

THE MARRIAGE QUESTION

FACTS, OPINIONS AND DECISIONS OF CHURCH COURTS.

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(Continued.)

11. Dr. J. J. Janeway, in his treatise entitled "Unlawful Marriage," thus writes (page 32). "To show the views entertained by the Protestant Churches of Europe, we submit for consideration the following acts of the National Synod of France. In the second National Synod, held at Poitiers in the year 1500, the question of the lawfulness of the marriage under discussion was decided. The following is their record: 'May a man lawfully espouse the sister of his deceased wife, who has left him children begotten on her body by him?' To which was answered: That this is in no wise lawful nor expedient, and the Church must see to it that no such marriages are solemnized in it."

12. "In France, marriage between brother-in-law and sister-in-law was first legalized under the Republic, by the law of 20th September, 1792; but the consequences were such that they were afterwards completely interdicted by the Code Napoleon. Another change took place in 1832, relaxing the stringency of this Code, but not by any means repealing it. And it appears from the first report of the Marriage Law Commissioners, that the law forbids all such marriages; prohibition is the rule, and dispensation is the exception. And not only so, but dispensation is granted for marriage between uncles and nieces, as well as between brothers-in-law and sisters-in-law."—(Dr. Lindsay's Inquiry, p. 144.)

13. In his Commentaries, John Calvin thus writes on Lev. xviii. 18: "Neither shalt thou take a wife to her sister."—By this passage certain froward persons pretend that it is permitted, if a man has lost his wife, to marry her own sister, because the restriction is added, not to take the one in the lifetime of the other. From whence they infer that it is not forbidden that she should succeed in the place of the deceased. But they ought to have considered the intention of the Legislator from his own express words, for mention is made not only of incest and filthiness, but of the jealousy and quarrels which arise from hence. Nor can we come to any other conclusion from the words of Moses: for if the turpitude of a brother is uncovered when his brother marries his widow, no less is the turpitude of a sister uncovered when her sister marries her husband after her decease."

14. "In the year 1810, the venerable Dr. John W. L. Livingston, Professor of Theology in the Seminary of that (the Reformed Dutch) Church, prepared and published a dissertation on this question at the request of the General Synod. It is able and learned. As early as 1589, Holland, the Doctor shows, declared in an ordinance: That no person related in blood or by affinity within the forbidden degrees shall be permitted to cohabit or be married under penalty of being declared infamous and subjected to corporal punishment and heavy fines, and, if they persisted in their crime, to banishment. In another ordinance the forbidden degrees are enumerated, and it is declared: 'that no man may marry the widow of his deceased brother, nor may any woman marry the husband of her deceased sister.'" (Janeway on Unlawful Marriage, p. 10.)

15. "To prove what construction is put on Lev. xviii. 16 by the Reformed Dutch Church, the Doctor (John W. Livingston) quotes from the marginal notes of the translators appointed by the National Synod of Dortrecht, held in 1618 and 1619, the following words: 'From this law it necessarily follows that a woman who has been married to one brother, may not, after his death, marry the other sister.' He quotes also their note on verse 18, which is as follows: 'It consequently can by no means be concluded that the husband after the death of his wife may marry her sister.'" (Janeway, p. 11.)

16. "In the year 1797, the question was brought up from the particular Synod (of the Reformed Dutch Church in America) 'Is it lawful for a man to marry his deceased wife's sister?' to the General Synod, who answered the question in the negative." (In 1842, the Reformed Dutch Church departed from its famous uniform practice and that of the Church in Holland, and rescinded the resolutions forbidding a man to marry his deceased wife's sister.) (Janeway, pp. 10, 14, 15.)

