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The Marriage to a Deceased Wife’s Sister Narrative:
A Comparison of Novels
Charlotte Frew

Abstract: In 1835, Lord Lyndhurst’s Act made marriage to a deceased wife’s sister illegal in England. This sparked a seven-decade debate in Parliament, pamphlets, press, and fiction, which led to the legalization of deceased wife’s sister unions throughout the Australian colonies in the 1870s and in England in 1907. Pro-reformers and anti-reformers attempted to dominate the debate with their characterizations of the men and women who engaged in such unions. This article compares fictional representations of the sister-in-law marriage plot in England and in colonial Australia, differences in pro-reform themes between these countries, and their respective legislative outcomes.

Keywords: marriage / deceased wife’s sister / nineteenth century / English novels / Australian colonial novels / Lord Lyndhurst / Dinah Mulock Craik / Hannah / Mary Alice Dale / With Feet of Clay

BACKGROUND AND INTRODUCTION

Until the twentieth century, incest was defined as marriage within the prohibited degrees. Marriage to a deceased wife’s sister, amongst other unions, was voidable in the English ecclesiastical courts from the sixteenth century and became illegal ab initio with the passing of Lord Lyndhurst’s Act in 1835. The Act was passed because the voidable status of affinity marriage was identified as problematic. It was seen to destabilize marriages and, more importantly, inheritance because a marriage’s legal legitimacy rested on whether or not any person opposed it, even long after the wedding. The Act sparked
public debate over the next seven decades about whether or not marriage to a deceased wife’s sister ought to be legal. The debate was complex, involving arguments about property, inheritance, biblical interpretation, motherhood, and the position of kin within family. Some of those who supported the prohibition argued that it protected inheritance lines or reflected a biblical prescription that should be upheld.4 Others argued that legalizing in-law unions would threaten the purity of sibling relationships by undermining their intimate yet nonsexual nature. Marriage and family structure were traditionally based on the biblical one-flesh doctrine, which subsumed a woman’s identity in her husband’s and made the siblings of the wife those of the husband and vice versa.5 The nineteenth-century “sibling” encompassed blood and in-law siblings, and both were idolized as the ultimate intimate relationships.6 Devoted love for a member of one’s family, particularly an opposite-sex sibling, was considered pure, safe, and untainted by sexual lust.7 Deceased wife’s sister unions threatened to undermine this form of kinship by positioning one woman as “sister,” “wife,” and “mother” simultaneously.8 In 1849, Mr. Goulburn argued in Parliament that if legalization occurred, “the pure pleasure derived from unrestrained intercourse and entire confidence between a brother and a sister in-law” would be “at once destroyed.”9

Authors in Australia and England chose sister-in-law marriage as a central theme for their fiction during the nineteenth century. Although several scholars provide analyses of the marriage and sibling plots in nineteenth-century English literature,10 there are few examinations of the deceased wife’s sister plot. However, those scholars who have addressed this specific narrative have done so from a variety of perspectives. Elizabeth Gruner11 explores the deceased wife’s sister plot, maternity, and the Victorian family. Margaret Gullette12 investigates the deceased wife’s sister narrative and the construction of life-course ideology. Diane Chambers13 draws conclusions about the implications of the marriage debate for the regulation of female desire and the sororal bond. Mary Jean Corbett includes an examination of representations of the sister-in-law marriage plot in Victorian literature in her book, Family Likeness.14

This article aims to build on this scholarship by utilizing a comparative approach and examining the English marriage plot alongside a colonial interpretation of the sister-in-law marriage narrative. The article compares two Australian and English novels that portray affinity marriage in the late nineteenth century. These literary interpretations of the sister-in-law marriage,
set beside the contemporaneous parliamentary debates, reveal the wider social and cultural context of the debate, social reactions to such marriages, and variations in theme. The narratives demonstrate how differing perceptions and priorities in England and its colonies affected the debate over marriage to a deceased wife’s sister. In England and America, several authors utilized the sister-in-law marriage issue as central themes in their narratives, which tended to carry either a pro-reform or an anti-reform message.

In recorded history, only one author incorporated this issue into an Australian novel: Mary Alice Dale, the author of *With Feet of Clay*. The characters in her novel are not Australian born; however, her novel is largely an Australian tale. The novel was praised in *New Zealand's Evening Post* for powerfully addressing the important political issue for women of differing marriage laws between England and the colonies. Dinah Mulock Craik, an English novelist and poet, published a Victorian bestseller, *John Halifax, Gentlemen* (1856). Her novel *Hannah*, set in England, is the story of Hannah’s relationship with her brother-in-law, Bernard Rivers. This article will compare Dale’s and Craik’s novels and use the novels as tools for an analysis of social and political perceptions of the sister-in-law marriage issue.

A comparison of the literary representations of sister-in-law marriage in the Australian and English novel reveals both consistencies and distinctions. Each novel conveys the pro-reform message that marriage to a deceased wife’s sister ought to be legal in England. However, the authors use distinct narrative mechanisms to emphasize pro-reform themes that reflect the narratives in parliamentary debates. In England, there was a battle of characterization, in which pro- and anti-reformers established opposing images of the sister-in-law to support their cause, whilst in the colonies, the conflict of laws and legislative independence issues were central to the debate. This article introduces the consistencies between the narratives and explores the pro-reform agenda; it examines the distinctions between the narratives, evaluating their significance for the deceased wife’s sister story.

**AN INTRODUCTION TO THE NARRATIVE**

Mary Alice Dale’s novel, *With Feet of Clay*, is the story of the Cornwallis family—Mr. and Mrs. Cornwallis and their daughters, Bertha and Margaret—who immigrate to Australia. Bertha and Margaret are characterized by opposing
Bertha is sent to England to finish her education whilst Margaret remains in Australia. Proposals of marriage are accepted by both women—Bertha is to be married to a wealthy family friend by the name of Mr. Durward Leister, and Margaret is to be married to an English emigrant living in the colony by the name of Julian St. John. On her return for Margaret’s wedding, Bertha and Julian fall in love, but his wedding to Margaret goes ahead as planned. In the period that follows, Julian begs Bertha to run away with him so that they might marry, but she refuses to betray her family despite her unsatisfactory relationship with her sister. When Margaret dies, Bertha and Julian seize the opportunity to publicize their love, and eventually they are married and bear a child. When Julian inherits the English earldom he had been in line for but had failed to obtain before immigrating to Australia, the family return to England to take up their position in “society.” However, the illegitimacy of their marriage and their son’s inheritance is well known (to all but Bertha), so Bertha suffers social isolation in ignorance of the conflict of laws. The novel takes a dark turn when Julian chooses his position in “society” and advocates Bertha’s and the child’s return to Australia. Their relationship looks to end tragically as a court case is instigated, but the family is reunited and embraces their long-held love for one another.

