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EXTRACT FROM THE LATE

CHARGE

OF

JOHN, LORD BISHOP OF FREDERICTON,

ON

*THE ATTEMPT MADE TO LEGALIZE THE
MARRIAGE OF A WIDOWER WITH
HIS LATE WIFE'S SISTER*

By Permission of the Bishop of Fredericton.

EXETER :
WILLIAM POLLARD, PRINTER, NORTH STREET,
1880.

SHORT PREFACE.

We have been induced to reprint and largely circulate this extract from the late Charge of the Bishop of Fredericton, on the proposed alteration of the Law of Marriage by which a widower may be allowed to marry his Deceased Wife's Sister.

Believing that such an alteration of the Law of Marriage would be fatal to the social happiness and domestic purity of English homes, we earnestly commend it to the serious consideration of the Members of the Legislature as containing in a condensed and vigorous form the reasons for the rejection of such a Bill whenever, and by whomsoever, it may be submitted to either House of Parliament.

S. U. B. LEE,

Canon Residentiary of Exeter.

CH. CH. BARTHOLOMEW,

Prebendary of Exeter.

EXTRACT.

Every one must see the necessity of some restraint on human passion in regard to marriage, for where no law existed in old times, mankind invariably ran into the most revolting excesses. "They took them wives," we read in the Scriptures, "of all which they chose," not only as many as they chose, but without any restraint in respect of affinity or consanguinity. These vile practices were continued after the flood among the Canaanites, and formed one of the chief reasons for their disinheritation by the hand of God. To counteract this detestable profligacy among the Jews, and give Divine sanction to a purer code of morals in respect to marriage, Moses was commissioned in the name of God, and as His mouth-piece, to write a table of degrees for restraint of marriage within certain limits, founded on this principle announced in the beginning of the table—"None of you shall approach, (i. e. by marriage) to any that is near of kin to him. I am the Lord." The table then gives instances of such affinity or consanguinity, for no difference is made between them. It is not an exhaustive table, for marriages with a man's own daughter or his grandmother are not forbidden, and the prohibitions are given exclusively to men, though women are equally concerned. But it is evidently governed by the principle which the Lord lays down as the true foundation of the marriage relation that man and wife become one flesh, and consequently all the blood relationships which would be forbidden are equally unlawful after marriage to relations by affinity. This simple and divinely authorised rule in contradiction to the loose practices of the heathen, and even of some of the Patriarchs, is the rule of Christian morals given to us by our Lord. Even if it could be shown—which is contradicted by the whole sense of the 18th chapter of Leviticus—that this is a part of the ceremonial,

not of the moral law of the Jews, we must remember that the whole object of the sermon on the Mount was to purify Christian morals from the loose glosses and interpretations which the Rabbis and others had put upon it, and that to give our sanction to any marriage connection less pure than the law here enforced on the Jews is to read GOD's dispensations backwards, and to lower Christianity in favor, not of Judaism, but of Heathenism. Those, therefore, who argue that all Jewish laws are obsolete, need to be reminded that the law of the Ten Commandments is read in our Churches every Sunday, and that the Gospel spirit not only binds us to receive them in substance, but to carry them out on a higher, purer and more exacting principle than a servile adherence to the letter would indicate. Polygamy, for instance, and an easy system of divorce, were tolerated among the Jews because of the "hardness of men's hearts," but the Christian system supposes a higher power of self-restraint, and therefore demands a higher, not a lower code of morals. The very incest with a father's wife, which has been treated with so much levity in our Colonial Parliament, is by St. Paul looked on with the deepest abhorrence, and is punished with immediate excommunication.

So that if we were not bound by the table of degrees in Leviticus, which is impossible to be proved, if that table be part of God's moral law, given for the guidance of other nations beside the Jews as is there indicated, we are bound by a purer and holier law to Christ, and it would be a most strange argument that what the lower and less perfect rule of life condemns as immoral, the higher and more perfect rule may allow. On this reasoning there is nothing whatever to prevent the legislative sanction being given to Polygamy, man's passions being apparently the only admitted rule, and the word of God being entirely thrown aside as the true basis of sound legislation in religious matters.

I am aware that some kind of argument is attempted to be built on the 18th verse of the chapter in Leviticus, which in our translation is obscure. But this argument comes with a very bad grace from persons who repeatedly assert that they are not bound to consider the Levitical law at all,

the whole being obsolete. And, however that verse be translated (the true meaning of it being, I believe, a condemnation of polygamy) it is monstrous to suppose the legislator to sanction in this verse a principle which he had before condemned in the rest of the chapter. The general argument is, however, sought to be set aside by an assertion that marriage is simply a civil contract, and that, therefore, the legislature has no religious obligations to deal with. Each sect, and each man, as it would seem, is to deal with the matter so as to suit his own convenience, or his conscience, if he have any. This notion of marriage being only a civil contract resembling the renting a house or the purchase of a farm, only, be it observed, much more easily broken by cheap and easy methods of divorce, is merely another mode of getting rid of our obligations to the Divine law. In these days of lawlessness each man who has a grievance,—and sinners now call their transgressions grievances and endeavour to legalise and justify them—desires an alteration of the law, not that they may sit under it, but that they may sit upon it. And when they have transgressed again, they will seek a new law to suit their new passion. Thus marriage being, as they say, only a civil contract, may be dealt with as we deal with a law of bankruptcy. Yet even in bankruptcy there must be some limit, some restraint, or otherwise all debtors might proclaim themselves absolved from payment. Property would be the only thief.

