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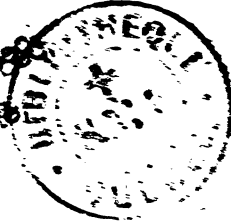
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~~H. C. P.~~
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J. J. J.

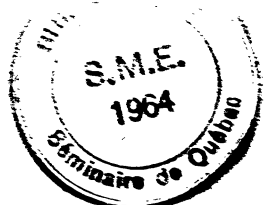
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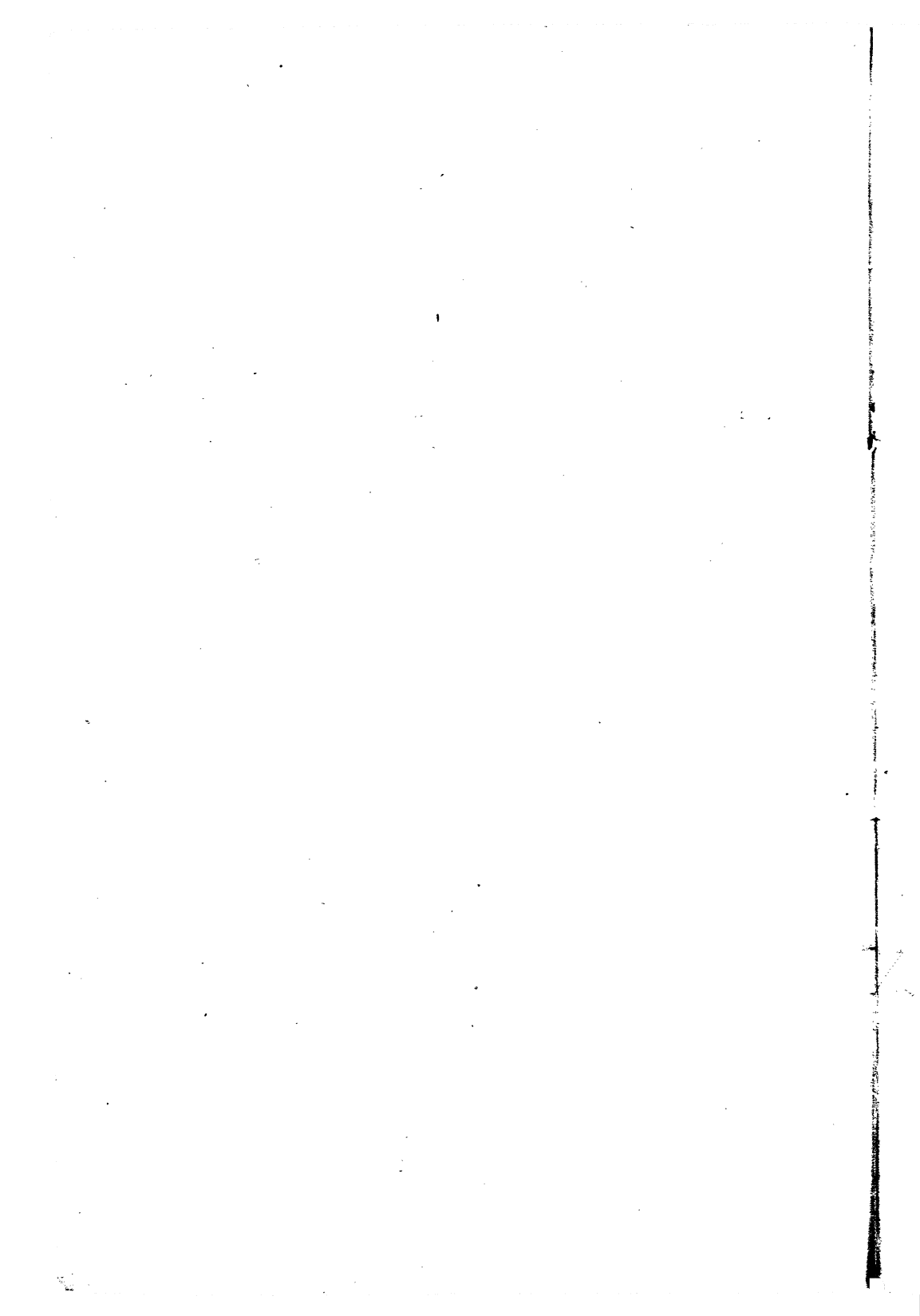
CATHOLICS

AND THE

MARRIAGES BILL.



