

POOR DOCUMENT

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The Marriage of a Deceased Wife's Sister.

Sermon by Rev. E. Evans, DELIVERED IN THE METHODIST CHURCH, FREDERICTON, MARCH 5th, 1882.

"Provide things honest in the sight of all men."—Rom. xii, 17.

"Take thought for things honorable in the sight of all men."—Revised version.

During the last few months by the circulation of petitions, and the introduction of a bill into the House of Commons at Ottawa for legalizing marriage with a deceased wife's sister, a large share of public attention has been given to this subject. Not only has public thought been aroused, but I am thankful to say public conscience, and the righteousness, as well as the prudential character of the proposed law have been discussed. As I have during this period been asked many times questions upon this subject by members of the congregation, I think it proper to consider this important question as far as it can be done within the compass of a short sermon. I do so with the more readiness because I have the example of an inspired man, a Bishop of bishops and a prince of preachers, who in answer to some questions addressed to him by members of a Christian congregation at Corinth, devoted a large part of a letter he wrote them in answering those queries respecting marriage and cognate subjects, as may be seen in the first epistle of Paul to the Corinthians.

The great law of marriage is set before us by our great Lawgiver and Teacher Jesus Christ in which the sentence: "For this cause shall a man leave father and mother and cleave to his wife and they two shall be one flesh." All that is natural and moral is established in these words. One justly observes: "A man shall leave father and mother," by these words are forbidden the marriage of parents and children; "His wife" forbids all adultery and fornication of every kind; "They two," by that is forbidden all polygamy.

Concerning the degrees of consanguinity or blood relationship, and affinity or relationship by marriage, the New Testament law is contained in the words read as a text. "Whosoever is against public honesty, the laws of nations and the common sense of mankind is not to be deemed Christians, though there may be no special prohibition in the laws of Jesus Christ. But when a thing is disputed on both sides by good and learned men, to do either is not against public honesty, for when a thing is called good and honest by wise and good men the question is undecided and therefore cannot be united against either of them. This is the New Testament rule on this subject as I hope to show in detail; and in furtherance of this design I would consider—

I. The teaching of the Levitical law and the extent of its binding nature.

1. The ceremonial law of Moses is void, the feasts, sacrifices, sprinklings, cleansings, washings, are all done away, for they were but figures of Christ and his salvation.

2. The judicial law was wholly civil, or part of the religion. If it was wholly secular and civil it disappeared with the state. If it was part of the religion, it went away with the temple. Containing examples and guiding principles, from the wisest of law-givers, yet its power is gone. For instance, in what Christian country shall we find the punishment attached to theft a part of the law, namely, the restitution of four-fold, or a flogging punished with death. This principle is generally acknowledged, that it is only when we come to descend to particulars that any seek to question it. One of these particulars is the prohibition of marriage within certain degrees, which by some is supposed to be binding with all sacredness and authority to the present day.

But if it is evident by the above statement, we reject the greater part of that law, we must show some particular reason why we single out one part, and plead its abiding nature.

And it may be stated that till the great debate on the subject caused by the occasion of Henry VIII's divorce from Queen Catherine, there was a general consent in Christendom on this proposition that the Levitical degrees do not by any law of God bind Christians to their observance, and the most strenuous upholders of this particular part of the Levitical law are equally strenuous in rejecting the major part of it, so they tacitly acknowledge that they stand on no very solid ground. But while showing that the civil law of Moses is not binding upon us, while nevertheless it is eminently useful as an example; I proceed to show, for scrupulous and tender consciences, that this law is in favour of this marriage, and seems to look forward to it as one peculiarly appropriate.

For the sense of the passage in Leviticus, xviii, 18 is this, that a man shall not marry his wife's sister, to be her rival, or to vex her during her lifetime. Of which rivalry and family discord we have an example in Leah and Rachel, two sisters,

the wives of Jacob; and against which practice the law seems to be directed. Now the meaning of this verse lies on the surface, and how it ever could have been distorted, and these views become so prevalent can only be understood when we remember that so large a portion of mankind receive without thought, or at least due consideration whatever is taught them, and the more enlightened part are too often under the invincible power of prejudice, which renders them unable to understand the evidence before them. That this was a prohibition to marry a wife's sister during the lifetime of the first, but permissible after her death, has been the interpretation put on this passage from the time of its enactment till the latter part of the 16th century. The Targums and the Mishnah, and the Rabbins of the Eastern Jews. The Hellenistic Jews as in the Septuagint and Philo.

The early and mediæval church, as seen in the old Latin and Vulgate, and other early versions of the Old Testament and nearly all the fathers and schoolmen concur in this interpretation. This statement is sustained by the Speaker's Commentary, written by distinguished divines of the Church of England, and also by Lange's Commentary on this passage.

