
1st Session, 4th Parliament, 16 Victoria, 1852.

BILL.

**An Act for the Regulation of Marriages,
and to place upon a footing of equality
the several Religious Denominations,
relative to the solemnization or cele-
bration of Matrimony.**

Received and read a first time, Tuesday, 7th
September, 1852.

Second reading, Tuesday, 21st September, 1852.

Mr. MACKENZIE.

QUEBEC:

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BILL.

An Act for the Regulation of Marriages, and to place upon a footing of equality the several Religious Denominations, relative to the solemnization or celebration of Matrimony.

WHEREAS it is expedient to amend the Law of Marriage in Canada ; Be it enacted, &c., Preamble.

That where by any law or ordinance in force before the passing of this Act, it is provided that any marriage may be solemnized, celebrated, or contracted after publication of banns, or under authority of a licence granted by the Governor, such marriage may be solemnized, celebrated, or contracted in like manner on production of the Registrar's Certificate, as hereinafter provided : And all Acts and parts of Acts specially providing for the publication of banns, and authorizing the Governor to grant marriage licences are hereby repealed ; Provided, nevertheless, that nothing in this Act contained shall be taken to interfere with the mode or manner of solemnizing or proclaiming marriages now in use by any church, religious congregation, or christian denomination, or by Quakers, Menonists, Tunkers or Jews, or with any usage or custom of registration of marriages now in use among Protestants, Roman Catholics, or other religious bodies, for ecclesiastical purposes only. But marriage, so far as its validity in law is concerned, shall be held and taken to be a civil contract, to which the consent of parties, legally capable of contracting, shall be essential.

Acts authorizing Governor to grant marriage licenses repealed.

Proviso, this Act not to interfere with religious observances with respect to marriage.

II. In every case of marriage intended to be solemnized, celebrated or contracted in Canada, after the 31st day of December next, one of the parties shall give notice under his or her hand, in the form of schedule A. to this Act annexed, or to the like effect, to the Registrar of the Town, Township, Parish, City or Incorporated Village within which the parties have dwelt for not less than two days then next preceding, or if the parties dwell in different registering districts, shall give the like notice to the Registrar of each district, and state therein the name and surname and the

Parties about to marry to give notice thereof to Registrar.

profession or condition of each of the parties intending marriage, the dwelling place of each of them, and the time, not being less than two days, during which each has dwelt therein. The Registrar shall file all such notices, and keep them with the records of his office, and shall forthwith enter a true copy of all such notices fairly into a book to be for that purpose furnished to him by the Registrar General, to be called "the Marriage Notice Book," and which shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same, and for every such entry the Registrar shall be entitled to have a fee of fifteen pence.

Registrar to keep marriage notice book.

Registrar to issue certificate as to competency of parties.

III. The Registrar shall satisfy himself of the identity of the parties, of their competency as to age, and as to there being no legal impediment to their entering into the marriage state. If the issue of a certificate has not been forbidden by any person authorised to forbid the issue thereof, and if satisfied, after enquiry, or from personal knowledge, that no such impediment exists, the Registrar shall immediately issue under his hand a certificate in the form of schedule B. to this Act annexed: but if there is a doubt on his mind, he may either examine the parties, or either of them, on oath, relative to the matter of which he is in doubt, or defer the issue of such certificate for one week to enable him to make further enquiries, at the end of which time he may issue his certificate in the form of schedule B. for which he shall be entitled to have a fee of fifteen pence.

By whom marriage may be solemnized.

IV. Marriages may be solemnized or celebrated by any Justice of the Peace, in the County for which he is appointed; they may be solemnized or celebrated throughout the Province by any Clergyman, Minister of the Gospel, who has been ordained according to the usage of his denomination, and who resides within the Province, and continues to preach the Gospel and to perform the other functions of his office, or by any Mayor, Recorder or Alderman of a City, in the City for which he acts, or by a Justice of the Peace, or a Judge of the County Court within his County; and a Registrar's certificate shall be to any such Minister, Mayor, Recorder, Alderman, Judge or Justice, full authority for solemnizing or celebrating the marriage of the parties named and described in the said certificate.

Not to interfere with Quakers and Jews.

V. Marriages among the people called Friends or Quakers, and among the Jews, may be solemnized, celebrated or contracted in the manner heretofore used and practised in their respective religious societies or synagogues; but parties to be married must first obtain a certificate of their intentions from the Registrar of the Town, City, Township or Parish in which they are then resident.

VI. No marriage solemnized before any person professing to be a Justice of the Peace, Minister of the Gospel, Mayor, Alderman, Recorder, Registrar or County Judge, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected or called in question on account of any want of jurisdiction or authority in such supposed Justice, Minister, Mayor, Alderman, Recorder, Registrar, or County Judge, or on account of any omission or informality in the manner of entering the intention of marriage; provided that the marriage is in other respects lawful, and consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

Marriage not to be void on account of want of jurisdiction of party solemnizing it.

