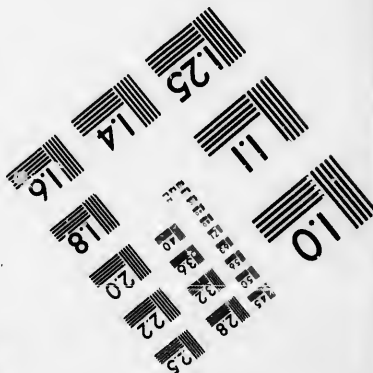
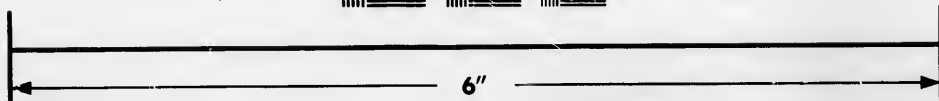
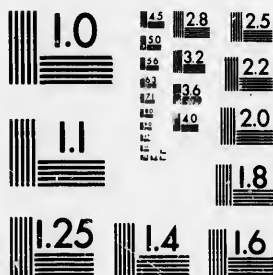


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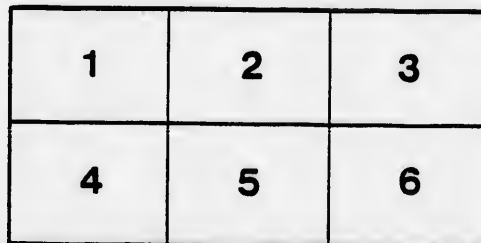
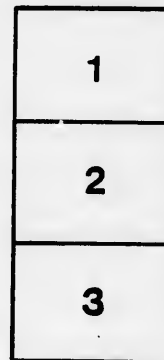
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DEBATE IN THE SENATE

ON THE BILL RELATING TO

MARRIAGE WITH DECEASED WIFE'S SISTER.

(Reported by A. & Geo. C. Holland, Senate Reporters, Ottawa.)

MARRIAGE WITH A DECEASED WIFE'S SISTER BILL.

SECOND READING.

Hon. Mr. FERRIER moved the second reading of Bill (30) "An Act to legalize marriage with the sister of a deceased wife." He said: I regret very much that this Bill is not in the hands of some other member better qualified than I am to shew the pressing necessity of now passing this very important measure. This Bill has been before the House of Commons during the greater part of this long session, and it has come up to the Senate passed by a large majority of votes; we, therefore, receive it as the voice of the people, through their representatives, and I am satisfied that there is a cry from every constituency in this Dominion for relief from the grievous disability now resting on the people of Canada, and which, I trust, will be removed by the passing of this Bill by this hon. House. It has been said to me, "let this Bill stand over until another session." I ask every member of this House who thinks that relief should be given, why should the Senate postpone the Bill until next session? Heads of

households, fathers and mothers are dying and hundreds of families are now lying under great disabilities; surely this higher branch of the Legislature will not refuse to listen to the petitions now before this House, but will at once pass this Bill for their relief. I question if ever there was a measure before Parliament of this character on which the public sentiment in its favor was so united as it has been in the House of Commons, Roman Catholics and Protestants voting together for this Bill of relief. I am not surprised that one Roman Catholic Bishop should withhold his approval, and that the Metropolitan, with other bishops in the Church of England, should do the same. They must uphold the Table of Affinity which stands in the Prayer Book. But there is a large class in the Church of England, and a very large majority in all other Protestant churches, which have a right to be heard by us. Our best attention should be given to the petitions now before this House in favor of this Bill, praying that it may become law, and give relief from the disabilities to which they are now subjected by the unscript-

tural ecclesiastical law which prevails, especially in the code of jurisprudence in the Province of Quebec. I believe that if this Bill is lost in the Senate it will raise a controversy between the bishops and the laity, which will be very damaging to the Christian character of Protestantism. The Roman Catholic Church grants a dispensation to any of its people who wishes to marry a sister of his deceased wife, but their children are still under the disabilities of the civil law. But we Protestants have the unyielding iron law of affinity, enforced by the bishops, a law which has no foundation in the Bible—neither in the Old nor in the New Testament. This fact is now fully established by the highest authorities among the Jews and Christians of this nineteenth century. Lord Houghton, in a speech delivered in the House of Lords, in May, 1879, on moving the second reading of the Bill for legalizing marriage with a deceased wife's sister, said :—

"During this period our colonies have not been silent, and to this fact I desire to draw your Lordship's serious attention. South Australia, Victoria, Tasmania, New South Wales, Queensland, and Western Australia, have passed acts legalizing these marriages. A bill of the same nature has passed the Lower House of New Zealand, and twice in the Legislature of Natal, which colony has now, unfortunately, something else to think of. Such marriages are practically legal in the whole Canadian dominion, the West Indies, and, it is believed, in the Channel Islands."

It is evident that Lord Houghton thinks we are further advanced in the Dominion on this question than we really are. Speaking of the feeling in England amongst the Non-conformists, he said :—

"It should not be forgotten that all the Non-conformist bodies, without the exception of a single sect, are in favor of the Bill, and what is the immense proportion they bear in the Christian community of this country?"

Further on he quoted from a letter that appeared in the *Standard* newspaper, which ends as follows :—

"I sincerely hope that something will be done to remedy the painful position of thousands of deserving families during the coming session of Parliament, for, if not, I am convinced that the question will be made very prominent in the next General Election; and I would not support any member who would not pledge himself to vote for the removal of this oppressive law."

In concluding his remarks, on moving the second reading of the Bill, Lord Houghton said :—

"And now my Lords, I pray you to give a second reading to this Bill. If you do so, you will relieve thousands of your fellow-citizens, honest men and honest women, from a deep sense of partial legislation and cruel injustice; if you reject this Bill, you will force on them the conviction that they might, like yourselves, enjoy the great happiness of family life with those they love best, without discomfort to themselves or dishonor to their offspring, were it not for the intolerance of the Church of England and the social prejudices of the House of Lords."

There has been so much discussion on this subject, that I will conclude my remarks by citing a passage in a letter received by Lord Houghton from the eminent Oriental Scholar, Professor Max Muller, who says :—

"How any Hebrew scholar could so misinterpret Leviticus xviii., 18, as to make it a prohibition of marriage with a deceased wife's sister is a puzzle to me. I know of one analogous case only—the falsification of a verse in the 'Veda,' by which it was turned into a commandment for the burning of a widow on the death of her husband."

Hon. Mr. DICKEY: I am sure the House has listened with much interest to the observations that have accompanied the introduction of this Bill by my hon. friend; and I may say for myself, and the House will, I am quite sure, agree, that it is a question which affects the tenderest and holiest relations that can obtain between man and woman. I, therefore, desire to approach the discussion of the subject in the reverend spirit that ought to animate everyone in dealing with so serious and important a matter. My hon. friend has furnished us with very little argument of his own, and, as to the value of opinions expressed in another place, I am sorry that he had not been impartial, and given us a little of the argument on the other side. I think that would have been but a fair measure of justice; but, taking the matter as it stands, the hon. gentleman tells us that a large portion—hundreds of people, in fact—in England are waiting for the passing of this Bill.

Hon. Mr. FERRIER: I said from every constituency of this Dominion.

Hon. Mr. DICKEY: My hon. friend stated that also, but he read a speech

which alluded to the fact that the Bill was desired by a great many people in England.

Hon. Mr. FERRIER: I said, at the beginning, that I was going to read, from a speech of Lord Houghton's, delivered in the House of Lords, a few remarks in accordance with the views I endeavored to lay before the House. It is evident that I have not been understood, and I am exceedingly unfortunate in having assented to take charge of this Bill.

Hon. Mr. DICKEY—I do not complain of the interruption, but I am free to say that my hon. friend expressed himself in such terms as not to leave any doubt in the mind of any person as to his meaning. So that, I think, any apology for the Bill not having fallen into better hands is quite unnecessary, for I am sure no motion in regard to a bill could come with greater effect than from the hon. gentleman who has moved the second reading of the Bill before the House. But the hon. gentleman has stated, and it has been stated elsewhere, that hundreds of people are affected by this Bill. I dare say that is the case, and I have no doubt that has been at the bottom of the agitation on this question in England—that hundreds of people have violated the law in this respect, and they wish to have an act passed to set them right again, and the hon. gentleman, instead of appealing to the sympathy of the House, would better have subserved his cause by shewing the reasons for which they ask for the repeal of the law. The hon. gentleman says that a good many Jews and Christians of the nineteenth century are agreed that there is no scriptural argument against this Bill. Unfortunately, we live in an age when we have had to find out, to our sorrow, that even in the Christian world a great many questions have been taken up and treated in a very different light from what it has always been considered they should be dealt with. This Bill may involve a reference to one of the five books of Moses. My hon. friend knows perfectly well that one of the bishops of the Church of England has published a work in which he has struck at the very foundation of these five books. In the light of modern science and modern

learning, not content with attempting to upset the account of the creation in Genesis, Bishop Colenso sneers at the inspired narrative of the number of Israelites that went out of Egypt. Certain divines and learned men of the present day have taken this view; but that should not have much weight with this House, because my hon. friend must be aware that for 4,000 years, so far as I know, both Jew and Christian, under the old and the new dispensations, have agreed that these Levitical injunctions as to marriages, like the moral law, were binding on Jew as well as on Christian. That is the position I take, and if such opinions are rife in this nineteenth century, my hon. friend should consider the position he is taking, and the effect it may have upon the beliefs of others—not upon our beliefs, because I assume they are settled; but if we are to have the beliefs of others unsettled upon these points, by bringing up prominently the opinions of some Jews and Christians of the present day, as compared with those who have had an unbroken opinion on this point for thousands of years, I think my hon. friend must see where all this will land us. The hon. gentleman speaks of the voice of the people as expressed through their representatives. We are all familiar with that argument. We know what its effect is, but I can only meet my hon. friend by pointing to the course taken last year on a matter in which the voice of the people had also been expressed in an unmistakable way. I allude to the Insolvency Repeal Bill. That view was expressed then in this House, but the Senate decided then, as I trust they will decide to-day, that, although that was apparently the opinion of the people, yet it was wise to postpone that measure for another year, however inconvenient it might be, in order, if possible, to obtain a true expression of the sentiments of the country, with the understanding that, if that expression were continued in the direction it was before, that it should have its effect. I opposed that contention, because I was in favor of the immediate repeal of the law, looking to the inconvenience that would result, and did result, from its continuance.

Hon. Mr. FERRIER—And you were quite right.

Hon. Mr. DICKEY—I must assume that the House was right in taking time to see the result, and I think the Senate, on that occasion, performed one of its peculiar functions, in checking hasty legislation, and giving time for the country, and for the other branch of the Legislature to decide upon the question. I do not propose to enter at length into the theological arguments of this subject. I have already said it has been held as a rule in the church, whether under the old or new dispensations, that this is the construction of Leviticus, otherwise we would have supposed we would not have had it in the different prayer books of the churches. That is a singular consensus of opinion, and it applies to all those Levitical injunctions and the moral law, including the Ten Commandments, not to any directions which apply peculiarly to Jewish observances that have passed away. Reference has been made to the 18th verse of the 18th chapter of Leviticus. I do not intend at present entering into, even if I felt competent to do so, a critical analysis of that verse; but I think I will shew sufficiently from the whole tenor of the directions given in that chapter, that the weight of opinion is most decidedly and distinctly in favor of the present construction of the law, which is to prevent marriage with a deceased wife's sister. I wish to draw the attention of the House to this argument, that the general injunction in that chapter, "Thou shalt not approach thy next of kin," is given first that we shall not marry the next of kin, and then there are particular cases specified in which it is not lawful to marry. The House will be surprised, or some members of it, at all events, may be surprised, when I state the curious fact that there is no particular injunction which prevents a man from marrying his own daughter, and yet it might be said, with an expression of horror, "you do not mean to say that that chapter admits of it?" I say no such thing. I say the chapter rejects it, and I will shew how: by the seventh verse, the son is prevented from marrying his mother, and, in the parallel case, the father is prohibited from marrying his daughter, although it is not mentioned. The rule is given as to one, and it obtains in all parallel cases, and

this is one of them. There is another extraordinary parallel, in which a man is prohibited, by the 14th verse, from marrying the wife of his father's brother, that is to say his paternal aunt, but there is no injunction against marrying his maternal aunt. Why? Because the two cases are parallel, and the one governs the other, following the general rule that a man should not marry with near of kin. Then, in like manner, with regard to this very point, marriage with a deceased wife's sister, the 16th verse implies that a man may not marry his brother's widow. That is a case exactly parallel to a man marrying his deceased wife's sister. Some hon. members may give expression to the opinion that, in the one case, there is a distinct or absolute prohibition, as there is with regard to the widow of a deceased brother, and that if there is doubt about one point, it is quite clear as to the other. I wish to call the attention of the House to this fact: that, following out the same rule of interpretation against marrying with a maternal aunt, and a man's marriage with his own daughter, we come, by an inevitable process of reasoning, without any reference to this eighteenth verse, to the construction that, where a man is prohibited from marriage with the widow of a deceased brother, he is, in like manner prohibited from marrying with the sister of his deceased wife. That being the case, I need not pursue that argument further, except with this single remark: that the House will perceive that the question of marriage with the widow of his father's brother—that is with his aunt—is a much more remote connection, certainly, than that with the sister of the wife of his own bosom. I do not propose to dive further into the depths of the theological part of the question, I prefer, rather, to call the serious attention of the House to the domestic and social aspect of the subject. What is the situation at present? The sister of the wife is equally the sister of the husband, because, by marriage, they twain have become one flesh. We know that the result is the most free and unrestricted intercourse that can obtain between brother and sister, and the most perfect confidence. That is the case under the existing law, and I

need hardly say what would be the result were it changed as proposed. I have already said that the most tender relation in life between the sexes is that between man and wife. Next to that, perhaps, and apart from the question of children, is that which a man bears to his own mother; then comes his love for his sister, and next to that, surely, and in most cases equally with that, is the love he bears and the affection he lavishes upon his sister-in-law — the sister, not by nature, but the sister by the law of God and man. This, hon. gentleman, is the situation of affairs during life, in sickness and in health; and what is the case after the wife's death, and who, I may ask, so fit to care for the children of her deceased sister as the surviving sister? That argument may be applied in another way, but let me call the attention of hon. gentlemen to it as it stands: if, after death, the sister-in-law is put on the footing of a stranger, eligible to marry the widower of her sister, what woman of modesty or delicacy of feeling would allow herself to be placed in the position of taking charge of the household and living under the same roof with the widower? That would at once deprive the children of the tender protection and care which they now have under the existing law, as is happily the case in thousands of homes where a sister-in-law takes the place of a mother to her deceased sister's children, who would otherwise be without a mother's care. I object, therefore, to that portion of the Bill as being most destructive to domestic happiness. All those social objections apply with tenfold force to the other clause of the Bill, which allows a man to marry the widow of a deceased brother. In either case, we cannot shut our eyes to the possible temptation to get rid of a wife who stands between the husband and the sister, who has been thrown for years into close contact with him, and who, if this Bill passes, will be eligible to take her sister's place. I shrink from the consequences of such legislation, and implore the House to pause, at all events for a time, ere they pass such a sweeping revolution in the social and marriage customs of the land, hallowed by long ages of usage, and intimately associated with

the religious sentiment of the country. I humbly submit that we are bound to pay some deference to that sentiment, and it appears to me that the very smallest expression of deference that we can adopt would be, at all events, to give the people who have always considered it to have been the law of the land, for at least 1800 years of the Christian era, an opportunity of considering it, and being heard upon the question. A great many petitions have been before the House for and against this measure. It is, perhaps, difficult, and I do not know that any hon. member has taken the trouble to analyse these petitions day after day as they come in, to consider them properly. The effect of the amendment which I propose to submit, and which I hope the House will accept, would be to give Parliament an opportunity of considering those petitions carefully and fully, and of weighing their representations, and also to give an opportunity to the country to express an unmistakable opinion on this important question. Because, although my hon. friend may speak of people in various parts of the country who desire to have this law, I can tell him of thousands and tens of thousands of people who will be shocked if it be passed. In my opinion, it is not the bounden duty of this House to give force to the agitation which has already been commenced on one side of the question, without, at all events, paying some little deference to the opinion of the other. It is the active, aggressive people who always make the most noise, and these are the people who possibly have broken the law, and who, through their friends in Parliament, endeavor to excite the sympathies of the House to their ends. Under the circumstances, I trust hon. members will pause, and will, at all events, act in the same direction as we acted last year, and give the country an opportunity of making known their opinions upon this law. Certainly after the experience of so many hundred years, no harm can be done by giving an opportunity of seeing what the public feeling is on a matter that deeply affects the religious sentiment of the country. Therefore I hope the House will pardon me when I move, seconded by Hon. Mr. Bureau:—

"That the said Bill be not now read a second time, but that it be resolved that it is inexpedient to proceed with this measure during the present Session, in order to afford time to consider the various petitions to the Senate for and against the Bill, and to ascertain the sentiment of the people on the question at the next session of Parliament."

