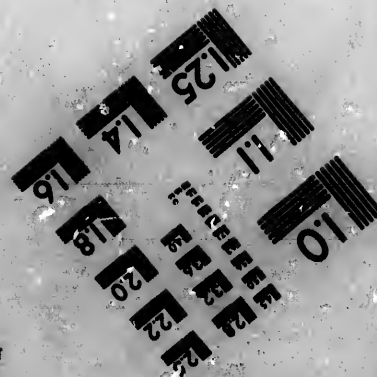
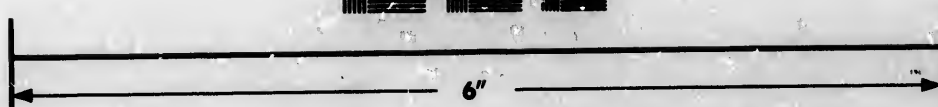


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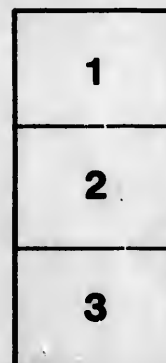
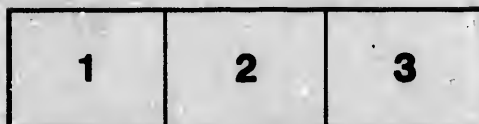
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FACTS AND OPINIONS

TENDING TO SHEW

The Scriptural Lawfulness

OF

MARRIAGE WITH A DECEASED
WIFE'S SISTER,

AND

THE CONSEQUENT NECESSITY FOR ITS LEGALIZATION
IN ENGLAND,

IN ACCORDANCE WITH THE LAWS AND PRACTICE OF
OTHER CHRISTIAN NATIONS.

וְאִשָּׁתְךָ אֶל-אֵחָתָהּ לֹא תִקַּח לְצֵדֶר לְגִלּוֹת עֵרוֹתָהּ עָלֶיךָ כִּכְשֵׁיךָ :

γυναῖκα ἐπ' ἀδελφῇ αὐτῆς οὐ λήψῃ ἀντίζηλον ἀποκαλύψαι τὴν
ασχημοσύνην αὐτῆς ἐπ' αὐτῇ, ἔτι ζωῆς αὐτῆς.

"A WOMAN TO HER SISTER THOU SHALT NOT TAKE—BESIDE THE OTHER, IN
HER LIFETIME."—Lev. xviii. 18.

LONDON:

MARRIAGE LAW REFORM ASSOCIATION, 21, PARLIAMENT STREET. S.W.

1859.

LONDON:
PRINTED BY GEORGE WATSON, 5, KIRBY STREET, HATTON GARDEN.

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FACTS AND OPINIONS.

"THE BIBLE, THE BIBLE ONLY, IS THE RELIGION OF PROTESTANTS. WHATSOEVER ELSE THEY BELIEVE BESIDE IT, AND THE PLAIN, IRREFRAGABLE, INDUBITABLE CONSEQUENCES OF IT, WELL MAY THEY HOLD IT AS A MATTER OF OPINION. I WILL TAKE NO MAN'S LIBERTY OF JUDGMENT FROM HIM; NEITHER SHALL ANY MAN TAKE MINE FROM ME."—*Chillingworth*.

"BAD LAWS ARE THE WORST SORT OF TYRANNY. IN SUCH A COUNTRY AS THIS, THEY ARE OF ALL BAD THINGS THE WORST—WORSE BY FAR THAN ANYWHERE ELSE; AND THEY DERIVE A PECULIAR MALIGNITY FROM THE WISDOM AND SOUNDNESS OF THE REST OF OUR INSTITUTIONS."—*Burke*.

FACTS.

Fact 1. Marriage with a deceased wife's sister is nowhere prohibited, whether expressly or impliedly, either in the Old or New Testament.

Fact 2. Marriage with a wife's sister is expressly legislated for in Leviticus, xviii. 18, and there the prohibition is strictly limited to the lifetime of the wife.

Fact 3. The Jews, to whom, in their own language the sacred oracles were given, have always understood this marriage to be impliedly permitted in Leviticus, xviii. 18, and set a special mark of approbation on such unions, by allowing them to take place when there were young children, within a shorter interval after the death of the wife than in ordinary cases.

Fact 4. This marriage was never prohibited by the laws of any country in the world before the fourth century of the Christian era.

Fact 5. None of the Six General Councils, held between A. D. 325 and A. D. 680, condemned this marriage.

Fact 6. During the first 500 years of the Christian Era this marriage was condemned by only one provincial council, that of Eliberis in Spain. composed of 19 Bishops.

This council also forbade tapers to be lighted in cemeteries in the daytime, that the spirits of the Saints might not be disturbed, and required bishops, priests, and deacons to live apart from their wives.

Fact 7. The Church of England nowhere claims authority to prohibit any marriage not contrary to Holy Scripture.

Fact 8. The Roman Catholic Church does not regard this marriage as forbidden in Scripture.

Fact 9. Protestant Dissenters regard the prohibition of this marriage as unscriptural and inexpedient, the deputies of the three denominations having repeatedly petitioned Parliament for its removal.

Fact 10. This marriage may be lawfully celebrated in every country in the world except England and Ireland and one canton of Switzerland.

Fact 11. Neither in this nor in any other country has it been shown that the permission of this marriage has been attended with injurious consequences.

Fact 12. Neither the common nor the statute law of the realm prohibits any marriage of kindred or affinity on any other principle than that of its alleged contrariety to the law of God.

Fact 13. This marriage was virtually permitted in this country before 1835, the absolute prohibition of this marriage in England being a recent innovation, dating only from that year.

Fact 14. No complaint was made of the operation of the law as it stood before 1835.

Fact 15. The Act of 1835 was an unjustifiable compromise, the majority of the House of Commons reluctantly consenting to the future prohibition of marriage with a deceased wife's sister as the means of procuring the legalization of all past marriages of the kind.

Fact 16. The Bench of Bishops on that occasion consented to legalize marriages with a deceased wife's sister

previously celebrated—a measure to which it was impossible they should have assented had they believed the marriage contrary to the Word of God.

Fact 17. The Parliament of 1835 purposely avoided touching on the question of what marriages ought to be prohibited, reserving that important question for future consideration.

Fact 18. The Royal Commissioners on the Law of Marriage declare that the Act of 1835 has not secured the respect or obedience of society.