S.M.E.
1964
Séminaire de Québec



MARRIAGE WITH A DECEASED WIFE'S SISTER.

The following Letter has been addressed by the MARRIAGE LAW REFORM ASSOCIATION of London, England, to Catholic Members of Parliament :—

21, Parliament Street, London, S.W.

Feb. 15, 1866.

SIR.—The advocates for giving, in the United Kingdom, civil validity to marriage with the sister of a deceased wife, are desirous of bringing the subject distinctly under the notice of Catholics, with the view of obtaining their co-operation. They conceive that there exist no reasons why that co-operation should not be given, but many and powerful reasons why it should be accorded.

If, as is supposed, this is a mere question of policy or expediency, not involving any article of the Catholic faith, the way is open to lay before you such considerations as appear applicable to the case, in the hope that you may see it to be your duty to give your support to the Marriages Bill.

1. It is evident that the Catholic Church does not regard such marriages as opposed to any precept of the Divine law, or *contra bonos mores*. As a rule, in all Catholic countries, when a desire is expressed for such a marriage, a dispensation is readily granted. On a recent occasion, an Irish gentleman, in Dublin, well known and respected, went to Rome, received a special dispensation

from the Pope, and was there married. This giving of a dispensation, it should be observed, is not a case of granting forgiveness *ex post facto* for an improper act, but *antecedent* and *express permission* to celebrate a marriage, which no Catholic could afterwards characterise as immoral or even inexpedient.

It may be assumed, then, that the Catholic Church sanctions marriage with the sister of a former wife in every case in which the express consent of the Church has been first sought and obtained. And it is a notorious fact, that, in Catholic countries, and in Protestant countries where Catholics reside, such unions are frequent. In France, in the year 1863, 613 dispensations were granted for marriage with a deceased wife's sister. In the legislation under the first Empire, the granting of dispensations was for a time discontinued, but afterwards, in 1832, restored. The following words show the reason of this change:—"Enfin, une autre considération a frappé les deux chambres; c'est la persévérance avec laquelle cette modification de la législation a été sollicitée depuis quinze ans, et les nombreuses pétitions adressées à ce sujet. On a vu dans cette persévérance, et dans des réclamations si générales, l'expression d'un besoin social."^{*}

2. The fact, then, being conceded that marriages with deceased wives' sisters do take place with the sanction of the very highest ecclesiastical authorities of the Catholic Church, can any minister or lay member of that Church, can any person of humane feelings, be indifferent to the question whether such marriages shall have civil validity? Upon the commonest principles of morality it might admit of a question, whether it was justifiable to be instrumental (by granting dispensation) to a marriage which (it was antecedently known) would not be sanctioned by the civil law, which would not admit the inheritance of property, nor

* "Finally, another consideration has influenced the two Chambers; it is the perseverance with which this change in the law has been solicited during the past fifteen years, and the numerous petitions presented. They have recognized in this perseverance, and in remonstrances so general, the expression of a SOCIAL NECESSITY."

secure the legitimacy of offspring. I shall venture to regard it as incontrovertible, that Catholics must desire, that, when a marriage with a deceased wife's sister has been duly celebrated, it shall have the same civil validity with all other marriages.

Do any reasons exist why the law of this country should not be so altered as to give such civil validity?

I am able to suggest only three probable reasons.

- (1). A desire to prevent such marriages altogether.
- (2). A desire to discourage them and diminish their number.
- (3). A fear lest, if the law were altered, Catholics would marry without dispensation.

(1). The direct mode of accomplishing this object, of preventing such marriages, if it were desired, would be for the Church invariably and resolutely to refuse such dispensation, and utterly to condemn such marriages. But this, the Church does not, and will never do. Human nature requires such marriages. Long prohibition has indeed created a prejudice in the minds of some, as if there was something impure in these alliances; but circumstances are often occurring in which a marriage with a deceased wife's sister is the only one a man can, with prudence and justice, contract. And, so urgent is the necessity (not arising from ungoverned passion, as some unfeelingly and ignorantly allege, but from affection, and a sense of duty), that, after long consultation and deliberation, those who appear to be the most devout and conservative of men, frequently resolve to submit to all the consequences of disregarding the law. To prevent such marriages has always proved impossible, and is not, therefore, likely to be attempted now.

