



1852.

No. 18.

An Act to amend the Law of Marriage in the Province of South Australia.

[Assented to December 2nd, 1852.]

WHEREAS an Act was passed in the fifth year of the Reign of Her present Majesty, intituled "An Act for regulating Marriages in the Province of South Australia," and it is expedient to make further regulations respecting the law of marriage in the said Province.

Be it therefore Enacted, by His Excellency the Lieutenant-Governor of the Province of South Australia, by and with the advice and consent of the Legislative Council thereof, as follows, that is to say, That from and after the passing of this Act, it shall be lawful for His Excellency the Governor for the time being of the said Province of South Australia, on the application of any officiating minister under the provisions of the said recited Act, or of any person, who, according to the usages of the Society of Friends, commonly called Quakers, or of any body of persons professing the Jewish religion, shall be authorized to solemnize marriages by an instrument under his hand, to direct the Registrar-General to enter such applicant as a person authorised to grant such licences for marriage as are hereinafter mentioned, within any district which under the provisions of the Act for registering births, deaths and marriages in the Province of South Australia, shall have been proclaimed a Deputy-Registrar's district; and the Registrar-General shall make such entry accordingly, in a book to be kept for that purpose, and shall file and preserve such instrument among

*Amended & inserted
Repealed by
No. 3. 1855. 6.*

the records of his office, and shall give public notice of such appointment in the *South Australian Government Gazette*.

2. And be it Enacted, That every officiating minister, or other person so appointed, after such notice shall have appeared in the *Government Gazette*, shall have power to grant licences for marriage within his district, in the form of schedule A to this Act annexed: Provided that nothing herein contained, shall authorize any officiating minister, or other person, to issue a licence for a marriage which is to be celebrated in a district for which such officiating minister shall not have been appointed.

3. And be it Enacted, That before any such licence for marriage shall be granted, one of the parties intending marriage shall appear before the officiating minister, or other person appointed as aforesaid, and make such oath, solemn affirmation, or declaration, as is required to be made before a Deputy-Registrar, before the issue of a licence by him, under the provisions of the said recited Act, which oath, solemn affirmation, or declaration, such officiating ministers, and other persons appointed as aforesaid, under the provisions of this Act, are hereby empowered and required to take, and any such officiating minister, or other person, who shall knowingly and wilfully issue a licence for marriage before such oath, affirmation, or declaration shall be made, shall be guilty of a misdemeanor.

4. And be it Enacted, That any person may enter a caveat with any officiating minister, or other person authorised to grant licences for marriage as aforesaid, against the grant of a licence to any person named in such caveat, which caveat shall be duly signed by or on behalf of the person who enters the same, together with his or her place of residence, and the ground of objection upon which such caveat is entered, and thereupon no licence shall be granted by such officiating minister, or other person, with whom such caveat is entered, until he shall be authorized in that behalf by the Registrar of Births, Deaths, and Marriages, or until such caveat shall have been withdrawn by the person entering the same.

5. And be it further Enacted, that upon the delivery of such licence to the person authorized to solemnize marriage mentioned therein, and whether such person be the officiating minister or other person granting such licence, or any other person authorized to solemnize marriage in the said Province, the marriage of the parties named therein may be solemnized at the place, and in the presence of the person authorized to solemnize marriage named in such licence, and every marriage in pursuance of any licence granted, under the authority of this Act, shall be solemnized in the same manner, and with the same forms, and be as valid as marriages solemnized by authority of the licences or certificates of Deputy-Registrars under the provisions of the said recited Act, and the provisions of the said recited Act shall be applicable to

to all marriages performed in pursuance of licences granted by authority of this Act, in the same manner as to marriages performed by authority of the said recited Act: Provided, that nothing herein contained shall be construed to empower any person, who, according to the usages of the said Society of Friends, called Quakers, or of persons professing the Jewish religion, shall be authorized to solemnize marriage in South Australia, to grant licences for or solemnize any marriage unless both the parties shall be members of the said society, or both persons professing the Jewish religion respectively.

6. And be it Enacted, That unless a marriage shall be had and solemnized in pursuance of any licence granted as aforesaid, within three months after the grant of such licence, such licence shall be void and of no effect, and no marriage shall be had and solemnized in pursuance thereof; and any person knowingly and wilfully solemnizing any such marriage after the expiration of the period aforesaid shall be guilty of a misdemeanor.

7. And be it Enacted, That every person who vexatiously, and without any reasonable or probable cause, shall enter a caveat with any officiating minister, or other person authorized to grant licences under the provisions of this Act, against the grant of a licence for the marriage of any person, shall be liable for the costs of the proceedings, and for damages to be recovered in a special action on the case by the party against the grant of a licence for whose marriage such caveat shall have been entered, or whose marriage shall have been forbidden.

8. And be it Enacted, That any person who shall knowingly and wilfully make any false oath, affirmation, or declaration, for the purpose of obtaining any licence for marriage under this Act, and any person who shall forbid the issue of any such licence for marriage, or shall forbid the solemnization of any marriage, by falsely representing himself or herself to be a person whose consent to such marriage is necessary, knowing such declaration to be false, shall suffer the penalties of perjury.