But this is one of the many examples we have of the tendency of men to enlarge on Scripture and make heavy burdens, and lay them on men, too grievous to be borne. In this chapter are twelve prohibited degrees which Church Councils, Synods, and Convocations have expanded into forty or more.

II. The Civil Law. In most countries the civil law is based on the old Roman law as codified by Justinian, and in some of these laws the canons or laws which were promulgated by Councils and Synods of the church were incorporated, and this prohibition among them. As to English law, it was for a long time determined till an act was brought in for legalizing all marriages with a deceased wife's sister, when the bishops slipped in a proviso that it should be illegal henceforth wherein their lordships abandoned the high ground they generally took, for if it were incest as many of them declared, no law could legalize and make it not incest; no more than any law could make theft or murder no crimes. The civil law in England has been very indeterminate on this as some other phases of the marriage question. But this has been decided, that in the eye of law marriage is a civil contract; which decision brought great trouble in this way. Marriage had always been considered a religious ceremony, and was frequently solemnized in the Parish Church on the Sabbath. But a suit was commenced against some children who had inherited a large property from their parents, on the ground that they were illegitimate, the marriage having been solemnized in the Parish Church on Sunday; the suit was carried by appeal to the highest court, where it was decided that marriage being a civil contract, it could be no more performed on a Sunday than any other civil contract, the children were thus declared illegitimate, and the property was lost; but it caused such commotion, the numbers thus married being so great, that an act was passed immediately to legalize all such marriages.

With regard to civil law then the source of power being in the Legislature of the country, no divine or moral principle preventing, it is clearly in its power to pass such a law, and remove a weight from the conscience of many upright persons.

III. Canon Law and Ecclesiastical Law.—(There is a difference between these two but for the present question they may be considered as one.) The bearing of this has been imported into this discussion very often and it is needless to discuss it. The company of the faithful in all ages were accustomed to consult and make and publish laws for their own guidance as Christians. But until the third century Christianity was not acknowledged by the Roman Government or laws, when Christians possessed no churches, when they only secured Christian burial by the burial clubs permitted by the Emperors, when they were outside the law, and objects of frequent persecution it may easily be understood that the rules of conduct formulated and agreed upon by ministers and prominent laymen in their convocations were binding only as they rested upon the congregations of the faithful, and bound no one else. These rules or laws of the church were called canons, or the rules—for the word assumed this meaning—and like the rules of our book of discipline, were binding on those who accepted them of their own free will and consent, but none others.

But on the occasion of the victory of Constantine was formed that unhappy alliance of the church and the state which has been the source of so much unchristian discord, and productive of such enormous evils from that day to this. Then the rules and decisions of the Nicene council were confirmed and made

the law of the land by the emperor, and bound all men, and became a part of the civil law of all the empire. From that day to the present, the law of these ecclesiastical assemblies as embodied in several conciliar canons have been called canon law, and this law with all its base forgeries—for many of its documents are pronounced forgeries—are received in all Roman Catholic countries though limited by concordats or treaties saying that such and such parts of it shall be of no force in that land, if the government will enforce the rest, and many of its most preposterous claims have been nullified even by those who profess to receive it.

Now the earliest canon on the subject is found in the canons of the council of Elvira in Spain held in the early part of the fourth century, when the spirit of judging and paganism the Christian religion which had begun in the preceding century was being more fully developed. The spiritual atmosphere of the nineteenth century Spanish bishops and the twenty-six presbyters who composed it may be judged of by the canons 33 and 34, one forbids the marriage of the Clergy and the other prohibits the lighting of candles during daytime in cemeteries: "for the spirits of the saints must not be disturbed." As may be judged at this period the church was losing the spirit of true freedom, and crystallizing into that state of petrification, in which it was so soon to be found. The subject was taken up repeatedly afterwards, and the number of prohibited degrees enlarged till the sixth law carried the prohibition to the fourth and seventh degree and the reasons given were as satisfactory as the law itself. Some of these reasons were, as there are four husbands in the body to which four degrees of consanguinity do answer therefore the marriage of cousins to the fourth degree is forbidden. Also, there are four elements and four fingers, "the life of a man is a span long." Others, wife still, argued that as there are four humors of the body and three faculties of the soul, which being joined together, make seven, therefore men should abstain till the seventh generation, and so the canonicists upon the strength of these reasons, without scripture, but against it, and even against the sense of almost all mankind, forbid these degrees to marry.

