

MARRIAGE RESTRICTIONS REMOVAL.

EXPLANATORY NOTES.

A MAN may lawfully marry a sister of his deceased wife, but marriage with a daughter of a deceased wife's sister is unlawful. (*Vide* a recent decision of Mr. Justice A'Beckett, of the Victorian Court, which is equally applicable to New Zealand.)

It not infrequently happens that there are sisters between whose ages there is a difference of twenty years or more. Take such a case, and say the elder sister marries, and has a daughter before she is twenty-two years of age, and subsequently becomes a widow. The younger sister marries at the age of twenty-one, and dies within a year or two thereafter. Then the widower of the latter, who is, say, a young man of twenty-five, is at liberty to marry the elder sister, who is over forty years of age—more than fifteen years older than himself—but is not at liberty to marry her daughter instead, although the daughter, being, say, twenty-two years old, is obviously of a much more suitable age.

This is not merely a supposititious case. I know of several instances in this colony, and I have been asked to endeavour to have the law amended in order to the legalisation of such marriages.

The matter was first brought under my notice some four or five years ago by a solicitor who has a large practice in Christchurch; and, since then, from various places I have received information which goes to show that there are more instances in the colony in which such marriages have been contracted than might have been supposed.

As there is no consanguinity between the parties, there is no physiological reason against the union, and it is wholly illogical to forbid marriage with a deceased wife's sister's daughter while marriage with a deceased wife's sister is permitted.

Again, those persons who have contracted such marriages, innocently believing them to be lawful, and who now find through Judge A'Beckett's pronouncement that in the eye of the law they are living in concubinage, are placed—as also are their children, if any—in an exceedingly painful position, from which, it is submitted, the Legislature should relieve them without delay.

The fact that the persons so circumstanced are comparatively few in number cannot be pleaded in bar of legislative relief, as it in no way disentitles them to consideration—rather, indeed, the contrary.

W. J. STEWARD.

MARRIAGE RESTRICTIONS REMOVAL.

ANALYSIS.

Title.
Preamble.
1. Short Title.

2. Marriage with deceased wife's niece or
deceased husband's nephew valid.
8. Definition.

A BILL INTITULED

AN ACT to remove certain Restrictions upon Marriage.

WHEREAS by "The Deceased Wife's Sister Marriage Act, 1880,"
the marriage of a man with the sister of his deceased wife, and by
5 "The Deceased Husband's Brother Marriage Act, 1900," the marriage
of a woman with her deceased husband's brother, is declared to be
lawful: And whereas marriages between a man and his deceased
wife's niece, and between a woman and her deceased husband's
nephew, are, nevertheless, at present unlawful, and it is expedient
10 that the restrictions upon such last-mentioned marriages should be
removed:

BE IT THEREFORE ENACTED by the General Assembly of New
Zealand, in Parliament assembled, and by the authority of the same,
as follows:—

15 1. The Short Title of this Act is "The Marriage Restrictions
Removal Act, 1904." Short Title.

2. Every marriage between any person and his deceased wife's
niece, or between any person and her deceased husband's nephew,
which has heretofore been, or which shall hereafter be, contracted and
20 solemnised before any minister of religion or Registrar duly authorised
to solemnise marriages, shall be deemed to have been and to be valid
and binding; and the issue born or hereafter to be born of such mar-
riages shall be deemed to have been and to be born in lawful
wedlock:

25 Provided that this Act shall not render valid any such marriage
in any case where either of the parties of such marriage shall there-
after before the passing of this Act have lawfully intermarried with
any other person, nor shall the passing of this Act deprive or be held
to have deprived any person of any property which such person may
30 have lawfully inherited prior to the coming into operation of this Act
or affect any *lis pendens*.

3. For the purposes of this Act, "wife's niece" means wife's
brother's daughter, or wife's sister's daughter; and "husband's
nephew" means husband's brother's son, or husband's sister's son. Definition.