9. And be it Enacted, That whenever it shall be made to appear to His Excellency the Governor of South Australia for the time being, that any officiating minister, or other person authorized to issue licences under the provisions of this Act, has ceased to be an officiating minister under the provisions of the said recited Act, or to be a person authorized to solemnize marriages according to the usages of the said Society of Friends, or people professing the Jewish religion, or that any such officiating minister or person has neglected to make proper returns of the licences granted by him, or has been guilty of any wilful irregularity in the issue of licences, it shall be lawful for the said Governor, by an instrument under his hand, to direct the Registrar-General to cancel the

the appointment of such officiating minister or other person to issue licences, and the Registrar-General shall thereupon cancel such appointment, and notify the same in the *South Australian Government Gazette*; and, upon such notification appearing in the said *Government Gazette*, the authority of such officiating minister or other person shall cease.

10. And, whereas it is considered that the number of householders whose signatures are required to the certificates of persons applying to be entered as officiating ministers under the thirty-second clause of the said recited Act is too large, and that the period of residence is too long, be it therefore Enacted, That the number of householders whose names shall be required to such certificates shall be twenty, instead of forty as heretofore, and the production of such certificates, signed by twenty householders, shall be sufficient to entitle any minister of religion to be entered as an officiating minister under the provisions of the said Act, who shall have been for one month in charge of a Christian congregation consisting of at least twenty resident householders.

Returns of licences and marriages to be made to the Registrar of Births, &c.

11. And be it Enacted, That every person authorized to grant licences for the celebration of marriages under this Act, and also every person who shall celebrate marriage without license, shall, four times in every year, on such days as shall have been appointed for Deputy-Registrars to make returns of licences of marriages granted by them under the provisions of the said recited Act, make a return to the Registrar of Births, Deaths, and Marriages, in South Australia, of every licence granted, and of every marriage celebrated by him, subsequent to the last day appointed for such return, with the particulars in such licences contained respecting the parties, and every person authorized to grant licences under the authority hereof, and every person who shall celebrate any marriage within the Province, who shall fail to make such return for the space of thirty days after any day appointed for such return as aforesaid, or who shall make a false return, shall forfeit the sum of Ten Pounds, which shall and may be recovered in any court of competent jurisdiction, in the name of any person who may sue for the same, and which sum, when recovered, shall be paid—one moiety to the person who shall sue for the same, and the other moiety to Her Majesty, her heirs, and successors, for the public uses of the said Province.

12. And, whereas it is considered that no marriage solemnized between the passing of the said recited Act and the day whereon such Act came into operation would be valid by virtue of such Act, and it is expedient to declare such marriages valid, be it therefore Enacted, That every marriage *bona fide* celebrated in the said Province and its dependencies, between the passing of the said recited Act and the day whereon the same came into operation, by any clergyman, minister, or other person, whether the same was so celebrated

celebrated in any church, chapel, or other place of worship, or in a private house or building, shall be deemed as valid as if such marriage had been celebrated under the provisions of the said recited Act: Provided that no lawful impediment to such marriage existed at the time of its solemnization.

JOHN MORPHETT, Speaker.

*Passed the Legislative Council this twenty-fourth }
day of November, one thousand eight hundred }
and fifty-two.*

F. C. SINGLETON,
Clerk of the Legislative Council.

In the name and on the behalf of Her Majesty I assent to this Act.

H. E. F. YOUNG,
Lieutenant-Governor.

Government House, Adelaide,
2nd December, 1852.

SCHEDULE REFERRED TO.

A

A. B. (Officiating Minister, or a person authorized to grant licences for marriage, within the District of _____)
 To C. D. of _____, and E. F. of _____,
 Sendeth Greeting—

WHEREAS ye are minded, as it is said, to enter into a contract of marriage under the provisions of an Act made in the fifth year of the reign of Her present Majesty, intituled "An Act for regulating Marriages in South Australia," and of a certain other Act, passed in the year of our Lord one thousand eight hundred and fifty-two, intituled "An Act to amend the Law of Marriage in the Province of South Australia," and are desirous that the same may be speedily and publicly solemnized: AND WHEREAS you, C. D., (or you, E. F.) have made or subscribed a declaration under your hand (or have made oath, or have made affirmation, before me) that you believe there is no impediment of kindred or alliance, or other lawful hinderance, to the said marriage—that you, the said C. D. (or E. F.), have (or has) had your (or her, or his) usual place of abode within the District of _____, and that you, C. D. (or E. F.), not being a widower (or widow), are under the age of twenty-one years, and that the consent of G. H., whose consent to your (or his, or her) marriage is by law required, has been obtained thereto, (or, that there is no person authorized to give such consent), I DO HEREBY GRANT unto you full licence, according to the authority given to me by the said lastly recited Act, to proceed to solemnize such marriage, and to the Deputy-Registrar of the District of _____ to register such marriage according to law, provided that the said marriage be publicly solemnized in the presence of (here insert the name of the person by whom the marriage is to be solemnized, and his description as Officiating Minister, &c.) and two witnesses, within three calendar months from the date hereof, in the (here describe the church, chapel, building, office, or private building in which the marriage is to be solemnized), between the hours of eight in the forenoon and four in the afternoon.

Given under my hand this _____ day of _____
 one thousand, &c.

A. B.
 (description).