Hon. Mr. PENNY.—It is not without a feeling of diffidence that I second the Bill that has been introduced by my hon. friend opposite (Mr. Ferrier), and my diffidence is due to the fact that I appreciate, to some extent, the objections raised by my hon. friend from Amherst (Mr. Dickey), yet I have been requested by friends, to whose interests and desires I attach a great deal of importance, to urge upon the Senate the reasons why I think this Bill should pass. Yielding to that desire on their part, and believing that the Bill should become law, notwithstanding the objections which occur to some minds, I do what I can to promote what I believe to be a very valuable reform. I am more diffident about taking this course, however, because I know there is a large number of my friends, professing a different faith from my own, in the Province from which I come, who will vote for the amendment. At the same time, while I dislike to dis sever myself from the great body of my fellow-provincialists, I am happy to know that, in this case, there is no *odium theologicum* to be drawn between us on account of our difference of opinion on this occasion, because, although I am not a Catholic theologian, and a very poor theologian of any kind, I know that the Church of Rome and the Pope do not pretend to set aside the laws of God. The dispensations granted to Catholics are not from the laws of God, nor from the laws of nature, as I understand it, but from laws of a disciplinary character, which have been provided on account of expediency, or some other causes, which do not go so wide or deep as the laws of God or nature. This enables me to reply to some remarks which fell from the hon. Senator from Amherst. He has stated that, for eighteen hundred years or more, the prohibition of marriages of this kind has been the universal law of Christendom. I think he is wrong in that, because dispensations have always been allowed by the Church

of Rome, and, until a very recent period, though such marriages were voidable in England, they were not absolutely void. Now, I take it for granted, that marriages which the Church of Rome permitted in any case, were not marriages that they considered against the law of God, and I take it also that, while the Church of England permitted such marriages to be made, and considered them to be practically good until voided by some court of justice, it could not regard them with that abhorrence which the hon. gentleman from Amherst speaks of. With regard to the passages from Leviticus which he has quoted, he must recollect that there is another passage which goes in the direct teeth of them—the passage which obliges a man, under certain circumstances, to marry the wife of his deceased brother. Therefore, while such marriages may have been considered inexpedient or undesirable from other causes, yet there is nothing absolutely against them in the laws of God or of nature. I am not addressing myself particularly to advocate the Catholic view of it—there are gentlemen in this Chamber who are far better qualified to do so—but I may remark that it seems to me this law would restore to the bishops of that church a power of which they have been deprived by the Code—the power to grant dispensations, which could be followed by valid marriages. As the law stands, their dispensations are, for practical purposes, null, because, while they can still grant them, very few persons would like to subject themselves to the disabilities which the civil law, notwithstanding the dispensation, would bring upon their children. That view of the question was pressed very strongly by Cardinal Wiseman, in addressing the Commissioners appointed by the House of Commons in England to inquire into this subject. However, I do not care to go into that part of the question, because I do not presume to instruct gentlemen of another faith on a matter that concerns themselves. Turning to the question as it affects all creeds, and particularly the people of my own Province, I think there are circumstances of very great hardship and inconvenience, which the Senate should consider before they reject or postpone

this Bill. Previous to 1835 the law in England was this: such marriages were not void, unless declared so by a Court of Justice during the lives of the married persons, and the children were legitimate. That is the law as it was introduced into Ontario, and as it now exists in that Province, and as there is no ecclesiastical court to void these marriages, they are absolutely good to all intents and purposes. But persons marrying in that way, in perfectly good faith, intending to live in Ontario all their lives, may find it necessary to move into a Province where the marriage is null. They cannot plead that it is an absolutely good marriage; it is only good until voided, and when they go to Quebec, it becomes a bad marriage. I am informed by gentlemen learned in the law that, in the Lower Provinces, they have a Court which can perform all that the Ecclesiastical Courts could formerly do in England, and these marriages could, therefore, be voided there, also, though it is not likely that it would be done. Now, that is a great hardship to persons married in that way, many of whom are as respectable, in every sense of the word, as ourselves, and it seems to me to be the duty of Parliament to relieve them from the position in which they are placed. I did not propose to quote Cardinal Wiseman at any length, and I should not have done so if it had not been for the demand of my hon. friend (Mr. Dickey) to know what reason there was for passing this law—what practical inconvenience was suffered by the people at present, that this measure was necessary to relieve them from. What I am going to read is not on a question of religious doctrine, but of fact. It is a question treated of by a prelate, who, I suppose, was as well informed on the matter he talked of before the Committee of Parliament as any man could be. This is the reply of Cardinal Wiseman to one of the questions put to him—of course, what he says applies immediately to England; but, no doubt, to a great extent, it will apply here also. He says:

"It has generally been in the middle classes, and among the poor. In the middle classes it generally results from the sister having lived, perhaps for some years, in the family with the wife, the health of the wife perhaps being delicate. The wife dies, and

leaves a young family; the husband has his business to attend to, and has no one to take care of his children; and the sister-in-law has no other shelter—probably has lost her parents, or has been living for many years in her sister's house. I had an instance where she had been living seventeen years in the family, and had been a second mother to the children. The case is very trying for both parties. There is an attachment naturally between them, from having lived so long together. To bring a stranger into the house would probably be disturbing the peace and happiness of the little society. The children are attached to their aunt; and it appears altogether the most natural arrangement for their happiness, as well as to prevent the sin probably of cohabitation without marriage, that a dispensation should be granted. That, I should say, is the history of nine out of ten of the cases which I have had to deal with. In the lower ranks it is generally a case of absolute poverty. The sister, if sent away, is turned into the streets; the man himself could not pay for a servant; he, perhaps, is too poor to expect anyone else to marry him; he is getting old, and the parties are thrown together in such a way that it is advisable that they should be married, otherwise it would end in cohabitation without marriage. These are the ordinary cases."

Now, it is not I, but a prelate whose worth is known all over the world, who has given evidence there that is quite conclusive on the problem presented by my hon. friend (Mr. Dickey) as to whether this law is required. It is a rather curious circumstance, referring to the law as it stands in England now, that the prohibition of such marriages arose out of an attempt to relieve the public from the partial prohibition then existing. I take the account of this episode in the history of the subject from Lord Houghton's admirable speech:—

"This state of things continued down to the reign of William IV, when, in 1835, special attention was called to the subject by a Bill brought in by Lord Lyndhurst, for the purpose of validating such marriages. Although this measure may have been set in motion to meet a special case, it was intended as a measure of general relief, and only in consequence of the urgency of that case, in which every day was deemed of importance by the parties immediately concerned, was the opposition weak in itself, but fortified by private considerations, met by the insertion of a clause declaring all such marriages prior to the passing of the Bill valid, and all similar marriages in the future void. This clause was rejected by the House of Commons, and the Bill so amended, came up again to this House, when the clause was re-inserted; and, as it was late in the session—everyone knows what happens at the end of a session—the

Bill was allowed to pass with this obnoxious clause, but with an undertaking between Lord Lyndhurst and other parties interested in the matter, that this limitation should be removed in the ensuing session. And natural enough would have been this expectation, even without any private agreement. For what, my Lords, was the moral position to which the House and the country were committed by the passing of that Act? The Legislature declared that such marriages, after a certain date, were to be unlawful, and in the religious aspect sinful, and yet they were made obligatory on all who had contracted them up to that date. By one portion of that Act, Parliament placed a certain number of persons in a position in which, if they came to consider these marriages wrong and void, they could be enforced upon them by an action for the restitution of conjugal rights: by another clause in the same Act, Parliament declared them void *ab initio*, and by implication sinful. There neither was, nor is there in fact, in the statute book of any country in the world an Act so inconsistent in its provisions, so repugnant to common sense, and so shocking to the first dictates of morality."

The Bill, therefore, actually validated all the marriages in question before that time, and declared all future marriages of that description void. As to the amendment that has been proposed by my hon. friend from Amherst, it seems to me that this is one of those questions that almost all of us must know as much of now as we shall know next year. For my own part, I believe that if it is proper to pass the Bill at all, it should be passed now. I am acquainted with many respectable families in Lower Canada, some of whose names, if I were to mention them, would be known to all who hear me as those of persons high in the public service, whose children are, in point of law, degraded by bastardy. Although that is not often thrown into their teeth, and no person respects them any the less for their legal position, yet, in case of the disposition of property, very great evils might arise from it, as I believe really happened in the case which induced the hon. gentleman in the other House to introduce this measure. In that case, I am told, the man and wife, who had been married after being granted a dispensation from Rome, and who supposed their marriage was valid, found that their children could not inherit from their grandfather. Such cases must occur frequently, and I think this House should prevent such inconveniences from arising.

Hon. Mr. MILLER—I do not intend to enter at any length into the discussion of this important question, because I consider it has already been so fully debated, not only in Parliament, but in the press, that it is impossible to throw any new light upon it. I am sure that every gentleman who hears me has read and thought sufficiently on the subject to have made up his mind as to the course which he will adopt on the present occasion. I desire, however, to state my reasons briefly for the vote which I shall give upon this Bill. I may say that so far as the first portion of the first clause of this Bill is concerned—the part which is intended to legalize the marriage of a man with his deceased wife's sister—I am not opposed to it, and if there was any necessity for haste, I should have no hesitation in voting for the legalization of such marriages; but I do not conceive that there is any imperative necessity, in the interest of the general public, to take hasty action upon a question deeply affecting the fabric of society, and one which should be dealt with in this House with the greatest possible deliberation. I believe also, that there is no instance on record in any British legislature where a measure of this kind has passed upon its first introduction. Certainly, in England it has been brought several times before Parliament, and, although it has of late years generally passed in the House of Commons, it has never succeeded in obtaining the approval and consent of the House of Lords. In the several colonies of Australia in which a measure of this kind has become law, it has passed after more than one application for such legislation, and, in some cases, the Bill, when reserved for the consideration of the Queen, has been vetoed by Her Majesty, and had to be passed a second time by the Legislature before being sanctioned. I have seen nothing to convince me that there is any necessity for haste in this matter, and, when I reflect that a very large and respectable body of people in this country have memorialized the Senate merely to delay this measure, which has been sprung upon Parliament without any previous notice or any agitation for it in the press of the country, until this Bill was brought before the House of Com-

mons, I, for one, feel disposed to pay the greatest respect to their representations. I find also that, in another very large and important religious body, divided counsels prevail with regard to the details of such an enactment, and, therefore, I prefer to allow time to elapse before we take an irremediable step on this question, and until we see whether these differences of opinion, which now prevail, can be reconciled; I repeat, if under ordinary circumstances, any pressing necessity could be shown me for the passing of this Bill, I should be prepared to vote for it, if the measure went no further than legalizing the marriage of a man with the sister of his deceased wife. But this Bill goes a far greater length; it proposes to legalize the marriage of a man with the widow of his deceased brother. Some hon. gentlemen contend that the one case is the corollary of the other. To that opinion I desire to enter an emphatic protest. The two cases are not similar, especially when, in the latter case, there is offspring by the first marriage. There is a difference in the two cases, clearly marked by natural laws, which not only affect the human family, but also animals of a lower order of creation, and which are well understood by those who have made a study of such subjects. I say that, in relation to these two classes, where the deceased brother's widow has borne children by the first marriage, the circumstances are changed altogether, and physiological objections arise which, to my mind, it is impossible to overcome. It is true, as stated by my hon. friend from Alma (Mr. Penny) in his ingenious advocacy of the Bill, that, under the old law, a man was commanded to marry his brother's wife under certain circumstances. That was where the brother died without issue, but the natural inference to be drawn from that command is, that where children had been begotten by the first marriage, it was wrong that any such connection should exist. I am opposed, completely, to this leading feature of the Bill, and for this reason, and the other reasons I have already given, I shall vote for the amendment. I feel somewhat awkwardly situated, I admit, in the position which I occupy. I intend to vote for the amendment of my hon. friend from Amherst (Mr. Dickey), and,

still, I do not think that the arguments he has used against the first portion of the Bill are at all sufficient to prevent, on some future occasion, the legalizing of marriage with a deceased wife's sister. I am unwilling, however, to take now, an irremediable step, in the face of the opposition that has been excited in the country against this measure, and in view of the fact that no notice was given that this Bill was intended to be introduced in Parliament this session. With the desire, therefore, of allowing the fullest investigation, in order that the settled opinion of the country may be had upon this grave question, which will have an important bearing on our social system, and which is, therefore, one upon which this body is expected to act with deliberation, I feel it to be the special duty and function of this branch of Parliament to interpose its authority, in order to prevent unnecessary haste; and I shall, therefore vote for the amendment of my hon. friend from Amherst.

Hon. Mr. ALLAN—In relation to the Bill now before the House, and which I earnestly hope the House will defer taking any final action upon, for this session at all events, I do not propose to argue the question on the theological grounds, although I think it is right to preface what I have to say otherwise, with the simple declaration that I do conscientiously believe that in such a matter as the law of marriage human law must rest upon the sanction of Divine law. If this principle be not admitted, I know not what safeguards can, for any length of time, be interposed to the passions or the caprices of individuals who may seek to bring about still further changes from which all of us, I am sure, whether opposed to or in favour of the present Bill, would recoil with dismay. In regard to the changes in the marriage laws, sought to be introduced by the present Bill, I am entirely against them, and more especially am I opposed to the clause particularly referred to by my hon. friend from Richmond, which legalizes the marriage of a man with the widow of a deceased brother. I would not, of course, call in question for one moment the sincerity of those who hold opposite views, or presume to reflect in any way upon the motives which have led the hon. gentleman, who has charge of this Bill, to

bring it forward in this House. Indeed, I am sure that the highest compliment that he could receive was paid to him by the promoters of this Bill in asking him to take charge of it, because they know his position, both in public life and the religious world, to be such that anything coming from him would be listened to with the greatest respect. In moving the second reading of the Bill, my hon. friend enforced his arguments by reference to several authorities, whom he, no doubt, thought might have weight with the House, quoting specially from speeches delivered on this subject in England. I shall, therefore, claim the indulgence of the House to make one or two allusions to speeches in support of my own view of the matter, and, in doing so, I shall quote only the opinions of laymen, for the reason that I wish to counteract the strange idea held by some of the promoters of these proposed changes, that the objections to them are all of an ecclesiastical or theological character, in which laymen have little concern or interest. The first authority I shall quote is the Earl of Shaftesbury, a nobleman whose name, I know, is familiar to the promoter of the Bill, and which is a household word in England in connection with every good or benevolent work. This is what he says:—

“When the question of legalizing marriage with a deceased wife's sister was first propounded in the House of Commons, I resisted it to the utmost of my ability. I did so mainly on the ground, that such a change would disturb, and, indeed, annihilate, many of the existing conditions of social and domestic life. The husband and sister of the wife would then stand in different relations to each other, and necessarily—reserve, jealousy, intrigue, with all their many and serious consequences, would prevail in many families where the existing law now gives freedom and safety.”

Lord Hatherly, better known as Vice-Chancellor Sir William Page Wood, spoke in even stronger language at a public meeting the other day. He said:—

“That although, while in the House of Commons, he had not shrunk from advocating changes of very considerable magnitude, both in the Church and in the State, he was not prepared to take part in what he believed would be the beginning of a social revolution—trenching upon, and invading the sanctity of home life.”

At the same public meeting, which was held not very long ago—I think in March last—in St. James' Hall, London, another gentleman, a Mr. Miller, a Queen's Counsel and Railway Commissioner, and Deputy Grand Master of the Orange Lodges, argued that the existing marriage law rested on the clear principle of equality of relationship by blood and relationship by marriage, and urged that even granting, for the sake of argument, that such unions as those with a deceased wife's sister were allowable by the Word of God, still, in the interests of society, and those of our families, a prudent legislature would refuse to legalize such marriages. My hon. friend from Alma, in seconding the motion for the second reading of the Bill, referred several times to the opinions expressed by Cardinal Wiseman, and quoted them at some length in support of this measure. I should like to refer, on the other hand, to a speech delivered in the British House of Commons in 1855, by a well-known Roman Catholic statesman, the Right Honorable Richard Lalor Shiel, when a similar measure to the present Bill was before the House of Commons. That hon. gentleman said:—

“If my right hon. friend shall succeed in this project, where is he to stop? Why may not a man marry his wife's daughter, as well as his wife's sister, for in neither case is the barrier of consanguinity interposed? I hold it to be an indisputable fact, that the religious feelings of the country are against this measure, and I would not wantonly, and gratuitously run counter to that feeling, for the sake of a more than hazardous innovation which breaks down the moral forces that protect our homes.”

