



1914

c 148 Marriage Act

Ontario

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SECTION XII.

LAWS AFFECTING SPECIAL CLASSES OF PERSONS

1. HUSBAND AND WIFE.

CHAPTER 148.

An Act respecting the Solemnization of Marriage.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Marriage Act*. 1 Geo. V. Short title.
c. 32, s. 1.

WHO MAY SOLEMNIZE MARRIAGES.

2. The following persons, being men and resident in Canada, may solemnize marriage between persons not under a legal disqualification to contract such marriage:

- (a) The ministers and clergymen of every church and religious denomination duly ordained or appointed according to the rites and ceremonies of the church or denomination to which they respectively belong; Who may solemnize marriage in Ontario.
- (b) Any elder, evangelist or missionary for the time being of any church or congregation of the religious people commonly called or known congregationally as "Congregations of God" or "Congregations of Christ," and individually as "Disciples of Christ," who, from time to time, is chosen by any such congregation for the solemnization of marriages; Elders, etc., Congregations of God and Disciples of Christ.
- (c) Any duly appointed commissioner or staff officer of the religious society called the Salvation Army; Officers of Salvation Army.

Army chosen or commissioned by the society to solemnize marriages;

Elders of
Farringdon
Independent
Church.

(d) Any elder for the time being of the church or congregation of religious people commonly called or known congregationally as "Farringdon Independent Church," who, from time to time, is chosen by such church or congregation for the solemnization of marriages;

Minister of
the Brethren.

(e) Any recognized evangelist, teacher or elder for the time being of any congregation of Christians commonly called or known as "Brethren" who may be appointed by any such congregation for the solemnization of marriages, and whose appointment has previously been filed in the office of the Provincial Secretary. 1 Geo. V. c. 32, s. 2.

Marriages
solemnized
by Quakers.

Rev. Stat. c. 49.

3. Every marriage duly solemnized according to the rites, usages and customs of the religious Society of Friends, commonly called Quakers, shall be valid; and all the duties imposed by this Act, or by *The Vital Statistics Act*, upon a minister or clergyman, shall, with regard to such marriage, be performed by the clerk or secretary of the society or of the meeting at which the marriage is solemnized; but nothing herein shall require the marriage to be celebrated or solemnized by such clerk or secretary. 1 Geo. V. c. 32, s. 3.

LICENSE, CERTIFICATE OR PROCLAMATION REQUIRED.

Marriages
not to be
solemnized
unless
under
license or
certificate.

4.—(1) No minister, clergyman or other person shall solemnize any marriage unless duly authorized so to do by license under the hand and seal of the Lieutenant-Governor or of his deputy, or by a certificate under this Act, unless the intention of the persons to intermarry has been published as provided by subsection 2.

Or after
proclama-
tion of in-
tention.

(2) Such intention shall be proclaimed once openly, and in an audible voice, either in the church, chapel or meeting-house in which one of the persons has been in the habit of attending worship, or in some church, chapel, meeting-house or place of public worship of the congregation or religious body with which the minister or clergyman who performs the ceremony is connected, in the local municipality, parish, circuit or pastoral charge, where one of the persons has, for the space of fifteen days immediately preceding, had his or her usual place of abode; and where both the persons do not reside in the same local municipality, parish, circuit or pastoral charge, and the marriage is not authorized by license or certificate, a similar proclamation shall be made in the local municipality, parish, circuit or pastoral charge, being within Canada, where the other of the contracting parties has, for the space of fifteen days immediately pre-

eeding, had his or her usual place of abode; and where the proclamation last mentioned is required such marriage shall not be solemnized until there is delivered to the person proposing to solemnize it a certificate, Form 1, showing that such proclamation has been made.

(3) Every such proclamation shall be made on a Sunday, immediately before the service begins or immediately after it ends, or at some intermediate part of the service.

Made on Sunday.

(4) The certificate of proclamation shall be signed by the clergyman, minister, clerk, secretary or other person who actually proclaimed the same, and shall show the official position of the person who signs it. 1 Geo. V. c. 32, s. 4.

Certificate of proclamation of intention.

5.—(1) No marriage shall be solemnized under the authority of any proclamation of intention to intermarry unless such proclamation has been made at least one week previously, nor unless the marriage takes place within three months after the Sunday upon which the proclamation was made; nor shall a marriage be solemnized under the authority of any license or certificate unless within three months after the date thereof.

Proclamation or license to lapse unless marriage takes place within three months.

(2) No clergyman, minister or other person shall solemnize a marriage between the hours of 10 o'clock after noon and 6 o'clock before noon unless he is satisfied from evidence adduced to him that the proposed marriage is legal and that exceptional circumstances exist which render its solemnization between those hours advisable.