Fact 19. Thousands of such marriages have been contracted; they are found in every town and neighbourhood in the kingdom.

Fact 20. Society almost without exception, regards persons so united as rightly married, and worthy of respect, and in so doing condemns the law which declares their marriage void.

Fact 21. Twenty-one Spiritual Peers have declared it to be their opinion that there is no Scriptural prohibition of these marriages.

Fact 22. Numerous clergymen of the Church of England have petitioned for the removal of this restriction.

Fact 23. Eleven Deans, and more than 300 other clergymen of the Established Church in Ireland, have expressed a decided opinion that this marriage is not prohibited in Scripture.

Fact 24. The principal persons in the city of London, and in almost every large town in the kingdom have repeatedly petitioned against the existing law.

Fact 25. Many persons of the highest distinction in both Houses of Parliament have voted for this measure.

Fact 26. The House of Commons, in 31 divisions, have voted for repealing the existing law.

Fact 27. Three hundred and forty-six members of the late House of Commons voted for legalizing marriage with a deceased wife's sister.

OPINIONS.

“ I will undertake to say that in no part of the civilized world is there to be found, a more moral and intelligent people, especially in regard to the intercourse of the sexes—than are the people of the State of Massachusetts ; and yet, my Lords, in that State the marriages which the noble lord seeks to legalize are consistent with the law. They are not only legal, but they are of constant occurrence.”—Speech of Lord Lyndhurst.

“ It seems to be established and admitted, that the moral feeling of the community at large is not with this law,—that the law, in fact, is not obeyed, and that a great number of persons not considering themselves to commit any moral offence, do contract marriages which the law prohibits. That is not a state of things which ought to exist ; and not being of opinion that there is any moral objection to the contracting of these marriages, and believing that the law as it stands is the cause of a great deal of misery and social evil, especially among the middle and lower classes of the community, I shall with great pleasure give my vote for the motion.”—Speech of Lord Palmerston.

“ I must say that I have satisfied myself, that there is not any religious prohibition of these marriages.” “ It is a misfortune that the feeling of relationship which takes place by marriage should be weakened by any alteration of the law of marriage. But, while I admit that on the one hand, I think that there is a great and practical evil which we cannot very well refrain from remedying. The evil is not among the upper classes of society ; but there is no doubt, partly among the middle classes, and much more among the lower classes, a feeling that, after the death of the wife, there is often no person so fit to take

care of the children as the beloved sister of that wife."

"It is not, perhaps, in a great number of cases that these marriages would be contracted; but I think where persons feel that they can without scruple contract them, that they should be allowed to do so."—Speech of Lord John Russell, M.P.

"We consider that the feeling against these marriages is in a great measure founded rather on a vague and uninformed assumption that they are prohibited by God's Word, than on a mature examination either of the Scriptures or the law of the Church." "We do not find that the persons who contract these marriages, and the relations and friends who approve them, have a less strong sense than others of religious and moral obligation, or are marked by laxity of conduct." "These marriages will take place when a concurrence of circumstances give rise to mutual attachment; they are not dependent on legislation." — Report of Royal Commissioners, signed by the Bishop of Lichfield, Mr. Stuart Wortley, Dr. Lushington, Mr. Blake, Mr. Justice Williams, and Lord Advocate Rutherford.

"I cannot bring myself to believe that the Divine law prohibits a man from marriage with a deceased wife's sister."—Archbishop of York.

"The view which he had heard taken in that House respecting the operation of Scripture, must after all be a mere matter of inference and construction, and, applying himself to that view of the subject, he should say that such marriages as the Bill was intended to legalize were not prohibited, but were tacitly permitted by the words of the chapter which had been so often quoted. He protested against the opinions expressed by those who contended that there existed any Divine prohibition."—Bishop of St. David's Speech.

"Chafin, that hath married two sisters, upon his appeal from your Grace and me, hangeth still before the delegates and, as much as I can perceive, is not likely to take any

great hurt at their hands. I would they would decree it were lawful to marry two sisters, so should the world be out of doubt, as now it is passed away in a mockery."—Bishop Jewel, in a letter to Archbishop Parker, dated June, 1563. From the original in the Archiepiscopal Palace, Lambeth. (This opinion of Bishop Jewell was given two years after the adverse opinion so often quoted.)

"The Scriptures should be the rule of life as well as of faith, and, as I can find nothing that militates against such marriages, I feel bound to oppose any proposition that interferes with the liberty of the subject."—Rev. Sir Erasmus Williams, Bart., M.A., Chancellor of St. David's.

"The prohibition of taking two sisters was meant for the lifetime only."—Milton.

"The context also seems to suggest a more literal interpretation, namely, the marrying of two sisters together. This verse (Leviticus xviii. 18) seems not to contain a prohibition of it (viz., marriage with a deceased wife's sister). Such restrictions as pride, covetousness, or human policy have superadded, do not seem to have proved beneficial to mankind."—Scott.

"With regard to the Scriptural argument, it would ill become him to give a confident opinion upon it, when he found the Right Rev. Prelates having considerable doubt, and no small discrepancy among themselves."—Speech of Lord Brougham.

"I have an amendment to move to the second clause: it is, 'That there be excepted from the operation of the Bill, cases of marriage with the sister of a deceased wife where there is a child or children under 12 years of age.' There can be no doubt that there are many cases in which it may be of essential importance both to the father and the children that such a marriage should be permitted."—Speech of J. P. Plumptre, Esq., M.P., in 1835.

"The amendment proposed by the honourable Member is one of very great importance, but I fear that, at this

period of the Session, it would be impossible to bestow upon it the consideration to which it is entitled. Perhaps the better course to adopt would be not to interfere with the Bill, by persevering with this amendment, but to propose next Session a short Act upon the subject to which it refers."—Speech of Dr. Lushington, following Mr. Plumptre, 1835.

"Is the marriage of a widower with his late wife's sister within the 'prohibited degrees?' In all frankness and honesty I am obliged to answer—No. It is interdicted neither by express veto, nor yet by implication. Canonical austerity is not to be identified with moral purity of matrimonial fidelity."—Rev. Dr. Eadie, Professor of Biblical Literature to the United Presbyterian Church, Scotland.