I have purposely abstained from following the example of either of my hon. friends, the mover or the seconder of the Bill, in quoting the opinions of theologians or ecclesiastics in support of their views on the subject before the House; but were I to take this course, I do not think I should have the slightest difficulty in producing as many authorities on the other side. Eminent divines of great learning and piety belonging to different denominations, and whose experience and knowledge of the existing condition of things among the classes referred to in the evidence of Cardinal Wiseman, quoted by the hon. gentleman from Alma, is as wide and as accurate as the experience and knowledge of that

eminent prelate. I do not desire, however, to take that course, but shall content myself with stating what is undoubtedly the case, that a large majority of the earnest thinking men of, the Church of England, in England, have always been, and still are, most strongly opposed to any change in the marriage laws, that even among the Nonconformists there are many who do not approve of any change, that the Church of Scotland has, as a body, always most strongly protested against the measure, and hon. gentlemen have heard in what terms the eminent Roman Catholic statesman whom I have quoted, has spoken of "the hazardous innovation that would break down the moral fences that protect our homes." In this country, as my hon. friend from Richmond has very properly urged, public attention has not been, to any great extent at least, directed to the consideration of this matter, and sufficient time has not been given for a fair and satisfactory expression of public opinion in reference to so important a subject. As it is, I think that upwards of sixty petitions against the Bill have been presented in the Senate, but the attention of the community generally has not been called to the important changes which it contemplates, and I very earnestly hope that the promoters of the Bill will, on that ground—and it is delay only that I am now urging—consent to postpone any further consideration of the measure until the next Session of Parliament. As it is, however, there have been put forth, from time to time, in this country, very strong and unmistakable expressions of opinion against any change in the marriage law. I may refer to what took place at the meeting of the Church of England Provincial Synod in Montreal, in 1877, composed of clerical and lay delegates from almost every Diocese in the Dominion. A very strong resolution against the solemnization of such marriages as would be allowed by the Bill, was adopted at that meeting, and, notwithstanding what my hon. friend (Mr. Ferrier) has said about the intolerance of the Church of England!! I think that the opinion of such a body is entitled to some respect. I have, myself, also, during the present session,

presented several petitions from my own Diocese, including one of them from the Bishop of the Diocese, and others from very considerable numbers of the clergy and laity. I am aware, also, as a matter of fact, that the Presbyterians, as a body, in Ontario at all events, are generally opposed to this Bill, and I know that at the last meeting of the Presbytery of Toronto it was determined to petition against it, and a committee was appointed to draft these petitions to be laid before the Synod at its meeting next week. Of course, they did not anticipate that this measure would be so far advanced as it is now, or they would have been prepared in time. I am quite certain that if the attention of the community generally had been drawn to the subject before the meeting of Parliament, the House would have been inundated with petitions against this measure. I am perfectly free to admit that there are many excellent men in this country (as well as in England) who are in favor of the proposed change, but I am sure the House will agree with me that, in a matter so deeply affecting the religious scruples and domestic happiness of the whole community, we should be thoroughly well assured that any change sought to be made really commends itself to the judgment and consciences of at least a large majority of the community. In a matter which involves all that is dearest and most precious to us in our home life and affection, the views and opinions, and even the prejudices of all affected, are entitled to consideration and respect. What has been said by the hon. Senator from Richmond as to the course pursued in England, under similar circumstances, in avoiding hasty legislation, and also in reference to the course pursued in this House, in reference to a measure of another character, a year ago, ought to have some weight with the Senate. This matter has been well discussed in the House of Commons, and will now be thoroughly discussed here, and I think it is not an unreasonable thing to ask that the Bill be allowed to lie over until the next session of Parliament. It should also be borne in mind, as has already been remarked, that individuals, whose particular cases are met and legislated

for in this Bill, are much more likely to be very zealous in petitioning Parliament, and agitating in favor of the measure, than those who are simply opposed to it on general principles—and this will sufficiently account for any lack of agitation against the Bill; but I am perfectly correct in saying that had the community generally been fully aware of what was in contemplation to be done in the way of legislation, during the present session, we should have had a very strong expression of adverse opinion from all parts of the country. There is nothing unfair, or unreasonable, therefore, in asking that time and opportunity be given for the expression of that opinion, if it really exists, and while I am not likely to change my own views on the subject, still, if it should appear, at the next session of Parliament, that a majority of the community are in favor of this Bill, of course all that I, and those who agree with me, can then do, would be to relieve our own consciences by voting against it. I earnestly hope, therefore, that the House will accede to the request of those who are opposed to the Bill, and who think that they speak the sentiments of a very large number of their fellow-citizens throughout the Dominion, and will postpone the further consideration of the Bill until the next session of Parliament.

Hon. Mr. KAULBACH.—This is a very short Bill, but one striking at the root of social and domestic life, and it is most important in its character and consequences. No such bill has ever been submitted to the British Parliament, and we have never had such a bill as this submitted to any Parliament in Canada. The hon. gentleman who introduced it here to-day has contended that this measure is desired in England, and that there is no scriptural argument against it. It seems to me, however, that this is not the case. I look very strongly to the "happy homes of England," which, I think, should be our examples in many matters—religious as well as moral—and we must feel that England, from its clear and oft-repeated actions in Parliament, has no desire for this bill. It is true, as the hon. gentleman from Alma (Mr. Penny) has said, that Lord Lyndhurst's Bill was intended simply as

a measure of relief, and Parliament, in a charitable spirit, granted the transgressors relief, but declared that such marriages in the future would be void, and so stands the law to this day. If it had not the moral and beneficial influence which we believe it has, why has not the Parliament of England since that day abolished this law? Why has it not been repealed? We know, in fact, that it has been frequently brought before the English House of Commons, and as frequently been defeated. We have evidence of the House of Commons siding with the House of Lords in 1861, in 1862, in 1866 and in 1869, and in every instance rejected the Bill. Again, in 1875, Sir T. Chambers' Bill was defeated on second reading in the House of Commons by a vote of 174 to 142. Now, we must consider that that was the public sentiment of England in 1875, and we have seen no change of sentiment since that time. We know that even last year a bill not as repugnant as this one to the dignity of woman—not going as far as this one in the destruction of the happy union of families, but a measure only to legalize marriage with the sister of a deceased wife—was defeated in the House of Lords, notwithstanding the extraordinary and powerful influence of its mover and its promoters, and, therefore, I say again that, if we look to England as our exemplar, which I am happy and pleased to do, we must admit, without any hesitation or doubt, that it is there considered as striking at the root of the social and domestic life and happiness of the country. If, therefore, we wish to look for precedents in this matter for this Bill, we cannot go to Mother England, for we find there, from its beginning, for centuries upon centuries, the law of the land following the Divine law has been opposed to these marriages. In no case, and at no time, in England has a bill attempted to go as far as this one goes—to legalize marriage with the widow of a deceased brother—and it seems to be revolting to natural feelings that a brother's wife, incorporated into and assuming and legally taking the name of the husband and his family, should be subject to such an inconsistent, depraved and demoralizing alliance. It seems to me that such an alliance, viewed from every standpoint,

is shocking, and only could be sanctioned or approved by a misguided or corrupt taste. I feel that there should be a strong opposition to this Bill as being repugnant to all feeling or sense of right, depriving sisters-in-law of the chaste guardianship of fraternal love. I do not wish to go far into the religious aspect of this question, but I believe that such marriages have not the Divine sanction. The 18th chapter of Leviticus clearly prohibits such alliances, and although, as my hon. friend from Amherst has stated, there are some marriages that are not by express words prohibited, they are merely the corollary of those that are prohibited. For instance, a father was not expressly prohibited from marrying his own daughter—but a mother was prohibited from marrying her own son. Nor was a man in terms forbidden to marry his niece—but a woman was expressly forbidden to marry her nephew. I contend that what was forbidden in the one sex was forbidden in the other, and, reasoning from these premises, I maintain that, when, as by the 16th verse of that chapter, a man was expressly forbidden to marry his brother's widow, a woman, by reasonable implication, was strictly forbidden to marry her deceased sister's husband—her brother-in-law. If we sanction such marriages, we will be led to deny, in every detail, the sacred law, and, by degrees, familiarize ourselves with all the abominations which the law forbade. In the early history of our race, such marriages were, of course, necessary, but the fitting time came—when the Divine law interposed—when it would not impose a harsh restraint on the proper liberty of choice, but would guard and extend the purity and sanctity of loved and hallowed relations—protected from the misery, confusion and jealousy—with which, unhappily, this Bill now threatens them. My hon. friend from Alma stated this afternoon, marriages with the sister of a deceased wife, were not prohibited by divine law; and he took upon himself to quote some remarks on that point from the celebrated Cardinal Wiseman, to the effect that the ecclesiastical rules and regulations of the Church of Rome prohibited such marriages, and that the present law is an unnecessary interfer-

ence with its discipline. But the Church of Rome certainly bases her religion upon the divine law, and that Church declares these marriages to be highly improper, and forbids them, reserving dispensations in extreme cases. But that celebrated prelate, Cardinal Wiseman, before the same commission to which my hon. friend from Alma referred, stated that these marriages, of course, were unlawful, and that such marriages, as are now contemplated by this Bill before us, would be null. My hon. friend says that marriages of this kind are not always void, and that there is a state of confusion in the present law. There can be no confusion in the law. Our law is plain and unmistakable. Every person must know when he marries contrary to the spirit and intent of that law, that he is violating it and indulging in (to use a mild term) a misguided taste, and this Bill is instigated and brought in simply at the instance, and for the express purpose of protecting a comparatively few people from the consequences of the law which they have deliberately violated. I have no sympathy with such people, whether they move in high society or in low life, who openly and knowingly disregard the moral and religious law of the land. To legalize marriage with a deceased wife's sister would at once destroy that fraternal affection which exists for the sister-in-law, and deny her the guardianship which she should naturally have in her sister's house and family. Unless, under any circumstances, the wife's sister can only be treated as a sister, the close relationship and fraternal love that are the charm of social life are destroyed; and once you destroy the present relation of the sister-in-law, which you will do if this Bill passes, you will deprive many persons, who add a charm to marriage, who now live together in a fiducial state, as brothers and sisters, of that free social and domestic and family love and intercourse that prevails under the present law. We have seen the benefit of this law in England for centuries, and I see no reason why, because some misguided or corrupt individuals have thought proper to violate what for ages has been considered to be a moral and necessary law,

holding society and marriage relationship, with the innumerable benefits in the varied vicissitudes of life—I see no reason why that law should be repealed, in order to legalize what is, in every sense of the word, wrong, through any feeling of sympathy.

Hon. Mr. DEVER—Hon. gentlemen, in explanation of the vote I am going to give on this subject, matrimony, I wish to make a few remarks, and, in doing so, I trust I will be governed by proper humility, if not timidity, because I am aware the great majority before whom I speak cannot, nor will not, be induced to look on matrimony, and its church regulations, in the same sacred and religious light which I do. To me, matrimony clearly presents itself as a purely Christian institution—over and above the Levitical law, an institution worthy of all honor and respect, and binding, by that law, the Christian, “till death do us part.” To sustain this view, I find that, as far back as the second century of the Christian era, Tertullian, who is known in history as one of the fathers of the early Christian Church, wrote these words:—

“How can we,” he says, “express the happiness of the marriage union contracted under the auspices of the Church, consecrated by the oblation of the holy sacrifices, and sealed by the benediction which the angels have witnessed, and which the Eternal Father has ratified.”

Again, in the fourth century, St. Augustine, another father of the Church, writing on the same subject, made use of these clear and unequivocal expressions:—“Among all nations the advantage of the nuptial bond was to propagate the human race, and to unite the married pair by the fidelity they owe to each other. But with the people of God,” he says, “a more precious good, and a stricter bond of union result from the sanctity of the sacrament.” Here hon. gentlemen will see, without any doubt, that, in the early church, matrimony was clearly considered a sacrament. But St. Paul, too, calls it “a great sacrament,” or “mystery,” if you will—as some translators have it—for what are any of our sacraments but mysteries—things which cannot be comprehended, except by the eye of faith? “This is a great sacrament,” he says, “but I speak in

Christ, and in the Church”—Paul to the Ephes. 5 chap. 32 verse. And, as the Church condemns not only this marriage, with a deceased wife’s sister, or a deceased husband’s brother, but even with the third cousin, or any nearer blood relation of one’s former husband or wife; and, as I do not feel disposed to reject the teaching of Scripture and the Church, as I see it, till some better guide be given, I must personally be governed by the history of the past, and by the deductions from that plain passage in Matthew, the 28th chapter, 18th, 19th and 20th verses, which say:—

“All power is given to me in Heaven and in earth. Go ye, therefore, and teach all nations, baptising them in the name of the Father, and of the Son, and of the Holy Ghost, teaching them to observe all things whatsoever I have commanded you. And behold I am with you all days, even to the consummation of the world.”

See for further declaration of this commission, John 20th chap., 21st, 22nd, and 23rd verses, and John 14th chap. and 16th verse. But, notwithstanding all this—and it is a good deal—I will vote for the Bill, because you will see by the foregoing views that I look on matrimony and its church regulations as a purely Christian institution, which should be wholly free from all civil restrictions to those who can see it in no other light. Besides, I know some highly honorable and good people who are affected by this inconsistent civil law—people who have no church restrictions of their own in their way, and I am glad to have it in my power to assist in relieving them from it. But, in voting for the Bill, I also see that the clergymen of the Church of England have strong conscientious scruples on the subject, and I would, therefore, propose as a concession to these gentlemen to have the following words inserted in the Bill before we pass it: “But the passing of this Act shall not be construed to compel any clergyman who may have conscientious scruples in the matter to perform the ceremony against his will.” And this, I believe, is but fair to those gentlemen who clearly have strong conscientious scruples, and who, when deprived of the present civil restrictions, cannot fall back, as other clergymen can, on ecclesiastical law to prevent what they conceive to be a great error, if not a sin.

With these views, hon. gentlemen, I will vote for the Bill.

Hon. Mr. ALEXANDER — The House has been so flooded with newspapers and memorials giving arguments for and against this question, that I am sure it will not be disposed to listen to any lengthened remarks on the subject. I merely rise to explain, as briefly as possible, why I consider it to be my duty to vote for this Bill. I ask myself the question: if this measure becomes law, how will it affect society and the different classes of society? If I look at my own neighborhood, or Toronto, Hamilton or other western cities or counties, I can find numberless cases where men desiring to evade the law as it now stands, have passed over to the United States, and, under the laws of that country, have married the sisters of their deceased wives. I have then asked myself: what have I found to be the position of those gentlemen who have done so, and, in all cases of which I have had cognizance, they have been leading members of leading churches, occupying a respectable and respected position in every way, and they have not been the less respected because they have done so. I have, therefore, come to the conclusion that this Bill will not affect the better class of society, because the head of any family who has the misfortune to lose the mother of his children, and desires to marry her sister, can go over to the United States and legally accomplish there what he cannot do in Canada, and I do not see that the passing of this Bill will have any immoral effect on the poorer classes. For, when a poor man has the misfortune to lose his wife, what can be more natural than that the sister of the deceased wife should be more interested in the welfare of the children than any other person? I cannot see that this Bill will have any immoral effect on society, and I conceive it to be my duty to vote in favor of the measure.

Hon. Mr. FLINT moved the adjournment of the debate.

The motion was agreed to.

MARRIAGE WITH DECEASED WIFE'S
SISTER BILL.

DEFEATED ON SECOND READING.

The Order of the Day having been read for resuming the adjourned debate

on the Hon. Mr. Ferrier's motion, for the second reading of Bill (30) "An Act to legalize marriage with the sister of a deceased wife,"

Hon. Mr. FLINT said The hon. member from Amherst, yesterday, moved a resolution to postpone this measure over the present session. I can see no good reason in the argument that he offered on that occasion why this Bill should not be proceeded with the present session. The hon. gentleman, if I understood him rightly, gave us to understand that, when a man married a woman, they became one flesh, and that the wife's sister also became part of that flesh. I must dissent from any belief of that kind. I do not believe in a man's wife's sister being incorporated into a wife and husband when the marriage tie is made, and I trust the hon. gentleman will pardon me for mentioning the matter, if I am right.

Hon. Mr. DICKEY — The hon. gentlemen must have misunderstood me. I did not say the husband and his wife's sister were one flesh. I said of the husband and wife that they twain should be one flesh.

