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THE CHURCHMAN.

OCTOBER, 1907.

The Month.

**The
Deceased
Wife's
Sister Act.** THE papers during the past month have naturally been full of the controversy caused by the passing of the Act authorizing marriages with the deceased wife's sister. After sixty years of persistent agitation the Bill became the law of the land in August, and Churchmen are faced with a serious and difficult problem raised by the fact that on this point the law of the State is now in direct opposition to what has hitherto been regarded as the law of the Church. Whatever our views may be on the general question, the circumstances connected with the passing of the Bill call for clear recognition and careful consideration on the part of Churchmen. The advocacy of and opposition to the Bill were in no sense political, members of both sides voting for or against it quite regardless of politics. Further, out of probably well over two hundred Churchmen in the House of Commons, not more than about twenty were found voting against the Bill; the entire minority was only about thirty-four. In the House of Lords the majority in favour of the Bill may be fairly regarded as two to one. Nor should we forget that every important organ of the London press was in favour of the Bill. These are very striking and significant facts. Again, the Duke of Norfolk's testimony to the position of the Church of Rome showed that the matter is regarded in that communion solely

from the standpoint of discipline, and not from that of Divine law. This had great weight in the House of Lords. It is also impossible to overlook the fact that a year ago the Archbishop of Canterbury "cordially voted" for what is known as the Colonial Disabilities Removal Act, which made marriage with a deceased wife's sister, contracted in any of our Colonies, legal for such colonials while living in this country. Yet this attitude to the Colonial Act seems to be as definitely opposed in principle to Canon 99 and the Table of Kindred and Affinity as the Bill of the present year. Not least of all, the opposition in both Houses of Parliament did not take the high Scriptural ground that such marriages are contrary to the Word of God, and therefore incestuous. A good deal has been said against Lord Hugh Cecil's strong language on this subject, but if he or anyone holds that these marriages are absolutely contrary to the law of God, the language is perfectly justifiable and necessary. But the fact that the Archbishop of Canterbury dissociated himself from such language clearly shows that His Grace did not take Lord Hugh Cecil's ground. Moreover, since the Act has been passed, the Bishop of Liverpool, though strongly opposed to it, admits that those who contract such marriages do nothing that is opposed to Christian morality. Now, we submit that all these facts are salient and significant features of the situation, and should go far to guide Churchmen to right views of the matter. Everything depends upon the ground we take in opposition to these marriages. The question of expediency is absolutely at an end now that the Act has become law. The one question which faces Churchmen is, Are the marriages right or are they wrong?

Are these Marriages Unscriptural? The fact that argument from Scripture was not used in the recent debates does not necessarily imply that there is no Scripture argument, though it would seem most natural to have alleged it on such an occasion. Is there anything in Scripture which stamps these marriages as wrong in the sight of God? With all respect to

those who think otherwise, we venture to say there is not. The ancient use of Lev. xviii. 18 has long passed into the limbo of impossible exegesis, and, so far as we know, apart from this text, there is only left the argument based on "They twain shall be one flesh," meaning that the wife's relatives are the husband's relatives. Can this, however, be said to include oneness of flesh and blood with a wife's relatives? If so, how is it that two brothers can marry two sisters, and how can the son of a father by one marriage become the husband of the daughter of his stepmother by her subsequent marriage? The truth is, the oft-repeated statement that affinity is at all points parallel with consanguinity hopelessly breaks down. Added to this we have the deplorable sanction of marriages of first-cousins, which is a marriage of pretty close consanguinity. Further, in view of the fact that Levirate marriages were allowed under special circumstances in the Jewish law, it would seem that there was nothing essentially immoral in the union, or else not even special circumstances would have justified them. We therefore seem led to the conclusion stated by the Bishop of Carlisle that Holy Scripture has left us free in the matter. If, then, these marriages are not unscriptural, if opposition to them cannot be proved by most certain warrants of Holy Scripture, and if, therefore, the great principle of Article VI. applies to the question, is it possible to make opposition to these marriages an Article of the Faith in the sense that they are not to be recognized by the Church? For we must at all costs be logical in a matter of this kind, and if we believe such marriages to be unscriptural, we must refuse the Holy Communion to those who have contracted them. Canon 99, which prohibits them, is equally clear in adjudging them "incestuous and unlawful," and to be "dissolved as void," and the parties to be at once separated by law. We cannot but believe that if the position of Holy Scripture is carefully considered and the truth of Article VI. applied to the question we shall be helped to come to a true solution of the problem.

