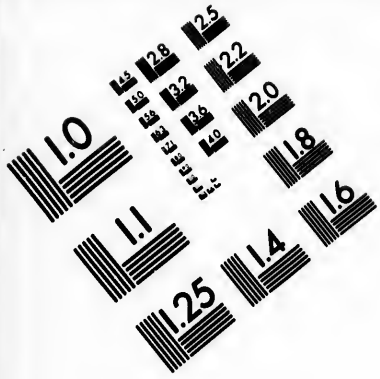

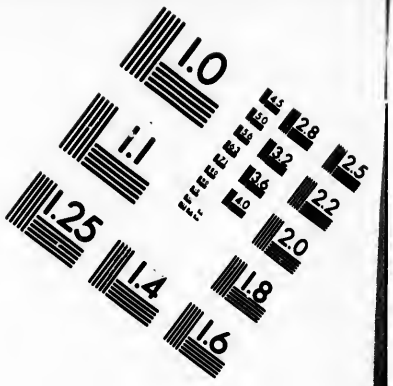

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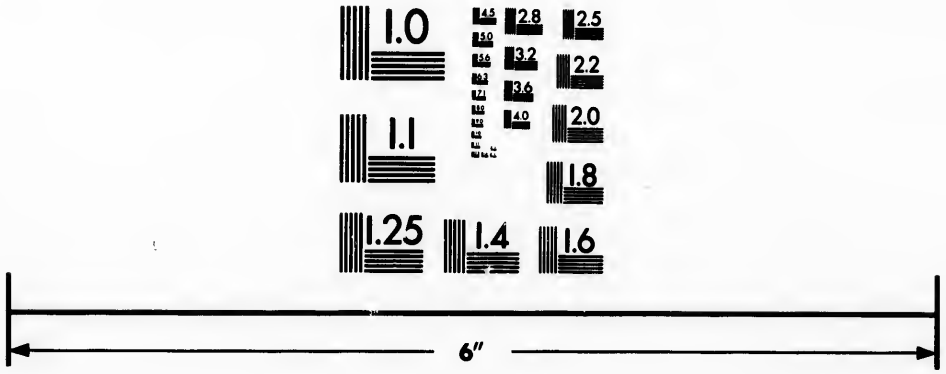

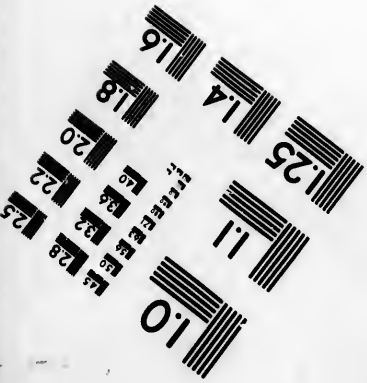

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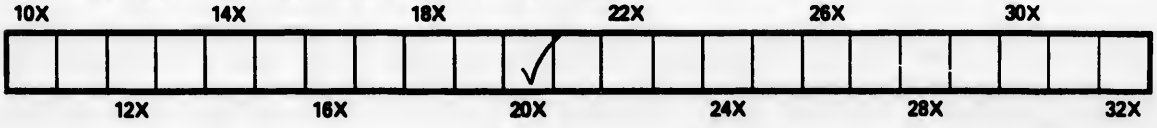

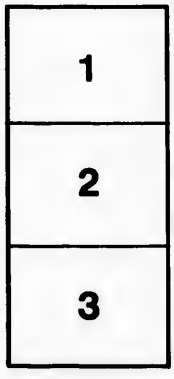

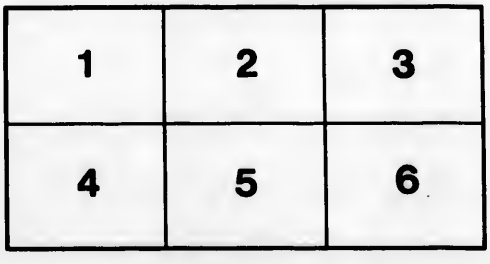

LAWS OF REGISTRATION

OF

ACTS OF CIVIL STATUS

PERFORMED BY MINISTERS OF THE

METHODIST CHURCH

IN THE

PROVINCE OF QUEBEC.

FOR SALE AT THE METHODIST BOOK ROOM, MONTREAL.
PRICE, 10 CENTS.

1893.

To the President and Members of the Montreal Conference of the Methodist Church.

At the Session of Conference held in the month of June, 1889, the following resolution was passed:—

"Moved by the Rev. J. T. Pitcher, seconded by the Rev. W. J. Hewitt, and

Resolved,—That in view of embarrassing uncertainty as to the law and forms of registration of Acts of Civil Status in the Province of Quebec, the Rev. W. I. Shaw, LL.D., and R. C. Smith, Esq., B.C.L., be requested to act as a Committee to publish for the information of the ministers of this Conference, a pamphlet containing a digest of the law and forms relating to such registration."