17. Through the Rev. D. Stewart, of Leghorn, the following statement was obtained, in 1853, of the principles of the Waldensian Church from the Rev. Dr. J. P. Revel, its Moderator: "As to the principles maintained by our Church respecting marriages between brothers and sisters in law, they are those which we find in the Holy Scriptures. Our ecclesiastical discipline, reviewed in 1830, says: 'Marriages between brothers-in-law and sisters-in-law, uncles and nieces, aunts and nephews, and between relations at one degree more are forbidden.' I find the same prohibition in the acts of the Synods of 1833, 1828, 1801 and 1798. Our civil law does not permit alliances between a brother in law and a sister-in-law, that is to say: between a widower and the sister of the deceased wife, no more than between a widow and the brother of the dead husband. It has sometimes happened that the king, by a special decree, has authorized such a union, and pastors have, contrary to our discipline, blessed it. Nevertheless, since the Constitution, the king's ministers reject on principle demands of this nature." In reference to this testimony, Dr. Gibson says: "This is a proof, among many others, that the opinion of Churches on the special relations prohibited, is to be found almost universally in their codes of discipline and synodical acts, rather than in their creeds, which only contain general principles, but do not define the specialties of their application. It is either ignorance or, inattention to this fact that has made Dr. Eadie say, 'Out of fifteen Protestant confessions that of Westminster is the only one which formally enacts forbidden degrees.' The Westminster Confession does not 'formally enact forbidden degrees.' It only declares the general principle which involves them and determines them." (Gibson on Marriage Affinity, pp. 26, 27.)

18. Marriage with a deceased wife's sister, aunt or niece is held to be unlawful by the canons of the Church of England, to which minister of the Church of England in England, Ireland and the Dominion of Canada profess adherence. The ninety-ninth canon (A.D. 1603) reads as follows: "No person shall marry within the degrees prohibited by the laws of God, and expressed in a table set forth by authority in the year of our Lord 1563. And all marriages so made and contracted shall be judged incestuous and unlawful, and consequently shall be dissolved as void from the beginning; the parties so married shall, by course of time, be separated, and the aforesaid table shall be in every church publicly set up and fixed at the charge of the parish." The table referred to is that known as Parker's Table, and is inserted in the Book of Common Prayer.

19. In his Annotations, the learned Matthew Pool, author of the Synopsis Criticorum, thus comments on Lev. xviii. 16: "Neither in his lifetime, nor after his death, and therefore a woman might not marry her husband's brother, nor might a man marry his wife's sister, either before or after his wife's death, for so all the prohibitions are to be understood; which will give light to verse 18. But God, who can undoubtedly dispense with His own laws, did afterwards make one exception to this rule, of which see Deut. xxv. 5."

20. Thomas Scott, in his Commentary on Lev. xviii. 6-17, says: "It is elsewhere enjoined that if a man died without issue, his surviving brother should marry his widow (Deut. xxv. 5-10). But as this appointment respected special purposes under the Mosaic dispensation, the prohibition of marrying a brother's wife is absolute to us: and by parity of reason, that of a woman marrying the husband of her deceased sister."

21. Matthew Henry, in his Commentary on Lev. xviii. 16, says: "The relations forbidden are most of them plainly described; and it is generally laid down as a rule, that what relations of a man's own he is bound up from marrying with, the same relations of his wife he is likewise forbidden to marry with, for they two are one."

22. "We believe (says Dr. Gibson) we might hazard the assertion, without any very formidable contradiction awaiting us, that there is not any Christian commentator of real note in the Christian world as a commentator and expositor of Scripture who holds the out-and-out doctrine, that by the law of God, as given by Moses, marriage with the sister of a deceased wife is lawful." (Marriage Affinity Question, p. 101.)

23. The Westminster Assembly of Divines, which condemned marriage with a deceased wife's sister, aunt or niece, was composed of the most distinguished divines of the Episcopalian, Presbyterian and Independent Churches of the seventeenth century, adherence to the Confession of Faith prepared by the Assembly is solemnly professed at the time of their being licensed or ordained by licentiates, elders and ministers of the Presbyterian Churches in Scotland, England, Ireland, Canada, and the United States of America.