Hours during which marriages not to take place.

(3) No clergyman, minister or other person shall solemnize a marriage without the presence of at least two adult witnesses, and two or more of such witnesses shall affix their names as witnesses to the record in the register prescribed by section 27.

Witnesses required.

(4) No clergyman, minister or other person who is an issuer of marriage licenses shall solemnize the marriage in any case in which he has issued the license or the certificate provided for by section 7 authorizing such marriage, but this subsection shall not apply to any of the provisional judicial districts except Muskoka.

Issuer of marriage licenses not to solemnize the marriage.

Exceptions.

(5) The certificate or license to marry or the certificate of proclamation, when such certificate is required, shall be left with the clergyman, minister or other person who solemnizes the marriage, and he shall forthwith after such solemnization endorse upon the certificate or license the particulars mentioned in Form 4, and thereupon forward such certificate or license to the Registrar-General. 1 Geo. V. c. 32, s. 5; 2 Geo. V. c. 17, s. 30 (1).

License and certificates to be delivered to person solemnizing marriage.

Protection of
clergymen
solemnizing
marriages in
good faith.

6. No clergyman, minister or other person who solemnizes a marriage ceremony after banns have been published or a license or certificate has been issued under this Act in respect thereto shall be subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage unless, at the time when he performed the ceremony, he was aware of the impediment. 1 Geo. V. c. 32, s. 6.

Certificate in
lieu of
marriage
license.

7. A certificate, Form 2, according to the circumstances of the case may, at the option of the applicant, be substituted and shall have the same legal effect as a license. 1 Geo. V. c. 32, s. 7.

Issue of Licenses and Certificates.

Licenses and
certificates,
how issued.

8. Licenses and certificates shall be issued from the office of the Provincial Secretary and shall be furnished to persons requiring the same by such persons as the Lieutenant-Governor in Council may appoint for that purpose. 1 Geo. V. c. 32, s. 8.

Validity of
licenses and
certificates.

9. Every license under the hand and seal of the Lieutenant-Governor or his deputy, and every certificate signed by the Provincial Secretary or Assistant Provincial Secretary, for the purpose of the solemnization of a marriage, shall be and remain valid notwithstanding that the Lieutenant-Governor or his deputy, or the Provincial Secretary or the Assistant Provincial Secretary has ceased to hold office before the time of the issue of the license or certificate. 1 Geo. V. c. 32, s. 9.

Unauthor-
ized issue of
licenses or
certificates.

10. If any person issues any license or certificate for the solemnization of marriage without the authority of the Lieutenant-Governor in Council, unless under the authority of section 11, he shall incur a penalty of \$100 for every license or certificate so issued recoverable under *The Ontario*

Rev. Stat. c. 99. *Summary Convictions Act.* 1 Geo. V. c. 32, s. 10.

Penalty.

Appointment of Deputy Issuers.

Appoint-
ment of
deputy-
issuers of
marriage
licenses with
approval of
mayor or
reeve.

11.—(1) An issuer of marriage licenses or certificates may, with the approval, in writing, of the mayor or reeve of the local municipality wherein he resides, when prevented from acting by illness or accident, or where his temporary absence is contemplated, appoint by writing under his hand a deputy to act for him.

Powers of
deputy-
issuers.

(2) The deputy while so acting shall possess the powers and privileges, as to administering necessary oaths and otherwise, of the issuer appointing him.

(3) The issuer shall, upon appointing a deputy, forthwith transmit to the Provincial Secretary a notice of the appointment, and of the cause thereof, and of the name and official position of the person by whom the appointment has been approved, and the Lieutenant-Governor may at any time annul the appointment.

Notice of appointment of deputy.

(4) Where there is no mayor or reeve to give the approval required by subsection 1 the issuer may, without such consent, appoint such deputy, and the licenses or certificates issued by such deputy shall be deemed to authorize the solemnization of marriages at the same places as licenses or certificates issued by the issuer, and no irregularity in the appointment of a deputy shall affect the validity of a license or certificate issued by him.

Appointment of deputy where no Mayor or Reeve.

(5) The deputy shall sign each license and certificate issued by him with the name of the issuer as well as his own name in the following manner:—"A. B.—Issuer of Marriage Licenses, per C.D., Deputy-Issuer." 1 Geo. V. c. 32, s. 11.

How licenses to be signed by deputy.

Effect of Irregular Issue of License or Certificate.

12. No irregularity in the issue of a license or certificate, where it has been obtained or acted on in good faith, shall invalidate a marriage solemnized in pursuance thereof. 1 Geo. V. c. 32, s. 12.

