

Poetry.

TO AN ONLY SISTER.

BY WILLIAM KENNEDY.

They died too soon who lov'd thee! Father, mother,
The elders of our race all passed away—
Thy home had none might shield thee, save a brother,
Who was a wanderer in thy earliest day:
Thou wert of grief the solitary daughter—
A blossom cast upon the stormy water.

Young, ardent, bold, I sojourn'd among strangers,
Eager for action, and the high renown
Of honour won amidst a thousand dangers,
Of power secured in spite of Fortune's frown;
Thus dreaming of the future, o'er the sea,
An orphan's mourning accents called to me.

The voice was thine, my sister! Its appealing
Woke a deep echo in my bosom's core;
Thy feeble hand affection's fount unspringing,
I vowed to be (like those who were no more)
Protector of thy helplessness, and make
My spirit stoop to bondage for thy sake.

As far as life's stern circumstances allowed,
I have fulfilled the purpose of that hour—
I left, to labour in the nameless crowd,
The proud seclusion of ambition's tower;
Taming a restless fancy, I became
A thing that toiled without the hope of fame,

Yet still I am an exile from thy side—
The ocean-wave divides us as of old:
Fate the poor privilege to us denied,
To share our joys and sorrows—to uphold
Our faith in the supremacy of good,
When sinks the heart among the multitude.

Then blame me not, my sister—though my place
Be distant from thy footsteps; I would fain
Thy mother's mildness in thy aspect trace,
And wake dear household loves to life again—
Delighted on thy girlish cheek to see
The smile of her who blessed our infancy.

Nor droop, but cheer thee, for the time is nearing
When we shall meet as children of one hearth;
When—clouded long—thy natal star appearing
Will show thou art not lonely on the earth,
Shedding its gentle radiance o'er him
Whose soul is darkened while that star is dim.

THE DEVOTEE.—BY MISS LONDON.

Prayer on her lips—yet while the maiden prayeth,
A human sorrow dwells on her eyes;
For e'en the very words of prayer she sayeth,
A sad and lingering memory supplies.

She leans beside the vault where sleeps her mother—
The tablet bath her name against the wall—
Her only parent, for she knew no other;
In losing whom, the orphan lost her all.

Young, very young, she is, but wholly vanished—
Youth's morning colours from her cheeks are gone;
All gay and all careless thoughts are banished,
By the perpetual presence of but one.

But yet that sweet face is not all of sorrow;
It wears a softer and a higher mood,
And seemeth, from the world within, to borrow
A holy and a constant fortitude.

Early with every Sabbath morn returning,
You hear her light step up the church aisle;
She looks, all the week, with tender yearning
To that old church, which is to her a home.

For her own home is desolate and lonely;
Her's is the lonely seat beside the hearth;
Said in its summer garden, as if she only
Were the last wanderer of this weary earth.

But in that ancient church, her heart grows stronger
With prayers, that raise their earnest eyes above;
And in the presence of their God, no longer
Feels like an outcast from all hope and love.

Glorious the mighty anthem round her swelling
Fills the rapt spirit, sacred and sublime;
Soon will for her unfold 'th immortal dwelling
She waiteth patient, God's appointed time.

THE SPINNING WHEEL.

I wina sing o' bluidy deeds,
An' wael' war's alarms,
For glancin' words and prancing steeds
For me possess nae charms;
But I will sing o' happiness,
That freids hearts do feel—
While listenin' to the birrin' soun'
O' Scotland's Spinnin' Wheel.

The Spinnin' Wheel! the Spinnin' Wheel!
The very name is dear—
It minds me o' the winter nights—
The blithest o' the year—
O' cozie hours in hamely ha's
While snaw is on the hill:
An' soun' lassies while they ca'
Auld Scotland's Spinnin' Wheel.

The auld wife by the ingle sits
An' draws her cannie thread—
She lives her youth again,
An' sees the forgotten dead;
The gloom o' early days
Upon her spirits beats,
Rais'd in unfaded beauty by—
Auld Scotland's Spinnin' Wheel.

