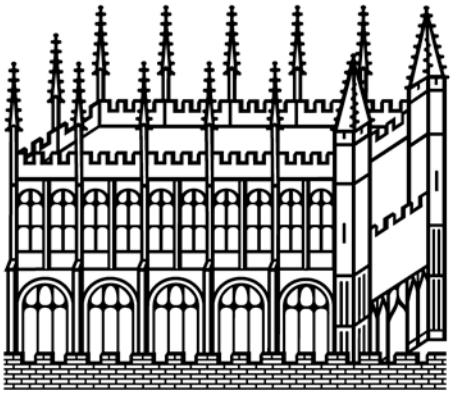

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INQUIRY INTO

THE CHRISTIAN LAW,

AS TO

THE RELATIONSHIPS

WHICH

BAR MARRIAGE.

BY

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PREFACE.

THE author of the following pages has not considered it advisable to augment their bulk, by entering into historical details regarding the views which have been held in different ages upon the question which he handles. He does not undervalue authorities. It is always interesting, and, for the most part, it is highly instructive, to examine the conclusions which the men of past times have reached. And he is persuaded that an argument of no mean force might be grounded upon the unanimity with which, through long ages, almost all churches and Christian states have condemned those marriages which some parties are now seeking to legalize. But he has confined himself to a simple discussion of the question at issue. He has formed his own

opinions after mature deliberation. He states them in the order which he considers best. And he supports them by arguments which he is fully persuaded are perfectly adequate to demonstrate their soundness.

The subject of forbidden degrees is one of great importance. There are, indeed, sundry uninviting, yea, even repelling features about the question; but still it is a question which must be discussed. The extraordinary efforts which are made by the gratuitous circulation of pamphlets and otherwise, to effect a change of the existing law, impose it as a duty upon those who are convinced of the scriptural authority and beneficial character of that law, to make corresponding efforts for its maintenance. And the author can truly say, that it has been a conviction of duty, rather than any special liking for the subject, which has impelled him to prepare the present work.

His attention was first drawn to the subject of improper marriages by a case which came before his own session. This case the session decided,

as in duty bound, by the laws of the church; and the author, in defending the session's judgment before the supreme court, appealed only to the *Confession of Faith.* The supreme court, too, in affirming the session's judgment, grounded their decision upon the same authoritative document. This was designated, in certain quarters, a placing of human creeds above the Word of God; and it was said that the question ought to have been settled by the evidence of Scripture alone. The confusion of ideas apparent in such a statement is obvious. The question, What should be the law of the church? ought, of course, to be decided only on scriptural grounds; but, when particular cases of discipline are before a church court, the settlement of them must be determined by the rules and regulations which the church has adopted. There would be nothing but the confusion of Babel, if the propriety of these rules and regulations were made the subject of discussion, every time it was found needful to apply them. Were an individual to appear before a session or a presbytery denying the divinity of Christ, the

session and the presbytery would be deserting the post of duty, if they allowed themselves to be drawn into a controversy respecting that doctrine. Whatever efforts they might make in private to convince the party of his error, by setting scriptural evidence before him, they could only, as a session and as a presbytery, proceed upon the principle that the divinity of Christ was a doctrine embodied in the standards of the church, and that the denial of it inferred exclusion from the body.

In the present treatise, of course, the author grounds nothing at all upon the *Confession of Faith,* nor upon any human authority. His appeal is made to the Word of God, which affords, he conscientiously believes, most ample evidence in support of the views embodied in the standards of the church, and also in the law of the land.

In handling the question of forbidden degrees, the author has entirely shunned personalities. He has not wittingly uttered one word disparaging to any individual. That he feels deeply on the subject he does not deny. He considers

that a change in the law would have a most disastrous influence upon the best interests of society, and would be full of peril to the church. But it has been his effort throughout to cast his thoughts into the mould of argument, and not of invective, and to express himself with all courtesy and respectfulness towards those who entertain a different view from the one which he has adopted.

GLASGOW, *February*, 1855.

INQUIRY

INTO THE

RELATIONSHIPS THAT BAR MARRIAGE.

CHAPTER I.

PERMANENT OBLIGATION AND GENERAL IMPORT OF THE MOSAIC CODE OF INCEST.

THERE are certain preliminary questions, which must be settled one way or another, before anything can be determined with regard to the limits of relationship that separate lawful from unlawful marriages under the gospel. When passages are quoted from the Pentateuch, with the view of showing what Scripture teaches upon this subject, the reasoning is at once assailed with objections, grounded partly upon the abrogation of the Mosaic law, and partly upon the supposition that it is not marriage at all which the Jewish legislator treats of in the 18th chapter of Leviticus. Now, if either the one or the other of these objections be well grounded, then it immediately follows that there is no scriptural law at all to define the degrees of relationship within which marriage is wrong. These objections must be disposed of, before a single step can be taken in the way of fix-

ing the boundaries of lawful marriage, under the new dispensation.

In what light then are the prohibitions contained in Lev. xviii. to be regarded? Are they still binding upon us, or were they designed only for the Jewish people? Beyond all question they are laws of universal obligation, demanding obedience from Gentiles as well as from Jews, from men of modern times as well as of ancient. They are not peculiarities of the law of Moses, which ceased to be obligatory, when that law was fulfilled and set aside by the Lord Jesus Christ. No doubt they are embodied in the Jewish code, just as the ten commandments are; but they are no more peculiar to that code, than the decalogue is. They are, in fact, just an expansion of one particular precept of the moral law. They are a commentary upon the seventh commandment, "Thou shalt not commit adultery." The mere fact that a precept occurs in the writings of Moses, is no proof that it does not concern us. We must consider whether it be moral in its character, or merely ceremonial or political. Now, who can doubt that laws prohibiting intercourse between the sexes, on the ground of too near relationship, involve the most essential principles of morality? Such laws do not stand upon a level with circumcision, and sacrifice, and sprinkling with blood, and other carnal ordinances, which have passed away. They occupy quite a different ground. But suppose it were decided that they are of the same stamp,

then it would follow that there is not one word in the whole Scriptures, by which it can be proved wrong for a son to marry his own mother.

The universal and permanent obligation of the prohibitions contained in the 18th chapter of Leviticus is demonstrated, both by what is said at the commencement of that chapter, and at its close. Near the beginning of it we find admonitions addressed to the Israelites, not to copy the example of the Egyptians or of the Canaanites; not to do after the doings of either the one or the other of these nations. "After the doings of the land of Egypt, wherein ye dwelt, shall ye not do: and after the doings of the land of Canaan, whither I bring you, shall ye not do: neither shall ye walk in their ordinances. Ye shall do my judgments, and keep mine ordinances, to walk therein; I am the Lord your God. Ye shall therefore keep my statutes, and my judgments: which if a man do, he shall live in them: I am the Lord" (Lev. xviii. 3–5). And then follows a long list of prohibitions with regard to the intercourse of the sexes. "None of you shall approach to any that is near of kin to him." And then again the sacred historian brings the Canaanites into view; and he declares with regard to them, that they had defiled themselves in every one of the things, against which he is warning the Israelites. Nay, not only had they been guilty of all these sins, but it is expressly affirmed that, on account of their guilt in these respects, they were punished by the avenging hand

of God. The land, defiled by their impurity, spued them out. They were exterminated as vermin by the appointment of heaven; and the Israelites are admonished to beware lest a similar doom should befall them, in consequence of their committing any of the abominations described by Moses. "Defile not ye yourselves in any of these things: for in all these the nations are defiled which I cast out before you: and the land is defiled: therefore I do visit the iniquity thereof upon it, and the land itself vomiteth out her inhabitants. Ye shall therefore keep my statutes and my judgments, and shall not commit any of these abominations; neither any of your own nation, nor any stranger that sojourneth among you, that the land spue not you out also, when ye defile it, as it spued out the nations that were before you" (Lev. xviii. 24–28).

I am aware it has been said that, when Moses speaks of the abominations for which the Canaanites were exterminated, he does not refer to every one of the things prohibited in the chapter, but only to the more monstrous and shocking crimes, of which mention is made in the immediately preceding verses, 20–23. But there is no ground for such a limitation. We find a continuous list of prohibitions from verse 6 to verse 23; and then it is said that in all these the Canaanites had transgressed. Where, then, are you to draw a line of demarcation? Where are you to say the things begin, that were reckoned faults in the Canaanites? You say, at the 20th verse; but why not at the 19th?

why not at the 18th? The fact is, it is quite arbitrary to make them begin anywhere, but at the beginning of the list. But all pretence for making any such exceptions is completely cut off by chap. xx.; for there the arrangement of the prohibitions is almost entirely reversed. The offences that stand last in chap. xviii., are placed first, or near the beginning of the list, in chap. xx., and the two concluding prohibitions have reference to an uncle's wife, and a brother's wife. In verse 21 Moses says:—"And if any man shall take his brother's wife, it is an unclean thing: he hath uncovered his brother's nakedness; they shall be childless." And then immediately, in verse 22, he goes on to say:—"Ye shall therefore keep all my statutes, and all my judgments, and do them, that the land, whither I bring you to dwell therein, spue you not out. And ye shall not walk in the manners of the nations, which I cast out before you: for they committed all these things, and therefore I abhorred them." Will any man reading these verses pretend to say that the things, which God abhorred in the Canaanites, did not include the taking of a brother's wife? The conclusion therefore is absolutely irresistible, that all things forbidden in chap. xviii. 6–23, and in chap. xx. 9–21, were considered by God as sins in the Canaanites when done by them.

Now, the idea must at once present itself to every mind, that the Canaanites never were under the law of Moses; and they could not pos-

sibly contract guilt, by transgressing any precepts which were peculiar to that code. Nay, they were chargeable with the deeds, which are described as abominations in them, 400 years before the law of Moses was heard of at all. But, surely, if the prohibitions relating to these matters were peculiar to the civil constitution of the Jews, they could not be obligatory at all upon the Canaanites; and by no possibility could their neglect or violation of them be considered as sinful. How could the Canaanites contract guilt by transgressing precepts that were never designed for them at all? Yet we are plainly told that God held them as guilty; and although his patience bore with them long, yet, when the cup of their iniquity became full, he devoted them to utter destruction. Now, was this an act of arbitrary cruelty on the part of the Most High? No; the judge of all the earth does what is right; and we must believe that the punishment of the Canaanites was a just judgment. But if it was so, then it follows, beyond the possibility of question, that the prohibitions contained in Lev. xviii. were binding upon them by the law of nature. They were obligatory in the same manner as the commandments, thou shalt not kill, thou shalt not steal, thou shalt not commit adultery. It is quite a mistake to imagine that the prohibitions at present under consideration, were peculiarities of the Mosaic institutions, like the Passover and circumcision, like sacrifice and oblation. They are a part of God's

moral law, and they stretch their claim over all mankind. On no other principle but this, can the extermination of the Canaanites be justified. Under the gospel, therefore, we have just as much to do with the 18th chapter of Leviticus, as we have with the 20th of Exodus, where the ten commandments are detailed; and both these chapters have the very same significancy and value for us, that ever they had for the Jews of old. Can it be imagined that less is incumbent upon us, in regard to moral purity, than was incumbent upon the Canaanites? No; there may be more, but there cannot be less. There may be a higher elevation of character demanded from us, and greater delicacy of feeling, and increased strictness of moral principle; but it is dishonouring to Christ to say that the gospel allows us to rest satisfied with a lower standard. And, therefore, it must be acknowledged that, at the very least, all the prohibitions, whose breach brought extermination upon the Canaanites, are still obligatory upon us as Christians. In short, the 18th chapter of Leviticus must be viewed as exhibiting the universal law of incest, just as the ten commandments contain the moral system generally, which God designed for all mankind. The gospel may expand and amplify this law, but it cannot possibly curtail it. Moses's law of incest is just a transcript of the law to which all mankind owe obedience. It is to no purpose to question this, on the ground that no heathen nation ever had

so extensive a code in reference to incest. That is just a proof of man's degeneracy. That is just an illustration of the apostle's statement, that "the world by wisdom knew not God."

When it is objected to the idea that guilt could attach to the Canaanites, from doing the things which Moses enumerates, that they did not know these things were wrong, this objection does not strike our argument, but it runs directly in the teeth of the Jewish legislator. It is Moses who says God abhorred the Canaanites for the things mentioned. It is a favourite maxim with many, that only those things which heathen nations actually do discover by the light of their own reason, are obligatory upon them; and accordingly some writers assume the moral code of the ancient Romans, as the standard of the law of nature. Nothing, say they, is wrong by that law, unless the ancient Romans condemned it. But this is a very transparent fallacy. It proceeds upon the false assumption, that man is now in his normal state, that his moral and spiritual powers have all requisite perspicacity. No believer in revelation can deceive himself with such an idea. What the ancient Romans found out may be a good test of what the light of nature can effect in man's fallen state; but it is not the measure of man's responsibility, and it is not the measure of what natural reason could do, if dissociated from a depraved heart. On the contrary, man's ignorance of God and of his duty is his

leading fault. What says Paul? "The world by wisdom knew not God. Professing themselves to be wise, they became fools, and changed the glory of the uncorruptible God into an image made like to corruptible man, and to birds, and fourfooted beasts, and creeping things. Wherefore God also gave them up to uncleanness." Did their uncleanness cease to be a sin, because they lost all moral feeling of its turpitude? Neither, then, were the Canaanites blameless, because they had hardly any perception of the evil of what they did. Their fault was, that they had corrupted their moral sensibilities, and plunged into an abyss of ignorance. But again I say, this is a question as between Moses and the Canaanites. Settle it as you please. The only point which concerns our argument, is the fact that Moses declares the things which he condemns in Lev. xviii. to have been accounted by God as abominations when done by the Canaanites. These prohibitions, therefore, were not peculiarities of the Jewish code; they belong to that moral law which extends its claim over all mankind.