Though Dinah Mulock Craik’s novel, Hannah, also advocates for the legalization of marriage to a deceased wife’s sister, the narrative is quite different from Dale’s Australian tale. Craik’s novel tells the story of Hannah Thelluson, a self-sufficient governess of thirty who moves into her brother-in-law’s house after the death of her sister Rosa to care for her late sister’s baby daughter. Hannah does not immediately fall in love with her brother-in-law, but instead the process is organic and gradual as she falls in love long after her sister’s death. At first, she is reluctant to give up her independence when her sister dies in childbirth, but her brother-in-law, clergyman Bernard Rivers, asks her to take charge of his house and infant. The great inducement in accepting the offer is that Hannah wishes to care for her niece. Hannah has always been aware of “one great want in her nature—the need to be a mother to somebody or something.” Before Hannah leaves her post as governess, her employer, Lady Dunsmore, whose husband is backing the bill to legalize in-law marriages, informs Hannah about Lord Lyndhurst’s legislation and tactfully warns of the gossip and complications that arise when a sister- and brother-in-law live together. This scene announces the plot and predicts the course of the novel. After long-drawn agony,
social ostracism, the irritability that arises from an attraction they cannot act upon, and the failure of the Bill to pass Parliament, Hannah and Bernard refuse to obey their country’s laws, move to France, marry, and live happily ever after.  

**NARRATIVES OF FAMILY IN THE NINETEENTH CENTURY**

Both novels are characterized by the historical notion of family, which was partly responsible for the deceased wife’s sister marriage prohibition in the nineteenth century. Religious arguments against marriage to a deceased wife’s sister were significant in both Britain and the colonies, so the Bishops delayed the passing of legislation in the English Parliament. However, the interests of the Bishops alone were not responsible for the controversy outside of Parliament. This is reinforced by the novels, in which both sets of couples experience feelings of shame—not based entirely on religious feeling—and have difficulty accepting their sexual love for their respective in-law. In the historical context of the late nineteenth century, both in the colonies and in Britain, understandings of what constituted family were different from the nuclear conception of family understood today, and the sense of shame was nurtured by social understandings of family. As Corbett states, the debate over marriage to a deceased wife’s sister (and indeed the existence of these novels) is representative of profound differences in the meaning of family and incest in the nineteenth century. As noted, a sibling’s marriage would not only create new ties between families, it would also expand and reshape one’s own family through its incorporation of new members.

In pamphlets, press, and fiction in Britain and its colonies, writers expressed concern about the danger of deceased wife’s sister marriage and the potential damage it could do to brother and sister relationships within the family. This is illustrated by an anonymous editorial against a proposed colonial deceased wife’s sister bill. The editorial argued that legalization of marriage with a deceased wife’s sister would have deleterious consequences for the “social and domestic relations which have hitherto been recognised with great purity in most English lands,” “interrupt the happiness [and social harmony] of families,” and “do away with those feelings of sacred and pure love which now existed in the breast of every man who looked
upon his wife’s sister as his own.” Similarly, in England, concerns about the breakdown of family life and the deterioration of the brother-sister relationship commonly appeared. One Parent’s Appeal to the House of Lords against legalization of deceased wife’s sister marriage stated, “It is no answer to say that the wife’s sister is no more dangerous than any other young girl, who might be equally intimate with the husband. No other can be so intimate.” In his testimony to the Royal Commission on Marriage, Edward Pusey warned, “[I]n whatever degree the marriage law was relaxed, in that degree the domestic affections would be narrowed.” If a more narrowly bounded idea of family and the contract model that deems marriage dissoluble work in tandem to loosen the ties of kinship by casting affinity as a merely metaphorical relationship, a sister-in-law will lose her privileged status as sister. However, the most strongly insisted-upon argument against repealing the deceased wife’s sister prohibition was that marriage produces the most unreserved intimacy with the family of the wife; that all her relations became the relations of the husband; and that the law ought to induce a husband to regard his wife’s sister as his own.

In Craik’s novel, Bernard regards Hannah as his sister and introduces her to everyone as “My sister—Miss Thelluson.” As the narrator explains, “Sometimes it was ‘sister-in-law,’ but always pointedly ‘sister’” (emphasis added). When Bernard approaches Hannah after Rosa’s death, he does so as her brother, and the pair struggles to come to terms with their feelings for one another. Whilst brother- and sister-in-law marriage was perceived as a threat to the Victorian family, other familial marriages, such as cousin marriage, were perfectly acceptable. This reflected a society in which prohibited illicit sexual relations had social rather than biological grounds. Incest was analogous with adultery or fornication and was therefore a social crime rather than a sexual one. Aside from consanguineous and affine marriages, in the Victorian period a close degree of relatedness between marriage partners was something of an incentive rather than an impediment to marriage, at least amongst the upper classes, because of shared values, associations, and habits of language and thought.

Pro-reformers utilized this notion in their narratives, emphasizing the companionate vision of the sibling relationship (based on blood and affinity) as a blueprint for romantic relationships, just as cousin relationships could be seen as such. As Corbett suggests, many nineteenth-century romantic narratives were shaped by adhering to familial terms and seeking the satisfaction
of kin. Therefore, pro-reform authors such as Craik represented their characters as companions rather than lovers. It is the familial domesticity of Hannah and Bernard’s initial connection, the purity of Hannah’s maternal instinct, the parenting role, and the love between blood sisters and affines alike that results in the love and eventual marriage between Hannah and Bernard. Their romantic love develops from familial connection, and their familial affection nurtures their romantic love. Corbett suggests that over the course of a century, middle-class incest such as cousin and sister-in-law marriage came to appear, in contrast with the habits of the working classes, as potentially positive strategies for preserving bourgeois morality and health. This is emphasized in the English novels, in which the choice of the sister-in-law as a second wife occurs in the context of domestic affections. It is reinforced further by the romantic cousin relationships in the shadows, which will the reader to question whether the law ought to distinguish between the marriages of sibling in-laws as opposed to cousins.