Irregularity in issue not to affect.

Unissued Licenses or Certificates.

13. Every issuer of licenses or certificates and every other person having unissued licenses or certificates in his possession, power, custody, or control, shall, whenever required so to do, transmit the same to the Provincial Secretary; and the property in all unissued licenses and certificates shall be and remain in His Majesty. 1 Geo. V. c. 32, s. 13.

Unissued licenses to be returned to Provincial Secretary.

Expenses of Procuring Licenses.

14. All expenses incident to providing licenses and certificates shall be paid by the issuer thereof. 1 Geo. V. c. 32, s. 14.

Expenses incident to procuring licenses.

MARRIAGE OF PARTY UNDER 18 YEARS OF AGE.

15.—(1) Where either of the parties to an intended marriage, not a widower or a widow, is under the age of eighteen years, the consent of the father if living, or, if he is dead, of the mother if living, or of a guardian if any has been duly appointed, shall be required before the license is issued or before the proclamation of the intention of the parties to intermarry is made.

Consent required to marriage where one of the parties is under eighteen.

Consent to be produced before license issues.

(2) Where such consent is necessary no license or certificate shall be issued without the production of the consent, and the issuer or deputy-issuer shall satisfy himself of the genuineness of the consent by satisfactory proof in addition to the affidavit required of one of the parties.

Where parents are dead and there is no guardian.

(3) In the case of a party under the age of eighteen years, and not being a widower or a widow, if the father and mother are dead and there is no guardian duly appointed the issuer or deputy-issuer, on being satisfied as to the facts, may grant the license or certificate.

If parents not resident in the Province.

(4) Where the parent whose consent is required, though living, is not a resident of Ontario, and is not in Ontario at the time of the application for a license or certificate, and the party under the age of eighteen years is and has been so resident for the next preceding twelve months, the issuer or deputy-issuer, on being satisfied by evidence of these facts, may grant the license or certificate. 1 Geo. V. c. 32, s. 15.

No license to be issued or marriage to be celebrated where either party under fourteen.

16. No license or certificate shall be issued to any person under the age of fourteen years, except where a marriage is shown to be necessary to prevent the illegitimacy of offspring and a certificate to that effect is given by a legally qualified medical practitioner known to the issuer or deputy-issuer, and, except in such a case, no person shall celebrate the marriage ceremony in any case in which either of the contracting parties is under the age of fourteen years to the knowledge or information of such person. 1 Geo. V. c. 32, s. 16.

PENALTY FOR MARRYING IDIOT OR INSANE PERSON.

Insane or idiot or intoxicated person.

17. If any issuer of marriage licenses issues a license for a marriage or if any minister, clergyman or other person solemnizes a marriage, knowing or having reason to believe that either of the parties to the intended marriage or to the marriage is an idiot or insane or is under the influence of intoxicating liquor, he shall incur a penalty not exceeding \$500, and shall also be liable to imprisonment for any term not exceeding twelve months. 3-4 Geo. V. c. 28, s. 1, *part*.

PENALTY UPON DEPOSED MINISTER.

Penalty for deposed minister performing ceremony.

18. If any person who having been a minister, clergyman or other person having the right to solemnize marriage, has been deposed from his ministry, or deposed or removed from the office by virtue of which he was authorized to solemnize marriage, thereafter solemnizes or undertakes to solemnize any marriage, he shall incur a penalty of \$500, and shall also be liable to imprisonment for any term not exceeding twelve months. 3-4 Geo. V. c. 28, s. 1, *part*.

AFFIDAVIT FOR ISSUE OF LICENSE OR CERTIFICATE.

19.—(1) Before a license or certificate is issued one of the parties to the intended marriage shall personally make an affidavit, Form 3, before the issuer or deputy-issuer which shall state:

Affidavit to be made by one of the parties before license granted.

(a) in what county or district it is intended that the marriage shall be solemnized, and in what city, town, village, or place therein; and

(b) that he or she believes there is no affinity, consanguinity, prior marriage, or other lawful cause or legal impediment to bar or hinder the solemnization of the marriage;

(c) that one of the parties has for the space of fifteen days immediately preceding the issue of the license or certificate had his or her usual place of abode within the county or district in which, for either municipal or judicial purposes, the local municipality or place in which the marriage is to be solemnized lies. 1 Geo. V. c. 32, s. 18 (1), *part*; 3-4 Geo. V. c. 28, s. 2, *part*.

