

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires: **Cover title page is bound in as last page in book but filmed as first page on fiche.**

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.

10x	14x	18x	22x	26x	30x
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12x	16x	20x	24x	28x	32x

No. 65.

1st Session, 5th Parliament, 18 Victoria, 1854.

BILL.

An Act to amend the Law of Upper Canada with
tion and Registration of Marriages..

Received and Read First time, Tuesday, 28th.
Sept., 1854.

Second Reading, Monday, 2nd Oct., 1854.

Hon. MR. ROLPH.

QUEBEC :

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

An Act to amend the Law of Upper Canada with respect to the Solemnization and Registration of Marriages.

WHEREAS it is expedient to make better provision respecting the Celebration and Registration of Marriages in Upper Canada: Be it therefore enacted, &c., as follows: Preamble.

I. So much of the Act of the Legislature of Upper Canada, passed in the thirty-third year of the Reign of King George the Third, and intituled, An Act to confirm and make valid certain Marriages heretofore contracted in the Country now comprised within the Province of Upper Canada, and to provide for the future Solemnization of Marriages within the same, or of the Act of the said Legislature, passed in the eleventh year of the Reign of King George the Fourth, and intituled, An Act to make valid certain Marriages heretofore contracted, and to provide for the future Solemnization of Matrimony in this Province, or of the Act of the Legislature of this Province, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, An Act to extend the Provisions of the Marriage Act of Upper Canada to Ministers of all denominations, as empowers any person validly to celebrate Marriage so as to give the Marriage any legal effect for civil purposes, other than the persons hereby authorized to receive the Contract of Marriage, or as requires or authorizes any Register or Record of any Marriage to be made or kept in any other manner than that hereby provided and prescribed, or as would give any legal effect for civil purposes, to any Marriage contracted in Upper Canada after the day of , in any way other than that hereby prescribed and provided, shall be, and so much of the said Acts is hereby repealed. Acts repealed. U. C. 33 Geo. 3 c. U. C. 11 Geo. 4 c. Canada, 10 and 11 V.c.

II. From and after the time when this Act shall be in force, Marriage, as a Civil Contract, shall be valid in law, when such Contract is executed by the contracting parties in the manner and before the parties hereinafter mentioned.

III. It shall and may be lawful for any Minister, Priest, Pastor or Religious Teacher recognized by any Church or Religious Denomination, and the Mayor or any Alderman of any City or Town, a Judge of any County Court, the Warden of any County Council, and the Reeve of any Township, for the time being, under this Act, to receive from the contracting parties the Marriage Contract, which shall be executed in duplicate in the presence of the person so receiving the same, who shall make a record thereof and record the same. Who may receive the Contract of Marriage.

IV. Any parties who heretofore have contracted, or hereafter may contract Marriage according to any law of this Province, or of any other Province or Country, or whose Marriages are hereinafter confirmed by this Act, may proceed under this Act according to the form of Contract Reception of Avowal of Contracts of Marriage.

hereto appended, and in like manner, and with like privileges, as if they were making an Original Marriage Contract, and the like duties shall be incumbent upon, and the like responsibilities shall appertain to the person receiving such Avowed Contract under this Act, as if it were an Original Contract.

5

Contract to be in writing, signed and witnessed.

V. The Marriage Contract shall be in writing, and subscribed by the parties in the presence of at least two witnesses, one of whom shall be personally known, and both of whom shall be known or vouched to be of satisfactory credit to the person to whom, by virtue of this Act, such Contract shall be delivered, and in whose presence it shall have been executed.

Person receiving the Contract to make a certain declaration.

VI. The person receiving any such Marriage Contract executed before him in duplicate as aforesaid, shall subscribe a declaration, that the identity of the parties thereto is to him known, or satisfactorily vouched for, and that it is also to him known or has been satisfactorily vouched to him, that there is no lawful impediment to interfere with or make void the Contract, and that all the facts mentioned in the contract have been satisfactorily vouched to him, and that one of the Witnesses is personally known, and both of them known to him to be or vouched to him as being worthy of credit in the matter they have attested.

20

Such person to be first satisfied of the truth of the facts.

VII. If the Witness or Witnesses shall, in the belief of the person about to receive such contract, be of doubtful sufficiency to satisfy him of the identity of the respective parties, and of the truth of the facts set forth in the declaration in the last preceding section mentioned, he shall otherwise first satisfy himself thereof by such further inquiries as he may institute before receiving such Contract.

25

To receive Contract, knowing either party to be under impediment, to be a misdemeanor.

VIII. Every person who shall by authority of this Act receive a Marriage Contract when either of the parties shall be known to him to be or he shall have reason to believe either of them to be under any legal impediment, shall be deemed guilty of a misdemeanor, and punishable by fine or imprisonment, or both, at the discretion of the Court before which he shall be tried.

