

**On the Proposed Changes in the Marriage Law of the Dominion, Legalizing Marriage with a Deceased Husband's Brother, and with a Deceased Wife's Sister.**

SUMMARY OF A SERMON DELIVERED IN ST. PETER'S CHURCH, BY REV. G. W. HODGSON, ON SUNDAY, 14TH NOVEMBER.

This is a great mystery, but I speak concerning Christ and the Church.—EPHESIANS, v. 32.

THESE words the inspired Apostle uses when speaking of the relative duties of husbands and wives. In the verses preceding the text he had been enforcing these duties. Husbands are to love their wives as Christ loved the Church; wives to submit themselves to their husbands as the Church to Christ. The sacramental view of the marriage union comes from thinking of it as an earthly representation of a heavenly union, and from recognizing that special divine grace will be given to those married persons who seek it, which will enable them to fulfil their high duties, and to set forth the divine ideal. It is Christianity alone that has raised that which was a mere natural union into a far higher sphere, thereby giving rise to the Christian home life with all its sanctities, and elevating woman to a position higher than she had before.

Referring marriage to the union between Christ and the Church, as its example and ideal, guards two truths; i. e., the indissolubility of the marriage vow and the completeness and perfection of the union between man and wife. When one of these truths is tampered with, the other suffers. An attempt, which very nearly succeeded, was made last winter to change the marriage laws of the Dominion, so as to permit marriage between a deceased husband's brother and a deceased wife's sister. The attempt will probably be made again, so it is well the matter should be brought before you.

Some speakers in Parliament stated that the English House of Commons had passed such a bill as this, and that many prominent English statesmen and divines had spoken in favor of it. This statement was quite inaccurate. Such a bill never passed, I doubt if it was ever introduced into the English Parliament. It would be difficult, if not impossible, to find a single person of note who has advocated it.

It may be granted that the advocates of a change in Canada are more consistent than these in England; but that does not alter the fact that no one in England has proposed to allow marriage with a deceased brother's wife.

If we thought of this subject merely as members of the Church of England, the proposed change need not give us the slightest anxiety. The law of our Church is clear and explicit, and Parliament can't change it. Any priest of the church of England here solemnizing such a marriage is liable to degradation; any member of that Church contracting the alliance, to excommunication. No priest who performed the ceremony in such a case can continue in the ministry. No persons who so marry can continue in the Church.

But as citizens of the country we have a deep interest in the question. If the change is wrong, it must do harm. A nation cannot, any more than an individual, escape the consequences of a wrong act, or of a mistaken act, however honest the mistake may be.

In considering the question I will take the lowest grounds possible—will meet the advocates of the change

**ON THEIR OWN GROUNDS.**

Let us then consider the principle of the existing prohibitions—first without any reference to the Bible at all.

Shall there be any prohibitions at all? Everyone will say Yes. Prohibitions must be under two heads—of Consanguinity or Blood relations—of affinity or Marriage relations.

What blood relations should be prohibited?

These also are under two heads—direct and collateral.

Let us see what are prohibited under each head and why.

Marriages are prohibited in the direct line in every degree, i. e., parents and their children, grandchildren &c., are prohibited.

There is no need to seek a reason for such prohibitions—the very thought of such unions is horrible. We can speak of them (and anyone will agree) as forbidden naturally.

Now as to collateral blood relations. The principle adopted in our table of prohibited degrees is that these relations may not marry within the fourth degree. In this way of reckoning, the steps are taken to and from the common ancestor, and both parties are included. But this will be plainer by illustration.

Take brother and sister. This is called the third degree, counting thus:—Brother one, up to parent two, down to sister three.

The reason of this prohibition is not quite the same as that of the former. There may have been a time when such unions were necessary. But it is quite evident that the close and intimate family life of brothers and sisters makes it of the utmost importance morally that such unions be not thought of. And when an opinion is passed on from generation to generation, being thus hereditary, it becomes instinctive. These unions were forbidden as soon as possible on moral grounds,—aversion to them has now become an instinct of all civilized races.

