with the peril attached to these irregular marriages—his own was one of them—and he in the Second Session of the First Parliament in 1793 introduced a bill to validate all such marriages. This passed the Council without difficulty, but in the House of Assembly it was amended so as to authorize the ministers of other communions than the Anglican to perform the marriage ceremony for their own people. This amendment was not accepted—a conference was held by Cartwright, Peter Russell (afterwards Administrator of the Government of Upper Canada) and Commodore Grant (who died at a great age through his exertions in the war of 1812), representing the Council and Macomb, Campbell and Van-Alstine, representing the Assembly. The Commoners withdrew the amendments on the positive assurance that representations would be made to the Home Government in favour of non-Anglicans, and that the matter would be put on a liberal footing at the following Session.

The Act was passed and became law; it provided that all marriages theretofore contracted before any magistrate or commanding officer of a post, or adjutant, or surgeon of a regiment acting as chaplain, or any other person in any public office or employment should be valid. Persons who had contracted such marriages might preserve testimony by making within three years an affidavit in the form given, with the dates of the births of their surviving children, if any, and