In harmony with the foregoing resolution, the undersigned respectfully submit the annexed Report.

By Article 1237 of the Code of Civil Procedure, it is required that copies of the title "of Acts of Civil Status," in the Civil Code, and of the first, second and third chapters of the title "of marriage," in the same Code, as well as a copy of 32 Vic. c. 26, must be attached to all Circuit Registers. The attaching of this Report, which contains the said portion of the Civil Code and Act will comply with the law, besides presenting all its provisions in a convenient form.

WILLIAM I. SHAW.
ROBERT C. SMITH.

Montreal, Sept. 15th, 1892.

ACTS OF CIVIL STATUS PERFORMED BY METHODIST MINISTERS.

I.—HISTORY OF LEGISLATION.

The first proposal to authorize Methodist ministers in Lower Canada to keep a register of Acts of Civil Status—that is, a legal record of Births, Marriages and Burials—was made in 1825. The Journals of the Legislature shew that the Bill, introduced for the purpose, passed the third reading before the Legislative Assembly, but, in the Legislative Council it was so amended as to nullify its design. The Bill, as it returned from the Council, was amended so as to include the following provisions: A Wesleyan Methodist minister, upon giving his bond in the sum of £200, for the faithful discharge of his duty, might obtain from the Governor-General a license conveying the desired authority. He was required to appear before a Justice of the Peace, accompanied by "*seven respectable heads of families*" of his own denomination. He was obliged to shew that in connection with his "Chapel or Meeting-house" he had forty families. He was to be permitted to marry only those of his own "sect," and both parties must have been members of his Society during the previous six months. Trammelled with these amendments, the Bill was rejected on its return to the Legislative Assembly. Thus, for a time, justice was defeated by partial legislation in favor of a certain religious body whose very nomenclature is conspicuous in the amendments proposed. Pagnuelo, in his (ultramontane) work on *La Liberté Religieuse en Canada*, is severe in his condemnation of Anglican prejudices, to which he attributes the defeat of the Bill. In 1826, the attempt was renewed to secure the passage of the Bill in a reasonable form, but this also failed, largely through the opposition of Chief Justice Sewell, whose objections are entered in the Journals of the House, and are characterized by remarkable intolerance.

At length, in 1829, the privilege was secured, by 9 George IV. c. 76, which provided that a Wesleyan Methodist minister should be furnished with a license from the Governor-General to solemnize marriage, etc., his petition being simply accompanied with a certificate of ordination, and a certificate of standing from two other recognized Wesleyan Methodist ministers in the Province. This Bill passed both Houses of the Legislature, but was reserved for royal assent, which was given by H. M. King William IV., Jan. 18th, 1831. This legislation relates to the British Wesleyan Methodist body, as it existed in this Province before its Union with the Canada Conference in 1854.*

* In Upper Canada, by 11 George IV. c. 36, assented to on March 2nd, 1831, by William IV., "Presbyterians, Congregationalists, Baptists, Independents, Methodists, Mennonites, Tunkers and Mormons" were authorized to celebrate marriage.

In 1850, by 13-14 Vic. c. 47, in the Legislature of United Canada, the right of keeping a register was secured in Lower Canada to ministers of the Wesleyan Methodist Church of Canada. This Act provided that the minister should deposit with the Prothonotary of the District, a copy of his ordination diploma, certified by oath, along with a certificate of standing from the President of the Conference.

In 1839, by 2 Vic. c. 17, the right of keeping a register was secured to ministers of the New Connexion Methodist Church. The requirements in their case were much more cumbersome than necessary: First, the oath of allegiance had to be taken by the minister before a Judge of the Queen's Bench or of a District Court. Then a certificate of the taking of such oath was given in duplicate by the Prothonotary or Clerk of the Court, one copy being filed with the Prothonotary or Clerk, the other being kept by the minister. The minister gave a bond in £100 for the faithful discharge of his duties, and produced before the Judge a certificate of his ordination, a copy of which certificate was entered in his authenticated register.

By section 5 of the Methodist Church Act, 1884 (47 Vic. cap. 50, Quebec), commonly called the Union Act, it is provided that: "Registers of Civil Status shall be kept for each church, congregation, circuit or mission of the said Methodist Church, in accordance with the provisions of the Civil Code, and of the Code of Civil Procedure."

It may be of interest to state the following dates at which the ministers of other religious bodies in the Province were authorized to solemnize marriage, etc.:—

The Jews	1829
The American Presbyterians of Montreal	1831
The Baptists	1833
The United Associated Methodists	1833
The Congregationalists	1834
The Free-Will Baptists	1834
The Methodist Protestants	1836
The Universalists	1836
The Unitarians of Montreal	1845
The Adventists	1853
The M. E. Church	1857
The Countess of Huntingdon Connexion	1857
The Quakers	1860

The mode of procedure in obtaining registers for any of these churches may be seen in the statutes passed in these several years respectively. The Church of England was authorized to keep registers since the conquest (1759), and in the Act of 1795, provision was more fully made for formalities of registration. The Church of Scotland claimed equal prerogatives with the Church of England regarding registration, and in its favor a Bill was passed in 1827 removing all doubts as to the rights of the Church of Scotland in the premises.