Hon. Mr. FLINT—I think that there were other hon. gentlemen in this House who understood, as I did, the hon. Senator from Amherst to say that the wife's sister stood in the same relation to the husband, and, so far as the reasoning of the hon. gentleman goes, from his standpoint, it is all right. He wants this Bill postponed because a large number of petitions have been laid before the House in opposition to the measure. I have paid considerable attention to those petitions as they were brought before the Senate, and I did not hear of one of them asking for the postponement of the Bill, but rather that it should not become law. There is but one presented to-day asking for its postponement. The question now is, whether any benefit or advantage is going to be derived from postponing this Bill until another session. If a certain amount of agitation has been raised already, what will that agitation be between now and next session, and is it actually necessary that this agitation should be set on foot throughout the length and breadth of the land, in order to induce hon. gentlemen to pass this

measure? The hon. gentleman from Amherst suggested that we should now adopt the same course as was taken by this House in reference to the Insolvency Law Repeal Bill, but I do not think that is an analogous case at all, as it stood in an entirely different position. The Insolvency Repeal Bill was for the purpose of abolishing an Act that we considered to be injurious to the country. This Bill is not for the purpose of dissolving the marriage tie, but to allow a man to marry his deceased wife's sister, or a woman to marry the brother of her deceased husband, provided that they should agree to do so, and I do not see that we should do anything to prevent it. We live in a free country, and we should be allowed to think, act and speak for ourselves as long as we keep within the limit of the law. I am considerably advanced in years, and I have, during my lifetime, known several cases in which a man has married his deceased wife's sister, and in every instance, so far as my knowledge extends, I have never known a disagreement as the result of such marriages. The sister-in-law is far preferable, in my opinion, to bring up the children of her deceased sister than any woman outside of the family. I have noticed also that, when widowers have married the second time, not with the sister-in-law, the first children have been abused and driven from home, and everything has been done to prevent them from enjoying any of the benefits which would accrue from the property of their father. I have known some very hard cases indeed of this kind, but none on the other side of the question. Under all circumstances, a man should have the privilege of marrying whom he pleases, so long as he does not marry an actual relative. I believe that there is no affinity between the deceased wife and her sister: When the wife dies she is gone, and that tie is, therefore, severed just as much as is the tie between the husband and wife severed when the wife dies, and *vice versa* with the husband. This being the case, I cannot see why we should object to this measure. The great majority of the petitions that have been sent in against the measure have come from the Episcopal Church. We have been told by the hon. gentle-

man from Montreal that the position of Roman Catholics in Quebec is this: That, while the church can grant a dispensation to allow a man to marry the sister of his deceased wife, the children of that issue cannot inherit the property under the civil law. Are they to be allowed to remain in that state? I think not. If the church has the power to give the dispensation, they ought at least to consent to a law which will make the children by the marriage with the deceased wife's sister heirs to their father's property equally with the children of the first wife. If they wish to bow to the will of their church in this respect it is all very well, but they should not insist that we Protestants should also bow to the will of the Church of Rome. The Church of England has no power to grant dispensations such as the Church of Rome has, and if the ministers of that church desire to have an Act passed giving them that power, they should say so, and then we can understand them, but they come forward, instead, and tell us they do not want this Bill passed, because it is contrary to Scripture. Where do they get the Scripture it is contrary to? It is contrary to their own rule, but not to Scripture. The hon. gentleman from Amherst quoted Scripture last evening to shew that he was right, and I want him to understand that there is nothing like appealing to the law and to the testimony. The eighteenth chapter of Leviticus and eighteenth verse is the authority which is quoted as forbidding marriage with a deceased wife's sister. It reads:—

"Neither shall he take a wife to her sister to vex her and uncover her nakedness beside the other in her lifetime."

Now, what is meant by these words: "in her lifetime?" It simply means that he should not marry his wife's sister during his wife's lifetime, as they might quarrel, but he could take the sister of any other woman, as a matter of course. He could have two wives under that dispensation. I have never known but one case where a man had two wives at the same time, and they did not quarrel. It is such a peculiar case that I will mention the circumstances. A farmer living back of Brockville, was said to have two wives. They had two houses, and he lived with one wife one week and with the other the

next week; turn about. He had two families by those wives, and supported them comfortably, and settled them all on good farms. These two wives did not quarrel, but, as a general rule, there would be a quarrel between the first wife and the second; if they were sisters they would quarrel worse, and there would be a great amount of trouble in such a household. If any hon. gentleman can interpret that passage of Scripture to mean anything else than what it says, I should like to hear him do so. I am no theologian; I have never studied divinity, but I have studied the Bible some, and I take it for what it says, and I believe it says just what it means. The hon. gentleman quoted several passages to prove that marriage with the sister of a deceased wife is prohibited, but I do not think that any of them apply. On the other hand, if you refer to Matthew, you will find that, when the Sadducees came to our Saviour and asked him about the woman who had seven husbands, which of them would be her husband in Heaven, he did not upbraid the woman, nor say that it was wrong for her to have had seven husbands, nor did the Sadducees ask him to do so; but they asked him whose wife she would be in the resurrection. Christ's reply was that she would be the wife of none of them, but would be as the angels in heaven. It is said also that there is no law by which a man can marry his deceased brother's wife. Well, if you just go back to Deuteronomy, you will find, in the 25th chapter and 5th verse, that there is not only authority but a command to a man to marry the wife of his deceased brother. It may be said that that is because he has to raise up children to his brother. It may not have been the man's fault that she had no children. Hon. gentlemen may laugh, but I am speaking seriously on this subject, though, if they continue it, I may be tempted to put in a joke occasionally. If the man refused to marry his brother's widow, she could unloose the shoe from her foot and spit in his face. He was bound to marry her or to submit to this degradation. I cannot see anything in this passage which prohibits a man from marrying his deceased wife's sister, or a woman from marrying her deceased husband's brother,

and why should it be so? I am strongly in favor of this Bill, and I hope that hon. gentlemen will consider well before they throw it out for this session. The people are in favor of this measure, and, if they were asked to petition Parliament for it, the House would be flooded with petitions. But no one thought it was necessary, as they expected it was only reasonable and right that a bill should be framed so as not only to allow those marriages to take place, but to legalize all that had taken place before, and to place the children of such marriages in the same position as the children of the first wife. I trust that I have said nothing offensive to anyone's feelings in my remarks, as I have only spoken strictly in accordance with the dictates of my own conscience.

Hon. Mr. ODELL—I think this is too grave a subject to be treated with levity. It is a question of very great importance—more so, perhaps, than any other that has come before this House this session, or in any previous session of Parliament, affecting, as it does, the social relations of the community from one end of the Dominion to the other. I desire, therefore, to record my reasons for the vote which I shall give in support of the resolution which has been submitted, and, before I proceed to state what those reasons are, I will first refer to the petitions which have been alluded to by the hon. member who last addressed us. He stated that none of those petitions ask that this measure be deferred, but that the Bill be rejected. Now, I will read from the conclusion of those petitions, one of which I hold in my hand, what the prayer of the petitioners is:

"Finally, your petitioners submit that, before any alteration is made in the marriage laws, ample opportunity should be afforded for the full consideration of a subject in which all persons are more or less interested, and for the presentation of their objections by those who are opposed to any change; that no such opportunity has been afforded with respect to the Bill now before your hon. House, and that for this, as well as the other reasons herein set forth, it should be rejected.

"And your petitioners will ever pray, &c."

With regard to the Bill, as I have already said, I consider it one of very great importance, demanding the careful and calm consideration of your honors, which

it is the peculiar duty of this House to give to all measures, but especially to one upon which opinions appear to be so divided. I do not intend to bring into the discussion any arguments in regard to the scriptural objections that have often been raised against the measure, opinions upon which are so divided, even amongst those supposed to be best qualified to form a correct judgment. At the same time, I think great consideration ought to be accorded to the feelings of those entertaining such scruples, sanctioned and enjoined as the interpretation they contend for has been by church and state for so many centuries. The Bill, as it has reached us, is, in some respects less objectionable than as first introduced in another place, as an amendment has been made reserving the rights of the issue of the previous marriage. Still, whatever arguments may be adduced in favor of a marriage with a deceased wife's sister, that with the brother's widow is far more objectionable. This, your honors, is the first time this measure has ever been introduced before the Dominion Parliament introduced without any previous public notice, and no fair opportunity afforded for obtaining an expression of public opinion upon the question. How, I would ask, has it come before Parliament? I see, by reference to the speeches reported in *Hansard*, that it was frankly admitted to have been instigated by, and introduced on behalf of a lady, who, as has been said, "Loving not wisely, but too well," knowingly and wilfully placed herself in the position she now occupies, and desired that her act should be now legalized in disregard and in violation of the feelings of the law-abiding portion of the community. Not only so, but, having issue herself, she wished to divert from her sister's children to her own, the inheritance lawfully belonging to them. (*Hansard*, page 291.) Is this, I ask, a fitting prelude for the introduction of such a bill? Does it not present the strongest argument against the measure? And how completely does it destroy the argument that, while converting the aunt into the step-mother, you retain the affections and kindly feelings of the aunt towards her sister's offspring, and provide the fittest person to have their care and to act the part of guardian and protect their rights. If you could provide that no issue should ensue, or if there were no previous children, there might be some force in such an argument, but if issue follows, then the aunt becomes merged in the step-mother, and her affections naturally become alienated from her sister's children to her own. But, aside from this particular case, what is the object sought to be attained by this Bill? Clearly the relief of the comparatively few who can ever be in a position to avail themselves of the privilege of contracting such marriages, and of those who have already openly violated the law and disregarded what many hold to be a Divine injunction, and in opposition to what I believe to be the wishes and feelings of a large majority of the law-abiding portion of the community. I am glad to find that, by the Bill, as it has reached us, the existing rights of the children of the first wife have been preserved, and the contemplated spoliation, openly avowed at its introduction in another place, been frustrated, even should the Bill pass. What, let me ask, is the course pursued in regard to bills of a local nature or affecting a few individuals, or a small portion of the community? Have we not established most stringent rules, requiring not only public notice for two months in the *Gazette* of the nature and provisions of any such bill proposed to be introduced, but a similar notice in both languages, French and English, in one or more newspapers in the locality interested? Do we not, by the 51st rule, require certain prescribed formalities, as regards petitions for the passing of such bills, to be complied with before even the petition will be entertained? And have we not appointed a large and influential committee, whose duty it is to ascertain that all these preliminaries are duly attended to? And all this machinery has to be put in motion and worked for a trivial alteration in some act of incorporation—the alteration of a road or the building of a bridge, or some such purpose. But in this case we are asked to pass a bill affecting all the social relations of life of every individual from ocean to ocean.—Cape Breton, in the east, to Vancouver, in the west—without any previous notice whatever that such a measure was contemplated. Why, hon. gentlemen, if a publication of two

months is required in all such private and local matters, twelve months would barely suffice for proper notice in a matter in which the whole population, spread over this vast extent of country, is deeply interested. And I hold that this 51st rule is applicable to this case, as it refers specially to bills granting any peculiar rights or privileges, or affecting rights of property, or relating to any particular class of the community. I would, therefore, strongly urge the adoption by your honors, in this case, of the same course pursued last session in regard to the Bill to repeal the Insolvent laws. A bill like the present, coming from the Commons, backed by a large majority, and, though affecting only a portion of the community, it was decided that time should be afforded for more mature consideration and for information as to what its effect might be, and the Bill was, accordingly, postponed. How much stronger and more forcible are the demands for delay in the case of a measure like the present, affecting the social relations of the whole population of every class and of every creed, creating so important a change in the long-established law which has, so far, withstood all attempts to change it in the Mother Country, and ratified and confirmed, as it has been, by both Church and State for so many centuries. In discussing a question of this nature, we ought, I think, to be in a great measure guided by the course pursued in England. Now, whatever may be said in regard to the Statutes passed during the reign of Henry VIII to suit the caprice of that licentious monarch, it is clear that since the passing of the Lyndhurst Act, in 1835, marriage with a deceased wife's sister is made illegal; the offence, up to that date, was condoned, but not to be repeated. Since the passing of that Act, the question has been repeatedly brought before the British Parliament, and though bills introduced in the Commons have, in several instances, been passed, they have, on a majority of occasions, been there rejected, and have been invariably rejected by the Lords—whether originating in that House or the Commons. The measure was rejected in the Commons on eight occasions: in 1842, 1849, 1855, 1861, 1862, 1866, 1869, 1875,

and bills originating in the Lords on three occasions, 1841, 1851, and again as late as 1879. Had a bill to legalize such marriages become law in England, then, I think, we should pass a similar one here to assimilate our laws. But, passing one here, would be altogether local in effect; give no rights or privileges, or legalize the marriages there. In addition to this, I desire to call especial attention to what has lately taken place in England. A large and influential meeting was held at St. James' Hall, London, on the 26th of February last, under the auspices of a number of lay Peers, Members of Parliament, Queen's Counsel, delegates from the Established Church of Scotland, Workingmen's Society, Workingmen's Protestant League, Protestant Election Union, and Free Church College of Glasgow. At this meeting the question was not taken up as a party question, not as a church question, but as one of social order and morality. The first resolution was moved by Mr. A. C. Swinton, representing the General Assembly of the Kirk of Scotland, and, with permission, I will read an extract from his remarks in introducing the resolution:—

"He stood there as the representative of the church and people of Scotland. He rejoiced to add that the Free Church shared with the Establishment in the intensity of its convictions, and that the Church of England was with them to a man. What was proposed would be the beginning of a revolution in the social life of the community. You would deprive orphaned children of what the promoters of the Bill declared to be the best guardianship they could have. The interests of thousands of God-fearing men, law-abiding citizens, would be sacrificed to the desires of a few."

Altogether, four resolutions, all condemning any change in the existing law, were carried by overwhelming majorities, thus clearly shewing how strong and growing a feeling exists in England and Scotland against any change in the existing law. It may be argued that such a law prevails in Australia, but the example has not been followed by the adjacent colonies of New Zealand or Natal, in both of which the measure failed; and in Australia it never became law until twice passed—the first Act having been disallowed, and only receiving the Royal assent on being passed a second time. I

do not think we should go to so distant a colony for precedent, but rely rather upon the example of the Mother Country, where such a measure has always failed to meet with success. The Act will be especially unfair to the Episcopal clergy who have no power of dispensation, and feel precluded from solemnizing such marriages by their ordination oath, by the established tables of kindred and affinity and the canons of their Church, and, notwithstanding, may be compelled to perform the ceremony, or submit to penalties that may be imposed. Notwithstanding the short period which has been allowed for presenting petitions, I find that upwards of sixty have been presented against the Bill, asking that the measure may be postponed, to afford sufficient time to learn the wishes of the country at large upon so vital a question. These petitions, I find, by a printed sheet laid upon my table, have been assailed in a most unjustifiable manner by a Montreal paper, to which I desire to refer. This sheet, in referring to the Bill before the House, indulges in the following remarks:—

“There, perhaps, never was a measure before Parliament in connection with which public sentiment in its favor was so united as is the case in connection with this measure. We had in the press of the Dominion no indication of any hostile sentiment. With singular unanimity the press of all the provinces have either warmly approved the Bill, or have been silent. The petitions that have been presented, asking for its postponement, prove the same fact. They are for the most part printed, shewing a regularly organized effort to provoke a hostile expression of opinion; and yet, although they only ask for a postponement of the measure, which many persons who are favorable to it, or indifferent upon the subject, might sign, and, although most powerful influence has been used to secure signatures, the result has simply shewn how utterly infinitesimal is the opposition to the measure.”

I am at a loss to perceive how the presentation of sixty-one petitions against the measure from sixty-one different localities, proves that “the public sentiment is in its favor, and that there is no indication of any hostile sentiment,” as asserted by the writer. Again the writer goes on to state:—

“Had there been any such opposition as would justify the Senate in interposing its veto, after the overwhelming majority in its favor in the House of Commons, that opposition would have manifested itself in a much more emphatic way than has been shewn.”

