

ANNO QUINTO

## VICTORIÆ REGINÆ.

### No. 12.

An Act for regulating Marriages in the Province of South Australia.

THEREAS it is expedient to regulate the Law of Marriage in the Province of South Australia:

Be it therefore Enacted by His Excellency George Grey Esquire After commencement of Act all marriages Governor and Commander-in-Chief of the Province of South Australia celebrated by clergy by and with the advice and consent of the Legislative Council thereof men of the Churches
That after the first day of Type in the rear of cur I and a the council thereof of England and Scot-That after the first day of June in the year of our Lord one thousand land shall be valid. In eight hundred and forty-two all marriages celebrated by clergymen after the publication of the United Church of England and Ireland and of the Church of banns to be of Scotland shall if celebrated according to the usages and forms of sundays before the these Churches respectively be deemed valid: Provided that in all marriage in the presence of the congression of homes cases where marriage is solemnized after the publication of banns gation. such publication shall take place on three distinct Sundays previously to the marriage of the parties either immediately before the commencement or during the time of Divine Service, and when the congregation shall have assembled and be present: And provided Marriages may be that the production of the Deputy Registrar's certificate as herein-solemnized on production of Deputy after provided shall dispense with the necessity of the publication of Registrar's certificate. banns or of any such licence or dispensation as is next hereinafter mentioned.

II. And be it further Enacted That such licences or dispensations as the case may be to marry without publication of banns as may be banns may be issued issued according to the Ecclesiastical Laws of the United Church by the proper authorities of the Church of of England and Ireland may be issued by the proper authorities England. according to such laws for marriages to be celebrated agreeably to

the forms and usages of the same Church: Provided always that no such licence or dispensation for marriage shall be issued in any case in which every person whose consent to any marriage by licence would have been required by law in England before the passing of this Act shall not have previously given his or her consent to such marriage.

Marriages of Quakers and Jews.

III. And be it Enacted That the Society of Friends commonly called "Quakers" and also persons professing the Jewish Religion may continue to contract and solemnize marriage according to the usages of the said society and of the said persons respectively as by law established in England before the passing of this Act, and every such marriage is hereby declared and confirmed good in law: Provided that the parties to such marriage be both of the said society or both persons professing the Jewish Religion respectively: Provided also that notice to the Deputy Registrar shall have been given and the Deputy Registrar's certificate shall have issued in the manner hereinafter provided.

Deputy Registrars of Births and Deaths to be Deputy Registrars of Marriages. IV. And be it Enacted That the Deputy Registrars of Births and Deaths shall in right of such office be Deputy Registrars of Marriages within the places to which they shall respectively be appointed and such places shall be deemed the districts of the Deputy Registrars of Marriages and the offices of the Deputy Registrars shall be taken for the purposes of this Act and also of the Act for registering births deaths and marriages to be within the districts of which they are the Registry Offices although not locally situated therein.

Notice of every intended marriage unless as already provided for to be given to the Deputy Registrar of the district.

V. And be it Enacted That in every case of marriage intended to be solemnized in the Province of South Australia or its Dependencies after the said first day of June next according to the forms and usages of the said respective Churches of England and Scotland unless as is hereinbefore provided by licence or dispensation or after the publication of banns and in every case of marriage intended to be solemnized after the first day of June next according to the usages of the Quakers or Jews, or according to any form authorized by this Act, one of the parties shall under his or her hand give notice in the form of Schedule A to this Act annexed to the Deputy Registrar of the district within which the parties shall have dwelt for not less than seven days then next preceding or if the parties dwell in the districts of different officers appointed under this Act they shall give the like notice to the Deputy Registrar of each district as the case may be and shall therein state the name and surname and the profession or condition of each of the parties intending marriage the dwelling place of each of them and the time (not being less than seven days) that each of them has dwelt therein and the church building or office or private house in which the marriage is to be solemnized.

Deputy Registrars to keep notices in a book.