If it be denied that the Mosaic prohibitions embodied in Lev. xviii. are obligatory upon us, then we are driven to the conclusion, that there is no law of incest under the gospel at all. If there be such a law, where is it to be found? Let the chapter of the New Testament that contains it be pointed out. Is it then the fact, that

under the gospel there are no greater barriers in the way of a man's having intercourse with his own mother, or sister, or daughter, than with any other woman under the sun? If there be really no law of incest at all, then there can be no greater sin in one connection than in another. This conclusion, however, is utterly revolting to the feelings even of a very depraved mind. There must be a law of incest. Then how are we to discover and define what that law is? Plainly, if Scripture gives no response at all to our inquiries, as some would have us believe, then we must appeal to the law of nature; and the views and sentiments of the more virtuous part of the community must be carefully gathered and embodied in some public statute. It cannot be right that every man should be left to do as pleases himself. If Scripture indeed is silent, then the law of the land must be recognized as the only existing rule; and it must be sinful to transgress that law, unless you are prepared to maintain, with Zeno and Chrysippus, that incest, be the parties ever so nearly related to one another, is all an imagination. Obviously, therefore, the denial that the 18th chapter of Leviticus is binding upon us, leads directly and inevitably to the conclusion, either that the marriages at present so much agitated, are sinful, as being violations of the law of the land, the only existing standard, or that no marriage which it is possible for you to imagine, even that of a son with his own

mother, can be in the slightest degree wrong. What authority, on the hypothesis before us, is to fix the incestuousness of any marriage? Is every man to be left to widen or to contract the boundaries of incest as he pleases? And if there be any disciples of Zeno and Chrysippus among us, are they to consider themselves injured men, if they are prevented from marrying their own mothers and sisters? Silence the voice of Scripture, and then there is no alternative between tolerating all possible connections, and denouncing as sinful every one that is forbidden by public law. If I may transgress one prohibition of marriage, why may not my neighbour disregard another? Who is to judge between us, when there is but the one standard in existence, which we have both violated?

Another method, by which the evidence of the 18th chapter of Leviticus is often evaded, is to deny, not the permanent obligation of the prohibitions which it contains, but their reference to marriage at all. It is a favourite idea with many that Moses is only condemning in this chapter illicit casual connections and impure lusts, but is not uttering one word that has the slightest reference to the holy bond of matrimony. The peculiar phraseology employed, viz., uncover nakedness, is not, we are reminded, the appropriate language for describing the marriage relation. This argument, however, is not worth a straw, for though it is confessed that these words do not refer exclusively to marriage,

yet there cannot be a moment's question, that they do refer as much to it as to any other tie. That they have a bearing upon marriage is plain from the much disputed passage in Lev. xviii. 18, regarding the case of two sisters, where no person denies, whatever view he may take of the meaning of the verse, that a marriage of some kind or other is spoken of. Besides, there are cases where the words "uncover nakedness," employed in chap. xviii., are displaced in chap. xx. by the word "take," which is the proper description of a marriage. In chap. xviii. 16, for example, where a man and his brother's wife are spoken of, "uncover nakedness" is the phraseology employed; but in chap. xx. 21, where the very same connection is brought into view, Moses says "thou shalt not take," thus using the classical Hebrew expression for marriage. The attempt, therefore, to exclude all reference to marriage from Lev. xviii. is utterly vain. The true view of the subject is, that connection between the parties specified in the several verses is forbidden, whether in marriage or out of marriage.

Let it be supposed, however, for the sake of argument, that the chapter does not refer to marriage at all, but only to illicit and casual connections, and then just reflect upon the horrid conclusions which we are obliged to draw. No doubt we get rid of the prohibition of certain marriages which perhaps we look upon with favour, but then it is at the enormous expense of sacrificing

all prohibitions of marriage, be the parties ever so nearly related to one another. The conclusion cannot now be shunned, that no marriages whatever are forbidden in the Word of God. If there be any denounced in Scripture as sinful, let them be pointed out. According to the supposition at present under consideration, Moses only teaches that it is wrong to commit fornication with a mother, or a sister, or a daughter, but he does not say that there is the slightest immorality in being united to them in the bonds of wedlock. Nowhere, on this view, is such a marriage condemned in Scripture. If it be wrong it must be, not as forbidden in the Bible, which we are told is silent on the subject, but on the ground of the law of nature. And now again arises the question, how is this law to be interpreted? The only way of ascertaining the truth, if Scripture indeed be silent, is to collect the general sentiment of the community, and to embody it in a public statute. And then the principle must be laid down, that whatever marriages are condemned by the law of the land on the ground of relationship, must be held as incestuous; for, by the supposition which has been forced upon us, there is no other rule or standard in existence. It will not do for one man to say the law of the land is wrong, and I will marry my wife's sister, or my niece; for another man might equally say, the law of the land is wrong, and I will marry my own sister, or my wife's daughter. And who is to judge between

them? Let it once be conceded that the Bible does not contain any prohibited degrees in relation to marriage, and then there is no alternative between either, on the one hand, allowing every man to marry whom he pleases without liability to censure, be it his own mother or sister, or, on the other hand, branding as an immoral person every man who contracts any marriage disallowed by the civil law, because, on the hypothesis in question, that law is the only existing standard. If there is no written revealed rule on the subject of incest, then an individual could not righteously and morally allow himself wider limits than the law of his country prescribed, although he might confine himself within narrower limits, if his own conscience so dictated. Thus it appears that the method which some men employ for defending those marriages which are at present so much disputed, viz., putting Moses out of court, as a witness who has nothing to say upon the subject, in reality obliges us to stamp the same reprobation upon these marriages, which we cast upon any others forbidden by the law of the land. For we are never justified in transgressing any civil law, unless we can plead conscience, unless we can prove from Scripture that what we do, is not merely a thing which we may do, but a thing which we are bound to do.

I have already conceded that the phrase, "uncover nakedness," is by no means a specific designation for marriage. It is never used where a

matrimonial union in all respects suitable and proper is described, nor could it be so used without a manifest breach of all propriety. Neither is it employed with the same latitude of application as the words fornication and adultery. Nor does it denote, as many imagine, sexual connection considered simply in itself. What, then, does it mean? It means connection viewed as taking place in revolting circumstances, that is, between parties too nearly related to one another, either by consanguinity or by affinity. And in every case where it occurs there is the idea of foulness and impurity associated with it. It is never used where persons, wholly unrelated to one another, are duly and properly married. It is never used where persons so disconnected are chargeable either with fornication or adultery. You have a remarkable instance of the careful avoidance of this phraseology in all cases, excepting where relationship forbids union, in Lev. xviii. 20, where the sacred penman, after using this expression in every verse, when he comes to speak of connection with a neighbour's wife, at once abandons it, and throws the prohibition into a different shape: "Moreover, thou shalt not lie carnally with thy neighbour's wife, to defile thyself with her." In chap. xx. 10, also, where adultery is spoken of, Moses shuns the phraseology in question in the same remarkable manner. In short, this phraseology corresponds very exactly to our English word incest. It designates connection between persons

too nearly related to one another. The only case where it occurs without this shade of meaning is Lev. xviii. 19; but there, too, it has the idea of vileness and baseness connected with it. There are a few cases, also, where it is employed without any reference to the intercourse of the sexes at all; but in every one even of these, it carries along with it the idea of something indecent and odious, something vile and revolting. Gen. ix. 22; 1 Sam. xx. 30; Isa. xlvii. 3; Ex. xx. 26.

It would be easy to fortify this conclusion regarding the import of the phrase, "uncover nakedness," by weighty authorities. Gesenius thus defines it, "locutio solennis in lege de matrimoniis prohibitis" (*Thesaurus*, p. 284). And, in consequence of the restricted use which Moses makes of these words, we find that ערוה and עריות came to be used in Rabbinical Hebrew as the current designations for incest, and also for the females whom it would be incest to marry; and Maimonides mentions that no other women were so named, but those whom the law interdicted on the ground of relationship. Selden, too, thus defines the phrase גלוי עריות "revelationis turpitudinum, id est, incestus."* This distinguished jurisconsult, however, falls into one mistake, for he says that adultery is one of the kinds of incests, or עריות, mentioned by Moses.† But in this, without

* *De jure Naturali et Gentium juxta Disciplinam Ebræorum*, pp. 501, 543.

† *Ibid.*, p. 576.

a doubt, he is wrong. Moses mentions adultery among the things which he forbids, but he does not include it among the things which he designates uncovering of nakedness. Both in Lev. xviii. 20, and xx. 10, when he is speaking of adultery he abandons this phraseology, which he employs only with reference to connections forbidden on the ground of relationship.

Not a few object to the use of the word incest in the case of relationships of affinity; they would confine it to relationships of consanguinity. But this restriction is altogether groundless. Most certainly there is no warrant for it in the writings of Moses. He employs the very same terms in speaking of both kinds of relationship; and not only so, but he intermixes the cases, as if the idea of there being any difference between them had never struck him. He does not first state all the cases of consanguinity by themselves, and then introduce those of affinity, as if they constituted quite a different class. He mixes them together, and he describes them all in the very same language. The usage of Moses therefore warrants us in employing the same designation indifferently in both cases. And, then, with regard to the particular term incest, the question is simply one of linguistic usage. Has the word received the extent of application which we give it? It has. In the *Codex Justinianus*, all prohibitions of marriage, whether grounded upon consanguinity or affinity, are arranged under the title *de incestis*

nuptiis. Selden, too, employs the word *incestus* with regard to every one of the connections forbidden by Moses. And our English authors use the word incest in cases of affinity as well as of consanguinity, as is plain from the following passage of Bishop Hall: "These two sons of David met with pestilent counsel. Amnon is advised to incest with his sister; Absalom is advised to incest with his father's concubines."* And Johnson's *Dictionary* defines incest to be connection of persons "who are within the prohibited degrees."

What, then, is the import of the prohibitions of Moses? They mean that persons related to one another in certain degrees, whether by blood or by some previous marriage, are not in any circumstances to approach to one another. Their affinity and consanguinity, for relationships of both kinds are mentioned, are a barrier interposed between them by God. Then, of course, it is plain they cannot marry, for the ends of marriage could not be lawfully answered in their case. Their marriage would not destroy their previous relationship; and as that relationship is a barrier to union, and would in short make it incest, they cannot marry. Neither in marriage nor out of marriage is it allowable for them, to have that intimacy with one another, of which the Jewish legislator is speaking. They are at all times and in all circumstances forbidden objects to one an-

* Bishop Hall, *Cont. Achitophel.*

other. Their marriage overleaps a barrier which God has placed between them, and it is an incestuous marriage. Their fornication equally overleaps that same barrier, and it is, as overleaping two barriers, viz., the law of marriage and the law of incest, both incest and fornication at the same time. In no circumstances are such persons to touch one another. Mother and son!! They are never to be aught but mother and son to each other. Their fornication would be incest, but equally their marriage would be incest. It is utterly vain, therefore, to maintain, as many high authorities have done, that the chapter before us has no bearing at all upon marriage. Perhaps, indeed, it might be more accurately designated the law of incest, than the law of marriage; for, primarily, it is just connection between parties too nearly related to one another which it denounces; but necessarily also it is a law of marriage, unless you choose to affirm that persons, whose approach to one another would be an incestuous act, were nevertheless at perfect liberty to marry. If any man will maintain such an absurdity, we have something else to do than to take the trouble of confuting him.

If there be any justice in the foregoing remarks, we have now reached the conclusion, that the prohibitions contained in the 18th chapter of Leviticus have an undoubted bearing upon marriage, and also that they are obligatory upon us as fully and forcibly under the gospel, as they were upon

the Jews in ancient times. They were binding upon the Canaanites by the law of nature, and we can only now escape from their obligation by maintaining that a less strict morality, and less delicacy of sentiment are required from us, than it was the duty of degraded and brutal heathens to cultivate. It is quite conceivable that more strictness may be obligatory upon us now, when the extent and spirituality of the law are more fully developed, but it is an outrage upon common sense to imagine that there can be less. Things practised by the patriarchs were afterwards forbidden by Moses. And things also that were practised under the Mosaic law, were afterwards set aside by the higher and purer spirit of the gospel. Polygamy gave place to monogamy, not so much in virtue of any very specific statute of repeal, as in virtue of the operation of Christian principles leading to juster views of the relations between the sexes—our Lord's words in Matt. xix. 8, being held to imply that marriage was properly the union of one man with one woman. And in the same manner it is conceivable that the more elevated Christian consciousness may lead men now to scruple about the propriety of some additional connections that are not specified in the book of Leviticus; but it is absolutely inconceivable that any one there described as forbidden can be right now. It is a perfect libel upon the gospel to imagine that it can be proper and decorous for us to do things, which were

charged by God as abominations in the case of the Canaanites, and punished with extermination.

CHAPTER II.

INDICATIONS IN THE NEW TESTAMENT OF THE PERMANENT OBLIGATION OF THE CODE OF INCEST EMBODIED IN THE OLD.

THERE is but little reference in the New Testament, to any of the cases of forbidden connection which are described in the Pentateuch; and there is no law at all laid down upon the subject. Now, if we conceive that the special prohibitions of the Jewish code of incest have been abrogated, like the laws of sacrifice, of meat-offerings, and of drink-offerings, then it certainly is remarkable that nothing should have been enjoined under the gospel, touching a matter of such vital importance. Who is to determine what shall be now considered incestuous, or is nothing to receive this designation at all? On the other hand, if it be supposed that the Mosaic prohibitions regarding incest were part of the moral law, and consequently of permanent obligation, then the comparative silence of the New Testament is fully accounted for. Nothing needed to be said regarding incest, as the old law remained unrepealed.

Still there are two cases incidentally mentioned in the New Testament, not, indeed, in the way of

propounding a law, which on our principles was altogether unnecessary, but in the way of reproving existing acts of wickedness. These throw very considerable light upon the subject. They confirm the views which have been advanced. In the three synoptical gospels* we are informed that John the Baptist was imprisoned, on account of having reproved Herod for his marriage with his brother Philip's wife. This fact, indeed, does not furnish the kind of evidence or information which many persons have imagined, for Josephus mentions that Philip was still alive when Herodias left him. But it does not therefore follow that it was adultery only, for which Herod was reproved. If there had been no greater wickedness in Herod's taking his brother's wife than any other man's wife—if she had been just as legitimate an object of courtship to him, on the supposition of her becoming a widow, as any other woman or widow would have been—then we should have expected Herod to be blamed simply for taking another man's wife. But it is impossible to read the accounts given, by all the evangelists who have mentioned the occurrence, without perceiving that John's reproof of Herod, receives its main emphasis and severity from the fact, that it was not merely another man's wife, but his brother's wife, that he took. The relationship of the two husbands is the point most prominently exhibited in all the

* Matt. xiv. 3; Mark vi. 7; Luke iii. 19.

accounts. This was the most aggravated feature of the offence, and it has the leading place assigned to it in the reproof. Herod's sin was incestuous adultery. Perhaps no man of plain simple understanding ever yet read the gospels, without having the impression produced upon his mind, that it was the relationship of Herod to Philip which John meant to point out, as what gave its characteristic feature to the sin which he reprobates. And if this really was the case, then John must have been looking back to the ancient law of incest, recorded in the book of Leviticus, as still obligatory upon the people of God.

