

Legislative Council.

No. , 1900.

A BILL

To amend the law relating to Marriage; to amend the Marriage Act, 1899, and the Registration of Births, Deaths, and Marriages Act, 1899; and for purposes consequent on or incidental to those objects.

[MR. WISE;—22 November, 1900.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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PART I.

PRELIMINARY.

1. This Act may be cited as the "Marriage Act, 1900," and Short title. shall be construed as one with the Marriage Act, 1899 (hereinafter termed the Principal Act), and is divided into the following Parts:—

10 PART I.—PRELIMINARY—ss. 1, 2.

c 169—A

PART

PART II.—REGISTRATION OF MINISTERS—*ss.* 3–12.

PART III.—CELEBRATION OF MARRIAGES—*ss.* 13–19.

PART IV.—CERTIFICATES AND REGISTERS—*ss.* 20–23.

PART V.—SUPPLEMENTAL—*ss.* 24–34.

Repeal.

2. The Acts mentioned in the Schedule to this Act are hereby **5**
repealed to the extent therein specified.

PART II.

REGISTRATION OF MINISTERS.

Who may be
registered under
this Act.

3. No person shall be registered under this Act as a minister
for celebrating marriages unless he is— **10**

(a) a minister of religion ordinarily officiating as such in one of
the religious denominations, two or more ministers of which,
at the commencement of this Act, are registered under
section thirty-one of the Registration of Births, Deaths, and
Marriages Act, 1899; or **15**

(b) a minister of religion ordinarily officiating as such in any
religious denomination which the Governor, after the com-
mencement of this Act, by proclamation published in the
Gazette, declares to be a religious denomination for the
purposes of this Act. **20**

Who shall be deemed
to be so registered.

4. Every minister of religion having the qualification mentioned
in subsection (a) of the last preceding section who, at the commence-
ment of this Act, is duly registered under section thirty-one of the
Registration of Births, Deaths, and Marriages Act, 1899, shall be and
be deemed to be registered under this Act. **25**

Requisition that
minister be
registered.

5. (1) Subject to the last preceding section no minister of
religion shall be registered under this Act unless the Registrar-
General receives a requisition that such minister may be registered as
a minister of religion for celebrating marriages in New South Wales.

Who may sign
requisition.

(2) Such requisition shall be in writing, signed by the **30**
recognised head in New South Wales (if any) of the religious
denomination to which the minister belongs, or, if there be no such
recognised head, by two or more ministers of religion registered under
this Act, who, in such requisition, shall specify the religious denomi-
nation of which they are ministers. **35**

Contents of
requisition.

(3) Such requisition shall, with reference to the minister of
religion required to be registered, state—

(a) his full name and surname;

(b)

- 5 (b) the religious denomination of which he is required to be registered as a minister ;
- (c) his designation, and whether according to the tenets of such denomination he is of such status as entitles him to celebrate marriages ;
- (d) that he ordinarily officiates as a minister of religion of such denomination ;
- (e) his usual place of residence ;
- 10 (f) the church, chapel, or other place of worship in which he ordinarily officiates as a minister of religion ;

6. If satisfied that the requisition is duly signed, and of the truth of the statements made therein, and that the minister of religion named therein is a fit and proper person to celebrate marriages, and that the conditions and requirements of this Act necessary for the registration of such minister have been fulfilled, the Registrar-General may register such minister under this Act.

7. The Registrar-General, within one month after registering any minister of religion under this Act, shall cause the fact of such registration to be published in the Gazette, and such publication shall be prima facie evidence in all courts of justice that such minister is so registered.

8. (1) The Registrar-General may, whenever he thinks fit, and shall at least once in every year cause to be published in the Gazette the names of all ministers of religion then registered under this Act, with their designations, denominations, and residences.

(2) Every such publication shall be prima facie evidence in all courts of justice that the ministers of religion named therein, and no others, were at the time of such publication duly registered under this Act.

9. (1) Notwithstanding anything contained in the Principal Act, the Governor may, by notice published in the Gazette, prohibit from celebrating marriages in New South Wales, any minister of religion who—

- (a) is convicted of any felony or indictable misdemeanour ; or
- 35 (b) is guilty of any misconduct in celebrating any marriage ; or
- (c) is guilty of such impropriety as to the time, manner, or place of celebrating marriages as, in the opinion of the Governor, renders it inexpedient that he should continue to celebrate marriages ; or
- 40 (d) is guilty of any breach of any Act relating to marriage.

(2) Such prohibition shall take effect from a day to be specified in such notice, and be noted on the register, and shall operate from the said day as a suspension of the registration of the minister.

