


ANNO DUODECIMO & DECIMO TERTIO

# VICTORIÆ REGINÆ.

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## CAP. LXVIII.

## An Act for facilitating the Marriage of *British* Subjects resident in Foreign Countries.

[28th *July* 1849.]

WHEREAS an Act was passed in the Fourth Year of the Reign of His late Majesty King *George* the Fourth intituled *An Act to relieve His Majesty's Subjects from all Doubt concerning the Validity of certain Marriages solemnized abroad:* And whereas the Provisions of the said Act are applicable only to the Cases of Marriages solemnized by a Minister of the Church of *England* in the Chapel or House of any *British* Ambassador or Minister residing within the Country to the Court of which he is accredited, or in the Chapel belonging to any *British* Factory abroad, or in the House of any *British* Subject residing at such Factory, and of Marriages solemnized within the *British* Lines by any Chaplain or Officer, or other Person officiating under the Orders of the Commanding Officer of a *British* Army serving abroad: And whereas large Numbers of Her Majesty's Subjects are resident abroad at Places where the Provisions of the said Act are not applicable: And whereas it is expedient to afford greater Facilities for the Marriage of Her Majesty's Subjects resident abroad: Be it therefore 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, That all Marriages (both or One of the Parties thereto being Subjects or a Subject of this Realm) which from and after the passing of this Act shall be solemnized in the Manner in this Act provided in any Foreign Country or Place where there shall be a *British* Consul duly authorized to act in such Foreign Country or Place under this Act shall

4 G. 4. c. 91.

Marriages solemnized abroad in manner provided by this Act to be valid.

shall be deemed and held to be as valid in the Law as if the same had been solemnized within Her Majesty's Dominions with a due Observance of all Forms required by Law.

Notice of every intended Marriage to be given to Consul.

II. And be it enacted, That in every Case of Marriage intended to be solemnized under the Provisions of this Act One of the Parties shall give Notice under his or her Hand, in the Form of the Schedule (A.) to this Act annexed, or to the like Effect, to the Consul within whose District both the Parties shall have dwelt, not less than One Calendar Month then next preceding, and shall state therein the Name and Surname and the Profession or Condition of each of the said Parties intending Marriage, the Dwelling Place of each of them, and that each of them has dwelt within such District during such One Calendar Month at the least.

Consul to file Notices, register them in a Book, and suspend Copies in the Office of the Consulate.

III. And be it enacted, That the Consul shall file all such Notices, and keep them with the Archives of his Consulate, and shall also forthwith enter a true and exact Copy of every such Notice fairly into a Register to be by him kept for that Purpose, and shall likewise suspend a like true and exact Copy of every such Notice in some conspicuous Place in the Office of his Consulate during Seven successive Days if the Marriage is to be solemnized by Licence, or Twenty-one successive Days if the Marriage is to be solemnized without Licence, before any Marriage shall be solemnized in pursuance of such Notice; and the said Register and suspended Copies shall be open at all reasonable Times, without Fee, to the Inspection of Persons desirous of inspecting the same; and upon the Receipt of every such Notice, and before registering and suspending the same, the Consul shall be entitled to have a Fee of Ten Shillings.

Persons duly authorized may forbid the Solemnization of any Marriage.

IV. And be it enacted, That any Person authorized in that Behalf as herein-after mentioned may, at any Time before the Solemnization of any such intended Marriage, forbid the Solemnization of such intended Marriage, by writing the Word "forbidden" opposite to the Entry of the Notice of such intended Marriage in the Register, and by subscribing thereto his or her Name and Place of Abode, and his or her Character in relation to either of the Parties by reason of which he or she is so authorized; and in case the Solemnization of any such intended Marriage shall be so forbidden the Notice shall be void, and such intended Marriage shall not be solemnized under such Notice.

Like Consent to any Marriage by Licence as is required in England.

V. And be it enacted, That the like Consent shall be required to any Marriage by Licence under the Provisions of this Act as is now required by Law to Marriages solemnized in *England* by Licence; and every Person whose Consent to a Marriage by Licence is required by Law is hereby authorized to forbid a Marriage under the Provisions of this Act, whether such Marriage is intended to be by Licence or without Licence,

VI. And

*Marriages in Foreign Countries facilitating.*

Consul may grant Licences for Marriage.

