

Acts of the General Assembly of His Majesty's Province of Lower Canada passed in the year 1795. Quebec: William Vondenvelden, Printer to the King's Most Excellent Majesty, 1795.

35 George III – Chapter 4

An Act to establish the form of Registers of Baptisms, Marriages and Burials, to confirm and make valid in law the register of the protestant congregation of Christ-Church, Montreal and others, which may have been informally kept, and to afford the means of remedying omissions in former Register.

Whereas the keeping of uniform and authentic registers of the baptisms, marriages and burials in this Province, will tend to secure the peace of families, and to ascertain various civil rights of his Majesty's subjects therein ; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act of the Parliament of Great Britain, intituled, "*An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled, "An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province"*", And it is hereby enacted by the authority of the same, that from and after the first day of January, which will be in the year subsequent to the passing of this Act, in each parish church of the Roman Catholic communion, and also in each of the protestant churches or congregations within this Province, there shall be kept by the Rector, Curate, Vicar or other priest or minister doing the parochial or clerical duty thereof, two registers of the same tenor, each of which shall be reputed authentic, and shall be equally considered as legal evidence in all courts of justice, in each of which the said Rector, Curate, Vicar or other priest or minister, doing the parochial or clerical duty of such parish or such protestant church or Congregation, shall be held to enregister regularly and successively all Baptisms, Marriages and Burials, so soon as the same shall have been by them performed, and the said registers shall be furnished out of the church funds, and previous to any entry therein, shall be presented or caused to be presented by the said Rector, Curate, Vicar or other priest or minister doing the parochial or clerical duty of each parish or protestant church or congregation, to one of the Justices of the court of King's Bench or the Judge of the Provincial court of the district in which such parish or protestant church or congregation is comprehended, to be by him, the said Justice or Judge, numbered and authenticated or paraphé on each leaf thereof, and such registers so numbered and authenticated or paraphé, and which shall be kept in manner and form as herein after mentioned, shall be legal evidence of such Baptisms, Marriages or Burials; and the one of the two Registers which is to remain in the hands of the Curate, Vicar or other priest or minister in each parish, protestant church or congregation as herein after directed, shall be a bound book of strong paper, covered with calf-skin or buckram, which shall be numbered and authenticated or paraphé as above prescribed, to serve for enregistering the Births, Marriages and Burials for one or several years, till such book be filled, and the other register which is to be deposited as herein after directed, at the Clerk's office of the civil court of King's Bench, shall be numbered and authenticated or paraphé to serve for enregistering the same for one year only, commencing the first day of January.

II. And he it further enacted by the authority of the same, that each of the two registers to be kept in the manner and form as by this Act is directed. there shall be made by the Rector, Curate, Vicar or other priest or minister officiating in any parish, protestant church or congregation, an alphabetical index of the names of the persons baptised, married and deceased, with references to the folio in which the said names are to be found.

III. And be it further enacted by the authority aforesaid, that in the entries of baptisms, in the registers aforesaid, mention shall be made in words of the day, month and year on which the child was baptised, of the time of the birth, of the name given to the child, that of the father and of the mother, with the quality or occupation and place of abode of the father and the name of the sponsors, if any there be, and such entries shall be signed in both registers by the person administering the baptisms, also by the father and mother if they are present. and by the sponsors if there are any, and if any of them cannot or know not how to sign his or her name, mention shall be made thereof in the said entries; provided always that when any child shall be presented for baptism of which the father or mother is not known, mention thereof shall be made in said registers.

IV. And be it further enacted by the authority aforesaid, that in the entries of marriages in the registers aforesaid. shall be inferred in words, the day, month and year, on which the marriage shall have been celebrated, with the names, quality or occupation and places of abode of the contracting parties, whether they are of age or minors, and whether married after publication of banns or by dispensation or licence, and whether with the consent of their fathers, mothers, tutors or curators, if any they have in the country, also the names of two or more discreet persons present at the marriage, and who, if relations of the husband and wife or either of them, shall declare on what side and in what degree they are related, and such entries shall be signed in both registers by the person celebrating the marriage by the contracting parties. and by the said two discreet persons, at least, and if any of them cannot or know not how to sign his or her name, mention shall be made thereof in the said entries.