O' there is gladsome happiness,
While roun' the fire are set
The younkers—when ahint the backs
A happy pair are met,
Wha wi' a silent kiss o' love
Their blessed paction seal—
While sittin' in their truth beside
Auld Scotland's Spinnin' Wheel.

O' weel I lo'e the blackbird's sang
In spring time o' the year—
O' weel I lo'e the wudlands' croon
In merry May to hear;
But o' the soun' o' love an' joy,
There's nae name I lo'e sae weel—
There's nae name sae pleasant—
As the birr o' Scotland's Spinnin' Wheel.

Provincial Legislature.

HOUSE OF ASSEMBLY, FREDERICTON.

Thursday, January 11.

DISSENTERS' MARRIAGE LAW.

On motion of Mr. Beardsley, the Bill for repealing the present Dissenters' Marriage Act, and substituting other provisions in lieu thereof, was committed. Mr. J. R. Partelow in the Chair.

Mr. Beardsley said, that the principle of this Bill contained two propositions: the primary one was, that the privilege of solemnizing Matrimony was not equally extended to all denominations; and the second was, that it was reasonable and just that it should be so extended. If the first proposition should be established, the second would follow as a natural corollary or consequence of it. With regard to the first proposition, there could be no difficulty in showing that it was matter of fact, that by the late Marriage Act, the privilege was not extended equally to all denominations, to the same extent as the Church of England enjoyed it. In the first place, the Clergy of the Church of England, when once ordained and inducted, without any other special authority, were entitled to marry all persons who applied to them for such purpose, either by banns or by licence. But many pre-requisites were demanded, before Dissenting Ministers could

solemnize Matrimony; they must wade through many difficulties before exercising the privilege, and when it was granted it proved to be no privilege at all. It was merely a nominal thing; it authorised them only to marry within the communion of their respective Churches. In the preamble of the Marriage Act it recited, that whereas the Clergy of the Kirk of Scotland, the people called Quakers, and the Church of Rome were authorised by Law to marry within their own communion, and that whereas it was just and reasonable that this privilege should be extended to all denominations; and then the Act went on to enact, that Clergymen of all denominations should be empowered to marry within their own Society; and this was the construction which the Executive had put upon it, as appeared most plainly from the documents that had been sent down, in answer to the Address on that subject. But he (Mr. B.) would like to know, whether it would not be just and expedient, to extend that privilege to all denominations, on equal terms with the Church of England. On what principle of justice was it, that the Clergy of that Church should be free from all restraints, and might marry all that came to them, whether Christian, Jew, Turk, or Infidel, while Clergymen of other persuasions could not do so? It was unjust. All were subjects of one common Sovereign; Dissenters had the same duties and responsibilities attached to them as others; they were subject to the same taxes and duties in time of peace, and in time of war were equally called upon for their services. Therefore it was unjust and wrong that they should be under any more restraint than members of the Church of England. Such invidious distinctions ought to be done away with, because it made the Dissenters consider themselves as branded with a mark of inferiority; and therefore it was that he had introduced this Bill. He supposed there would be great objection to it, on the ground that some Dissenting Clergymen were itinerants, and that therefore they were not to be trusted with this privilege. But there was a reasonable guard provided against any difficulty on that score; the Bill would require the Minister to give a certificate of every Marriage attested by proper witnesses; and the parties themselves would find it to be to their own interest to get such a certificate at the time of their Marriage. But even should that not be done, the Minister would be compelled by the bill, to record certificates of all marriages performed by him, within a given period, and therefore there could be no danger on that score. It might be objected, that there were certain descriptions of persons, who preached and taught, without being duly ordained or authorised; but who were to be judges of that? Were the Lieutenant Governor or the House of Assembly to be such judges? No; but the flock that such persons preached to and taught. If they were recognised by them, and they were satisfied with their qualifications, no other denomination had any right to object to them. But it had been insinuated by some Hon. Members, in conversation, that this was too general a bill. He had never heard all the denominations in this Province enumerated, but he believed they principally consisted of Members of the Church of England, the Kirk of Scotland, the Congregationalists, the Methodists, and the two kinds of Baptists, viz.: the free-will and the no-will Baptists. He had heard it said, that the latter were two itinerant; but that was of no importance if they were bound under the law, and if they did not act according to the law, they must endure its penalty. Perhaps it might be said, that there would be a difficulty in determining who ought to be licensed to marry, and that it should be left to the Lieutenant Governor to ascertain, what parties were fit to be entrusted with that privilege, so that His Excellency might get his fee of 40s.; but he (Mr. B.) would ask whether it was just that such a tax should be put on dissenters, more than on Clergymen of the Church of England? He did not think His Excellency was at all better qualified, to judge of the qualifications of a Priest, than he (Mr. B.) was; and therefore there was no reason for referring to His Excellency in such matters. But suppose an itinerant Minister got a licence, and afterwards violated his obligations, and then, in the course of his wanderings, got out of the Province; where would there be any greater difficulty than now existed? Ministers were now liable to a penalty for breaking the bond of their licence, though granted by the Lieutenant Governor, and yet they might do so and be off, as well as if they were granted by any one else; therefore there was no difference in the cases, and no necessity for the restraint; the licence was a mere invidious distinction and badge of inferiority. He would ask, whether the Church of England was the most numerous denomination in the Province? No; he believed they were the least so. But what was the rule of Legislation; was it, to do the most good to the smallest number? No; but the very reverse of that; the House should always do the greatest good to the greatest number; and if so, if there were any preference at all, it ought to be shown to the most numerous sect of Christians. But they did not want that; every man had his own way of travelling to the other world, and there ought to be no difference in their privileges. He hoped the Committee would pass this bill, and silence rancour and complaint, and do away with all the invidious distinctions that now affected dissenters. They should remember the golden rule; and if they acted on that rule, this bill would pass through the House. He now moved that the bill be read section by section. [The first section was then read.]