No wonder that such was the disseverance into which canon law had fallen, by its forgeries, evasions, subtleties, and chicanery, and other abominations, that a collection of canons which passed both houses of convocation, but never received the assent of Parliament, and are not therefore the law of the land and cannot bind the laity, and only the ministry because they have sworn canonical obedience, or entered into a binding contract to keep them; and, as the rules of their church, they are binding on them, as the rules of the Methodist church are binding on a Methodist minister. This principle has been declared by the highest courts again and again.

Now, in the canons of the Church of England, and their adjuncts, as well as in the general body of the canon law, the marriage of a deceased wife's sister has been prohibited, and some of its officials have declared it to be incest of the worst kind, which only shows the confused state of mind produced by a long study of this canon law, whereby those brought fully under its influence are transported into the mental and spiritual atmosphere of the darkest portions of the middle ages. The spirit which animated the canons and their compilers may be seen in this sample, Canon 4, which declares that whosoever shall affirm that the form of worship is superstitious or contains anything repugnant to scripture, let him be excommunicated; which brought such persons under the power of the spiritual courts of that day rendering them incapable of suing for their lawful debts, and liable to imprisonment and denial of christian burial. Marriage in the Canon Law of the Church of England is considered as not a sacrament at least a matter so purely spiritual that it pertains solely to ecclesiastical courts and persons; that is one class, of such courts or persons—those of the established church—for those who professed to be skilled in canon law were generally the most illiberal in their judgment of the claims of other churches. As an illustration

I may mention an assertion sometimes made by them, that a bishop or a bishop's court should alone take cognizance of marriage and its regulations and the issuing of licences. Now such a view is antique; it is very ancient, but not so ancient as Christianity by several centuries. But moreover it is erroneous according to the canons of the Church of England, and the law of the land, but sticklers for the former ever depreciate the latter, and reject its authority when it does not suit them. The second canon declares the full supremacy of the King of England in all matters and causes ecclesiastical. By act of Parliament it is declared that he can execute this power by commission granted by any British subject, by letters patent; by acts of Parliament, all testamentary causes, all divorce and all ecclesiastical causes have been taken from the bishop's courts, and are tried by judges holding the King's commission, all that is left such courts in England to-day is the privilege of issuing marriage licences, which they still hold not by any spiritual or divine right, but as being governors under the King and officers of the state, and which power can at any moment be revoked. The King in virtue of his authority as the supreme head of the church has, according to the second canon of the Church of England and by virtue of acts of Parliament, full power and authority even if it were a purely spiritual function, to delegate this power of issuing licences for marriage to any of his subjects, and is only acting within that authority allowed by this canon, so which all church ministers have sworn obedience. In virtue of which canon Henry VIII, Edward and Elizabeth issued decrees, stating what churchmen, bishops, priests, and laymen must believe under pain of severe punishment. To endeavour to bring such power and acts into disrepute by those who have solemnly declared to uphold them, is one of those instances of conflict between actual fact and strong desire of which every field of human action affords abundant examples, but which nevertheless shows the amazing inconsistency of human nature. But it should in a spirit of fairness be stated that such statements mostly proceed from one party of that community and generally from the more inexperienced and youthful members of it; and that they stand in prominent contrast to the very cautious and highly respectable manner in which the Princes of England and its bishops speak of the joyful prerogative as was very obvious in the proceedings of the convocation of this province of Canterbury held three weeks ago.

IV. Prudential considerations.—Now it may be asked is there anything in such marriages at variance with the moral or physical well-being of society, and which should for this reason prohibit them as immoral. And this is the only basis for settling the morality or immorality of marriages within certain degrees of affinity. This view has been argued with great ability and success by several eminent divines. Only the general interests of the race would be a sufficient moral ground to limit a man's freedom of action within the limits of mere affinity, there being no binding precept in the word of God. Another important principle must not be overlooked. In all civilized nations it has been considered the right of woman, and the duty of the state to give special protection to the purity of her person and the honor of her name. Now there are sought in these marriages adverse to fancy and public morals, aught that would damage the protecting shield thrown around woman? After a careful consideration of the subject, I must say I think not. I know the most fearful evils have been predicted as the result of their legalization. The tone of priestly authority and fierce denunciation adopted by some, has only been equalled by the doleful tone of others as they have wept over the dire inundation of evil they see deluging the land, owing to these incestuous marriages as they have been pleased to term them. But there is a surer ground to build upon than such predictions. Excepting certain portions of the British Empire, every christian country in the world, acts upon the assumption that such marriages are lawful, within the British Empire, they are legal in every Australian colony and in Ceylon, they are recognized by the Government, among the natives of India, and they are practically valid in the Isle of Man, the Channel Islands, the West Indies, and in parts of this Dominion.