"It appears, to me, therefore, that first, as Scripture shows that there is nothing immoral in such a connexion—and secondly, as it is obvious that much evil would be prevented—many poor children saved from misery and ruin by having that person over them who, in a majority of instances, would be the next best substitute for a mother, my own mind is led to believe that the law of man ought to tally in this respect with the law of God."—Rev. Canon Champneys.

"But has it never occurred to you, my dear Wynn, that this law is an abominable relic of ecclesiastical tyranny? Of all second marriages I have no hesitation in saying that these are the most suitable, and likely to be the most frequent, if the law did not sometimes prevent them. It is quite monstrous, judges and lawyers speaking as they have done of late, upon this subject."—Robert Southey.

"I have never heard upon what principle of policy the law was made prohibiting the marriage of a man with his wife's sister, nor have I ever been able to conjecture any political inconvenience that might have been found in such marriages, or to conceive of any moral turpitude in them."—Dr. Benjamin Franklin.

"Having again carefully examined the question and consulted some of the highest authorities in Hebrew literature as to the meaning of the Scripture passages. I am confirmed in the opinion formerly expressed, that marriage with a deceased wife's sister is not only not prohibited, 'either expressly or by implication,' but that, according to Leviticus xviii. 18 (concerning the translation of which there is not the least uncertainty), such marriage is plainly allowed."—Rev. Alexander M'Caul, D.D., Professor of Divinity and Hebrew Literature in King's College, London.

"Are you of opinion that there is any prohibition in Scripture against such marriages?"—"No; I am quite satisfied to the contrary."—Evidence of the Rev. J. Garbett, late Rural Dean of Birmingham.

"People in general do not consider such marriages improper. They cannot be proved to be improper by Scripture. The question is, therefore, one of expediency, and my experience as a parochial minister induces me to think the measure expedient. On these grounds, if ever a Convocation be called, and I be elected one of the proctors, I shall move for an alteration in this regard in the table of kindred and affinity. Until this be the case I shall be glad to see such marriages legalized by the civil rite."—Rev. Dr. Hook, Dean of Chichester.

"From all I have been able to learn on the question, whether a man may marry a deceased wife's sister, my opinion is, that neither does Holy Scripture anywhere forbid it, nor ever did the Jews."—Rev. Dr. Lee, late Professor of Hebrew in the University of Cambridge.

"Where the prohibitions founded on Scripture we ought, at whatever sacrifice, to obey God rather than man; but I cannot see the expediency of a law which, having no such sanction, is observed only by the scrupulous, evaded by the wealthy, and defied or disregarded by the poor."—Rev. Canon Dale.

"It is not only not considered as prohibited, but it is distinctly understood to be permitted; and on this point neither the Divine law, nor the Rabbis, nor historical Judaism, leaves room for the least doubt.—I can only reiterate my former assertions that all sophistry must split on the clear and unequivocal words, Lev. xviii. 18, in her lifetime."—Evidence of Dr. Adler, the Chief Rabbi of the Jews in England.

"This text, expressed in this manner, shows that it is not permitted to have as wives two sisters at the same time, as Jacob had Rachel and Leah, but only in succession; and this is the sense which appears the most clear and the most probable. . . . Analogy is not always a means of judging respecting positive laws."—Calmet.

"He asked them to reflect that the parting request of many a dying wife was that the man should marry her sister, which was the best testimony to the feeling of woman in this matter. Such marriages were not repugnant to nature nor to Scripture; and if they did but look calmly at these facts, sure he was that the day was not far distant when the obnoxious law would be repealed."—Speech of the Rev. J. C. Miller, D.D.

"Within the meaning of Leviticus, and the constant practice of the commonwealth by the Jews a man was prohibited not to marry his wife's sister only during her life; after he might—so the text is. This perhaps is a knot not easily untied, how the Levitical degrees are God's law in this kingdom, but not as they were in the commonwealth of Israel, when first given.—Chief Justice Vaughan.

"As no clear and strong case has been made out of important advantage to the public from such restriction, I take my stand on the broad general principle, that every restriction is an evil in itself—the burden of proof lying upon the advocates of any restriction to show its necessity." . . .
 "You are at liberty to refer to me as approving of the

abolition of the restriction on marriage to which you allude."—Archbp. Whateley, in a letter to G. A. Crowder, Esq.

"I speak advisedly when I say that I come here prepared to offer my opinion, that, theologically, it is correct that such marriages should take place; and I see no ground whatsoever on account of which such marriages may not be legalized."—Evidence of Rev. J. Hatchard.

"In the Indies—if a husband has lost his wife, he does not fail to marry her sister; and this is extremely natural, for his new consort becomes the mother of her sister's children, and not a cruel step-mother."—Montesquieu.

"I admit that a marriage with a wife's sister is not forbidden in Leviticus."—Bishop of Lincoln (Dr. Kay).

"Has never had occasion to observe, either in the middling or poorer classes, any injury or immorality arising from such marriages; never admonished any of those parties that they were acting in breach of the Divine law, because never believed it. The great inducement to these marriages is, these parties have a better opportunity than is generally afforded of being acquainted with each other's real character and disposition."—Evidence of the Rev. J. F. Denham, M.A., F.R.S.

"Such marriages, I apprehend are nearly as frequent as the circumstances which usually give rise to them. I have not known any social disadvantages attending them."—Bishop M'Ilvaine, United States.

"I do not know—I never heard of any social disadvantages attending such marriages of any description whatever, and am totally at a loss to conjecture what 'disadvantages' can be referred to."—Rev. J. L. Pomroy, United States.

"As far as you know, the general moral feeling of the people would not be offended by a relaxation of the law and a permission for these marriages to be had?"—"I know of no objection to it. I never met with a person out of Parliament who joined with the law and took the same

view which the Legislature does of these marriages."—
Evidence of R. Cobden, Esq., M.P.

"In 1835 a most important statute had been passed by that House, under somewhat peculiar circumstances, and he might also say, of haste and want of due deliberation, materially affecting a portion of the marriage laws of this country. In this case the voice of Heaven was silent, and that of man had been given with a hesitation and confusion of utterance that deprived it of its due authority."—
Speech of Lord Francis Egerton (now Earl of Ellesmere), in the House of Commons.

"That our Established Church should select one point of the Canon law, and establish an arbitrary limit without giving any power of dispensation, was, he was sorry to say, a very great tyranny, and one which he felt convinced that the true principles of the Church of England did not sanction."—Speech of R. Monckton Milnes, Esq., M.P.

