

ANNO DECIMO QUARTO & DECIMO QUINTO

VICTORIÆ REGINÆ.

****

CAP. XL.

An Act for Marriages in *India*. [24th *July* 1851.]

WHEREAS it is expedient to amend the Law of Marriages in *India*: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Marriage of Christians in India may be solemnized under this Act.

Notice of intended Marriage to be given to the Marriage Registrar for the District.

I. In every Case of Marriage intended to be solemnized in *India* after the Commencement of this Act, where One or both of the Parties is or are a Person or Persons professing the Christian Religion, such Marriage may be solemnized under the Provisions of this Act; and where such Marriage is intended to be so solemnized, One of the Parties shall give Notice in Writing to the Marriage Registrar to be appointed under the Provisions of this Act for the District within which the Parties shall have dwelt for such Period then next preceding as by such Laws or Regulations as herein-after mentioned may be required, or, if the Parties dwell in the Districts of different Marriage Registrars shall give the like Notice to the Marriage Registrar for each District; and every such Notice shall be in such Form and contain such Particulars as may be prescribed by such Laws or Regulations, and shall be open for Inspection and published as by such Laws or Regulations may be provided.

II. The

Certificate of Notice to be issued on Request.

II. The Marriage Registrar, upon being requested so to do by or on behalf of the Party by whom the Notice was given, and One of the Parties intending Marriage having made Oath or Declaration as herein-after required, shall issue under his Hand a Certificate of such Notice having been given, and of such Oath or Declaration having been made; provided no lawful Impediment according to the Law of *England* be shown to the Satisfaction of the Marriage Registrar why such Certificate should not issue, and the Issue of such Certificate have not been sooner forbidden, in manner herein-after mentioned, by any Person or Persons by this Act authorized in that Behalf: Provided always, that where by such Oath or Declaration it appears that One of the Parties intending Marriage (not being a Widower or Widow) is under Twenty-one Years of Age, the Marriage Registrar shall not issue such Certificate until the Expiration of such Period after the giving of such Notice as may be in this Behalf provided by such Laws or Regulations as herein-after mentioned.

Proviso.

Who to give Consent if Parties under Age.

III. The Father, if living, of any Party under Twenty-one Years of Age, such Party not being a Widower or Widow, or, if the Father be dead, the Guardian or Guardians of the Person of the Party so under Age lawfully appointed, or One of them, and in case there be no such Guardian, then the Mother of such Party, if unmarried, shall have Authority to give Consent to the Marriage of such Party; and such Consent is hereby required for the Marriage of such Party so under Age, unless there be no Person authorized to give such Consent resident in India.

Issue of Registrar's Certificate may be forbidden.

IV. Every Person whose Consent to a Marriage is required as aforesaid is hereby authorized to forbid, in such Manner as may be provided by such Laws or Regulations as herein-after mentioned, the Issue of the Marriage Registrar's Certificate; and in case the Issue of any such Certificate be so forbidden the Notice and all Proceedings thereupon shall be utterly void: Provided always, that (subject to such Laws and Regulations) if either of the Parties intending Marriage allege that the Person forbidding the Issue of such Certificate is not authorized by Law so to do, the Marriage Registrar shall examine into such Allegation, and if he be satisfied that such Person is not authorized as aforesaid shall act in like Manner, and the like Proceedings may be had under this Act in relation to such Marriage, as if the Issue of such Certificate had not been forbidden by such Person.