It is remarkable, too, that Josephus takes the same view of the subject; for while he mentions that Philip, who also bore the name of Herod, was alive, he by no means exhibits Herod's sin as a simple case of adultery. He considers it as a violation of certain special laws, which, though not perhaps recognized among Gentiles, were yet to be found in ancient Jewish documents. What are his words ?* "But Herodias, their sister, married

* Ἡρωδιὰς δὲ αὐτῶν ἡ ἀδελφὴ γήμεται Ἡρώδῃ, Ἡρώδου τοῦ μεγάλου παίδι, ὅς γέγονεν ἐκ Μαριάμνης τῆς τοῦ Σίμωνος τοῦ ἀρχιερέως καὶ αὐτοῖς Σαλώμη γίγνεται, μεθ' ἣς τὰς γονὰς Ἡρωδιὰς, ἐπὶ συγχύσει φρονήσασα τῶν πατρίων, Ἡρώδῃ γαμεῖται τοῦ ἀνδρὸς τῷ ὁμοπατρίῳ ἀδελφῷ διαστᾶσα ζῶντος.—Josephus' *Antiq. Jud.*, lib. xviii. c. vi. 4. Thus rendered into Latin in Hudson's edition of Josephus:—Herodias vero soror eorum nupsit Herodi Herodis magni filio, quem sustulit ex Mariamne Simonis pontificis filia; illisque genita est Salome, cujus post nativitatem Herodias, ut quæ in animum induxerat leges patrias violare, Herodi nupsit, viri sui, a quo vivo discessit, ex eodem patre fratri.

Herod, son of Herod the Great, and of Mariamne daughter of Simon the high-priest; and to them was born Salome; after whose birth, Hérodias, having made up her mind to violate the laws of her country, was married to Herod, brother, by the same father, of her husband, whom, though still in life, she forsook." Now, what is meant by the laws or customs of the country which Herodias is here represented as violating? Are they merely the one law against adultery? But that was a law that existed in all countries, as well as Judea. Beyond all question, the principal reference of Josephus is to the prohibition contained in the Pentateuch of marriage with a husband's brother. This was a law handed down among the Jews from their remote ancestors: it was an institution which their *fathers* had received. That the Jewish historian refers to this law, is evinced by the care which he takes to point out the precise relationship between the two husbands of Herodias—they were brothers, sons of the same father. And not only so, but he states that Herodias had a daughter by her first husband still alive, for the marriage of Salome is mentioned almost in the next sentence. Hers, therefore, was not the position in which alone, according to the exceptional law in Deuteronomy, she ever could be married to the brother of her husband. Her sin certainly was adultery, but the language alike of John and of Josephus shows that it was also incest. The manner, therefore, in which this case

is recorded in the New Testament, implies that the prohibitions of Moses were still considered as obligatory,

Another case is mentioned in 1 Cor. v. 1, of a man, who had his father's wife, and whom Paul condemns with very great severity. It has been supposed that in this case also the father was alive, and, therefore, it has been said that the passage has but little bearing upon our argument. But even though it were certain that the father survived, the very same remarks that have already been made with regard to the case of Herod and Herodias, would all find their application here. If the father was in life, and if the apostle is to be understood as saying nothing against marriage with a father's widow, as some would have us believe, then it was the adulterous character of the connection, and not its incestuousness, which provoked his indignation; and it would have much better answered his purpose to mention that the first husband was living, than to state that he was father to the second. This was quite an immaterial circumstance, unless there was supposed to be incest in a son's ever having to do with a father's widow. If marriage with a father's widow was quite allowable, then it is difficult to see how connection with her during the father's lifetime could be aught else than adultery. You only give its full force to the apostle's language, when you suppose that, whether the father was dead or alive, the son's connection with his step-

mother was incest. It is relationship only, and not a still subsisting marriage, that is mentioned by the apostle as the ground of his censure.

But all the probabilities are decidedly in favour of the supposition that the father was dead. Can it be imagined that a Christian church, and that, too, a church planted by an apostle, and keeping up correspondence with an apostle, would retain persons in its communion who were living in habitual adultery, and would be so far from feeling that there was anything wrong in their procedure, as actually to be puffed up? This would argue a grossness of corruption altogether surpassing belief. A father and a son openly and avowedly cohabiting with the same woman, and yet retained, not only without scruple, but even with a degree of pride, in the communion of the church!! The thing is inconceivable. If it really was so, then very fairly may it be made a question whether the Church of Christ was not greatly more corrupt in the days of the apostles, than ever it has been in any age since. What church at the present moment, degenerate as our age is said by many to be, would avowedly and boastfully retain in communion a father and a son, who were both husbands to the same woman. If the apostolic church did so, then, so far from being a model, it was the vilest church that has ever existed. If the father was dead, then we can conceive that the son and his friends might, from want of proper attention to the subject, deceive themselves into the idea, as not a few

do at the present moment, that no barrier to his marriage with the widow existed, there being no consanguinity; and thus through ignorance, though not by any means an ignorance free from culpability, the evil might spring up, without proving the church to be utterly corrupt. But if the father was living, then the church was a very sink of pollution; for we must suppose that the son and the wife plunged with open eyes, there being no room for self-deception with regard to adultery, into the very depths of vileness, and that the whole church applauded their conduct. "They mourned not, but were puffed up." Without a doubt the father was dead.

Great interest, however, has been felt in the life of this father, with the view of securing to sons the liberty of marrying their stepmothers when they become widows; and an argument to show that he was still alive has been grounded upon 2 Cor. vii. 12, where mention is made of one that did the wrong, and of one that suffered the wrong. Now the one that suffered the wrong, it is said, must be the father, and therefore he must have been surviving. The conclusion, however, is utterly devoid of force. The party suffering the wrong has been supposed by many, altogether irrespectively of the question before us, to be the apostle himself, who felt his honour tarnished by the misconduct of a church which he had planted. Others have imagined that the expression is general, and means any one that might have sustained

injury from the proceeding, as, for example, another brother or a sister, whose respectability and credit would be compromised by the misconduct of their brother and mother. Or even, if you suppose that the party suffering the wrong was the father, this does not necessitate the supposition that he was still alive. For, in Lev. xviii. 8, 14, the nakedness of the wife is designated the nakedness of the husband, even after the husband is supposed to be dead, and he suffers an injury in the person of his surviving wife. A disgrace is brought upon his name, by any dishonour to which she submits.

All these considerations place it beyond reach of doubt that the father was dead. The fault of the son was that he had taken his deceased father's wife, and here, consequently, we have a case where the apostle condemns connection with a widow on the ground of affinity. The decision, too, which he pronounces, coincides exactly with the law as laid down in Lev. xviii. 8, and he declares, in explicit terms, that the fault was one which ought to be visited with exclusion from the membership of the church (1 Cor. v. 2). Nay, more, his decision implies not only that the connection was a sinful one, but also that the Christians of Corinth ought at once to have known it to be sinful, without needing to be told this by him. Such a connection was considered odious even among the Gentiles, who had nothing but natural reason to guide them. And it is implied that Christians

ought to have seen its evil more clearly and promptly. But why so? The probability is that the apostle here has the prohibitions of Moses in his view, as what should have guided the Corinthians. To what else can we so naturally suppose him to refer? The Corinthians were acquainted with the Old Testament, and they ought to have known that certain connections were entirely forbidden of old, by the God whom they now professed to serve. And, in fact, the very connection which Paul here so strongly condemns is prohibited in Leviticus. Now, does the apostle's strong censure of the Corinthians for not perceiving that the connection in question was a sinful one, favour the idea that the Mosaic prohibitions were all abrogated? The very opposite is the conclusion to which we are obliged to come. For if the restrictions laid down by Moses had ceased to be obligatory, and if, consequently, there was no written law at all under the gospel, then, on the first occurrence of a questionable marriage in the church of Corinth, we should have expected from the apostle, not a stern censure of any party connected with the proceedings, but rather a calm and kindly communication to the effect that, although there was no written law under the gospel, still certain marriages were to be shunned as wicked and incestuous. The language of stern reprobation employed at the very outset by the apostle, and the kind of comparison which he makes between Christian converts and Gentiles

who had no revelation, are best accounted for by the supposition that he considered the prohibitions of Moses as moral in their nature, and that the Corinthians ought to have known with certainty from the Old Testament what was the path of duty in regard to the parties mentioned.

But, even though it were conceded that the Mosaic prohibitions in reference to marriage were not now of any force in the church, still the case at present under consideration would be fraught with most important lessons. It would obviously imply that certain connections are to be considered sinful by the law of nature, although not specified in Christ's law. It would be plain, too, that consanguinity between persons was not necessary to constitute their marriage an incestuous one; affinity would equally involve this result. Step-mother and step-son are not consanguineously related at all. It would also follow from the case before us that, although Scripture were utterly silent on the subject of forbidden degrees, still the church was bound to exclude from her membership those who contracted any marriage which she judged to be wrong. By the hypothesis there was no written divine law in the church against marriage with a father's wife. Yet Paul severely condemns the Corinthians for not having at once excommunicated persons who had entered into this connection. It is undeniable, therefore, on this hypothesis, that the church is considered by Paul as bound to judge for herself what marriages,

whether on the ground of consanguinity or of affinity, are improper; and that it is her duty to exclude from membership those who disregard the regulations which she thinks proper to lay down. The point is as clear as daylight. The Corinthians had no written divine law on the subject of degrees. Let it be determined then on what ground they were blameworthy for having retained in communion the parties mentioned by Paul. It is vain to say they have Paul's direction how to proceed in the passage before us. Why, the very thing for which they are blamed is that they had not, of their own accord, proceeded in the case before Paul wrote to them at all. Either, then, they had the prohibitions in Leviticus for their rule, or they were bound, in the exercise of a sound Christian discretion, to make regulations for themselves, and to exclude from the fellowship of the church all who disregarded these ecclesiastical rules. And in the present day, also, we must act either upon the one or upon the other of these principles.

The great importance of the case in the first epistle to the Corinthians has not always been recognized. Not a few imagine that at most it can only serve as a precedent with regard to the single case of step-mother and step-son, and it has accordingly been said, that if the Levitical prohibitions are set aside, then there is only one connection which can be regarded as forbidden under the gospel. But this is a grievous mistake. Why does the apostle mention the case of connection

between step-mother and step-son at all? Plainly because such a case had recently occurred at Corinth. But it would be absurd to imagine that because he speaks of no other connection, therefore this is the only one that can be wrong. Is there, indeed, but one possible case of incest, and that, too, a case where there is no blood-relationship between the parties? But if there are others, then how are they to be ascertained? Undoubtedly in the same way in which this one ought to have been discovered by the Corinthian church before the apostle wrote to them. Either we must adopt the prohibitions in Leviticus as our rule, or we must form regulations according to the best of our own judgment, and govern the church in accordance with them. It is incumbent upon those who object to these alternatives to point out what other possible course is left. There are but the two ways of proceeding. Either the Levitical prohibitions must be allowed to settle the boundaries of incest, or if they are set aside as no longer possessing authority, then the church must settle for herself, according to her own discretion, what connections are wrong, and she must exclude men from her membership for violating her ecclesiastical regulations, or synodical decrees, if it be preferred to call them so. There is but one other possible course, and that is that no man should be blamed for any connection into which he may choose to enter, no matter what it be; but this idea cannot be seriously entertained without pour-

ing contempt upon the authority of the apostle Paul, who would thus be shown to have most unjustly blamed the Corinthians.

CHAPTER III.

MEANING OF THE PHRASE, "NEAR OF KIN."

It will be of some importance, before going further, to determine what is meant by the phrase "near of kin," in the Mosaic code of incest. Mr. Sleigh very properly observes,* that Lev. xviii. 6, exhibits the radical principle of the law of incest. "None of you shall approach to any that is near of kin to him, to uncover their nakedness: I am the Lord." But he gives by far too confined an interpretation of what is comprehended under near of kin. He actually maintains that it includes only father and mother, brother and sister, son and daughter; for, says he, the phrase is so defined by Moses himself, in Lev. xxi. 2, 3: "But for his kin that is near unto him, *that is*, for his mother, and for his father, and for his son, and for his daughter, and for his brother, and for his sister, may he be defiled." But Mr. Sleigh's inference is grounded upon an utter misapprehension of what Moses means. The relatives here mentioned by the Jewish legislator are not described by him as all that are comprehended under near of kin;

* *Marriage with a* Deceased *Wife's Sister*, p. 16.

but they are specified as those persons near of kin, for whom a priest might defile himself by touching their dead bodies. That others besides these were near of kin, is plain from Lev. xxv. 48, 49, where we are told, that when a Jew became poor and sold himself to a stranger, he might be redeemed. And who might redeem him? "One of his brothers," אֶחָיו, "might redeem him, or his uncle might redeem him, or his uncle's son, or any that is nigh of kin unto him." Now, here the phrase rendered "nigh of kin," is the same exactly as in Lev. xviii. 6, viz., שְׁאֵר בְּשָׂרוֹ. And that the progression of the verse is outwards to a widening circle of kindred, is plain from the clause that is added, "nigh of kin unto him of his family," מִמִּשְׁפַּחְתּוֹ. Now מִשְׁפָּחָה does not denote, like the English word family, a household viewed as consisting simply of parents and children, but it rather designates a conglomeration of families, the households of various connected fathers. One family, says Gesenius, included several father's houses. שְׁאֵר בְּשָׂרוֹ, therefore "near of kin" includes far more than father and mother, brother and sister, son and daughter. It extends to uncle and uncle's son, and other members of the connected fathers' houses.