"It is remarkable that while there is an express injunction against the marriage of a man with his brother's widow, there is no such prohibition against his marriage with his deceased wife's sister. In verse 18 the prohibition is only against marrying the wife's sister during the lifetime of the first wife, which of itself implies the liberty to marry the sister after her death."—Rev. Dr. Chalmers.

"Nothing is more common in almost all the States of America than second marriages of this sort; and so far from being doubtful as to their moral tendency, they are among us deemed the very best sort of marriages. In my whole life I never heard the slightest suggestion against them, founded on moral or domestic considerations."—
Chief Justice Story, United States.

"Whence, I pray you, is this rigour of man against man, which God has not required? Who has given to men this power (of annulling or prohibiting marriage)? Be it that they were holy men, and influenced by pious zeal: why should another's zeal infringe my liberty? Let any one be

as zealous and as holy as he will, so that he does not injure his neighbour or rob him of his liberty. Let them arm themselves with the Divine law, and say, 'What God hath joined together, let not man put asunder.' The union to husband and wife is of Divine right, which is binding, however contrary it may be to human laws, and the laws of men ought to yield to it without reserve. For if a man leaves father and mother to cleave to his wife, how much rather shall he trample under foot the contemptible and unjust laws of men, and cleave to his wife? And Pope, Bishop, or officer, if he dissolve any marriage contracted in opposition to merely human law, is Antichrist, a violator of nature, a traitor against the Divine Majesty; for that sentence still stands: 'What God hath joined, let no man put asunder.'—Perish, therefore, those cursed traditions of men, which have been brought in only to multiply dangers, offences, and miseries in the Church."—Luther.

"However inexpedient such marriages may be in certain cases, I have been unable to discover their unscriptural character. With those views, I willingly subscribe the opinion already given on the subject by my respected Metropolitan, the Archbishop of Dublin."—The Bishop of Limerick.

"As it is now admitted by the ripest scholars and most accurate critics, that there is not the slightest prohibition in the Scriptures against the marriage with a deceased wife's sister, I consider the legal restriction to be both unjust, and most injurious, producing the deepest social evils."—The Bishop of Down and Connor.

"His first duty was to ascertain whether there was anything in the Word of God which forbids the marrying of a widower with a sister of his deceased wife. He looked carefully, he endeavoured earnestly to come at the truth, and he was perfectly convinced that there was nothing in the Scriptures which prohibited that act."—Speech of R. Spooner, Esq., M.P.

"I believe such marriages as you wish to make lawful are already lawful, according to the letter and spirit of Holy Scripture, and I hope the civil and ecclesiastical law will speedily be made conformable to the Divine."—Dr. Close, Dean of Carlisle.

"My opinion of the law has long been that it is an impolitic restriction."—Archdeacon of Derby.

"'In her lifetime.' This sufficiently indicates that he permitted it when the wife was dead, otherwise than in the case of two brothers."—Jansenius.

"Certainly, after the death of the wife, it was permitted to the husband to marry her sister, because she (the sister) is not among the other enumerated kindred of the wife."—Rabbi Levi.

"Both sides use various arguments to show what degrees are prohibited from analogy with those forbidden in the law. But unless it be a manifest thing, and the inference altogether undeniable it is something presumptuous, from mere analogy, to add to the Divine law."—Joannes Clericus.

"The three grounds upon which the petition proceeded were in perfect accordance with his own convictions, as he fully believed they were also with the mind of England and the general sentiment of society, upon the subject to which the petition referred. The three points upon which the petition was especially grounded were these—first, that such marriage was not forbidden by the Word of God; second, that there was no consanguinity or blood relationship existing between the parties; and third, that such a marriage was wholly unobjectionable on moral considerations."—Speech of Rev. J. B. Owen, M.A.

"You are understood to state that you are of opinion that so far as the interpretation of Scripture goes, either in the Mosaic or Christian dispensation, there is nothing repugnant to those marriages?"—"There is nothing repugnant in my opinion."—Evidence of Rev. R. C. Jenkins, M.A.

"The petition was probably entrusted to me in consequence of my having declared without hesitation that the marriage of a sister of a deceased wife was not prohibited by the Levitical Law."—The late Bishop of Llandaff.

"I shall only add, that all persons who voted for the Act of Parliament which legalized such marriages of that description as had taken place, nay, all who had an opportunity of opposing that Act, and did not oppose it, must be regarded as subscribing to the declaration that these marriages were not in opposition to the Word of God."—The late Bishop of Meath.

"Without pursuing the subject further, I shall give it as my opinion that the marriage in question is not against either nature or the law of God."—Rev. T. Binney.

My opinion is certainly in favour of the relaxation of the law prohibiting the marriage of a widower to his late wife's sister."—The Chancellor of the Diocese of Exeter.

"Seeing that it was not against the law of God—seeing the great social evils which arose from the restriction, and believing that there was no comparison between the social advantages and the social disadvantages arising from this cause, he should give the measure his cheerful assent."—Speech of the Duke of Norfolk.

"The ancient Roman law permitted the marriage of two sisters in succession."—Heineccius.

"Are marriages of this description considered in Germany to be at all *contra bonos mores*?"—"Not at all. So far from their being considered *contra bonos mores*, the feeling of the people of Germany is undoubtedly in favour of such marriages." "It frequently happens that a widower marries his deceased wife's sister out of a pious and affectionate feeling for his departed wife. And the feelings of the women of Germany are so strong in favour of such marriages, that it often occurs that the last parting request by a wife on her death-bed to her husband is, to marry her sister in case he should feel inclined to marry

again. This arises partly from affection for her surviving husband or relations, that he may not become estranged from her connexions, and partly from affection to her sister, and very frequently, where there are young children, for their sake." . . . "Are you aware of any evil consequences from the celebration of marriages of this description?"—"None whatever. I have spoken with several of my friends, and I have written to some others, asking them whether they are aware that this power of dispensation is the cause of any immorality in families, and their answer is, none whatever. I am not at all aware of any."—Evidence of A. Bach, Esq.

"Though a man might not marry two sisters together, it seems a natural conclusion from the phrase 'in her lifetime,' that he might marry the sister of his deceased wife—and thus, we learn from Selden, the Jews in general understood it."—Dr. Dodd.

"The very strongest reason for engaging in a second marriage contract is, frequently, to provide a suitable female head for a family of small children. In such cases, who is so likely to exercise the requisite maternal care and affection as the sister of a deceased mother? To prohibit a marriage under such circumstances seems to me inhuman."—Hon. Judge Mason, United States.