Now take the next step, viz.: uncle and niece. In counting as before we begin with brother one degree up to parent two, down to sister three, down to sister's daughter four—within the fourth degree, therefore, prohibited.

The reason of this is a similar one to that in the case of brother and sister, though not so strong. There may be many circumstances under which a father's brother will take almost a father's place. In the very great majority of cases the difference of age is such as to assimilate the relation-

ship in some degree to the paternal. There is a very general agreement (we shall see by-and-by not a complete agreement) that for moral reasons these unions also should be prohibited.

Counting in the same way as before, it will be seen that cousins are in the 5th degree. They are not prohibited. Many think they should be; and they are not without strong reasons in support of their opinion. It is, however, plain that, if prohibited, it would be on a different principle from the other collateral relations. Cousins do not live intimately in one family as do brothers and sisters. There is not the same nearness to the father as in the case of the uncle, nor ordinarily the same difference of age. They would not be prohibited on moral grounds. If forbidden, it would be for physiological reasons. It is probable (to say the least) that on these grounds it would be better to prohibit them. But I am now only showing that the table is consistent with itself in not prohibiting them. However desirable that it should do so, it has not gone into these reasons. It may be imperfect—it is not inconsistent.

So much for blood relation. Now, as to the question of affinity or marriage relation.

It comes before us in this form: With reference to this question, are a man's wife relations to be considered his own?

Now, surely there can be but two answers to this question—yes, or no. Our present laws say yes, and act consistently on that principle. If there are any who think the answer should be "no," their position would be intelligible and their course clear. They must say, a man, therefore, can marry his deceased wife's sister, mother or daughter and a woman may marry her deceased husband's father, son or brother. If a man's wife's sister is no relation to him, neither is his wife's daughter (by a former marriage) nor his wife's mother. Do let those who propose the change adopt some principle. The present table is logical and consistent. One which wholly disregarded affinity would also be so. But this proposed one is

**NEITHER ONE THING NOR THE OTHER.**

Suppose these changes made, what mortal could give any reason for the prohibitions as they would then stand? What principle would have been adopted? What guide have been followed? Such hard to mouth, unprincipled (I use the term in the sense of being based on no principle) legislation would be absurd and dangerous on any subject, much more so on so important a one as holy matrimony.

Without, then, any reference to Holy Scripture or to ecclesiastical tradition, on the simple grounds of common sense, and logical consistency, these changes should be regarded as doing either too much or too little. Standing alone, they are wholly indefensible. Further they are highly inexpedient.

Their proposers say that an uncle or aunt will always be the best to take care of the fatherless or motherless children. As a matter of fact, a man can, and very often does find a very good stepmother for his children without marrying their aunt. But give what weight you please to this argument, it tells quite the other way. At the time of the mother's death the aunt can and often is of invaluable assistance, because she is considered as the man's sister. She can immediately be present and helpful. But suppose that this relationship ceases, what can she do? She can't be in his house as a servant. Ought a single woman to live intimately on a footing of equality with a single man whom she may marry? To take the lowest ground, to what cruel aspersions and insinuations would she subject herself? Is the world so uncharitable that it would never attribute her devotion to her sister's children to another motive. Suppose two sisters—both anxious to come at once and take care of the children, the widower must decide their conflicting claims, and take the chosen one into his house to live with him as a sister until a decent interval had elapsed before he made her his wife!

This consideration further shows the fallacy of the statement that a new law merely would give liberty to those who wish thus to marry; and leave others in the same position as they now are. It will do nothing of the kind. From the moment it passes, it changes the domestic relations of every man and woman who could be affected by it, from one end of the Dominion to the other. From the time it passes, it in every case deprives the bereaved children of their aunt's care at the time it is most wanted. For if a widower may marry his sister-in-law, he can't take her to his home unless as his wife; and he can't make her his wife immediately.

In the majority of cases it deprives the children of their aunt's care altogether, for many men don't want to marry a second time at all, and of those who do only a small proportion want to marry their sisters-in-law. In fact, wherever the law has effect at all, it will completely abolish for everybody the relations of brothers and sisters-in-law, and will make a change in every house. It is therefore contrary to the first principles of sound legislation; for it inflicts a great inconvenience on the many for the convenience of the very few.

