

*JEWISH DIVORCES.*

It was recently stated in a Toronto newspaper that a Jewish Rabbi had, at the mutual request of a dying Jew and his wife, granted them a divorce, in order, so it was stated, to free the woman, who was childless, from the alleged obligation of the Mosaic law requiring her to marry her husband's brother. It is needless to say to lawyers that a divorce granted under such circumstances has no legal validity, and it may also be noted that the supposed obligation of the Mosaic law requiring a childless widow to marry her deceased husband's brother cannot be carried out in Ontario without a violation of the law of the land, which, based also on the Mosaic law as laid down in Leviticus, forbids such unions, without any exception.

Such a divorce as that above mentioned would not only have no legal validity whatever, but, notwithstanding it, the wife would appear to be still entitled to the status of wife and bound by all the obligations and entitled to all the legal rights which flow from that status.

The question of the effect of Jewish divorces is touched upon incidentally in the case of *Moss v. Smith*, 1 M. & Gr. 228, and a note of the reporter to that case on p. 233 seems to state the law on the subject correctly and succinctly. It is as follows: "By the civil law, divorces *a vinculo matrimonii* were allowed even under Christian emperors; but the canon law, founding itself on the evangelical precept, 'What God hath joined let no man put asunder,' though it allowed a separation, *a mensâ et thoro*, in cases of adultery, taught that a marriage, once validly contracted, could be dissolved only by the death of one of the parties. See this matter fully discussed in Pothier, *Traité du Contrat de Mariage* No. 464 and 486, etc., and see *Evans v. Evans*, 1 Hagg. 48. The law of England adopts the rule of the canon law in this respect. No divorce *a vinculo matrimonii*, where the marriage was once valid, can be obtained in England except by Act of Parliament—that is, by a new law made *pro hac vice* to suit the particular occasion. It would, therefore, appear that either the law of England must be taken to be founded upon an erroneous con-