"If the founders of our Church have incautiously adopted a canon prohibiting that which of its own mere authority it had no right to prohibit, and which Scripture does not warrant it in prohibiting, now that the evil has become apparent, it is surely time for that Church to rescind such canon, and to cease opposition to the repeal of any secular law founded upon it."—Speech of Viscount Gage.

"Having to deal with persons of other communions, who did not recognise the same ecclesiastical law—with the Roman Catholics, who by dispensation tolerate such marriages—there being also Protestant churches in Eu-

rope, and Protestant denominations in this country, who recognised the validity, ecclesiastically speaking, of such marriages. . . . It was impossible not to feel that the civil law which declared the illegality of such marriages, and bastardized the children, imposed a heavy penalty on persons who, by contracting these marriages, did not contravene the tenets of their religious persuasion." . . .

"Socially speaking, if a case was made out that morality would be endangered by the Bill, that would be a reason for rejecting it; but he had not heard it established that such danger could arise. Marriage being a civil rite, they were bound to make that civil rite co-extensive with the feelings of the country. He had, therefore, come to the conclusion that it was his duty to support the second reading of the Bill."—Speech of Right Hon. Sidney Herbert, M.P.

"Doubtless it was very gratifying to our national pride to be told that a higher standard of morals prevailed in this country that could be found elsewhere; but surely it could not be denied that the rules of chastity were as strictly observed in the North of Germany, Switzerland, and the United States of America, as they were in England. He was entitled to say that the evils anticipated from permitting these marriages here had not manifested themselves in those countries, for, if they had, the law which had authorized them would not have been suffered to continue for twelve months."—Speech of Lord Chief Justice Cockburn.

"He had before stated his belief, that if the matter came to be investigated before the Courts, it would turn out that the marriage contemplated in this Bill was in Scotland a lawful marriage; and he had good reason for saying that that was the opinion of an hon. Baronet, than whom no person ever stood higher in the Church of Scotland—Sir H. Moncrieff. For himself, having come to the deliberate opinion that the marriage in question was

not forbidden by the law of Leviticus he came also to the opinion that the connexion was not a crime, and that the marriage was effectual for civil purposes."—Speech of the Lord Advocate of Scotland (Rutherford).

"I have known probably several scores of such marriages. I have counted a dozen within the last three or four minutes. Most of these dozen belong to the highest class of society. One of them is a doctor of divinity. Several of them are ministers of the Gospel. One is a member of Congress. Ambrose Spencer, the eminent Chief Justice of the State, died a few years ago. He married two sisters of Dewitt Clinton, the distinguished Governor of this State. The Presbyterian Church of this village has probably not more than fifty members. Two of these married sisters of their wives."—Gerritt Smith, Esq., United States.

"I express my conviction that Scripture says not one word against marriage with a deceased wife's sister. Surely it is not a crime, and, if it be not, the law that constitutes it so must be, for the worst of all crimes is an evil and unjust law."—Rev. Geo. Gilfillan, Dundee.

"The prohibition of such marriages is, in my judgment, sanctioned neither by Scripture, nor by physiology, nor by expediency."—Rev. H. Renton, Kelso, Scotland.

"He declared, most conscientiously, he could find no prohibition of this marriage in the Holy Scriptures."—Speech of the Right Hon. Stuart Wortley, M.P., Recorder of London.

"If this marriage be lawful in the sight of God, then I go upon the broad ground that, in such a case, no man has a right to impose a restriction on his fellow-man which God has not imposed; that the doing so can only bring a snare upon the conscience, and be the occasion of sin; and that no sanction of human law can be expected ultimately to succeed in enforcing what a man feels is no transgression of the law of God,"....."That it is lawful, according

to the Word of God, I consider incontrovertibly proved by the passages in Leviticus of which I feel sure, I have established the only correct translation."—Rev. C. J. Goodhart, M.A.

"After all the consideration he had been able to give the question, his conclusion was, that in no sense could the marriages proposed to be sanctioned by this Bill be said to be opposed to Scripture."—Speech of T. E. Headlam, Esq., M.P.

"The petition from the City of London, in favour of this marriage, was signed by a large number of persons, and among others by the Lord Mayor, Governor and Deputy-Governor of the Bank of England, and a considerable number of the Directors of that establishment, 59 private bankers; by the Chamberlain of the city of London, by 237 merchants, 146 solicitors, 124 barristers, and 61 physicians. It was his good fortune to be acquainted with a large number of persons who signed this petition, and he could say from his knowledge of their characters, that their opinions were entitled to the greatest weight and attention."—Speech of Lord Overstone.

"That the enactments of the Levitical law are entirely misinterpreted when applied in condemnation of marriage with a deceased wife's sister, was the decided judgment of Mr. Wesley, the founder of our Societies; and I believe that similar views have since been entertained by many of those among us who have been led by circumstances carefully to examine the matter, and whose competency to judge of such a question has given great weight to their conclusion."—Rev. Dr. Bunting.

"He had given his best attention to the arguments adduced, to show that there was a Divine prohibition against these marriages, but he was satisfied in his own mind that no such prohibition existed."

"Then came the question as to the effects of this measure upon society, and he thought that the great prepon-

derance of arguments, and facts upon which arguments were grounded, were in favour of the alteration of this law."—Speech of Sir George Grey.

"He was sincerely favourable to the object of the Marriages' Bill.—Speech of the Earl of Ellenborough.

"I shall endeavour to show that the marriages it is sought to legalize are not forbidden by the Word of God; that they are not contrary to the law of nature, and that they are not inconsistent with the interests of society. I am happy to be able to inform the House, that Lord Denman is desirous of supporting this Bill."—Speech of Earl St. Germans.

"I believe all restrictions upon the nuptial union, unless founded upon the law of nature, or the express authority of Scripture, unwise and unjust; in neither of which sources have I found this interdict of marriage with the sister of a deceased wife."—John Quincy Adams, late President of the United States.

"Everything that I have read upon this subject for the last 20 years, has satisfied me that the objection is utterly unscriptural and unfounded."—Justice Story, Massachusetts.

"As far as I can judge, I do not believe one syllable of the unlawfulness of this marriage under the Christian dispensation."—Chancellor Kent, New York.