Dale’s narrative in the Australian setting challenges the notion that in-law love only develops within the context of domestic affection and familiarity, and is therefore less conservative in its pro-reform message than the novels set in England. The love between Julian and Bertha exists outside the paradigm of family and domesticity, which is emphasized by the absence of children when they fall in love. Despite these differences, Dale’s novel remains reflective of nineteenth-century understanding of family. When Bertha and Julian meet, he is introduced as her “future brother-in-law,” and in the context of their flirtation, Bertha tells him, “I feel as if you are my brother already.” Bertha’s perception of Julian as a brother leads her to cover “her face with her hands and shed tears of misery and shame” when Julian declares his love for her. In the beginning, she rejects Julian’s advances and says she will not “yield to this great dishonour and treachery.” Although Julian plans to marry Bertha as soon as Margaret dies, for Bertha, Margaret’s death alters “nothing; he had married her sister. . . .” Therefore, whilst Dale challenges the notion that in-law love is legitimate only within the domestic and maternal context, her narrative remains consistent with the Victorian familial ideal. The revelation of Margaret’s adoptive status and the resulting lack of affinity between Bertha and Julian ensure the narrative’s palatability for a wider audience and prevent the reader from having to conceptualize the family outside of the familiar Victorian framework.
The pro-reform narratives reproduced in newspapers, parliamentary debates, and in these novels included the notions that the union ought to be legal because the most suitable replacement mother for children after their mother’s death was an aunt; that it was unjust that the union be legal in some jurisdictions and not others; and that the colonial legislatures ought to be able to legislate independently of Britain in areas of local concern. The first narrative was dominant in Britain but far less prominent in the Australian colonies. The latter narratives were more commonly employed in the colonial context. Parliamentary debates, Dale’s representation, and the relative lack of public response to the legalization of in-law marriage indicate that it was far less socially problematic for a man to marry his sister-in-law in the colonies. One explanation for this is that in-laws were not perceived to be real siblings, and the relationship was not perceived to be incestuous or biblically prohibited. The traditional roots of this notion were biblical, but the colonies lacked an established church, had a diverse religious population, and had no bishops in Parliament to enforce one view of biblical interpretation. This may well have resulted in a shift of perception when it came to the substance of in-law relationships, so the “maternal” characterization, which was required in Britain to desexualize the relationship between the adult in-laws, was not required in the colonial context.

In the colonies, Dale’s novel, parliamentary debates, and newspaper reports emphasize the legitimacy problem caused by inconsistent prohibitions and the view that the colonial legislatures had a right to have their independence respected. Colonial fiction of the 1890s often reflected a developing distinctive Australian culture, and Dale’s novel reflects the relinquishing of traditional British understandings of marriage and kinship and a preoccupation with colonial legislative independence. Historically, critics of Australian women’s writing have downplayed its value by reference to the tendency of authors to write romantic fiction for English audiences and the authors’ failure to write about important issues in colonial society. However, this view has since been revised and “domestic romance” reclassified as “settler romance,” which often did illustrate how gender, national identity, and class identity are interconnected. In rejecting the pro-reform “maternal narrative” and taking up the “conflict of laws” narrative (both explored below), Dale’s novel combines the genre of romantic settler fiction
with the traditionally male literary domain of colonial political and legal concern. Professor Michael Ackland suggests that colonial life seemed to sanction the putting aside of conventions. Colonial writing of the period is characterized by progressivist optimism about a distinctive colonial culture.\footnote{52} Charles Harpur proposed a “good national system of education” and others clamoured for various freedoms, ranging from universal suffrage to the formation of a republic. This sentiment gathered momentum and federation was less than a decade away. Mary Alice Dale’s novel, \textit{With Feet of Clay}, locates the story of sister-in-law marriage within this wider political and legal narrative, as opposed to mirroring the domestic concerns emphasized in England.

\textbf{Mother or Lover: The Narrative of Motherhood}

Those who opposed the legalization of sister-in-law unions in England genuinely thought the nation was on the verge of a great evil. The Archbishop of Canterbury likened a change in the law to wrenching a stone from a building, which would then collapse.\footnote{53} It was considered such a serious issue by some that “one gentleman who had been Lord Chancellor of England, more than once, declared that if marriage with a deceased wife’s sister ever became legal, ‘the decadence of England was inevitable,’ and that, for his part, he would rather see 300,000 Frenchmen landed on the English coast.”\footnote{54} Their fear robbed them of the ability to recognize that, if evil consequences were expected, they would have already been apparent as a result of thousands of sister-in-law unions already effected over one hundred years or more.\footnote{55}

Literary interpretation of the debate confirms Gullette’s view that public opinion and the law always adjudicate for an imagined person or type of person. Whether marriage to a deceased wife’s sister was perceived as correct or legal depended on whether the individuals were considered criminal types or not. Therefore, the marriage prohibition debate was a war of characterizations.\footnote{56} The rhetoric of the criminality, of the guilty, and of the sexually driven couple conspiring to be rid of the sick relative who stood in the way of their marriage was prominent in English debates over sister-in-law marriage. Craik’s novel is illustrative of the opposing characterization of the morally upstanding couple involved in the controversy. Within this pro-reform narrative, the sister-in-law was characterized as a spinster and a maternal aunt, and the widower as a lonely, morally upstanding father who wanted remarriage for his children’s protection. Most of the first-hand
letters published in the media were written by middle-class, middle-aged, and wealthy respectable men, and this assisted reformers in winning the characterization battle.57

In Craik’s novel, Hannah, the author relies on Victorian family values and constructions of female sexuality in characterizing Hannah as a mother rather than a lover. Craik’s novel typifies the pro-reform narrative in England. Central to the narrative is the characterization of the sister- and brother-in-law as god-fearing, pure-hearted, and law-abiding people. Bernard Rivers looks at Hannah’s “pure face”: “no wear and tear of human passion troubled its ecclesiastical peace”58; and as he is “a man, a father, a clergyman, surely he was made for better things” than misery.59 In addition, when Hannah realizes her “position” in her brother-in-law’s house, she declares, “Be thou chaste as ice, pure as snow, thou shalt not escape calumny.”60

The novel critiques the prohibition of in-law marriage by emphasizing the innocence of those who are affected. In an attempt to protect her servant from the prohibition, Hannah questions Mr. Rivers about affinity marriage legislation. Mr. Rivers answers, “[I]n 1835 the law was altered or at least modified: all such marriages then existing were confirmed and all future ones declared illegal.” Hannah replies, “Then what was right one year was wrong the next?”61 The novel draws attention to the inadequacy of the law by invoking sympathy for Hannah, an innocent woman and mother with strong morals. The pro-reform message of the novel, like many pro-reform pamphlets in the period, is reliant on the maternal characterization. The love between Hannah and Bernard is subordinate to and a product of their shared love for the child of Bernard’s first marriage. Bernard originally writes “for help from his wife’s sister—who though almost a stranger to himself, could not but feel, he said, the strong tie of blood which bound her to his child.”62 Any critique of the law occurs against the backdrop of maternal motivation and innocence, which is reinforced by Hannah’s apparent ignorance of her position in her brother-in-law’s house.

