

THE *J. Rogers*
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE
ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

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the Laws of 1866.

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CHAPTER LXI.

1869-69

MARRIAGE.

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Marriage a civil contract.

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.

Who is capable of contracting marriage.

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

Persons prohibited from marrying

SEC. 3. No marriage shall be contracted while either of the parties has a husband or wife 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.

Marriages, by whom solemnized

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

Ministers shall file copy of credentials with clerk of court.

SEC. 5. Ministers of the gospel, before they are 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 such credentials are recorded, shall be indorsed upon each certificate of marriage, granted by any minister and recorded with the same.

One of parties may be examined on oath.

SEC. 6. All judges, justices of the peace, and ministers of the gospel, may before solemnizing any marriage, examine at least one of the parties on oath, which oath they are authorized to administer, as to the legality of such intended marriage; and in no case shall such judge, justice or minister, solemnize a marriage, if he is satisfied that there is any legal impediment thereto.

License to be obtained, when.

SEC. 7. Previous to persons being joined in marriage, a license shall be obtained from the clerk of the district court of the county in which the female resides, or if not a resident of this state, then from the clerk of the district court in 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.

Clerk to make inquiries, and be

SEC. 8. The clerk of the district court as aforesaid, may inquire of the party applying for marriage license as aforesaid, upon oath or affirma-

tion, 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 shall make a record thereof; 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 whom 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.

satisfied that there is no legal impediment.

SEC. 9. In the solemnization of marriage, no particular form is required, except that the parties 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.

No particular form of marriage required.

SEC. 10. Whenever a marriage is solemnized, the person solemnizing the same, shall give to each of the parties, if requested, a certificate thereof, specifying therein the names and residence of the parties, and of at least two of the witnesses present, and the time and place of such marriage.

Certificate to be given.

SEC. 11. Every person solemnizing a marriage, shall make a record thereof, and within one month make and deliver to the clerk of the district court of the county where the marriage took place, or of the county to which said county is attached for judicial purposes, a certificate, under his hand, containing the particulars mentioned in the preceding section; which certificate shall be filed and recorded by the said clerk, in a book kept by him for that purpose.

Record to be made and certificate delivered to clerk of court—certificate to be recorded.

SEC. 12. Every person solemnizing a marriage, who neglects to make and deliver to the clerk, a certificate thereof within the time above specified, shall forfeit a sum not more than one hundred dollars; and every clerk who neglects to record such certificate, so delivered, shall forfeit the like penalty.

Failure to deliver certificate—penalty.

SEC. 13. If any person authorized by law to join persons in marriage, knowingly solemnizes any marriage contrary to the provisions of this chapter, or willfully makes any false certificate of any marriage, or pretended marriage, he shall forfeit for every such offense a sum not exceeding five hundred dollars, or may be imprisoned not exceeding one year.

Penalty for solemnizing marriage contrary to law, or making false certificate.

SEC. 14. If any person undertakes to join others in marriage, knowing that he is not lawfully authorized to do so, or knowing of any legal impediment to the proposed marriage, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not more than one year, or by a fine not more than five hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

Penalty on persons undertaking to join others in marriage when not authorized, &c.

SEC. 15. No marriage solemnized before any person professing to be a judge, justice of the peace, or minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected on account of any want of jurisdiction or authority in such supposed judge, justice or minister, provided the marriage is consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

When marriage not void although person officiating was not authorized.

Marriage among
quakers valid—
duty of clerk—
penalty.

SEC. 16. All marriages solemnized among the people called friends or quakers, in the form heretofore practiced and in use in their meetings, are valid, and not affected by any of the foregoing provisions; and the clerk of the meeting in which such marriage is solemnized, shall, within one month after every such marriage, deliver a certificate of the same to the clerk of the district court of the county where such marriage took place, or of the county to which such county is attached for judicial purposes, on penalty of forfeiting not more than one hundred dollars, which certificate shall be filed and recorded by such clerk under a like penalty; and if such marriage does not take place in such meeting, such certificate shall be signed by the parties and at least six witnesses present, and filed and recorded as above provided, under a like penalty.

Illegitimate chil-
dren legitimized
by marriage of
parents.

SEC. 17. Illegitimate children become legitimized by the subsequent marriage of their parents with each other, and the issue of marriages declared null in law shall nevertheless be legitimate.

CHAPTER LXII

DIVORCE.

SECTION

DIVORCE DISSOLVING THE MARRIAGE CONTRACT.

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TITLE I.*

DIVORCES DISSOLVING THE MARRIAGE CONTRACT.

Marriages void
when.

SECTION 1. All marriages which are prohibited by law, on account of consanguinity between the parties, or on account of either of them hav-

*The revisors reported this chapter in two titles—the second being entitled "Limited Divorces," but the legislature rejected Title II and did not change or amend Title I. Hence the language of the title, as it now stands, is, in some sections, inappropriate and nugatory.