

"MARRIAGE ACT"

Section 42.

To His Honour,
The Lieutenant-Governor of the
Province of British Columbia.

INTERIM REPORT ON INQUIRIES INTO MARRIAGES
ENTERED INTO AND SOLEMNIZED IN ACCORDANCE
WITH THE RITES AND CEREMONIES OF THE
DOUKHOBOUR FAITH OR CREED.

I have the honour to submit the following interim
report:

By Order-in-Council No. 2352 approved October 15th,
1959, I was designated a Marriage Commissioner to receive
and inquire into applications for recognition of marriages
contracted in conformity with the rites and ceremonies of
the Doukhobour faith or creed. This designation was made
pursuant to Section 42 (then Section 39) of the "Marriage
Act", as enacted by the "Marriage Law Amendment Act, 1959",
which provides that a Marriage Commissioner so designated
shall have the powers and duties of a commissioner appointed
under the "Public Inquiries Act".

This section provides the general procedure to be
followed in effecting the registration of a marriage once the
Marriage Commissioner has satisfied himself upon inquiry that
it has been solemnized in accordance with the rites and cere-
monies of the Doukhobour faith or creed. Specifically, this
section validates every marriage so registered from the date
of the solemnization therecf, and it legitimizes the issue of
every such marriage from the time of birth.

DOC
BC
ZA
D:M3
1961
c.3

- 2 -

At the time of the enactment of Section 42 there were resident in this Province, and in particular in the Kootenay-Boundary area, several thousand persons of Doukhobour origin who had entered into ceremonies of marriage performed in accordance with Doukhobour faith and custom and which, until the passing of this enactment, had for the most part, been incapable of being registered or of being given any legal recognition. Having regard to their long-established religious and cultural traditions, these people were understandably unwilling to have their marriages solemnized either by registered ministers or clergymen, or to enter into civil contracts of marriage performed by Marriage Commissioners. Ordinarily, they were not prepared to regularize their unions at a later time by legally recognized ceremonies performed by clergymen or Marriage Commissioners. Numerous requests, however, had been made by the Doukhobours from time to time for legislation which would enable their marriages to be performed within the scope and recognition of the law.

By a certificate given by the Director of Vital Statistics on October 17th, 1941, Ginnadie Goloff was recognized as an Official Witness authorized to solemnize marriages of the Doukhobour sect. I am informed by Mr. K. D. McRae, the District Registrar of Births, Deaths and Marriages, at Nelson, that between October 17th, 1941 and April 14th, 1945, when Mr. Goloff's appointment was rescinded, there had been registered a total of ninety-three marriages which he had officially solemnized or witnessed as having been performed in his presence in accordance with the rules and ceremonies of the Doukhobour religion. Upon it becoming apparent some years later that Mr. Goloff's appointment as Official Witness had not been authorized by appropriate legislation, the legislature, in 1946, passed the "Marriage Act

Amendment Act, 1946". By this enactment, the marriages contracted in Mr. Goloff's presence, in his capacity as an officiating witness, were validated and the issue of these marriages declared to have been legitimate from birth.

Subsequently, Mr. Fred Ozeroff, then a Deputy Registrar of Births, Deaths and Marriages, was appointed a Marriage Commissioner. Mr. Ozeroff, being a Doukhobour, it had apparently been thought that Doukhobours might more readily appear before him for the performance of civil marriages. This did not prove to be the case and I am informed that only a negligible number of civil marriages were performed by him.

In 1953 the "Marriage Act" was amended through the "Marriage Act Amendment Act, 1953", by the insertion of Sections 10A, 10B and 10C. These sections provided a special procedure by proclamation at Doukhobour meetings or gatherings (similar to publication of banns) pursuant to which marriages might be validly solemnized according to the rites and ceremonies of the Doukhobour religion, but subject to the filing of returns with the District Registrar. My information would indicate that to begin with little publicity was given to this amendment. More recently certain of the forms to be used pursuant to these sections were revised and redrawn by Mr. McRae to suit the particular circumstances and a notice with relative correspondence and explanatory notes was published in "Iskra", a Russian language newspaper published in Grand Forks. I am informed by Mr. McRae that to date only twenty-five marriages have been solemnized and registered pursuant to these sections. It is apparent, therefore, that little advantage has been taken of this legislation, which has now been in effect for eight years. This is due, I

conclude, partly because its existence is not generally known or understood and largely because the practice of publicly proclaiming an intended marriage is foreign to Doukhobour customs and usages.