VI. And be it Enacted That the Deputy Registrar shall file all such notices and keep them with the records of his office and shall

also forthwith enter a true copy of all such notices fairly into a Before entry of such parchment book to be furnished to him by the Government and to trar may require proof be called "The Marriage Notice Book" and the marriage notice book shall be open at all reasonable times to all persons desiring to inspect in case marriage to the same and for every such entry or search there shall be paid to the Deputy Registrar a fee of Two Shillings and Sixpence: Provided Registrar copy of the always that before the copy of any such notice shall be so entered notice to be suspended always that before the copy of any such notice shall be so entered in the notice book some credible person known to the Deputy Registrar shall satisfy him if he think fit to require it of the truth of the several particulars set forth in such notice and provided that in every case in which it is intended that the marriage shall take place in the presence of a Deputy Registrar as is hereinafter provided a true and exact copy of every such notice of marriage under the hand of some Deputy Registrar shall be suspended in some conspicuous place in the Registry Office where such notice was given during fourteen days before any marriage shall be solemnized in pursuance of such notice: Provided also that there shall be paid to the Deputy Registrar for every such true and exact copy of such notice of marriage by the party who leaves such notice at the office of the Deputy Registrar a fee of Two Shillings and Sixpence.

of the truth of the take place in the at the office during fourteen days before the marriage.

VII. And be it Enacted That after the expiration of twenty-one After twenty-one days days after the entry of such notice the Deputy Registrar upon being certificate of notice to be given. Consent. requested so to do by and on behalf of the party by whom the notice was given shall issue under his hand a certificate in the form of Schedule B to this Act annexed: Provided that no lawful impediment be shown to the satisfaction of the Deputy Registrar why such certificate should not issue and provided that the issue of such certificate shall not have been sooner forbidden in manner hereinafter mentioned by any person or persons authorized in that behalf as hereinafter is provided and every such certificate shall state the particulars set forth in the notice the day on which the notice was entered and that the full period of twenty-one days has elapsed since the entry of such notice and that the issue of such certificate has not been forbidden by any person or persons authorized in that behalf and for every such certificate the Deputy Registrar shall be entitled to have a fee of One Shilling and every person whose consent to a marriage by licence would have been required in England by law before the passing of this Act shall have authority to forbid the issue of such certificate.

VIII. And be it Enacted That any person in that behalf autho- Issue of Deputy rized may forbid the issue of the Deputy Registrar's certificate by Registrar's certificate writing of any time in the order of the Deputy Registrar's certificate by Registrar's certificate by may be forbidden. writing at any time in the presence of the Deputy Registrar before the issue of such certificate the word "forbidden" opposite to the entry of the notice of such intended marriage in the marriage notice book and by subscribing thereto his or her name and place of abode and his or her character in respect of either of the parties by reason of which he or she is so authorized and in case the issue of any such certificate shall have been so forbidden the notice and all proceedings thereupon shall be utterly void.

Deputy Registrar may grant licences for marriages. Not authorized to grant any licence for marriage in any church or chapel belonging to the Churches of England and Scotland or for a marriage not intended to be celebrated within his district.

IX. And be it Enacted That after the said first day of June next every Deputy Registrar shall have power to grant licence for marriages under this Act as hereinafter provided within any district under his superintendence in the form of Schedule C to this Act annexed and for every such licence shall be entitled to have of the party requiring the same the sum of Three Pounds and every Deputy Registrar shall four times in every year on such days as shall be appointed by a notice in the Gazette under the authority of His Excellency the Governor for the time being make a return to the Registrar of Births Deaths and Marriages in South Australia and its Dependencies of every licence granted by him since his last return and of the particulars stated concerning the parties: Provided always that nothing herein contained shall authorize any Deputy Registrar to grant any licence for marriage in any church or chapel in which marriages may be soleranized according to the forms and usages of the Church of England or in any church or chapel belonging to the Church of England or any licence for a marriage which is not intended to be celebrated within his district.