From

From such day such minister shall, notwithstanding that his registration has not been cancelled, cease to have authority to celebrate marriages in New South Wales until such prohibition is, by like notice, removed.

Governor may cancel registration.

(3) The Governor may also in the like manner and for a like cause cancel the registration under this Act of any such minister. 5

But before such registration is so cancelled, the Governor shall appoint a District Court Judge, either alone or with two other persons appointed by the Governor in that behalf, to inquire as to the truth of any matter alleged against such minister; and the person or persons so appointed shall have authority to hear, receive, and examine evidence 10 on oath, and shall, after fully hearing the case in the presence of the minister concerned or in his absence if after due notice he neglects to attend, report to the Governor his or their opinion thereon: Provided that in the case of a minister who is convicted of any felony or indictable misdemeanour, or any breach of any Act relating to marriage, no 15 such inquiry shall be necessary.

Registrar-General may cancel registration.

10. (1) If any minister of religion, registered under this Act,—

- (a) dies or departs from New South Wales; or
- (b) ceases to exercise the functions of an officiating minister of religion of the religious denomination in respect of which he 20 is registered; or
- (c) is degraded or deprived of his authority as a minister of religion by his superior or by the recognised church court or tribunal of the religious denomination to which he belongs; or
- (d) being registered on a requisition from the head of a religious 25 denomination or two or more officiating ministers of religion such requisition is at any time withdrawn by the person or persons who signed the same;

the Registrar-General may cancel the registration of such minister—

- (e) on being notified in writing by the recognised head in New 30 South Wales of the denomination to which such minister belongs or belonged, or being otherwise satisfied by proof of such death, departure or cessation of ministry; or
- (f) on being notified in writing by such superior, church court or tribunal, or by such recognised head, of such degradation or 35 deprivation; or
- (g) on being notified in writing by the persons signing such requisition of their withdrawal of the same.

Effect of cancellation of registration.

11. Upon the cancellation of the registration of a minister of religion such minister shall cease to have authority to celebrate 40 marriages in New South Wales.

Proof of matters relating to registration.

12. Before registering any minister of religion under this Act, or cancelling any such registration, the Registrar-General may require proof to his satisfaction—

- (a) of the authenticity of any signature to any requisition or 45 notification relating to such registration or the cancelling of any such registration;
- (b)

- (b) that any person signing any such requisition or notification as the recognised head of any religious denomination is actually the recognised head in New South Wales of such denomination; or
- 5 (c) of the truth of any statement made in any such requisition or notification.

PART III.

CELEBRATION OF MARRIAGES.

Who may celebrate marriages.

- 10 13. The following persons, and none other, may celebrate marriages:— Who may celebrate marriages.
- (a) A minister of religion registered under this Act; or
- (b) The Registrar-General, or any Deputy Registrar-General, or district registrar.

15 And any provision of the Principal Act relating to a minister of religion registered under that Act, or a district registrar celebrating a marriage, shall apply to a minister of religion registered under this Act, or the Registrar-General, or any Deputy Registrar-General celebrating a marriage.

20 *Celebration by ministers.*

14. (1) It shall not be lawful for any minister of religion to celebrate any marriage in any house or building not ordinarily and bona fide used as a place of public worship, except between the hours of ten in the forenoon and four in the afternoon, unless Time for celebrating marriage in private house.

25 notice of the intended marriage, setting forth clearly and legibly the situation of such house or building, the names in full and the occupation, and usual place of residence of each of the parties about to be married, and the day and hour fixed for the celebration of such marriage, and bearing the respective signatures of such parties and

30 of such minister is served by post on the Registrar-General at least seven days before the date fixed for such marriage.

(2) Provided that the Registrar-General may, by writing Proviso. under his hand, upon cause shown to his satisfaction previous to the celebration of the marriage, certify that such marriage may be

35 celebrated without compliance with the foregoing provisions.

(3) In every case in which a marriage is celebrated other- Registrar-General may attend marriages in certain cases. wise than within the times above prescribed, the Registrar-General, or any person authorised in writing by him, shall have access to the house or building in which the marriage is to be celebrated for the

40 purpose of being present during the celebration thereof. (4)

Penalty.

(4) Every minister celebrating any marriage in contravention of this section without having first obtained the certificate of the Registrar-General as aforesaid, shall be liable on conviction to a penalty not exceeding *twenty* pounds.

Governor may prohibit marriages in certain houses.

15. (1) The Governor, by proclamation published in the Gazette, may declare that after a date therein specified it shall be unlawful for any minister to celebrate marriages in any house or building mentioned in such proclamation, and may revoke or alter any such proclamation.

Notice of such prohibition.