VI. And be it enacted, That before any Marriage by Licence shall be solemnized under this Act both the Parties intending Marriage shall appear before the Consul, and each of them shall make Oath, or shall make his or her solemn Affirmation or Declaration instead of an Oath, that he or she believeth that there is not any Impediment of Kindred or Alliance, or other lawful Hindrance, to the said Marriage, and that both of the said Parties have for the Space of One Calendar Month immediately preceding respectively had their usual Places of Abode within the District of such Consul, and where either of the Parties, not being a Widower or Widow, shall be 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 having Authority to give such Consent, as the Case may be; and when and as soon as such Oath, Affirmation, or Declaration shall have been made, the Consul shall, on Payment of a Fee of Twenty Shillings, certify under his Hand on the original Notice and also in the Register that Licence has been granted for the Solemnization of the Marriage in respect of which such Notice was given; and such Certificate shall be deemed and taken to be a Licence for such Marriage.

Caveat against Marriages may be lodged with Consul.

VII. And be it enacted, That any Person, on Payment of a Fee of Twenty Shillings to the Consul, may enter a Caveat with the Consul against the Solemnization of the Marriage of any Person named therein, such Caveat being signed by or on behalf of the Person who enters the same, and stating his or her Place of Residence, and the Ground of Objection on which his or her Caveat is founded; and if any Caveat be entered as aforesaid no Marriage of the Person named therein shall be solemnized until the Consul shall have examined into the Matter of the Caveat, and shall be satisfied that it ought not to obstruct the Solemnization of the said Marriage, or until the Caveat shall be withdrawn by the Party who entered the same; and in Cases of Doubt it shall be lawful for the Consul to transmit to One of Her Majesty's Principal Secretaries of State a Copy of such Caveat, with such Statement in relation thereto as such Consul may think fit, and such Secretary of State shall refer the same to the Registrar General of Births, Deaths, and Marriages in *England*, for his Decision; and the said Registrar General, having decided thereon, shall transmit his Decision in Writing to the said Secretary of State, who shall communicate the same to the said Consul: Provided always, that in case the Consul refuse to solemnize or to allow to be solemnized in his Presence the Marriage of any Person requiring such Marriage to be solemnized, such Person shall have a Right of Appeal to One of Her Majesty's Principal Secretaries of State, who shall thereupon either confirm the Refusal or direct the Solemnization of the Marriage.

When Marriage not solemnized within Three

VIII. And be it enacted, That whenever any Marriage shall not be had within Three Calendar Months next after Notice shall have been so given to and entered by the Consul as aforesaid, or where, in the Case

Months a new Notice required.

Case of any such Caveat as aforesaid, a Statement shall have been transmitted as aforesaid, or where, on such Refusal as aforesaid of the Consul, a Person shall appeal as aforesaid, and the Marriage shall be directed to be solemnized, then, within Three Calendar Months after the Receipt from the Secretary of State of the Decision with respect to such Caveat or on such Appeal, the Notice shall be void; and the Marriage in respect of which such Notice was given shall not be solemnized until a new Notice shall have been given, and Copies thereof entered in the Register, and suspended in the Office of the Consulate, in accordance with the Provisions of this Act.

After Seven Days by Licence, or Twenty-one Days without Licence, Marriages may be solemnized at the British Consulate, by or in the Presence of the Consul and Two Witnesses.

IX. And be it enacted, That after the Expiration of Seven Days if the Marriage is by Licence, or of Twenty-one Days if the Marriage is without Licence, after Notice shall have been so given to and entered by the Consul as aforesaid, provided no lawful Impediment be shown to the Satisfaction of the Consul why the Marriage should not be solemnized, and that the Marriage has not been forbidden in manner herein provided, it shall be lawful for the Consul to solemnize, or allow to be solemnized by any other Person in his Presence, the Marriage in respect of which such Notice shall have been given, between and by the Parties described in such Notice; and every such Marriage shall be solemnized at the *British* Consulate, with open Doors, between the Hours of Eight and Twelve in the Forenoon, in the Presence of Two or more Witnesses, and may be solemnized, in the Presence of the Consul, according to the Rites of the United Church of *England* and *Ireland*, or according to such other Form and Ceremony as the Parties thereto may see fit to adopt, or may, where the Parties shall so desire, be solemnized by the Consul; and in the Solemnization of every such Marriage not solemnized according to the Rites of the United Church of *England* and *Ireland*, in some Part of the Ceremony, and in the Presence of the Consul 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 Fees to the Consul.

X. And be it enacted, That the Consul shall be entitled, for every Marriage which shall be solemnized under this Act by him or in his Presence, to have from the Parties married the Sum of Twenty Shillings, if the Marriage shall be by Licence, and otherwise the Sum of Ten Shillings.