V. And be it further enacted by the said authority, that in the entries of burials in the registers aforesaid, mention shall be made in words, of the day, month and year of the person's burial, and day of decease, if known, and of the name and quality or occupation of the person deceased, and the said entries shall be signed by the Clergyman who performed the burial service, and by two of the nearest relations or friends there present, and if any of them cannot or know not how to sign his or her name, mention shall be made thereof in the said entries.

VI. And be it further enacted by the authority aforesaid, that in six weeks at farthest after the expiration of each year, each Rector, Curate, Vicar or other priest or minister doing the parochial or clerical duty of any parish, protestant church or congregation, shall be held so deliver or cause to be delivered in the register which shall have been numbered and authenticated or paraphé, to serve for the said year, to the Clerk's office of the civil court of King's Bench, or of the provincial court of the district where such parish, protestant church or congregation is situated, and to take or cause to be taken a receipt for the same from the Clerk, of such court, and the other register numbered and authenticated, or paraphé as before mentioned, shall remain with the said Rector,

Curate, Vicar or other priest or minister to be by him preserved and left to his successor in office or clerical duty, and it shall be at the option of parties interested, to demand copies of the said entries from either of the registers aforesaid; and the Clerks of the said courts and the Rectors, Curates, Vicars and other priests in possession of such registers, are hereby required to grant the same, certified under their respective signatures, which shall be received as evidence in all courts of Justice.

VII. And be it further enacted by the authority aforesaid, that every Rector, Curate, Vicar or other priest or minister doing the parochial or clerical duty of a parish, protestant church or congregation, who shall neglect or refuse to comply with the true intent and meaning of this Act, either in the form of the aforesaid registers of the entries therein to be made, or in the delivery of the same to the Clerk's office aforesaid, shall incur and pay for each neglect or refusal a sum not less than two pounds, and not exceeding twenty pounds current money of this Province, without prejudice to the right of action which the suffering parties may have for all costs, damages and interest of a civil nature on account of such neglect or refusal as aforesaid, against the transgressors of the intent and meaning of the present Act.

VIII. And be it further enacted by the authority aforesaid, that this Act shall be construed to extend to all religious communities and hospitals where persons may be interred, and all priests or ministers doing the clerical duty of such religious communities and hospitals shall be deemed subject to the duties and penalties thereby imposed.

IX. And be it further enacted by the authority aforesaid, that the penalties incurred in the manner above mentioned may be recovered by action of debt in any court of record in this Province, by any person or persons suing for the same, one half of which shall be paid to the Receiver General for the use of the Crown to be applied for the public uses of this Province, and for the support of the Government thereof, and shall be accounted for to the Crown through the Commissioners of his Majesty's Treasury for the time being, as the Crown shall direct, and the other moiety to such person or persons as shall or may sue for the same, together with the costs incurred in such suit, to be by him or them received for his or their proper use and benefit.

X. And whereas a petition has been presented to the House of Assembly from the Church Wardens and Vestry of the protestant congregation of Christ-Church, Montreal, praying the interposition of the Legislature to legalize the register of Baptisms, Marriages and Burials of the said congregation, which have not been kept agreeable to the rules and forms prescribed by the law of this Province, and which register has been exhibited to the Legislature, and is in the hand writing of the late reverend David Chabrand Delisle, Rector of the said church and is marked A. and certified by James McGill, Esquire, who was chairman of a committee of the House of Assembly, appointed to report in the matter of the said petition ; and whereas, such informality, unless provided against and remedied, may be attended with great prejudice to the rights of families and individuals of the said congregation and others; be it therefore further enacted by the authority aforesaid, that the said register of Baptisms, Marriages and Burials of the said protestant congregation of Christ Church, Montreal, in this Province, in the hand writing and so marked and certified as aforesaid, beginning with an entry of the Marriage of Peter Paul Soubeiran and

