

# UNNECESSARY RISKS.

BY OUR CURBSTONE OBSERVER.

Last week I dwell to a certain extent upon the dangers to which children are exposed on the city streets, I am now going to call attention to a still more conspicuous danger which seems, like the land-stone, to draw its victims towards it, and counts amongst them young and old, male and female alike. I refer to the water. Within the past three weeks the death-rate, by drowning, all over the continent, has been terrible, and as far as this city is concerned, it has been most alarming. The canal, the rapids, the current near the Island, and the whole front along the St. Lawrence, have matched to death a great number. Boys going in for a bath, during the hot season, others just playing around; men and women, who for some mysterious reason or reason could not keep away from the water, all have had severe lessons taught them which they might profitably take to heart.

It does not require a lengthy essay to tell of the dangers to which all are exposed who go bathing in the unprotected waters, like those of the canal or river, but it would need a deal of preaching to impress upon some people the fact that they are actually exposed to death as well as to their neighbors, and to convince them that they are doing a wrong, and almost criminal act, in running unnecessary risk. In the ordinary course of life and in the pursuit of each one's avocation there are all ways a sufficient amount of risks that must be taken, without adding thereto by rushing into the very jaws of danger. I can readily understand how people are driven to the water by the torrid heat that has reigned during this summer; but I cannot see that any heat, no matter how oppressive, could justify the person who is unable to swim in going into the deep water of the St. Lawrence, nor even the one who can swim in running the risk of cramps, strokes, sudden weakness and all these causes of collapse.

Of course, I am not dealing with the insane or foolish people who take a fancy to end their lives by drowning. Of these we have too many, and they might select some other means of suicide if they were not that the river is the most convenient for their purpose. They enter into an entirely different category. But in the case of young lads who go swimming, and for whom the water seems to have a magnetic attraction, I am under the impression that parents and guardians are not always free from blame. Companioning often drags a poor little fellow, who is totally unable to swim or resist the baneful influence of the water, to its premature death. Parents are not always able to keep their children away from the canal and river; but, if they were to be more watchful than the majority are, it is certain that fewer accidents would take place.

From what I could observe it would need a regiment of police to line the canal and river front, in order to protect foolish human beings against their own rashness. And even then some urchin or other would be sure to slip past unnoticed, and go to the death in the hour of youthful enjoyment. We cannot expect that the city authorities can guard four or five miles of a frontage and check every one who is bent on having a bath. From what I could hear, the gentleman in charge of St. Helen's bath is kept almost constantly busy rescuing citizens from perilous situations, or dragging from the murderous current the bodies of those who have actually perished. While such a situation is most praiseworthy, and frequently heroic, still it appears to me that this work does not constitute any part of that official's duties, and he should not be obliged to risk his own life a couple of times each week for the sake of people who have absolutely no business to be found in need of his protective services.

It may be said that I complain of an evil, I point it out clearly, but I

do not offer any remedy for it. As I have already stated, such remedy lies to a considerable extent with the people themselves. It is not fair to cast all the blame upon the authorities, or upon officials who have sufficient duties to keep them occupied without being obliged to become perpetual rescuers. We frequently ask too much of those who are engaged to watch over the safety of the citizens. We expect more than is just to expect from policemen, watchmen, special guardians, and other like officials. Boys may not understand this, but their parents should. It is too much to expect that these should be a policeman all day long, at every point, every wharf, every turn and corner, from St. Cunequede to Maisometve, watching perpetually the surface of the water for and ready to jump in the moment any person should happen to be in danger.

On the other hand, the city authorities could do very much, in number of victims of drowning. If boys, or men, or women must necessarily get into the water, then let them have all the water they want for bathing purposes; but let it not be where the canal mud sucks the swimmer to the bottom, or the river's currents sweep him to his death. Give the people, in various sections of the city, the benefit of public baths. These baths should be large, clean, well kept, and easy of access. They should not cost the citizens anything. They should be a gift from the city to the citizens. Deeply do the members of the community feel the need, the urgent need of some practical reforms in this regard, some innovations, some assistance under such circumstances as I have mentioned.

It is not my business to dictate to aldermen and politicians what their duties are; my task is completed as soon as I have clearly indicated the danger, and suggested some remedy or other. In the present instance the only remedy that I suggest itself to my mind, is that of having free public baths set up in a dozen different sections of the city. Of these some should be especially for boys, and nobody of older general age should be allowed to intrude upon this particular domain of the young. For this year I do not expect that any such enterprise could be commenced in time to meet the requirements of the present season—it takes too long to get there so long to vote money for the health-imparting project; but the hint might be taken and acted upon for the future. It would not cost much to erect a number of real swimming baths, and the return would soon repay the city for the outlay and trouble.