Consul to register Marriages in Duplicate in Books to be sent by the Registrar

XI. And be it enacted, That the Consul shall forthwith register in Duplicate every Marriage solemnized as aforesaid in Two Marriage Register Books to be furnished to him for that Purpose from Time to Time by the Registrar General (through One of Her Majesty's Principal Secretaries of State), according to the Form

provided for the Registration of Marriages by an Act of the Seventh Year of the Reign of King *William* the Fourth, intituled *An Act for registering Births, Deaths, and Marriages in* England, or as near to such Form as the Difference of the Circumstances will admit of; and the Entry in each such Book of every such Marriage shall be signed by the Person by whom the Marriage shall have been solemnized, if there shall be any such Person other than the Consul, and by the Consul and both the Parties married, and attested by Two Witnesses; and all such Entries shall be made in regular Order from the Beginning to the End of each such Book, and the Number of the Place of Entry in each Duplicate Marriage Book shall be the same.

General through the Secretary of State.

XII. And be it enacted, That in the Month of *January* in every Year every Consul shall make and transmit to One of Her Majesty's Principal Secretaries of State, to be transmitted by him to the Registrar General, a true Copy, certified by such Consul under his Hand and Consular Seal, according to the Form in the Schedule (B.) to this Act annexed, of all the Entries of Marriages during the preceding Year in the Register Book kept by him; and if there shall have been no Marriage registered during such preceding Year, the Consul shall certify such Fact under his Hand and Consular Seal; and the Consul shall keep the said Duplicate Marriage Register Books safely until the same shall be filled, and one of such Duplicate Marriage Register Books, when filled, shall be transmitted to One of Her Majesty's Principal Secretaries of State, to be transmitted by him to the Registrar General.

Copies of the Marriage Register Book to be forwarded yearly to the Secretary of State.

XIII. And be it enacted, That after any Marriage shall have been solemnized under this Act it shall not be necessary, in support of such Marriage, to give any Proof of the actual dwelling for the Time required by this Act of either of the Parties, previous to the Marriage, within the District wherein such Marriage was solemnized, or of the Consent of any Person whose Consent thereto is required by Law, nor shall any Evidence to prove the contrary be given in any Suit touching the Validity of such Marriage.

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

XIV. And be it enacted, That it shall be lawful for the Consul by whom or in whose Presence any Marriage is solemnized under this Act to ask of the Parties to be married the several Particulars required to be registered touching such Marriage.

Consul may ask certain Particulars of Parties.

XV. And be it enacted, That if any Marriage shall be had under the Provisions of this Act by means of any wilfully false Notice, Oath, Affirmation, or Declaration made by either Party to such Marriage, as to any Matter to which a Notice, Oath, Affirmation, or Declaration is by this Act required, it shall be lawful for Her Majesty's Attorney General or Solicitor General to sue for the Forfeiture of all Estate and Interest in any Property accruing to the offending

In case of fraudulent Marriage, the guilty Party to forfeit all Property accruing from the Marriage, as in 4 G. 4. c. 76.

offending Party by such Marriage; and the Proceedings thereupon, and the Consequences thereof, shall be the same as are provided by Law in the like Case with regard to Marriages solemnized by Licence in *England* according to the Rites of the Church of *England*.

Persons taking false Oaths, &c. guilty of Perjury.

XVI. And be it enacted, That every Person who shall knowingly and wilfully make any Oath, Affirmation, or Declaration, or sign any false Notice, required by this Act, for the Purpose of procuring any Marriage, and every Person who shall forbid any such Marriage 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; and such Offender may be tried in any County or Place in *England* in the same Manner and may be dealt with in all respects as if the Offence had been committed in such County or Place in *England*.

The Certificate of Consul to be Evidence.

XVII. And be it enacted, That in any and every Action or Suit for Forfeiture, and upon any and every Prosecution for Perjury, as aforesaid, the Declaration and Certificate of the Consul, under his Hand and Consular Seal, shall be received and taken as good and valid Evidence in the Law of all Facts and Matters stated in such Declaration and Certificate, without its being necessary for the said Consul to attend in Person to prove the same.

Provisions of Registration Act extended to this Act.

XVIII. And be it enacted, That this Act shall be taken to be Part of the said Act for registering Births, Deaths, and Marriages in *England*, as fully and effectually as if incorporated therewith; and that every Consul shall be deemed a Registrar under the said Act; and that all the Provisions and Penalties of the said Act relating to any Registrar, or Register of Marriages or certified Copies thereof, shall be taken to extend to every such Consul, and the Registers of Marriages under this Act, and to the certified Copies thereof, so far as the same are applicable thereto.

Consuls may be authorized by Secretary of State to solemnize Marriages.