This pro-reform narrative was expressed in both English and colonial parliamentary debates but was more prominent in the former context. Those opposed to legalization argued that “the proposed measure . . . would dangerously interfere with domestic happiness and the most sacred relations of private life”63 since the sister would be “merged into the stepmother, and all the best affections of the sister would be lost.” In response, advocates of reform invoked the maternal characterization in Craik’s narrative, arguing,
“All those dangers, evils and unhappiness which so frequently resulted from
the introduction of stepmothers into families, such as the disaffection of the
children, were mitigated, if not removed, by the introduction of an aunt in
the place of a mother.”64 In a letter from a working man to the Secretary
of the Marriage Law Reform Association published in 1864, the writer
described his reasoning for marrying his sister-in-law after the death of
his wife:

I would prefer the alternative of marrying my wife’s sister to placing the care
of my child at the disposal of one that had no natural affection which would
restrain her in her displeasure, and cause her to grieve for his errors, and exult
and be proud of his virtues . . . my child has not experienced the want of a
mother’s love; neither have I had to contend with a strange disposition.65

Similarly, in Hannah the deceased wife’s sister is the preferred wife. She is
sympathetic to her brother-in-law’s loss and maternal toward the children;
she is the superior option for stepmother and companion.66 The caricature
of the wicked stepmother is invoked, reinforcing the notion that the sister-
in-law is the best stepmother for children. Hannah looks at her baby niece
and thinks, “Oh, if this baby’s father ever brings home a strange woman to
be unkind to her, what shall I do?”67 At almost equal intervals in the novel,
the narrative returns to Hannah’s maternal role in both Bernard and Rosie’s
life. This is particularly the case after Bernard and Hannah share intimate
time or conversations that might invoke feelings of discomfort from readers
who opposed sister-in-law unions. Hannah’s maternal role is the “magic” that
makes all the unsavoriness of her relationship with Bernard vanish. The
power of Hannah’s maternal passion is emphasized above all else.

There are women for whom mother-love is less an instinct or an affection than
an actual passion—as strong as, sometimes even stronger than—the passion
of love itself; to whom the mere thought of little hands and little feet . . . gives
a thrill of ecstasy as keen as any love dreams.68

Her feelings for the child are always foremost whilst her feelings for Bernard
trail behind. “[W]henever papa wanted aunty, little Rosie was remorselessly
sent away, even though auntie’s heart followed her longingly all the
while.”69 Not only is Hannah’s maternal nature emphasized in relation to
her feelings for her niece, but also her feelings for her brother-in-law are
initially maternal. She feels deeply sorry for him, stating, “a child’s anguish could not have been more appealing,” and she watches him as he “wept—also like a child.” She is “so completely a young man still, she said to herself and felt almost old enough and experienced enough to be his mother.” She devotes herself to him “as a nurse does to a sickly naughty child.”

In a similar pro-reform novel written by William Clark-Russell, *The Deceased Wife’s Sister*, the sister-in-law character, Margaret, is characterized repeatedly as a mother rather than a lover. The reader is informed that the widower Major Rivers never perceives her as his true wife because the law forbids her this status. Margaret’s love for Major Rivers and her longing for him to reciprocate (“tell me that your love for me is still as it was when Kate’s child came to me at her bequest and as her sanction for our love—and I will dry these eyes”) highlights her vulnerability. Her vulnerability as a “wife” is juxtaposed against her competency as a “mother.” When she becomes destitute and is living in a tiny servant’s room in the dirty borough, rapidly running out of money to feed herself and the child, she will not leave her child in the care of another. She says, “only the mother’s eye could watch her, only the mother’s caresses soothe her, only the mother’s patience bear with her”; “I would starve with her but would not leave her. We might die together but in death I should still be at her side.” Despite her love for Major Rivers, nothing is stronger than the love she feels for her child. When her child dies of measles, she feels she has no purpose: “Now my child is dead I may die. There is no restraint imposed upon me now.”

This narrative, which was routinely invoked in support of reform, illustrates how many pro-reformers relied on Victorian family values and constructions of female sexuality well into the late nineteenth century to push the bill through its final stages. In the House of Commons debate in April 1901, one parliamentarian argued:

> When a poor man with a family has the misfortune to lose his wife some assistance for his domestic concerns become indispensable, assistance for which he cannot afford to pay and which must be rendered immediately. All circumstances and all feelings point to the sister of the dead wife, and when once she becomes a permanent inmate the result is inevitable.

The report of the Royal Commission into the Marriage Laws included the evidence of injury inflicted upon the laboring classes for whom an aunt
was indicated as better qualified than any other to be the stepmother of an orphan family. Craik puts a name to this hypothetical maternal aunt. Hannah and her brother-in-law were “bound together, as it were, by the link of a common grief,” and their love was a product of mutual parenthood.

To my mind there is nothing more natural than that a man and woman together, fighting together, unselfishly the battle of life, with common ties and common interests, their affections centred in a family which the woman treats and loves as her own.

How shall I be able to teach my little girlie to love her father if I do not love him myself a little? I may in Time.

Such narratives, invoked in Parliament, media reports, and popular literature of the period, demonstrate a fear of female sexuality. Pro-reformers relied on acceptable notions of companionate brother-sister relationships to legitimize marriage to a deceased wife’s sister. Hannah’s lack of sexuality, maternal motivation for marriage, and moral purity overshadows any unsisterly passion that a reader might perceive in her. She was a woman who had “not been used to living with any man before” except for her father. Her moral purity is confirmed by her lack of attractiveness when compared with her dead sister. In pro-reform narratives, the sister-in-law character is invariably less attractive than the first wife, and her sexuality is suppressed. Hannah is described as visually plain: “She had no special attraction of any kind,” and “utterly unlike her sister Rosa,” who possessed beauty, Hannah is void of sexuality, “a born old maid,” and an “old governess.” Even when Hannah and Bernard finally embrace their love for one another in the final pages of the novel, Hannah “lifted up her hair and showed him the long stripes of grey” to which Bernard responds that a man marries a woman “not for this beauty or that” but because “she suits him and sympathisers with him.”

Comparing the English novels with a marriage narrative in the Australian setting reveals interesting distinctions. The characterization of the sister-in-law as a mother rather than lover is lacking in the Australian tale and is far less prominent in parliamentary debates. Between November 1873 and February 1876, out of those in favor of legalization, three speakers from twelve employed as their central argument an aunt’s fitting place as stepmother. Similarly, in her novel Dale abandons the notion that deceased
wife’s sister unions should only have legal legitimacy for the sake of the children and instead characterizes Bertha and Julian as lovers. In fact, Julian does not approach Bertha because he requires a mother for his children, and when the two are married, neither have children of their own. The passion between Bertha and Julian, though restrained, is real, and the narration implies that their love is reason enough for a change in the law. “Bertha had won the passionate love of his heart—never in reality given before—never to be given again. And he intended, all obstacles withstanding, to win her, for his wife.”86 In contrast, Craik draws a distinction between passion and love in her novel: “Passion is a weak thing; but love, pure love is the strongest thing on earth,” and “it is only for young lovers, passionate, selfish, uncontrolled, that society must legislate.”87

Dale’s novel does not follow the usual path of emphasizing the dead wife’s beauty and the second wife’s plainness. Bertha is described as “Edgar Poe’s rare and radiant maiden,”88 whereas Margaret (her dead sister) has eyes like “two currents set in a face of doe.”89 Margaret is described as unattractive, unintelligent, of ill health, weak, self-conceited, and the black sheep of the family: “When mother-nature makes a human being . . . short of intelligence, she invariably fills up the vacuum with self-conceit, so that the dull and idiotic shall never be aware of their own deficiencies.”90 Though Bertha’s passionate love for Julian is not expressed through her dialogue, it is evident by her distress and illness when Julian marries her sister. Bertha does not appear as an angel to mother Julian in his distress over the death of his wife; they are not brought together by their mutual grief or parenthood, and their passion for one another is quite evident long before the sister’s death takes place.