I cannot conclude this week's column without drawing attention to another subject; that of the water which the citizens drink during this hot season. No person will claim that our city supply is of the purest, yet all the dangers arising from the combined influence of water and heat might be avoided entirely if the people to take more time and a little more trouble, and boil their drinking water. It only takes a few minutes to boil; all that is necessary is to let it stand until cool; then you may allow your children to drink all they wish of that water; it will slake their thirst, and never give them any pains or digestion troubles.

After so much gratuitous advice I think it must be nearly time for me to close up my observations for this week. I have, however, that my few remarks may come under the notice of those most concerned in the important matter. If I could see the list of suicides reduced by half and that of accidental drownings entirely effaced, I would feel that there was some good done by my weekly observations. Since people cannot be induced to avoid all unnecessary risks, not be made to stay at home, or at least away from the river, then let them have a substitute in place of the treacherous flood, and some attractions to draw them to such places of recreation and relaxation.

## THE VALIDITY OF BEQUESTS FOR MASSES.

John D. O'Leary, who was well known as an educated, highly intelligent and prosperous business man, died in Louisville, Ky., on May 14, 1893, and left an estate estimated by Thomas F. Coleman to be worth about \$300,000, but estimated by the executor to be worth \$65,000. Mr. O'Leary in his will gave \$8,000 to Father James M. Hays, S.J., of Chicago, for Masses for Mr. O'Leary and his family and gave \$1,000 to the Cathedral for Masses for the same persons. Mr. O'Leary also gave \$3,000 to the Bishop of Louisville, "to be invested and the income to be applied in rewards of merit to the pupils in the parochial poor schools of Louisville." The will also gave to the Bishop of Cork \$3,000, "to be applied in charitable uses so as to do most good in his judgment." The will also gave to the Jesuits one hundred acres of land in Jefferson and Bullitt counties, "for the purpose of education or religion." The remainder of his estate Mr. O'Leary gave to the Bishop of Louisville and three others to be used by him "for the establishment of a home for poor Catholics such as he might see fit to establish."

said, to the wishes of most of the heirs, and perhaps of all, brought a suit to have these legacies declared invalid on the ground that they were too indefinite and uncertain, or that they were for superstitious uses. Father Hays, to whom \$3,000 was given for Masses, is himself an heir, and if the will were broken would be entitled to more money than was given him. Mr. Coleman brought suit in his own name for himself and for the other heirs without showing their consent.

In the answers of the executor and Bishop McCloskey and others the meaning of the Mass was clearly set out and it was shown to be a religious ceremony for the benefit of both the living and the dead. It was shown, too, that Masses are said publicly in the churches where all Catholics and the public may attend, and that the Mass itself and the prayers are said for the intention of the person who contributes to the church, and that the nature and purpose of the Mass are based upon Holy Writ and conform to the teachings of the Church of Christ from the very beginning.

Judge Toney in passing upon the answers filed in the case had to deal with the question whether mas-

may could be given by will for saying Masses and whether the gifts by Mr. O'Leary to other charitable purposes were too vague and uncertain to be carried out. Judge Toney copiously and learnedly quoted from Catholic authorities to show the nature of the Mass and succinctly gave the history of the legal doctrines which in England have controlled when such legacies have been condemned there.

In the case of Strother vs. Morgan, decided by Judge Toney some years ago, he rendered a celebrated opinion wherein he learnedly discussed the history and law of charities in England before and after the statute of forty-third Elizabeth and in this country since the foundation of this Government. Judge Toney said: "In that case I had occasion, as I say, to review the law of charities in Kentucky and the decisions of the Supreme Court of Appeals of Kentucky touching the same, and to point out the difference between private trusts, as to which vagueness is a subject matter of public or charitable trusts in which uncertainty in beneficiary is essential to their validity. The validity of such charity was vindicated upon all the authorities both English and American. Let it be true the judgment was reversed, but not upon any point raised by counsel or discussed by the court on the trial of the case. The opinion in that case was over seventy-five pages in length, and I sent out with the record in this case. I shall not therefore on this hearing again go over the law of charities and the law of charitable devices and trusts provided for in last wills and testaments. Both Hume and Macaulay in their admirable histories give interesting accounts of the connection between Church and State in England and the derivation of such authority from the home of the Caesars. I know of no subject upon which the philosophy of history is more interesting than on the origin and evolution of English law on this subject."