Mr. Brown agreed with the two propositions advanced by the Hon. and learned mover, and would also agree generally with his argument, if he thought that the Hon. Member's premises were correct. But he could not assent to his construction of the present Marriage Act, and therefore he could not vote for this section. On looking at the present Act, he found that its preamble referred to two former acts of Assembly: one of them was about the fourth Act passed by the Legislature of this Province, intituled "An Act for preserving the Church of England as by Law established." This was not an Act for establishing that Church in this Province, but for preserving it; and it would

be found that the Act really did not establish it any more than any other Church; but it particularly pointed out the manner in which its service was to be conducted, and in which its Clergy should manage its affairs. The Act also extended to the religious management of other Churches, but it established none; in fact there was no established religion in this Province. The other Act cited, was an Act to regulate marriage and divorce, &c. and it extended the privilege of solemnizing matrimony to Clergymen of the Kirk of Scotland and the Church of Rome, and to the Society called Quakers. The privilege was extended to these three Churches only, and was confined to their marrying persons within their own communion. The last Marriage Act proceeded still further to extend the privilege of solemnizing matrimony; and in what manner? It went on to enact, that nothing in the Act for regulating Marriage and Divorce, should prevent any Minister or Teacher of any denomination of Christians from solemnizing matrimony, agreeably to the forms and usages of their respective Churches. This clearly extended the privilege of marrying whosoever applied to any duly qualified Minister for that purpose, provided that the parties agreed to be married according to the forms of such Minister's Church. There could be no doubt of this point, and it certainly was the intention of the House when the bill passed. The only question then was, whether the form of licence issued by the Executive, restrained the privilege contemplated by Law. If it did it would be necessary that measures should be adopted, to make the licence correspond with the requirements of the law, and that would be going as far as was ever contemplated by that law; because then, all properly qualified and duly licensed Ministers would be enabled to marry all persons, lawfully qualified, according to the forms of their respective Churches; which was going quite far enough. The privileges of the present Act and this Bill were in fact, exactly the same, because no distinctions were to be made between any denominations, if the present law was fairly acted on.