And, indeed, it is quite astonishing that any individual acknowledging Lev. xviii. 6—"None of you shall approach to any that is near of kin to him"—as the fundamental principle of the law of incest, and then looking to the cases which are specified under that principle, should for a moment

imagine that near of kin included only parents and children, brothers and sisters. The fair view of the subject is, that the cases which are specified ought to be considered as exemplifications of the extent of meaning which the expression "near of kin" was intended to bear in this particular statute. If the phrase had that definite acceptation which is contended for, viz., parents and children, brothers and sisters, then there would have been no need for a specification of cases at all. But the words are really quite indefinite, considered in themselves. There is no fixed point within which relationship is styled near, and beyond which all agree in calling it remote. Some count kindred much farther than others do, and all go into reckonings of this kind farther for one purpose, than they do for another. The priest was to count the circle of his kindred but a very short way, when the question was, for whom might he defile himself by touching their dead bodies; but he might trace his connections to a far greater extent, when the question was, to whom should he extend his friendly regards as a kinsman. Now, the object of the particular statute embodied in Lev. xviii. is not to define how far kindred might be counted as a bond of friendship, or as a warrant for priests to perform the last offices to the remains of the departed, but only how far it was to be counted as a barrier to marriage. And this, it is manifest, could only be done by a specification of particular cases of relationship, which therefore furnish the

true and only criterion of the extent of meaning borne by the words "near of kin" in the radical principle of the law of incest.

If the idea be adopted, that "near of kin," in verse 6, includes only parents and children, brothers and sisters, then the law is converted into a disjointed and shapeless mass, of which the different parts have no coherence. Only two of the cases which are mentioned have any connection with the principle of the law, as thus defined, viz., those of son and mother, brother and sister; and all the rest that are specified are deviations from the principle of the law, or exceptions to it. First of all, we have the cases of a grandfather and a grand-daughter in verse 10, and of a nephew and an aunt in verses 12, 13, which are beyond the limits to which it is alleged the principle of the law extends. And then we have cases where there is no consanguineous relationship at all, but only relationship produced by affinity, viz., those of a son and a step-mother, verse 8; of a nephew and an aunt-in-law, verse 14; of a father and a daughter-in-law, verse 15; of a brother and a brother's wife, verse 16; of a husband and a wife's daughter, verse 17; and of a husband and a wife's grand-daughter, verse 17. It is utterly vain, therefore, to argue that in this statute the phrase "near of kin" extends only to parents and children, brothers and sisters. If this were the case, then the only marriages we could look upon as forbidden by Moses, in accordance with the fundamen-

tal principle of the law, would be those of parents with children, of brothers with sisters; and all the rest we should be obliged to regard as forbidden on other grounds, of which no statement is made. Now, if the so-called exceptional cases were only one or two brought in after eight or ten normal cases, then it might be conceived that the law-giver had added them on special grounds, though they did not come under the principle of his law; but when they constitute the vast majority of the cases, and are intermingled with the others, this mode of representation becomes quite ridiculous and absurd. And Mr. Sleigh himself seems to have some feeling of this incongruity, for he speaks of the case of a brother's wife as one *sui generis*, as one which we should never have thought of including, judging from the fundamental principle of the law; but it is astonishing he does not see that, according to his view of the principle of the law, almost all the cases are as much *sui generis* as the one he so designates. Only two of them admit of being brought under the principle itself, and all the rest must be viewed as forbidden on other grounds, some of them on grounds of more remote consanguineous relationship than the principle of the law is supposed to extend to, and others on the ground of relationships produced solely by affinity. It is plain, therefore, that if the parts of the law are to hang together at all, what is called the principle of the law must be quite differently understood. The

true view of the subject, beyond all question, is, that the whole of the cases which are mentioned ought to be considered as illustrations of the extent to which kindred should be counted, not, indeed, for all purposes, but for fixing the limits within which marriage is forbidden. In this particular statute it is obvious, from the prohibitions embraced in it, that "near of kin" includes not only parents and children, brothers and sisters, but also grandparents and grandchildren, uncles and nephews; and not only these consanguineous relationships, but also other relationships that result solely from affinity.

Nor can it be said that such relationships of affinity were not held as relationships of kindred at all among the Jews, or conceived in any way to survive the marriages out of which they sprang. That beautiful monument of an early age of Jewish history, the book of Ruth, tells a very different tale. Naomi and Ruth were mother-in-law and daughter-in-law to one another; and Elimelech, the husband and father-in-law, was dead; and Boaz was a near blood relative of the deceased husband and father-in-law Elimelech. Now, did Naomi consider that the relationship between her and her husband's kindred, was destroyed by her husband's death? By no means. Not only she herself, but also her daughter-in-law, at a farther remove, is represented as connected by kindred with Boaz. "And Naomi said unto her, the man is near of kin unto us, one of our next kinsmen"

(Ruth ii. 20). Nor does Boaz repudiate this claim of kindred on the ground that the marriage producing it had been long ago dissolved by death. "And now it is true," he says, "that I am thy near kinsman: howbeit there is a kinsman nearer than I" (Ruth iii. 12). And it is worthy of remark, that all the terms which are employed to describe the relationship of Boaz to Naomi and Ruth, are those which are currently employed to describe relationships of consanguinity. A near kinsman by blood was called גֹּאֵל, and the nearest הַגֹּאֵל, in whom was vested the right of redemption; but Naomi says to Ruth regarding Boaz, he is one of *our* next kinsman, מִגֹּאֲלֵנוּ (Ruth ii. 20). Again, קָרוֹב is of frequent occurrence as denoting a near blood relative, as in Lev. xxi. 2, 3; xxv. 25; Num. xxvii. 11; Deut. xxi. 6; but Naomi says regarding Boaz, he is near of kin unto us, קָרוֹב לָנוּ. The two words also, גֹּאֵל and קָרוֹב, are sometimes combined to designate a near blood relative, as in Lev. xxv. 25; and Naomi uses this combination to describe the relationship of Boaz to herself and to Ruth, in the verse quoted above (ii. 20). Boaz likewise employs the same combination of words in chap. iii. 12, "There is a kinsman nearer than I." גֹּאֵל קָרוֹב מִמֶּנִּי. Now, if we understand Boaz to mean nearer to the deceased Elimelech, then we have Boaz employing the same words to describe a relationship of consanguinity, which Naomi uses to describe a relationship of affinity. On the other hand, if we understand Boaz to mean nearer to

Naomi and Ruth, then we have both Boaz and Naomi employing the same words to designate a relationship of affinity, which, in Lev. xxv. 25, denote a relationship by blood. Again, in Ruth ii. 1, we are told that Naomi had a kinsman of her husband's, מוֹדַע לְאִישָׁהּ; but in chap. iii. 2, Naomi says to Ruth regarding this same kinsman, is not Boaz one of our kindred, מֹדַעְתָּנוּ. It does not admit, therefore, of a moment's question, that the phrase "near of kin," so far from being restricted in the Old Testament to parents and children, brothers and sisters, is applied not only to remoter consanguineous relationships, but also *pari passu* to the corresponding relationships of affinity. And it is also quite clear from the book of Ruth, that Naomi and Boaz were utterly unacquainted with the notion, so much in vogue in our day, that the dissolution of a marriage by death annihilates all the relationships of affinity which have sprung from it. On the contrary, every word they utter seems to imply the principle, that married persons become one flesh to such an extent, that their respective relatives are not only brought into a similar relation to both of them, but even continue so after death has broken the marriage bond. Quite in unison with the representations of the book of Ruth, is the fundamental principle of British law, as expounded by Blackstone. "By marriage," says this illustrious judge, "the husband and wife are one person in law. Upon this principle of an union of person in husband and

wife, depend almost all the legal rights, duties, and disabilities that either of them acquire by marriage. The same degrees by affinity are prohibited. As a husband is related by affinity to all the consanguinei of his wife, and, *vice versa*, the wife to all the husband's consanguinei; for the husband and wife being considered one flesh, those who are related to the one by blood, are related to the other by affinity; therefore a man after his wife's death cannot marry her sister, aunt, or niece."—*Comm.*, book i., chap. 15.

CHAPTER IV.

CONSIDERATION OF THE MOSAIC PROHIBITION REGARDING A BROTHER'S WIFE.

IT is only on account of two of the relationships mentioned in Lev. xviii., that the general principles now laid down have ever been called in question. If the other relationships which Moses describes, such as those of mother and son, brother and sister, had been the only ones spoken of, the permanent obligation of the chapter and its reference to marriage would never have been denied. The marriages, for the sake of which many are willing to sacrifice these important principles—strangely overlooking the fact that, if the sacrifice legitimates the unions which they contend for, it equally authorizes many others which they

would blush to defend—are those of a man to his brother's wife, and of a man to his wife's sister.

The first of these connections is specified by Moses in Lev. xviii. 16, "Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness." Nothing more express or definite could be imagined than this. We have established the permanent obligation of the whole chapter, and we have seen that the prohibitions contained in it, though not referring to marriage only, yet always necessarily imply a condemnation of marriage between the kindred spoken of. And the case at present under review is one of those, in the account of which the phrase "uncover nakedness," which many misapprehend, is displaced in chap. xx. 21, by the word "take," which is the classical Hebrew expression for marriage. Beyond all question, then, marriage is forbidden between a man and his brother's wife. Another man may marry her, but the former husband's brother must not do so, on account of the relationship in which they stand. Not a subsisting marriage, but relationship is the only reason assigned by the legislator.

To this conclusion, however, it has been replied, that the passage speaks not of a brother's widow, but only of a brother's wife; and that, therefore, it must be understood as forbidding connection with a brother's wife only during that brother's lifetime, but not after his death, when the wife has become a widow. This is as frivolous an argu-

ment as could well be imagined; and it manifests the grossest ignorance of the style of expression characteristic of Scripture. The word widow is not of frequent occurrence in the Bible, and where it does occur it always designates the desolate and solitary state of the individual mentioned, but it never indicates simply her relationship to her departed husband. In English, we sometimes, although not with propriety, speak of a man's widow—Mr. Smith's widow, Mr. Brown's widow—but the Bible never adopts this style. Where the fact of a woman's widowhood and solitary helplessness is to be pointed out, she is called a widow, as in the case of the widow woman of Zidon; as in the common expression, the fatherless and the widow; as in the promise, I will plead the cause of the widow. But where a woman's relationship to her departed husband is to be pointed out, there she is invariably designated his wife. Proofs of this position might be exhibited in profusion. "Thou must buy it of Ruth the Moabitess, the wife of the dead" (Ruth iv. 5). "Thou hast killed Uriah the Hittite with the sword, and hast taken his wife to be thy wife" (2 Sam. xii. 10). "The wife of the dead shall not marry without unto a stranger" (Deut. xxv. 5). So after Er's death, mention is made of his wife (Gen. xxxviii. 8). After Saul's death we read of his wives (2 Sam. xii. 8). After Ananias' death, Sapphira is still designated "his wife" (Acts v. 7). After a brother's death is mentioned in Deut. xxv. 6, the surviving wife is still spoken of as the

dead brother's wife. And I will be bold to affirm, that there is not one single instance to be found in Scripture, where a woman is designated the widow of her departed husband, merely to point out her relationship to him. There are only two apparent exceptions to this statement, viz., in Job xxvii. 15, and Ps. lxxviii. 64, but it is only necessary to look at these passages to perceive at once, that the object of them is to describe the survivors as wretched and forlorn. The husbands were wicked men, consigned by God to destruction; and part of their punishment was that the children whom they left behind had no bread to satisfy the cravings of hunger, and their widowed spouses cared so little for them that they shed not a tear in remembrance of them. Nothing, therefore, but the most culpable ignorance could found an argument upon the use of the word "wife" instead of "widow" in the verse at present under consideration. Beyond all question, it is marriage with a deceased brother's wife that is forbidden by Moses.

But, for the sake of argument, let us suppose that wife is employed in this verse as distinguished from widow, and that, consequently, it is only connection with a brother's wife that is forbidden, but not marriage with a brother's widow. Then just look at the frightful conclusions which we are compelled to draw. We must be faithful to our principle. We must not apply it to one verse, and then quietly slip it out of sight, when

we are reading the other verses of the chapter. We must follow its guidance throughout, and we shall soon find that it legalizes far more marriages than any person wishes to tolerate. What says verse 8? "The nakedness of thy father's wife thou shalt not uncover;" but wait till the old man be dead, and then you may marry his widow. What says verse 11? "The nakedness of thy father's wife's daughter thou shalt not uncover, she is thy sister;" but when your step-mother becomes a widow, then the prohibition falls to the ground. So although you are forbidden to marry your son's wife, yet the prohibition supplies no reason why you may not marry her when your son is dead. An uncle's wife, too, is a forbidden object, but an uncle's widow may be married without scruple. Now, are those who advocate the scriptural lawfulness of marrying a brother's widow, prepared to admit the purity and propriety of all these other connections? Are they prepared to petition parliament to legalize the marriage of a man with his step-mother, with his half-sister after their father's death, with his own son's widow, and with his uncle's widow? If they are not prepared to defend these connections, then they must give up the foolish notion that wife is to be understood as opposed to widow in this chapter. This notion will carry them, if they put themselves under its guidance at all, a far greater length than they are disposed to go. Consistency must be preserved in the signification attached to the word

wife in the several prohibitions of the chapter; and this cannot be done without either establishing the propriety of some very monstrous marriages, or conceding that the 16th verse prohibits connection with a brother's wife, whether that brother be dead or alive.

But let us look a moment longer at the proposed method of interpreting the word wife. It is alleged that a brother's wife is forbidden, but not his widow. But surely such a prohibition would be altogether unnecessary. Is it not sufficiently comprehended under the general law relating to adultery, a sin which Moses condemns in most explicit terms, and to which he assigns the punishment of death (Lev. xx. 10). It is one of the greatest enormities to touch the wife of a living man, whether he be a relative or not. And this being the case, what occasion is there specially to forbid intercourse with a living brother's wife? In fact, such a prohibition, accompanied with a statement of the relationship as the ground of it, could only have the effect of weakening the influence of the law against adultery. You must not touch a living brother's wife, he is your own flesh and blood. If he were only a neighbour, it would be a matter of less importance. A series of prohibitions, all forbidding intercourse with the wives of certain relatives, and stating their relationship as the reason, would inevitably leave the impression upon the mind, that if in sinning you kept outside of the limits specified, and took the wives of men

who were not related to you at all, you would not be on very dangerous ground.