It will be appreciated that at the time of my appointment some thousands of children, the issue of unregistered marriages, remained illegitimate and among other impediments, were disentitled upon intestacy, to share in their fathers' estates. Wives and husbands had no legal rights or obligations as such, and neither husband nor wife was entitled to succeed to the other's estate in the event of intestacy. These circumstances gave rise to many difficult problems in the case of claims for maintenance by deserted wives and also with respect to the custody and maintenance of children. Likewise, widows were frequently deprived of benefits to which they otherwise would have been entitled. It is assumed that all these problems so adversely affecting such a large group of persons led to the passage of the above-mentioned enactment. It is understood, too, that over the years there had been growing requests by members of the sect for legislation which would enable them to regularize past marriages.

While appreciating the importance and desirability of effecting registration of such marriages as could properly be proved, it was apparent to me that some method would have to be devised for handling applications for recognition and for ensuring that only properly verified marriages would become registered. After consultations with Dr. Gilbert Kennedy, Q.C., Deputy Attorney-General, and Mr. J. H. Doughty, Registrar of Vital Statistics, it was concluded that questionnaires might be prepared for completion by each party to

the marriage and by two other persons who had been present at and had witnessed the marriage ceremony. Forms of questionnaires were then prepared and settled with the assistance of Mr. K. D. McRae, the District Registrar at Nelson. These forms included twenty-three questions for completion by the husband, twenty-four for the wife, and seventeen for each of the witnesses. It was thought advisable that I should hear the sworn evidence, not only of the parties to the marriage, but also of the two witnesses, and that I should have an opportunity of questioning them upon the material disclosed in answers to the questionnaires previously completed by them.

After spending much time in research into the history and traditions of the Doukhobours, I have concluded that there is some doubt as to whether marriage has been regarded by them as a holy sacrament. At least two centuries ago their ancestors repudiated the ritual of the Russian Orthodox Church and rejected the sacraments of baptism, Marriage and Communion as administered by that church. In those times it was the church which was responsible for the recording of baptisms and marriages, and the reluctance or refusal to submit such statistical information has, to some considerable degree, persisted to this day.

While the ceremony and ritual of the Russian Orthodox Church had been rejected, members of the sect, in time, developed ceremonial forms or usages of their own. These have become well established, so that the young couples now desiring to marry are in duty bound to inform their parents. Thereupon the parents of the prospective groom call upon the girl's parents; when both sets of parents have consented, the date of the wedding is arranged. Frequently these parents meet again at the home of the prospective groom in what may be

described as a betrothal ceremony. On the day of the wedding, the bridegroom, accompanied by his friends and relatives, arrives at the bride's home; his father announces that he wishes to become related to the bride's family, and the party is admitted to the room prepared for the wedding. The bride is led to the room by her father and, after certain formalities, the bride and groom express their marriage vows in the presence of the symbolic salt, bread and water and in the company of their relatives and friends. Traditional prayers are said by the parents on each side and these frequently are followed by the singing of hymns. Where the parents of the parties intending to marry have died or are unavailable, their places are taken by the next of kin, usually on the father's side. As these ceremonies are invariably attended by numerous relatives and friends there is usually little difficulty, even after the passage of years, in finding two witnesses who were present at any particular ceremony.

While at the time of my designation as a Marriage Commissioner the 1959 amendment had been in effect for some six months, there was very little evidence of any marked interest having been shown by the persons for whose benefit the enactment had been passed. It appeared to me that the object of this legislation might be frustrated unless vigorous steps were taken to secure the interest and support of the Doukhobour representatives and leaders who had from time to time pressed for passage of the enactment. On October 31st, 1959, I met with representatives of the Doukhobour group known as the Spiritual Communities of Christ, and being more generally referred to as the "Orthodox" Doukhobours. There was considerable discussion as to the desirability of

registration and of the various forms to be completed and the procedure to be followed. Mr. John J. Verigin, who acted as spokesman for the group, contended that members of the sect might have conscientious scruples against admitting to Canadian or other citizenship (this being one of the particulars required by the Director of Vital Statistics pursuant to Form 2, which is used for the registration of marriages). He said that members of the sect considered themselves as having an allegiance to God in priority to any allegiance to their country. Ordinarily, it might seem difficult to appreciate why a religious belief should interfere with a bare acknowledgment of the inescapable fact of citizenship. Such, however, was the case. It was finally decided that it would be satisfactory to all concerned if applicants were permitted to qualify their answers in the following manner, for instance:

CANADIAN (subject to the laws of God and Jesus). It was also requested that members of the group be entitled to show their religion as Doukhobour U.S.C.C. Other minor objections were discussed and finally disposed of satisfactorily.

