

BILL No. 46 OF 1925.

A BILL RESPECTING THE SOLEMNIZATION OF
MARRIAGE.

NOTE.

Generally speaking, the Bill is a redraft of *The Marriage Act*, being chapter 213 of the Revised Statutes of Alberta, 1922. The following changes have been made:

1. Clergymen and marriage commissioners must hold certificates from the Registrar-General (Sec. 3(2).)
2. The manner of effecting the publication of banns of marriage is set out in greater detail (Sec. 7).
3. The effect of the publication of banns ceases two months after the second Sunday of publication (Sec. 9). This is to accord with the provision invalidating licences three months after their issue.
4. The form of marriage licence is changed (Form A of the schedule), and provision is made for sealing by the Registrar-General rather than signature by him.
5. Provision is made for the appearance of both parties to a marriage before the issuer where such a course is at all possible (Sec. 14).
6. Provision is made for the appointment of a deputy to issue marriage licences in the absence of the regular issuer.
7. In the case of the marriage of minors, provision is made for dispensing with the consents of the parents where the parents are dead, mentally incompetent or beyond the seas (Sec. 22(a).) Between the ages of 16 (present Act Sec. 18) and 21, a judge may dispense with consents (Sec. 23).
8. A penalty is affixed to the wilful issue of marriage licences to idiots, insane persons, or intoxicated persons.
9. A new form gives the form of the certificate of publication of banns.

WALTER S. SCOTT,
Legislative Counsel.

(This note does not form any part of the Bill, and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 46 of 1925.

An Act respecting the Solemnization of Marriage.

(Assented to _____, 1925.)

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

SHORT TITLE.

1. This Act may be cited as "*The Solemnization of Marriage Act.*"

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a) "Clergyman" shall include minister, catechist, missionary, theological student, or commissioner or staff officer of the Salvation Army;
 - (b) "Issuer" shall mean a person appointed by the Lieutenant Governor in Council to issue marriage licences under this Act;
 - (c) "Municipality" shall mean any city, town, village, municipal district or improvement district;
 - (d) "Registrar-General" shall mean the Registrar-General of Vital Statistics.

WHO MAY SOLEMNIZE MARRIAGE.

3.—(1) The following persons, being resident in Canada, may solemnize marriage between any two persons permitted by law to intermarry:

- A. (a) Any minister or clergyman duly ordained or appointed according to the rights and ceremonies of the church or religious body to which he belongs;
 - (b) Any catechist, missionary or theological student duly appointed by any church or religious body to solemnize marriage;
 - (c) Any commissioner or staff officer of the religious society known as the Salvation Army duly appointed by the Society to solemnize marriage;
- and*
- B. Any marriage commissioner appointed for that purpose by the Lieutenant Governor in Council.

(2) No clergyman or marriage commissioner shall in any year solemnize marriage unless he is a holder of a certificate for that year from the Registrar-General or his deputy authorizing him to solemnize marriage.

4. No clergyman shall solemnize marriage unless the parties to the intended marriage produce to him—

- (a) the marriage licence provided for by this Act; or
- (b) a certificate of the due publication of banns.

5.—(1) No marriage commissioner shall solemnize marriage unless the parties to the intended marriage produce to him—

- (a) the marriage licence provided for by this Act; or
- (b) a certificate of compliance with the provisions of this Act relating to civil marriage, in form E of the schedule hereto.

6. No clergyman or marriage commissioner shall solemnize a marriage without the presence of at least two adult witnesses, and every person solemnizing a marriage shall register the same according to the provisions of *The Vital Statistics Act*.

PUBLICATION OF BANNS.

7.—(1) Banns of marriage shall be published at least thrice openly.

(2) The publications shall be made on two or three successive Sundays, openly and in an audible voice, either in the church, chapel, meeting-house, or other place in which one of the parties has been in the habit of attending worship, or in some church, chapel, meeting-house or other place of public worship of the church or religious body with which the clergyman who is to perform the ceremony is connected, in the local municipality, parish, or pastoral charge where one of the parties has, for the space of fifteen days immediately preceding the first publication of banns, had his or her usual place of abode.

(3) Every publication shall be made immediately before, or in the course of, or immediately after service.