(d) the age of the deponent, and that the other contracting party is of the full age of eighteen years, or the age of such other contracting party, if under the age of eighteen years, as the case may be;

(e) the condition in life of each of the parties, whether bachelor, widower, spinster or widow, and

(f) the facts necessary to enable the issuer or deputy-issuer to judge whether or not the required consent has been duly given in the case of any party under the age of eighteen years, or whether or not such consent is necessary.

Facts showing whether consent is necessary.

(2) If the city, county or district in which it is intended that the marriage shall be solemnized is not that in which either of the parties has, for the space of fifteen days immediately preceding the issue of the license or certificate, had his or her usual place of abode, the license or certificate may nevertheless be issued upon the production of an affidavit by one of the parties stating that notice of the intended marriage, stating the name, occupation and usual place of abode of each of the parties, has been published once a week for three successive weeks immediately preceding the application for the license or certificate in some newspaper published in the municipality in which the marriage is to take place, or if there is no such newspaper, then in a newspaper published in the nearest adjoining municipality, and accompanied by the production of the respective issues of such newspaper containing such notice.

Where neither party has resided in locality for fifteen days.

Advertisement of notice and affidavit of publication.

When Registrar General may direct issue of license although notice not published.

(3) Upon an applicant for a license or certificate stating that he is unable to make the affidavit mentioned in the preceding subsection, and requesting the issuer or deputy issuer to report the circumstances of the case to the Registrar-General, the issuer or deputy issuer shall do so; and the Registrar-General, upon being satisfied that the reason for having the marriage solemnized in the place mentioned in the affidavit is not to evade due publicity or for any other improper purpose, may in writing authorize the issue of the license or certificate.

Other proofs not dispensed with.

(4) Nothing in the next preceding two subsections shall dispense with the proofs required by subsection 1, except that of residence as set out in clause (c) of that subsection. 3-4 Geo. V. c. 28, s. 2, *part*.

Written consent to be produced and annexed to affidavit.

(5) Where a party who is not a widower or a widow is under the age of eighteen years the written consent of the person whose consent to the marriage is required shall be produced and annexed to the affidavit, and its execution shall be verified by affidavit which shall be made before the issuer or deputy-issuer. 1 Geo. V. c. 32, s. 18 (2).

Prohibited degrees to be set forth in form of affidavit.

20.—(1) Upon the back or at the foot of the printed forms of affidavits to be made by the parties shall be printed a memorandum, Form 5, showing the degrees of affinity and consanguinity which bar or hinder the solemnization of marriage between them; and no affidavit shall be acted upon by the issuer or deputy-issuer which has not such memorandum printed thereon; and upon the back or at the foot of the certificates or licenses issued shall be printed such extracts from this Act as are necessary to show what persons are authorized to solemnize marriage in Ontario, or an epitome of the provisions in reference thereto.

Duty of issuer of licenses.

(2) The issuer or deputy-issuer, before administering the oath, shall see that the applicant is aware what degrees of affinity or consanguinity are a bar to the solemnization of marriage.

Degrees of affinity and consanguinity.

(3) The degrees of affinity and consanguinity within which if persons are related they are prohibited from contracting marriage with each other, as declared in and by the Statute passed in the 28th year of His Majesty King Henry VIII., chapter 7, section 7, as modified by the Revised Statutes of Canada, 1906, chapter 105, are set forth in Schedule A.

28 Hy. VIII. c. 7, s. 7; Rev. Stat. Can. c. 105.

Changes in degrees provided for.

(4) If at any time hereafter changes are made in the law affecting the degrees of relationship within which marriage may not be lawfully contracted, the Lieutenant-Governor in Council may direct such changes to be made in Form 5, so as to make it conformable to the law for the time being. 1 Geo. V. c. 32, s. 19.

LICENSE NOT TO BE ISSUED IN CERTAIN CASES.

21.—(1) Where the person having authority to issue the license or certificate has personal knowledge that the facts are not as required by section 15, he shall not issue the license or certificate; and if he has reason to believe or suspect that the facts are not as so required, he shall, before issuing the license or certificate, require further evidence to his satisfaction in addition to the affidavit prescribed by section 19. 1 Geo. V. c. 32, s. 20; 2 Geo. V. c. 17, s. 30 (3).

When issuer has personal knowledge that proper consent not obtained.

(2) The affidavits and evidence mentioned in subsection 1 shall be endorsed upon or attached to the license or certificate and the consent mentioned in section 15 shall be attached to it. 2 Geo. V. c. 17, s. 30 (4).

Affidavits, etc., to be endorsed upon or attached to license or certificate.