"There is no law forbidding such marriages in the state of Massachusetts; and, other things being equal, they are regarded with favour. I have never heard of any disadvantages attending, or supposed to attend, them; and I make this remark in reference to the apprehensions which as I perceive from the public discussions, prevail in England."—Hon. Edward Everett, late American Ambassador to Great Britain.

"Such marriages, in Brazil, are as frequent as they can be. They inspire no repugnance, but, on the contrary, are considered extremely advantageous where there are children

of the former marriage; for it is always to be presumed that the aunt, who already knows the children of her brother-in-law, and is connected by the ties of relationship, will prove a better mother to them than a step-mother, who is an entire stranger to them, can possibly be."—His Excellency the Brazilian Ambassador.

"I have perused, with much pleasure, your letters on the marriage of a man with the sister of a deceased wife, which not only confirm me in the opinion which I had long entertained, but must, methinks, satisfy every candid mind, that there is not even a pretence for the assertion that such a connexion is prohibited by the law of God."—Judge Livingston, United States.

"There was no prohibition of the wife's sister, except during the lifetime of the wife."—Rev. Professor Robinson, New York, Author of "Researches in Palestine."

"From the fact that the prohibition of marriage with the sister of a wife is restricted to the lifetime of the wife, it is evident that under this prohibition is not comprehended marriage with the sister of a deceased wife, the limitation, 'in her lifetime,' leaving the marriage free after her death."—Cardinal Cajetan.

"Moses, in Leviticus, prohibited certain marriages, and permitted others in the same degree. For he prohibited marriage with the wife of a brother even after his death, and did not prohibit marriage with the sister of a wife, unless in her lifetime; and, consequently, did not prohibit it with the sister of a deceased wife."—Cardinal Bellarmine.

"Do you construe that passage in Leviticus (xviii. 18.) as prohibiting marriage with a deceased wife's sister, or merely as saying that a man should not take two wives together, at the same time, being so related?"—Certainly, that verse appears to have the latter meaning, that two sisters should not be living together in the same house, as wives of the same person." . . . "Is such a marriage

held by your Church as prohibited in Scripture ?"—“Certainly not. It is considered a matter of ecclesiastical legislation.”—Cardinal Wiseman.

“Though it is certain that the case of marriage between brother and sister-in-law came before our Saviour (Matt. xxii. 24), yet we do not find that He spake one word against it.”—Fry.

“No man has examined this subject more diligently than Fry, the author of a pamphlet which you justly commend, and you see my opinion perfectly coincides with his.”—Sir William Jones.

“The prohibition in Leviticus, xviii. 18, being limited to marrying a wife’s sister during the life of the first wife, necessarily (though virtually and tacitly, which is, in many cases, the strongest mode of sanctioning), implies the non-existence of any prohibition against marrying her after the death of the first wife.”—The Rev. Dr. Bagot, Dean of Dromore.

“The Jews regarded the marriage with a wife’s sister as not unlawful. This marriage Moses permits, but prohibits, on the other hand, the marriage of two sisters at once.”—Michaelis.

“The civil law of Prussia accords full liberty to the marriage of a man with the sister of his deceased wife. Such marriages are by no means rare. Experience does not show that in their consequences they differ essentially from other marriages.”—Royal Prussian Consistory, Prussian Saxony.

“Public opinion in our country is entirely in favour of such marriages, and when very lately this subject underwent discussion in both our Chambers, all our six dignitaries of the Protestant Evangelical Church, as well as the two of the Roman Catholic Church, pronounced themselves in its favour; nor were there any voices raised by the strictly religious of our community (of which, thank God, there are many) against it.”—Professor Kapff, Stuttgart.

"As regards the passage from Leviticus, the weight of authority most certainly takes it away from the lists of your opponents, and when the question comes to be determined by an enlightened expediency, the voice of experience is altogether in favour of the repeal of the present law."—Rev. Thomas Nolan, Incumbent of Regent Square, London.

"I do not remember any passages in the records of the early Church which bear on this subject previously to the positive enactment condemning it, but not annulling it in the Council of Eliberis or Elvira in Spain, the most probable date of which is A.D. 306. I am aware that an appeal to that Council was made, not many years ago, in the House of Lords, but I am convinced that too much stress has been laid on the canon of that Council, and that its enactment cannot be regarded as any groundwork on which the Legislature of this country can safely build its own laws on the subject of marriage. If this canon on the subject of marriage be binding on us, the others, as such, must be equally binding; but some there are which are utterly at variance with our views of social duty, and could never find a response in the sentiments of our Church and nation."—Rev. James Endell Tyler.

"From various considerations, such marriages here have become very common. So far are such marriages from being contrary to public opinion, that people are, on the contrary, inclined to consider them both natural and desirable. We express our conviction that there ought to exist perfect liberty between widowers and the sisters of their late wives to contract such marriage."—Ducal Saxe-Coburg, Ministry in Council.

"It is my decided conviction, after careful investigation and consideration, that there is no direct scriptural prohibition declaring such marriages unlawful. I do not stop to consider how the repeal of the present law may affect the intercourse between a husband and his wife's sister.

This is not a matter for legislation. I could not support the law as it now stands."—Bishop of Manchester.

"Whether the question is considered in a religious, moral, or social point of view, such marriages are unobjectionable, while in many instances they contribute to the happiness of the parties, and to the welfare of motherless children, and among the poor, have a tendency to prevent immorality."—Petition signed by the Bishop of London (Dr. Tait), 1849.

"There is even among the opponents of this Bill (the Marriages' Bill) a wide diversity of opinion as to there being a Divine command prohibiting these marriages, and that the weight of authority is against the existence of any such Divine injunction. If among the richer classes, there is a dislike upon social grounds to a change in the law, that dislike rests upon sentimental rather than on substantial grounds; whereas among the poorer classes it cannot be denied that the law causes great immorality and unhappiness.—Speech of Lord Wodehouse, March 22nd, 1859.

"The passage (Lev. xviii. 18) requires no aid from a canon. It is so clear, and so distinct, as to leave no doubt on my mind respecting the Divine permission to contract these marriages." "I shall vote for this Bill, because I consider it calculated to prevent a vast degree of immorality among the poor; and because I hold the prohibition of such marriages to be a flagrant violation of the rights of conscience."—Speech of the Earl of Albemarle.