Nay, not only would the passage before us, interpreted as our opponents view it, seem to afford encouragement to adultery, or, at least, to diminish its apparent evil, but it would also most certainly legalize polygamy to women. For we have seen that in chapter xx. 21, where the same relationship as in xviii. 16 is spoken of, the classic word for marriage is employed. Now, if we must suppose the first brother to be still alive, and the relationship of the other brother to him to be the reason why marriage with his wife is forbidden, then would it not follow that, if the relationship were more remote, or if there were no relationship at all, a man might marry his living neighbour's wife, and both of them might have her in common? You are not to marry your living brother's wife, he is your brother; but you may marry your neighbour's wife, and possess her in common with him. That woman, therefore, would lawfully have two living husbands, both exercising all the rights of husbands. It is believed by many that polygamy, in the case of men, was tolerated or winked at by the Mosaic law; but it has never been imagined that polygamy in the case of women was allowable in any circumstances. But on the principle which we are now opposing, it would be as fair an inference, from the 16th verse, that polygamy was allowed to women, as it is from the 18th, that polygamy was allowed to men.

The 18th verse says virtually, according to the view of our opponents, you are not to take a wife to her living sister, but you may take another, who is not her sister. Now, if the 16th verse says that a woman is not to be married to the brother of her living husband, does not this equally imply that she may be married to an additional husband who is not related to the other? The two conclusions are identical, in so far as regards coherence with their respective premises. Whatever countenance the 18th verse may be supposed to give to polygamy in the case of men, the very same countenance does the 16th give, if it be only a living brother that is spoken of, to polygamy in the case of women. Both sexes have only to take care that the second spouse be not too nearly related to the first, and then the woman may have two husbands living with her at the same time, as well as the man two wives. This was the law of Moses, if wife is to be understood as distinguished from widow in this chapter. But the idea of a woman having two living husbands is monstrous. This is a species of polygamy which the most degraded nations have held in abhorrence. "The latter of these two," says Taylor, "πολυανδρία, was never thought of, or put in practice by the most barbarous nations of antiquity, many of whom, however, indulged in the other sort of polygamy, and allowed an unlimited number of wives."*

* Taylor's *Elem. of the Civil Law*, p. 339.

Another argument, which demonstrates that the brother's wife here spoken of must be viewed as a widow, may be grounded upon the vast difference between the punishment assigned to adultery, and that with which the taking of a brother's wife was to be visited. Both were offences of high criminality. The taking of a brother's wife is designated an unclean or abominable thing. Yet the punishment of adultery was vastly more severe. The adulterer and the adulteress were both to be put to death, without mercy, Lev. xx. 10; whilst of the brother and the brother's wife, it is simply said, they shall be childless (Lev. xx. 21). Now, is it possible in these circumstances for any man to entertain the belief, that the first brother was conceived to be still alive? Why, in this case there would have been adultery, aggravated by the additional guilt mentioned in the verse, of uncovering a brother's nakedness. Were adulterers, then, to be put to death; but if they added incest to adultery, were their lives to be spared? This were indeed most marvellous legislation. For one crime no mercy, but add another to it, and the stroke of vengeance shall be greatly mitigated. Would not this be a bounty upon crime? For adultery you must die, but if the adultery be committed with a brother's wife, not a hair of your head shall fall to the ground. This is a piece of unmitigated absurdity. It is sheer folly to contend that the brother's wife spoken of by Moses was not a widow.

These several considerations place it beyond the possibility of doubt, that it is the relict of a deceased brother that is spoken of in Lev. xviii. 16. Indeed, the usage of the Hebrew tongue, of which so many examples have already been adduced, settles the import of the word "wife" in a connection like the present, independently of all other considerations. And, therefore, it is clear as daylight, that marriage with the wife of a deceased brother, stands condemned in the Word of God as an immorality (Lev. xx. 21). The unreasonableness of the objection, that there is no reference at all to marriage in any of the prohibitions embodied in this chapter, has already been considered; and it has been shown, that what is forbidden, is intercourse between the persons specified, whether in marriage or out of marriage. And if marriage with a brother's wife was an immorality, an unclean and abominable thing, when entered into by Jews, it is equally an immorality in all countries and ages of the world. The permanent and universal obligation of the prohibitions contained in the Mosaic code of incest, has been shown by a variety of considerations. The connections forbidden by Moses were viewed by God as constituting ground for a charge of wickedness, even against the Canaanites, and that, too, before the promulgation of the Mosaic law at all. In all the things specified by Moses, the Canaanites had transgressed, and, therefore, God abhorred them as vile and filthy

sinners. If marriage, then, between a man and his brother's wife was denounced as a wickedness among the Jews, and was charged as an immorality against the Canaanites, much more, without doubt, is it deserving of reprobation among those who enjoy the exalted privileges of the gospel. It is one of those things which ought not once to be named amongst Christians.

CHAPTER V.

BEARING OF THE LEVIRATE LAW IN DEUTERONOMY UPON THE GENERAL LAW IN LEVITICUS.

To the conclusion, regarding the criminality of marriage with a brother's wife, so indisputably grounded in Lev. xviii. 16, it is frequently urged as an objection, that God himself, as we read in Deut. xxv. 5, commanded one brother, when another had died without children, to marry his wife, for the purpose of raising up seed to his brother, and thus preserving his name in Israel. Here, it may be remarked in passing, we have a striking instance of the invariable use of the word wife, already contended for; the relict of the deceased brother is not called his widow, but his wife, and she never is called his widow, but always his wife. To proceed, however, the point of the objection made to our argument is this, that God never

would have permitted, in any case, the marriage of a man with his deceased brother's wife, if such a connection had been in itself a sinful thing. Would God authorize a man to commit sin? And forthwith it is concluded, that a brother's wife is in all cases just as legitimate an object of love as any other woman, and the plain, undeniable sense of Lev. xviii. 16, is set aside. Whereas, it is obvious that, if the objection were a sound one, and fairly put, then the inevitable conclusion would be, that Leviticus and Deuteronomy contradicted one another; for the permission or command is not more plainly expressed in Deuteronomy than the prohibition is in Leviticus. It should be remembered, too, that in Lev. xx. 21, marriage with a brother's wife is expressly designated an unclean thing, נִדָּה, a word which Gesenius explains by "abominatio, impuritas," stating, at the same time, that it is used "de peccato quodam nefando, ut incestu."

The objection, grounded upon Deut. xxv. 5, to the conclusion drawn from Lev. xx. 21, regarding the unlawfulness of marriage with a brother's wife, is not one that has the weight of a feather; and it is astonishing that men of judgment and sense should allow themselves to be misled by it. It may be repelled in two ways, either of which alone is sufficient to demonstrate its hollowness. First of all, I solicit attention to the distinction between the more fundamental principles of morals and the less fundamental principles of

morals—the distinction between those principles which have their foundation in the nature of the Divine Being, and those which have their foundation in the will of the Divine Being. Principles of the former kind are such as those mentioned by our Lord, the two great commandments on which hang all the law and the prophets; thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy strength, and with all thy mind; and thou shalt love thy neighbour as thyself. Now these principles are absolutely immutable. Even God himself—I speak with all reverence—cannot alter or suspend them. The Sovereign of the universe cannot make it to be right for a man to hate his Creator, or to hate his neighbour. But when we come down to particular applications of the great general principles of morals—when we come to those minuter regulations which God has been pleased to appoint for the guidance of his creatures—the case is widely different. They are what they are, just because God has willed it so. That is the highest reason we know, or need to seek for their existence; and God might have so constituted society, that very different regulations would have been proper and requisite. For example, society is so constituted, not by any necessity inherent in the nature of things, but by God's will, that each individual is required to labour within a definite sphere, and is permitted to enjoy the fruits of his own labour. Private property, therefore, is at present a right

thing; but God might make such arrangements, that private property would be a wrong thing; and there is reason to believe the time will come, possibly even in the present world, but certainly in the future, when there shall be no private property at all, but when the very idea of it shall be a sin. It is right at present; but some day soon it will be wrong. Then again, the relation between the sexes is the result of God's will or positive appointment. He has made it what it is, and it is his will that must dictate the rules for their intercourse. He might have made the relation different. He might have created two women for every man; or he might have varied the relation in many different ways, and whatever he chose to command, would have been right. Not that God's commands are ever arbitrary. They are always conformable to the nature of things; but the nature and order of things are themselves of God's appointment. What he chooses to command in any given relation is our highest rule; and if he varies the command in altered circumstances, our duty varies accordingly. A thing may be right to-day, when God commands it, and wrong to-morrow, when God forbids it. It may be right in one man, who has God's sanction, and it may be wrong in another, who has God's prohibition.

Many illustrations of these principles might be brought forward. Theft is undoubtedly a sin. To borrow with the purpose of not returning is a

very grievous offence. To flee from a place, carrying away what does not belong to you, is a gross immorality. Yet God commanded the children of Israel, when they were preparing to flee from Egypt, to borrow every man from his neighbour, and every woman from her acquaintance; and they did so, and they departed laden with the spoils of the Egyptians. Was this a sin in the Israelites? Was it wrong in God to give them such a command? God forbid that any of us should think so. But if the Israelites had done what they did without express divine authority, they would have been thieves, and robbers, and swindlers. Again, murder is undoubtedly a sin. To take away the life of another, who is not harming us, is a grievous offence. To kill a man, with the view of seizing his possessions, is murder and robbery combined. But God commanded the children of Israel to march against the Canaanites, to put them indiscriminately to death, and to take possession of their entire country. Was it a sin in the Israelites to do so? And was it wrong in God to give them such a command? Nobody but an infidel will admit such a thought into his mind. The children of Israel acted with perfect integrity in the matter, and their conduct was well pleasing to a God of infinite holiness. But if they had attacked the Canaanites of their own accord—if they had marched against them without any authority from God, they would have been acting the part of murderers and plunderers.

These are cases which make it clear and undeniable that God may at one time issue a command directly in the teeth of what he has given forth at another; that he may lay down a general principle, and in particular cases suspend the obligation of that general principle, and authorize what is in direct contradiction to it. And in both cases we act rightly when we follow God's direction. The very same action may be right or wrong, a sin or a virtue, just according as God has forbidden or authorized it. Now, apply these principles to the prohibition regarding marriage with a brother's wife: the general law is, You are never to touch her, it is abomination. But under the old economy there was a special case, where, for a special purpose connected with the distribution of inheritances among the Jews, it became not only allowable, but a duty to marry the wife of a brother who had died childless, and whose name would otherwise have perished from the land. The general law was binding in all cases but one. In that one case an act became right which in other circumstances would have been wrong, just as the plundering of the Egyptians and the extermination of the Canaanites were commendable deeds when they were commanded, but would have been infamous villanies if done at the mere will of the Israelites themselves. It is perfectly childish to argue, from the exceptional case in Deuteronomy, that the thing there permitted in given circumstances cannot be wrong in any cir-

cumstances whatsoever. Conceive a child put into a garden. He is told he is not to enter into a certain arbour which is pointed out to him. Afterwards, however, he is told he may go into that arbour if heavy rain should come on. Now, just think of the boy reasoning thus with himself: The permission to go into this arbour at all clearly shows that there is nothing wrong in the thing considered in itself; and therefore I may enter it at all hours, whenever it strikes my fancy. Could the dullest boy in existence deceive himself by this argumentation? But this is the miserable logic by which an express law of God is to be set aside—a law as plain and explicit as any commandment within the whole compass of the sacred oracles. "Thou shalt not uncover the nakedness of thy brother's wife—it is an unclean thing."

The objection to the idea of there being any sin in marrying a brother's wife, drawn from the exceptional case mentioned in Deuteronomy, may be repelled in another way. A parallel case, of precisely the same nature, having reference to the intercourse of the sexes, may be adduced. Every man will allow that the marriage of a brother with his own sister, of two persons who are the children of the same parents, is a most wicked marriage. It is incest, if there be such a thing as incest at all. Two persons so circumstanced would be excluded from the fellowship of every Christian church in the world. Yea, they would be driven from the society of savages. Universal execration

would dog their steps wherever they went. Yet there was a time when God commanded brothers and sisters to marry one another, and when, consequently, it was perfectly right and proper for them to do so. How many Adams were there? Only one, all orthodox Christians believe. How many Eves were there? One Eve to the one Adam. One man and one woman were the root of the whole human race. It is regarded as a very grave heresy to say there were two pairs originally created. Well, did not God say to Adam and Eve, "be fruitful, and multiply, and replenish the earth"? But was not this a positive command to the children of Adam and Eve to marry one another? Beyond all possibility of doubt it was. Cain, and Abel, and Seth, and whatever other sons Adam had, were commanded to marry their own sisters; and their conduct in doing so was perfectly blameless; and if they had not done so they would have been resisting God's will, and the human race would have died out immediately. Now, if it be said that the command in Deuteronomy, to marry the wife of a deceased brother in certain specified circumstances, demonstrates that there could be nothing sinful in such a connection in any circumstances, equally may it be affirmed that the command to Cain, and Abel, and Seth, to marry their own sisters, makes it obvious that the marriage of a brother with a sister is not in itself a sinful thing. The one conclusion is just as valid as the other. They are identical in so far

as connection with their respective premises is concerned. But they are both miserable sophisms. The marriages of Cain and Abel were right, because God commanded them; but the marriages of brothers and sisters now are wrong, because God has forbidden them. So the marriage of a Jew with his childless brother's wife was right, because God authorized it; but it was wrong in all other circumstances, and it is wrong now, because God has utterly forbidden it. The whole case is transparent as day.

Our opponents themselves, when it suits their own purpose, can allow that a thing may be sinful at one time, and yet not sinful at another. They allow this with regard to polygamy. They say polygamy is now a sin, and a sin, too, of gross turpitude; and yet they maintain that God sanctioned polygamy among the Jews of old. The lawfulness of polygamy is confessedly implied in the view they take of Lev. xviii. 18, the verse regarding two sisters, to which we shall come immediately. Now, how is this consistent with their own reasoning, from the passage in Deuteronomy? The principle they hold by there is, that what God has at any time sanctioned, cannot be in itself sinful. Well, if God ever sanctioned polygamy, then they must hold it to be at all times a sinless practice, as lawful to us now as ever it was in any age of the world. If, on the other hand, they say that polygamy is now sinful, then their own principle compels them to acknowledge

that it cannot be sanctioned in the famous verse about two sisters, and that, consequently, their whole interpretation of that verse falls to the ground. Their principle shuts them up to one or other of these alternatives. Not so, however, ours. We can imagine that God might in one age tolerate the practice of polygamy, and in another utterly forbid it; and that, consequently, in the one case it would be altogether free from blame; and in the other be an act of undoubted wickedness. But all those who argue in the manner above described, from the exceptional case in Deuteronomy, are bound, by their own principle, either on the one hand to maintain the Scriptural lawfulness of polygamy to the end of the world; or, on the other, to confess that there can be no sanction of polygamy in Lev. xviii. 18, and, consequently, no warrant for the successive marriage of sisters. They may take either alternative they please, and either the one or the other will perfectly subserve the interests of my argument.