Mr. Beardsley replied. Mr. Fisher entered at considerable length, into the whole history of the present Marriage Act, the particulars of which are of too recent occurrence, to require detail in our limited space. The Hon. and learned Member contended, that there was no necessity for this bill; that the present Marriage Act was passed, in conformity with the very liberal doctrines laid down by Mr. Secretary Stanley, in his despatch on that subject, and that this bill would repeal the Act passed on such a liberal foundation. He (Mr. F.) would go as far as the Hon. and learned Mover, in extending the privilege to any denomination; but he felt bound to say, that no contract or compact in civil society was of more importance than the marriage contract, and that none, therefore, ought to be more carefully guarded. Whether it were viewed merely in its social effects, as affecting the poor man in the back woods; in its moral effects as exemplified in the mixed society of populous towns; or in its legal effects, as affecting the inheritance of property; he would ask Hon. Members, whether, in extending such a privilege as this, the rights of all parties affected by it ought not to be most duly guarded? He had a great objection to this Bill, because, in the present state of this Province, the existing Act was all that was required; and he denied that such a construction could be put upon it, as had been urged by the Hon. Mover. The real construction of the Act was, as had been already clearly explained, that every Minister, duly qualified and licensed, was authorised to solemnize Matrimony between persons of all denominations; and therefore, the form of licence which had hitherto been issued, containing the words, "provided the parties are of the same Denomination," was wrong, and contrary to the meaning of the Act. That, however, would no doubt, be amended; and as he (Mr. F.) was satisfied, that the Act, if fairly construed, was adequate to the purpose intended, he could not go with this Bill; although were he not convinced of that fact, he would go as far as any man in extending this privilege.

Mr. L. A. Wilnot observed, that all the difficulty on this subject had grown out of the opinion, given by the legal advisers of the Executive; and that opinion appeared to be in accordance with the ideas of the Hon. Mover of this bill; but both were wrong. The intentions expressed in Mr. Stanley's despatch would be overruled by such a construction; there could be no doubt of that. He (Mr. W.) was opposed to this bill, because he had good reason to believe, that proceedings were now in progress, to remove the restrictive clause out of the Minister's licence; and when that should be done, he and his constituents would be perfectly satisfied with the present law. He never would go the length, that every person who chose to mount a pulpit and proclaim himself a Minister, and who got together three or four people, to subscribe a document declaring themselves his flock, should be *ex officio* invested with so important a privilege as that of solemnizing matrimony. But, where persons were regularly ordained by a known and settled Church, and had stated Churches where they officiated, and regular congregations to preside over, and occupied no secular calling or profession whatever; these were the persons who ought to exercise this important function; not those who went roaming about the country, calling themselves preachers, here to-day and gone to-morrow, and having no stability nor responsibility. He would never go the length of assenting to the doctrine contained in this bill. Then, being satisfied that the restrictive clause was about to be removed from the licence, the main objection of the principle denominations of dissenters would be obviated. But this fact ought to teach the House a lesson; whenever they passed similar bills in future, they should embody in them all the necessary forms of licence. With regard to parties who had been aggrieved by the construction given by the Executive to the law, the late Executive had been requested by them, either to institute proceedings at law against them, so as to bring the matter to a legal issue; or to strike out the restrictive clause from the licence. This was a most reasonable request,

and the Executive were bound to do one or the other. He (Mr. W.) could easily find twenty Ministers, who would voluntarily come forward, and acknowledge that they had violated that restrictive clause; because in doing so they had not violated the law. There was nothing in the law to authorise the Executive to go beyond the law; and had he (Mr. W.) been a Minister, he would have entirely disregarded that clause in the licence. Let then, the Executive bring the parties who had so acted, before a Court of Law, and see whether they were to be tried by the law or the licence. He was however authorised to say, that the principal objection would soon be removed, by omitting that clause.

