

From Essey Institute

HOUSE.....No. 63.

Reported by a Select Committee, viz. ; Messrs. Loud, Bradbury, Hudson,
Adams of Boston, and Mason of Northfield.

Commonwealth of Massachusetts.

In the Year of our Lord One Thousand Eight Hundred
and Thirty-One.

AN ACT

For the orderly Solemnization of Marriages.

1 SECT. 1. **BE** *it enacted by the Senate and House*
2 *of Representatives in General Court assembled, and by*
3 *the authority of the same, That every Justice of the*
4 *Peace shall be, and hereby is, authorized and em-*
5 *powered to solemnize marriages, between persons,*
6 *who may lawfully enter into that relation, when one*
7 *or both of the persons to be married belong to or*
8 *are residents within the jurisdiction of such Justice.*

1 SECT. 2. *Be it further enacted*, That every ordained
 2 Minister of the Gospel, who stately ministers to any
 3 Religious Society within this Commonwealth, shall
 4 be and hereby is authorized and empowered to
 5 solemnize marriages between persons, who may law-
 6 fully enter into that relation, when one or both of
 7 the persons to be married belong to or are resident
 8 in this Commonwealth. *Provided however*, that when
 9 neither of the persons to be married belongs to or
 10 resides in the county in which such Minister resides,
 11 such marriage shall be solemnized in the city, town
 12 or district in which one or both of the persons to be
 13 married may reside ; but when both, or either of
 14 them belongs to, or is resident in the county in which
 15 such Minister resides, then such marriage may be
 16 solemnized in the city, town or district in which
 17 such Minister, or both, or either of the persons to be
 18 married, may reside.

1 SECT. 3. *Be it further enacted*, That all persons,
 2 desiring to be joined in marriage, shall have their
 3 intentions of marriage published on three different
 4 days, at three days distance at least from each other
 5 exclusively, in the city, town or district, wherein they
 6 respectively dwell, or shall have such their intention
 7 of marriage posted up, by the clerk of such city,
 8 town or district, wherein they respectively dwell for
 9 the space of fourteen days, in some public place,
 10 within the same city, town or district, fairly written,
 11 and shall also produce, to the Justice or Minister,
 12 who may be desired to marry them, a certificate of
 13 such publishment, under the hand of the clerk of
 14 such city, town or district respectively, and also that
 15 the intention of marriage hath been entered with

16 him fourteen days prior to the date of such certifi-
 17 cate ; and when a male under twenty-one years, or
 18 a female under eighteen years of age, is to be mar-
 19 ried, the consent of the parent, guardian or other
 20 person, whose immediate care or government such
 21 party is under, if within the Commonwealth, shall be
 22 first had to such marriage. And in case the parties,
 23 or either of them, live in a town, district or other
 24 place, where there shall be no clerk, then publish-
 25 ment shall be made, in manner aforesaid, in the city,
 26 town or district next adjoining, and a certificate,
 27 from the clerk of such adjoining city, town or dis-
 28 trict, of such publishment, and of the entry of their
 29 intentions of marriage, as aforesaid, shall be produc-
 30 ed as aforesaid, previous to their marriage.

1 SECT. 4. *Be it further enacted*, That if, at any
 2 time, the banns of matrimony betwixt any persons
 3 shall be forbidden, and the reasons thereof assigned,
 4 in writing, by the person forbidding the same, left
 5 with the city, town or district clerk, he shall forbear
 6 issuing a certificate as aforesaid, until the matter
 7 shall have been duly inquired into and determined
 8 before two Justices of the same county, quorum
 9 unus ; *Provided*, the person forbidding the banns,
 10 shall within seven days after filing the reasons as
 11 aforesaid, apply unto two Justices as aforesaid, and
 12 procure their determination thereon ; unless the
 13 said Justices shall certify unto the said clerk, that a
 14 further time is necessary for their determination on
 15 the reasons filed ; in which case the clerk shall for-
 16 bear issuing a certificate, until the time then certifi-
 17 ed to be necessary shall expire, unless the Justices
 18 shall sooner determine ; according to whose deter-

19 mination, the clerk shall govern himself herein ;
 20 and if the said Justices shall determine, that the
 21 reasons assigned by the person forbidding the said
 22 banns, were not supported by the laws of the Com-
 23 monwealth, then the person so forbidding shall pay
 24 all the cost that may have arisen in consequence of
 25 such objection ; and the said Justices shall make up
 26 judgment and issue execution accordingly.