In 1871, by 35 Vic. c. 3, important protection was secured to the minister of any church in solemnizing marriage, by the following provision:—"No minister who has performed any marriage ceremony under the authority of a license issued under this Act, shall be subject to any action or liability for damages or otherwise, by reason of there being any legal impediment to the marriage, unless at the time when he performed

such ceremony he was aware of the existence of such impediment." This Act virtually and properly transfers the liability from the minister to the bondsmen, except in the case of wilful illegality on the part of the minister. Of course, in the case of marriage by publication of banns, the whole responsibility is with the minister.

The same Act provides that the fee for a marriage license shall be $8, of which $2 are retained by the issuer, and the remaining $6 are applied to the Fund for Superior Protestant Education in the Province of Quebec.

II.—PROCEDURE IN OBTAINING REGISTERS.

From the foregoing historical sketch of registration, it will appear that, with reference to the constituent organizations composing the "Methodist Church," four statutes have been enacted: 1st, that of 1831, affecting the British Wesleyan Methodists; 2nd, that of 1839, affecting the New Connexion Methodists; 3rd, that of 1850, affecting the Canadian Wesleyan Methodists; and 4th, that of 1884, relating to "The Methodist Church." In harmony with this legislation, the following mode of procedure is presented concerning the different cases that may arise:

1. In the case of the establishment of a new mission or circuit, the minister presents, either to a Judge of the Superior Court, or to the Prothonotary of the District, a copy of his ordination diploma, certified by oath, also a certificate of standing from the President of the Conference; thereupon the officer aforesaid authenticates the circuit register for the minister therein named and his successors. The officer aforesaid at the same time authenticates a smaller duplicate register for use during the current year.

2. Before a minister just ordained, or just removed from another province, makes an entry in a register for the Province of Quebec, although not formally required by the code, it would be expedient for him to file in the office of the Prothonotary a copy, certified on oath, of his ordination diploma, and the certificate of the president that he is a minister in good standing. The Prothonotary, for fifty cents, gives a certificate of the filing of these papers, and this certificate avails him throughout the Province, whether to get a register for a new circuit, or a renewal for an old circuit, or to make entries in any register. The first register he obtains must be from a prothonotary; subsequent registers, either from prothonotaries or by virtue of prothonotary's certificate from clerks of circuit courts.

Such was the requirement of the statute (13-14 Vic. c. 47). The almost universal custom is for ministers finding on their new circuits the registers left by their predecessor to go on in the use of these year after year until they are filled. It will certainly be best for each minister, *on his first appointment in the Province*, to obtain the certificate above mentioned, and keep it for his authority in all his subsequent removals.

3. If a minister has a circuit register, but fails to leave for his successor the annual duplicate register, his successor should obtain such duplicate at once, in harmony with the foregoing requirements.

4. When the permanent circuit register is full, a new one may be authenticated, upon the officer aforesaid being satisfied that the applicant

is the same minister as has already entered acts of civil status in the old register. If a new circuit register is needed just when a change of ministers takes place, the officer will require the observance of the formalities mentioned above in section 1, or the production of the certificate mentioned in section 2.

5. In case of a division of a circuit, the old register should be retained for the part of the circuit which best corresponds to the territorial limits mentioned in the authentication, and for the other part, as for a new circuit, a new register should be obtained, in harmony with the aforesaid principles.

Concerning the annual duplicate register, the law requires that the minister shall inscribe, at the close thereof, an index of all acts of civil status recorded therein during the year, and that then it be deposited in the office of the Prothonotary of the District, within the first six weeks of the new year. A new annual duplicate register may then be obtained and authenticated as above, either by one of the Judges of the Superior Court, or the Prothonotary of the District, or by the Clerk of the Circuit Court of the County. It is to be observed that the duplicate register may be authenticated by any of these officers, but must be deposited only with the Prothonotary. The fee due to the Prothonotary or the Clerk of the County Court, for authenticating a register, is one dollar.

Concerning authentication, no particular form is required. All that is requisite is contained in Article 1236 of the Code of Civil Procedure, which is as follows:

"All registers intended to record births, marriages, or deaths, or religious profession, must, before being used, be numbered upon the first and every subsequent leaf (not page), written in words at full length, and be sealed with the seal of the Superior Court or the seal of the Circuit Court, by affixing the same upon the two extremities of a ribbon or other such fastening passing through all the leaves of such registers and secured inside of the cover thereof; and upon the first leaf must be written an attestation under the signature of a Judge, or the Prothonotary of the Superior Court of the District, or of the Clerk of the Circuit Court of the County, which comprises the Roman Catholic Parish, Protestant Church, or religious congregation or society authorized to keep such registers, and for which they are to serve and to which they belong, specifying the number of leaves contained in the register, the purpose for which it is intended, and the date of such attestation. Such certificate cannot, however, be given until the formalities prescribed by special acts with regard to certain religious congregations have been fulfilled."