Another proof of the folly of inferring, from the Levirate law in Deuteronomy, that marriage with a brother's wife ought not to be considered sinful in itself, may be drawn from the effect which this view necessarily exerts upon all the other prohibitions of the law of incest. For when Moses says, in chapter xviii. 16, "Thou shalt not uncover the nakedness of thy brother's wife;" and in xx. 21, "It is an unclean thing;" if it be a fact that, notwithstanding these words, there is

no sin in marriage with a brother's wife, then it must equally be a fact that, notwithstanding the use of the same expressions in verses 7, 9, 10, &c., there can be no sin in marriage with a mother, or a sister, or a grand-daughter. If the words, "Thou shalt not uncover the nakedness of," do not, in verse 16, designate anything that is sinful in itself, then on what principle can it be maintained that these words designate what is sinful in the other verses? They either mark out a sinful action, or they do not. If they do, then marriage with a brother's wife is sinful; if they do not, then marriage with a mother, or a sister, or a grand-daughter, is altogether free from blame, so far as we can gather from the Word of God.

There is another consideration of some little weight. It is commonly supposed that, because Deuteronomy is the last book of the Pentateuch, therefore the Levirate law was posterior to the law in Leviticus regarding a brother's wife, and is to be considered as a partial suspension of that law. I am rather disposed to agree with those who think that the Levirate law existed as a custom long before the days of Moses; and, therefore, instead of viewing it as a suspension of the Levitical prohibition, I rather consider the Levitical prohibition as a restriction designed to check the evils which had grown out of an abuse of the old custom. That custom is allowed to continue, and sanctioned; but all other connection with a brother's wife is expressly forbidden. In all cases

but the one specified, it is denounced as an unclean and abominable thing. And this view best harmonizes with the great fact, to which it is impossible to shut our eyes, and to which we shall have occasion to refer afterwards, that from the days of Adam downwards, there has been a gradually increasing stringency in the laws relating to the intercourse of the sexes. Not increasing liberty in this respect, but increasing restraint, is the prominent feature of all God's legislation.

If any think it strange that God should both lay down a general law forbidding marriage with a brother's wife, and should also sanction a departure from that law, in a specified case, the only reply we need make is, that we are not bound to account for the apparent discrepancy. *There* is the law, and *there* is the exception, both clear as noonday, and both having the seal of God affixed to them. It is not difficult, however, to perceive reasons why, even on the principle of the general unlawfulness of marriage with a brother's wife, the permission of this connection, in the particular case specified in Deuteronomy, should not be productive of any evil. What is the reason in nature, or the ground upon which it has been judged requisite to restrict marriage within certain limits? Why is there such a sin as incest at all? It is commonly understood that the reason for branding certain connections with a peculiar stigma, lies in the intimate familiarity which obtains between near friends, and in the innumerable oppor-

tunities which they would have for improper freedoms, if certain limits were not prescribed, beyond which it was considered abominable and detestable to go. The only safety for society, the great bulwark against a total degeneracy of manners, lies in its being universally understood and felt, that certain connections are an utter abomination, and not for one moment to be thought of. How could brothers and sisters be brought up together from infancy, while yet the character was not matured and established, if their connection were not considered, in the smallest degree more sinful and base, than the connection of any other males and females in the world. This is the secondary ground or reason why it was requisite there should be a law of incest at all; and on this ground, even in the absence of all revelation, every well-governed nation would require to establish some law of incest; and every nation has, in fact, done so, to a greater or less extent. The heathens, Paul tells us, considered some connections vile. Now, keeping this reason for a law of incest in view, we see at once why no damage could ensue from the special exception made in Deuteronomy. The connection of a man with his brother's wife was a forbidden connection, like a number of others; and, therefore, the parties might meet with the closest familiarity as friends, without any impure idea being for a moment suggested in any circumstances, because a marriage connection was not for a moment to be

thought of. There was only one single position of circumstances where such a marriage could take place. But so long as the first brother lived, these circumstances could not possibly arise. It could not be known that a man would die, and leave a childless widow, till some considerable time after his death. The exception, therefore, made to the general law, was not of a kind to interfere with the purposes which that general law was intended to serve.

But whether these considerations go any length or not in showing that the exception made in Deuteronomy would not interfere prejudicially with the purposes of the law laid down in Leviticus, they are not at all necessary to our argument. They are a digression. We are not bound to account for the singularities of the law. Our sole purpose is to show what the law was, and the conclusion, we maintain, stands impregnable, that the marriage of a man with her who had been the wife of his brother is expressly reprobated in the Word of God as an unclean or abominable thing. Such a marriage was one of those misdeeds which, even as practised by the Canaanites, was viewed by God with abhorrence, and formed part of the ground of their extermination; and it must be still more abominable under the purer and more perfect dispensation of the gospel. The exceptional case mentioned in Deuteronomy never interfered, even in the times of the old covenant, beyond a definite point, with the obli-

gation of the general law; and the exceptional case now has no existence, for it was connected with the Jewish distribution of property, and the division of the people into tribes and families with their several distinct inheritances. The marriage of a brother's wife, then, is utterly opposed to that permanent law of morality, which has existed from the earliest times, which was obligatory upon the Canaanites, and which is embodied in the Gospel of Christ. The command forbidding such a marriage is as binding upon Christians, as the command forbidding adultery. By no principle can the eighteenth chapter of Leviticus be excluded from forming a part of Christian law, which will not equally shut out the twentieth chapter of Exodus, where the ten commandments are detailed. There is as little of a ceremonial or political character in the one as in the other; and if any part of either has been abolished or modified, this must be proved from the New Testament. Less strictness than is enjoined in these chapters with regard to moral conduct cannot be obligatory upon Christians; although it is quite conceivable that more purity and more self-denial may be required by the precepts of the Gospel.

CHAPTER VI.

CONSIDERATION OF THE QUESTION WHETHER THE LAW IN LEVITICUS INCLUDES ANY CASES BESIDES THOSE WHICH ARE EXPRESSLY DESCRIBED.

BEFORE proceeding to the other case, which has been so much disputed of late years, viz., that of marriage with a deceased wife's sister, there is a question which it will be of some importance to consider, viz., this, whether those relationships only which are actually specified by Moses are to be considered as coming under the operation of his law, or whether its prohibitive influence extends to other relationships which are perfectly analogous and equally near. It is a favourite maxim with many, with all, in short, who are desirous of relaxing the marriage law as it exists in Britain, that we must confine our attention to the relationships which are specifically mentioned in Leviticus, and that we must consider all others of which nothing is said, as offering no bar to marriage. We must not apply a prohibition to any relationship, but the one expressly described, although there may be another which stands perfectly upon a par with it as to nearness.

Now, we at once demur to the soundness of this principle, and we maintain that it cannot be carried out. It may seem very plausible to many, and not a little serviceable when it is applied, to bar all reasoning from the case of

a brother's wife to that of a wife's sister; but let its soundness first be tested by applying it to some other cases, and it will turn out rotten to the core. If all relatives are to be considered at liberty to marry who are not expressly forbidden to do so, if a prohibition with regard to one relationship is to be viewed as having no reference at all to another exactly the same in point of nearness, then we shall be driven to conclusions which are altogether untenable and absurd, and we shall be obliged to legalize some marriages which are utterly revolting to human nature, and which even savages would condemn. For example, a mother and a son are expressly forbidden, in Lev. xviii. 7, to have any connection with one another; but there is not a word uttered with regard to a father and a daughter. For although the nakedness of a father is mentioned in this same verse, it is not anything supposed to take place between a father and a daughter that is alluded to, but only between a mother and a son. It is allowed on all hands, that the prohibitions of this chapter regarding the intercourse of the sexes are addressed to men only. They have reference to women, but it is to men they speak. And when the nakedness of a man is mentioned as uncovered, it is not his own that is meant, but the nakedness of his wife. In verse 14, the nakedness of an uncle is thus explained:—"Thou (a nephew) shalt not uncover the nakedness of thy father's brother, thou shalt

not approach to his wife, she is thine aunt." So in verse 8, the nakedness of a father is explained as meaning the nakedness of his wife. "The nakedness of thy father's wife shalt thou not uncover: it is thy father's nakedness." And the same is the meaning of the phrase father's nakedness in verse 7, where both nakedness of father and nakedness of mother are mentioned; but in the original they are coupled together by the common copulative conjunction—"The nakedness of thy father, *and* the nakedness of thy mother, shalt thou not uncover; she is thy mother; thou shalt not uncover her nakedness." This is addressed only to a son, and the nakedness of both parents is mentioned to indicate to the son that, by dishonouring his mother, he would equally, at the same time, dishonour his father, whether he were dead or alive. Not a word is spoken to a daughter, and not a word is spoken to a father with reference to a daughter. Nowhere is a father forbidden to uncover the nakedness of his daughter. Now, will any person have the hardihood to affirm that, because this connection is not expressly forbidden in the law, therefore it is sanctioned, or left to the option of the parties? Yet, if it be true that no prohibition in this law extends beyond the precise case that is described by the legislator, it is impossible to avoid the conclusion, that a marriage between a father and a daughter is a perfectly scriptural marriage, and as free from stain as any marriage that could be

contracted. It is not expressly forbidden in any part of Scripture. And it can only be included among prohibited marriages, by supposing that the prohibition of marriage between a son and a mother implies the prohibition of marriage between a father and a daughter, on the ground that the one relationship is identical in point of closeness with the other. Deny the validity of this ground, lay down the principle that no prohibition extends to cases of similar relationship, and then the marriage of a father with his own daughter must be legalized, whilst that of a son with his mother is denounced as incestuous. In my view, this one conclusion furnishes irresistible evidence that each prohibition must be viewed, as extending to all cases where the relationship is quite the same.

With regard to the omitted case of a father and a daughter, it has been said that it so obviously comes under the principle of the law, the parties being near of kin to one another, that there was no occasion to make special mention of it at all. But are not a mother and a son just as near, and as obviously near, as a father and a daughter? Why, then, are they mentioned? And how is the mention of the one relationship and the omission of the other consistent with the principle, so warmly maintained by our opponents, that in not one single case are we warranted to add to what is expressly specified by Moses, but must take the law as we find it? If it be said,

father and daughter certainly ought not to marry, is not this adding a case to the Mosaic list of prohibitions? If we have no authority to add one case, then are we not obliged to legalize the marriage of father and daughter? If we may add to the law a prohibition of this marriage, then the alleged completeness of the Mosaic list of cases is abandoned; and why may we not add other cases, where the propinquity is the same as in cases actually specified. The case of father and daughter shows that additions to the Mosaic table are not only warrantable, but absolutely indispensable; and if we are to supply cases, what other guide can we have in doing so, but a reference to the degrees of propinquity, which are actually exhibited as grounds of prohibition?

But the case of father and daughter is not the only one, where it is impossible to doubt that the prohibition laid down by the legislator extends farther than the individual case described. In verse 10, a grandfather is expressly forbidden to have any connection with his grand-daughter, but not one syllable is uttered regarding a grandmother and a grandson. Now, on the principle which we are opposing, that it is only cases mentioned in express terms which are to be considered as decided by the law, we are shut up to the conclusion that, while grandfather and granddaughter are forbidden objects to one another, it is altogether different with grandmother and grandson. It is to no purpose to say, as may

easily be done with a sneer, that grandmother and grandson are not very likely to fall in love with one another, and that, therefore, it was needless to forbid the connection; for the likelihood of a grandfather and a grand-daughter desiring to be knit together in the bonds of wedlock, must be allowed to stand very much upon a par. But whether the one likelihood be more or less than the other is a very frivolous and irrelevant question. The great point is this, that were a grandmother and a grandson, for any reason of interest, deciding on a matrimonial union, however ill-assorted and ridiculous a connection we might call it, we could not say that it was expressly condemned in Scripture, and we would not be warranted to charge them with any fault; whilst in similar circumstances we would denounce a grandfather and a grand-daughter as guilty of very gross incest. Now, can any person really believe that God tolerates the one of these connections, but forbids the other? We can only, however, place them both in the same category, by supposing that the prohibition made with regard to the one is to be held as extending to the other, on the ground of the perfect identity of relationship. This case also, therefore, furnishes another conclusive evidence that we are not only warranted, but compelled to extend each prohibition to those cases which are quite analogous.

I may mention another case of the same kind. A nephew and an aunt are expressly forbidden,

in verses 13, 14, to have any connection with one another; but not one syllable is said about an uncle and a niece. Can any person imagine that marriage in the one of these relationships is an abomination, and in the other an honourable and religious tie? What possible reason can there be for allowing the uncle and the niece to do as they please, whilst the brand of incest is affixed upon the aunt and the nephew? The only rational escape from this perplexing inconsistency is afforded by the principle, that each prohibition includes not only the case specifically described, but also other cases where the relationship is exactly the same in point of closeness. The ruled case of nephew and aunt determines also the omitted case of niece and uncle. It is this principle only that will account for the singular omissions manifest throughout the whole chapter. Set aside this principle, and then some of the most monstrous marriages which it is possible to imagine must be legalized. We must pronounce the marriage of an uncle with a niece, of a father with his own daughter, and of a grandmother with her grandson, to be all honourable and religious connections.

Other cases of the same kind might be mentioned. An aunt-in-law and a nephew-in-law are expressly forbidden, in verse 14, to marry, but nothing is said of an uncle-in-law and a niece-in-law. And even with regard to the former relationship of affinity, it is only when it is constituted through one's father that it is expressly mentioned as a

barrier to marriage. A father's brother's wife is forbidden to a man, but no reference is made to a mother's brother's wife. Now, can any person imagine that it is wrong to marry a father's brother's wife, but right to marry a mother's brother's wife? Or can any person suppose that while aunt-in-law and nephew-in-law are forbidden to one another, uncle-in-law and niece-in-law may quite honourably enter into the bonds of matrimony?