NOW LET US TURN TO OUR BIBLES, and consider the question with the light thrown upon it there. And here we will only take up the degrees of affinity. Besides the foregoing reasons, are there any from Scripture why degrees of affinity should be counted?

So doing, guards and enforces the great Scriptural truth of the Unity of Man and Wife. If not an absolutely necessary deduction from that truth it is at least a reasonable conclusion from it naturally and wisely adopted.

But—it may be said—death having dissolved the union between a man and his wife, a fortiori, it is dissolved between him and her relations.

Granted for argument's sake. But is it seemly, is it decent, is it compatible with any high or pure view of those relationships that a man, having once considered a

woman as his mother or his sister, afterwards take her as his wife? While his wife lived she was his mother-in-law, or his sister-in-law. Ought she then ever to become his wife? If the relationship is admitted as a natural deduction from a Scriptural statement during the wife's life, then surely every right feeling person would have it continue.

But now as to the directions in Leviticus. Here it will be fairer to separate the cases of the husband's brother and wife's sister. Take the former.

"If a man shall take his brother's wife, it is an unclean thing, he hath uncovered his brother's nakedness." (Leviticus xx: 17.)

And, "Thou shalt not uncover the nakedness of thy brother's wife; it is thy brother's nakedness." Leviticus xviii: 16.

Very many are of opinion (the Westminster confession emphatically asserts this) that these laws are part of God's revelation to the world generally. If so, there is

**NO ROOM FOR FURTHER ARGUMENT**

on this point, for those who accept that revelation.

But, as I have said, I want to meet the advocates of the change on their own ground. Grant, then, for argument's sake, that these are merely Jewish laws. What then would be the case? The

**THE JEWISH VIEW OF MATRIMONY**

was lower than the Christian. Polygamy was tolerated. Divorce was made easy. Yet even with this lower view, they remembered that a man and his wife are one flesh" (Gen. ii, 24); and forbade a woman to marry the brother of her own flesh. But Christian legislators are going to be satisfied with a lower view on this point than was the Jew. That certainly seems a very unworthy position. It is actually a going back or going down. One can understand restrictions being increased, but on what ground are they to be relaxed?

It is said, "but in one particular case it was commanded" (Deuteronomy xxv. 5, 10). A special exception in no way invalidates a general rule. Our law generally is not to kill a man; but in self-defence I may kill a man. How absurd it would be to argue:—Because the law of England permits killing a man in one case, evidently it cannot think it wrong to kill a man even though there is a law against it. Now, clearly understand what this argument is. A Jew with his lower view of marriage, forbid generally such marriages. A Christian with his higher view may even go beyond the Jew and forbid them altogether. He can't surely fall below the earlier standard, and permit them altogether.

Now as to the wife's sister. In Leviticus xviii, 18, we read: "Neither shalt thou take a wife to her sister, to vex her, to uncover her nakedness beside the other in her lifetime." The interpretation of this verse is doubtful. In the margin of the common version we read instead of a "wife to her sister," "one wife to another." If this be correct, the verse would only forbid polygamy.

Of course those who threw overboard the direct, explicit statement about the husband's brother, cannot claim this verse to support their view about the wife's sister. They cannot claim this verse as a ground for permitting the one union if they refuse to allow verse 16 to forbid the other. But no doubt there is

A CONSIDERABLE NUMBER of persons who consider the Levitical law as not without authority—who thereupon disapprove of the marriage with a husband's brother; but who, relying on this verse, would permit the other. To that class the following argument is addressed.

Grant, for argument's sake, your interpretation of the verse. What do we see? Among the Jews, a woman was forbidden to marry her deceased husband's brother; but a man was permitted to marry his deceased wife's sister.

BEAR THESE TWO POINTS IN MIND. Now, come for a moment and think of a Christian marriage service. What ideas run all through it? The equality of man and wife, so far as that is possible. Have you ever thought of the meaning of the following minute and careful directions given in our marriage service.

"The minister shall cause the man with his right hand to take the woman by her right hand and to say: I M. take the N. to be my wedded wife, &c., &c."