In maternal pro-reform narratives such as Hannah, the living sister’s admiration for her dead sister and the distance between sister- and brother-in-law prior to the death is emphasized. By communicating the consent or presumed consent of the dead sister to the in-law union, the criminal characterization of the sister-in-law is challenged by the morally upstanding characterization. It is made clear in Craik’s narrative that Hannah knew very little of Bernard prior to Rosa’s death: “Hannah had seen almost nothing of them, beyond a formal three days visit.”91 “In their slight intercourse, the only thing the sister [Hannah] had ever cared to find out was that he loved Rosa and Rosa loved him.”92 The distance between Hannah and Bernard, their limited knowledge of one another, and Hannah’s discomfort at thoughts of “filling Rosa’s place—how terrible for him to see another face in the room of that

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dear, lovely one”—remind the reader of the couple’s morality and good nature and of the natural inevitability of their eventual union. The consent of Rosa to the union with Bernard is essential to the pro-reform agenda of the author. Bernard and Hannah accept the idea of Rosa’s consent sadly: “Yes; you are the mistress here now. I put you exactly in her place—to manage everything as she did. She would wish it so. Oh if we only had her back again!—Just for one week, one day!”

The consent is confirmed when a conversation is recalled in which Rosa expressed the view that clergyman ought to solemnize unions between brother and sister-in-law as wives can be lost so tragically.

Corbett argues that, within this narrative, honoring a wife’s dying declaration, even when it meant breaking the law, became another means of disavowing everything but the purest intentions and most enduring fidelity to the deceased. The second wife was frequently cast as a living reminder of the other, naturalizing the second choice by emphasizing its inevitability. The call for an end to the affinal ban on marriage relied on exclusionary logic. Men of the respectable classes would choose a sister-in-law as a second wife because a man prefers a woman who is known intimately in her domestic circumstances over a stranger whose character, habits, and family history cannot be so readily determined. Davidoff and Hall suggest that in the nineteenth century, the biological and familial identity of wife and sister were different, but the social identity of wife and sister shared many characteristics flowing from the feminine ideal. As a result, a sister-in-law could almost be merged with a man’s wife, imitating the wife’s feminine role in the household, her similar maternal relationship with children, and her companionate relationship with him.

In Jas Cunningham’s letter to the Marriage Law Reform Association, he describes the relationship between his new wife and his deceased wife:

[These relics which are calculated to call up the remembrance of my late wife, are as sacred to my present wife as they are to myself; we can both mourn over her loss and sprinkle flowers over her grave—it is almost bringing the dead to life.]

In Craik’s narrative and its many reproductions, the husband-wife-sister relationship is presented as a symbol of unity. The desire for both sisters to be connected to one another eliminates and controls potential male desire for the unmarried sister. Hannah, the single woman in Craik’s narrative,
privileges unity with her sister Rosa and cannot conceive of herself as a rival for her sister’s place. The husband’s grief after his wife’s death encourages a new relationship based on comfort and companionship, and acts as an antidote for sexual attraction: “Hannah was certain that had Rosa lived she might have come about their house continually, and he [Bernard] would have had no sort of feeling for her beyond the affectionate interest that a man may justly take in his wife’s sister.” However, the replacement after Rosa’s death, with her perceived consent, allows for the continuation of the sacred family circle.

In contrast, in the Australian novel, Bertha and Julian do not require Margaret’s consent to their union, and Bertha is not cast as a replacement for her sister. The love between Bertha and Julian is presented as always “having been more real than that of Julian and Margaret,” and Margaret is cast as an infirm character. Whereas Hannah’s love for Bernard grows organically from their mutual affection for their child over a long period of time, Bertha and Julian fall in love before the first marriage to Bertha’s sister even takes place. The novel demonstrates that maternal suitability was not an essential requirement for acceptability of a sister-in-law union. In comparison with the mother country, the maternal narrative was less prevalent in the colonies than other narratives within the pro-reform agenda. However, other sources reveal that the death of mothers was common, and some men did see the aunt of their child as a suitable replacement. Samuel Mitchell of Northampton in Western Australia indicated that one of his reasons for remarriage to his sister-in-law was to provide care for his children. He lamented the difficulties of a widower with young children, stating in his diary that “the position of a parent with eight motherless children is not to be viewed lightly, especially when there is no deceased wife’s sister’s soothing and guiding hand available.” The proportion of one-parent families in late nineteenth-century colonies was significant. For example, in 1891, 16.7 percent of all Victorian families with dependent children were sole-parent families. Of the 1891 figures, 38 percent of these sole parents were men, reflecting high rates of maternal mortality.

Inheritance, Status, and the Conflict of Laws Narrative

Dale’s novel is less typical because the maternal characterization is not central to the story and the criticism of the English law is more overt.
In addition, the Australian setting allows the author to critique aspects of English society whilst covertly comparing it with the colonies. Unlike Hannah, Bertha is not a mother, and unlike Mr. Rivers, Julian is not a clergyman but an entrepreneur travelling to make his fortune. Unlike the narrative in *Hannah*, in which Hannah and Bernard struggle almost subconsciously with the social and religious implications of their feelings for one another, Bertha and Julian are not faced with these issues until they return to England. The deterioration of their relationship is a direct consequence of the marriage prohibition in England. When it is discovered that Margaret and Bertha were in fact not blood sisters (Margaret was adopted), Julian begs for Bertha to come back and blames the law for his actions: “It was not my fault that the law seemed to make our marriage illegal.”

In the final chapters of the book, the reader is reminded of the responsibility of the law for the predicament of the characters when Mr. Durward asks Bertha to return to Julian and reminds her that “the circumstances were against him; he did not think you were or ever could be his wife,” and “[t]hose seeming circumstances were not under his control.” The law even had the capacity to change Julian’s feelings for Bertha: “the knowledge that Bertha was not and could not be his wife was already lowering her in his eyes, and doing its work like the subtle and deadly poison that it was.”

When Bertha returns to Julian, his eyes “sank in bitter shame and humiliation,” and the two are reunited in acceptance that the cruelty of the law had forced them apart. This pro-reform narrative highlighted the unjust nature of conflicting marriage law in the British Empire, a narrative prominent in colonial parliamentary debates and regularly invoked by reformers in the House of Commons.