24. During the present century a large number of union has been effected between different branches of the Presbyterian Church in England, Ireland, Scotland, Canada, the United States and Australia; but although modifications were proposed and adopted by the uniting bodies, in respect to some points in the Westminster Confession, no modification was made in respect to the article which condemns marriage with a deceased wife's sister, aunt or niece.

25. In 1851, an appeal was made by ministers and professors of theology of Scotland to the Nonconformist ministers of England, urging them, by arguments based on Scripture, social expediency, history and authority, not to lend their influence to efforts which were made to repeal the law forbidding marriage with a deceased wife's sister. This appeal was signed by the following ministers and professors of the Established, Free, United Presbyterian, Reformed Presbyterian and Original Secession Churches: Charles J. Brown, D.D., Free Church; James Begg, D.D., Free Church; William Binnie, D.D., Professor of Theology, Reformed Presbyterian; David Brown, D.D., Professor of Theology, Free Church; Robert Buchanan, D.D., Free Church; John Cairns, D.D., Professor of Theology, United Presbyterian Church; Robert C. Candlish, D.D., Principal of Free Church College, Edinburgh; Thomas J. Crawford, D.D., Professor of Theology, Established Church; George C. M. Douglas, Professor of Hebrew, Free Church; Alexander Duff, D.D., LL.D., Professor of Theology, Free Church; Patrick Fairbairn, D.D., Principal of Free Church College, Glasgow; James Gibson, D.D., Professor of Theology, Free Church; William H. Goold, D.D., Professor of Theology, Reformed Presbyterian Church; Thomas Guthrie, D.D., Free Church; N. McMichael, D.D., Professor of Church History, United Presbyterian Church; Alexander McEwan, D.D., United Presbyterian Church; J. Macrae, D.D., minister, of Howick; William Marsdale, D.D., United Presbyterian Church; Alexander F. Mitchell, D.D., Professor of Theology, Established Church; Matthew Murray, D.D., Professor of Theology, Original Secession; Robert Nisbet, D.D., Established Church; Andrew Somerville, D.D., United Presbyterian Church; William Stevenson, D.D., Professor of Divinity, Established Church; Andrew Thompson, D.D., F.R.S.E., United Presbyterian Church.

26. "An argument in defence of marriage with a wife's sister is often grounded upon a consideration of the benefits which would accrue to a young family left without a mother's care: Who so suitable to become their stepmother as their own mother's sister, who already cherishes for them much of a mother's love? But there are two sides to every question. It is not considered by those who harp upon this string, how many motherless children would be left destitute of an affectionate aunt's superintendence, if the law were changed. A young, unmarried female cannot with propriety live under the same roof with an unmarried man, whom it is quite legal and suitable for her to marry. This is a universal feeling in society, and it is grounded upon right and proper considerations. There are multitudes of virtuous females who would not, on any account, place themselves in such a position. The probability, therefore, is, that far more families of motherless children would be deprived of the kindly care of an aunt, if the law were changed, than

would obtain benefit from having their aunt become their stepmother. This would certainly be the case, unless marriage took place between widowers and sisters-in-law in the majority of instances." (Lindsay's Inquiry, p. 144.)

27. "As strong an argument, too (as that from the marriage of a wife's sister accruing to a young family left without a mother's care), might be made out in favour of marriage between a widow and her husband's brother. Think of a widow left with a numerous and helpless family. What an advantage would it be to these children that their father's brother should become their father and protector! But these are the very circumstances in which God of old declared marriage with a brother's wife to be unclean and abominable. No; the laws of marriage rest on totally different principles." (Lindsay's Inquiry, p. 149.)

28. Dr. J. A. Hodge, in his treatise on Presbyterian Law, published in 1882, mentions (pp. 100-101) that the Synod of Assembly of the Presbyterian Church of the United States has judicially decided that the following marriages are unlawful, and render the parties liable to discipline: Marriage with a brother's widow; with a wife's brother's daughter; with a deceased wife's sister's daughter; and with a deceased wife's sister; and that "in 1879 the Assembly, in answer to overtures proposing that constitutional steps be taken toward amending the Confession of Faith by the omission of the sentence which covers the matter of the marriage of a deceased wife's sister, resolved—'That in the judgment of the Assembly, it is not advisable at this time to take any action on this much-disputed subject.'" It is true that the General Assembly does not enforce discipline on persons marrying the sisters of their deceased wives, but it has not ventured to repeal the law.