III.—FORMS OF ACTS OF CIVIL STATUS.

The following forms are proposed as embodying the points which are absolutely required by law:

1. Acts of Birth.

A. B., *son* of C. D., of the Parish of———, in the County of———, *Farmer*, and of his wife, E. F., was born on the——day of ——, in the year of our Lord One Thousand Eight Hundred and——, and (*if baptized*) was baptized by me on the——day of——, in the year, &c.

This is to be signed, *not by ordinary witnesses*, but by the parents, if present, and by the officiating minister. When the parents are either or both unknown, the fact is mentioned in the record.

It is to be observed that the object of the record is *not to register a baptism, but a birth.* The above form is suggested, including a reference to baptism, but the law does not require any mention of baptism, and without this rite a minister may at any time register a birth. It is in this way the provisions of the Code are applicable to such churches as oppose Pædo Baptism. Parents and ministers are sometimes anxiously exercised because of failure to register at the time of baptism, and in some instances ministers have been asked to remedy this failure by uncanonically administering a second baptism. For this there is no need whatever, as the birth may be registered. But if the child has been baptized, the failure to register should be rectified as directed on page 10 relating to omissions in registration.

2. Acts of Marriage.

A. B., of the Town of ———, in the County of ———, *Bachelor*, son of —— and ——, being of age, and C. D., of the City of ——, in the ——, *Spinster*, daughter of —— and ——, *being a minor*, with the consent of the said —— (*the father*), were married by me by authority of license (*or*, after publication of banns, without any opposition to said marriage), on the —— day of ——, in the year of our Lord One Thousand Eight Hundred and ——, in the presence of the subscribing witnesses, of whom E. F. is a *first cousin* of the said C. D.

This is to be signed by the two parties, two witnesses and the officiating minister.

In the above form the names of the parents of the parties are required, or, if previously married, the name of the former husband or wife.

3. Acts of Burial.

A. B., of the Village of ———, in the County of ———, *Merchant*, died on the —— day of ——, in the year of our Lord One Thousand Eight Hundred and ——, and was buried by me on the —— day of the said month, in the said year.

This is to be signed, *not by ordinary witnesses*, but by "two of the nearest relatives or friends present at the burial," and by the officiating minister.

All records are supposed to be first read to the parties and witnesses, as required by law. They are to be made without blanks and in successive order. The violation of this last requirement is *prima facie* evidence that the records have not been made and read to the parties as required by law. Erasures and marginal notes are acknowledged and initialed by all those who sign the body of the record. Everything in the record must be written at length without abbreviations or figures.

In case any parties to a record are unable to write, the officiating minister enters in the record a note to that effect. This is the proper method, instead of giving the name of the party with "his mark" attached.

In mentioning in any Act of Civil Status a married woman, she should be referred to by her maiden name.

*

IV.—GENERAL PROVISIONS.

The possession, after compliance with all requisite formalities, by a minister, of a register, is evidence of his authority to perform acts of civil status, that is, of course, within the territorial limits mentioned in the authentication.

A minister performing an Act of Civil Status on a different circuit than his own, should record such act in the register of this circuit, and not in his own register. In this case he really officiates as deputy or *pro tem.* "successor" to the minister there in charge. The latter thus possesses the power either of permitting or preventing the performance of such acts on his own circuit. A register authenticated for one congregation or circuit is of no use for any other.

An act performed by a minister from another country, or of another denomination, provided his ministerial standing be recognized by the Methodist Church, would no doubt be liberally construed as legal when, in the presence or with the consent of the Superintendent of the circuit, for whom he really officiates, the act is recorded in the register of the circuit. If a minister from a foreign country so officiates within the Province of Quebec without such registration, his act is null and criminal.

A copy of any record in a circuit register, if certified by the Superintendent Minister is *prima facie* evidence of its contents. The fee allowed to the minister for such extract is 40c. If the date is not given, 20c. additional are allowed for searching in one year, and 10c. for search in every additional year. In case registers are lost or obliterated, their contents may be proved by family registers and papers, or by witnesses. This principle, however, does not relieve an officiating minister from his responsibility nor from the penalty attached to neglect of his duties in the premises.

An omission or defect in the registration of an Act of Civil Status may be remedied as follows: Any party interested may apply to the Superior Court for the District which may order the rectification of the error or the insertion of the omitted record in the proper place in the register. The pasting in of a paper containing an omitted record, unless under the permission aforesaid, has no legal effect, but, on the contrary, shews negligence on the part of the officiating minister, for which he is liable to suffer a penalty.