8.—(1) A certificate of the due publication of banns, form F, shall be furnished to either party to the intended marriage upon application, and a fee of fifty cents may be charged therefor.

(2) Such certificate when produced to the clergyman in accordance with the previous provisions of this Act shall be forwarded by him to the Registrar-General along with the report of the marriage required by the provisions of *The Vital Statistics Act*.

9. No marriage shall be solemnized under the authority of a certificate of the due publication of banns unless the marriage takes place not more than two months after the second Sunday upon which the publication is made.

CIVIL MARRIAGE.

10.—(1) Any marriage commissioner may solemnize marriage without a licence subject to the requirements of the following subsections of this section.

(2) One of the parties to the intended marriage shall at least eight clear days before the day of the intended marriage give notice in writing to the marriage commissioner in form D of the schedule hereto, together with—

- (a) an affidavit in form B of the schedule hereto; and
- (b) the necessary consents (if any) in form C of the schedule hereto.

(3) Upon receiving such notice, the marriage commissioner shall enter the particulars of the intended marriage in a book to be kept for that purpose in his office and to be open to the inspection of the public at all reasonable hours.

(4) Upon due compliance with the provisions of subsection (2) the marriage commissioner shall give a certificate of such compliance in form E of the schedule hereto.

(5) After the expiration of the said period of eight days the marriage commissioner may solemnize the marriage in his office, according to the form and in the manner following, but not otherwise; that is to say—

- (a) The marriage shall be contracted with open doors in the presence of two or more credible witnesses besides the marriage commissioner;
- (b) In the presence of such marriage commissioner and witnesses, 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.*," 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*)."

MARRIAGE BY LICENCE.

11. Marriage licences shall be in form A of the schedule to this Act, and shall, after being sealed by the Registrar-General or his deputy or his duly appointed agent, be supplied to the issuers of marriage licences.

12. Before sending any licences to an issuer of marriage licences the Registrar-General may require that the sum of four dollars and fifty cents be paid for each such licence, and in case any such licences are not issued by the issuer of marriage licences the Registrar-General may refund the sum of four dollars and fifty cents for each such licence returned to him.

13. Every issuer of marriage licences shall fill up the blanks in and sign each licence at the time of issue.

14.—(1) No issuer shall issue a marriage licence until both of the parties to the intended marriage have made an affidavit in accordance with form B of the schedule hereto.

(2) If either of the parties is unable to make the affidavit personally before the issuer, the issuer may permit such party to make the affidavit before a justice of the peace and every such affidavit shall contain the reason relied upon to excuse personal attendance before the issuer.

15.—(1) In case the issuer of marriage licences has reason to suspect that any statement in the affidavit of an applicant for a marriage licence is not correct, he shall require a further affidavit or affidavits, or other evidence of its truth, and all such affidavits and a minute of such evidence shall be forwarded to the Registrar-General.

(2) An issuer of marriage licences may require the production of witnesses to identify any applicant for a licence and may examine under oath or otherwise, the applicant, or other witnesses, as to any matter pertaining to the issue of the licence.

16. A marriage shall not be solemnized under the authority of any licence except within three months after the date of the issue of such licence.

17. Any issuer of marriage licences may appoint in writing and for a period of not more than three months, a deputy to act for him in his absence, and such deputy issuer shall possess all the powers of the issuer appointing him, and shall sign each licence issued by him with the name of the issuer as well as his own name in the following manner:

“A. B.,
Issuer of Marriage Licences,
 “per C. D.,
Deputy Issuer.””

RETURNS AND FEES.

18.—(1) Every issuer of marriage licences shall on the first day of January, April, July and October in each year make a sworn return to the Registrar-General of all licences issued by him during the preceding three months with the names of the parties to whom issued and shall accompany such return with the original affidavit taken in each instance.

(2) The return shall further state the number of un-issued licences in the custody of the issuer and shall be made in the form prescribed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may in special cases dispense with the provisions of this section and may make regulations for special returns to be made in such cases.

19. Every issuer of marriage licences shall whenever called upon by the Registrar-General make a sworn return of all licences at any time supplied to him and shall return all unissued licences if so required.

20.—(1) The issuer shall charge a fee of six dollars for each licence.

(2) If the issuer has already paid the Registrar-General for such licence, he shall be entitled to retain the whole of such fee.