Declaration to be made given before the licence is granted. X. And be it Enacted That before any licence for marriage shall be granted by any such Deputy Registrar one of the parties intending marriage shall appear personally before such Deputy Registrar and shall, make oath or make his or her solemn affirmation or declaration instead of taking an oath that he or she believeth that there is not any impediment of kindred or alliance or other lawful hinderance to the said marriage and that one of the said parties hath for the space of fifteen days immediately before the day of the grant of such licence had his or her usual place of abode within the district within which such marriage is to be solemnized and where either of the parties not being a widow or a widower shall be under the age of twenty-one years that the consent of the person or persons whose consent to such marriage would have been required by law in England before the passing of this Act has been obtained thereto or that there is no person having authority to give such consent as the case may be.

Caveat may be lodged with Deputy Registrar against the grant of a certificate or licence.

XI. And be it Enacted That any person on payment of Five Shillings may enter a caveat with the Deputy Registrar against the grant of a certificate or a licence for the marriage of any person named therein and if any caveat be entered with the Deputy Registrar such caveat being 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 on which his or her caveat is founded no certificate or licence shall be granted until the Deputy Registrar shall have examined into the matter of the caveat and be satisfied that it ought not to obstruct the grant of the certificate or licence for the said marriage or until the caveat be withdrawn by the party entering the same: Providing always that in case of a Deputy Registrar refusing the grant of a certificate or licence the person applying for the same shall have a right to appeal to the Registrar of Births Deaths and Marriages aforesaid who shall thereupon either confirm the refusal or direct the grant of the certificate or licence.

XII. And

XII. And be it Enacted That after the said first day of June next Marriages not to be no marriage after such notice unless by virtue of a licence to be twenty one days after granted by a Deputy Registrar shall be selemnized or registered in entry of notice unless by licence. the Province of South Australia or its Dependencies until after the expiration of twenty-one days after the day of entry of such notice as aforesaid and no marriage shall be solemnized by the licence of any Deputy Registrar or registered until after the expiration of seven days after the day of the entry of such notice as aforesaid.

solemnized until after

XIII. And be it Enacted That whenever a marriage shall not New notice required. be had within three calendar months after the notice shall have been so entered by the Deputy Registrar the notice and any licence which may have been granted thereupon and all other proceedings thereupon shall be utterly void and every Deputy Registrar who shall knowingly and wilfully issue any licence for marriage after the expiration of three calendar months after the notice shall have been entered by the Deputy Registrar as heretofore provided or who shall knowingly and wilfully solemnize or permit to be solemnized in his office any marriage by this Act declared to be accompanied by penalconsequences shall be guilty of felony.

after three months.

XIV. And be it Enacted That the Deputy Registrar's certificate Deputy Registrar's shall be delivered to the officiating minister if the marriage shall be certificate to be delivered to the officiating solemnized according to the rites of the said respective Churches of minister or the person England or Scotland and the said certificate or licence shall be by or before whom the marriage is solemdelivered to the registering officer of the people called Quakers for nized. the place where the marriage is solemnized according to the usages of the said people or to the officer of a Synagogue by whom the marriage is registered if the same shall be solemnized according to the usages of persons professing the Jewish Religion and in all other cases shall be delivered to the minister officiating or to the Deputy Registrar present at such marriage as is hereinafter provided.

XV. And be it Enacted, That after the expiration of the said Marriage may be period of twenty-one days or of seven days if the marriage be by solemnized in the place stated in the notice of licence marriage may be solemnized in the place stated in the notice such marriage between of such marriage between and by the parties described in the notice in the notice. Marand certificate according to such form and ceremony as they may riages to be solemnized between the hours of see fit to adopt: Provided nevertheless that every such marriage eight in the morning shall be solemnized with open doors between the hours of eight in and four in the after the forenoon and four in the afternoon in the presence of an officia- of an officiating ministing minister and two or more witnesses: Provided also that in some tor and two or more witnesses. part of the ceremony and in the presence of the officiating minister and witnesses as aforesaid each of the parties shall declare-

the parties described

"I do solemnly declare that I know not of any lawful impediment why I A.B.may not be joined in matrimony to C.D."

And each of the parties shall say to each other-

" I call upon these persons here present to witness that I A.B. do take thee C.D. to be my lawful wedded wife (or husband)."

Provided also that there be no lawful impediment to the marriage of such parties.

Marriages may be contracted before the Deputy Registrar.