Supreme Court or Judge of the Zillah or

V. If any Person whose Consent is necessary to any Marriage under this Act shall be *non compos mentis*, or if any such Person (other than the Father) shall, without just Cause, withhold his or her Consent to

to a Marriage, the Parties intending Marriage may apply by Petition, where the Person whose Consent is necessary is resident within any of the Towns of *Calcutta*, *Madras*, and *Bombay*, to the Supreme Court of Judicature established by Royal Charter in the Presidency or Place in which such Person is resident, or if such Person be not resident within any of the said Towns, then to the Judge of the Zillah or like District within which such Person is resident, or to such other Person as may for this Purpose be appointed under the Laws or Regulations herein-after mentioned; and the said Supreme Court or any Judge thereof or such Judge of the Zillah or District, or such other Person, shall be empowered to examine the Allegations of the Petition in a summary Way; and if upon such Examination such Marriage appear proper, such Supreme Court or any Judge thereof, or such Judge of the Zillah or District, or such other Person, shall declare the same to be so, and such Declaration shall be as good and effectual as if the Person whose Consent was needed had consented to the Marriage; and in case such Person has forbidden the Issue of the Marriage Registrar's Certificate, such Certificate shall be issued, and the like Proceedings may be had under this Act in relation to the Marriage, as if the Issue of such Certificate had not been forbidden by such Person, anything herein-before contained to the contrary notwithstanding.

District may relieve where Consent improperly withheld.

VI. Before any such Certificate as aforesaid shall be issued by any Marriage Registrar, One of the Parties intending Marriage shall appear personally before such Marriage Registrar, and shall make Oath, or shall make his or her solemn Declaration instead of an Oath, that he or she believeth that there is not any Impediment of Kindred or Affinity or other lawful Hindrance to the said Marriage, and that both the Parties to the intended Marriage have, or (where the Parties have dwelt in the Districts of different Marriage Registrars) that the Party making such Oath or Declaration hath, for the Period required by such Laws or Regulations as are herein-after mentioned, had their, his, or her usual Place of Abode within the District of such Marriage Registrar, and where either or each of the Parties, not being a Widower or Widow, is under the Age of Twenty-one Years, that the Consent of the Person or Persons whose Consent to such Marriage is required by Law has been obtained thereto, or that there is no Person resident within the Territories under the Government of the *East India* Company having Authority to give such Consent, as the Case may be: Provided always, that where under the foregoing Provision the said Supreme Court or a Judge thereof, or such Judge of the Zillah or like District, or such other Person as aforesaid, declares the Marriage to be proper, it shall not be necessary to make Oath or declare that such Consent has been obtained to such Marriage.

Oath or Declaration to be made before Issue of Certificate.

VII. Any

Protest against Issue of Certificate may be entered.

VII. Any Person may, in manner provided by such Laws or Regulations, enter a Protest with the Marriage Registrar against the Issue of a Certificate for the Marriage of any Person named therein; and if any Protest be so entered, no Certificate shall issue until the Marriage Registrar shall have examined into the Matter of the Protest, and is satisfied that it ought not to obstruct the Issue of the Certificate for the said Marriage, or until the Protest be withdrawn by the Party who entered the same.

Appeal where Registrar refuses Certificate.

VIII. In all Cases whatsoever where the Marriage Registrar has refused such Certificate as aforesaid, it shall be lawful for either of the Parties intending Marriage to apply by Petition, where the District of such Registrar is within any of the Towns of *Calcutta*, *Madras*, and *Bombay*, to the Supreme Court of Judicature established by Royal Charter in the Presidency or Place within which such District is comprised, or if such District be not within any of the said Towns then to the Judge of the Zillah or like District within which the same is comprised, or to such other Person as may for this Purpose be appointed by the Laws or Regulations herein-after mentioned; and the said Supreme Court or any Judge thereof, or such Judge of the Zillah or like District, or such other Person, shall be empowered to examine the Allegations of the Petition in a summary Way, and shall decide thereon; and the Decision of such Supreme Court or a Judge thereof, or of such Judge of the Zillah or like District, or of such other Person, shall be final, and the Marriage Registrar to whom the Application was originally made shall proceed in accordance therewith, anything herein-before contained notwithstanding.

After Issue of Certificate, Marriage may be solemnized in the Presence of Marriage Registrar and Two Witnesses.