(3) If the issuer has not already paid for such licence, he shall immediately forward the sum of four dollars and fifty cents to the Registrar-General and may retain the sum of one dollar and fifty cents as his own commission.

MARRIAGE OF MINORS.

21.—(1) If either of the parties to an intended marriage, not being a widower or widow, is under the age of twenty-one years, then, before a licence is issued in respect of such marriage, or, where no licence is required, before the publication of the banns, or in other cases before any such marriage is contracted or solemnized, one of the parties to the intended marriage shall deposit with the issuer of marriage licences, or with the clergyman a consent thereto in form C of the schedule hereto, of the persons hereinafter mentioned.

(2) The persons whose consent is required are as follows, that is to say:

- (a) the father and mother, or such of them as may be living, of the minor if such minor is under eighteen years of age, and the father, if living, or the mother, if living, if such minor is between the ages of eighteen and twenty-one years;
- (b) If both the father and mother are dead, then a lawfully appointed guardian or the acknowledged guardian who may have brought up or may, for three years immediately preceding the intended marriage, have supported the minor.

22. Any consent hereinbefore mentioned need not be required where the party under age deposits with the issuer of marriage licences, or with the clergyman who is to solemnize the marriage, an affidavit made by such party, clearly setting forth the facts and showing—

- (a) that the father and mother of the maker are dead, mentally incompetent, or beyond the seas, and that there is no guardian of such party; or
- (b) that the maker is of the age of at least eighteen years, is living and has for not less than three months immediately preceding the date of the affidavit been living apart from his or her parents or guardian without having received financial aid or support from such parents or guardian.

23. Any person between the ages of sixteen and twenty-one years, whose parents or parent or guardian refuse or refuses consent, may apply to a judge of the Supreme Court or of a District Court, and such judge may, in his discretion, grant an order dispensing with such consents or consent, in which case a licence may issue, or the banns may be published or the marriage may be solemnized accordingly.

24.—(1) No licence shall be issued where either of the parties to an intended marriage is under the age of fifteen years, and no banns shall be published in respect of any such marriage, nor shall a marriage be solemnized when either of the contracting parties is under the age of fifteen years.

(2) This section shall not apply to any female shown to be pregnant by a certificate of a legally qualified medical practitioner, if she produces the necessary consent or consents.

PROTECTION FROM ACTIONS.

25. No person who solemnizes a marriage in conformity with the provisions of this Act shall be subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage unless at the time when he performed the ceremony he was aware of the impediment.

PENALTIES.

26. If any person who, having been a minister, clergyman or other person having the right to solemnize marriage, has been deposed from his ministry, or deposed or removed from the office by virtue of which he was authorized to solemnize marriage, thereafter solemnizes or undertakes to solemnize any marriage, he shall incur a penalty of five hundred dollars, and shall also be liable to imprisonment for any term not exceeding twelve months.

27. Any person unlawfully issuing a marriage licence shall, on summary conviction for every such contravention be liable to a fine not exceeding one hundred dollars and costs.

28. Any issuer of marriage licences granting a licence without first having obtained the affidavit required by this Act shall on summary conviction for every such contravention be liable to a fine not exceeding one hundred dollars and costs.

29. Any person solemnizing marriage contrary to the provisions of this Act shall on summary conviction for every such contravention be liable to a fine not exceeding one hundred dollars and costs.

30. If any issuer issues a licence or if any clergyman solemnizes a marriage, knowing or having reason to believe that either of the parties to the intended marriage or to the marriage is an idiot or insane or mentally incompetent or is under the influence of intoxicating liquor, he shall, upon summary conviction, be liable to a penalty not exceeding five hundred dollars either with or without imprisonment for any term not exceeding twelve months.

31. The Minister may at any time authorize new forms or direct such changes in the old forms as may be necessary or convenient for the administration of this Act.

REPEAL.

32. *The Marriage Act*, being chapter 213 of the Revised Statutes of Alberta, 1922, except section 20 thereof, is hereby repealed.

33. This Act shall come into force on the.....day of.....19...

FORM A.

MARRIAGE LICENCE.

(Section 11.)

To *A. B.*, of....., Bachelor (or as the case may be), and *C. D.*, of....., Spinster (or as the case may be).