Catharine Felicite Chaumont, on the twenty-second day of November, which was in the year of our Lord one thousand seven hundred and sixty-six, and ending with an entry of the burial of Marguerite Wram, on the fifth day of December, in the year of our Lord one thousand seven hundred and ninety-three; and also the register containing the continuation of such further entries of the Baptisms, Marriages and Burials of the said protestant congregation, or others that have been or may be made therein, down to the first day of January, which will be in the year of our Lord subsequent to the palling of this Act, be, and the same is and are hereby confirmed and made valid in law, to be received as evidence in all courts of justice; and there shall be made an exact duplicate or transcript of such register and of the continuation thereof at the expence of the said church, which duplicate or transcript shall be therewith compared by one of his Majesty's Justices of King's Bench for the district of Montreal, and on being found correct, shall be by him certified and signed as an exact duplicate or transcript of such register and continuation, and when so compared, certified and signed, such duplicate or transcript shall be confirmed and made valid in law, and the said register and the continuation thereof shall be delivered to the Rector, Curate, Vicar or minister of the said congregation or church, to be by him preserved and left to his clerical successor, and the said duplicate or transcript shall be deposited in the Clerk's office of the civil court of King's Bench at Montreal, there to remain and be preserved ; and the said register and continuation thereof, and the said duplicate and transcript of the same so deposited, shall notwithstanding any defect in point of form or otherwise regarding the same, be deemed evidence of the truth of the entries therein contained, according to the true intent and meaning thereof, and shall have the same force and effect to all intents and purposes as if the same had been kept according to the rules and forms prescribed by the law of the province.

XI. And whereas there may be other registers which have been kept in this Province, not strictly agreeable to the rules and forms prescribed by law; be it further enacted by the authority aforesaid, that any register of Baptisms, Marriages and Burials which have been informally kept and not deposited as the law directs before the commencement of this Act, by any Rector, Curate, Vicar or other priest or minister of any parish or of any protestant church or congregation, and which before the expiration of five years after the passing of this Act, shall be presented along with an exact duplicate or transcript thereof to one of his Majesty's Justices of the court of King's Bench, or Provincial Judge of the district wherein such register was kept, in order that the original and the duplicate or transcript thereof may be by him the said Justice or Judge compared, certified and signed. And notwithstanding any defect in point of form or otherwise regarding such register, duplicate or transcript, the same shall severally be received as evidence in all courts of Justice as the truth of the entries therein contained, according to the true intent and meaning thereof, and shall have the same force and effect to all intents and purposes, as if the same had been kept according to the rules and forms, prescribed by the laws of this Province.

XII. Provided always and it is further enacted, that it shall not be lawful to the said Justice or Provincial Judge, to certify and sign any such informal register, the duplicate or transcript thereof, until oath shall before him be made by the Rector, Curate, Vicar or other priest or minister, that it is a true and faithful register of the Baptisms, Marriages and Burials by him performed ; and in case the Rector, Curate, Vicar, or other priest or minister, who shall have kept such register, be dead, and that the same shall have been left in his hand writing or signed by him, then until oath shall be

made to such hand writing or signature by one or more credible persons of the parish, protestant church or congregation to which the register relates, or if such register shall not have been kept in the hand writing of the Rector, Curate, Vicar or other priest or minister deceased, or shall not have been left signed by him, then until one or more credible persons of the parish, protestant church or congregation to which such register relates, shall on oath declare that they verily believe such register was and is the only register kept in such parish, protestant church or congregation at the periods therein mentioned, and that then and in such case the original of such register, certified and signed as above directed, shall be delivered to the Rector, Curate, Vicar or other priest or minister of the parish, protestant church or congregation to which it relates, to be by him preserved and left to his clerical successor, and the duplicate or transcript thereof, also certified and signed as above directed, shall be deposited in the office of the Clerk of the civil court of King's Bench or provincial court of the district, there to remain and be preserved.