22. Every issuer or deputy-issuer of marriage licenses shall, immediately upon issuing a marriage license or certificate, fill up on a form such of the particulars contained in Form 4 as he is able to give, and shall forward the same forthwith to the Registrar-General. 2 Geo. V. c. 17, s. 30 (5).

Particulars to be sent to Registrar-General.

23. Every issuer of marriage licenses shall, on making application to the Provincial Secretary for a new supply of licenses, certify that a complete return of every license issued by him or his deputy has been forwarded to the Registrar-General. 1 Geo. V. c. 32, s. 21.

Certificate to be given on issuer applying for licenses.

FEES FOR LICENSE.

24. No fee shall be payable for a license or certificate except the sum of \$2, which the issuer of the license or certificate shall be entitled to retain for his own use; but the Lieutenant-Governor in Council may, from time to time, reduce the sum so payable. 1 Geo. V. c. 32, s. 22.

Fees for licenses or certificates.

MARRIAGE OUT OF CHURCH VALID.

25. It shall not be a valid objection to the legality of a marriage that the same was not solemnized in a consecrated church or chapel or within any particular hours. 1 Geo. V. c. 32, s. 23.

Objections on grounds of place or hour of marriage.

MARRIAGE CERTIFICATES.

26. Every clergyman, minister or other person who solemnizes a marriage, and the clerk or secretary of a society of Quakers, or of the meeting at which the marriage is solemnized, shall, at the time of the marriage, if required by either of the parties thereto, give a certificate of the marriage under his hand, specifying the names of the persons married, the time of the marriage, and the names of two or more

Certificate to be given by person solemnizing marriage when required.

persons who witnessed it, and specifying also whether the marriage was solemnized pursuant to license or certificate under this Act, or after proclamation of intention to intermarry; and the clergyman, minister, clerk or secretary may demand twenty-five cents for a certificate given by him from the person requiring it. 1 Geo. V. c. 32, s. 24.

REGISTRATION OF MARRIAGES.

Marriages to be registered by person solemnizing.

27. Every clergyman, minister or other person authorized to solemnize marriage shall, immediately after he has solemnized a marriage, enter in a register to be kept by him for the purpose, unless a similar register is kept in the church at which he officiates, in which case the entries shall be made in that book, the particulars mentioned in Form 4, and shall authenticate the same by his signature. 1 Geo. V. c. 32, s. 25.

Clergyman to apply for marriage register to clerk of municipality.

28.—(1) Every clergyman, minister or other person authorized to solemnize marriage, where a marriage register is not already possessed by any church or congregation over which he is placed or has charge, shall make application for a register to the clerk of the local municipality within which the church or congregation is situate, and the clerk shall thereupon supply such register at the cost of the municipality.

Additional registers.

(2) One additional register may be supplied, at the cost of the municipality, to any clergyman, minister or other person authorized to solemnize marriage, and a register shall also, on application, be supplied at the like cost to any clergyman or minister in the municipality who is not in charge of a church or congregation.

In unorganized townships.

(3) Every clergyman or minister in charge of a church or congregation in an unorganized township shall, upon a written application to be made by him to the Registrar-General, receive a register to be supplied by the Registrar-General. 1 Geo. V. c. 32, s. 26.

(As to returns to be made, see *The Vital Statistics Act, R.S.O. c. 49.*)

Property in registers.

29. The register, by whomsoever furnished, shall be the property of the denomination or body to which the clergyman, minister or other person to whom it is delivered belongs at the time of the delivery thereof, and where he is in charge of a particular congregation of such denomination, it shall belong to the trustees or other body in which the property of the church or meeting house used by such congregation for its ordinary services is vested. 1 Geo. V. c. 32, s. 27.

COPIES OF ACT TO BE SUPPLIED ON REQUEST.

30. Printed copies of this Act shall be furnished in pamphlet form by the clerks of the peace, by mail if desired, post paid, to any person applying therefor upon payment of ten cents for each copy, and the clerks of the peace may obtain from the King's Printer as many copies as they may require at the rate of fifty cents per dozen. 1 Geo. V. c. 32, s. 28.

Printed copies of this Act to be furnished.

CERTAIN MARRIAGES VALIDATED.

31. Any marriages which, before the 1st day of April, 1889, had been solemnized in Ontario by clergymen or ministers duly ordained or appointed as such according to the rites and ceremonies of the churches to which they belong, or by commissioners or staff officers of the Salvation Army, between persons not under any legal disqualification for entering into the contract of matrimony are hereby declared to have been and to be lawful and valid marriages, so far as respects the civil rights in Ontario of the parties or their issue, and so far as respects all matters within the jurisdiction of this Legislature, notwithstanding that the person who solemnized any such marriage was not at the time a resident of Ontario;

Marriages solemnized prior to 1st April, 1889, by persons not resident in Ontario validated.