XVI. And be it Enacted That any persons who shall object to marry under the provisions of this Act in the presence of any officiating minister may after due notice and certificate issued as aforesaid contract and solemnize marriage at the office and in presence of some Deputy Registrar and in the presence of two witnesses with open doors and between the hours aforesaid making the declaration and using the form of words hereinbefore provided.

Marriage fees to Deputy Registrar.

XVII. And be it Enacted That the Deputy Registrar shall be entitled for every marriage which shall be solemnized under this Act in his presence to have from the parties married the sum of Ten Shillings.

Copies of the marriage register book to be forwarded to the Registrar.

XVIII. And be it Enacted That in every year on such days as shall from time to time be appointed by His Excellency the Governor for the time being of this Province and its Dependencies within one calendar month next after the first day of July the first day of October the first day of January and the first day of April respectively every Deputy Registrar shall make and forward to the Registrar a true copy certified by him under his hand according to the form of Schedule D to this Act annexed of all the entries of marriage in the register book kept by him and if there shall have been no marriage registered since the delivery of his last certified copy he shall certify that fact.

Proof of residence of parties or consent not necessary to establish the marriage.

XIX. And be it Enacted That after any marriage shall have been solemnized it shall not be necessary in support of such marriage to give any proof of the actual dwelling of either of the parties previous to the marriage within the district wherein such marriage was solemnized for the time required by this Act or of the consent of any person whose consent thereunto is required by law nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

Every marriage celebrated in this Province heretofore by any clergyman or other person deemed valid. Marriages under this Act cognizable except where a lawful im-

XX. And be it Enacted That every marriage heretofore bona fide celebrated in this Province or its Dependencies by any clergyman minister or other person whether the same was so celebrated in any church chapel or building set apart for worship or in a private house or other building shall be deemed as valid as if such pediment to it existed. marriage had been performed under the provisons of this Act and all marriages solemnized under this Act shall be valid and cognizable in like manner as marriages before the passing of this Act were when celebrated according to the rites of the United Church of England and Ireland: Provided always that nothing in this Act contained shall extend or be construed to extend to render valid any marriage in respect to which a lawful impediment may have existed at the time of such marriage,

XXI. And be it Enacted That it shall be lawful for the Officiating Clergymen, &c., may Clergyman Minister or Deputy Registrar before whom any marriage ask parties to be married the particulars is solemnized according to the provisions of this Act to ask of the required. parties to be married the several particulars required to be registered touching such marriage.

Republic by Lat. 1576;

XXII. And be it Enacted That every person who shall enter a Persons vexatiously caveat with the Deputy Registrar against the grant of any licence entering caveat liable to costs and damages. or issue of any certificate on grounds which the Registrar shall declare to be frivolous and that they ought not to obstruct the grant of the licence shall be liable for the costs of the proceedings and for damages to be recovered in a special action upon the case by the party against whose marriage such caveat shall have been entered.

XXIII. And be it Enacted That every person who shall know- Persons making false ingly and wilfully make any false declaration or sign any false guilty of perjury. notice or certificate for the purpose of procuring any marriage and every person who shall forbid the issue of the Deputy Registrar's certificate by falsely representing himself or herself to be a person whose consent to such marriage is required by law knowing such representation to be false shall suffer the penalties of perjury.

XXIV. And be it Enacted That every person who after the said Persons unduly solemfirst day of June next shall knowingly and wilfully solemnize any nizing marriage guilty of felony. marriage in this Province or its Dependencies except as in the first section of this Act is hereinbefore provided in any other place than a church or chapel in which marriages may be solemnized according to the forms and usages of the Church of England or than the church building or office or private house specified in the notice and certificate and every person who shall knowingly and wilfully solemnize any marriage in this Province or its Dependencies after the said first day of June next (except by licence) within twentyone days after the entry of the notice to the Deputy Registrar as aforesaid or if the marriage is by licence within seven days after such entry or after three calendar months after such entry shall be guilty of felony.