"We who support this Bill do not think that the marriage of a deceased wife's sister is opposed to the law of God, and we do think that it is as wrong to restrict that which God permits as to grant dispensation for that which God forbids."—Speech of Viscount Lifford.

"These marriages are not contrary to the Divine command. The scriptural argument against them seems to me to break down at every step. In proportion as, by

our prohibitions, we multiply the opportunities of temptation, and prevent the enjoyment of any seeming advantage, not evil in itself, in the same proportion we extend and increase the power of the enemy of mankind."—Speech of Bishop of Cork.

"He had never risen from an examination of the religious arguments but with a firm conviction that these marriages were sanctioned by the Word of God. As to the social grounds he could not conceive any reason for which the law should prohibit those very marriages which seemed most likely to secure the happiness of the deceased wife's children."—Speech of Edward Ball, Esq., M.P.

"He thought that those who disapproved these marriages should be content to obey their own consciences themselves, but that they had no ground for enforcing on others scruples which were not really based on the Word of God."—Speech of Charles Buxton, Esq., M.P.

"He did not think the measure proposed was any infringement on scriptural precepts or commands. It was a remarkable fact that from the time when the scriptural law was given to the present day, so far as could be ascertained, the Jewish people themselves had never interpreted that law as a law of prohibition. Referring to marriage with a brother's widow, the bishop said it was inconceivable that on a subject of moral purity and moral principle the author of a scriptural law should in one place permit that which in another place was prohibited. He felt bound to say that he did not perceive in the Scriptures any direct prohibition, or any inferential prohibition against such marriages."—Speech of Ex-Bishop of Norwich.

"So far as the poor are concerned, I believe that an alteration of the present law is much to be desired."—Lord Auckland, Bishop of Bath and Wells.

"I know of no objection to such marriages. I never met with a person who had an objection to them. I never met a person out of Parliament who joined with the law, and

took the same view which the legislature does of these marriages."—Richard Cobden, Esq., M.P.

"If a layman may, without presumption, take place in this controversy, and adopt the conclusion arrived at by the Bishops of St David's and Norwich, that marriage with a deceased wife's sister is not only not prohibited but permitted by the Divine law—not through negligence, as too frequently happens in the best essays of human legislation, but studiously and of purpose—can any human authority be justified in nullifying a marriage contracted under such sanction, and putting asunder those who are united with such approbation?"—Lord Chief Justice Denman.

"The unlawfulness of the case you mention arises from the Canon, not the Civil Law. As to sinfulness, it is entirely out of the question; and as to natural consanguinity, in such cases, it does not exist. Against such a connexion as that which your friend projects, there is nothing in nature, nothing in grace. But still the Canon Law has hold, and if exceptions were taken against the Marriage, which is a possible case, the issue might be considered as bastardized—*i.e.*, in reference to inheritance, if there be lands in the family which descend to legal heirs. But such marriages are frequently formed, and, in common life, I have never heard of any of them being disturbed. There are two or three of the travelling preachers who have married in such circumstances, one lately, where the preceding sister has left a large family."—The Rev. Dr. Adam Clarke.

"I believe such marriages as you wish to make lawful, are already lawful according to the letter and spirit of Holy Scripture, and I hope the civil and ecclesiastical law will speedily be made conformable to the Divine."—Rev. Dr. Close, Dean of Carlisle.

"In the judgment of the Board, the marriage of a widower with the sister of his deceased wife is scripturally lawful, and ought not to be prohibited by human legisla-

tion."—The Board of Baptist Ministers in London and Westminster.

"I certainly have a strong opinion against the act which forbids the marriage with a deceased wife's sister, and have no objection to put my sentiments on paper for you to make any use of, that you think proper."—Rev. J. H. Gurney, Hon. Canon of St. Paul's, and Rector of St. Mary's, Marylebone.

"The present state of the law is fruitful of immorality and demoralization amongst the lower classes, and of suffering and cruel hardship to parents and to children in every class; and it will surely be admitted, that it is the duty of the legislature to apply some remedy to an evil which, as the commissioners state, is not only already great in itself, but is daily increasing in magnitude."—Rt. Hon. James Stuart Wortley.

"He was acquainted with the working-classes, and he must tell the House, that the act of 1835, in reference to their happiness had worked most injuriously. He considered that the religious objection to legalizing the marriage had been virtually given up."—Sir S. Morton Peto, Bart., M.P.

"I know of no social disadvantages attending such marriages. The apprehensions expressed in England on this head, are entirely dissipated by our experience."—Rt. Rev. Bishop Burgess, Maine, United States.

"I am not one of those who hold that such marriages are forbidden by Scripture—and I am not aware that any special disadvantages, social or domestic, have resulted from them."—Rt. Rev. Bishop Potter, Pennsylvania, United States.

"In the present state of the public feeling as to this particular class of marriages, and considering their notorious frequency, and the distressing consequences which result from the law declaring them, as it has done, total nullities, the policy of continuing the existing prohibition to this

particular class of marriages may reasonably be questioned."

—Dr. Addams.

"Marriages with the sister of a deceased wife are not rare in Saxony, and occur most frequently among the labouring classes and the agricultural population, where, mostly, the support of such near relations of the survivors precedes marriage. Public opinion, for a very long time past, takes no umbrage at such marriages, which often have their foundation in a wish expressed by the deceased wife, upon the death-bed, that her sister should be a careful mother to the children she leaves behind; and when such purposes are fulfilled, these marriages enjoy a general approval."—Kingdom of Saxony; Ministry of Ecclesiastical Affairs, and Public Education.

"Those marriages have exhibited no evil consequences upon domestic life and matrimonial happiness; but, on the contrary, it must be acknowledged as a very beneficial consequence of such marriages, that children of a first marriage receive thus a truly maternal, and not step-motherly, treatment, care, and attention. Public opinion is favourable, rather than unfavourable, to such marriages."—Clergy and University of Heidelberg.

"The question was discussed extensively in the Presbyterian Church in the United States, and the new school body (as it is called) generally held to the propriety of such marriages. I did then, and still do coincide with them in that opinion."—Authoress of "Uncle Tom's Cabin."

"Ancient Rome, in the purest periods of her history, had no law forbidding the marriages in question. We look in vain through the Gentile world for any traces of evidence that this law is one of those principles of general equity which is taught by the light of nature."—New England Puritan.

