

be. It is then for the court to say whether the impediment so declared constitutes an impediment under the law.

In England, you will recall, and in this country, a man could not marry his deceased wife's sister, and to evade the law he might go to some foreign land where no such impediment existed and then marry her. But when he returned to his parish in England and presented his bride he was received with coldness. His rector snubbed him and his fellow parishioners looked askance and he became uncomfortable. What must he do? According to the Canon Law of the Church of England, and of the Civil Law which was the same as the Canon Law, he was living in an unlawful connubial relation. Upon the advice of his rector he would repair to the Bishop of the diocese and obtain a decree before complications arose and his standing in the church would be restored. He upon the like grounds asks the court to decree the annulment of the marriage. In vain might dissenting religious sects seek to raise a furor. The marriage is null and void according to the law of the Church of England and the law of the land as well.

Of course that law was based upon an error—a misapprehension of the Jewish law. Among the Hebrews the practice of polygamy extensively prevailed; but there was always one wife who was at the head of the household, and all the others were in a position of subordination to her. By the Hebrew Law, two sisters could not be the wives of the same husband at the same time. The policy of the law did not permit of one sister being made mistress of the other, and so it was provided that a man should not marry his wife's sister as long as his wife lived. But after her death he might marry.

The change in the law of England and of this country in this respect has been made in recent years.

You will notice that in the judgment which I have read that there is reference to the date of the baptism of each of the parties named in the parish in which they were each respectively baptized. I shall read to you the section of the Encyclical known as the *Ne Temere* decree.

9. (1) "After the celebration of a marriage, the parish priest or he who takes his place, has to write at once in the book of marriages the name of the couple and of the witnesses, the place and day of the celebration of the marriage, and the other details practised in the Ritual Book or by the Ordinary; and these even when another priest delegated by the parish priest himself or by the Ordinary has assisted at the marriage.

(2) Moreover, the parish priest has to note also in the book of baptisms that the married persons contracted marriage on such a day in his parish. If the married persons have been baptized elsewhere, the parish priest who has assisted at the marriage has to proclaim either directly or through the episcopal Curia, the announcement of the marriage that has taken place to the parish priest of the place where the person was baptized, in order that the marriage may be inscribed in the book of baptisms."

You will understand the importance of this provision in the decree and this importance is recognized by Hamnick in his work on the 'Marriage Law of England,' in which he says, "The strictness of the clergy of the Roman Catholic Church in whatever concerns the law of marriage and the facilities at