XXV. And be it Enacted That every Deputy Registrar who Deputy Registrar wilshall knowingly and wilfully issue any certificate for marriage after Act guilty of felony. the expiration of three calendar months after the notice shall have been entered by him as aforesaid or before the expiration of twentyone days after the entry of the notice or any certificate the issue of which shall have been forbidden as aforesaid by any person authorized to forbid the issue of the Deputy Registrar's certificate or who shall knowingly and wilfully register any marriage herein declared to be accompanied by penal consequences and every Deputy Registrar who shall knowingly and wilfully issue any licence for marriage after the expiration of three calendar months after the notice shall have been entered by the Deputy Registrar as aforesaid or who shall knowingly and wilfully solemnize in his office any marriage herein declared null and void shall be guilty of felony. XXVI. And

Penalty for wilfully solemnizing marriage without consent of parents where either of the parties under age £500. XXVI. And be it Enacted That any person duly authorized or required under this Act to celebrate or be present at the celebration of marriage who shall knowingly and wilfully without consent of parents or guardians solemnize or be present at any marriage wherein one or both of the parties has or have not attained the full age of twenty-one years the person so offending shall for every such offence forfeit and pay a sum not exceeding Five Hundred Pounds.

Limitations of prosecution. XXVII. And be it Enacted That every prosecution under this Act shall be commenced within the space of two years after the offence committed.

Marriage if unduly solemnized with the knowledge of both parties null and void. XXVIII. And be it Enacted That if any persons shall knowingly and wilfully intermarry after the said first day of June next under the provisions of this Act in any place other than the church chapel office or private house or other place specified in the notice and certificate where such notice and certificate are necessary under this Act or without due notice to the Registrar where such notice is necessary under this Act or without certificate of such notice duly issued or without licence in case a licence is necessary under this Act or in the absence of a Registrar or officiating minister where the presence of a Registrar or officiating minister respectively is necessary under this Act the marriage of such persons shall be null and void.

In case of fraudulent marriages the guilty party to forfeit all property accruing from the marriage.

XXIX. And be it Enacted That if any valid marriage shall be had under the provisions of this Act by means of any wilfully false notice certificate or declaration made by either party to such marriage as to any matter to which a notice certificate or declaration is herein required it shall be lawful for Her Majesty's Advocate-General to sue for a forfeiture of all estate and interest in any property accruing to the offending party by such marriage and the proceedings thereupon and the consequences thereof shall be the same as are provided in the like case with regard to marriages solemnized in England by licence before the passing of this Act according to the rites of the United Church of England and Ireland.

Provisions of Registry Act extended to this Act. XXX. And be it Enacted That this Act shall be taken to be part of the said Act for Registering Births Deaths and Marriages as fully and effectually as if incorporated therewith and that all the provisions and penalties of the said Act so far as the same are applicable thereunto shall be taken to extend to all offences committed under this Act.

Explanation of the term "Officiating Minister."

XXXI. And be it Enacted That the term "Officiating Minister" under this Act shall be taken to mean a clergyman in holy orders of the United Churches of England and Ireland or of the Church of Scotland or any minister of religion who shall be entered in manner after provided as an officiating minister within the meaning of this Act.

XXXII. And be in Enacted That any minister of religion who Ministers of congreshall have been for a period of twelve months in charge of a by the Registrar-Christian congregation consisting of at least forty householders resident in the Province may apply to the Registrar-General and the Registrar-General on production of certificates signed in duplicate by such forty householders at least stating that the applicant has been for such period of twelve months a minister of religion in charge of such congregation of which they are members shall enter such applicant as an officiating minister within the meaning of this Act in a book to be kept for that purpose and shall file and preserve one of such certificates among the records of his office and shall give public notice thereof in the South Australian Government Gazette.

XXXIII. And be it Enacted That it shall be lawful for the The Governor may direct the Registrar-Governor on the application of any minister of religion accompanied by such proof as His Excellency may require to issue an as "Officiating" of Officiating instrument under his hand directing the Registrar-General to enter Minister.' such applicant as an officiating minister within the meaning of this Act and the Registrar-General shall make entry accordingly in the book to be kept by him as aforesaid and shall file and preserve such instrument among the records of his office and shall give public notice thereof in the South Australian Government Gazette.