"The division the other night (in the House of Commons, in 1835), proceeded upon the principle that there was one particular degree of affinity within which marri-

age ought to be allowed—viz., the sister of a deceased wife.”—Speech of Sir William Follett.

“He denied the right of the legislature to infringe upon the conscience of any individual whatever, with respect to those natural rights of which marriage was, of all others, the foremost and most necessary. The right of marriage was given by Providence, and it was not for man to impose restrictions upon it.”—Speech of Dr. Lushington, M.P.

“In Sardinia, when any one desires it, and has got the authorization of the Pope, it is considered just as good as any other marriage. It would be difficult to state with certainty if those marriages are always followed by the happiness of the parties; but I am rather inclined to think they are, in most cases.”—His Excellency the Sardinian Ambassador.

“These marriages were formerly permitted only by dispensation; but by a law of 1832, for the Evangelical Lutheran Church of Russia, they are perfectly free to parties contracting them. Such marriages are indeed frequent, particularly among the rural population, where members of families are more thrown together. It is more than mere supposition that such marriages are happy ones.—Public opinion in this country is for, rather than against such marriages.”—Theological Faculty of the Imperial University of Dorpat, and Livonian Evangelical Consistory, Russia.

“Public opinion in the country of Weimar, and in the whole of Thuringia, regards such a marriage as unobjectionable, and only aims at abolishing the necessity for asking permission in each individual case, and at the introduction of perfect liberty in such matters. That the same may be obtained in England, the land of liberty and order, based upon a respect for the laws, is our sincere wish.”—Clergy and University of the Grand Duchy of Weimar.

"Public opinion, which feels no scruples of any kind as to such marriages, approves of them most particularly when there are young children of a first marriage, as giving them in the sister of their late mother a second loving mother. The permission of such marriages has, with us, been productive in no way of evil consequences."—Consistory Court of the Grand Duchy of Mecklenburg Strelitz.

"The arguments attempted to be drawn from Scripture by the opponents of the measure were arguments by inference; and, considering the conflict of opinion among eminent divines of this and other Christian communities, and that at best, arguments by inference were of a very doubtful character, he thought they might very well leave the resolution of the doubt to the conscience of each individual. But, believing, as he did, that Scripture, so far from prohibiting, sanctioned these marriages, it was a grievance of which the people might justly complain, that the law of the land was out of harmony with the revealed will of God."—Speech of the Bishop of Ripon.

"My Lords, the vote which I shall give in support of the Bill before your Lordships' House, will, I think, be in accordance with, and not in opposition to, the Levitical Law. I acknowledge that law to be binding. I hold as strongly as any one a belief in the inspiration of the Scriptures, but in saying that, I mean that there is not a word too much nor a word too little. Believing, then, that every word has its own important meaning, I would remark that the verse in Leviticus, which has been so often alluded to, contains these words, 'during her lifetime.' My impression is that these are qualifying words; that they imply a prohibition to take a wife's sister as a wife, during the wife's lifetime to vex her—but that the wife being dead, the prohibition was removed—that the marrying a wife's sister on the death of the wife is thus virtually pronounced to be perfectly lawful."—Speech of the Bishop of Carlisle.

Marriage with a Deceased Wife's Sister,

IS NOT KNOWN TO HAVE BEEN PROHIBITED IN ANY AGE OR COUNTRY,
BEFORE THE

FOURTH CENTURY OF THE CHRISTIAN ERA;

At which period the churches had widely departed from the simplicity of earlier times. The most exaggerated notions were entertained respecting marriage and celibacy, and, influenced by the doctrines of the ascetic Basil, Bishop of New Caesarea, the Greek Church, without scriptural warrant, prohibited marriages of consanguinity, of affinity, and even of spiritual affinity, to the SEVENTH degree.

At the present day these Marriages may be lawfully celebrated in the following countries, each of which has an

INDEPENDENT JURISDICTION

in the matter, and the united populations of which amount to more than 700,000,000, viz.

In the Empires of
Austria.
Russia (for the Lutherans
and Catholics).
France.
Brazil.
Turkey.
Morocco, and
China.

In the Kingdoms of
Prussia.
Spain.
Portugal.
Sardinia.
Naples.
Sicily.
Hungary.
Holland.
Sweden.
Norway.
Denmark.
Belgium.
Bavaria.
Wurtemberg.
Hanover, and
Saxony.

In the Grand Duchies of
Baden.
Luxembourg.
Hesse-Darmstadt.
Saxe-Weimar.
Oldenburg.
Mecklenburg-Schwerin, &
Mecklenburg-Strelitz.

In the Electorate of
Hesse-Cassel.

In the Duchies of
Saxe-Coburg.
Brunswick.
Holstein.

Nassau.
Saxe-Meiningen.
Anhalt-Dessau.
Saxe-Altenburg.
Anhalt-Bernburg.
Anhalt-Coethen.

In the Landgraviates of
Hesse-Homburg.

In the Principalities of
Lippe-Detmold.
Reuss-Greiz.
Reuss-Schleitz.
Schwarzburg-Sonders-
hausen.
Schwarzburg-Rudolstadt.
Pyrmont, and
Waldeck.

In the Republican States of
Maine.
New Hampshire.
Vermont.
Massachusetts.
Rhode Island.
Connecticut.
New York.
New Jersey.
Pennsylvania.
Delaware.
Maryland.
Virginia.
North Carolina.
South Carolina.
Georgia.
Alabama.
Mississippi.
Louisiana.
Arkansas.
Tennessee.
Kentucky.
Ohio.

Michigan.
Indiana.
Illinois.
Missouri.
Florida.
Texas.
Iowa.
Wisconsin.
California.
New Granada.
Chili, and
Peru.

*In the Republican Swiss
Cantons of*
Bern (Jura).
Lucerne.
Uri.
Schwiz.
Unterwalden.
Glarus.
Zug.
Fribourg.
Appenzell.
St. Gall.
Grisons.
Valais.
Tessin.
Soleure.
Basle.
Argovie.
Thurgovie.
Neuchatel.
Geneva.
Zurich, and
Schaffhausen.

In the free Hanseatic Towns of
Bremen, and
Lubeck.

And in the free Cities of
Hamburg, and
Frankfort.

GREAT BRITAIN IS

THE ONLY COUNTRY IN THE WORLD,

IN WHICH SUCH MARRIAGES ARE TOTALLY PROHIBITED TO PERSONS
OF ALL RELIGIOUS DENOMINATIONS.

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