It seems to me an extraordinary anomaly that marriages which are valid in every self-governing British colony, under Acts approved by the Crown, should still be considered invalid...when the parties or their children come to the mother country, which...they regard as home.

Narratives similar to Dale’s were relayed in the House of Commons by those supporting the Colonial Deceased Wife’s Sister Marriage Bill. The Bill, which eventually passed one year prior to legalization of sister-in-law marriage in England, made the sister-in-law marriages that had taken place in the British colonies legitimate on English soil. One parliamentarian argued
that what is “morally wrong in London must be morally wrong in Sydney” and that, if great English families were to emigrate to the colonies where such a marriage is legal, the children of such unions should be entitled to succeed to the estate on returning to England.110 Though the battle of characterizations described by Gullette did play itself out in the colonial parliaments and press, it was the conflict of laws narrative that dominated the debate in the colonial environment.

Marriage to a deceased wife’s sister legislation, like all marriage legislation, was inextricably linked to issues of inheritance and legitimacy. The repeated discussion of the importance of clarifying the legal legitimacy of marriage relationships, whether marriages conducted abroad or affinity marriages at home, was a response to the concern for the protection of property and the entrenchment of legitimate lines of inheritance. Lord Lyndhurst’s Act 1835 was designed to end confusion regarding the legitimacy by making a clear legal distinction between sister-in-law unions made before and after the date of the Act. However, in practice, it complicated issues of legitimacy and gave rise to a conflict of laws issue, particularly for families travelling throughout jurisdictions of the British Empire. In exploring a sister-in-law union in the Australian setting, Dale’s novel compares colonial understandings of legitimacy and inheritance as against those in the mother country, in which the prohibiting legislation originated.

Dale introduces notions of social status and inheritance by explaining the characters’ motivations for migrating to Australia at the beginning of the novel. In the process, Dale establishes Australia as a place where class distinction and social status are less significant, and status can be created rather than inherited. Mr. Henry Cornwallis is disinherited by his father for marrying a servant girl in “want of refinement and good breeding”111 and has made his home in Australia where he hoped that his wife’s “want of education and refinement would not be so glaringly apparent.”112 The family has escaped the superficiality of status-based criticism in England to settle in Australia. Henry Cornwallis’s social conscience gives rise to growing contempt for his unrefined wife and concern about her influence on the children. His contention is that Australia holds little hope for the education of the brighter and prettier of his two daughters, and he sends Bertha back to England “to give her a home education such as can only be taught in an
Bertha is engaged to a wealthy Englishman, and her sister remains in the colony where she is engaged to Julian.

Like Mr. Cornwallis, Julian had escaped to Australia partly to make his fortune, and partly because his status in England would be regarded more highly across the seas. Having once been in line for his uncle’s earldom, until the birth of a cousin who would now succeed, Julian’s ambitions included marrying “the first Australian heiress I meet.” There will be no difficulty on that point, I shall put the earldom well to the fore, and that must be worth a good round lump of hard cash in Australia.” The relative classlessness of Australian society is emphasized by Julian’s choice to emigrate to escape the social critics in England and make his fortune. His contention is that, in the absence of an inherited title, he will create his status in the colonies. This sets the scene for the deceased wife’s sister marriage narrative, as it will take place in the context of a society in which status and wealth can be created, and therefore lines of inheritance are less crucial to long-term stability and respectability.

The crucial importance of status in society is introduced in the novel when Bertha and Julian return to England, where the regulation of marriage and its politics had everything to do with property and its transmission. In the colonies, Julian’s earldom was no more than “a good round lump of hard cash,” and therefore any concern with inheritance in the colonial parliamentary debates centers around recognition of marital status on return to England rather than in the colony. In the novel, Julian is forced to consider whether Bertha “was really the Countess of Erlington and whether little Harry was Lord St John, or could ever succeed to the earldom.” When the family returns to England where their marriage is illegitimate, Bertha is not received by her neighbors and Julian’s friends. One friend comments, “Bertha is not Lady Erlington, you can hardly expect her to be received by those whose titles are unquestioned.” In England, Bertha is “despised by women who possess neither her beauty nor her worth; far from her own country and friends.”

By juxtaposing the couple’s happy marriage in Australia against their illegitimacy and misery in England, Dale highlights the artificial nature of the prohibition. In both Dale’s novel and the colonial press, the debate about sister-in-law marriage does not center on its moral, social, and religious legitimacy, but instead focuses on the conflict of laws, the legislative autonomy of
colonial authorities, and the right of mother country to deny legitimacy granted in British colonies. Bertha asks, “What right has one country to dishonour the true and lawful wife of another?” and objects to being stripped of her legitimacy as Julian’s wife:

I am not going to give up my good name quietly; I shall try if I cannot get justice for myself and children. In Australia I am Lord Erlington’s lawful wife, and it cannot be that I am not so all over the world. In cannot be that the mere fact of me living in a different place can alter it. It is absurd and impossible!

The variation in the status of sister-in-law unions across the British Empire was a boon for the cause of pro-reformers in England. The narrative in Dale’s novel played out in the press and pamphlets of both the colonies and the mother country. The following is a typical comment drawing attention to the mother country’s responsibility to serve the interests of the colonists:

[D]oubts having arisen as to the validity of the marriage of a man with the sister of his deceased wife, it is expedient to remove these doubts. It is the same in Victoria, in Tasmania, in New South Wales, and in Queensland. I would be the last man to undervalue the Imperial spirit so far as our colonies are concerned. . . . It must be remembered that the marriage law of the colonies is not a matter for themselves exclusively. Every law sanctioning these marriages passed by any Colonial Parliament was passed by the consent and with the authority of the British Crown.

On the other side of the argument, parliamentarians emphasized the “lower standards” of colonial society and jeered at the prospect of altering English law to mimic that in the colonies:

In 1872, Alexander Beresford Hope, a staunch opponent of deceased wife’s sister marriage, congratulated the 1872 proponents of a bill introducing the secret ballot (previously introduced in the colonies) for not relying on the Australian argument “of which they had heard so much last year they might almost have thought they were convicts.” He said it was “ridiculous to adduce a colony’s tentative apprenticeship of a few years in Cabinet and Parliament as making evidence of what ought to rule the oldest and most respected and most powerful Legislative Assembly in the world.”
Similar sentiment was expressed at a Church Union public meeting eleven years later:

If for the last 280 years we have been able to get on with these differences (refers to differences in the marriage laws of England and Scotland), surely it is too much to say that we are to alter and adapt our laws to this lower standard of Colonial society, and that we are to fling to the winds the traditions of 1,200 years at the dictates of an Australian Parliament (cheers).125

Those who opposed the legalization of sister-in-law unions in the colonies did so on the basis that the marriage law remain consistent with the law of England.126 Those who advocated legalization often did so on the basis that marriage law become consistent across the colonies rather than with the mother country.127 The centrality of the conflict of laws issue in Dale’s novel is emphasized when Mr. Durward says to Bertha, “England and Australia are the same country,” and Bertha replies, “[T]hen why are their laws so different on a vital point like this?,” to which he can only reply, “I cannot say.”128