(2) No such proclamation shall be so published until after seven days' notice has been given by the Registrar-General to the occupier of such house or building, either personally or by post, or by affixing a copy of such notice on the front of such house or building. Such notice shall specify a place where and date on which an inquiry will be held by the Registrar-General at which such occupier may appear, and be heard in opposition to the publication of such proclamation. The Registrar-General at such inquiry shall have authority to hear, receive, and examine evidence on oath, and shall report his opinion to the Minister administering this Act.

Penalty.

(3) If, after the publication of any such proclamation, and after the date therein specified, any marriage is in contravention of such proclamation, celebrated in such house or building, the registration of the minister celebrating such marriage shall, without further or other authority than this section, be forthwith cancelled by the Registrar-General, and such minister shall be guilty of a misdemeanour.

Celebration by registrar.

Time for celebrating marriage by registrar.

16. It shall not be lawful for the Registrar-General, or any Deputy Registrar-General or district registrar to celebrate any marriage, except between the hours of ten in the forenoon and four in the afternoon, unless the parties to be married give him written notice of their intended marriage at least three days before the celebration of such marriage, or sign, before the district registrar of the district within which the intended wife ordinarily resides, a declaration in the form of the Second Schedule to the Principal Act.

Place for celebrating such marriage.

17. (1) Every marriage celebrated by the Registrar-General, or any Deputy Registrar-General or district registrar shall be celebrated in the office publicly used by him for the performance of his general duties as such officer, and in no other place.

Form of words to be used.

(2) Such marriage shall be celebrated in the form of words set forth in the Third Schedule to the Principal Act, to be repeated and signed by the parties to such marriage respectively.

Penalty.

(3) The Registrar-General or any Deputy Registrar-General or district registrar knowingly celebrating a marriage in contravention of this section shall be liable on conviction to a penalty not exceeding *twenty* pounds.

In 45

In the case of minors.

18. (1) If either party to any intended marriage, not being a widower or widow, is under the age of twenty-one years, such marriage shall not take place without production to the minister or registrar about to celebrate the same—

- (a) of the written consent of the father of such party, if within New South Wales, or if not within New South Wales, then of a guardian in New South Wales appointed by the father; or
- 10 (b) if there be no such guardian in New South Wales, of the written consent of the mother of such party, if within New South Wales; or
- (c) where there is no such parent or guardian in New South Wales, or he or she is incapable of duly consenting by reason of distance, habitual intoxication, or mental incapacity, of the written consent of a stipendiary or police magistrate, or some justice of the peace appointed for that purpose; or
- 15 (d) where such party has been living with and under the care and control of his or her mother, and
 - 20 (i) the mother of such party has been for a period of three years deserted by her husband, or has obtained a protection order against him, or
 - (ii) a decree for judicial separation, nullity of marriage or dissolution of marriage has been pronounced in respect of the mother and her husband,
- 25 of the written consent of the mother of such party, if within New South Wales, or if the mother dies in such circumstances, the written consent of a stipendiary or police magistrate, or some justice of the peace appointed for that purpose.

30 (2) A magistrate or justice before giving a consent under this section shall make inquiry on oath as to the facts and circumstances of the case.

(3) For the purposes mentioned in this section the judges of the Supreme Court shall appoint from time to time one or more justice or justices of the peace in every registrar's district who may, by virtue of such appointment and until such appointment is cancelled, give consent in such cases as aforesaid.

(4) Such judges may cancel any such appointment.

(5) Every such appointment and every cancellation of the same shall be notified by the said judges in the Gazette.

40 19. Where a marriage is celebrated upon the production of any such written consent as aforesaid, a statement of the fact of such consent shall be indorsed on the certificate of such marriage and on the copy thereof, signed by the person celebrating the same.

PART IV.

CERTIFICATES AND REGISTERS.

Certificate and registers to contain certain particulars.

20. (1) The person who celebrates a marriage shall in the certificate of the marriage and register of the same set forth, so far as known by him, the age last birthday and birthplace of the parties to the marriage, with the name in full and the rank or profession of the father, and the name in full and maiden surname of the mother of each of such parties. 5

Return of certificate for amendment.

(2) Where the Registrar-General or any registrar returns for completion or amendment any certificate of marriage to the person celebrating any marriage, such person shall, within seven days after receiving such certificate, return the same to the Registrar-General or to the registrar, completed and amended. 10

Penalty.

(3) Any person who fails to comply with the provisions of his section, shall on conviction be liable to a penalty not exceeding *five* pounds. 15

Certificate to be sent to district registrar.

21. The minister celebrating a marriage shall within seven days after the marriage transmit the original certificate to the district registrar, who shall register such marriage and forthwith transmit such certificate to the Registrar-General. 20

Books and forms to be the property of the Registrar-General.