Where has been the proof of the truthfulness of these gloomy predictions? Nowhere! If a tithing of the evil results proclaimed had been true, we should have it loudly proclaimed as a fact, not a prophecy.

If the possibility and actual occurrence of these marriages were as destructive to the sanctity and purity of domestic life as asserted, every christian country would have swept them away long ago. But the glowing conviction of an enlightened community is, that whatever immorality there may be in the question, is in the

prevention of such marriages by law, not in the permission of them.

When there are children left by the death of a mother, who most likely to become a mother to them in the fullest sense than the sister of their own mother, and this view is so wide-spread that hundreds have felt its force, and acted upon it, and hundreds more would have done so but for the legal and ecclesiastical hindrances.

In the permission granted by the Mosaic law, we have an instance of its far-reaching moral purpose and insight; and in its free permission of a man's natural right to find the most suitable wife for himself and mother for his children, unlimited by any restriction in this direction, is an eminent proof of its superiority to laws of later ages.

I have endeavored in this brief survey of the subject to consider the force of the objections brought against this marriage from the incidence of the laws named, and the character of these laws, and also the teaching of the New Testament on this subject, and the prudential considerations which should guide us in this important matter, and the conclusion is that these marriages are morally right, and, under certain circumstances, specially commendable; that the evils resulting, which have been so graphically portrayed, are the predictions of prophets, whom the experience of many lands have proven false prophets.

But there is a side of the subject I must not withhold, that if any man entertains the view that such a marriage is wrong, to him it would be a sin; the law of conscience is paramount, and he must obey it at any peril or inconvenience. But his conscience while a law to him, is not a law to me; and he should not seek by penal laws to bind my conscience, while his own may be free. Each Christian Church—and all are upon an equality, for the claims made by some are most preposterous and the way in which they are sought to be sustained, sheer impudence,—may pass such rules on this question it may judge right and prudential, and its officers and members are morally bound to obey them, and for their strict obedience thereto they are entitled to our respect, and we may admirably copy such obedience to our advantage. But the moment any church endeavors to make its rules, called by whatever name, binding outside the limits of its own communion, and to use the law of the land to enforce them upon all citizens; the majority of whom possess equally enlightened and tender consciences; it commits a trespass against the public weal, and against the laws of God.

I admire the staunch upholders of the morals of the New Testament, and I am convinced that the present age needs a continued and forcible exhortation to the practice of its holy and sublime precepts. But we are only on solid ground when we keep within the clearly defined principles of that guide. When we substitute there for the traditions and commandments of men, we step off our place of vantage, and our exhortations lose their authority. But there are sins pertaining to the marriage relation of which this word speaks in no undertone. And do not think that in you is concentrated the vaulted wisdom of ages, so that you are above its teachings or absolved from its morality. The beastly philosophy of the present age is perverting the general literature of the land and corrupting the morals of the community. But think not to escape, if any of you are transgressing the laws of the marriage relation and purify in this book set forth. Marriage is honorable in all, but whoremongers and adulterers God will judge. He who first instituted it and sanctions it, has taken it under his special protection and care, and all infraction will be severely punished.

There are practices which cannot be spoken of, but only hinted at, by which one of the great designs of marriage is defeated, and the crime of infanticide, which christian people profess to abhor when committed on the banks of the Ganges, becomes right and christian when perpetrated in a secret way on the continent of America. By these sins the health of hundreds is destroyed, and that of a large number of the future generation. God will judge. No secrecy can hide from Him; no sophistry can evade his judgments; and such crimes are now outliving their sad legacy of disease, woe and sorrow upon vast numbers. May His word be our guide, and may He bless these admonitions to all, especially to those who need them most.—AMEN.

—Why do the Opposition not formulate the charges against Sir Charles Tupper in Parliament? is a question which the Tories are fond of asking. When Minister lets a contract over the head of the lowest tenderer, at a loss of about a quarter of a million dollars to the country without the slightest reason, and all the facts are admitted, what is the use of formulating a charge? A vote of Parliament is not necessary to show that such a thing is wrong.

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SUNDAY SERVICES.

FREDERICTON.

CHRIST CHURCH CATHEDRAL.—The Bishop of Fredericton, Metropolitan of Canada, Rt. Rev. J. Medley, D. D., B. C., Moderator, Rt. Rev. H. T. Kingston, B. D., sub-dean, Rev. Finlay Alexander, Services on Sunday—Celebration of the Holy Communion, 8 a.m.; Morning Service, 11 a.m.; Evening service, 6.30 p.m. Throughout Lent there will be daily services during the week—each morning at 9 a.m. and each evening at 4 p.m. On Wednesday the evening service will be at 7.30 p.m. when a lecture will be given. On Saturdays the afternoon service will be at 3.30 p.m. On Friday, February 24th, (Saint Matthias day), and on Saturday, March 25th, (Lady day), the morning service will be at 11 a.m., with celebration of the Holy Communion.