CONCLUSION

The two novels and corresponding parliamentary debates convey pro-reform narratives that were utilized in pamphlets, press, Parliament, and popular fiction in the nineteenth century. The maternal characterization of the sister-in-law was a narrative more prominent in England, where the prohibition was tied to biblical and traditional notions of marriage and family. In the Australian colonies, political narratives emphasizing the prohibition’s relevance for legislative independence and conflict of laws predominated. The Australian setting led Dale outside of the traditional English pro-reform narrative and, in part, away from the narrative of domestic familial affection leading to romantic love. However, ultimately both the English and Australian narratives reflect nineteenth-century understandings of family structure, particularly the notion that marriage was between families rather than individuals, and a sister-in-law was much like a biological sister. A comparative examination of the deceased wife’s sister narrative in the English and Australian colonial setting illustrates that, although similar understandings of family resulted in similar narratives, the practical effect of the conflict of laws on the lives of colonists was of more concern than the social or moral implications of sister-in-law marriage.
1. Such prohibited relationships of consanguinity included, among others, a man with his mother, sister, daughter, granddaughter, or blood aunt; prohibited relationships of affinity included a man with his step-mother, aunt by marriage, step-sister, sister-in-law, daughter-in-law, or step-daughter. Such relationships were considered as incestuous as a group with no delineation between affinity and consanguinity. See Polly Morris, "Incest or Survival Strategy? Plebeian Marriage within the Prohibited Degrees in Somerset 1730–1835," 1 Journal of the History of Sexuality: The State, Society, and the Regulation of Sexuality in Modern Europe 235–65 (1991).

2. *An Act to render certain Marriages valid and, to alter the Law with respect to certain voidable Marriages* was 1835 5 & 6 Will VI c. 54. Hereafter referred to by its common name, Lord Lyndhurst’s Act.


4. The relationship between property and the marriage prohibition is briefly discussed in this paper; however, a full exploration of this is included in "Coverture and Affinity Marriage in Nineteenth Century Britain and Australia," presented at "Married Women and the Law in Britain and the Common Law World" Symposium, Halifax, Canada, June 24, 2011.

5. The biblical notion of the unity of flesh of husband and wife rested on Genesis 2:22–23; "Adam said this is now bone of my bones and flesh of my flesh; she shall be called woman because she was taken out of man. Therefore shall a man leave his father and his mother, and shall cleave unto his wife and they shall be one flesh." See also the Bishop of Lincoln’s comments: "In the Divine law, both of the Old and New Testament, it was declared that ‘man and wife are one flesh’; and, therefore, to endeavour to legalize a man’s marriage with his wife’s sister is very like an endeavour to legalize his marriage with his own sister." Parliamentary Debates, House of Lords, 19 May 1870, vol. 201, cols. 895–965, 928 (Bishop of Lincoln).


7. Id.

8. The Chancellor of Exchequer argued in Parliament in 1842, “[T]he happiness of social life depended upon the impossibility of marriage between certain members of the family; and he doubted whether the mere discussion would not tend to unsettle the minds of persons, and lead to disunion and to the injury, if not the ultimate destruction of domestic happiness.” See Parliamentary Debates, House of Commons, 16 March 1842, vol. 61, cols. 695–720, 695 (Chancellor of Exchequer).

9. Henry Goulburn’s full comments were as follows: “They must . . . in order to make a correct judgment, look at the effect of such marriages upon the relations of society independent of the death of the wife. How would they operate upon social intercourse? What could be more delightful, what pleasure was there purer, than that derived from unrestrained intercourse and entire confidence between a brother and his sister-in-law? But pass the proposed law, and the effect would be at once destroyed. It would be said by a censorious public, that more attention was paid to the sister than was due; her character would be affected, her honour impeached, and she would necessarily break off a connexion which, under the present law, was a source of unalloyed happiness.” Parliamentary Debates, House of Commons, 03 May 1849, vol. 104, cols. 1162–239, 1162. See also Charles J. Brown, “Marriage Affinity Question,” a speech delivered at a meeting in Edinburgh and London, 16 Feb 1871 (London: Hamilton, Adams & Co., 1871), 3.

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15. Although this paper focuses on pro-reform novels, there were a number of anti-reform novels written in Britain as well. See Martineau, supra note 15; Braddon, supra note 15; and Felicia Skene, The Inheritance of Evil, Or, Consequences of Marrying a Deceased Wife’s Sister (London, 1849). For a discussion of anti-reform novels, see Corbett, supra note 14, at 57–86.


19. Id. at chs. 7–9.


21. Although Gullette points out that much popular literature around the 1870s reflected the view that the public were not necessarily concerned with the religious implications of such marriages. See Gullette, supra note 12, at 151, 155. The novels support the argument, for example in Dale’s and Craik’s novels, that little attention was paid to religious grounds for the relationship’s incestuous nature. However, I argue that the “one-flesh” doctrine and the resulting notion of shared kin was still the traditional basis of marriage, as supported by the doctrine of coverture, which subsumed the legal identity of a married woman in that of her husband and prevented her from owning property or acting on her own behalf.
25. Likely to have been written by John Storie, a Presbyterian minister in Tasmania.
27. The Mercury 1873, cited in Kippen, id. at 105.
28. Launceston Examiner 1873b, cited in Kippen, id.
31. Id. at 53.
32. Id.
33. Mulock Craik, supra note 19, at 56.
34. See Morris, supra note 1, at 235–36.
36. Anderson, supra note 6, at 72.
37. Corbett, supra note 14, at 81.
38. Id. at 13.
39. It is common for fictional accounts of the deceased wife’s sister marriage plot to include cousin romance. See, e.g., Craik, supra note 19. For a discussion of the cousin marriage plot in nineteenth-century Victorian literature, see Corbett, supra note 14.
40. Dale, supra note 17, at 48.
41. Id. at 51.
42. Id. at 77.
43. Id. at 81.
44. Id.
45. This was frequently stated in parliamentary debates. For example, Mr. Cox, New South Wales, Parliamentary Debates, Legislative Council, 4 March 1874; and Sir William Manning, New South Wales, Parliamentary Debates, Legislative Council, 25 February 1874.
46. “They [marriage to a deceased wife’s sister laws] operated first in South Australia because the colony is known to be heterogeneous with regard to religion, and the parliament very impatient with any restrictions of laws founded upon ecclesiastical rules, and therefore it was only necessary to tell them that the main objection to its being passed here was the fundamental law of the Church of England, to make them say, ‘We have no established Church here.’” Parliamentary Debates, House of Commons, 24 April 1901, 4th ser., vol. 92, col. 1240.
47. This is illustrated in colonial parliamentary debate: During the Victorian parliamentary debate in 1872, Mr. Longmore said any suggestion that a man’s sister-in-law was the same as his sister was absurd: “Dr Cameron has sought to prove, in a discourse which he recently delivered in Melbourne, that a man had no right to marry his deceased wife’s sister, by the argument that husband and wife... became one when married and therefore the sister of the wife occupied the exact same position as that the sister of the husband occupied. No greater absurdity could be conceived. There was no blood connection between a man and his deceased wife’s sister.” Victoria, Parliamentary Debates, Legislative Assembly, 31 October 1872, col. 1971. See also, Mr. Langton’s comments rejecting any notion that marriage involved the acquisition of one another’s kin, arguing there was no
relationship between brother and sister-in-law: "[I]t was only a legal connexion. Certainly there was not the same relationship between a man and his deceased wife as there was with a person born of the same stock." Victoria, *Parliamentary Debates*, Legislative Assembly, 31 October 1872, col. 1970.