To this I would remark that, by petition is the only legitimate way, the only emphatic way, of expressing the wishes of the public, or of individuals, to Parliament; and this course has been adopted, so far as the limited time allowed has rendered practicable. And, again, that “the postponement would provoke discussions and breed heart-burnings which everyone would deplore.” This argument, that postponement would cause discussion, is altogether worthless. Discussion is what is required, and the friends of the measure ought rather to court discussion than repudiate it. The measure, if a good one, and in unison with public sentiment, would lose nothing, but thereby gain support. After all this, what do we find emanating from the same city of Montreal? Instead of an imaginary, an unmistakable “regularly-organized effort” to induce your honors to sanction the Bill, by a number of printed sheets circulated there for signature, handsomely bound and illuminated, presented to this House as purporting to be (and entered on the proceedings) as so many separate petitions, whereas they, in truth, form but one and from one single locality. The whole number of petitions, therefore, in favor of the measure are only four—two, at least, from the same locality; whereas there are sixty-one against it, from sixty-one different localities. I desire also to call attention to the reasons assigned in this petition for passing the Bill, viz:—“Because it is said the question has been before the world for years,” and “the suspension of the passage for twelve months would create confusion and difficulty, and affect the rights of many citizens.” Now, if as is stated, “it has been before the world for years,” no great calamity has ever, in consequence, ensued. Nor is it likely that any will occur if deferred for twelve months longer. Nor need we anticipate the confusion or difficulties suggested. And as to the delay affecting “the rights of citizens,” there are no existing rights to be affected. I might well retaliate and apply the remarks already quoted, that “this result simply shews how infinitesimal is the support given to the measure, or it would have manifested itself in a much more emphatic way than has been shewn by four petitions.” I feel sure

your honors will not allow yourselves to be beguiled by this attempt to ignore the petitions from sixty-one different localities, or look upon Montreal as representing the whole Dominion, whatever personal interest or influence may be there concentrated, but that you will readily grant the reasonable delay asked for by the resolution before the House. I may say, in conclusion, that should the Bill go to a committee, I give notice that I shall move that the latter part of the first clause be amended by striking out the words, "or the widow of his deceased brother." And also, should the Bill pass, that a clause be added suspending the operation of the Act until it shall have received Her Majesty's assent, as it would be highly prejudicial and injurious should such a measure become law for a short period, and be afterwards disallowed.

Hon. Mr. MACFARLANE--I shall not follow my hon. friend in the course that he has taken, because I imagine that here the richest field for controversy has been abandoned by the most astute scholars in the world, who have pledged their reputation as linguists that the interpretation of the Levitical law will bear the construction that we, who advocate this measure, put upon it. I regret that the hon. Senator from Amherst, who introduced this resolution, did not move the six months' hoist, but has sought to win support for his cunningly-prepared resolution, which he could not obtain by a direct motion against the Bill. I believe that his resolution was prepared in order that it might catch some hopeful support like that of the hon. Senator from Richmond, who frankly told us that he was prepared to sustain the Bill—with the exception of the second clause—and yet was prepared to vote for this amendment.

Hon. Mr. MILLER—I did not say anything of the kind. I distinctly stated that an important portion of the Bill I was decidedly opposed to.

Hon. Mr. MACFARLANE—I have already said that, while the hon. gentleman opposed a portion of the Bill, he was not opposed to the first part of it. He said that he agreed to the portion of the Bill which permitted marriage with

the sister of a deceased wife. While I do not see the same objection to the latter part of the Bill that some gentlemen do, I cannot see the close or doubtful affinity that some do, in the case of the widow of a deceased brother. Still, I frankly admit that there are objectionable features in connection with such a marriage, which we do not feel in connection with the first class of cases, and I am not at all prepared to say that if this Bill goes into Committee, I would not be ready to sustain my hon. friend's views on the second part of the clause allowing marriage with the wife of a deceased brother. From what has been argued here, and from the pertinacity with which some hon. gentlemen oppose the Bill, you would really suppose that the object was not merely to give them liberty, but to compel them to marry the sisters of deceased wives. You would suppose, from what they say, that there was not a man in the country who, if he happened to lose his wife, would not be compelled to marry her sister, if she had one. Now, hon. gentlemen, what really are the causes that give rise to such a disturbance? Who are the parties that seek, here, to avail themselves of the privilege that this Bill will confer? Is it the cases of young and thoughtless persons in the hey-day of youth? How many sad scenes do we find, of young persons who are brought together without previous acquaintance, and who rush into wedlock and learn the truth of the old adage, "marry in haste, and repent at leisure?" We know many of those sad cases; they are before us every day; but who are the class of persons that seek relief through this Bill? The man who has arrived at mature age, beyond all doubt. He has been wedded, and must, in all probability, have spent years of wedded life. His wife's sister will, very probably, have been residing in the house with him. Who, I ask, could be found to whom the wife, in her last moments, would so carefully entrust her children as to her sister? But who is the sister? In all probability she, too, is a lady of mature and ripened years—very likely an aged spinster; probably one who, for years, has been on intimate terms of acquaintance with her sister's husband. Hav-

ing known and carefully studied each other's qualities, and having made up their minds that they were adapted to each other, if they conclude to marry, who can doubt that such a conclusion is the result of mature experience, and that such a marriage would be a happy one? We have all seen cases of men who did not marry their deceased wife's sister, and whose experience was unfortunate. But while I know a great many who have married their deceased wives' sisters, I am not aware of a solitary instance in which the parties were not happy. But what is the consequence of the law as it is at present? The hon. Senator from Woodstock told us yesterday that these marriages are continually being contracted all over Canada. What do parties do who desire to contract those marriages? They simply go across the border, where such marriages can be contracted and are legal, and they do so, feeling and believing that there is no moral stain upon them. They feel that they transgress no law of God or man, and that there is no blood relationship between them. If some hon. gentleman had had the boldness to introduce a law to restrict marriages between cousins, I am not sure but that it would benefit the country. Who can have failed to observe the effects of ill-assorted marriages of cousins and other blood relations? Who can have failed to have seen the sad results of such marriages, such as often happens—deformed children—and yet is there any law to prevent these unions? What is to prevent a widower marrying his cousin, a blood relation, who, perhaps, has taken charge of his children? Is there anything in such a marriage that is considered immoral; or does anyone think there is any immorality in a man, who has lost his wife, living in the same house with his cousin? While the sad effects of the marriages of blood-relations are seen and felt all over the country, the results of marriages such as are intended to be legalized by this Bill, are exactly in the opposite direction. My hon. friend says that we should be guided in our legislation by the experience of England, but what is the state of society there? Who does not know you have there a dominant church, which rules and controls

the social life of the country? Who does not know that, in the House of Commons of Great Britain, where bills of this kind have been carried seven times—

Hon. Mr. POWER—Four times.

Hon. Mr. MACFARLANE—I shall give the very best authority, the authority of Lord Houghton, who says that such bills have passed the House of Commons seven times.

Hon. Mr. ODELL—It is a mistake.

Hon. Mr. MACFARLANE—It is a statement which, I imagine, the hon. gentleman will not be able to gainsay. Here is what Lord Houghton says, in a speech delivered on a second reading similar to this, on the 6th May, 1879:—

“Seven times has the will of the people been expressed by various majorities, sometimes approaching one hundred in support of these bills, and seven times have they been rejected by the House of Lords. That, assuredly, is not a satisfactory position in which to leave that question, and, in the meantime, these marriages are multiplying every day.”

Now, what does this eminent authority that I have quoted state in his speech? That these Bills were introduced not so much to relieve the aristocracy of any disability, but rather to relieve the poor classes of the people who reside in the rural parts of the country, and not so much residents of large cities and towns, where they have a large field to form their connections in. In the rural districts, where a man has found a friend in his deceased wife's sister, he clings to her, and she is able to help him to provide for his children. That has proved to be the case in England, and it is equally so in this country. Now, has any gentleman been able to shew that bad results have arisen from these marriages across the border, where they are permitted by law? Yet there the law affects forty or fifty millions of people; and who has ever heard a complaint that any woman has been found to try to strip her deceased sister's children of their property? Such cases may occur. I do not say that there are not bad sisters-in-law, just as well as other people; but what I do mean to say is, that the widower who has had a good opportunity of becoming acquainted with the sister of his deceased

wife, and especially if she has resided in his house—there is no one whose character he ought to be more familiar with, being in a position to know whether she would make him happy or comfortable if she became his wife, in such a case. I say, he should not be prevented by law from contracting such a marriage. I shall not labor the Bill, but in every view that I can take of it, we are removing by it, as we are bound to remove, the shackles or restrictions that prevent men from selecting their partners in life when there is no blood affinity in consideration. The only valid objection to marriage is where the blood relationship is so close that it is likely to affect the offspring. With these views, I have great pleasure in supporting the Bill of my hon. friend, who we may well call the Nestor of the House. I am sure that, if the hon. Senator from Montreal (Mr. Ferrier) thought there was any immorality about it, he would be the last one to be found advocating this Bill. In his long life and extended experience, the hon. gentleman is the Nestor of the House. He has had more and longer opportunities than any other member to judge of the relief that it will give, and I am quite sure that any hon. gentleman in sustaining the Bill introduced by that hon. gentleman, will have no cause to regret it. Entertaining these views, I shall certainly record my vote against the amendment proposed by the hon. member for Amherst, and in favor of the Bill, and, if the measure should be carried, as I trust it will, when it is referred to committee I shall be prepared to assist in expunging any objectionable features that it may contain.

Hon. Mr. MILLER—I am sure that the hon. gentleman who has resumed his seat has no desire to misrepresent what I said, and I can only conclude, as he expressed it himself, that he could not have understood the plain statement that I made to the House yesterday. What I did say on that occasion was that I was in favor of legalizing marriage between a man and his deceased wife's sister if there was any immediate haste for doing so; but that in the face of the very respectable memorials that have been presented from every portion of the country, and in the face, also, of the conflicting counsels that prevail in

regard to the details of the Bill among the heads of another very large denomination, I thought that my proper course was to vote for the postponement of the measure for another session. I also said that I was decidedly opposed to that portion of the Bill which was intended to legalize the marriage of a man with the widow of his deceased brother. I could not, under any circumstances, vote for the second portion of the Bill. Neither can I understand how any member can support the second reading of the measure, who is not in favor of the whole Bill.

Hon. Mr. MACFARLANE—I did not at all misunderstand the hon. gentlemen. The statement which I made is, I think, entirely in harmony with the explanation.

Hon. Mr. POWER—The question before the House is whether we shall support the resolution of the hon. gentleman from Amherst, to defer this Bill until another session, or whether we shall pass it once; and, probably, strictly speaking, a discussion of the merits of the Bill is not altogether necessary. There is a good deal of force in what was said by the hon. Senator from Richmond, that it was not necessary to enter into any very elaborate discussion of the merits of the measure, but that we should simply decide whether we should not postpone it, on the ground that it was not absolutely necessary to pass it now. There is a great deal of authority on the subject. A somewhat similar Bill has been discussed several times, and with great ability, in the Imperial Parliament. This Bill has also been debated in the other branch of this Legislature, and has been discussed in some letters published by Judge Loranger, of Montreal, in the Montreal *Minerve*, probably with greater ability and accuracy than by any other gentleman in this country. I feel that, while that is true, and members in this House can get access to all the authorities on the subject, the public at large, who are to consider the question, if the resolution of the hon. Senator from Amherst passes, have not the means of getting at those authorities, and I think that, to a certain extent, it is the duty of gentlemen who are in favor of

postponement, to supply to the public some materials upon which they may base their judgment. I do not propose, however, to delay the House for any great length of time. We are asked to pass this Bill at once. Now, unless there are circumstances of peculiar urgency, aside from the nature of the Bill, I do not think that we should do so; and, when we come to look at the circumstances, I do not think that they will be found to be of that character. There is no very strong popular feeling in favor of the measure outside of Parliament; in fact there was none of any kind until this Bill was introduced in the House of Commons. The case is not the same as in England, where petitions, signed by hundreds of thousands of persons, were presented to Parliament on the subject. There were no petitions presented here before the Bill was introduced in the other House, and since then a great majority of the petitions have been against the measure. It has been said that this Bill is in favor of the fair sex. I do not think that there is any evidence in support of that assertion; and I think that the majority of that sex are altogether opposed to the Bill. We cannot be asked to pass this Bill in a hurry because of the existence of a similar law in England. The fact is the reverse; instead of assimilating our law to that of England, we should be making it different. Aside from the merits of the Bill, the only reason why we should pass it this session is, that the hon. gentleman who introduced it in the other branch of the Legislature is very popular, very much liked by his brother members, and very resolute and determined in carrying his point. While he deserves all credit for that, I do not think that it is any special reason why we should support this Bill. I think we should consider the measure on its own merits, and not otherwise. Looking at the somewhat revolutionary character of the Bill, I do not think we should pass it this session, unless some urgent necessity is shewn for it. No such necessity has been shewn, nor even alleged to exist. In the case of the Insolvent Act last year, which has been referred to by some two or three hon. gentlemen, it might have been stated that there was some necessity for haste, be-

cause it might be claimed that the business of the country was suffering; but there is no such urgency in this case. I wish to call the attention of hon. gentlemen who may be disposed to support the principle of the Bill, to the fact that, to my mind, at any rate, even if the principle should be admitted as correct, this is not the bill which ought to pass. The measure is illogical and inconsistent. It allows a man to marry the sister of his deceased wife, whilst it does not allow him to marry her niece, though the niece is a degree further removed than the sister. If the Bill is to be altered at all, it should be changed to include the niece. I do not think we are bound to undertake, at this stage of the session, to manufacture a new Bill. Then, the second section, if hon. gentlemen will look at it, is *ex post facto* legislation, which is always reprobated in England, and is forbidden by the constitutions of the different states of the neighboring republic. This second section interferes with the rights of persons acquired under the existing law, and interferes with those rights on behalf of persons who have broken that law. I think it is unjust and improper. But, even in this, the Bill is illogical, because, while it legalizes certain marriages contracted between men and the sisters of their deceased wives, it does not legalize all of them, as will be seen by reading the second section. I should like to call the attention of the Senator from Fredericton (Mr. Odell) to the fact that he was in error when he said that the Bill did not affect existing rights of children. The section says: "All such marriages heretofore contracted, the parties whereto are living as husband and wife at the time of the passing of this Act, shall be held to have been lawfully contracted." If lawfully contracted, the children of such marriages would share in the property, as well as the children of the former wives.

Hon. Mr. ODELL—Is there not a proviso?

Hon. Mr. POWER—No; it has been struck out. If a marriage of this sort was contracted five or six years ago, and children were born, and one of the parties died, those children would be ille-

gitimate, while, if both of the parties were alive, their children would be legitimate. Now, I do not think anything could be more illogical or unfair than that part of the Bill. Another circumstance connected with it, which has been adverted to by some hon. gentlemen who have spoken, is, that it differs from the Bills introduced in England, and I believe from those passed in Australia, inasmuch as it legalizes marriage with the widow of a deceased brother. That is repugnant to the sense of right and propriety of almost every man, and is something that I hope will not pass this House. With reference to such marriages, in addition to the arguments used against marriage with a deceased wife's sister, there are a number of others. There is an express prohibition in Scripture. The hon. gentleman from Belleville (Mr. Flint) was not able to find a prohibition, but, instead of looking at the eighteenth section of chap. 18 of Leviticus, he should have looked at the 16th, where he would have found an express prohibition of marriage with the widow of a deceased brother. In the 21st verse of the same chapter it is pronounced an unlawful thing, and the punishment is, that the couple should be without children. The hon. gentleman referred to the passage in Deuteronomy as exceptional. Now, to my mind, the exception in this instance proves the general rule. I am confirmed in that belief by the fact that, in the twenty-seventh chapter of Deuteronomy, twenty-third verse, there is a very serious condemnation against persons who are guilty of a similar offence. As I understand the Senator from Belleville, he argued that the Scriptures do not recognize affinity at all. The hon. gentleman from Cumberland (Mr. Macfarlane) seemed to take the same ground. Now, in the eighteenth chapter of Leviticus, fourteenth verse, I find that, with reference to the wife of an uncle, intercourse with whom is forbidden, she is described as one "who is joined to thee by affinity." The Scriptures very strongly recognize the relationship of affinity. In the seventeenth section of the same chapter of Leviticus, and in other places where the relationship is merely one of affinity, it is held that the flesh of the husband is the flesh of the wife, and that intercourse

with certain relatives of the wife is incest. On this point, I will call attention to a letter which was published in the *Globe* the other day, by Mr. Hirschfelder, a Jewish gentleman living in Toronto, a man of considerable prominence in the Jewish body, who is in favor of marriage with the sister of a deceased wife. Speaking of marriage with the widow of a deceased brother, he says:—

"Taking all things into consideration, I cannot see upon what grounds the law prohibiting an alliance of a brother with a deceased brother's widow can be abolished, unless it is upon the supposition that the Mosaic marriage laws, like some other laws, were only intended for the ancient Israelites, and, therefore, have no force now.

"Now, Mr. Editor, in order to comprehend fully the force of many of the Mosaic laws, it is necessary to divide them into three principal classes:—(1) Precautionary laws; (2) Sanitary laws; (3) Moral laws."

"To the third class belong all such laws which are conducive to foster morality, and, as might be naturally expected, they are by far the most numerous. Now, I think it will hardly be denied that the observance of these laws are just as binding to Christians as to the Jews, and I think it will be admitted at once that the marriage laws must certainly belong to this class, and, if such is the case, I can hardly see how the law prohibiting 'a brother marrying his brother's wife' can consistently be abolished. There are, certainly, very strong grounds to be urged against such alliances; but, as I have above stated, it is impossible to notice them in a newspaper article."