For any infraction by a minister of the articles of the Civil Code relating to registration, not amounting to a criminal offence, the penalty is a fine of not less than eight dollars, nor more than eighty dollars. This relates to the mere form of registration.

A minister is liable to a penalty of $500 if he solemnize matrimony without either a license or a proper publication of banns. The same penalty also attaches to any contravention of law relating to marriage.

If any unauthorized person solemnize matrimony, he may be indicted under the provisions of the Revised Statutes of Canada, chap. 161, sec. 1, which has been reproduced in the Criminal Code of 1892.

In general, in connection with any Act of Civil Status, ministers are liable for damages arising from their malfeasance or negligence.

No burial, except in cases provided for in police regulations, can take place within 24 hours from the death of the deceased. The penalty for a violation of this law is a fine of $20.

When there is reason to suspect that death has been caused by violence, burial is not to be proceeded with until authorized by the Coroner.

The publication of banns must be made at morning service, or if there be no morning service, at evening service, on "three different Sundays or holidays."* If the parties belong to different churches, these publications must take place in each of such churches. The form of publication to be used is that required by Article 58 of the Civil Code (see extract from Code annexed). If publication be made by a different minister from the one celebrating the marriage, certificate of publication by such minister is required.

If marriage does not take place within one year from the publication of banns, the publication must be renewed.

There is no legal obstruction to the marriage of persons of different churches, either Protestant or Romanist. The question of the right of a Protestant minister to solemnize the marriage of two Roman Catholics has, however, never come before the Court of Appeal for final decision, and eminent legal authority is divided on the question.

As in many rural sections ministers are permitted to act as issuers of licenses, the following mode of procedure may be mentioned as customary: The minister may write to "the Assistant Provincial Treasurer, Quebec," stating his appointment as a Methodist minister to the particular circuit, and requesting a supply of blank licenses and bonds. In response, three of each of these will likely be sent to him. The minister, as issuer, will then, on each application for a license, see that the applicant and two responsible bondsmen execute one of the bonds. Thereupon the issuer gives the license, which will be of service whether the marriage be solemnized by himself or any other "Protestant minister." The fee is $8, two of which are retained by the minister as issuer. When the three licenses are issued, let the minister send the three bonds along with $18 received, and ask for a further supply of forms.

When the appointment of Issuer of Licenses is thus given to a minister, there will be need of great care in seeing that there is no legal impediment to the marriage. The responsibility from which in this respect he is, *as a minister*, largely relieved (see p. 6, 35 Vic. c. 3), he must still *as issuer*, assume with the bondsmen, and for negligence or malfeasance in this capacity he is liable to a penalty of $500.

Special attention is directed to the following abstract from the Civil Code, particularly under "Title Fifth of Marriage."

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* This may be construed in the Methodist Church to refer to Good Friday and Christmas Day, the observance of which days is authorized by Discipline, 1890, sec. 60, (10); also to days set apart by Royal Proclamation, such as days of Thanksgiving.

The following is a copy of Article 1237 of the Code of Civil Procedure of Lower Canada.

1237. The duplicate register, which is to remain in the hands of the priest, minister, or person doing the parochial or clerical duty of each Roman Catholic parish church, Protestant or religious congregation, must be bound in a substantial and durable manner.

[A copy of the title *of Acts of Civil Status*, in the Civil Code, and of the first, second and third chapters of the title *of Marriage* in the same Code, as well as a copy of 32 Vic., C. 26, must be attached to such duplicate.]

CIVIL CODE OF LOWER CANADA.

BOOK FIRST.

TITLE SECOND.

OF ACTS OF CIVIL STATUS.

CHAPTER FIRST.

GENERAL PROVISIONS.

39. In acts of civil status nothing is to be inserted, either by note or recital, but what it is the duty of the parties to declare.

40. In cases where the parties are not obliged to appear in person at the making of an act of civil status, they may be represented by an attorney, specially authorized to that effect.

41. The public officer reads to the parties, or to their attorney, and to the witnesses, the act which he makes.

42. Acts of civil status are inscribed in two registers of the same tenor, kept for each Roman-Catholic parish church, each Protestant church or congregation, or other religious community, entitled by law to keep such register, each of which is authentic, and has in law equal authority.

43. The registers are furnished by the churches, congregations or religious communities, and must be in the form prescribed by the Code of Civil Procedure.

44. The registers are kept by the rector, curate, or other priest or minister having charge of the churches, congregations, or religious communities, or by any other officer entitled so to do.

45. The duplicate register so kept, before it is used, must, at the instance of the party keeping it, be presented to one of the judges of the Superior Court, or

to the prothonotary of the district, or to a clerk of the Circuit Court in the County, to be by such judge, prothonotary, or clerk numbered and initialed in the manner prescribed by the Code of Civil Procedure.