XXXIV. And be it Enacted That if subsequently to the entry Such entries may be of any such officiating minister as aforesaid it shall be made to appear to the satisfaction of the Governor that such person has ceased to be a minister in charge of a Christian congregation consisting of forty resident householders or in the case of any such person as may have been entered under the direction of the Governor in manner aforesaid that there are proper and sufficient reasons for disallowing such person so entered from officiating in virtue of this Act it shall be lawful for His Excellency by an instrument under his hand to direct the Registrar-General to cancel such entry and the Registrar-General shall cancel such entry accordingly and notify the same in the Government Gazette and such person in either case shall thereupon cease to be or be deemed an officiating minister within the meaning of this Act.

GEORGE GREY. Governor of South Australia.

Passed in Council this twenty-second day of March one thousand eight hundred and forty-two.

> A. M. MUNDY, Clerk of Council.

#### SCHEDULES REFERRED TO IN THIS ACT.

#### SCHEDULE A.

#### NOTICE OF MARRIAGE.

To the Deputy Registrar of the District of

I hereby give you notice that a marriage is intended to be had within three calendar months from the date hereof between me and the other party herein named and described (that is to say)—

Name.	Condition.	Rank or Profession	Age	Dwelling- place.	Length of residence	Church building office or private house where the marriage is to be solemnized.	District in which the other party re- sides, when the par- ties dwell in dif- ferent Districts.
James Smith	Widower	Carpenter	Of full age.	10, Hindley street	Twenty- three days		-
Mary Green	Spinster		Minor	Rundle	More than a month.		

Witness my hand this

day of

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(Signed)

JAMES SMITH.

#### SCHEDULE B.

#### DEPUTY REDISTRAR'S CERTIFICATE.

I, A. B., Deputy Registrar of the District of do hereby certify that on the day of notice was duly entered in the marriage notice book of the said Listrict of the marriage intended between the parties therein named and described delivered under the hand of James Smith one of the parties (that is to say)

Name.	Condition.	Rank or profession.	Age.	Dwelling- place.	Length of residence.	Church building office or private house where the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different Districts.
James Smith	Widower	Carpenter	Of full age.	10, Hindley street.	Twenty- three days.		
Mary Green	Spinster		Minor	Rundle street	More than a month.		

Date of notice entered. Date of certificate given.

The issue of this certificate has not been forbidden by any person authorised to forbid the issue thereof.

Witness my hand the

day of

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(Signed)

A.B.,

Deputy Registrar.

This certificate will be void unless the marriage is solemnised on or before the day of 184

SCHEDULE

# Repealed by Met. 15/67

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#### SCHEDULE OF

LICENCE OF MAREIAGE.

A.B., Deputy Registrar of

and E.F. of

to C.D.

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 Majesty Queen Victoria intituled "An Act for regulating Marriages 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 and subscribed a declaration under your hand that you believe there is no impediment of kindred or alliance or other lawful hinderance to the said marriage and that you C.D. (or E.F.) have (or has) had your (or his or her) usual place of abode for the space of fifteen days last past within the district of and that you C.D. (or E.F.) not being a widower (or widow) or are under the age of 21 years and that the consent of G.H. whose consent to your or his or her marriage is required by law has been obtained thereto (or that there is no person having authority to give such consent) I do hereby grant unto you full license according to the authority in that behalf given to me by the said Act to proceed to solemnize such marriage and to the Deputy Registrar of the District (here insert the name of the District in which the marriage is to be solemnized) to register such marriage according to law provided that the said marriage be publicly solemnized in the presence of (G.H. officiating minister or L.M. Deputy Registrar as the case may be) and two witnesses within three calendar months from the (here insert the date of the entry in the Notice Book of the Registrar) in the (here describe the church building office or private house in which the marriage is to be solemnized) between the hours of eight in the forence and four in the afternoon.

Given under my hand this

(Signed)

Deputy Registrar.

#### SCHEDULE D.

I, A.B., Deputy Registrar of the District of do hereby certify that this is a true copy of the entries of marriage registered in the said District from the entry of the marriage of

number

to the entry of the marriage of

and numbered

Witness my hand this

(Signed)

day of A.B.

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Deputy Registrar.