What is the Law of the English Church. The opposition between Canon 99 with the Table of Kindred and Affinity on the one hand and the new Act on the other has necessarily raised the question as to how far the English Church is still governed by Canon Law, and in particular in what sense the Canons of 1604 are still binding. It seems quite clear that "the Table of Prohibited Degrees forms no proper part of the Prayer Book" (Frere's edition of Proctor's "History of the Book of Common Prayer," p. 621), and the reprint at the Tower of the sealed copy of the Prayer Book of 1662, which has been seen by a correspondent of the *Guardian*, ends with the Form for the Consecration of Bishops. The Table therefore rests on the authority of Archbishop Parker in 1563, and this was confirmed by Canon 99 of 1604. The question still remains as to the precise basis of our obligation to Canon Law in the Church of England. Some writers base obligation to Canon Law on English Statute Law from the time of the Reformation onward, and not on any acceptance of the medieval view of the Canon Law. Others hold that our Canons are the rules which the Church lays down for the guidance of its members, quite apart from medieval Canon Law. Under these circumstances the question will have to be faced, and our precise relation to the Canons of 1604 definitely settled. It is at least curious that those who now urge the obligation of this Canon are not by any means prepared to acknowledge a similar obligation with reference to ministerial vestments as laid down by another Canon.

The one great evil to be feared is what a Bishop, **Our Present Duty.** writing in the *Times* under the name of "Episcopus," has rightly called "Diocesan Variants." Already we are experiencing this trouble. The Archbishop of Canterbury and several of the Bishops have strongly urged that the clergy should not solemnize such marriages, or allow the use of their Church for them. The Bishop of Hereford, on the other hand, advises the opposite, while the Bishop of Carlisle says that, until the relation of the Canon Law to the laws of the

realm has been clearly and judicially defined, he cannot lay any clergyman under censure for celebrating one of these marriages or allowing the use of his Church for the purpose. It is clear from correspondence in the papers that the vast majority of the clergy will avail themselves of the liberty granted to them under the Act, but there is a strong and influential minority who feel that the law of the State is binding on us as members of an Established Church, not from any Erastian principle of State control, but simply because the Houses of Parliament represent the only available legal authority of the laity of the Church of the nation. It appears to us that, following the line of the Bishop of Carlisle, the case is eminently one for liberty. Those who cannot celebrate these marriages must not judge those who can; those who can celebrate them must not despise those who cannot. The matter must soon be brought to a settlement one way or the other, and meanwhile liberty is the one thing needful. One fact in particular gives cause for immediate settlement, and that is the novel and deplorable differentiation between clergy and laity in the matter of contracting these marriages. A clergyman as a citizen can contract such a marriage, but as a clergyman he is liable to ecclesiastical censure if he does so; and yet legal ecclesiastical censure can only be pronounced by a court of law, which, of course, would do nothing of the kind, seeing that as a citizen a clergyman is within his right in contracting the marriage. If it be said that there are other methods of ecclesiastical censure, it must be admitted that there are, and nothing could be more intolerable than that there should be any boycott or similar action which would prejudice a clergyman in his career for doing that which he believed to be Scriptural and which is certainly allowable by the law of the land. And so we come again to the conclusion that action must be taken very soon to put an end to the present state of confusion. Unless some settlement is quickly made, the position of the Church as an Establishment will be gravely imperilled, and Disestablishment brought within measurable distance.