30

False statement, &c., to be a misdemeanor.

IX. If any party to a Marriage Contract shall wilfully make any false statement therein, or if any witness to any such Contract, or any other person, shall attest or vouch for the truth of any statement made or recited in any such Contract, knowing the same to be false, or having no reasonable cause for believing the same to be true, or if any person shall falsely assume or exercise authority under the third section of this Act, such party, witness, or other person shall be guilty of a Misdemeanor, and shall be punishable by fine or imprisonment or both, in the discretion of the Court before which he shall be tried.

35

40

Certified copies of Contract, &c.

X. Every person receiving such Contract for Registry under this Act, shall give to any person applying for it a certified copy of it and of the record thereof.

Alphabetical Record to be kept.

XI. Every person receiving Marriage Contracts under this Act, shall keep an Alphabetical Record in the names of each of the parties, according to the form to this Act appended, containing the names, residence and degree, or calling and parentage of the contracting parties, and the same particulars of the witnesses, and the true date of the Contract.

45

XII. Every person authorized under this Act as aforesaid shall, once in every months, return a certified copy of his Record, together with the Marriage Contracts perfected as aforesaid, to the Register of the County in which such Contracts shall have been made, and in default thereof he shall be deemed guilty of a misdemeanor, and shall be punishable by fine and imprisonment, or either of them, at the discretion of the Court in which the complaint may be made.

Contracts, &c. to be returned to County Registrar.

XIII. It shall be the duty of the said Register of the County, on receipt of such Record and Contracts, to file the same in his Office, and he shall further prepare from the said Records of his Office a General Annual Alphabetical Registry in the names of each of the parties, in like manner and form to the one appended to this Act, in duplicate, one of which, together with one duplicate of the Marriage Contract he shall transmit on the day of in each year, to the Provincial Registrar, and the other he shall keep of record in his Office.

Registrar to make annual alphabetical Registry.

XIV. A duly certified Copy of any Record kept by any of the persons authorized by the third section of this Act to receive the Contract of Marriage and record the same, or their successors in office, or of the County Record from the County Register, or of the Provincial Record from the Provincial Registrar, shall be considered *prima facie* evidence of the said marriage, and of the facts therein stated, and a copy so certified of any such Contract shall be *prima facie* evidence of such Contract, and of the facts therein stated; and the persons in the said third section of this Act mentioned, and their successors in office, and the said County Register or Provincial Registrar, are hereby required to give such certified Copy of such Record or Contract or of the Registry thereof, to any person demanding the same; and in case of refusal or neglect so to do, shall be deemed guilty of a misdemeanor, punishable by fine and imprisonment or either of them, by the Court in which the complaint may be made.

Certified copies of Record to be *prima facie* evidence, and must be given on demand.

Punishment for refusal.

XV. The person receiving the Contract and recording the same, shall be entitled to receive for the Contract for recording, for transmittal, for a copy, and a further sum of on each Contract, to be paid over to the County Register, and of to be paid over to the Provincial Registrar; and the County Register shall be entitled to receive for a copy, and the Provincial Registrar for a copy.

Fees.

XVI. Provided always, and be it enacted and declared, That nothing in this Act shall be construed to interfere with any Religious Ceremony which the parties contracting Marriage may choose to observe, or to render necessary any Religious Ceremony with which they may choose to dispense, provided the Contract itself be made and registered as hereby required.

Act not to interfere with religious ceremonies of marriage.

XVII. No publication of Banns or Marriage License, shall be necessary in order to the valid celebration of any Marriage in Upper Canada, after this Act shall be in force, any thing in any Act or Law to the contrary notwithstanding.

Banns or license not required.

XVIII. The Marriage or Marriages of all persons not under any legal disqualification to contract matrimony, that have been publicly contracted

Certain marriages in U.C. declared valid

in Upper Canada before any Justice of the Peace, Magistrate or Commanding Officer of a Post, or before any Priest, Minister or Clergyman, or between or with any person or persons belonging to the Society of Friends commonly called Quakers, or persons professing the Jewish religion, according to the usages of the said Society and of the said persons respectively, before this Act shall come into force, shall be and are hereby confirmed, and shall be considered good and valid in law, and the parties to such Marriages and the issue thereof shall be entitled to all the rights and subject to all the obligations resulting from Marriage and Consanguinity, any law, usage or custom to the contrary notwithstanding: 10
 Provided that nothing in this Section contained shall extend to or affect any Marriage declared invalid by any Court of competent jurisdiction before this Act comes into force, nor any Marriage where either of the parties shall at any time afterwards during the lifetime of the other party, have lawfully intermarried with any other person, nor any Marriage respecting which any criminal prosecution shall be depending at the time this Act comes into force: Provided further, that this section shall not extend or be construed to extend to or affect any act done before this Act comes into force, under the authority of any Court, or in the administration of any personal Estate or Effects, or in the Execution of any Will or Testament or the performance of any Trust. 15 20

Proviso.