And now, observe— "Then shall they loose their hands; AND THE WOMAN WITH HER RIGHT HAND, TAKING THE MAN BY HIS RIGHT HAND shall likewise say: I N. take thee M. to be my wedded husband." If the man takes the woman's hand, then their hands must be loosed, that she, in turn, may take his. Not only does the man take the woman to be his wedded wife; but the woman takes the man to be her wedded husband.

THERE WAS NOTHING GOF THIS SORT among the Jews, or with any Eastern nation. The positions were not equal. The man took the woman, but the woman did not take the man. She was not allowed so to do. Consequently, when a man "took a wife," he brought her into his family. His brothers became hers, so she was forbidden to marry any one of them. But as the woman did not "take the man," he was not supposed to go into her family; her sisters were not his, and he might marry them.

The one can be forbidden while the other is permitted only on the low view of woman's position, that she is not an equal in the contract. And so, actually, men who take this view are (no doubt unconsciously) yet really degrading their sisters, daughters, mothers and wives, in this particular, from the lofty position in which Christianity has placed them, to a level with the inmates of an Eastern harem.

THE PROPOSAL IS A BURNING INSULT TO EVERY WOMAN IN THE LAND.

There is another matter in connection with this subject to which I must refer.

It is impossible to read the debates that took place in Parliament on this question, without seeing how prominently the peculiar claims of the Roman Catholic denomination were brought forward. It may be well to state what ground that Church takes on the question.

She prohibits all the degrees, both of consanguinity and affinity, that we do. She also prohibits the marriage of cousins. She further recognizes spiritual affinities as a bar, i. e., a godfather cannot marry his godchild. Having thus widely extended the prohibition, the Pope claims power to dispense with them. I do not know whether he is supposed to have the power to dispense with all. As a matter of fact he dispenses with spiritual affinities with cousins, with brothers and sisters-in-law, with uncles and nieces, nephews and aunts. Ordinarily these dispensations are not procured without a money payment. Last winter a member of that Church wrote to one of the papers that he had obtained such a dispensation at the cost of one hundred dollars.

I quote now from the official report of the debates (Hansard, session of 1880, vol. 11 p. 1383), where M. Girouard read letters he had received from several Bishops.

The Bishop of Sherbrooke writes, while approving of the Bill: "Would it not also be apropos to repeal, at the same time, Article 126 [of the Quebec code], which prohibits marriage between uncle and niece, aunt and nephew?"

And the Bishop of St. Hyacinthe writes: "I have the honor to inform you, in answer to your yesterday's letter, that I would be content to see disappear from our code not only Article 125, but also Article 126 [i. e., not only the prohibition against brother and sisters-in-law, but also against uncles, nieces aunts and nephews], which in many cases are very embarrassing to us Catholics."

So that those who are among the most anxious for the change desire that, not only shall there be a relaxation in the case of marriage connections, but also in that of blood relations.

It is but right to say that when the bill was altered, Mgr. Lafleche, Bishop of Three Rivers, took alarm, and withdrew his sanction from it. As this prelate is confessedly one of the ablest, if not the ablest theologian on the Bench, it may be that his influence will not be unfelt by his episcopal brethren.

**THE QUESTION IS NOW BEFORE YOU.**

It is a woman's question equally, if not more than a man's, for women will be the keenest sufferers by any degradation of the marriage state. It is a layman's question far more than a clergyman's; for one clerical family there are hundreds of lay families. You can, by petition and by the use of every legitimate influence, oppose the bill for the sake of your country; and, if it should pass, you can thank God, with all your hearts, that you belong to a church which, under all circumstances, forbids such unions to all her members.

**APPLES. APPLES.**

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Nov. 15, 1880—

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TO ARRIVE, per Brig. "LOUISE," due here about 30th inst.,

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Best quality. FENTON T. NEWBERRY.

Ch'town, Nov. 13, 1880—3i

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—ALSO— A large supply of Superior Extra Flour, direct from the mills—Galt, Ont. All of which will be sold cheap for cash.

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THAT desirable residence owned and occupied by the subscriber, and situate on Dundas Esplanade, together with the water lot in front.

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