Judge Toney then concludes his decision in the following words: "I shall, in the concrete in this case, first, those items of the will of the testator, John D. O'Leary, which bequeath money for the saying of Masses for the repose of the souls of the dead. These are items four and thirteen. And first, I may say, the doctrine touching the invalidity of bequests of any character on the ground that they are for the souls of the dead, has been recognized in this country, both in England and the derivation of land every bequest was considered for a superstitious use, and void, which contravened, or was inconsistent with, the doctrines of the Church of England, then any bequest to support or carry out the ceremonies or tenets of the Methodist or Presbyterian or Episcopal or Catholic Church, or any other religious or superstitious uses, and have been held to be void. And so, the Presbyterian had been the legal church, all bequests for purposes that contravened its religious tenets, and have been void, as for superstitious uses, both under the constitution of the United States, and under the constitution of the State of Kentucky, there is no legal church, or church established by the law of this country. In the eyes of the law all religions are equally orthodox. There is absolute religious equality, and the law neither makes nor permits any discrimination between different religions, or forms of worship. The ceremonies, tenets and beliefs of one church or sect are just as sacred in the eyes of the law as those of another. The prayers of the church, the preaching, prayer, the communion, is well understood, and is no more superstitious in the eyes of the law than any of the other church tenets or doctrines of any other church, or any other doctrine of Purgatory is as sacred, true and valid in the eyes of the law as the creeds of any other religious denomination. A bequest for the saying of Mass is a bequest for an act of religious worship, as much so as a bequest for preaching, or putting memorial windows in a church, or for supporting religious tenets in a church. The money directed to the saying of Mass purposes is not considered as the purchase price of Mass, but as an aid in the maintenance and performance of a religious ceremonial by the clergy or the choir of a church. In the case of Schouler's petition, 134 Mass. 426, it was held that a bequest of money for Masses was a good charitable bequest of the testatrix, and the court said: "Masses are religious ceremonies, and the observance of the church, which the testatrix was a member of, and come within the religious or pious uses which are upheld as public charities."

sal Prayer" speaks the language of that devout philosophy, toleration and freedom of conscience, which characterizes our institutions. "Let not this weak, unknowing, presuming, or bold to throw or deal damnation round the land. On all I judge, thy foe. "If I am right, thy grace impart, Still in the right to stay. If I am wrong, on teach my heart To find the better way."

In the States of New Jersey, Illinois, Kansas, New Hampshire and New York, bequests for Masses have been held by the courts to be valid as religious and charitable bequests, both under and independent of the statute of charitable uses. In the Supreme Court of New Hampshire, in Webster, executor, vs. Sughrow, et al., 48 N.H. 100, a bequest for Masses for the repose of the soul of the deceased was held to be valid on the ground that Masses are religious ceremonies or observances of the church of which the testatrix was a member, and come therefore within the religious and pious uses which are upheld as public charities.

In State vs. Hubie, 65 Iowa, 429 is a most interesting and masterly exposition of the law on this subject, sustaining the validity of bequests for Masses. "Why should not a testator be allowed to appropriate his money for a purpose which his conscience and his religion teach him is for his spiritual welfare, provided in so doing he does not violate the statute law of the State or any other principle of public policy? It would be an insult to the intelligence and to the enlightened conscience of a great class of our citizens, men and women of the highest education and the broadest philosophy and tolerance, members of the Roman Catholic Church, to hold that they cannot, in their last wills and testaments, appropriate a part of their estate for the religious and charitable purpose of having a ceremonial of their Church performed, which they believe is for the benefit of their souls. It would be a stab at the heart of one of their most sacred religious beliefs to hold that the saying of Mass is against public policy, or is a violation of public policy, and that money appropriated and bequeathed for the purpose of having it performed is against the law, and therefore void. A man may appropriate by his will money to send missionaries into China and into Asia, for the benefit of the souls of the Chinese and Asiatic peoples, and the teachings of religion are ceremonial in those countries, but he cannot bequeath, out of a large estate of \$60,000 or \$100,000, a few thousand dollars for the religious and charitable purposes of having Masses said in his own church after he has been the benefactor of the souls of his dearest relatives and himself! And yet perfect religious liberty and equality are guaranteed by the Federal and State constitutions of our country."

I should have stated in the beginning of this opinion that the validity of the items of the will of the testator, O'Leary, must be tested by the law of charitable uses found in the General Statutes of this country, and the present statutes amendatory and restrictive of the General Statutes. I hardly think it is necessary to examine the authorities further upon this subject. I am acquainted with the decision of the Supreme Court of Alabama in the case of Pastorazzi vs. St. Joseph's Catholic Church, 106 Ala. 327, holding that a bequest to the Catholic Church in Mobile, to be used in solemn Mass for the repose of the testator's soul was void. I regret that such a decision should emanate from a court whose history for profound and enlightened learning in the law is the pride of the State. This opinion of Mr. Justice Head, is a spot upon the sun, and stands in its isolation as a unique illustration of how justice, narrow and barren legal reasoning by a judge may sometimes be on religious subjects. This decision has never been approved, but has been criticized severely by the courts in the country. I pass it by, believing that the least that may be said about it is that it is a decision by the Supreme Court of Wisconsin; but it should be said, in justice to the court, that the decision was in a large measure founded upon a peculiar statute of that State. Where the decision is based upon a statute rendering such bequests invalid, it is no authority before the courts of a State in which there is no such statute.