Proviso.

To what marriages this Act applies, and commencement of Act.

XIX. Except in those cases where it is otherwise herein expressly provided, this Act shall apply only to Marriages contracted as aforesaid in Upper Canada after this Act shall be in force; and that this Act shall come into force and effect upon, from and after the day of 185 , and not before.

FORM OF AN ORIGINAL CONTRACT.

Whereas A. B., of _____ in the County of _____ in Upper Canada, bachelor, (or widower, as the case may be,) son of _____ and _____ of the Township of _____ in the County of _____ and C. D., of _____ in the County of _____ spinster, (or widow, as the case may be,) daughter of _____ and _____ of the Township of _____ in the County of _____ have a mutual purpose of marriage, for the carrying out of which they are desirous to enter into the Contract by Law in such case made and provided, severally declaring that there is no lawful cause against it. Now these presents witness that the said A. B. and C. D. have mutually agreed to enter into the relation of man and wife, from henceforth, according to the laws of Upper Canada. In witness whereof the said A. B. and C. D. have hereunto set their hands in the presence of E. F., of _____ in the County of _____ (addition) and G. H., of _____ in the County of _____ (addition) and before J. K., Registrar, (Judge of the Court, or Minister, &c., as the case may be,) of the County of _____

Signed, and delivered to the _____ of the _____ in the _____ presence of the said E. F. and G. H. } A. B. L. S. C. D. L. S. on the _____ day of _____ 18 _____

E. F.
 G. H.

DECLARATION ON THE CONTRACT.

I, J. K., of the County of hereby declare that the above Marriage Contract was executed in my presence, in duplicate, and in the presence of the witnesses E. F. and G. H. therein named, and who have attested the same and the delivery thereof to me. I further declare that the said A. B. and C. D. are known, (or satisfactorily vouched for to me,) as the persons therein described; and that it is to me known or satisfactorily vouched that there is no lawful impediment to their matrimonial union. And I further declare that all the facts mentioned in the above contract have been satisfactorily vouched to me; that (E. F.) one of the witnesses of the said contract is personally known to me, and that both of the witnesses thereto are known or vouched to me as worthy of credit respecting the matters above attested.

J. K.
of the County of

FORM OF AVOWAL OF A FORMER CONTRACT.

Whereas A. B. of in the County of in Upper Canada, (Farmer,) son of of in (Carpenter,) and C. D. his wife, daughter of of in (Baker,) were married in the year , at in , as they hereby declare, and they are desirous of avowing and recording in Upper Canada, the Marriage Contract into which they then entered. Now therefore these presents witness that the said A. B. and C. D. declare themselves to have entered as aforesaid into the relation of man and wife, and do avow the Marriage Contract into which they entered as aforesaid. In witness whereof, the said A. B. and C. D. have hereunto set their Hands and Seals in the presence of E. F. of the of in the County of (Farmer,) and of G. H. of the of in the County of (Tailor,) and before J. K. Registrar, (Judge of the Court, or Minister, as the case may be) of the County of

Signed, and Delivered to the	}		
of the in the		C. D.	L. S.
presence of the said E. F. and G. H.	}	A. B.	L. S.
on the day of 18			

E. F.
G. H.

DECLARATION ON THE CONTRACT.

I, J. K., of the County of hereby declare that the above written Avowed Contract of Marriage was signed in my presence and in the presence of the witnesses E. F. and G. H., who have attested the same and the delivery thereof to me, on the day and in the year therein mentioned. And I further declare that the said A. B. and C. D. are personally known to me (or, that the identity of the said A. B. and C. D. with the persons appearing before me, as the said A. B. and C. D. was satisfactorily vouched for to me, or, as the case may be), and that the said E. F. and G. H. satisfied me that they believed and had good reason for believing that the said A. B. and C. D. were married

at the time mentioned in the said Avowed Contract, and that there exists no lawful impediment to their union as man and wife. And I further declare that the said E. F. and G. H. the witnesses, aforesaid are personally known to me (or are satisfactorily vouched for to me) as persons worthy of credit respecting the matters above mentioned, and that their identity with the persons appearing before me as the said E. F. and G. H. was known (or satisfactorily vouched for to me, as the case may be.)

J. K.
of the County of

FORM OF ALPHABETICAL RECORD OF CONTRACTS, AND
AVOWALS OF CONTRACTS UNDER THIS ACT.

(This Form will be added in Committee.)