Our Church has taken the greatest pains to shew us that marriage is not merely a civil contract, but a solemn, religious obligation. It commands the clergy to begin the marriage service by telling the people that marriage was “instituted of God in the time of man’s innocency, signifying to us the spiritual marriage and unity between Christ and His Church.” How can a civil contract do this? It requires of the persons to be married a most solemn affirmation, for which they will have to answer at the “Dreadful day of judgment,” that they know of no lawful impediment to their marriage. Lawful, not merely legal; for the service immediately adds that “so many as are coupled together otherwise than God’s word doth allow” are not

joined together in lawful matrimony. And what is lawful or unlawful according to God's word, in the judgment of the Church, is distinctly told us in the table of degrees affixed to our Prayer Books, "wherein," it is said, "whosoever are related are forbidden in Scripture and our laws to marry together." Where is the civil contract here? I am aware that an attempt is made to assign this table of degrees to the authority of Archbishop Parker *only*. But the marriages forbidden by this table had always been held unlawful by the Church of England, and for fifteen centuries such marriages were held unlawful in the Church at large. To return to the marriage service. Every part of it, especially the two solemn benedictions and the invitation to receive Holy Communion "at the time of marriage, or at the first opportunity after marriage," prove that it is no mere civil contract which the Church owns as marriage. If, then, persons married "otherwise than God's word doth allow are not joined together by God, neither is their matrimony lawful," and what God's word doth not allow is assured to us by our Church in the table of degrees, and in the 99th Canon; if we, as Canadian clergy and laity, have acknowledged the Book of Common Prayer (which contains the table of degrees) to be "a true and faithful declaration of the doctrines contained in Holy Scripture;" if, moreover, a resolution of both houses of our Provincial Synod declares, that no clergyman of this Ecclesiastical Province shall knowingly solemnize a marriage forbidden by the 99th Canon of 1603, how can we deny the force of such solemn obligations? I do not hesitate to say that if a clergyman of our Church do not consider himself bound by them, I cannot conceive any other that would bind his conscience, and I should distrust his declarations on any subject whatever. Besides, are we going to stop in this downward course of license? Already our legislators propose to go beyond the demands of agitators of the question in England. Our bill proposes to sanction the marriage of a woman to a deceased husband's brother. "Why then," as Lord Hatherly says, "should not a man's own brother desire his daughter in marriage, or look even to the reversion of his wife." We may be sure that

ingenious arguments would be found even for this revolting connection. But some are prepared to go even beyond this, and even bid us be of good courage and dare to do what St. Paul tells us "is not so much as named among the heathen," to take in marriage our father's wife. This language has, I understand, been supposed to be said in a joke, as if no man would desire it. In most instances it would, no doubt, be improbable, but it is far from being impossible. A man, we will suppose, marries early in life, and his wife bears him sons who are grown up when his wife dies. He then selects a wife very many years younger than himself. Meanwhile one of his sons marries early, and his wife dies leaving children. Finally the father dies. Why then, if man's appetite is to be his sole guide, may not the son select his father's wife, no older than himself, to be the guardian of his children; and pretend that no one can possibly feel so much affection for them as his step-mother and be so suited to be their guide? Then if she bears children it is to one who ought to consider himself her son, and her children would be brothers and sisters to his children. This may be considered an exaggerated case, but it is perfectly possible, and if we are to follow advice given, either in seriousness or in sport, all the hideous consequences would follow. When we try principles we have a right to consider extreme and possible cases. The fact is, that the transgression of a Divine law always proceeds in a downward course and never ascends to the source of all purity, to Him who says, "be ye holy, for I am holy." I shall not dwell much on the social discomfort of this law, great as it undoubtedly would be. But I would observe that by it the happiness of the many would be sacrificed to the passions of the few. And why is the comfort and peace of a thousand homes to be thus sacrificed? "Why are sisters-in-law living with widowed brothers-in-law, as sisters, to be ordered either to quit the house or marry them? Why is distrust to be sown where perfect love, frank familiarity, sweet and pure affection were before unrestrained?" "As a general rule among decent persons of all ranks," said the venerated author of the "Christian Year," "a law which would place the wife's sister in the same relation to the

husband as any other unmarried woman, not only *might*, but *must*, in all cases, separate the wife's sister from the family, not only after the wife's death, but in case of her long illness or absence. She will require the same protection that any other young woman would in the like circumstances." So that the benefit of the law would be the enjoyment of their transgressions by the present law breakers, and its evils would be innumerable; among the chief of which would be great distress to the keepers of the Divine rule, great bitterness between families who keep and families who break the rule, great confusion and trouble among the clergy, and loosening of bonds of morality in various directions among the community at large. You may now ask of me, perhaps, what are we, the clergy, to do? I answer plainly, you are to decline to solemnize such marriages. If the State relax its obligations and pronounces marriage a civil contract only, the Divine law and the law of our Church is still binding upon you. You are to be guardians and defenders, not betrayers of public morals. Nor ought persons who live in incest to be admitted to Holy Communion. But there is more to be done. Between this time and the next session of the Dominion Parliament the clergy should endeavour to circulate among the laity sound and wholesome truth on this subject. I may mention such tracts as Lord Hatherly's "Vindication of the Law Prohibiting Marriage with a Deceased Wife's Sister," Mr. Keble's tract against "Profane Dealing with Holy Matrimony," the Lord Bishop of Nova Scotia's "Reasons for Rejecting the Proposed Marriage Law," and a very useful Catechism on Marriage, with an appendix showing the Divine authority for the table of prohibited degrees, by the Rev. J. J. Curling and Rev. J. F. Phelps of the Diocese of Newfoundland.

I think that petitions should be prepared in all our Parishes against the proposed Bill. And as Scotland always pronounced against such an alteration of the marriage law, I entertain the hope that the Presbyterian bodies here may stand with us in this matter, as well as others who wish to prevent the evil which will arise from an alteration in the law.