IX. After the Issue of the Certificate of the Marriage Registrar, or, where Notice is required to be given under this Act to the Marriage Registrars for different Districts, after the Issue of the Certificates of the Marriage Registrars for such Districts, Marriage may be solemnized between and by the Parties described in such Certificate or Certificates, according to such Form and Ceremony as they may see fit to adopt; provided nevertheless, that every such Marriage shall be solemnized between such Hours as shall be fixed by the Laws or Regulations herein-after mentioned, in the Presence of some Marriage Registrar, to whom shall be delivered such Certificate or Certificates as aforesaid, and of Two or more Witnesses; provided also, that in some Part of the Ceremony each of the Parties shall declare,

'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.*;' or shall declare to the like Effect.

And

And each of the Parties shall say to the 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];' or Words to the like Effect.

Provided also, that there be no lawful Impediment to the Marriage of such Parties.

When Marriage is not had within Three Months after Notice, a new Notice required.

X. Whenever a Marriage is not had within Three Calendar Months after the Notice shall have been so entered by the Marriage Registrar, the Notice and the Certificate which may have been issued thereupon, and all other Proceedings thereupon, shall be utterly void; and no Person shall proceed to solemnize the Marriage, nor shall any Marriage Registrar register the same, until new Notice shall have been given, and Entry made, and Certificate thereof given, at the Time and in the Manner aforesaid.

Marriages to be registered.

XI. After the Solemnization of any Marriage under this Act the Marriage Registrar present at the Solemnization thereof shall forthwith register such Marriage in duplicate, that is to say, in a Marriage Register Book according to the Form of Schedule to this Act annexed, and also in a Certificate attached to the Marriage Register Book, as a Counterfoil; and the Entry of such Marriage in both the Certificate and the Marriage Register Book shall be signed by the Person by or before whom the Marriage has been solemnized, if there be any such Person, and by the Marriage Registrar present at such Marriage, whether or not the Marriage is solemnized by him, and also by the Parties married, and attested by Two Witnesses; and every such Entry shall be made in Order from the Beginning to the End of the Book, and the Number of the Certificate shall correspond with that of the Entry in the Marriage Register Book.

Certificates of Marriages to be transmitted periodically to the Secretary of the Government, &c.

XII. The Marriage Registrar shall forthwith separate the Certificate from the Marriage Register Book, and transmit it, at the End of every Month, to the Secretary to the Government of the Presidency or Place within which he resides, or to such other Officer as may for this Purpose be appointed under the Laws or Regulations herein-after mentioned; and if no Marriage have been registered during such Month, the Marriage Registrar shall certify such Fact under his Hand, and such Certificate shall be transmitted as aforesaid; and the Marriage Registrar shall keep safely the said Register Book until it be filled, and shall then transmit the same to the Secretary to the Government, or to such other Officer as aforesaid, to be kept by him with the Records of his Office; provided that with regard to those Marriages so certified, of which it may appear to the Governor General in Council desirable

that Evidence should be transmitted to *England*, the Secretary to the Government, or such other Officer as aforesaid, shall, at the End of every Three Calendar Months in each Year, send all the Certificates of Marriage sent to him as aforesaid during such Three Months, signed by him, to the Secretary of the *East India* Company, for the Purpose of being delivered to the Registrar General of Births, Deaths, and Marriages in *England*.

Proof of Residence of Parties or Consent not necessary to establish Marriage.

XIII. After any Marriage has been solemnized under this Act, it shall not be necessary, in support of such Marriage, to give any Proof in respect of the Dwelling of the Parties, 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.

Registrar may ask certain Particulars of Parties.

XIV. It shall be lawful for the Marriage Registrar before whom any Marriage is solemnized according to the Provisions of this Act to ask of the Parties to be married the several Particulars required to be registered touching such Marriage.

Persons vexatiously entering Protests liable to Costs and Damages.

XV. Every Person who shall enter a Protest with the Marriage Registrar, against the Issue of any Certificate on Grounds which such Marriage Registrar, or the Supreme Court of the Presidency or Place, or any Judge thereof, or the Judge of the Zillah or like District, or other Person, to whom upon the Refusal of such Certificate an Application is authorized by this Act, declares to be frivolous, and such as ought not to obstruct the Issue of the Certificate, shall be liable for the Costs of all Proceedings in relation thereto, and for Damages, to be recovered by Suit by the Party against whose Marriage such Protest was entered.