1 SECT. 5. *Be it further enacted,* That if any person
 2 shall deface or take down any publishment in writ-
 3 ing, posted up, as aforesaid, before the expiration of
 4 the said fourteen days, he shall, upon conviction
 5 thereof, forfeit and pay a sum not less than two or
 6 more than twenty dollars, to the use of the person
 7 who shall prosecute therefor. And if any justice of
 8 the peace or minister, shall, otherwise than is ex-
 9 pressly allowed and authorized by this act, join any
 10 persons in marriage, they shall, upon conviction
 11 thereof severally forfeit and pay a sum not less than
 12 twenty nor more than one hundred dollars, one moiety
 13 thereof to the use of the county wherein the of-
 14 fence may be committed, and the other moiety to the
 15 use of the person who shall prosecute therefor : and
 16 every justice or minister, against whom such prose-
 17 cution and recovery shall be had, who shall be prov-
 18 ed to have committed such offence knowingly, shall
 19 be disqualified from joining persons in marriage for-
 20 ever after. And in case any justice or minister, dis-
 21 qualified as aforesaid, or any other person whatever,
 22 not authorized and empowered to solemnize mar-
 23 riages by this act, shall join any persons in mar-
 24 riage, and be convicted thereof, in the Supreme Ju-
 25 dicial Court, upon presentment or indictment, he

26 shall be imprisoned for a term not exceeding six
27 months, or pay a fine of not less than fifty or more
28 than two hundred dollars to the use of the Common-
29 wealth at the discretion of said court.

1 SECT. 6. *Be it further enacted,* That every justice
2 and minister shall make and keep a particular re-
3 cord of all marriages solemnized before them res-
4 pectively ; and in the month of April annually, shall
5 make a return, to the clerk of the city, town or dis-
6 trict in which he lives, of a certificate containing
7 the christian and surnames, and places of residence,
8 of all the persons joined in marriage, by them res-
9 pectively within the year then last past, and also the
10 time when, and the name of the city, town or dis-
11 trict in which such marriages were respectively so-
12 lemnized. And when any justice or minister shall
13 solemnize any marriage in any city, town or district,
14 in which he does not reside, he shall also make a like
15 certificate, to the clerk of such city, town or district,
16 of such marriage, within thirty days from the solem-
17 nization of the same. And any justice or minister,
18 who shall neglect to make such returns, shall, upon
19 conviction thereof, before the Court of Common
20 Pleas in the county in which he resides, forfeit and
21 pay for each neglect, a sum of not less than twenty,
22 nor more than one dollars, at the discretion of said
23 court, one moiety thereof to the use of said county,
24 and the other moiety to the use of the person, who
25 shall prosecute for the same. And every city, town,
26 or district clerk shall duly and seasonably record all
27 marriages, so certified to him as aforesaid.

1 SECT. 7. *Be it further enacted,* That no person, by
2 this act authorized to marry, shall join in mar-

3 riage any white person with any negro, indian or
 4 mulatto on penalty of a sum of not less than fifty or
 5 more than one hundred dollars, to be recovered in
 6 the manner and to the uses, as in the next preced-
 7 ing section of this act is provided : and all such mar-
 8 riages shall be absolutely null and void.

1 SECT. 8. *Be it further enacted*, That all marriages,
 2 which may be solemnized among the people called
 3 Quakers or Friends, in the manner and form used
 4 and practised in their societies, shall be good and
 5 valid in law, any thing in this act to the contrary
 6 notwithstanding. And the clerk or keeper of the
 7 records of the meeting, wherein such marriages
 8 shall be solemnized, shall in the month of April an-
 9 nually, make and deliver to the clerk of the city,
 10 town or district in which such society usually meet
 11 and worship, a certificate of all marriages solemniz-
 12 ed therein during the year then last past, as in the
 13 sixth section of this act is provided, under the penal-
 14 ty of ten dollars for each neglect, to be recovered in
 15 the manner and to the uses as in said sixth section is
 16 provided.

1 SECT. 9. *Be it further enacted*, That all acts
 2 heretofore passed relating to the "Orderly solemniz-
 3 zation of Marriages" except so much as is contained
 4 in the first section of an Act, entitled "An Act estab-
 5 lishing and regulating the fees of the several officers
 6 and other persons hereafter mentioned, and for re-
 7 pealing the laws heretofore made for that purpose"
 8 passed Feb. 13, 1796, be, and the same are hereby
 9 repealed.