I hold that the bequests in the two items of the will for saying Masses for the repose of the souls of the persons therein indicated are perfectly valid bequests for religious purposes. The other bequests were also sustained. The demurrers of the plaintiff to the answers of the defendants will be taken back and sustained to the petition; and as, from the averments of the petition and relief which it seeks, it affirmatively appears that the plaintiff has no cause of action and can have none against the defendants, the said petition is dismissed. Let an exception be reserved to the plaintiff to the ruling of the court and an appeal granted if desired by the said plaintiff. — Kentucky Irishman.

### A PRETTY WEDDING.

St. Brigid Station, July 14, 1901. The wedding of Miss Annie E. McCarthy, daughter of the late Mr. Michael McCarthy, to Dr. P. Vandandague, took place recently at the Church of St. Brigid, Que. The ceremony was performed by the Rev. Father Balthazar, in the presence not only of a number of invited guests, but also many spectators. The decorations of white blossoms and plants were most effective and artistic. The bride entered the church with her uncle, while Miss M. Dextraze played the wedding march. She wore a becoming traveling suit of blue cloth, the Eton coat opening over a blouse of pale blue satin tucked. The hat was of white chiffon, with white roses, and the bridal bouquet of white blossoms. After the ceremony the bride and bridegroom drove to the residence of the bride's mother, where Dr. and Mrs. Vandandague received the congratulations of their friends. The bride was the recipient of numerous and costly presents. In the evening Dr. and Mrs. Vandandague left for Toronto, Niagara, Buffalo and New York, and will, in future, live at Eastman, P. Q.

### TECHNICAL EDUCATION.

There is a constantly increasing demand for a more general introduction of technical instruction in schools. An exchange says: "No kind of education is more needed here than mechanical education. We will not attempt the delicate task of deciding which is the more necessary for a community, literary or manual education; the facilities for literary education are abundant; everyone who wishes a literary education can get it without going far and without very great expense. But the facilities for learning to be first-class machinists, electricians, designers, etc. are not abundant, and the close of the year of the Baron de Hirsch trade school is a fitting occasion for expressing the great indebtedness of the community to that benefaction. It is giving scores of young men the means of earning useful livelihoods, and of doing excellent mechanical work. The country is much more in need of additional highly competent machinists than it is of additional professional men and authors."

### AN ELABORATE ALTAR.

Like the Church of the Paulist Fathers, the Church of St. Ignace, Loyola at Park Avenue and Eighty-third street, is reviving the ancient practice of the Catholic Church of having an altar so far as it can be local art. The central altar, in completed, and considered one of the finest in the United States, is entirely the work of American architects and artisans. This altar was designed by the architect of the building, Schickel & Dimes, and is an example of the possibility of white marble and gilt bronze in combination. The entire bronze work of the altar,

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(IN AID OF THE CHARITABLE FUND) TO LAKE ST. PETER, THURSDAY, August 1st, 1901. The Palatial steamer "Three Rivers" will leave the Island Wharf at 1.30 p.m. Returning at 10 p.m. Casey's Orchestra has been engaged for dancing. Concert on the return trip. TICKETS: Adults 50c., Children 25c. T. F. TANSEY, Sec. Sec.

including six gigantic candlesticks, the balachino, and the door of the tabernacle, are all the work of the Gorham Manufacturing Company, and may be ranked, declares the "Jewellers Weekly," with the best ecclesiastical work that has ever been put into an American church. The gilt bronze, which extends around to the side of the altar, has been finished by expert hand chasers and then gold-plated. The same paper describes the jewellers' handiwork thus: "According to the steps to the altar, the first piece of work of importance is a large panel bearing the sacred monogram. The monogram is surrounded by a sheaf of wheat, all the details of which are perfectly delineated. Above the high altar and in the centre of the nave under the balachino is situated the tabernacle, over whose door is a finely modelled cherub. The door, or pair of doors of the tabernacle, which together are 18x24 inches, is an excellent piece of sapphire, amethysts, opals, and sapphires, amethysts, opals, and topazes that aggregate in value fully \$1,000. Each of the doors has three deeply sunken panels, at the centre of each of which is a star-sapphire. On the four corners of the inner part of the panels are highly polished crystals, while at the four corners in the outer edges of the panels themselves are octagon-cut amethysts.

### DANGERS OF SUMMER OUTING.

Father Lochman, pastor of Our Lady of Lourdes Church, Marinette, created a sensation Sunday by condemning in strong terms the public and private dances given at a summer resort about three miles from that city. He admonished the parents of his congregation not to allow their daughters to attend the night dances there. It has been the favorite dancing rendezvous for the younger society people of both cities. Some of the members of Father Lochman's congregation announced last week a big dancing party to be given at the resort.

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