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not, before the said date, been questioned in any suit or action; and

Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto has since contracted matrimony according to law; and in such a case the validity of the marriage by a non-resident shall be determined as if this section had not been passed. 1 Geo. V. c. 32, s. 29.

Proviso.

32. Any marriages which before the 4th day of May, 1891, had been solemnized in Ontario according to the rites, usages and customs of the religious society called the Society of Friends, commonly called Quakers, between persons not under any legal disqualification for entering into the contract of matrimony, are hereby declared to have been and to be lawful and valid marriages so far as respects the civil rights in Ontario, of the parties, or their issue, and so far as respects all matters within the jurisdiction of this Legislature:

Certain marriages solemnized in Society of Friends before 4th May, 1891.

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not been questioned in any suit or action before the tenth day of February, 1891; and

Proviso.

Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto had since such marriage, and before the 4th day of May, 1891, contracted matrimony according to law; and in such case the validity of the marriage shall be determined as if this section had not been passed. 1 Geo. V. c. 32, s. 30.

Marriages heretofore solemnized by elders of the Farringdon Independent Church validated.

33. Every marriage solemnized in Ontario before the 26th day of April, 1904, according to the rites, usages and customs of the "Farringdon Independent Church," by an elder thereof, is hereby declared to have been and to be lawful and valid, so far as respects the civil rights in Ontario of the parties and their issue, and so far as respects all matters within the jurisdiction of this Legislature;

Proviso.

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not theretofore been questioned in any suit or action; and

Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto had since such marriage and before that date contracted matrimony according to law; and in such case the validity of the marriage shall be determined as if this section had not been passed. 1 Geo. V. c. 32, s. 31.

Certain marriages according to Manitoba law confirmed.

34. Any marriages which, prior to the 1st of January, 1890, were solemnized according to the law of the Province of Manitoba in that portion of the Province of Ontario lying west of the meridian of the confluence of the Ohio and Mississippi Rivers, between persons not under a legal disqualification to contract such marriage, are hereby declared to have been and to be lawful and valid marriages so far as respects the civil rights in Ontario of the parties or their issue, and so far as respects all matters within the jurisdiction of this Legislature;

Proviso.

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not theretofore been questioned in any suit or action; and

Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto had since such marriage contracted matrimony according to law and in such case the validity of the marriage shall be determined as if this section had not been enacted; and

Exception as to J. G. Bennett.

Provided, further, that nothing in this section shall validate any marriage or alleged marriage which may have been contracted by one James Gordon Bennett, who died in the City of Winnipeg, in the Province of Manitoba, in the year 1904. 1 Geo. V. c. 32, s. 32.

35. Every marriage heretofore or hereafter solemnized between persons not under a legal disqualification to contract such marriage shall, after three years from the time of the solemnization thereof, or upon the death of either of the parties before the expiry of such time, be deemed a valid marriage so far as respects the civil rights in Ontario of the parties or their issue, and in respect of all matters within the jurisdiction of this Legislature, notwithstanding that the clergyman, minister or other person who solemnized the marriage was not duly authorized to solemnize marriage, and notwithstanding any irregularity or insufficiency in the proclamation of intention to intermarry or in the issue of the license or certificate, or notwithstanding the entire absence of both;

Certain marriages to be deemed valid after three years or on death of one of the parties.

Provided that the parties, after such solemnization, lived together and cohabited as man and wife, and that the validity of the marriage was not before such death or before the expiry of such three years questioned in any suit or action; and

Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto has before the death of the other and before the expiration of such three years contracted matrimony according to law, and in such case the validity of the marriage shall be determined as if this section had not been passed. 1 Geo. V. c. 32, s. 33.

Proviso.

SUPREME COURT MAY DECLARE CERTAIN MARRIAGES INVALID.

36.—(1) Where a form of marriage has been or is gone through between persons either of whom is under the age of 18 years without the consent required by section 15, in the case of a license, or where, without a similar consent in fact, such form of marriage has been or is gone through between such persons after a proclamation of their intention to intermarry, the Supreme Court, notwithstanding that a license or certificate was granted or that such proclamation was made and that the ceremony was performed by a person authorized by law to solemnize marriage, shall have jurisdiction and power in an action brought by either party, who was at the time of the ceremony under the age of 18 years, to declare and adjudge that a valid marriage was not effected or entered into;

Declaration of nullity of marriage.

Provided that such persons have not, after the ceremony, cohabited and lived together as man and wife, and that the action is brought before the person bringing it has attained the age of 19 years.