Hon. Mr. Johnston was not aware that there had been any application to the House from any description of persons, to pass any such bill as this. When a question of this kind arose in a former House, he (Hon. Mr. J.) entertained a doubt as to the construction of the Act of 1834; whether the same rule was to be observed by the denominations contemplated in that Act, as by those named in the old Act; which was, that they should marry only within their own communion; and therefore he was not disposed to censure the late Executive for introducing the restrictive clause into the licence. The Act was ambiguous; from its preamble, the inference was, that such a rule ought to be observed; and he believed that, at the time he referred to, the only objection urged against the Act was, that by the form of licence Ministers were confined to act on that rule. Still he thought it was an improper distinction, because he believed that it was scarcely ever observed by any Ministers, especially by those of the Kirk of Scotland; and when one of the contracting parties belonged to the communion in which they were to be married, it was not necessary that it should be. If, then, that grievance was to be amended, he would go with it, but no further. The present bill would be the height of absurdity, and would be doing a serious injury to the country. As it had been very properly said, by the Hon. and learned Member who had spoken last, if persons of all descriptions, styling themselves ministers and preachers, were allowed to solemnize matrimony, there would be no knowing what would be the end of it. He therefore moved, that this bill be postponed till next Session.

Hon. Mr. Speaker thought it was most clear, that the construction put upon the present law, by the late Executive, was not a fair one. He was not aware till now, that privileges were extended to the clergy of the Kirk of Scotland, which were not enjoyed by other denominations. By the old Act, the Clergy of that Church, the Church of Rome, and Quakers, were authorised to marry persons within their own communion; but this form of licence authorised Ministers of the Scotch Church to marry persons of any denomination, contrary to that Act. There was no restriction on them, and yet it was imposed upon all Dissenting Ministers; and therefore the licence was not according to the spirit of the late Act. That was the only existing objection on the subject; and if that could be remedied, there would be no occasion for any further enactment; and he believed that a proper construction would be put on the Act henceforth. It would be quite absurd to say, that both parties must always be of the same communion, before they could be married; because, if such a construction were maintained, all must go to the Church of England to be married, who happened to be of different persuasions, because that Church only could then marry them. There was no necessity for this bill; and he thought the Hon. mover would be satisfied if the clause in the licence were removed, which was as far as he (Hon. Mr. Speaker) was willing to go. He fully agreed with what had been said by the Hon. and learned Member for York (Mr. L. A. Wilnot); the present Act was quite liberal enough, if properly construed, and such as the people of this Province would, in that case, be generally satisfied with.

Mr. Street was against the Bill; it was not necessary, and it went farther than he liked. But he could not agree altogether with what had been said, as so the construction put upon the present law. He did not think the late Executive were quite so much to blame; he believed that this question of construction was first brought up, when a Bill was brought in last Session on the subject, and then a majority of the House appeared to be of opinion, that the construction that had been put upon the Act by the Executive was correct. There certainly was an ambiguity in the Act, and therefore the Executive could not intentionally have put a wrong construction on it. The Act intended, that other denominations should have the same privileges as were possessed by the Kirk of Scotland; and it was found, by reference to the Act for regulating Marriage and Divorce, that the Kirk of Scotland, the Church of Rome, and the people called Quakers, enjoyed the privilege of solemnizing Matrimony, but not between parties not belonging to their respective Churches; therefore, it never was the intention of the House, that other Ministers should have greater power than those of the Church of Scotland, &c. But, if that Church really did possess greater privileges, equal power should be given to the rest; and if the construction of the Act was not sufficiently liberal, it might easily be remedied by a short declaratory Bill. But the present Bill would introduce a new mode of proceeding, and would authorise any person to solemnize Matrimony, which would give rise to innumerable evils. It would destroy the solemnity of the Marriage Contract, and would have a very injurious effect on society, both in a moral and religious point of view, besides causing very serious legal difficulties.

Mr. J. M. Wilnot thought the Bill unnecessary, for the reasons already advanced. He would not be for giving to every itinerant person, the power to solemnize Matrimony. The Hon. Member considered that the registry fees, under the present law, were too great, and that if they were reduced, and the form of licence amended, nothing more was necessary. Mr. Hill said, that the Bill brought in last Session had nothing to do with the construction of the Act, but grew out of the form of li-

cense. It was universally understood by the House, when the present Act passed, that the privilege was to be equally extended to all denominations, without any restriction, and when the licence was first issued, it excited general impression at the restriction therein contained. There was no such restraint in the Act, and those who framed the Licence must have founded their ideas on the preamble, and not on the enacting part. The preamble was no part of an Act, but could merely be called in to explain any ambiguity in the enacting part; and the question then was, whether there was any thing doubtful in the enacting part of this Act. He did not think there was; there was nothing in the Act to restrain parties to a marriage merely in their own communion; and therefore there was no doubt that the country would be perfectly satisfied with the Act, if left to its proper construction and operation, and when that should be done all would be well.