Punishment of Persons making false Oath or Declaration.

XVI. Every Person who shall knowingly and wilfully make any false Oath or false Declaration, or sign any false Notice or Certificate, required by this Act, or by any such Laws or Regulations as hereinafter mentioned, for the Purpose of procuring any Marriage, and every Person who shall forbid the Issue of any Marriage 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, on Conviction, be liable to be punished in such Manner as by such Laws or Regulations may be provided.

Limitation of Prosecution.

XVII. Every Prosecution under this Act shall be commenced within such Time after the Offence committed as by such Laws or Regulations may be provided.

XVIII. The

Government of each Presidency may appoint Marriage Registrars, &c. Governor General may appoint in certain Cases.

XVIII. The Government of each Presidency or Place in *India* may appoint Marriage Registrars for the Purposes of this Act, and may assign Districts to the Registrars so to be appointed; and in respect of any Places within the Territories of any Native Prince or State in alliance with the *East India* Company, the Governor General of *India* in Council may appoint such Marriage Registrars and assign to them Districts.

Government of each Presidency may appoint Fees to be taken under this Act, to be accounted for by Marriage Registrars.

XIX. The Government of each such Presidency and Place may from Time to Time appoint reasonable Fees to be taken of the Parties intending Marriage, for receiving and publishing Notices of Marriage, and for issuing Certificates, entering Protests, and registering Marriages under this Act; and all such Fees shall be accounted for and paid over by the Marriage Registrars to the Government Treasury, and the Government shall provide all necessary Books and Papers for giving Effect to the Provisions of this Act.

Governor General in Council empowered to make Laws and Regulations for the Purposes of this Act.

XX. It shall be lawful for the Governor General of *India* in Council from Time to Time, by Laws and Regulations (not inconsistent with the Provisions of this Act) to be made in the Manner and subject to the Provisions by Law required in respect of Laws and Regulations made by the said Governor General in Council, to provide for the Inspection and Publication of Notices of Marriage given under this Act, for the Custody and Protection from Injury of Marriage Register Books, for Appeals from and References in Cases of Doubt by the Marriage Registrars in relation to Marriages forbidden or Protests entered under this Act, for fixing the Hours between which Marriages may be solemnized under this Act, for appointing the Officers to whom Certificates are to be transmitted by the Marriage Registrars, and generally for giving Effect to the Provisions of this Act.

Marriages may continue to be solemnized as heretofore.

XXI. Nothing herein contained shall invalidate or affect any Marriage which may be solemnized in *India* by Persons in Holy Orders, or any Marriages which may be solemnized under the Provisions of the Act of the Fifty-eighth Year of King *George* the Third, Chapter Eighty-four, or any other Marriages which under the Laws for the Time being in force in *India* might have been there solemnized in case this Act had not been passed: Provided that it shall be lawful for the Governor General of *India* in Council, from Time to Time by Laws and Regulations to be made as aforesaid, to provide for the Registration of any Marriages solemnized in *India* by Persons in Holy Orders, or of any Marriages there solemnized under the Provisions of the said Act of the Fifty-eighth Year of King *George* the Third, Chapter Eighty-four, or of any other Marriages there solemnized,

Power to Governor General in Council to make Laws for the Registration of Marriages not solemnized under this Act.

solemnized, of which it may appear to the said Governor General in Council desirable that Evidence should be transmitted to *England*, and to provide for the Care and Custody of the Registers of such Marriages, and for the Transmission of Certificates thereof to the Secretaries of the Governments of the respective Presidencies, or to other Officers, and for their sending the same to the Secretary of the *East India* Company, for the Purpose of being delivered to the Registrar General of Births, Deaths, and Marriages in *England*, and also to provide for the Authentication of such Certificates.