I think, hon. gentlemen, enough has been said to shew that, as regards marriage with the widow of a deceased brother, there can be no reasonable doubt as to the law laid down in the Scripture. As to marriage with a deceased wife's sister, the scriptural argument has been dealt with already by the hon. gentleman from Amherst, and has been discussed in the other House and elsewhere, and hon. gentlemen are quite familiar with it; but there is one point to which attention has been called, to a certain extent, and to which I shall again refer; that is this fact: that, whatever the Jewish law on this subject may have been, there is no doubt as to what the Christian law has been. One of the greatest changes that was made by the change from the Jewish to the Christian dispensation, was in the elevation of the married state. The marriage tie was made more sacred,

and the union between husband and wife rendered more intimate and more difficult to dissolve. Divorce, which had been allowed in the old law, was not tolerated in the new. Polygamy, which had existed under the old law, was done away with, and husband and wife were declared by the Redeemer himself to be one flesh. Looking back on ecclesiastical history, we find that, at a very early date in the history of the church, the canon law, in dealing with the question of marriage, placed the relations of wives in exactly the same position as those of the husbands themselves. Not later, I think, than about 300 years after the Christian era, we find the law in that position, and for hundreds of years the canon law was as strict as this—that marriage was forbidden not only between those who were nearly related by blood or affinity, but between persons related by blood or affinity as far as the seventh degree, and it was only at the fourth council of Lateran, in the beginning of the thirteenth century, that the prohibition was limited to the fourth degree. Now, this canon law was the law of all Europe up to the sixteenth century. It was recognized by cap. 22, of the 25th year of Henry the Eighth, and by a subsequent statute of that monarch, as the law of England, and it has so been accepted down to the present day. It was said by the Senator from Alma (Mr. Penny) that, up to 1835, the time that Lord Lyndhurst's Act was passed, such marriages were not void, but were voidable. He is in error in that. They were void, but they had to be declared so by the Ecclesiastical Court, and this Act of Lord Lyndhurst's declared them void in the eyes of the common law, without any action of the Ecclesiastical Courts. In order to shew what the sentiment of the early Christian world was on this subject, we cannot go to any better authority than the Greek Church. In that church they preserve most of the old practices and discipline of the early church, and, in the Greek Church, those marriages are absolutely void. It was not until the middle ages, and after a struggle that endured for some time, that the right of the Popes to grant dispensations for such marriages was recognized; but the church has always been hostile to them. As an argument in favor of this Bill, we

have been referred to the practice in the United States, and also, I think, to the practice in Germany. Now, I do not think, when we want a model for our social life, we should go to the United States. I do not think the morals of that country are such as to induce us to follow in their footsteps, but very much the reverse. Whatever good things there may be in the United States, I do not think that their domestic morality is more admirable than our own, or anything that we should be anxious to imitate; and Prussia, which, I think, is the only country where those marriages are allowed without any dispensation, is undoubtedly the most immoral country in Europe. A very singular argument was used by the Senator from Belleville (Mr. Flint), that if we allowed this Bill to stand over for another year, there would be a great deal of agitation against it. That seems a very extraordinary argument. I am surprised that a gentleman, who is generally so ready to recognize the right of the people to be heard, should take such a position in this instance.

Hon. Mr. FLINT—I did not say that there would be an agitation against the Bill. I stated that it would create great agitation throughout the country. The hon. gentleman is just about as wrong in that as his quotations of Scripture.

Hon. Mr. POWER—If the hon. gentleman will take the trouble to examine the passages in Leviticus, he will find that I have quoted them correctly.

Hon. Mr. FLINT—I examined them before the hon. gentleman was born.

Hon. Mr. POWER.—I do not know whether it was the hon. gentleman from Belleville who said that this Bill was opposed as if it obliged every man to marry the sister of his deceased wife. I think there is another way of looking at it. One would imagine, from the anxiety of hon. gentlemen to get this Bill passed at once, that there were no other women to be married but sisters-in-law. There are women enough in the world for men to marry without contracting such alliances. An argument that has been used by almost every hon. gentleman who has supported the Bill is, that orphan children would have the guardianship and care of their aunts, who are the best persons to take

charge of them. That is true as the law stands now. A deceased wife's sister can remain in the house with her brother-in-law and take care of them ; but, if you passed this Bill, she could not do that. She would have to leave the house, because she would be in the position of any other unmarried woman there. It has already been said that if she becomes a step-mother, she ceases to be an aunt ; so that the orphan children would lose by this Bill, in any case. The hon. gentleman referred to the woman who had seven husbands, and the problem as to who was to be her husband in the resurrection. We are not now dealing with the future life, but with this life, and we should confine ourselves to that. I should like to say a word with reference to the church to which I myself belong, since it has been referred to by the hon. gentlemen from Alma (Mr. Penny), and St. John (Mr. Dever.) The law of the Church of Rome, as everyone knows, almost from the commencement of the Christian era down to the present time, has forbidden those marriages. For a long time, dispensations were not granted under any circumstances ; now they are granted under urgent circumstances, and obtained with a great deal of difficulty. The cases in which dispensations are granted are exceptional. The question is whether, looking at the matter from the standpoint of the Church to which I belong, it is better to have the law of the land agree with the general law of the church, or with the exceptional cases. To my mind, it is better to have the law of the land agree with the general law of the church. The fact that the law of the land is hostile to such marriages, and makes the issue of them illegitimate, is a discouragement to persons entering into alliances which are contrary to the law of the church. If a dispensation is granted, the children are legitimate in the eye of the church, and there is no stigma affixed to them in the eyes of other members of the Church. With reference to the rights of property, any difficulty of that kind can be successfully got over by a man making his will the proper way. That is all that I propose to say for myself ; but I would call the attention of the House to some language used in the House of Lords in 1873. I wish to quote from the speech,

on the motion to reject the Bill to legalize marriage with a deceased wife's sister, made by Lord O'Hagan. He had been Lord Chancellor for Ireland, was one of the best lawyers in the three kingdoms, and his orthodoxy, as a Catholic, was unquestioned. He made this speech several years after the evidence, which has been quoted by the hon. gentleman from Alma, had been given by Cardinal Wiseman. At page 1,888 of the *Hansard* for that year, Lord O'Hagan is reported as having used the following language :—

"I have the sincerest sympathy with any innocent persons who suffer from the law as it exists. From some of them I have received communications which have touched me deeply. But I cannot pity those by whom that law has been deliberately violated, on the prompting of passion, or in concession to a supposed expediency, without consideration of the fatal results to trusting women and unborn children. If it were possible to relieve, in cases of real hardship, with due regard to the momentous issues involved in the controversy, I suppose we should all be glad to aid in doing so ; but we have to consider what is right and wise, and for the highest interests of the society in which we live ; we cannot play with them according to the impulse of our feelings. We are bound to deal with them as judgment and conscience dictate when we come to touch that family life, which is the very corner stone of our social state, and, according to its moral condition, becomes the glory or the shame, the strength or the destruction of a people."

And again, at page 1,891, Lord O'Hagan says :—

"We are the ' heirs of all the ages,' and we should not lightly set aside the instruction which they give. If you would maintain a Christian civilization in the world, hold high the ideal of the Christian marriage. Do not abase its dignity ; do not dim its brightness. The time is not apt for meddling rudely with that great ideal, or, as you are asked to do tonight, with principles which are its bulwarks, and from which it derives its beauty and its strength. Old landmarks are vanishing away. Doctrines of international law and political justice, which long governed the public conscience of mankind, are losing their power. The elements of socialistic anarchy are working through the nations, and we should beware of precipitating the time when laxness as to the marriage bond may help to bring us to the condition of Rome, as described by Gibbon, ' when marriages were without affection, and love was without delicacy or respect,' and when corruption in that regard was one of the worst instruments in the overthrow of the mightiest of empires. But, my lords, if all I have said were to be disregarded ; if there were no tradition

or authority, or religious influence to warrant the rejection of this Bill, I should not oppose it in the interest of society, and for the maintenance of the dignity and purity of the family life; I should oppose it because it is calculated to alter the relations of the sexes in a way most serious and most mischievous. The connection of the brother and sister is delicate and tender, and so ought to be that of the brother-in-law and the sister-in-law—a connection of love and trust, without the taint of passion or irregular desire, and thus it will continue, if you refuse to make legal marriage possible between them. Temptation is bred of opportunity, and dies when it is lost."

I shall say no more, except to end, as I began, with the hope that this House will not pass such a revolutionary measure as this; but will grant the very reasonable and modest request contained in the petitions that have been addressed to the House, and involved in the resolution moved by the Senator from Amherst, to wait one year, to give Parliament and the country time to consider the matter.

Hon. Mr. GIBBS—I have listened with a very great deal of attention, during the whole of this discussion, and have endeavored, if possible, to hear if anything could be advanced by any hon. gentleman, that would tend, in any way, to shake the opinion which I had formed in the past, and which should guide me in the vote which I shall give on the present occasion. I am bound to say that, ably as the discussion has been conducted on both sides, from the beginning until now, I am really more strongly impressed with the correctness of the views I have held in the past, than I was at the commencement of the debate. The only argument used by those who are opposed to the Bill, for the purpose of affecting the vote to be given on the question, is the one that there should be delay in order that more light may be obtained on this subject, which we are told has been discussed for the last 1,880 years, and hon. gentlemen ask that they may have 1,881 years in order to form a correct opinion upon it. It has also been said that this Bill is intended to give relief to a few individuals; that, in point of fact, if this law had not been violated by a few persons, there would have been no debate to-day, there would have been no movement in the country, and there would have been no petitions

presented before the House, nor would this Bill have been introduced. Taking it for granted that this statement is substantially correct, and for the purposes of my argument, I am willing to assume that it is so, I ask if Parliament has not, on all occasions, been willing to afford relief to even one humble individual, not hundreds, as we are told in this case, who have violated the law of the land, and who are now asking for relief at the hands of Parliament? I say Parliament has always been ready to give relief to individuals, and, besides, we are informed that, in the Province of Quebec, the children of these marriages are incapable of inheriting property, and, in fact, that under the law, as it stands in that Province, they are illegitimates. The parties who have entered into the bonds of matrimony under these circumstances did not believe they were violating the law, for, had they so believed, they had only to cross the borders, and enter into those bonds without violating the laws of the neighboring Republic, and could return to Canada to live as man and wife. Now, we are informed that we are not to go to the United States to obtain lessons on public morality. I grant, it if you please. Another hon. gentleman has based his argument on the fact that England has refused this Bill for years and, therefore, Canada ought to refuse it also. I do not think, however, we should be asked to look to countries that have refused to pass this measure, but rather to the colonies and countries that have adopted it, to ascertain what the effect of such a law has been. I ask the hon. gentleman who has based his argument—a very able one it was, from his point of view (but very illogical)—what the effect of such a law is, or has been, in countries where it has been adopted? We are asked to believe that it will have a bad effect in the Dominion of Canada; that it will, in point of fact, shock the moral sense of the community. We know that it has not produced injury elsewhere when adopted, and its effect here, I believe, will be to set at rest a question that we desire to have settled. I desire that we should follow the example of the colonies of Great Britain, the United States and the coun-

tries of Europe—Germany and Switzerland—where this law prevails, and draw our inferences as to its effects in those countries, rather than from countries that have opposed it from time immemorial, and still continue to do so. I admit that there are many things we might copy from English legislation, but I ask my hon. friend from Fredericton if there is any force in his argument, that we should, in every instance, assimilate our laws to those of England? Would the Statute have been passed in Canada, which is now in force—I allude to the abolition of the law of primogeniture—if we were to follow the law of England? Does the hon. gentleman wish us to repeal that law, in order to assimilate our legislation to that of England? It was an Act which met with the approval of the people of Canada, and I have never heard one word said against it from that day to this, nor do I believe that there is a solitary individual who desires, to-day, to see that law repealed. Another suggestion is that this Bill should have a suspending clause, if it is passed, but I think that, as every law passed here is liable to be disallowed within two years by the home authorities, then, I say, if that is the case, instead of postponing the passage of this Bill, it is a more urgent reason why we should pass it at once, for, if there are two years within which it can be disallowed, we may, at the end of that term, have to begin *de novo*. It has been stated in this debate that the Act passed in Australia was not allowed for two years, and it did not receive the Royal assent until it had been passed the second time by the Australian Parliament. This being the case, the sooner we pass this Bill the better. We are bound to pass it, and to give relief to those who seek it. No persons are more likely to come for relief to Parliament than those who are affected by the law as it now stands. I have no friends of my own seeking relief, and, therefore, I do not speak from any interested point of view, as it is not a matter of the slightest consequence to me, personally, whether the Bill passes or not; but I do hope, in the interest of those who seek relief at our hands, that hon. gentlemen will vote against the amendment of the hon. Senator from Amherst. It may be, upon his part, very

good tactics to introduce his motion in the shape he has framed it; it may be, as an old parliamentarian, that he expects, by this method, to defeat the Bill, but I think it would have been a more straightforward and a more manly way to have met the Bill squarely upon its merits, and let the vote be taken upon its merits. I agree with my hon. friend opposite (Mr. Macfarlane), when he said it was an endeavor to catch those who were undecided in their opinions. To such, the amendment of my hon. friend from Amherst comes as a relief, because, in voting for it, they feel that they are not voting against the principle of the Bill, but are simply asking for its postponement. Is there an hon. gentleman in this House who would rise in his place and say that he expects, by this time twelve months, he will have more light than he has at the present moment? I venture to say that there has not been a single argument adduced in this debate from the Scriptures that bears on the subject, and if the hon. gentleman who did quote from Leviticus had read the whole chapter, the sense of the House would have been against his interpretation of it. I am bound to say this: that hon. gentlemen cannot vote upon this question on any other principle than according to their own convictions, and I admit that it is very difficult to overcome one's prejudices. If, in early life, we have imbibed certain views—religious ones particularly—I know how difficult it is to get rid of them in after life; no matter how one may reason upon them, they cleave closely to him all through his natural life. I know, also, the respect that is paid by members of any church to the doctrines and teachings of that church, whatever they may be, and, although I am at all times disposed, myself, to give due respect to opinions coming from high authority of that kind, yet, when they come into conflict with my own convictions, I put them aside, and act according to my own views. I must confess my surprise at the paucity of the arguments that have been placed before this House in opposition to this Bill. I do not believe, and, if I stated my own convictions, I would add that I doubt very much if hon. gentlemen who advanced those arguments before this House think that the passage of this Bill will create

such a revolution in the country as they would fain make us believe. I am satisfied this measure would be accepted by the people as the settlement of a vexed question, and I, for one, would be very sorry, coming so recently into this hon. House, to find it arrayed against the other branch of the Legislature, after its having pronounced itself in such an unmistakable manner upon this question.