XIX. And be it enacted, That every *British* Consul General and Consul already appointed or hereafter to be appointed to reside in any Foreign Country or Place, who shall be directed or authorized, by Writing under the Hand of One of Her Majesty's Principal Secretaries of State, to solemnize and register Marriages, and any Person duly authorized to act in the Absence of such Consul, or, in any Foreign Place where there is no *British* Consul resident, any Vice Consul or Consular Agent who shall be directed or authorized as aforesaid by One of Her Majesty's Principal Secretaries of State to solemnize and register Marriages in such Place, shall, in the Country or Place in which he is so appointed to reside, or in which he is directed or authorized to solemnize and register Marriages as aforesaid, be a Consul duly authorized for all the Purposes of this Act; and in the Construction of this Act the Term "Consul" shall (save where such Construction would be inconsistent with the



Context)

Context) be construed to mean a Consul so authorized; and the District of every such Consul for the Purposes of this Act shall be all or such Parts of the Foreign Country in which (or at a Place within which) such Consul is appointed to reside, or is so directed or authorized as aforesaid, as such Secretary of State may, by such Writing under his Hand, direct, or, where there shall be no Direction in this Behalf, shall be the District of the Consulate of such Consul.

Certain past Marriages confirmed.

XX. And whereas many Marriages have been entered into abroad by *British* Subjects under Circumstances which may occasion Doubts as to the Validity of such Marriages, and it is expedient that such Marriages should be confirmed in the Cases herein-after mentioned: Be it enacted, That all Marriages, both or one of the Parties being Subjects or a Subject of this Realm, which, before the passing of this Act, have been solemnized in any Foreign Country or Place, or on board a *British* Vessel of War on any Foreign Station, by a Minister in Holy Orders according to the Rites and Ceremonies of the Church of *England*, or of *Ireland*, or of the United Church of *England* and *Ireland*, or by an ordained Minister of the Church of *Scotland;* and all Marriages of the like Parties which have been solemnized according to any religious Rites or Ceremonies or contracted *per verba de præsenti* in any Foreign Country or Place in the Presence of any *British* Ambassador, Minister, Chargé d'Affaires, Consul General, Consul, or Vice Consul exercising his Functions within the Foreign Country or Place in which such Marriages have been had, or on board a *British* Vessel of War on any Foreign Station in the Presence of the Officer commanding such Vessel; and all Marriages of the like Parties which have been solemnized according to any religious Rites or Ceremonies or contracted *per verba de præsenti* in any Foreign Country or Place, and registered by or under the Authority of any *British* Consul General, Consul, or Vice Consul exercising his Functions within such Foreign Country or Place, the Signatures of the Parties being written in the Register, shall be deemed and held to be as valid in the Law and cognizable in the like Manner as if the same had been solemnized within Her Majesty's Dominions with a due Observance of all Forms required by Law: Provided always, that this Enactment shall not extend to render valid any Marriage which before the passing of this Act has been declared invalid by any Court of competent Jurisdiction in any Proceeding touching such Marriage, or any Right dependent on the Validity or Invalidity thereof, or any Marriage where either of the Parties has afterwards, during the Life of the other, lawfully intermarried with any other Person.

Extent of Act.

XXI. Provided always, and be it enacted, That nothing in this Act contained shall confirm or impair or in anywise affect, or be construed to confirm or impair or in anywise affect, the Validity in Law of any Marriage solemnized beyond the Seas, otherwise than as herein provided; and this Act shall not extend to the Marriage of any of the Royal Family.

XXII. And

Act may be amended, &c.

XXII. And be it enacted, That this Act may be amended or repealed by any Act to be passed during the present Session of Parliament.

## SCHEDULES.

### SCHEDULE (A.)

NOTICE OF MARRIAGE.

To the [British Consul General *or* Consul] at

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 and Surname. | Condition. | Rank or Profession. | Age. | Dwelling Place. | Length of Residence. |
|---|---|---|---|---|---|
| *John Brown* - | *Widower* - | - - | *Of full Age* - | — | — |
| *Elizabeth Reeve* | *Spinster* - | - - | *Minor* - | — | — |

Witness my Hand, this Day of

(Signed) *John Brown.*

### SCHEDULE (B.)

I [Consul General *or* Consul] residing at do hereby certify, That this is a true Copy of the Entries of Marriages registered in my Office, from the Entry of the Marriage of *John Brown* and *Elizabeth Reeve*, Number *One*, to the Entry of the Marriage of *Michael Jones* and *Maria Tomkins*, Number *Fourteen*.

Witness my Hand and Seal, this Day of *January 1850*.

(*Signature and Consular Seal of the Consul General or Consul.*)

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