In view of the progress made, I arranged to hold hearings in Grand Forks during November, 1959, for the purpose of conducting inquiries into applications for recognition of marriages. Notices of the hearings were published in the local press and in the newspaper "Iskra". The first applicants heard in Grand Forks were Mr. and Mrs. John J. Verigin. During the six days of the hearings other applications from over one hundred couples were heard. A staff of stenographers and interpreters were kept busy for twelve hours a day in order to handle the volume of this work. Mr. Robert MacGregor, District Registrar of Births, Deaths and Marriages, was of great help in obtaining necessary staff and in facilitating the hearings generally. During the course of these hearings it was found

more convenient to move from the Doukhobour Community Hall just west of Grand Forks into the town itself, where Mr. P. P. Legebokoff, the Editor of "Iskra", made available three rooms in their library together with office facilities. These courtesies were greatly appreciated. Further hearings were held in 1959 in Brilliant and in Castlegar, with Mr. Peter Oglow assisting in making arrangements for facilities and staff. With the assistance of Mr. George Bojey, arrangements were also made for a hearing at Perry Siding.

At these hearings the parties to the marriage ceremony, as well as their witnesses, were sworn. Invariably all considered their affirmations made in the presence of the symbolic salt, bread and water as being most binding upon their consciences. All were questioned, frequently with the assistance of an interpreter, and in a few cases applications for recognition were rejected by reason of uncertainty as to date or due to the failure of both parties to the marriage to appear before me. Whenever satisfied as to the fact of the solemnization of a marriage ceremony, it was necessary to fill in Form 2 previously mentioned, and to have it signed by the parties. In many cases those who appeared before me were unable to sign their names and in such cases their marks were witnessed by me. I found it necessary to personally check all forms at a later time at my office in Nelson before submitting the original Form 2 for approval to the Director of Vital Statistics with my report or recommendation in duplicate. Upon the numbered original of Form 2 being returned to me, my duplicate copy was noted up and the original forwarded to the appropriate District Registrar for registration. Upon this being done, I would notify the married couple that they could obtain a certificate of marriage upon applying to the Director and paying the appropriate fee.

Applications for recognition of their marriage ceremonies were made by a number of widows and widowers. Some doubt being felt as to whether such marriages could be recognized and registered the legislature by the "Marriage Act Amendment Act, 1960", dispensed with any necessity, where one of the parties was deceased, for signature by more than one party to the marriage of the record (Form 2) prepared under Section 18 of the "Vital Statistics Act". This amendment also dispensed with the necessity for signature of Form 2 by two credible witnesses. Where otherwise fully satisfied as to the solemnization of a marriage ceremony I have, on occasion, proceeded with only one witness.

Hearings were resumed in 1960 and were advertised by distributing posters and by advertisements in local newspapers. It was frequently found most convenient to deal with applications at evening sittings and on Saturdays. At times applications were heard in private homes for the purpose of conveniencing invalids. Apart from the chief centres of Doukhobour population in the Kootenay-Boundary area, sittings were also held in Vancouver, New Westminster, Osoyoos, Penticton, Kelowna and Creston, and in numerous small villages.

I found that after the initial applications had been received few applicants insisted upon qualifying their statements as to citizenship and that few wished to denote the particular organization within the Doukhobour sect to which they belonged. The large majority of those applying were either members of the "Orthodox" group or were so-called "Independents". Relatively few members of the Brotherhood of Reformed Doukhobours and "Sons of Freedom" made applications or showed any interest in having their marriages validated. Recently, however, a number of them have made such applications, apparently due to the influence of their former leader, Mr. Stefan Sorokin.