Hon. Mr. VIDAL.—At this late hour and protracted stage of the debate, I fully recognize the propriety of confining my remarks within a limited space. I rise to support the amendment proposed by the hon. member from Amherst, and I must say that, in my judgment, the severe comments which have been made upon it are not justified. It has been alleged that postponement of the Bill has not been asked for. I think the hon. gentleman shewed most distinctly and most clearly, as did other hon. gentlemen, during the course of this debate, that the petitions presented to this House against the Bill, have, all of them, asked that it should either be rejected or postponed for one year; and, consequently, the amendment which has been proposed is in strict accordance with the prayer of the petitioners. Those petitions are numerous. It has been stated that there have been over sixty of them. I have hurriedly counted them, but have not reached that number. I remark, however, that the petitions for the Bill up to the day before yesterday amounted to only two, and I think, with my hon. friend from Fredericton, that the thirty-six petitions which were bound together, presented at one time, and came from one city, might with all propriety be regarded as one petition. If so, we have the fact, worthy, surely, of some consideration, that there are sixty petitions against the Bill, and only three in its favor. It must be admitted that there is a great deal of feeling, both within and without this House, with regard to this question, which has been long before the public, and has developed a wide divergence of opinion; it must, therefore, be approached with great consideration in order to form a correct judgment upon it. I have listened very carefully to the entire debate, and I am constrained to say that, either

I have seriously misapprehended the statements that have been made in the House justifying the introduction of this measure, or the House misapprehends the real character of the agitation in favor of the Bill. It has been alleged that great suffering prevails in the community on account of the present state of the law. I will ask hon. gentlemen has there been one petition presented to this House from any person who claims to have suffered in the least degree from the operation of the law as it now stands? Has there been one single case of hardship or injustice presented to the House to shew that this Bill—so subversive of long-established institutions—is really necessary to remedy it? or, has proof been adduced that any evils have, in this country, resulted from the present law? We have had strong statements and fancy pictures of domestic unhappiness presented as evils necessarily connected with the law, as it has been for centuries, and equally fanciful pictures have been painted in glowing colors of the beneficial results that will follow the passage of the Bill before us, but none of those illustrations will bear examination. My hon. friend from Belleville (Mr. Flint), gave a very pathetic illustration to shew how suitable it is for the sister of a deceased wife to take charge of the children she might leave behind, and how desirable that the husband should marry her, rather than bring in a stranger; but, in order to secure the carrying out of his views, he would have to make this law compulsory, obliging him to marry her, for he seems to forget that the man would have some freedom of choice in the matter, and, although he might have the sister-in-law there, he might fancy some other woman for a helpmate, and the dreaded results might follow. But, apart from these social considerations, I would rather urge the point to which I have alluded: that no person has come before this House to shew that any evil result whatever has flowed from this law, as it stands, and the petitions that have come have not asked us to remedy an evil, but simply to pass this Bill. They are not the outcry of a suffering people coming to the Legislature for relief; they are got up at the request of parties in the House who have desired to sustain the Bill by getting

this outside help. That is, practically, the character of the petitions that have been presented in its favor. Much has been said about the state of the law, on this subject, in England, I will admit that, in England, there is ample room for agitation on this question. I am not surprised that there are petitions, signed by thousands of people, presented to the British Parliament, asking relief from a real practical difficulty in the law, as it stands there. But we are not under that law; no law is in force in Canada, declaring those marriages void. In England, they are under an actually oppressive law—a law which, were I in England, I would do all in my power, if not to repeal, at least so to amend it as to remove the clauses which bar the issue of such marriages from inheritance of their fathers' property. My hon. friend from Woodstock has told us that great difficulty was experienced in the western parts of Ontario in consequence of our law, and that many people, on account of it, had to go to the United States to get married. I question if he could produce any cases of parties who went to the United States to be married because the law of Ontario makes such marriage illegal if it takes place here. The law of Ontario does not make such marriages illegal, and, if people go to Buffalo, Detroit, or other American cities to get married, it is simply because it is convenient for them to go there, or it suits their purpose in some other way. There is not, in the Province of Ontario, any law which throws any obstacle in the way of those unions, or disinherits the issue of such marriages. I challenge any hon. gentleman here to produce any single instance on record where a court in Ontario has decided that the issue of one of those marriages is illegitimate! It cannot be done. Whence, then, this cry for relief? Where this oppression that the people are groaning under? The community has never asked for this Bill, for the people have not suffered from the evils complained of. Now, let us look at the relation of this question to the Province of Quebec. I believe, from the remarks that have fallen from hon. members, that the issue of such marriages are not considered to be the lawful heirs to the property of their father, should he

die intestate. Supposing it is so, are we, hon. gentlemen, legislating for the particular interests of a few individuals in that one Province? Is not that a question which is solely and entirely in the hands of the Provincial Legislature? I do not mean to say that marriage is, but as to this question of holding property, is it not a fact that to the provincial legislature is confided the duty of legislating with respect to property and civil rights? and can we constitutionally legislate to say that the issue of such marriages shall be heirs-at-law? They certainly ought to get that relief; but it is the local legislature alone that should grant it. I am very much surprised at the assent that has been given in the other Chamber to the Bill now before us. Gentlemen whose battle-cry has been: *Notre religion, notre langue, et nos lois*, have advocated and voted for the passing of a measure in direct contradiction to the law of the church to which they belong, and are asking this Legislature to interfere with those laws which they value so highly, and which one would suppose they would desire to keep in force. But I have other and more serious objections to the Bill than its being unnecessary and unasked for, and the chief is that it may possibly be a measure in direct opposition to Divine law. I presume that, if it could be distinctly shewn that it were so, this House would not commit itself to any such legislation. One part of this Bill is, in my judgment, clearly and distinctly a contravention of Divine law. I have not the least hesitation whatever in saying that I regard the part of the first clause legalizing the marriage of a man with the widow of his deceased brother as contrary to Divine law, and I could not consent to the passing of this Bill while it contains such a provision. Although my objection is not so strong against the first clause, I have very serious doubts even as to the propriety of legalizing marriage with the sister of a deceased wife. If it should be so, that this Bill is in contravention of the Divine law, what are we about to do? Do we suppose that we can improve on the government and laws of the Almighty? Is it not a fact that every law He has given to man has been designed for man's

good? He does not condescend to explain all the reasons for giving that law, or all the results to flow from it; if He has laid down a law barring such marriages, I maintain it is for the good of humanity. None of His laws are arbitrary enactments, but command or prohibit, because the doing of this, or the refraining from that, are conducive to man's health and happiness. I think, under the circumstances, we ought to be very careful indeed to confine ourselves to that kind of legislation which is clearly within our jurisdiction, as relating to things earthly rather than spiritual. I should have no hesitation whatever in supporting a bill which declared merely as to property that the children of these marriages should be considered as lawful inheritors of it, but I do object to see on the Statute book of our country an act, the terms of which may be said to be in direct contradiction to the Divine law. There is manifestly a great difference of opinion as to whether it is so or not. The Catholic Church of Rome, a very large and influential body of Christians, by its laws—not enacted as of its own will and authority, as we make laws here, but drawn from the law of God, declare this affinity a bar to marriage, although granting a dispensation in some particular cases. Then look at the Church of England, comprising such large numbers of highly educated and talented theologians of unquestioned wisdom and piety, who affirm clearly that this affinity is, by the word of God, a bar to marriage. Do these opinions count for nothing? I would not, for a moment, accept their authority as a mere church law, of human origin, but I do accept these church laws as evidence that, in the opinion of these great and learned men, such marriages are forbidden by the law of God. Then take the Presbyterian Church—strong in numbers and influence, in piety and talent—and we find in the "Confession of Faith," their authorized standard of church law, they have it laid down, among the rules drawn from the Scriptures, that "A man may not marry any of his wife's kindred nearer in blood than he may of his own." I would not adhere to that view merely because given as the rule of a church. I am too independent, and too free to be bound down

by doctrines, the mere commandments of men, but I do consider that, when the opinion of those wise and good men, who have carefully and prayerfully studied the Scriptures, is, that the law of God prohibits this kind of marriage, it should have great weight with us. I say that these three great churches, by their standards, have, for centuries, upheld it.

Hon. Mr. PELLETIER—Not the Catholic one.

Hon. Mr. VIDAL—I take these three churches by their accredited standards, and I challenge any man to say that they do not disapprove of such marriages. I think, without going into arguments that are not fit for the floor of this House—for the discussion on the Scriptures is better fitted for a forum of a different nature—these churches all bear testimony to the fact that, in their opinion, the law of God requires that there should be a bar to this kind of marriage. Is all that testimony valueless? Are we to say that there can be no difference of opinion, or are we to be like the hon. gentleman from Belleville, who seemed to think that his *ipse dixit* was to sweep all these bars to the winds? This being the testimony of such a large number of persons who are so well-fitted to form a judgment, we should hesitate before venturing to say that they are entirely wrong, and I think it is a wise thing to give an opportunity, which I think will be taken advantage of, to have this subject thoroughly discussed by the churches and the people, and some decision arrived at, that may be a guide and assistance to Parliament at its next session.

Hon. Mr. BOYD—It is with some reluctance that I venture to offer a remark on this question, the more so because, while very grave differences of opinion exist between good men of both sides, whose judgment I respect, to me it seems so clear, and the interests involved in the early and just settlement of it so great, that I deem it my duty to join those who may press for an immediate decision, and that in favor of the Bill which is now before this hon. House. It has been said by my hon. friends the members from Amherst, Toronto and Fredericton, that the people

have not asked for it ; that few petitions have been sent up for, and many against it ; but this is a question which does not take hold of the public mind ; because it is not one which touches the country's pride or its purse, it is passed over with the remark : " A mere question of family relations, and not likely to affect me or mine," say too many. But it has been discussed very widely in the Old Country, Australia and the United States. In the latter it has been decided favorably, and in Britain, the House of Commons, after years of discussion, passed it by a large majority. It is yearly growing in favor of the House of Lords, and it must succeed, for in all these discussions, so far as I have seen—and I have followed them with some degree of interest—I have not met one argument to convince me that it was wrong, for neither from pulpit, platform or press have I heard or seen any reason that can weigh against those which have been adduced in favor of the principle of this Bill. The main appeal has been to the Scriptures. Here, one party rests their case, and they have so far been singularly unfortunate. They involved the question in such a labyrinth of difficulties that in many cases they were forced to leave this ground and seek that on which we stand when discussing the ordinary affairs of life and duty, of which matrimony is one. Even Cardinal Wiseman, as has been quoted by the hon. member from York, is in favor of this Bill, for the poor, as necessary ; for the rich, and will be productive only ; for them, therefore, it is right in his eyes. For the wealthy, it may be obtained by the wealthy as a consideration. Standing upon this ground, I have put the case to my own judgment in every conceivable shape. I can see nothing in it but what is purely sentimental. Even this has its weight, and we are bound to respect it ; but there is sentiment also on the other side, and more than sentiment, there are realities which have come home to many a household ; and men and women, pure as ever lived, have been branded with disgrace, and made to feel the humiliating mark placed upon them until their death. And why ? Because certain prejudices have been framed into a law. Great names have been quoted in defense of certain views. Men in authority desired to pursue

a certain course, and this was made easy to them by those whose policy it was to please, but as in political matters, so in spiritual, or what is called spiritual, it is not always safe to be led by great names, as even the best of men have at times been, unwittingly, the victims of prejudice. They desire to believe a certain thing ; they frame it into a dogma, and, instead of going to the law and the testimony for the Truth, they, out of their own desires, frame a policy—they go to, and frame arguments from it, in defence of this policy, and thus even good men have been led astray ; and the old lines of Burns have been in order in their case :—

" Some books are lies frae end to end,
And some great lies were never penned.
E'en Ministers they hae been kenned
In holy rapture ;
A rousin' whid at times to vend
And nail't wi scripture !"

Confounding the Moral with the Ceremonial—that which is for all time, with that which was merely for a dispensation which passed away some 1,800 years ago—men have framed a plea from the Old Testament to sustain their opposition to this Bill ; but it goes too far. They say it meets their case ; let us read it : " Neither shalt thou take a wife to her sister, to vex her besides the other in her (the wife's) lifetime." We may not marry our wife's sister while she lives—that is all ; they forget that we may, by a parity of reasoning, when she dies ; and not only so, but while prohibited from vexing our wife, by wedding her sister while she lives, we are at perfect liberty, according to this law, to wed her after the death of the wife, and, from the example of the good men of that day, to wed her and any other man's wife's sister also, and there is no restriction on the number that might be thus wed ; so that if this law is of any force, we must take it with all that it commanded, and all that it permitted. Under it hon. gentlemen might establish Harems in this country—they might introduce the abominations of polygamy, now happily confined to Utah and a few other places not recognised in Christian circles. The same law to which appeal is had against this Bill, if we take it in all its fulness, would regulate our appetites in every direction ; our domestic economies ; what we should eat, drink and avoid ; how we

should bear ourselves on the Sabbath, with other purely local and ceremonial enactments, adapted to a barbarous, untutored people in those early ages—a people who treated woman as inferior, placing upon her heavy burdens, and degrading her, in almost every position in life. Even this law, to which appeal is had, ordered that, on the birth of a female child, the purification attendant should be double that of a male. These laws are attempted to be set beside those which are for all time, and against laws which commend themselves to our better nature, and which will last when those of mere ceremonialism shall have for ever passed away. If marriage were aught else but a civil contract between man and woman, which I hold it is, we might be inclined to yield our judgment to spiritual courts, and to the decrees of spiritual teachers. It is a subject which belongs to the State; to be regulated only by the State, and Parliament, therefore, is the proper place to deal with it. We ought not to give up our powers to another court; we cannot guard these too carefully, or uphold them with too much jealousy. But even in spiritual circles, opinions widely differ. My hon. friend from Montreal will be met by my hon. friend from Toronto, each with a list of great names against the opinions of the other. One of the most distinguished clergymen in the Wesleyan Church had to leave England and come to this country, and remain here for a length of time, to marry his deceased wife's sister, and to avoid the annoyances consequent upon it. I know a case of one of the most pure and amiable ladies in the Dominion, a model wife, a good mother to her sister's children, and yet her family have discarded her, and almost broken hearted, she is no longer recognized by them. My hon. friend from Sarnia has challenged us to name one case where parties had to leave this country to effect such a marriage. I can name two such cases where I had myself to act as the guide from St. John to Eastport, on missions of this kind. I might multiply such cases, but this one, will, I doubt not, suggest many to hon. Senators, who have probably had like knowledge, and why should we lend our sanction to a continuance of this injustice? Why cause these heart burnings and recriminations, where

there ought to be only love and harmony? Are we looking for more light? Is Parliament unable to form an opinion? What are we, to gain by postponement? And must we in this stage of the world's progress, wait upon spiritual courts, while they pass their judgment upon matters purely secular? Make laws, if you please, against the marriage of certain degrees of blood relationship, and see that they are carried out in the interests of future generations. Make a law, as in Sparta, compelling every man of the age of 25 to marry, or pay a tax to the State—and I trust that this law will include my hon. friend from Halifax, who says there are many women in the world, but yet has not taken one to himself, as I hope he will ere another session of this House—but, in framing these marriage enactments, omit all limits where the laws of nature or of scripture have set no limits. Let a man marry whomsoever he loves and is loved by, yea, even to his own mother-in-law, if he has the courage, and should so desire. At the present time those desiring marriage with their sister-in-law can step across the border line, and the twain be made one flesh. Let the same privilege be accorded here, and thus remove a barrier which is useless, indefensible, and, I believe, wholly evil. Some of the opponents of this measure assume to be the sole defenders of woman's purity, dignity, rights and privileges. I am quite willing to leave with woman the custody of her own dignity and purity, her rights and privileges; to leave her to be the judge of these herself, in this matter of marriage. I would say to those who are unfairly interfering with these: "hands off," and, if not, there will always be found those, who, like Mary Frances Cobb, Maria S. Rye and others, who can defend themselves against the stronger sex, even though led on by Right rev. bishops, and give a good account of themselves, even against a whole General Assembly of Divines. Let us then, leave these questions to the men and women interested or to be interested. If a man or woman desire to marry, let him or her do so, and let us not use our power to force either party. Differences of opinion and taste always have, and will exist; let these continue without obstruction from us. The old minis-

ter, discussing this point, said: "It was well there were such differences of opinion, for, if everyone had been of my opinion, they would all have wanted my wife," while his deacon replied, that "if everyone had been of his opinion, no one would have wanted her." These differences of opinion are wise and natural. Let us have Free Trade in these things, coupled with just Protection to the weaker. Let us not interfere where our interference will be evil, or we may find ourselves tripped up at every step. The transgression of Eve seems to be ever before the minds of certain high dignitaries in all ages, and for this alleged sin of our dear old inquisitive grandmother, they would put her daughters into leading-strings for evermore, and say what they should do, or not do, in matters in which they have no concern. A later dispensation has elevated woman to her proper position. It is only under the benign influence of Christianity that woman is accorded her true place. Here she is no longer in the same degree as formerly—the slave of man's wants and of his passions. She is now the equal in, and the helper of, his home; often his guide, always his best counsellor in times of difficulty; his stay in trouble, as I know. In that great trial which came upon so many of us in our burning city, when men's hearts failed them for fear, woman only was equal to the emergency, and bore us up with her strong faith and loving sympathy. Whenever a man is drawn toward such an one, and she reciprocates his love, let not mere sentiment frame a law to prevent their union, for "whoso findeth a wife findeth a good thing." There are plenty of *women* in the world, but a *wife* is not so easily to be had. This principle of love, we can talk about it, but who can estimate its strength, its influence for good, when rightly exercised; its influence for evil, when improperly obstructed? George Stephenson, once asked by a lady, What is the most powerful force in all nature? replied: "Madam, it is the eye of a woman for the man she loves. If he go to the uttermost ends of the earth, that eye will bring him back. There is no other force in all nature that will do that." No one may stand between a woman and the man she loves. "Neither life nor death; things present or to come."

Nothing more inexplicable, wonderful, beautiful than this love exists, a grand example of which we have in the character of Evadne, as drawn by Shiel, portrayed by one of the most accomplished of her sex, and witnessed by hundreds in Ottawa last evening—an example which ought to melt the most obdurate woman-hater or woman-enslaver in Parliament. And where such devotion exists, and it only does exist when allied with purity and truth; and where no violation of God's law can be shewn in permitting it to declare itself, then, hon. gentlemen, I believe we would be unjust to our kith and kin, untrue to our own nature, and unfair to those who have entered into the bonds of matrimony, or who desire thus to do, under the relationship contemplated by the framers of this Bill, if we did not at once ordain a law which has only the opposition of mere sentiment, and against which there has not been advanced one argument that I have heard, that can stand the test of reason or the light of Scripture. For these reasons, then, I shall vote for this Bill. I do trust that this House will shew itself abreast of public sentiment by sustaining it heartily; and for myself, I am glad to vote for a Bill that has been introduced by one whom, for the last thirty years, I have known for his good works, and whom, with so many who know him throughout this Dominion, I am delighted to honor and respect.