CHRIST CHURCH (St. Ann's)—Rev. G. C. Roberts, rector. Morning service at 11 a.m., with the celebration of the Holy Communion at 8 a.m. on the 1st Sunday and 11 a.m. on the 3rd Sunday of the month; evening service 7.45 p.m. Sunday school at 2.15 p.m., at the Madras School Room. During Lent—Morning Prayer and Litany at 11 a.m. Wednesday and Friday. Special service on Friday evenings at 7 p.m., with addresses on English Reformation. Confirmation Class after Friday evening's service. Daily service in Holy Week.

St. Dunstan's Church.—Rev. J. C. McDevitt, Parish Priest; Rev. C. Prellibus, Curate. Sunday services—Low Mass at 9 a.m.; High Mass, at 11 a.m.; Vespers, at 3 p.m.; Sabbath school at 2 p.m. The Ladies Branch of the St. Vincent de Paul Society meets in St. Dunstan's Hall immediately after Vespers. The male branch of the Society at 6.30 in the same place. Mass at 9 a.m. and devotional service at 5 p.m. every day during the week.

METHODIST CHURCH.—Rev. E. Evans, Pastor; Rev. L. W. Wadman, Assistant. Morning service at 11 a.m. Mr. Wadman will preach in the morning and the Rev. Mr. Brewer in the evening. Sabbath school at 2.15 p.m. The pastor conducts a Bible class at 2 p.m. During the week there will be prayer meetings on Monday and Friday evenings at 7.30.

PRESBYTERIAN CHURCH.—Rev. A. J. Mowatt, Pastor. Morning service at 11; Evening service at 6.30; sermon by the pastor at both services. Sabbath school at 2.30 p.m. Prayer meeting on Wednesday at 7.30 p.m. Bible Class Monday at 7.30 p.m. BAPTIST CHURCH (St. Dunstan's in the City Hall).—Rev. F. D. Crawley, Pastor. Morning service at 11 a.m. by pastor; evening service at 6.30. Sabbath school at 2.30 p.m. Week night social services on Monday and Thursday evenings at 7.30. Prayer meeting every Sabbath morning at 9.30.

FREE BAPTIST CHURCH.—Rev. J. McLeod, Pastor. Prayer meeting at 9.30. Morning service at 11 a.m. The pastor will preach at both services. Sabbath school at 2 p.m. Prayer and social meeting Monday, Wednesday and Thursday evenings of next week at 7.30.

MARYSVILLE.

METHODIST CHURCH.—Rev. W. W. Brewer, pastor. Services at 11 a.m. and 6.30 p.m. Rev. Job Sheaton will preach in the morning and the Rev. Mr. Allan in the evening.

Services at 11 a.m. Sermon by the Rev. Mr. Allan.

Service at 3 p.m.

Service at 6.30 p.m.

The Rev. Mr. Wadman will preach in the Methodist church at 3 p.m.

A PRETTY GIRL'S SHALY ACT.—A pretty young woman, Mary E. Willis, applied at the County Clerk's office for a marriage licence permitting her to marry George C. Gutting, who only two hours before had been sentenced to a term of ten years in the State Prison at San Quentin for the murder of his wife. About the same time Justice Pennie was called out of his court room to go to the county jail to perform the marriage ceremony, and half an hour later the jail door was opened in answer to a knock to admit on a permit from the Sheriff, "Judge Pennie, Mr. Gutting (a brother of the groom) and Miss Mary E. Willis." The trio were taken to the reception-room, where they expressed a desire to see George C. Gutting and expressed the object of their visit. Cell No. 23, wherein Gutting was confined, was opened and the party proceeded to Cell No. 1, where Justice Pennie united the couple, the only witness present being the groom's brother. After an hour's conversation the newly-made wife and her brother-in-law left the jail and Gutting was locked up in his cell.—San Francisco Alta Californian.

KICKED TO DEATH BY AN OSTRICH.—Ostrich farming is not without its dan ger, as many a man has learned to his cost when sauntering among a flock of these birds without taking the necessary precautions against a sudden onslaught from a vicious member of the herd, but it is not often that we hear of a man being actually kicked to death by an ostrich. Such a fatality occurred recently in the District of Victoria West, Cape Colony. The bird had strayed on to the public highway and disputed the progress of the unfortunate man to such purpose that he was kicked and trampled to death.—Colonies and India.