XIII. And whereas the entry of many Baptisms, Marriages and Burials may have been omitted in many registers, whereby families and individuals may be injured in their rights and properties, and it is just and expedient that the means of remedying such omissions should be afforded ; be it further enacted by the authority aforesaid, that any person who shall find in any register an omission of the entry of any Baptism, Marriage or Burial which shall have happened before the commencement of this Act, may at any time before the expiration of five years, after the passing of this Act, produce evidence thereof before one of his Majesty's Justices of the court of King's Bench, or Provincial Judge of the district where such Baptism, Marriage or Burial so omitted shall have happened, and upon proof thereof before him being made, upon the oath of two or more persons of the same quality and description as by this Act is required, to sign the entry of a Baptism, Marriage or Burial, and who shall have been present thereat, the said Justice or Provincial judge is hereby authorized and required to order an entry of such Baptism, Marriage or Burial so omitted to be made in his presence in the register of the parish, protestant church or congregation which shall be deposited in the Clerk's office of the Civil court of King's Bench or provincial court of the district where such Baptism, Marriage or Burial happened; and such entry shall be signed by the persons who have given evidence thereupon, and if any of them cannot or know not how to sign his or her name, mention shall be made thereof in the said entry ; and such entry shall then be certified and signed by him the said Justice or Provincial Judge, and be deemed evidence of the truth of the said entry according to the true intent and meaning thereof, and shall have the same force and effect to all intents and purposes as if the same had been made in due and regular time and form, agreeable to the law of this Province; provided always, that in all cases where the register of any parish or of any protestant church or congregation cannot be found, or where none has ever been kept, nothing in this Act shall be construed to prevent the proof of Baptisms, Marriages or Burials being made and received either by witnesses or family registers or papers or other means allowed by law, saving to the adverse party the right of impeaching or disproving such evidence; provided always, that if any person shall knowingly and wilfully make a false oath, respecting any of the matters aforesaid, and be thereof lawfully convicted, such person shall be subjected to the penalties inflicted by a Statute passed in the fifth year of the reign of Queen Elizabeth for the punishment of wilful perjury,

XIV. And be it further enacted, that if any person shall after the passing of this Act, make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or act or assist in falsely making, altering, or counterfeiting any entry respecting the Birth, Marriage or Burial of any party or parties in any register book so directed to be kept as aforesaid, or shall utter or publish as true, any false, forged, altered or counterfeited entry as aforesaid, or a copy or certificate of any entry, knowing such copy or certificate to be false, altered, forged or counterfeited, or shall wilfully destroy or cause or procure to be destroyed any such register book as heretofore is directed to be kept by the priest or minister of any parish or congregation, or the Clerk of any of his Majesty's courts of King's Bench respectively, every person so offending, and being thereof lawfully convicted, shall suffer such fine and imprisonment as to the court shall seem meet ; provided such imprisonment be for a term not less than twelve calendar months.

XV. And be it further enacted by the authority aforesaid, that so much of the twentieth title of an Ordinance passed by his most Christian Majesty, in the month of April, in the year one thousand six hundred and sixty-seven, and of a declaration of his most Christian Majesty of the ninth of April one thousand seven hundred and thirty-six, which relate to the form and manner in which the registers of Baptisms, Marriages and Burials are to be numbered, authenticated or paraphé, kept and deposited, and the penalties thereby imposed on persons refusing or neglecting to conform to the provisions of said Ordinance and declaration, are hereby repealed, so far as relates to the said registers only.

XVI. And be it further enacted by the authority aforesaid, that a printed copy of this Act shall be transmitted to each Rector, Curate, Vicar or other priest or minister doing the parochial or clerical duty of any parish, protestant church or congregation, religious community and hospital in this Province, and to the Church Wardens of every parish and protestant church, in the same manner as to persons who by law are intitled to such copies, to be by each of them preserved and left to their clerical successors respectively.