

several county attorneys and county auditors one copy each of said opinions, when printed and bound as aforesaid. County officers to be supplied when printed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved March 3, 1865.

## CHAPTER XLV.

### *An Act regulating marriages in the State of Minnesota.* March 2, 1865.

- SECTION 1.** Marriage a civil contract.
2. Who shall be capable of contracting marriage.
  3. Who shall not marry or intermarry.
  4. Marriages by whom solemnized.
  5. Ministers to file copy of credentials.
  6. Persons previous to being married to obtain license.
  7. Duty of the Clerk of the District Court—when consent of parent or guardian necessary—fee of Clerk.
  8. Marriage certificate to be recorded with the Clerk.
  9. Penalty for solemnizing marriage contrary to law.
  10. When marriage not void, though the person officiating is not authorized.
  11. No particular form required, two witnesses necessary.
  12. Marriages among Friends or Quakers.
  13. How fines to be recovered.
  14. Duty of County Attorneys.
  15. Duty of Secretary of State.

### *Be it enacted by the Legislature of the State of Minnesota :*

SECTION 1. Marriage, so far as its validity in law is concerned, is a civil contract, to which the consent of the parties capable in law of contracting is essential. Marriage a civil contract.

SEC. 2. Every male person who shall have attained the full age of eighteen years, and every female person who shall have attained the full age of fifteen years, shall be capable in law of contracting marriage, if otherwise competent. Who shall be capable of contracting marriage.

SEC. 3. No marriage shall be contracted whilst

Who shall not  
marry or inter-  
marry.

either of the parties has a wife or husband living, nor between parties who are nearer of kin than first cousins, computing by the rules of the civil law, whether the half or the whole blood.

Marriage by whom  
solemnized.

SEC. 4. Marriage may be solemnized by any ordained minister in regular communion with any religious society and by any judge of a court of record, throughout the State, and by any justice of the peace in the county in which he is elected.

Ministers to file  
copy of creden-  
tials.

SEC. 5. Ministers of the gospel before they shall be authorized to perform the marriage rite, shall file a copy of their credentials of ordination with the clerk of the district court of some county in this State, who shall record the same and give a certificate thereof; and the place where said credentials are recorded shall be endorsed on each certificate given by any minister to be recorded.

Persons previous  
to marriage to ob-  
tain license.

SEC. 6. Previous to persons being joined in marriage, a license shall be obtained from the clerk of the district court in the county in which the female resides, or if not a resident of this State, then from the clerk of the district court of the county where the marriage is to take place in this State; but if there shall be no such clerk in the county where such female resides, or where the marriage is to be solemnized, then no such license shall be required.

Duty of the Clerk  
of the District  
Court—when con-  
sent of parent ne-  
cessary—fee of  
Clerk.

SEC. 7. The clerk of the district court as aforesaid may inquire of the party applying for marriage license as aforesaid, upon oath or affirmation, relative to the legality of such contemplated marriage, and if the clerk shall be satisfied that there is no legal impediment thereto, then he shall grant such marriage license; and if any persons intending to marry shall be under age and shall not have had a former wife or husband, the consent of the parents or guardians shall be personally given before the clerk, or certified under the hand of such parent or guardian, attested by two witnesses, one of which shall appear before said clerk, and make oath or affirmation that he saw said parent or guardian subscribe, or heard him or her acknowledge the same; and said clerk is hereby authorized to administer such oath or affirmation, and thereupon issue and sign such license, and affix thereto the seal of the court. The

clerk shall be entitled to receive as his fee for administering the oath and granting the license with the seal affixed thereto, recording the certificate of marriage and filing the necessary papers, the sum of two dollars; and if any clerk shall in any other manner issue or sign any marriage license, he shall forfeit and pay a sum not exceeding one thousand dollars to, and for the use, of the parties aggrieved.

SEC. 8. A certificate of every marriage, signed by the justice, judge or minister solemnizing the same, shall be transmitted to the clerk of the district court in the county wherein the marriage was solemnized, within two months thereafter, and recorded by said clerk; but if there shall be no such clerk in the county, at the time, then within two months after such county shall be provided with such an officer; and if said justice, judge or minister fail to transmit such certificate in due time, as aforesaid, he shall forfeit and pay fifty dollars to and for the use of the county; and if said clerk fail to record said certificate, he shall forfeit and pay fifty dollars to and for the use of the county.

*Marriage certificate  
to be recorded with  
the Clerk.*

SEC. 9. If any person, by this act authorized to join persons in marriage, shall knowingly solemnize the same contrary to the true intent and meaning of this act, the person so offending shall, upon conviction thereof, forfeit and pay any sum not exceeding one thousand dollars, nor less than one hundred dollars to and for the use of the county in which said offense was committed. And if any person not legally authorized shall attempt to solemnize the marriage contract, such person shall, upon conviction thereof, forfeit and pay the sum of five hundred dollars to and for the use of the county wherein such offense was committed, or be imprisoned in the county jail for a period not less than one month, nor more than six.

*Penalty for solemnizing marriage  
contrary to law.*

SEC. 10. Should a marriage contract be solemnized by a person not duly authorized by the provisions of this act, such marriage contract shall be valid, provided the marriage be consummated with a full belief on the part of the persons so married, that they have been lawfully joined in matrimony.

*When marriage  
not void.*

SEC. 11. In the solemnization of marriage, no particular form shall be required, except that the parties

No particular form  
required, two wit-  
nesses necessary.

shall declare in the presence of the judge, minister or magistrate, and the attending witnesses, that they take each other as husband and wife; and in every case there shall be at least two witnesses present, besides the person performing the ceremony.

Marriage among  
Friends or Quakers

SEC. 12. All marriages solemnized among the people called Friends or Quakers, in the form heretofore practiced and in use among them, shall be deemed valid, and shall not be invalidated by any of the foregoing provisions; the clerk of the meeting in which such marriage shall be solemnized, shall within two months thereafter, file a certificate of the same with the clerk of the district court of the county in which such marriage took place; and if he shall fail to file such certificate with said clerk, he shall forfeit and pay the sum of fifty dollars to and for the use of the county. And if such marriage do not take place in such meeting, then such certificate shall be signed by the parties contracting such marriage, and by at least two witnesses, and shall be filed and recorded as above provided and under like penalty and forfeiture.

How fines to be re-  
covered.

SEC. 13. Any fine or forfeiture arising to the county, in consequence of the breach of this act, shall be recovered by an action of debt, in the name of the State of Minnesota, or by indictment with costs of suit, in any court of record having cognizance of the same.

Duty of County  
Attorneys.

SEC. 14. And it is hereby made the duty of the several county attorneys of this State, to prosecute any violations of the provisions of this act.

Duty of Secretary  
of State.

SEC. 15. It shall be the duty of the Secretary of State to prescribe the form of registry, license and certificate, rendered necessary by the provisions of this act.

Approved March 2, 1865.