48. "If the colonies have any independent legislative power, this is precisely one of those social questions to which it applies"; in *Daily News* in the *Mercury*, 29 Dec. 1860. For similar comments, see *Mercury*, 18 November 1889, and *Argus*, 18 November 1870.

49. For several decades, imperial authority prevented the legalization of sister-in-law marriage in the colonies, refusing to provide royal assent. The political aspect of the legislative debate is beyond the scope of this paper, but a description of colonial bills refused but eventually assented to can be found in Jeremy Finn, “Should we not profit from such experiments when we could?,” *28/1 Journal of Legal History* 31–56, 56 (2007).


51. Margaret Allen's study of three South Australian women writers looks at the interconnection among class, nationality, and gender identity. Other feminist critics have challenged the marginalization of women's writing by insisting on its connections with nationalist themes. And see Kay Ferres on the feminization of Australian culture out of the shadows of bush nationalism. All are discussed in Sheridan, supra note 14, at 44–45.


55. E. S. Turner, *Road to Ruin: The Shocking History of Social Reform* (London: M. Joseph, 1950), 121. See also *Court Journal*, June 16th, 1894, cited in Marriage Law Reform Association, “Debate on the Second Reading of the Deceased Wife’s Sister Bill Comments of the British Press” (London: East & Blades, 1894), in which it was accepted that the ecclesiastical objections did not prevent couples from marrying elsewhere.

56. Gullette, supra note 12, at 155.

57. *Id.* at 156–57.

58. Craik, supra note 19, at 121.

59. *Id.* at 50.

60. *Id.* at 112.

61. *Id.* at 93.

62. *Id.* at 11.


66. Gruner, supra note 11, at 435.

67. Craik, supra, note 19, at 41.

68. *Id.* at 31.

69. *Id.* at 73.

70. *Id.* at 37.

71. *Id.* at 42.

72. *Id.* at 51.

74. Id. at 127.
75. Id. at 128.
76. Id. at 167.
79. Craik, supra note 19, at 35.
80. Charles Cameron, “Marriage with a Deceased Wife’s Sister” (London: Marriage Law Reform Association, 1883), in Gruner, supra note 11, at 437.
81. Craik, supra note 19, at 51.
82. Id. at 52; see Gullette, supra note 12, at 148.
83. Craik, supra note 19, at 13–14.
84. Id. at 306.
85. Mr. Buchanan, Mr. Stuart, Mr. Foster, and Mr. Brown used a number of arguments in favor of legalization, including that it was a man’s liberal right to marriage choice, the need for consistent law across the colonies, and that marriage was not against the word of God. New South Wales, Parliamentary Debates, Legislative Assembly, 28 November 1873. See also, New South Wales, Parliamentary Debates, Legislative Assembly, 13 February 1874; New South Wales, Parliamentary Debates, Legislative Council, 6 May, 1875. Similar patterns occur in the other colonies.
86. Dale, supra note 17, at 65–67. This sentiment appears in local colonial newspapers. For example, in a letter to the editor of the Adelaide Advertiser: “where the affections and a sense of personal right coalesce, no law whatever is respected.” This sense of romantic “right” consistently appeared in the public and political colonial debates; Adelaide Advertiser, 16 August 1878, 2.
87. Craik, supra note 19, at 181.
88. Dale, supra note 17, at 5.
89. Id. at 69.
90. Id. at 68.
91. Craik, supra note 19, at 10.
92. Id. at 11.
93. Id. at 34.
94. Id. at 48.
95. Id. at 61.
96. Id. at 64.
97. Id. at 62.
98. Pollak, supra note 10, at 178.
99. Corbett, supra note 14, at 20. For an exploration of kin marriage as a protection from contamination against otherness by marrying one’s own kind, see Pollak, supra note 10.
100. Leonore Davidoff & Catherine Hall, Family Fortune: Men and Women of the English Middle Class (London: Routledge, 1987), 351.
101. Cunningham, supra note 65.
102. Craik, supra note 19, at 305.
103. Chambers, supra note 13, at 25.
104. See, e.g., Samuel Mitchell, Looking Backward: Reminiscences of 42 years (Northampton, Western Australia: privately printed, 1911).
105. Id. at 9.
107. Craik, supra note 19, at 284.
108. Id. at 160.
110. Id. at col. 1231.
111. Dale, supra note 17, at 7.
112. Id. at 8.
113. Id. at 5.
114. Id. at 20.
115. Id. at 21.
117. Dale, supra note 17, at 144.
118. Id. at 163.
119. Id. at 167.
121. Dale, supra note 17, at 209.
122. Id. at 199.
123. Parliamentary Debates, supra note 109, col. 1231.
126. New South Wales, Parliamentary Debates, Legislative Assembly, 28 November 1873 (Mr. Charles Campbell); see also Brooke v. Brooke (1861) 9 H.L.C. 193; New South Wales, Parliamentary Debates, Legislative Council, 6 May 1875.
127. New South Wales, Parliamentary Debates, Legislative Council, 6 May 1875 (Mr. De Salis).
128. Dale, supra note 17.
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**Description**: Focuses on the interdisciplinary movement that extols law-related literature and the literary value of legal documents.

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- Alternative Media Edition (1)
In 1835, Lord Lyndhurst's Act made marriage to a deceased wife's sister illegal in England. This sparked a seven-decade debate in Parliament, pamphlets, press, and fiction, which led to the legalization of deceased wife's sister unions throughout the Australian colonies in the 1870s and in England in 1907. Pro-reformers and anti-reformers attempted to dominate the debate with their characterizations of the men and women who engaged in such unions. This article compares fictional representations of the sister-in-law marriage plot in England and in colonial Australia, differences in pro-reform themes between these countries, and their respective legislative outcomes.

Keywords: marriage, deceased wife's sister, nineteenth century, English novels, Australian colonial novels, Lord Lyndhurst, Dinah Mulock Craik, Hannah, Mary Alice Dale, With Feet of Clay

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