After a few more remarks from Mr. Beardsley and Mr. L. A. Wilnot,

Mr. Thomson made some observations which we could not catch connectedly. We understood the Hon. Member to contend, that there could really be very little ambiguity or difficulty in the case, because, where parties of different denominations were about to unite in Matrimony, they generally agreed to belong to the same persuasion, and therefore both parties might easily be married by the Minister of that persuasion. We understood the Hon. Member also to observe, that it might be very convenient if the marriage compact were considered only as a civil contract, and that every body might be empowered to marry, so that parties might eventually marry each other; but that, at any rate, if the contracting parties settled the point between themselves, as to what persuasion they should belong to, it would settle all the difficulty, as it would only be doing before marriage what they were going to do after. [Great laughter.]

Mr. Jordan said a few words, which we could not hear; after which the question was taken on the motion for postponement, which was carried by 19 to 4, and the bill therefore lost.

Yeas—Messrs. Thompson, Brown, Wyer, Hill, Street, Fisher, L. A. Wilnot, McLeod, Taylor, Jordan, Barlow, J. M. Wilnot, Johnston, Wilson, Crane, Hamington, Palmer, McAlmon, Woodward.—19.

Nays—Messrs. Beardsley, Connell, Freeze, Gilbert.—4.

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350 PIECES, comprising every description of **Instrumental and Vocal PIANOFORTE MUSIC**, (the most extensive and complete assortment ever imported here), together with an ample supply of the following valuable musical publications, viz.:

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One set only of Books of Music for a BRASS BAND; just received per ship *Hebe*, from LONDON, and for sale by **GEORGE BLATCH**,
Saint John, December 9, 1837.

G. B. will in a few days forward to London his orders for a fresh supply of **PIANOFORTES** (to arrive per first Spring Ships); and will be happy therefore to receive communications from parties wishing for instruments, that he may proportion his importation to the expected demand. Those who may favor him with their orders may depend on being supplied with instruments of *first rate quality*; as he imports directly from the first London makers, and offers none for sale which cannot be safely warranted.

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NOTICE is hereby given, that all Shares of the Capital Stock in the Tobique Mill Company, which any assessment or assessments heretofore made and ordered have been neglected or refused to be paid, will be sold at public auction at my office, in Fredericton, on Thursday the first day of February next, between the hours of one and five of the clock in the afternoon. Dated the 26th day of December, 1837.

G. F. S. BERTON,
Sec'y. & Treas. Tob. Mill Com.

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THAT well known property, with 100 acres of LAND attached, lying on the east side of the River Saint John, immediately opposite Bargoin's Ferry.

The superiority of this situation as a public Stand cannot be equalled by any on the River. The same will be sold on reasonable terms. Apply to the subscriber on the premises.

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ON Consignment, a few convenient sized Franklin STOVES, with and without Grates, for Coal. ALSO—a few small Close STOVES and PIPE to match, for sale. Apply soon.

R. CHESTNUT,
Fredericton, December 5, 1837.

Tobique Mill Company.

THE Stockholders of said Company are hereby notified, that an assessment of five shillings upon each share has been ordered by the Directors to be paid into the Treasurer of the Company, on or before the first day of February next.

G. F. S. BERTON,
Sec't. & Treasurer.
Tobique, December 26, 1837.

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TERMS.—Sixteen Shillings per annum, exclusive of postage.
Advertisements not exceeding twelve lines will be inserted for twelve shillings and sixpence the first, and one shilling and sixpence for each succeeding insertion.

Blanks, Handbills, &c. &c. can be struck off at the shortest notice.

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