To the idea that any marriages are to be considered forbidden, excepting those which are expressly mentioned, it has been objected, that if the law had been constructed upon the principle of inclusion, then never would there have been two relationships both specified as forbidden, when the prohibition of either could have been inferred from the other. Now, doubtless, there is some force in this objection. Still it is of no weight as compared with the argument on the other side; for if we adhere to the principle of regarding as prohibited only those relationships which are actually specified, excluding from the law others of equal nearness, then we must legalize the marriage of an uncle with a niece, of a father with his own daughter, and of a grandmother with her grandson, connections which are not for a moment to be dreamed of. Is the difficulty on the one side, of an alleged unnecessary minuteness of statement in some cases, to be compared for a moment with the difficulty on the other, of being

obliged to admit these monstrous conclusions? With regard to the few cases where both of two perfectly analogous relationships are specified, it is a sufficient reply, over and above the enormous counterbalancing difficulty on the other side, that abundance of the law does not break law; and, in fact, there was a propriety in presenting one or two specimens of both aspects of a case, as the intended implication of cases was not formally stated. It was only said in verse 6, that nearness of kin was the barrier to connection, and though there is not much difficulty in perceiving when two relationships are the same in point of nearness, yet it conduces to the clearness of the law to have some of the cases stated both ways. Nor is there any ground for saying that it is only where such double statement is actually made, that we are warranted to suppose a twofold prohibition was intended; for it is a remarkable fact, that where double statements are made, they are not made with regard to the nearest relationships, but only with regard to some of the more remote ones. If both mother and son, and father and daughter, had been expressly forbidden to intermarry, whilst only step-mother and step-son had been placed under prohibition, but step-father and step-daughter had been omitted; then it might have been said, with some show of plausibility, that the last relationship was left out, because it was intended to be left free. But when the very reverse is the case, when both step-mother and step-

son, and also step-father and step-daughter are expressly forbidden to marry, whilst only mother and son are forbidden, without anything being said of father and daughter, we are shut up to the conclusion that the double statement in the former case is designed as a specimen of the mode in which the prohibitions are to be applied to analogous cases; and, accordingly, we unhesitatingly apply what is said with regard to the step-parents and the step-children of both sexes, to the actual father and mother, and to the actual sons and daughters.

And besides the general propriety of stating some of the cases doubly, as specimens of the mode of applying the principle of nearness of kin, there might be special reasons, in the previous habits and history of the Jews, for mentioning both aspects of some particular prohibitions rather than others. In Lev. xviii. 9, 11, a man is forbidden to marry his sister, whether full or half, and whether she be the daughter only of his father, or the daughter only of his mother. Now the reason for this minuteness of specification might be, that Abraham had married his sister, the daughter of his father, but not the daughter of his mother (Gen. xx. 12). Henceforward such a connection was to be utterly shunned, and nothing like it was to be entered into by any. Again, in verses 12, 13, a father's sister is forbidden to a man, and then also his mother's sister, which, it is said, is a needless repetition, if analogous cases are implied. But the reason for the minuteness of

statement here exhibited, might be that the father of the Jewish legislator himself had married in the way here condemned (Ex. vi. 20); and, therefore, to prevent the influence of such an example from leading any astray, the prohibition is worded with special fulness. Besides, each of the two cases implies another case. The first case, viz., that of a son and his father's sister, has analogous to it that of a daughter and her father's brother, and the second, viz., that of a son and his mother's sister, has also the corresponding case of a daughter and her mother's brother. And on this account there was a propriety in mentioning both the cases that are stated in verses 12, 13.

Another case of supposed needless repetition is found in verses 10 and 17, in one of which a grand-daughter is pointed out as a forbidden object, and in the other a wife's grand-daughter. But these are not analogous cases at all. The one is a relationship of consanguinity, and the other of affinity. If, indeed, it had been declared in so many words that consanguinity and affinity were to be considered upon a level, as barriers to marriage—if it had been said that the nearness of kin mentioned in verse 6 extended equally to a man's own kindred, and to his wife's kindred, then we could have inferred the matter of verse 17 from what is said in verse 10. But those who hold that consanguinity and affinity constitute equal obstacles to marriage, do not set out from this as a first principle, nor do they

even conceive it to be obviously implied in verse 6; but they reach it as a deduction at the end of their inquiries, in consequence of finding that the prohibitions laid down refer *de facto*, just as frequently to affinity as to consanguinity; and mark out the one to just as remote limits as the other. That affinity and consanguinity should occupy the same place in a marriage law, is not a deduction from the principle exhibited in verse 6; but it is a deduction from the series of particular cases adduced as examples by Moses; and the fact that, in verses 10 and 17, a grand-daughter and a wife's grand-daughter are both specified, is one of the proofs of the conclusion so drawn. So far is verse 17 from being unnecessary, on the principle of the equality of consanguinity and affinity, that it is one of the leading arguments in support of that principle. Cut out verse 17, and you so far weaken the evidence of the principle in question.

The conclusion, then, we think, stands impregnable, that the prohibitions embodied in Leviticus xviii. must be viewed as including not merely those cases which are specifically described, but others also, where the relationship is exactly the same. Deny this, and you are under the necessity of admitting some of the most shocking marriages which it is possible to imagine. It has been argued against the extension of the Mosaic prohibitions to any cases but those specified, that the omissions which strike us

as anomalous, are to be accounted for on the ground of the different positions occupied by the two sexes in ancient times. Things were permitted to the one which were not permitted to the other; and, in short, throughout the marriage law of Moses, the feelings of the male sex only were consulted, and not those of the female at all. Now, even supposing that this theory fully accounted for all the omissions observable in Leviticus, which it by no means does, we should still be warranted to conclude, that under the New Dispensation, where male and female are all one in Christ, the distinction in favour of the stronger sex had ceased, and that consequently any cases, omitted on account of ancient disregard of female feeling, ought now to be supplied, in conformity with the more equal and elevated spirit of the Gospel. It could hardly be maintained that a marriage law was right in our day, which professed to be grounded upon a disregard of female feeling. But this theory does not even meet the exigencies of the case, as it is exhibited in the code of the Jewish legislator. Will any man maintain that, while a son was forbidden by Moses to marry his mother, a daughter was left at liberty, on account of the difference of sex, to be married to her father? But, unless it was so, the theory is not worth a straw. If it was so, then certainly the theory is a sound one; but let those who employ it in defence of marriage with a wife's sister, have the candour to acknowledge

that it equally sanctions marriage between a father and his own daughter. On the other hand, if father and daughter were not allowed, any more than mother and son, to be united in marriage, then it is undeniable that there were cases omitted from the Mosaic code which were as really contemplated by that law as others that are expressly described, and of course the proposed explanation of omissions falls to the ground.

But there is another consideration equally fatal to the theory under review. The omitted cases, supposed to be left out on the ground of disregard of female feeling, are not always similarly related to the different sexes, and this single circumstance overturns the whole hypothesis. Marriage between a mother and a son is expressly forbidden, but nothing is said about a father and a daughter. With regard, however, to the grandparents and the grandchildren, whilst there is also one of the two possible combinations left out, it is not the corresponding one, but the reverse. The grandfather, and the grand-daughter are expressly forbidden to intermarry, but not a word is uttered against the union of the grandmother and the grandson. Now, why should mother and son in the one case, and grandfather and grand-daughter in the other, be the parties that are specified, whilst it is father and daughter that are omitted in the former case, and grandmother and grandson that are omitted in the latter? If any greater consideration be shown for either sex in the one

section of the law, the very same preference is manifested for the other sex in the other. The only escape out of this labyrinth of perplexity and confusion, is the adoption of the principle, that a prohibition with regard to one relationship, must be held as applying to another when it is exactly the same in point of nearness. Admit this principle, and it is at once perceived to be a matter of indifference which of two similar cases be expressly specified, for the settlement of either determines the other. But deny this principle, and then it is impossible to explain why, in the case of parents and children, mother and son should be mentioned, and father and daughter omitted; whilst in the case of grandparents and grandchildren, the position of the cases is just reversed, grandfather and granddaughter being laid under restriction, but grandmother and grandson left to do as they please.

In addition to these considerations, it is no small argument in favour of the idea that the analogous cases must be considered as included under those actually specified, that this view recommends itself to the common sense of mankind. A law constructed upon the principle of forbidding marriage between certain relatives, and tole rating it between others, where the propinquity was quite the same, would not command respect, nor carry along with it the moral convictions of society. This is apparent from the unhesitating manner in which all persons, when

their attention is first turned to this subject, reason from the case of a wife's sister to that of a brother's wife, and *vice versa*, as also from the case of aunt and nephew, to that of uncle and niece. What surprise and bewilderment are exhibited when the idea is first suggested, that in one of each of these pairs of cases, marriage may be right, whilst in the other it is wrong? Every person who has conversed with others to any extent upon the present aspect of the marriage law controversy, must have observed that the feeling instantly springs up in every mind, that wife's sister, and brother's wife, must of course be placed upon the same footing; and that whatever it be right or wrong for aunt and nephew to do, the same must also be right or wrong in the case of uncle and niece. The moral sense of mankind instinctively hurries on to the conclusion that perfectly analogous relationships should have the same place assigned to them in a marriage law; and by deviating from this principle in any civil code you might enact, you would do violence to the moral perceptions of society, and weaken the sense of obligation with regard to those connections which you did prohibit. Legalize marriage with a wife's sister, and you will not be able to secure respect for the enactment which forbids it with a brother's wife. Legalize marriage between an uncle and a niece, and you will not be able to avoid abrogating the law which interdicts the union of aunt and nephew.

The opposition given by many to the idea, that the prohibitions of the Mosaic law are to be viewed, as embracing the relationships which are quite analogous to those actually specified, is so great, that it seems as if they imagined the principle proposed was to widen the circle of prohibited relationships, and to bring remoter connections under the sweep of the law, than any mentioned by the Jewish legislator. But that is not what is meant by the inclusion of cases, for which we contend. What we mean is, not that the law may be extended to remoter relationships than any which Moses has mentioned, but that when any given relationship is put under ban by Moses, we must view the prohibition as extending to another relationship, where the nearness of kin is precisely the same. When Moses, for example, forbids nephew and aunt to marry, it is not meant that we are at liberty to go a step farther, and to interdict the union of cousins; but it is contended that as uncle and niece, and nephew and aunt are relationships of the same propinquity, they should both be viewed as coming under the same law. And not only does this principle, as we have seen, recommend itself to the common sense of mankind, but it is also forced upon us by the monstrous conclusions which we are compelled to draw, if we set it aside.

CHAPTER VII.

THE PROHIBITION OF A BROTHER'S WIFE APPLIED TO THE CASE OF A WIFE'S SISTER.

THE principle, then, we conceive, must be conceded, that each prohibition extends beyond the case which it expressly describes, to other cases where the relationship is altogether the same in respect of propinquity. And, of course, it is plain that keeping hold of this principle, and reasoning from the case of a man and his brother's wife to that of a woman and her sister's husband, we may infer from the prohibition of the one connection, that the other also must be opposed to the will of heaven. That the former of these alliances is expressly condemned in Lev. xviii. 16, has been abundantly shown; and, therefore, our principle necessitates us to draw the conclusion, that the latter also must be in opposition to the word of God. A man marrying two sisters in succession occupies the very same position, as a woman marrying two brothers in succession. The sister of a man's wife stands to him in precisely the same relationship as the wife of his own brother. These are both relationships of affinity, and not of consanguinity, and their degree of closeness is quite the same. But the one of them, we have found, is expressly exhibited as a barrier to marriage. By legitimate inference, therefore, it follows, on

the principle now established, that the other also must be viewed as constituting an obstacle of the very same strength.

Mr. Sleigh adopts a very singular method of rebutting this conclusion. He altogether denies that there is any analogy or parallelism between the two cases. He maintains that a wife's sister and a brother's wife are not similarly related to a man at all. But are they not both sisters-in-law to him? Is not he to his wife's sister, the same as his brother's wife is to him? It might as well be affirmed that the relationship of a brother to a sister, is not so near a connection as that of a sister to a brother. Mr. Sleigh allows that marriage with a brother's wife is prohibited. He has too much good sense to ground anything upon the fact that wife and not widow is the word employed by Moses. "Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness. But what, he asks,* has this to do with a wife's sister? To have anything to do with a wife's sister, Moses' law must be read thus: Thou shalt not uncover the nakedness of thy wife's sister: it is thy wife's nakedness." Now Mr. Sleigh is quite right in saying that this would be "an absolute absurdity." The reason assigned would tell in the very opposite direction from that intended; and most unquestionably also one sister's nakedness is not another sister's nakedness. But the analogy as thus exhibited is altogether mis-

* *Marriage with a Deceased Wife's Sister*, p. 22.

represented. The several points of comparison are not fairly placed over against one another, but they are heterogeneously intermixed. Then how ought the analogy to be stated? A man is forbidden to have connection with a woman near of kin to him; for the very same reason, a woman must be viewed as forbidden to have connection with a man near of kin to her; that is, if a brother ought not to touch a sister, neither ought a sister to allow herself to be touched by a brother. Again, the nakedness of the husband is the nakedness of the wife, and the nakedness of the wife is the nakedness of the husband; this is reiterated again and again throughout the chapter in Leviticus. A *man*, therefore, by having connection with his brother's wife, uncovers his brother's nakedness, which, says Moses, he ought not to do: "it is thy brother's nakedness." Now the parallel statement to this is not, as Mr. Sleigh affirms, a *man* by having connection with his wife's sister uncovers his wife's nakedness, which, I acknowledge, would be both an utter misrepresentation in regard to fact, and an absolute absurdity in point of logic. But the parallel statement is this, a *woman*, by having connection with her sister's husband, is a party to the uncovering of her sister's nakedness, for the husband's nakedness is her sister's nakedness. True, the sister is in the grave, but equally, in the other case, the brother is in the grave. And the nakedness of each is uncovered, not in their own persons, but in the persons of

those with whom they were, while alive, respectively knit together in the bonds of matrimony. A man married to two sisters in succession, stands to them in exactly the same position, as a woman married to two brothers in succession does to them. In the one case the living brother uncovers the nakedness of the dead brother by taking his wife. In the other, the living sister uncovers the nakedness of the dead sister by taking her husband. In the very same way in which in the one case the living brother does dishonour to the dead brother, in the other does the living sister do dishonour to the dead sister. The analogy as thus stated is perfect; but Mr. Sleigh's exhibition of it is a caricature, of which I find it difficult to imagine that, with his acuteness, he did not see the sophistry.