In the course of dealing with applications for recognition, I have encountered numerous Doukhobours who were married in accordance with the rites of their faith in one of the prairie provinces. Pursuant to inquiries undertaken by Dr. Kennedy, arrangements were made whereby applications for delayed registrations of marriage were completed and forwarded to the Director of Vital Statistics in Saskatchewan pursuant to Section 12 of their "Vital Statistics Act". As a result, fifty-six such marriages have been registered. There being no appropriate legislation in the Province of Alberta, it was impossible to arrange for registration of any marriage which had been performed there.

I have, in the course of a total of One thousand and Seventy-four hearings, inquired into One thousand and Eighteen applications for recognition pursuant to Section 42 of the "Marriage Act" of this Province. Of these, fifteen applications were rejected, and in all One thousand and Three remaining cases, the marriages have been duly registered by me. Altogether, nearly Four thousand children have been legitimized. In many cases the parties to these marriages were young couples and the registrations of their marriages will result in legitimizing all children born to them in the future.

I would estimate that prior to 1959 there had been registered in this Province a total of possibly Four hundred or more marriages entered into by persons of the Doukhobour faith. This would include the marriages officially witnessed by Mr. Goloff, those registered pursuant to the 1953 amendment, and those performed by Marriage Commissioners, as well as a very few performed by clergymen. Obviously, many hundreds of marriages still remain unregistered. It is to be hoped that as the practice of applying for recogni-

tion becomes more commonly accepted, these marriages will in due time become registered. I, therefore, recommend that the provisions for delayed registration remain in effect for some time to come. If Section 42 is to be retained in its present general form I would recommend, having regard to the fact that marriages sought to be registered under Section 42 do not become valid until registered, that either the word "validly" appearing in Subsection (4) thereof be deleted or, alternatively, the word "duly" be substituted therefor. As Section 23 relates only to those Marriage Commissioners who are authorized to solemnize marriages, it appears to me that consideration should be given to deleting both references made to Section 23 in Subsection (5) of Section 42.

The hearings or inquiries conducted by me in various places in the Province have taken up the whole or the better part of each of One hundred and Twenty separate days; this does not include occasional inquiries or hearings conducted from time to time in my office. At least an equal amount of time has been taken up in interviews, arranging for hearings, checking material, preparing reports and in correspondence.

I have previously pointed out that the practice of proclaiming an intended marriage is foreign to Doukhobour customs and usages. I should also mention that I have encountered cases where even though this practice was attempted to be followed, the declaration of proclamation was not mailed or delivered within the required period of seven days before solemnization of the intended marriage. In view of all the circumstances, it seems clear that a method of registration similar to that established under Section 42

of our Act, or to Section 12 of the "Vital Statistics Act" of Saskatchewan, has certain advantages over the procedure provided for by our Sections 10A, 10B and 10C. I consider that such procedure should clearly be available to facilitate the registration of future marriages.

Pending the filing of my final report, I wish to consider the advisability of making a recommendation that Subsections (2), (3) and (4) of Section 42 be repealed and that another subsection be substituted therefor which would enable any Marriage Commissioner in the Province to proceed with registration of a Doukhebourg marriage whenever performed upon his being satisfied that it, in fact, had been duly solemnized. Such a subsection might be worded as follows:--

"When a marriage has been entered into and solemnized in accordance with the rites and ceremonies of the Doukhobour faith or creed but the requirements of Sections 10B and 10C of this Act have not been complied with any Marriage Commissioner, upon being satisfied that the marriage was duly entered into and solemnized in accordance with such rites and ceremonies, shall submit a report to that effect to the Director of Vital Statistics."

Subsection (5) and the admirably clear and unmistakable provisions of Subsections (1), (6), (7) and (8) relating to validation of marriages and legitimacy of issue should of course be retained in their present form.

I wish to express my appreciation of the assistance and co-operation received by me from officials of the Government of the Province, as well as from many members of

the Doukhobour sect. I might add that I have relied upon
Mr. Leo S. Gansner, Barrister, of the City of Nelson, for
advice and counsel in the discharge of my responsibilities.

Respectfully submitted,

"Wm. Evans"

MARRIAGE COMMISSIONER.

NELSON, B.C.

May 12th, 1961.

"MARRIAGE ACT"

Section 42.

INTERIM REPORT ON INQUIRIES INTO
MARRIAGES ENTERED INTO AND SOLEM-
NIZED IN ACCORDANCE WITH THE RITES
AND CEREMONIES OF THE DOUKHOBOUR
FAITH OR CREED.

WILLIAM EVANS,
Marriage Commissioner,
Nelson, B.C.