46. Acts of civil status, as soon as they are made, are inscribed in the two registers, in successive order, and without blanks; erasures and marginal notes are acknowledged and initialed by all those who sign the body of the Act. Everything must be written at length, without abbreviation or figures.

47. Within the first six weeks of each year, the person who kept the said registers, or who has charge thereof, deposits in the prothonotary's office of the Superior Court of his district one of the said duplicates, the delivery of which is acknowledged by a receipt which the said prothonotary or clerk is bound to give free of charge.

48. Within six months after such deposit, each prothonotary or clerk is bound to verify the condition of the registers deposited in his office, and to draw up a summary report of such verification.

49. The other duplicate register remains in the custody and possession of the priest, minister or other officer who kept the same, to be by him preserved and transmitted to his successor in office.

50. The depositary of the registers is bound to give extracts thereof to any person who may require the same; and such extracts, being certified and signed by him, are authentic.

51. On proof that, in any parish or religious community, no registers have been kept, or that they are lost, the births, marriages and deaths may be proved either by family registers and papers, or other writings or by witnesses.

52. Every depositary of such registers is civilly responsible for any alteration made therein, saving his recourse, if any there be, against the party altering the same.

53. Every infraction of any article of this title, by any of the officers therein named, which does not amount to a criminal offence, and which is not punishable as such, is punished by a penalty not exceeding eighty dollars nor less than eight.

CHAPTER SECOND.

OF ACTS OF BIRTH.

54. Acts of birth set forth the day of the birth of the child, that of its baptism, if performed, its sex, and the names given to it; the names, surnames, occupation, and domicile of the father and mother, and also of the sponsors, if any there be.

55. These acts are signed in both registers, by the officer officiating, by the father and mother if present, and by the sponsors if any there be; if any of them cannot sign, their declaration to that effect is noted.

56. When the father and mother of any child presented to the public officer are either or both of them unknown, the fact is mentioned in the register.

CHAPTER THIRD.

OF ACTS OF MARRIAGE.

57. Before solemnizing a marriage, the officer who is to perform the ceremony must be furnished with a certificate establishing that the publication of banns required by law has been duly made; unless he has published them himself, in which case such certificate is not necessary.

58. This certificate, which is signed by the person who published the banns, mentions, as do also the banns themselves, the names, surnames, qualities or occupations, and domiciles of the parties to be married, and whether they are of age or minors; the names, surnames, occupations and domiciles of their fathers and mothers, or the names of the former husband or wife. And mention is made of this certificate in the act of marriage.

59. The marriage ceremony may, however, be performed without this certificate, if the parties have obtained and produce a dispensation or licence, from a competent authority, authorizing the omission of the publication of banns.

60. If the marriage be not solemnized within one year from the last of the publications required, they are no longer sufficient, and must be renewed.

61. In the case of an opposition, the disallowance thereof must be obtained and be notified to the officer charged with the solemnization of the marriage.

62. If, however, the opposition be founded on a simple promise of marriage, it is of no effect, and the marriage is proceeded with as if no such opposition had been made.

63. The marriage is solemnized at the place of the domicile of one or other of the parties. If solemnized elsewhere, the person officiating is obliged to verify and ascertain the identity of the parties.

For the purposes of marriage, domicile is established by a residence of six months in the same place.

64. The act is signed by the officer who solemnizes the marriage, by the parties, and by at least two witnesses, related or not, who have been present at the ceremony; and if any of them cannot sign, their declaration to that effect is noted.

65. In this act are set forth:—

1. The day on which the marriage was solemnized;

2. The names, surnames, quality or occupation and domicile of the parties married, the names of the father and mother of each, or the name of the former husband or wife;

3. Whether the parties are of age or minors;

4. Whether they were married after publication of banns, or with a dispensation or licence;

5. Whether it was with the consent of their father, mother, tutor or curator, or with the advice of a family council, when such consent or advice is required;

6. The names of the witnesses, and whether they are related or allied to the parties, and, if so, on which side and in what degree;

7. That there has been no opposition, or that any opposition made has been disallowed.

CHAPTER FOURTH.

OF ACTS OF BURIAL.

66. No burial can take place before the expiration of twenty-four hours after the decease; and whoever knowingly takes part in any burial before the expiration of such time, except in cases provided for by police regulations, is subject to a penalty of twenty dollars.

67. The Act of burial mentions the day of the burial and that of the death, if known; the names, surnames, and quality or occupation of the deceased; and it is signed by the person performing the burial service, and by two of the nearest relations or friends there present. If they cannot sign, mention is made thereof.

68. The provisions of the two preceding articles apply to religious communities and hospitals where burials are permitted.

69. When there is any sign or indication of death having been caused by violence, or when there are other circumstances which give reason to suspect it, or when the death happens in any prison, asylum, or place of forcible confinement other than lunatic asylums, the burial cannot be proceeded with until it is authorized by the coroner or other officer whose duty it is to inspect the body in such cases.