Hon. Mr. HAYTHORNE—I desire to offer a very few remarks in explanation of the course that I intend to pursue on this occasion. I intend to support the amendment that has been moved by the hon. Senator from Amherst. One hon. gentleman says that the Christian world has had this question before them for 1880 years, and surely the Senate did not want another year after all that time to make up their minds. I shall answer that by saying that it is not to make up my own mind, but to permit those I represent to express their opinion at another meeting of Parliament upon a measure which they certainly did not contemplate would be submitted in the Legislature this session. It is not because I hesitate in my own opinion upon this Bill, but because this question was not before the people of the Province that I represent when I

last was face to face with them ; and they have this further disadvantage, that their geographical position renders it more difficult to communicate with them than with other parts of the Dominion. It is possible that, sometimes, even British Columbia may be more easily communicated with in winter than Prince Edward Island. Looking at all these things, and being, as I am, aware of the fact that many men connected with my Province, for whose opinion I have the very highest respect, are opposed to the marriages legalized by the Bill now before the House, I think it my duty to support the amendment. I may say that the views which I entertain with regard to the Bill itself are very much in conformity with those expressed here yesterday and repeated to-day by the hon. Senator from Richmond. I am in favor of that portion of the Bill which permits marriage with a deceased wife's sister, but I am not in favor of that portion of it which permits marriage with the widow of a deceased brother. Under those circumstances, even if I were aware that the opinions of the people of my Province were in favor of the Bill, I could not vote for it in its present shape. It is, therefore, the more incumbent on me to vote for delay. I will, with the permission of the House, touch upon a few points that have been alluded to in this debate. In any remarks that have fallen from the speakers who have preceded me, with the exception of the hon. Senator who has just resumed his seat, no allusion was made to special cases of hardship, and I think that the House can readily understand the reason. No person can wish to have paraded before the public his own case or the cases of friends, and, therefore, the difficulties of those who advocate the passage of this Bill are increased. I look upon this measure as the removal of a disability. Now, in my three-score and some more years, I have seen several disabilities removed, and I remember that, previous to their removal, terrible consequences were contemplated. I remember the sad anticipations that were indulged in when the disabilities of Catholics were removed ; but no such evils occurred. Then, again, there was another measure which occupied the attention of the Imperial Parliament session after session, which

was rejected over and over again, but which, finally, was passed—I allude to the removal of the disabilities which prevented Jews from sitting in Parliament. That was a measure which was very unpopular, not only in Parliament, but throughout the country. The disabilities were removed, and how many Jews do you find returned to Parliament in the last election ? It is not hard to trace who is, and who is not, a Jew, for, along with their religious and national peculiarities, they preserve their family names ; and anyone who runs his eye over the list of returned members, can see that, probably, not over half-a-dozen Jews will take seats in the newly-elected Parliament. Now, as to the religious points of this question, which have been so ably discussed, I may say that I have given them careful consideration, and I have come to the conclusion that, with regard to the marriage of a man with his deceased wife's sister, there is no scriptural objection. I think we may very safely accept the opinions of a dignitary of the Roman Catholic Church on that question, so far as Roman Catholics are concerned. We have the opinions of Cardinal Wiseman, as alluded to by the hon. Senator from Alma (Mr. Penny), and they are very emphatic in favor of the removal of this disability. In the Episcopal Church we have the opinions of Archbishop Whately, also emphatically expressed in favor of the removal of such disabilities ; and when I find two men, holding such an elevated position as those two ecclesiastics, I cannot hesitate to accept their opinion as conclusive upon this point. The hon. Senator from Fredericton (Mr. Odell) alluded to a numerous meeting of clergy and others in London, England. While I am willing to attach as much importance to a meeting of that sort as it is worth, it must be considered that it was not held in our own country or amongst our own immediate countrymen. What is far more to the purpose, and should weigh more with us, is the fact that a meeting of the Ministerial Association was lately held in a city much nearer to us than London—in Montreal—for whose opinions we ought to have greater respect. It was called for the purpose of discussing this question, and, though not

very numerously attended, I find that there were, among those present, six ministers of different persuasions, all of whom expressed the opinion that there was no scriptural inhibition against such marriages, and, further, that they approved of this Bill. That was the unanimous opinion of the meeting. So much for Protestant opinion on the subject. Now, I think, upon a question of this sort, Jewish opinion is worth something. I think we should inquire what has been the practice among the Jews with respect to marriage with a deceased wife's sister. And here, again, I have a competent authority. Whether he is a native of British North America or not, I cannot say, but I know that Dr. De Solà occupies a very important position in one of our leading educational establishments, as Professor of Hebrew, at McGill University:—

"As regards Jewish authoritative opinion, this unquestionably has always been in favor of such marriages, because the synagogue (the *ecclesia docens* of Judaism) has always regarded them as in accordance with the will of God, and as instituted in the law which he commanded his servant Moses. The propriety of such marriages has never been questioned by Jewish teachers, ancient or modern. As regards marriage with a deceased wife's sister, this has always been permitted by the Jewish Church, and practised by the Jewish people. The passage in Leviticus XVIII, 18, sometimes appealed to as prohibiting such marriages, according to received Jewish interpretation, and also in accordance with strict grammatical analysis, should read thus:—"

I will not trouble this hon. House by again quoting this verse, which has been done once or twice already this evening. I will only say that Dr. De Solà's translation is substantially the same as the English version. Here is the opinion of a learned Hebrew professor of our day, telling us emphatically that the Jews have always regarded such marriages as in accordance with the law of God. With the opinion of these high authorities in favor of the legality of such marriages, I, for one, can have no difficulty in forming an opinion upon that point. Then, my hon. friend opposite (Mr. Macfarlane), whose speech I very much admired, and whose sentiments I generally concurred in, referred to the fact that bills similar to this had passed the British House of Commons seven times. In saying so he

answered my hon. friend (Mr. Odell), who thought that the Bill had been more frequently rejected than passed by the British House of Commons. One fact has escaped the observation of both hon. gentlemen; it is that, although a measure may have been rejected twenty times, it needs only to be carried once, and, when it has been carried so often in the House of Commons, and by such large majorities, indicating a very general consensus of opinion in its favor in Great Britain, it does seem a great stretch of authority on the part of the House of Lords to reject it so often as they have. I quite agree that this House is a sort of reflection of the House of Lords, and should occupy in the Canadian Parliament a position somewhat similar to that of the Upper House in England, but I, for one, should not like to take the responsibility on my own shoulders, of rejecting a bill which passed the other House seven times, by majorities sometimes approaching one hundred. Knowing that the Senate is weary of this debate, I shall content myself with simply observing that I intend to support the amendment of the hon. member from Amherst; but, in doing so, I have found it necessary to explain my views very clearly, because I do not wish to subject myself to any misinterpretation on this point. I do not wish it to be said here, or anywhere else, that I supported the resolution with the view to seeing how the land lies in my own Province. I have expressed myself with sufficient clearness to render such an imputation perfectly groundless.

Hon. Mr. TRUDEL—I should not have taken part in this debate if allusion had not been made repeatedly to a supposed necessity for this Bill in the Province of Quebec, and if Catholic doctrine had not been invoked in its favor. I think that the vote to be taken to-night will shew that we, in that Province, do not seek for such legislation. I have strong objections, some of which I shall state, to this Bill. At this late hour, and at this advanced period of the session, and with the numerous memorials that have been presented in this Chamber on the subject, lengthened argument would be useless. I may refer, however, to the opinions of

some hon. gentlemen who do not belong to the same church that I do, and who have contended that the Roman Catholic Church permits such marriages. Those gentlemen are right in one sense, but wrong in another. The rule of the church is this: it does not recognize the power of civil governments to legislate upon the marriage tie, so that any legislation which deals with the validity of the marriage tie is, in my opinion, contrary to the rule of our church. That is one of the objections that I have to this Bill. Another objection is, that the law of the church prohibits such marriages, reserving the power, under certain circumstances, some of which have been referred to in this debate, to grant dispensations. The law is against such marriages, but, in exceptional cases, they are allowed, and it is in this sense only that it may be said that such marriages are allowed. But this Bill, without making any exception, legalizes these marriages. It affirms a principle which is entirely opposed to the law of the church. While the church enacts, as the general law, that "the marriage of a man with the sister of his deceased wife, etc., is prohibited," this Bill lays down a contradictory proposition as the general rule, viz.: "Marriage between a man and the sister of his deceased wife, or the widow of his deceased brother, shall be legal." Is it not clear that it is contradictory to the law of the church and of its doctrines? That is my second objection to the Bill. I question very much the propriety of admitting such a general rule—a rule which, I admit, will have the effect of affording relief to some parties, but is wrong in principle. We are all Christians, and I think it will be universally admitted that such marriages are not favorably regarded, though they may be allowed, by any religious denomination. They are not of such a character that they should be put on the same general footing as ordinary marriages. Therefore, to pass this Bill would be to lay down a principle which, as a general rule, is reprobated, I believe, by most of the Christian denominations of this country, and is opposed to the religious sentiment of the people. An hon. gentleman from Ontario remarked, to-day, that, while he has the greatest respect

for the opinions of the different churches, still he prefers his own convictions. This hon. gentleman should consider, whatever his individual opinion may be, that marriage is, in this country, admitted by all creeds to be a religious act, and, consequently, a matter which properly belongs to the different churches; and I hope that the day is far distant when it will be considered a civil matter. The best proof of that is the fact that, in all the religious denominations, the ceremony of marriage is performed by a clergyman. There is no marriage performed by civil officers, and, fortunately, civil marriage is not permitted in this country. To us Catholics, marriage is a sacrament, is of Divine institution, and is exclusively under the control of the church. I do not see how the opinions of the different churches on this question can be set aside. The Bill is also objectionable from a social point of view, but, at this late hour, I shall not enter into an argument on that branch of the subject. One hon. gentleman remarked this evening that he had heard very few arguments against the Bill; the reason was explained, even at the beginning of the debate—the late period of the session. If we had time, I should be perfectly ready to meet the advocates of the measure, and shew that there are very strong arguments against it. Is not the fact that Christianity, during eighteen centuries, has been opposed to these marriages, and that they have been allowed only under exceptional circumstances, sufficient to shew that they are objectionable? It may be contended that we live in an age of great advancement, but it must be remembered that the rules of morality are always the same and do not admit of progress. Unfortunately, instead of improving, in our age the sense of morality is diminishing, so that the tendency of the age cannot be used as an argument in favor of this measure. We are asked "why do you not vote directly against the Bill if you are opposed to it? Why do you ask for a year's delay?" My reason is, that I consider some legislation necessary to meet particular cases, although I am opposed to establishing a general rule, and, therefore, I wish to have a year's delay in order that such legislation may be introduced. What we want

is legislation giving sanction to the rules of the church, that is, recognising the marriages which they have allowed, and which would enact for instance: "That such marriages between a man and his deceased wife's sister that have been contracted according to the regulations of their church, are recognized as valid." Special allusion has been made to the Province of Quebec, with reference to the civil status of children, issue from such marriages. The social position of parties in that Province, who have contracted such marriages, is not affected by any feeling in the community, if dispensations have been granted by the church. The only difficulty is that their children cannot inherit their property: but this fact is no reason for adopting a general principle which is wrong. There is a simple remedy for the difficulty; these parties can make their wills in favor of their children. I shall, therefore, vote for the amendment, first, because I consider that the Bill establishes a wrong principle, and better legislation may be framed; and, second, that there is no harm in postponing the matter for another year.

Hon. Mr. SMITH—I did not intend to say anything on the Bill before the House, but, as so many hon. gentlemen have expressed their views on this subject, I think I should say a few words to identify myself with the measure before the amendment is put. I find that, since the beginning of the Christian era, marriage with a deceased wife's sister has been allowed. It is against the law of the land, but it cannot be said that it is against the law of God. If it was, the church to which I belong would never have granted dispensations for such marriages. The law of God has, therefore, not been broken, but the law of the land has been violated, and it is our duty to place upon our statute books a law which will relieve their offspring from the unmerited taint of illegitimacy. In voting against the amendment and for the Bill, I consider that I shall be doing my duty to my church, my God and my fellow-men. No argument that has been advanced here by Roman Catholic members can shake, in the slightest degree, my convictions on this subject. I have the high authority of the great Cardinal Wiseman in

support of the course that I shall take, and I shall vote to remove the disabilities under which so many of our people are suffering.

Hon. Mr. BOTSFORD—I did intend to express my views on this measure, because I have a very decided opinion upon it, but I shall not detain the House, at this late hour, longer than to refer to the statement made by the hon. Senator from Sarnia (Mr. Vidal), in respect to the opinions of the learned divines of the Church of England, the Church of Rome and the Presbyterian Church. I will read a few authorities upon that point to shew the hon. member that he has made a statement which, he will acknowledge, went too far.

Hon. Mr. VIDAL—I spoke of the standards of the churches, not of anybody's opinions.

Hon. Mr. BOTSFORD—The House will pardon me if I cite a few authorities. I find in *Hansard* for 1855, Mr. Ball is reported as saying:—

"Among those names (in support of such marriages) were those of Archbishop Whately, the Bishop of Norwich, the Bishop of St. David's, the Bishop of Lincoln, the late Bishop of Landaff, and he might go on naming a long list of illustrious divines and holy men who had concurred in those views. Then, again, among those who were revered by the great body of the Dissenters, and who were favorable to the adoption of a measure like the present, the name of Dr. Chalmers stood pre-eminently forward. * * * * Another name that he would cite in its favor was that of Dr. Adam Clarke, a man of profound learning, of immense ecclesiastical research, and whose admirable commentaries upon the Holy Scriptures had rendered his name celebrated throughout the empire. He, too, was favorable to the abolition of the present restrictions; and he (Mr. Ball) would complete the list of illustrious men, whose opinions were favorable to a change of the law in this respect, by adding that of a man who was held in veneration by hundreds of thousands, nay, perhaps millions of his fellow-countrymen—the great Wesley, a man than whom no one led a purer or more pious life; and also the name of Professor Lee."

In 1862, when a bill similar to this was before the British House of Commons, Mr. Buxton is reported as saying:

"Nor could he allow that it was a question of mere expediency. It was a question of right and justice. In forbidding a man, when God had not forbidden him to marry the woman he loved—in forbidding him to give his children a mother already devoted to them, instead of a strange step-mother—they were as cruelly

wronging him as if they snatched away his money or his land. He had a claim on their justice to be allowed to do that, and they were trespassing on his rights in debarring him. If Scripture said nothing, people would be left to form their own opinions. But when a line had been precisely drawn between allowed and disallowed marriages, surely those who demanded to use the freedom which God had given them were wronged if that freedom were taken away upon the pretence of some fancied awkwardness arising to imaginary people. The case for the Bill seemed overwhelming if they took the ground of expediency alone. But the true, the decisive reason for supporting it was that the existing law was a trespass on men's natural rights, and that it filched from them the freedom reserved to them by the law of God."

Mr. Monckton Miles, in the same debate, cited the following testimony of Dr. McCaul, one of the best Hebrew scholars of the day; at the same time, his orthodoxy cannot be disputed. Dr. McCaul says:

"I confess that, when I entered upon this inquiry, I had no idea that the case of those who wish a change in the present marriage law was so strong. I had thought that the opinions of grave and learned students of the Bible were more equally divided; and that, as authorities were pretty evenly balanced, they who had contracted such marriages must bear the inconveniences arising from doubtful interpretation. But I do not think so now. Confirmed by the testimony of antiquity and the judgment of the most considerable interpreters at the Reformation, and since the Reformation, I now believe there is no reasonable room for doubt—that there is no verse in the Bible of which the interpretation is more sure than that of Leviticus xviii, 18; and I think it a case of great hardship that they should, by the civil law, be punished as transgressors, whose marriage, according to the divine law, is permitted and valid; and harder still that the children of such marriages legitimate in the sight of the infallible Judge should be visited with civil disabilities."

I have quoted these authorities to shew the opinions of leading divines in England upon the subject.

The House then divided upon the amendment, which was adopted by the following vote:—

CONTENTS :

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Archibald,	Guévremont,
Armand, /	Haythorne,
Bellerose, /	Kaulbach,
Boucherville, De,	McClelan (<i>Hopewell</i>),
Bourinot,	LeLelan (<i>Londonderry</i>),
Bureau,	Macdonald,
Campbell, Sir Alex.,	Miller,
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Dever,	Pelletier,
Fabre,	Penny,
Ferguson,	Priece,
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Gibbs,	Simpson,
Hamilton (<i>Inkerman</i>),	Smith,
Hamilton (<i>Kingston</i>),	Stevens,
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The House adjourned at 11.30 p.m.