Church Reform. Bishop Thornton, of Blackburn, is one of the prominent Churchmen who possesses the refreshing gifts of courage and plain speaking. He is not afraid of saying what he thinks, and of expressing himself in terms that can be understood of the people. A recent utterance on the delay of bringing about Church reforms seems to be worthy of special notice :

" Unless the Church can formulate, without much delay, her common mind on certain imperative reforms, the demand for her disestablishment, as unworthy to remain the recognized exponent of the nation's Christianity, will be heard as loudly from within her as from the enemy outside. Year after year passes, and nothing, or next to nothing, gets really done, or even decided upon, towards removing crying abuses in her administration. The sale of livings continues, unfit pastors cannot be removed, and the Church's men and means are in many places as absurdly maldistributed as ever. The representative Church Council meets, and, with thirteen numbers on the agenda paper, passes resolutions anent three of them, and is prorogued!"

How true this is all Churchmen know. During the next year we shall doubtless have full opportunity of seeing how far the movement for Church reform will grow and be taken up in earnest. If something is not done along the lines indicated by Bishop Thornton, we shall almost come to think of an application to the Established Church of the well-known phrase : " Those whom the gods wish to destroy they first make mad."

The Spirit of Sectarianism. The Bishop of Carlisle, in his address at the recent Diocesan Conference, took up again one of the points raised in his valuable and weighty address at the Barrow Church Congress. He dealt with one of the losses associated with the Tractarian Movement, which he considers to be the denationalization of the English Church, and her transformation into a mere sect. Here are the Bishop's words, which seem to us to be pregnant with meaning for all who can discern the signs of the times :

" Time was when the vision of a Church universal seemed to be dawning on the world, but now the only Church which arrogated to itself the sole title of Catholic had degenerated into the most exclusively sectarian of all the Churches. The spirit of denationalization or sectarianism, partly derived from Rome, was the greatest of all the perils menacing the English Church to-day. Ever since the birth of the Tractarian Movement that Church had

been losing touch with, and hold on, the nation, and had been dwindling into a mere sect. The founders and disciples of that movement would prove, he was persuaded, to have been in the long run the most subtle, strong, though unconscious, adversaries the National Church ever had. The danger lay in their very goodness and nobility, in the fascination of their character and the splendour of their talents. All the clear benefits they had conferred on the Church might have been conferred without inflicting on it the injuries of exclusiveness and denationalization. That movement was a kind of apotheosis of tradition, deifying the Church, depreciating the religious character of the State, and ignoring the fact that civil government is also an ordinance of God. These causes were swiftly putting the Church out of harmony with the nation. As the exclusive trade unionist would not work with the non-unionist, so the exclusive Tractarian would not worship with the Nonconformist. With each successive widening of the franchise Parliament had become less of a Church Senate and more of a Nonconformist Assembly. This result was no mere question of party politics, but the beginning of a great war between clericalism and Christianity. When the recent Trade Union Congress voted for secular education by something like ten to one, the members of the majority voted, not against Christianity, but against clericalism."

Gambetta's historic phrase with reference to France, that "clericalism is the enemy," is equally applicable to our own country and Church, and we are grateful to the Bishop of Carlisle for so plainly calling attention to it. It is at the root of not a few of our Church and Education troubles at the present moment.

"Worse than Disestablishment." In the same connection the following words of Bishop Diggle are also worthy of note :

"Of all the dangers besetting the Church of England to-day, none was, in his judgment, comparable to its gradual denationalization, by which he did not mean disestablishment or disendowment, but something worse than either. Disendowment might rob poor parishes of the ministrations of religion, but otherwise it would keep the Church from leaning too heavily on the generosity of a dead past, and would tend to put larger powers and liberties into the hands of the laity. Disestablishment would mean a deliberate dissociation of the State from organized religion and an interference with religious liberty, for no voluntary religious community is as free and untrammelled as a State Church; but it would mean most probably a further reforming of the Church, which would go back to the Reformation, and not behind it nor underneath it. The condition of things to-day in the Church of England would not be tolerated in an unestablished Church, which would be autonomous, and would be delivered from the bureaucratic rule from which it had suffered for a long period. He was opposed to both disendowment and disestablishment, though if they came he should not be overwhelmed with despair. But the denationalization of the English Church was without any admixture of good whatever, because it meant sectarianism and the exclusive spirit."

This is a word of faithful warning and counsel as timely as it is important.