CHAPTER FIFTH.

OF ACTS OF RELIGIOUS PROFESSION.

70. In every religious community in which profession may be made by solemn and perpetual vows, two registers of the same tenor are kept, in which are inscribed the acts establishing the taking of such vows.

71. (These registers are numbered and initialed like the other registers of civil status, and the acts are inscribed therein in the manner prescribed in article 46.)

72. The acts set forth the names and surnames, and the age of the person making profession, the place of her birth, and the names and surnames of her father and mother.

They are signed by the party, by the superior of the community, by the bishop or other ecclesiastic who performs the ceremony, and by two of the nearest relations, or by two friends who were present.

73. The registers are used during five years, after which one of the duplicates is deposited in the manner declared in article 47, and the other remains with the community to form part of its records.

74. Extracts of such registers, signed and certified by the superior of the community, or the depositary of one of the duplicates, are authentic, and are delivered by one or other of them at the option and on the demand of those requiring them.

CHAPTER SIXTH.

OF THE RECTIFICATION OF ACTS AND REGISTERS OF CIVIL STATUS.

75. If an error have been committed in the entry made in the register of an act of civil status, the court of original jurisdiction in the office of which such re-

gister is or is to be deposited may, at the instance of any interested party, order such error to be rectified in presence of the other parties interested.

76. The depositaries of the registers, on receipt of a copy of any judgment of rectification, are bound to inscribe the same on the margin of the act so rectified, and if there be no margin, then on a sheet of paper which remains annexed thereto.

77. [If an act which ought to have been inserted in the register be entirely omitted, the same court may, at the instance of one of the parties interested, the others being notified, order that such omission be supplied, and the judgment so ordering is inscribed on the margin of the said register at the place where the act so omitted ought to have been entered, and if there be no margin, then on a sheet of paper which remains annexed thereto.]

78. The judgment of rectification cannot, at any time, be set up against those who did not seek it, or who were not duly notified.

TITLE FIFTH.

OF MARRIAGE.

CHAPTER FIRST.

OF THE QUALITIES AND CONDITIONS NECESSARY FOR CONTRACTING MARRIAGE.

115. A man cannot contract marriage before the full age of fourteen years, nor a woman before the full age of twelve years.

116. There is no marriage when there is no consent.

117. Impotency, natural or accidental, existing at the time of the marriage, renders it null, but only if such impotency be apparent and manifest.

This nullity cannot be invoked by anyone but the party who has contracted with the impotent person, nor at any time after three years from the marriage.

118. A second marriage cannot be contracted before the dissolution of the first.

119. Children who have not reached the age of twenty-one years must obtain the consent of their father and mother before contracting marriage; in case of disagreement, the consent of the father suffices.

120. If one of them be dead or unable to express his will, the consent of the other suffices.

121. A natural child who has not reached the age of twenty-one years must be authorized, before contracting marriage, by a tutor *ad hoc* duly appointed for the purpose.

122. If there be neither father nor mother, or if both be unable to express their will, minor children, before contracting marriage, must obtain the consent of their tutor, or, in cases of emancipation, their curator, who is bound, before giving such consent, to take the advice of a family council duly called to deliberate on the subject.

123. Respectful requisitions to the father and mother are no longer necessary.

124. In the direct line, marriage is prohibited between ascendants and descendants, and between persons connected by alliance, whether they are legitimate or natural.

125. In the collateral line, marriage is prohibited between brother and sister, legitimate or natural, and between those connected in the same degree by alliance, whether they are legitimate or natural. See 45 Vic., C. 22, Canada.

126. Marriage is also prohibited between uncle and niece, aunt and nephew.

127. The other impediments recognized according to the different religious persuasions, as resulting from relationship or affinity or from other causes, remain in subject to the rules hitherto followed in the different churches and religious communities.

The right, likewise, of granting dispensations from such impediments appertains, as heretofore, to those who have hitherto enjoyed it.

CHAPTER SECOND.

OF THE FORMALITIES RELATING TO THE SOLEMNIZATION OF MARRIAGE.

128. Marriage must be solemnized openly by a competent officer recognized by law.

129. All priests, rectors, ministers and other officers authorized by law to keep registers of acts of civil status are competent to solemnize marriage.

But none of the officers thus authorized can be compelled to solemnize a marriage to which any impediment exists according to the doctrine and belief of his religion and the discipline of the church to which he belongs.

130. The publications of banns, required by articles 57 and 58, are made by the priest, minister or other officer in the church to which the parties belong, at morning service; or if there be no morning service, at evening service, on three Sundays or holidays, with reasonable intervals. If the parties belong to different churches, these publications take place in each of such churches.

131. If the actual domicile of the parties to be married has not been established by a residence of six months at least, the publications must also be made at the place of their last domicile in Lower Canada.