Certificates delivered to Registrar General under this Act, or under any Laws or Regulations made thereunder, to be subject to the Provisions of 6 & 7 W. 4. c. 86.

XXII. The Certificates which shall be delivered to the Registrar General of Births, Deaths, and Marriages in *England*, under this Act, or under any Laws or Regulations to be made thereunder, shall be kept in the General Register Office, in the same Manner, and Indexes thereof shall be made and Searches permitted, and Copies thereof, sealed or stamped with the Seal of the General Register Office, shall be given, in the like Manner as by the Act of the Session holden in the Sixth and Seventh Years of King *William* the Fourth, Chapter Eighty-six, is provided concerning the certified Copies (kept in such Office under the said Act) of the Registers of Births, Deaths, and Marriages in *England;* and every certified Copy, purporting to be sealed or stamped with the Seal of the said General Register Office, of any such Certificate delivered to the said Registrar General under this Act, or under such Laws or Regulations, shall be received as Evidence of the Marriage to which the same relates, without further Proof of such Certificate, or of any Entry therein.

Marriages under this Act valid.

XXIII. All Marriages solemnized under this Act shall be good and valid in Law to all Intents and Purposes.

Certain Marriages in India confirmed.

XXIV. And whereas it is expedient to remove all Doubt concerning the Validity of Marriages heretofore solemnized in *India* by Persons not in Holy Orders: All such Marriages, if not otherwise invalid, shall be deemed and held to be valid in Law to all Intents and Purposes.

Interpretation of "India."

XXV. In the Construction of this Act the Word "*India*" shall include all Territories for the Time being under the Government of the *East India* Company, and all Territories of any Native Princes or States in alliance with the said Company.

Commencement of Act.

XXVI. This Act shall, so far as respects the Authority to make such Appointments, Laws, and Regulations as are herein authorized to be made, commence and take effect from and after the passing thereof, and as to all other Matters and Things commence and take effect

effect from and after the First Day of *January* One thousand eight hundred and fifty-two, or such other Day as the Governor General of *India* shall direct.

XXVII. The Governor General of *India*, and the Governors of the several Presidencies in *India*, shall cause this Act to be published Three Times in each of the Government Gazettes of the several Presidencies, the first of such Publications to be made within Six Weeks after this Act shall have been received in such respective Presidencies. Publication of Act.

SCHEDULE to which this Act refers.

MARRIAGE REGISTER BOOK.								
No.	When married.	Name and Surname.	Whether of full Age or a Minor.	Condition.	Rank or Profession.	Residence at the Time of Marriage.	Father's Name and Surname.	Rank or Profession of Father.
1	17th May 1851.	*William Smith.*	*Of full Age.*	*Bachelor*	*Surgeon*	4, *Clive Street, Barrackpore.*	*John Smith.*	*Esquire.*
		Anne Green.	*Minor*	*Widow*	- -	- - -	*James Hastings.*	*Esquire.*
Married in the House of *A. B.* by [*or* before] me, *William Johnson*, Marriage Registrar.								
This Marriage was solemnized between us, *William Smith*, *Anne Green*, in the Presence of *Peter Smith*, *James Hastings.*								

CERTIFICATE OF MARRIAGE.								
No.	When married.	Name and Surname.	Whether of full Age or a Minor.	Condition.	Rank or Profession.	Residence at the Time of Marriage.	Father's Name and Surname.	Rank or Profession of Father.
1	17th May 1851.	*William Smith.*	*Of full Age.*	*Bachelor*	*Surgeon*	4, *Clive Street, Barrackpore.*	*John Smith.*	*Esquire.*
		Anne Green.	*Minor*	*Widow*	- -	- - -	*James Hastings.*	*Esquire.*
Married in the House of *A. B.* by [*or* before] me, *William Johnson*, Marriage Registrar.								
This Marriage was solemnized between us, *William Smith*, *Anne Green*, in the Presence of *Peter Smith*, *James Hastings.*								

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