(2). The direct mode of effecting this object, viz. the discouraging of such marriages, as well as the preceding one, would be to refuse dispensations, or to grant them only in a few cases. But this is not the course adopted. Whenever asked for, they are granted, unless there has been some immorality. And,

even if the fact of their possessing civil validity would increase the number of such marriages, it would seem a questionable mode of discouraging an undesirable marriage to take care that, when contracted, it should have no force in law, but that parents and children should live out the rest of their days under the perpetual stigma and damage of illegitimacy.

It may, therefore, be taken for granted, that the Catholic Church does not desire that civil validity should be withheld from these marriages for the purpose of discouraging them.

(3). The fear lest Catholics might be married without dispensation is probably groundless; but, even if such a result could be foreseen, the desire to prevent it could not justify the withholding of civil privileges of inestimable value, and which ought to belong to every allowable marriage. At the present moment, however, we are not without the means of judging on this point. As the law now stands, the marriages of first and second cousins are allowed by Catholics only on dispensation; yet, when contracted, they have full civil validity, being thus in exactly the same position which would be occupied by marriage with a deceased wife's sister if the contemplated statutory change were effected. But does any evil of the kind anticipated result? Do Catholics marry before a registrar without dispensation? It would be a very strange thing if they were to neglect or refuse to obtain a dispensation, simply because the marriage they were about to contract would be legally a valid one. I am informed as a fact, that they seldom omit to procure dispensation.

Do marriages of first and second cousins, among Catholics, after dispensation, differ ecclesiastically from marriage with a deceased wife's sister? I believe I may answer, in no wise. Can any good reason be assigned why the former classes should have civil validity and not the latter? I venture to answer, none.

Catholics, in hitherto omitting to promote the legalization of such marriages, may have been influenced by some prejudice

against them, or some vague notion of general policy. But prejudice, or ideas of policy, should not make them commit the injustice of actually promoting invalid marriages. *Refuse dispensation or alter the law.*

In the case of those who believe such marriages to be contrary to a Divine precept, we have no course to pursue except to endeavour to convince them of what we consider to be their error of judgment ; but those who sanction and are instrumental to such marriages are, it would seem, bound irresistibly to consent to their being made civilly valid. To those who have contracted such marriages, their legalization must prove a precious boon, and the question arises, is their welfare to be sacrificed to extraneous considerations? I sincerely trust this will not be the case. I can suppose that Catholics, whether clergy or laity, have not fully considered the attitude they should, in consistency, assume toward a measure for legalizing such marriages. Let them remember, however, that everywhere else in the wide world, when a Catholic dispensation for such a marriage has been granted, and, when necessary, the Royal *exequatur* obtained, the marriage is valid. If any evils were found to result, we may be sure that the civil, as well as the ecclesiastical, authorities would cease to allow such marriages. As they do not, we may safely conclude they see no necessity for such a step. Then, why should not the same state of things exist here ?

Let it, also, be distinctly understood, that those who seek to promote this measure have no ulterior aims, no party bias. They simply seek, for Protestants as well as Catholics, civil validity for this one marriage, and nothing more. They pledge themselves, that, when this object is attained, their organisation will be at an end.

And Catholics should remember what a benefit the alteration of the law would confer on thousands of families among their Protestant fellow subjects. As men and as Christians, they cannot be indifferent to this fact. By keeping the law in its

present state, no real good is effected, but infinite harm is done—mischiefs which will be developing themselves in families for generations to come, unless remedied.

Experience shows it impolitic and impossible to prevent such marriages ; humanity and policy dictate the removing from them the still lingering consequences of an obsolete stigma.

I venture to address you, Sir, in your influential position, in the hope that you will admit the substantial justice of the considerations I have laid before you, and give your support to any measure that may be introduced into Parliament to give validity to marriage with a deceased wife's sister.

Requesting the favour of a reply,

I have the honour to be, Sir,

Your obedient servant,

JOSEPH STANSBURY, M.A.

Hon. Sec.

. The preceding remarks may, *mutatis mutandis*, be considered as addressed to all Catholic prelates, and all Catholic members of British Colonial Legislatures, in colonies where the law prohibiting marriage with a deceased wife's sister remains still unrepealed.