VII. The record of a marriage, made and kept by the Registrar, or a copy of such record duly certified, shall be received in all Courts and places, as presumptive evidence of the fact of such marriage.

Legal effect of record or copy thereof.

VIII. The age of consent shall be deemed to be, in the case of a female twelve years, and in the case of a male fourteen years. A marriage contract entered into at an earlier age is voidable at the election of either party, on arriving at the age of consent, if either party was under that age when such contract was made and such marriage celebrated.

Age of consent

IX. No peculiar ceremonies shall be deemed essential to the valid celebration of marriage. The contract shall consist in the consent of the contracting parties freely given, such parties being then competent to contract marriage. Where the consent of the parties has been freely declared before two competent, credible witnesses, after a certificate of intentions had been duly obtained from the District Registrar, such marriage shall be held to be valid and lawful.

Consent of parties only essential.

X. The parties intending to be married, having received from the Registrar of any Town, Township, City, or Parish, the certificate in the form of Schedule B., may be married before the said Registrar, if such should be their desire, or before any other Registrar. It shall be their duty to cause a record to be made of their marriage, within three months of the date thereof, in the registry of the Town, Township, City or Parish in which it was solemnized or celebrated, agreeably to the provisions of an Act passed during this present Session, intituled "*An Act to provide for the Registration of Births, Marriages, and Deaths*:" and if they omit to cause such record to be made they shall incur a penalty of £—————

Registrar may marry.

Entry of marriage how made and signed.

XI. Every entry of a marriage, by the Registrar, in his register, shall be signed by the person before whom such marriage shall have been solemnized or celebrated, with the addition of his official station; by the Registrar, as such; and by the parties married. The marriage shall be attested by two witnesses. 5

Interest of husband in real estate of wife may not be taken in execution against him.

XII. The interest of a married man in the real estate of his wife, belonging to her at the time of their intermarriage, or which she may have acquired by devise or inheritance during coverture, shall not be liable to be taken by execution against him, during the life of the wife, or the life or lives of children the issue of 10 such marriage; provided that nothing herein contained shall affect the remedy upon any contract made prior to the first day of January, 1853.

Wages of married woman may be paid to her

XIII. Whenever any married woman shall earn wages by her own labor, payment of the same may be made to her; and when 15 made shall be valid in law, as though made to her husband; and no debt for the wages of a married woman, earned as aforesaid, shall be liable to be taken by virtue of any process against her husband.

Payment of money deposited by wife to her to be valid.

XIV. Payment to a married woman, of any money deposited 20 by her, either before or after marriage, with any individual, incorporated bank, savings bank, or institution for savings, shall be a valid payment, and her receipt for the same shall have the same effect as the receipt of her husband; provided, that nothing herein contained shall affect the right of any creditor of her husband to 25 levy on such money by attachment or execution.

Creditor of husband may levy on such money when take effect.

Commencement of Act.

XV. This Act shall take effect from and after the 31st of December next, and it shall be the duty of the Provincial Secretary to send one copy thereof to every Township, Town, City, and Parish Clerk in Canada. 30

Contrary Acts repealed.

XVI. All Acts and parts of Acts inconsistent with this Act are hereby repealed.

SCHEDULE A.

NOTICE OF MARRIAGE.

To the Registrar of the District of Walpole, in the County of Haldimand
I hereby give you notice, That a Marriage is intended to be had

within Three Calendar Months from the date hereof, between me and the other party herein named and described, (*that is to say,*)

Name.	Condition.	Rank or Profession.	Age.	Dwelling place.	Length of Residence.	District and County in which the other Party resides, when the Parties dwell in different Districts.
James Hoover.	Widower.	Farmer.	Of full age.	Lot 16, 5th Concession.	23 Years.	Toronto, York.
Martha Green.	Spinster.		Minor.	Yonge Street.	More than a Month.	

Witness my Hand, this sixteenth day of May, 1853.

(Signed) JAMES HOOVER.

SCHEDULE-B.

Registrar's Certificate.

I, James Kinnear, Registrar of the District of Walpole, in the County of Haldimand, do hereby certify, That on the Sixth day of May, Notice was duly entered in the Marriage Notice Book of the said District, of the Marriage intended between the parties therein named and described, delivered under the Hand of James Hoover, one of the parties; that is to say :

Name.	Condition.	Rank or Profession.	Age.	Dwelling place.	Length of Residence.	District and County in which the other Party resides, when the Parties dwell in different Districts.
James Hoover	Widower.	Farmer.	Of full age.	Lot 16, 5th Concession.	23 Years.	Toronto, York.
Martha Green.	Spinster.		Minor.	Yonge Street.	More than a Month.	

Date of Notice entered,)
16th May, 1853.)
Date of Certificate given,)
27th May, 1853.)

The issue of this Certificate has not been forbidden by any person authorized to forbid the issue thereof.

Witness my Hand, this twenty-seventh day of May, one thousand eight hundred and fifty-three.

(Signed,) JAMES KINNEAR,
Registrar.

This Certificate will be void unless the Marriage is solemnized on or before the sixteenth day of August, 1853.