132. [If their last domicile be out of Lower Canada, and the publications have not been made there, the officer who, in that case, solemnizes the marriage is bound to ascertain that there is no legal impediment between the parties.]

133. If the parties, or either of them, be, in so far as regards marriage under the authority of others, the banns must be also published at the place of domicile of those under whose power such parties are.

134. The authorities who have hitherto held the right to grant licenses or dispensations for marriage may exempt from such publications.

135. A marriage solemnized out of Lower Canada between two persons, either or both of whom are subject to its laws, is valid, if solemnized according to the formalities of the place where it is performed, provided that the parties did not go there with the intention of evading the law.

CHAPTER THIRD.

OF OPPOSITIONS TO MARRIAGE.

136. The solemnizing of a marriage may be opposed by any person already married to one of the parties intending to contract.

137. The marriage of a minor may be opposed by his father, or, in default of the latter, by his mother

138. In default of both father and mother, the tutor or, in cases of emancipation, the curator may also oppose the marriage of such minor; but the court to which such opposition is submitted, cannot decide on its merits without the advice of a family council, which it must order to be called.

139. If there be neither father nor mother, tutor nor curator, or if the tutor or curator have consented to the marriage without taking the advice of a family council, the grandfathers and grandmothers, the uncles and aunts and the cousins-german, who are of full age, may oppose the marriage of their minor relative; but only in the two following cases:—

1. When a family council which, according to article 122, should have been consulted has not been so;

2. When the party to be married is insane.

140. When opposition is made under the circumstances and by any of the persons mentioned in the preceding article, if the minor have neither tutor nor curator, the opposant is bound to cause one to be appointed; if the minor have already a tutor or curator, who has consented to the marriage without consulting a family council, the opposant must cause a tutor *ad hoc* to be appointed, in order that such tutor, curator, or tutor *ad hoc* may represent the interests of the minor in such opposition.

141. [If a person about to be married, being of the age of majority, be insane and not interdicted, the following persons may oppose the marriage, in the following order:

1. The father, and, in his default, the mother;

2. In default of both father and mother, the grandfathers and grandmothers;

3. In default of the latter the brothers or sisters, uncles or aunts, or cousins-german, of the age of majority;

4. In default of all the above, those related or allied to such person, who are qualified to take part in the meeting of a family council, which should be consulted as to the interdiction.]

142. When the opposition is founded on the insanity of the person about to be married the opposant is bound to apply for the interdiction and to have it pronounced without delay.

143. [Whatever may be the quality of the opposant, it is his duty to adopt and follow up the formalities and proceedings necessary to have his opposition brought before the court and decided within the legal delays, a demand for its dismissal not being required; in default of his so doing, the opposition is regarded as never having been made, and the marriage ceremony is proceeded with, notwithstanding.]

144. The Code of Civil Procedure contains the rules as to the form, contents and notification of oppositions to marriage, as well as those relative to the peremption mentioned in the preceding article, and to the other proceedings required.

145. The oppositions are brought before the court of original jurisdiction of the domicile of the party whose marriage is opposed, or of the place where the marriage is to be solemnized, or before a judge of such court.

146. Proceedings upon appeals from such judgments are summary and take precedence.

147. If the opposition be rejected, the opposants, other than the father and mother, may be condemned to pay costs, and are liable for damages according to circumstances.

AMENDING ACT 32 VIC., CHAP. 26.

1. Article 1236 of the code of civil procedure is hereby amended, by inserting after the words, "the seal of the Superior Court," the words, "or the seal of the Circuit Court;"

2. Article 45 of the civil code is amended by striking out the words "or to the clerk of the Circuit Court instead of the prothonotary in the case specified in the statute 25 Vict., chap. 16," in the said article, and substituting therefor the words "or to a clerk of the Circuit Court in the county;"

3. Article 47 of the civil code is amended so as to read as follows:—

"Within the first six weeks of each year, the person who kept the said registers, or who has charge thereof, deposits in the prothonotary's office, of the Superior Court of his district, one of the said duplicates, the delivery of which is acknowledged by a receipt which the said prothonotary is bound to give, free of charge;"

4. Article 48 of the civil code is amended by striking out the words, "or clerk" in the said article;

5. Within three months after the passing of this act all clerks of the Circuit Court in any county shall deliver to the prothonotary of the Superior Court of the district in which such county is situate, all registers of civil status then in their possession;

6. Together with the copy of the portions of the civil code required, by article 1237 of the code of civil procedure, to be attached to the duplicate register mentioned in the said article a copy of this act shall likewise be attached;

7. All registers which, since the coming into force of the code of civil procedure, have been authenticated by any clerk of the Circuit Court, and sealed with the seal of the said court, shall be held to have been, and to be, as legally authenticated as if article 1236 of the said code of civil procedure had originally been enacted as amended by section one of this act.