22. All marriage registry books and other books and forms heretofore or hereafter furnished by the Registrar-General to a minister of religion registered for the celebration of marriages shall be and remain the property of the Registrar-General, notwithstanding that entries may have been made therein. 25

Access to registers.

23. The Registrar-General, or any person authorised in writing by him, may at all reasonable times have access to and inspect, free of charge, any registers or books of entries or register-books in the possession, control, or custody of any person whomsoever, and relating to any marriage celebrated in New South Wales, and may take copies thereof or extracts therefrom. 30

PART V.

GENERAL AND SUPPLEMENTAL.

General.

Registrar-General to furnish books.

24. The Registrar-General shall at the public expense furnish to every minister registered under this Act books for the registry of marriages. 35

Minister or registrar may make inquiries regarding marriages.

25. Any officiating minister, or the Registrar-General, or any Deputy Registrar-General, or district registrar may ask of any person married or about to be married by him the several particulars required to be registered touching any such marriage. 40

Offences

Offences.

26. Whosoever obstructs or hinders the Registrar-General, or any person authorised by him, in the exercise of any power conferred on him by this Act or the Principal Act, shall on conviction be liable to a penalty not exceeding *fifty* pounds.

Obstructing Registrar-General.

27. Every person who celebrates or professes or attempts to celebrate any marriage without the authority or contrary to the provisions of this Act shall, except when some other penalty is imposed by this Act, be guilty of a misdemeanour.

Penalty for celebrating marriage contrary to this Act.

28. Every person who celebrates or professes or attempts to celebrate marriage in the case of any person under the age of twenty-one years, not being a widower or widow, without a written consent as required by section eighteen of this Act, knowing him or her to be under that age, or knowing that the consent produced is not by the authorised person, shall be guilty of a misdemeanour.

Knowingly celebrating marriage of a minor without consent.

29. Every person who—

Knowingly marrying a minor without consent.

(a) wilfully marries a person under the age of twenty-one years, and whom he or she knows to be under that age, without having previously obtained a written consent as required by section eighteen of this Act; or

(b) induces or endeavours to induce any minister, registrar, or other person to celebrate marriage between parties, one of whom, he or she knows to be under age without such consent; or

(c) abets or assists the offender in any such act knowing the same to be illegal shall be guilty of a misdemeanour.

30. If, on the ground that he is a minister of religion ordinarily officiating as such, any person causes his name to be registered under this Act, knowing at the time that he is not a minister of religion ordinarily officiating as such, he shall be guilty of a misdemeanour.

Falsely causing name to be registered as minister.

31. Every person guilty of a misdemeanour for a breach of this Act or the Principal Act, for which no specific penalty or punishment is provided, shall be liable to a penalty not exceeding *five hundred* pounds, or to imprisonment for a term not exceeding *five* years, or to both such penalty and imprisonment.

Punishment for misdemeanour.

Penalties.

32. All penalties imposed for offences against this Act other than offences declared to be misdemeanours may be recovered in a summary way before a stipendiary or police magistrate or any two or more justices of the peace in petty sessions.

Recovery of penalties.

Savings.

Application of Act to Quakers and Jews.

33. (1) With the exception of the provisions of sections fifteen, sixteen, and seventeen hereof nothing in this Act shall extend to any marriage between parties of whom both are Quakers or Jews.

Marriages validated.

(2) Every marriage celebrated between parties being both Quakers or both Jews shall be as legal and valid as if duly celebrated under the provisions of this Act, if such marriage was when celebrated a valid marriage according to the usages of the Quakers or Jews as the case may be.

Marriage not to be avoided for certain breaches of this Act.

34. No marriage in fact shall be avoided by reason only of the same having been celebrated by a minister of religion prohibited from celebrating marriages, or whose registration has been cancelled, or by a person not being a minister of religion or an officer authorised to celebrate marriages, or by reason only of any non-compliance with or breach of sections fourteen, fifteen, sixteen, or seventeen hereof, if either of the parties to the marriage at the time bona fide believed that such minister, person, or officer was qualified or authorised to celebrate marriages, and that the requirements of the section in question had been complied with.

Section 2.

SCHEDULE.

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Reference to Act.	Title or short title.	Extent of repeal.
Act No. 15, 1899	Marriage Act, 1899	Sections 3, 7, 9, 10, 11, 25, and 26.
Act No. 17, 1899	Registration of Births, Deaths, and Marriages Act, 1899.	So much of section 9 as relates to any marriage, and sections 31, 32, 33, 34, 35, and 36.

[9d.]