29. "All that the passage (Lev. xviii. 18) teaches is that if a man chooses to have two wives at the same time, which the law allowed, they must not be sisters; and the reason assigned is, that it would bring the sisters into a false relation to each other. This leaves the question of the propriety of marrying the sister of a deceased wife just where it was. This verse has no direct bearing on that subject. The cases not expressly mentioned in Lev. xviii., although involving the same degree of kindred as those included in the enumeration, are: (1) A man's own daughter. This is a clear proof that the enumeration was not intended to be exhaustive. (2) A brother's daughter. (3) A sister's daughter. (4) A maternal uncle's widow. (5) A brother's son's widow. (6) A sister's son's widow. (7) The sister of a deceased wife." (Dr. Charles Hodge's Systematic Theology, vol. III, p. 416.)

30. In May, 1869, the General Assembly of the United Presbyterian Church of North America sent to Presbyteries an overture on the question whether the article in the Westminster Confession—"the man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than of her own"—be repealed. In 1870, the overture was rejected by the following vote: in favour of repeal, 127; against it, 536; not voting, 65.

31. In a letter dated 20th November, 1884, the Rev. J. B. Dales, of Philadelphia, thus writes: "It is our opinion (that of the brethren of the Ministerial Association) that the stand which a few—far too few—churches have taken against making any repeal or change and of disciplining any parties who will violate the long-established rule has been most salutary in its effects, not only in our own churches but in the communities where our churches are. In our own denomination (the United Presbyterian of North America) not a case of infracting the law has occurred, I think, since the overture was answered in 1870, and only two or three, I think, in the history of our churches for the past nearly 150 years."

32. All the decisions and actions of the Supreme Court of the Presbyterian Churches in the Dominion of Canada have hitherto been against modifying their standards or relaxing their discipline in regard to marriage with a deceased wife's sister, aunt or niece; and, so far as known to the writer, no minister of any of the Presbyterian Churches of Canada has ever been guilty of marrying his deceased wife's sister, aunt or niece.

33. In the preface to a collection of facts, opinions, etc., published in 1834 by the so-called Marriage Reform Association, it is stated, with reference to the article in the Westminster Confession, forbidding man's marrying any of his wife's relations nearer in blood than he may of his own, that "the Presbyterians of America have expunged it from their Confession." The facts just stated show how little reliance can be placed on the statements of the Liberatorians.

34. In 1868, the Rev. John Laing (now Dr. Laing) published a pamphlet in which he contended that there are no scriptural grounds for prohibiting marriage with a deceased wife's sister, but at the same time maintained that such a marriage was inexpedient and wrong, as opposed to the general sentiment of Christian society, and injurious to the peace of families. "While we are convinced (he says) that the law of God does not prohibit the marriage in question, we are far from thinking that it is a proper one." "Such marriages are undoubtedly opposed to the general sentiment of Christian society. It matters not to what that sentiment may be owing; it is the fact that has weight. It is most inexpedient to do violence to the general sentiment of any community as a moral question, and, therefore, such marriages should be avoided." "These marriages seem calculated to have an injurious effect on the harmony and peace of families, and on the confidence which should subsist between their various members." "We think that when men and women are constantly meeting on terms of the greatest intimacy it should be perfectly understood that marriage between them is out of the question. In this light, we think, these marriages inexpedient and thus wrong."

THE junior class of Newton College lately carried through an entire mock Jewish service, having all the officials of the Synagogue, with robes of office, and a Book of the Law which had been often used in Jewish worship. The official robes had been purchased of a converted Jewish Rabbi in Germany by a liberal friend, who was present at the service.