Proviso.

Saving as to marriages to prevent illegitimacy, etc.

(2) Nothing in this section shall affect the excepted cases mentioned in section 16 or apply where, after the ceremony, there has occurred that which, if a valid marriage had taken place, would have been a consummation thereof.

When Court not bound to grant relief.

(3) The Supreme Court shall not be bound to grant relief in the cases provided for by this section where carnal intercourse has taken place between the parties before the ceremony. 1 Geo. V. c. 32, s. 34.

No judgment by consent or in default of appearance or pleading.

37.—(1) No declaration or adjudication that a valid marriage was not effected or entered into shall in any case be made or pronounced upon consent of parties, admissions, or in default of appearance or of pleading or otherwise than after a trial.

Evidence to be *viva voce* in open court.

(2) At every such trial the evidence shall be taken *viva voce* in open court, but nothing in this subsection shall prevent the use of the depositions of witnesses residing out of Ontario or of witnesses examined *de bene esse*, where, according to the practice of the Court, such depositions may be read in evidence.

Court may require examination of parties.

(3) The Court may, of its own motion, require both or either of the parties to be examined before the Court touching the matters in question in the action.

Notice to Attorney-General.

(4) No trial shall be had until after ten days' notice to the Attorney General of Ontario.

Who may intervene at trial.

(5) The Attorney General may intervene at the trial or at any stage of the proceedings and may adduce evidence, and examine and cross-examine witnesses in like manner as a party defendant, and shall have the same right of appeal from any such declaration or adjudication as a party defendant has. 1 Geo. V. c. 32, s. 35.

FORM 1.

(Section 4.)

CERTIFICATE OF PROCLAMATION OF INTENTION TO INTERMARRY.

I hereby certify that on Sunday, the _____ day of _____, 19____, the intention of A.B., of _____, (state residence) and C. D., of _____, (state residence) to intermarry was duly proclaimed by me in _____ Church, being the church in the _____ (state name of township or other local municipality or parish, circuit or pastoral charge). I further certify that I verily believe the said A.B. (or C.D.) had his (or her) usual place of abode in the said _____ (township or other local municipality or parish, circuit or pastoral charge) for the space of fifteen days immediately preceding the said Sunday.

Dated this _____ day of _____, 19____.

_____, Minister of _____ Church.

1 Geo. V. c. 32, Form 1.

FORM 2.

(Section 7.)

CERTIFICATE BEFORE MARRIAGE WITHOUT PROCLAMATION.

These are to certify that *A.B.*, of _____ and *C.D.*, of _____ being minded, as it is said, to enter into the contract of marriage, and being desirous of having the same duly solemnized, the said *A.B.* (or *C.D.*) has made oath, as required by law:—

1. That he (or she) believes that there is no affinity, consanguinity, prior marriage, or any other lawful cause or legal impediment, to bar or hinder the solemnization of the said marriage;

2. That said *A.B.* (or *C.D.* or both, as the case may be), has, (or have) had his (or her, or their) usual place of abode, for the space of fifteen days last past, within the city, (county or district) of _____ namely, in the township (town or village) of _____ in the said county (or district) of _____;

3. That the said *A.B.* and *C.D.* are of the full age of eighteen years;

[Or that *A.B.* or *C.D.* is a widower or widow; or is under the age of eighteen years, and that the consent of *E.D.*, whose consent to said marriage is required by law, has been obtained; or that the father of the said (*party under age*) is dead, and no guardian of the person of the said (*party*) has been appointed, and the mother of the said (*party*) is dead and there is no person having authority to give consent to said marriage (as the case may be);]

These are therefore to certify that the requirements of *The Marriage Act* have been complied with and such marriage may be solemnized in the County of _____ (naming the county or district within which it is intended that the marriage shall be solemnized).

Given under my hand and seal at _____ this _____ day of _____ 19 .

G.H.,

Issuer (or Deputy-issuer) of Licenses.

Issued from the Office of the Provincial Secretary for the Province of Ontario this _____ day of _____ 19 .

K.L.

Provincial Secretary.

FORM 3.

(Section 19.)

AFFIDAVIT.

I, *A.B.*, of _____, in the county (or district) of _____ (addition) make oath and say as follows:—

1. I and *C.D.* of _____ in the county (or district) of _____ (addition) are desirous of entering into the contract of marriage, and of having our marriage duly solemnized at the town (or village, etc.) of _____ in the county (or district) of _____

2. According to the best of my knowledge and belief, there is no affinity, consanguinity, prior marriage or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

3. I (or the said *C.D.* or both, as the case may be) have (or has) had since the _____ day of _____ 19 _____ my (or his or her or our) usual place of abode within the municipality of _____ in the said county (or district).

