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No. 36.

3rd Session, 5th Parliament, 20 Victoria, 1857.

BILL.

An Act to amend the laws relating to the solemnization of marriage in Upper Canada.

Received and read, first time, Wednesday, 4th March, 1857.

Second reading, Wednesday, 18th March, 1857.

MR. FOLEY.

TORONTO:

PRINTED BY JOHN LOVELL, YONGE STREET.

An Act to amend the Laws relating to the Solemnization of Matrimony in Upper Canada.

WHEREAS by the Act of the Parliament of this Province, passed in the eighteenth year of Her Majesty's reign, intituled, "*An Act to make better provision for the appropriation of monies arising from the lands heretofore known as Clergy Reserves, by rendering them available for Municipal purposes,*" it is among other things declared that "it is desirable to remove all semblance of connection between Church and State," and it is just and expedient in accordance with such declaration to place all religious denominations on a footing of legal equality; And whereas under the laws now in force in Upper Canada privileges are claimed, with regard to the solemnization of matrimony by the Clergymen and Ministers of certain denominations, which are partial in their character and offensive to certain other religious denominations and their Clergymen and Ministers; Therefore Her Majesty, &c., enacts as follows:

I. From and after the passing of this Act the Ministers and Clergymen of every religious denomination in Upper Canada, duly ordained according to the rites and ceremonies of the Churches or Denominations to which they shall respectively belong, and resident in Upper Canada, shall have the right to solemnize the ceremony of Matrimony according to the rites, ceremonies and usages of such Churches and Denominations respectively, by virtue of such ordination.

II. Every Clergyman or Minister who shall celebrate Matrimony in Upper Canada from and after the time of the passing of this Act, shall, if required at the time of such marriage by either of the parties thereto, give a certificate under his hand of such marriage, specifying the names of the parties married, the time, and the names of two or more persons who witnessed such marriage, and whether such marriage was solemnized pursuant to License or publication of banns, and for every such certificate the Clergyman or Minister giving the same shall be entitled to ask, demand and receive from the party so requiring the same, the sum of *one shilling and three pence*.

III. On or before the first days of January, April, July and October in each and every year, every Clergyman or Minister who shall solemnize Matrimony between any parties during such year, shall return a certified list of all marriages by him solemnized during the three months next preceding, to the Registrar of the County in which such marriage shall have been so solemnized, specifying in such list the names of the parties so married, the dates respectively of such marriages, and whether solemnized pursuant to license or publication of banns, and if by license the names of the Agents respectively issuing the same; And every such Minister or Clergyman shall at the time of so returning such list pay or transmit there-

Preamble.
18 V., c. 2,
cited.

Ministers of
any denomina-
tion may
solemnize
marriage.

Ministers
marrying any
persons must
give certifi-
cate if re-
quired.

Fee for certi-
ficate.

Certified lists
of marriages
to be returned
quarterly to
County Regis-
trars.

Fee to Regis-
trar.

with to such Registrar the sum of *two shillings and six pence* for every such list ; and on receipt by such Registrar of every such list it shall be his duty to file the same among the papers of his office and to record the same in a book to be kept by him for that purpose, and every such registry or a certified copy thereof shall be considered, in the case of the death or absence of the witnesses to any such marriage, as a sufficient evidence thereof ; and the said Registrar is hereby required to give a certified copy of any such marriage record to any person demanding the same on the payment of the sum of *two shillings and six pence* ; and every such Clergyman or Minister shall before solemnizing such marriage be entitled to ask, demand and receive from either of the parties to such marriage, the sum of *five shillings* to enable him to pay the said sum so to be paid or transmitted by him to such Registrar and to remunerate him the said Clergyman or Minister for the trouble and expense attendant on the preparing and transmission of such certified list to such Registrar ; And every such Clergyman or Minister who shall refuse or neglect to return such certified list as aforesaid shall forfeit and pay for every day he shall so neglect or refuse beyond the time respectively herein fixed for making such return, the sum of *one pound*, which shall be recoverable before any Magistrate of the County in which such Clergyman or Minister shall reside with, costs, and shall be applied as fines now inflicted under the Summary Convictions Acts of Upper Canada.

IV. Any person not being a Clergyman or Minister of a religious denomination existing in Upper Canada, who shall solemnize or pretend to solemnize matrimony under the provisions of this Act, and any person who shall falsely personate any Clergyman or Minister for the purpose of officiating at any such ceremony, shall be liable for every such offence to be imprisoned in the Provincial Penitentiary for a period not exceeding two years, or to suffer such other punishment either by fine or imprisonment or both, as any Court of Record having competent jurisdiction in Upper Canada shall deem meet and just ; and it shall rest upon any person accused of such offence to prove the fact of his being a duly ordained Minister or Clergyman of the religious denomination to which he shall profess to belong, and that such denomination had at the time of the solemnization of such marriage a known and recognized existence in Upper Canada.

V. Any person procuring any person not being a Minister or Clergyman of some Religious Denomination existing in Upper Canada to perform the ceremony of matrimony, or who shall knowingly aid or abet any such pretended Clergyman or Minister in performing such ceremony, shall be liable to the punishment provided for in the next preceding section of this Act.

VI. All Acts and parts of Acts inconsistent with this Act shall be and the same are hereby repealed.

VII. This Act shall apply to Upper Canada only.

Act limited to U. C.

His duties, and effect of copies from Registrar.

Fees to Registrars for copies.

Fees to Minister for marrying.

Fines for neglecting to certify list of marriages.

Punishment of persons not being Ministers pretending to solemnize marriage.

Evidence of ordination.

Punishment of persons procuring persons not Ministers to pretend to marry, &c.

Inconsistent laws repealed.

Act limited to U. C.