Whereas, in pursuance of *The Solemnization of Marriage Act* one of you did on the.....day of.....19.. give due notice of your intention to enter into a contract of marriage, and you are desirous that such marriage should be speedily performed at.....; and

Whereas, it has been made to appear that you have both in all respects complied with the provisions and requirements of the above mentioned Act so far as they are applicable to and binding upon you or either of you; and

Whereas, no impediment of kindred or alliance or other lawful hindrance to the said marriage has been shown to exist;

Now, therefore, I, by virtue of the power and authority vested in me in that behalf, do hereby grant unto you, the aforesaid *A. B.* and *C. D.*, full licence and permission to proceed in due form of law to contract and solemnize such marriage at.....at any time within but not after the expiration of three calendar months next following the.....day of....., 19...

.....
(Issuer.)

[SEAL]

FORM B.

(Section 10.)

I, A. B.,....., Bachelor (or as the case may be),
make oath and say as follows:

1. I and C. D., of....., Spinster (or as the case
may be), are desirous of entering into the contract of
marriage and of having our marriage duly solemnized at
.....

2. According to the best of my knowledge and belief there
is no impediment of kindred or alliance or other lawful
hindrance to the said marriage.

3. I am of the age of.....years.

4. (In case the maker of the affidavit is under the age of
eighteen years.)

.....is (or are) the person (or persons)
whose consent to my marriage is required by law and he,
she or they have formally consented to the said marriage.

(Or if in case of the maker of the affidavit there is no
person whose consent is required by law and according to
the facts.)

My father and mother are dead and having no lawfully
appointed or acknowledged guardian there is no person
who has authority to give consent to the said marriage.

(Signed).....A. B. (or C. D.)

Sworn before me at.....
in the Province of Alberta,
this.....day of.....
A.D. 19...

(Signed).....E. F.

FORM C.

(Section 10.)

I (or we) hereby consent to the marriage of my (or our)
son (or daughter or ward) with....., and I
certify that my said.....is over the age of fifteen
years (or eighteen years).

Dated at.....this.....day of.....19..

Witness:
.....

(In the case of a pregnant female under fifteen the last
sentence of the above form should be omitted).

FORM D.
(Section 10.)

NOTICE OF MARRIAGE.

To....., of.....
Marriage Commissioner.

I hereby give you notice that a marriage is intended to be had on the.....day of.....19... between me and the other party described and named herein.

NAME	CONDITION	RANK OR PROFESSION	AGE	DWELLING-PLACE.

Witness my hand this.....day of.....19...

(Signed).....A.B.

FORM E.

(Section 10.)

MARRIAGE COMMISSIONER'S CERTIFICATE.

I,....., marriage commissioner in the Province of Alberta, do hereby certify that on the..... day of....., 19..., notice was duly entered in the marriage notice book kept by me of the marriage intended between the parties therein named and described, delivered under the hand of....., one of the parties, that is to say:

NAME	CONDITION	RANK OR PROFESSION	AGE	DWELLING-PLACE.

Date of notice entered....., 19...

Date of certificate given....., 19...

Witness my hand at..... }
this.....day of..... }
19... }
Marriage Commissioner.

FORM F.

(Section 8.)

CERTIFICATE OF PUBLICATION OF INTENTION TO INTERMARRY.

I,....., of the.....
of....., in the Province of.....,
do hereby certify that on Sunday, the.....
day of....., and Sunday, the.....
day of....., the intention of A. B., of.....,
(state residence) and C. D., of..... (state
residence), to intermarry was duly proclaimed by me in
..... (place of publication) in
accordance with the provisions of *The Marriage Act* of the
Province of Alberta, and that no impediment was alleged.

I further certify that I verily believe the said A. B. (or
C. D. or A. B. and C.D.) had his (or her or their) usual
place of abode in the..... (local municipality,
parish or pastoral charge) for the space of fifteen days
immediately preceding the said.....day of
....., 19... (date of first Sunday on
which the banns were published).

Dated this.....day of.....19...

(Signature)

(Title or office of the clergyman publishing the banns).

No. 46.

FIFTH SESSION
FIFTH LEGISLATURE
15 GEORGE V
1925

BILL

An Act respecting the Solemnization
of Marriage.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOADLEY.

EDMONTON:
J. W. JEFFERY, KING'S PRINTER
A.D. 1925