4. I am of the age of _____ years, and the said *C.D.* is of the full age of 18 years (or the said *C.D.* is of the age _____ years or over).

5. I am a bachelor (or widower), and the said *C.D.* is a spinster (or widow).

6. (If either party is under 18 and not a widower or widow, add): *E.D.*, of _____ in the county of _____ is the person whose consent to the said marriage is required by law, and the said *E.D.* consents to the said marriage. The paper writing hereto annexed marked "A" is the consent of the said *E.D.* to the said marriage, and the signature thereto is of the proper handwriting of *E.D.*

7. The said *E.D.* is the father of the said *C.D.* [(or the said *E.D.* is the mother [or guardian duly appointed] of the said *C.D.* and the father of the said *C.D.* is dead) (or the father and mother of the said *C.D.* are both dead and no guardian of the said *C.D.* has been appointed)].

A.B.

Sworn before me, etc.,

G.H.,

Issner of Licenses.

[NOTE: The form will be varied as the circumstances of the case may require].

FORM 4.
(Section 27.)

REGISTER OF MARRIAGES.

| BRIDEGROOM. | |
|--|--|
| His name. | |
| Age. | |
| Residence when married. | |
| Place of birth. | |
| Bachelor or Widower. (B. or W.) | |
| Occupation. | |
| Religious Denomination of Bridegroom. | |
| Names of Parents. | |

| BRIDE. | |
|-------------------------------------|--|
| Her name. | |
| Age. | |
| Residence when married. | |
| Place of birth. | |
| Spinster or Widow. (S. or W.) | |
| Religious Denomination of Bride. | |
| Names of Parents. | |

Whether Married by License or Banns (L. or B.)

SIGNATURES

of Bridegroom

of Bride

of Witnesses,

Residence

Residence

I certify the above named parties were married by me at
19 . . . in the County of . . . , this . . . day of

Minister of, etc.

FORM 5.

(Section 20.)

Degrees of affinity and consanguinity which under the statutes in that behalf, bar the lawful solemnization of marriage.

A man may not marry his

1. Grandmother.
2. Grandfather's wife.
3. Wife's grandmother.
4. Aunt.
5. Uncle's wife.
6. Wife's aunt.
7. Mother.
8. Step mother.
9. Wife's mother.
10. Daughter.
11. Wife's daughter.
12. Son's wife.
13. Sister.
14. Granddaughter.
15. Grandson's wife.
16. Wife's granddaughter.
17. Niece.
18. Nephew's wife.
19. Wife's niece.*
20. Brother's wife.

A woman may not marry her

1. Grandfather.
2. Grandmother's husband.
3. Husband's grandfather.
4. Uncle.
5. Aunt's husband.*
6. Husband's uncle.
7. Father.
8. Step father.
9. Husband's father.
10. Son.
11. Husband's son.
12. Daughter's husband.
13. Brother.
14. Grandson.
15. Granddaughter's husband.
16. Husband's grandson.
17. Nephew.
18. Niece's husband.
19. Husband's nephew.
20. Husband's brother.

The relationships set forth in this table include all such relationships whether by the whole or half blood, and whether legitimate or illegitimate.

*By the Revised Statutes of Canada, 1906, c. 105, s. 2, it is enacted that "A marriage is not invalid merely because the woman is a sister of a deceased wife, or a daughter of a sister of a deceased wife of the man."

1 Geo. V. c. 32, Form 5; 2 Geo. V. c. 17, s. 30 (6).

SCHEDULE A.

(Section 20.)

And furthermore since many inconveniences have fallen as well within this Realm as others by reason of marrying within the degrees of marriages prohibited by God's law, that is to say: The son to marry the mother or the step mother carnally known by his father; the brother the sister, the father his son's daughter, or his daughter's daughter, nor shall the son marry the daughter of his father procreate and born by his step mother, nor shall the son marry his aunt, being his father's or mother's sister, nor marry his uncle's wife, carnally known by his uncle, nor shall the father marry his son's wife, carnally known by his son, nor the brother marry his brother's wife carnally known by his brother; nor shall any man married and carnally knowing his wife marry his wife's daughter nor his wife's son's daughter, nor his wife's daughter's daughter . . . And further if it chance any man shall know carnally any woman that then all and singular persons being in any degree of consanguinity or affinity (as is above mentioned) to any of the parties so carnally offending, shall be deemed and adjudged to be within the cases and limits of the said prohibitions of marriage.

1 Geo. V. c. 32, Schedule A.