Mr. Sleigh* falls into an error of the very same kind with regard to the similarity of a man's relationship to his uncle's wife, and to his wife's niece, maintaining that these are not at all of equal propinquity. "A man's aunt," says he, "by marriage, is the wife of his own blood uncle, flesh of his flesh, near of kin to him, descended with himself from one common stock; whereas, in the case of a wife's brother's or sister's daughter, neither the daughter," that is the wife's niece, "nor the wife's sister, nor the wife, is near of kin or consanguineously related to the husband." Now here there is a singular confusion of idea.

* *Marriage with a Deceased Wife's Sister*, p. 34.

It is quite true that a man's own uncle is his own blood, descended from one common stock, but then the uncle's wife is not so. She is not his blood at all. She is connected solely by affinity. Now the very same, and neither more nor less, is the closeness of connection between a man and his wife's niece. In passing from the niece to the wife or aunt, you have a blood connection, flesh of flesh, descent from one common stock; and then, in passing from the aunt or wife to the uncle or husband, you have only a connection of affinity. A nephew stands at exactly the same distance from an uncle's wife, as a niece from an aunt's husband. The difference which Mr. Sleigh appears to himself to succeed in making between the cases, springs from the circumstance, that in stating them he finds it convenient in both cases to set out from the man. This makes no real difference, but it has this effect, that in tracing the one relationship you come first to the link of blood, and next to the link of affinity; whereas, in tracing the other, you come first to the link of affinity, and next to the link of blood. Both links, however, you find in both cases, state them as you please, between the extreme points. But the fair statement is the following—

Nephew.	Uncle.	Aunt-in-law.
Niece.	Aunt.	Uncle-in-law.

Between nephew and uncle you have a blood connection, and you have the same between niece and

aunt. Between uncle and aunt-in-law, or uncle's wife, you have a connection of affinity, and you have the same between aunt and uncle-in-law, or aunt's wife. The extreme points, nephew-in-law and aunt-in-law, niece-in-law and uncle-in-law, are at the very same distance from one another. Their propinquity is the same.

The fallacy is repeated in the next page, and coupled with another of the same stamp. "It is worthy of remark, that the connecting link between a man and his brother's widow and his uncle's widow is formed in each case by blood relationship (*e.g.*, brother, uncle); whereas, in the case of wife's sister and wife's niece, the connecting link is merely one of affinity by marriage with a stranger in blood. The light which this indisputable fact throws upon the whole subject, renders comment unnecessary." The sophistry of all this is plain, from what has been said in the preceding paragraph. Certainly there is blood relationship between a man and his own brother, but then there is none between a man and his brother's widow. So, equally in the other case, there is blood relationship between a woman and her own sister, but only affinity between a woman and her sister's widowed husband. In both cases there are two connecting links, a link of blood and a link of affinity; and the sophistry of Mr. Sleigh's argument lies in this, that in the one case he looks only to the link of blood, and in the other only to the link of affinity. The following table ex-

hibits the true relationships of the different parties:—

Brother.	Brother.	Wife of first brother.
Sister.	Sister.	Husband of first sister.

Between the first and second terms of each series you have a bond of blood; but there is affinity only, and that equally in both cases, when you pass on to the third term, and the two series stand in all respects upon a level in regard to the mutual propinquity of their several parts. In fact, by interchanging the names of males and females, the very words of Mr. Sleigh might be employed to demonstrate the very opposite of what he maintains, and with just as much truth. Read the passage thus: "It is worthy of remark that the connecting link between a woman and her sister's widowed husband, and her aunt's widowed husband, is formed in each case by blood relationship (*e.g.*, sister, aunt); whereas, in the case of husband's brother and husband's nephew, the connecting link is merely one of affinity by marriage with a stranger in blood. The light which this indisputable fact throws upon the whole subject, renders comment unnecessary." Yes, I do think further comment is unnecessary.

On the ground, then, of the perfect similarity of relationship, we are warranted to reason from the prohibition of a brother's wife to that of a wife's sister. The reason assigned in the one case holds equally with regard to the other. The two relationships have the same analogy to one an-

other, which the relationship of father and daughter bears to that of mother and son. And there is no other reason assigned by the lawgiver for the prohibition which he gives, but relationship. Surely, then, if a man should abstain from marrying a woman, when it can be said to him, her former husband was thy brother, equally should a woman abstain from being married to a man, when it can be said to her, his former wife was thy sister. The reasons are identical, unless it be affirmed that two brothers are more nearly related to one another than two sisters are.

It has been alleged by some that there is a physiological ground for the prohibition of a brother's wife, which does not hold in the case of a wife's sister; and that we ought, therefore, to consider this case as designedly omitted, and the connection as a quite proper one. The wife of a deceased brother, by having lived with him, and born him children, has had his blood flowing in her veins, and has thus become assimilated to him in constitution; so that she is to some extent assimilated also to the surviving brother, and is a kind of consanguineous sister to him. Not so with the sister of a deceased wife. She remains as remote in blood from her brother-in-law, as ever she was, and there is no physiological ground of objection to their marriage. But this argument will not bear consideration. For, in the first place, the alleged physiological reason is not mentioned by Moses at all. The only reason assigned by him

is nearness of relationship; the men are brothers: and that reason is equally cogent in the analogous case; the women are sisters. But, secondly, it is clear to demonstration, that the law laid down in this chapter is not constructed upon the principle of leaving out those relationships of affinity, where the previous marriage on which they are grounded has had no effect upon the blood; for in this case no *unmarried* female would have been forbidden to a man, however closely connected with him by affinity only. But, in fact, the case is widely different. Almost all the prohibitions of union between parties connected by affinity, are cases in which that species of factitious blood relationship, to which reference has been made, has no existence. A man is forbidden to marry the daughter of his wife by a former marriage. Now, it is plain that she is utterly unaffected in constitution by her mother's second marriage. Step-father and step-daughter have no more of one another's blood, than any other human beings in the world, and there is no physiological bar to their marriage. Again, a man is forbidden to marry his wife's mother and grand-daughter, to which the same remark applies. This physiological argument, therefore, will prove too much. If because a deceased wife's sister remains quite unaffected by the husband's blood, she is to be regarded as a suitable person for becoming his second wife, then on the same principle his mother-in-law, step-daughter, and grand-step-daughter, would be equally suitable partners. And

this argument will appear more striking when another case is brought into view. While, on the one hand, a man is expressly forbidden to marry his wife's grand-daughter, whose blood continues altogether alien to him, on the other hand there is nothing at all said about a man and his grandfather's wife, although her blood has undergone all that assimilation to his which marriage can produce. That is, of two exactly similar relationships, viz., step-grandfather and step-grand-daughter, step-grandmother and step-grandson, marriage is expressly forbidden in the case of the one, where no assimilation of blood has taken place, and nothing at all is said about the other where assimilation has taken place. Beyond all question, therefore, it is not physiological considerations that constitute the ground of the prohibition of marriage between persons connected by *affinity;* but the true ground is rather to be sought, as Maimonides long ago observed, in the unrestricted family intercourse into which such persons are brought, by the marriage that first connects them together in relationships of affinity. A oneness of family feeling is produced between a happily married couple, and the entire circle of their common friends; and it is conducive to the wellbeing and happiness of society, that these bonds should be strengthened and extended as much as possible. It is desirable that a step-father and a step-daughter should cherish towards each other, as nearly as possible, the same feelings as if they were really father

and daughter. It is desirable that a man should look upon his brother's wife, with a feeling similar to what he would entertain were she really his sister. And it is equally desirable that a man should cherish towards his wife's sister all the affection of an actual brother. Now, it is only by putting the idea of marriage between persons so situated utterly and for ever out of the question, that a foundation can be laid for the growth of proper parental and filial and brotherly and sisterly affections between them.

The feeling subsisting between a brother and a sister is wholly different in kind from any, that can spring up between persons, who may at some future period become husband and wife. A brother and a sister may perform services for one another, and lie under obligations to one another, and extend a protection to one another, which could not, with any propriety, take place between strangers. Now, when a man is happily married, his sister-in-law comes to him in the room of a sister, the circle of family association is widened, and they may be to one another all that brother and sister ever are. This happy result, however, can only be developed, where the idea of marriage between them is put for ever out of the question, as in the case of brother and sister. Let it be possible for them, at some future time when they are both free, to marry, and then though their present intercourse may be friendly, and not one thought of impurity ever spring up in their minds,

still it will not be possible for them to approximate to the position of brother and sister. Their intercourse must partake something of the formality and reserve suitable between strangers of different sexes. In exact proportion as you diminish the restrictions upon marriage, you narrow the circle for the development of the special affections connected with near kindred. Let a man be viewed by the law as standing to his wife's kindred in the same relation as to his own, and the consequence is, that at marriage he permanently doubles the circle of friends, with whom he may hold the close and familiar intercourse of family association. Even were Scripture utterly silent upon the subject, as some allege, the most eligible principle by far for society to proceed upon, in framing enactments relative to marriage, would be to hold husband and wife as constructively one, and to view all the relatives of each as similarly related to the other.

This principle is ridiculed by many under the designation of the one-flesh principle; but it has at least the merit of being definite, precise, and consistent, and it has a very solid basis in the words of Christ, "They twain shall be one flesh" (Matt. xix. 5). Can as much be said for the principle opposed to it? What is that principle? It is, that the relationships of affinity growing out of a marriage, expire when the marriage itself is dissolved by death. A man has a kind of relationship to his wife's kindred while she lives, but

after her death all these bonds are for ever severed. His wife's sister is no longer his sister in any shape or form, and there is nothing to prevent him from marrying her. Now is it indeed so, that when my wife dies I become a stranger in that circle of which I was recognized as forming a part during her life—still admitted into it, it may be, and condoled with as a sufferer; but no longer to be regarded as in any shape a relative? It is a very painful idea. It is an idea which no husband who has loved his wife as part of himself will readily entertain. The more he has loved his wife, the more will he feel that her friends are still his friends, that her father, and mother, and brothers, and sisters, are still to him much more than strangers. But what is the reason why it is contended that relationships of affinity expire with the death of the individual out of whose marriage they sprang? It is, that a man may be at liberty to marry his wife's sister or his brother's wife, these parties being now altogether disconnected from him. But will this principle allow itself to be confined to these cases? When it has served this purpose, will it obligingly retire, and utter not a word about any other connections? There is some fatality about the arguments in defence of marriage with a wife's sister. They all prove a vast deal more than those who employ them have any desire to establish. You say your wife's sister ceases to be any connection of yours after your wife's death. Your marriage is dissolved,

and a period is put to all the relationships that sprang out of it. But if your wife's sister has ceased to be your sister-in-law, has not your wife's mother equally ceased to be your mother-in-law, and has not your wife's daughter by a former marriage equally ceased to be your step-daughter? If your principle, then, be worth a straw, you must be at liberty to marry your wife's mother, or her daughter, as well as her sister. Now if this be meant, let it be boldly avowed, that we may understand what is wanted, and that all men may see whither the tide of change is carrying them. But if you would shrink back from legalizing all these connections, then, whatever other arguments you may employ in defence of marriage with a wife's sister, never again ground anything upon the idea, that your departed wife's relatives have ceased to be your relatives.

CHAPTER VIII.

THE TEXTUAL RENDERING OF LEV. XVIII. 18, SHOWN TO BE SUPERIOR TO THE MARGINAL ONE.

THIS verse is the grand arsenal from which weapons have been brought in defence of marriage with a wife's sister. Nay, strange to say, it is continually appealed to, even by those who question the permanent obligation of the Mosaic code

of incest; as if their idea were that, though its prohibitions were abolished, yet its supposed permissions retained all their force. It is said that this verse, if it does not expressly sanction, yet at least presupposes the lawfulness of the very marriage which our inferential reasoning has led us to condemn. It does not, indeed, contradict what we have advanced with regard to the sinfulness of marriage with a brother's widow. That conclusion stands unassailably established, and its justice is acknowledged by very many of our opponents themselves. But it is alleged that our inference from the case of a brother's wife to that of a wife's sister is nullified by the contents of verse 18. But in so far as there may be justice in the reasoning, by which we have attempted to show that the several prohibitions extend beyond the cases expressly described to others exactly analogous, it is plain that we have established a *prima facie* argument, a strong antecedent probability against every interpretation of verse 18, which would make it contradict a conclusion flowing by legitimate inference from verse 16. This verse expressly forbids marriage with a brother's wife; it therefore, also, by implication, forbids marriage with a wife's sister; and almost any interpretation of verse 18, that will keep it in harmony with this conclusion, deserves the preference. Of course, those who still think that it is wife, as distinguished from widow, that is spoken of in verse 16, and that in no case are we

warranted to reason analogically from one relationship to another—as, for example, from the prohibition laid upon mother and son, to a similar prohibition as obligatory upon father and daughter —will not at all feel the force of these remarks. They will rather have a previous expectation that, if anything be said about sisters at all, it will be in the way of permitting the successive marriage of them. But those who are convinced that we have given the right interpretation of the law relating to a brother's wife, and who are at the same time persuaded that the several prohibitions of the law must be held as applying whereever the reason assigned, viz., propinquity of relationship, comes equally into play, will feel themselves under the necessity of questioning whether the 18th verse can be supposed to legalize the successive marriage of sisters. And if they should be unable to find any escape from the conclusion that it really does so, then they could not but regard this as a very singular anomaly. Nay more, they would be under the necessity of retracing their steps; for, having now found that the supposed implication of analogous cases does not in fact hold, they would be obliged to give up this idea. Then, of course, they must acknowledge that it is only those cases which are expressly described, that are to be conceived as contemplated by the law. Therefore they must allow that, although aunt and nephew are forbidden to marry, there is nothing to hinder uncle and niece from

becoming husband and wife. They must also allow that, although mother and son are debarred from a matrimonial union, there is no obstacle to such a connection between father and daughter. These are conclusions we should be compelled to draw, if it were really permitted to take a wife's sister, whilst a brother's wife was forbidden. For it would thereby be shown that the principle of extending prohibitions to analogous cases was altogether unwarranted, and that we were bound to consider the law as having expressly said all that it intended. We should not be at liberty to fancy any connection forbidden, because it was the same in point of nearness as some other that was expressly mentioned. And to any person who should say, But are not father and daughter as near as mother and son, uncle and niece as near as nephew and aunt? the only response would be, That may be so, but the law does not warrant the addition of any cases to those specified. There are but the two ways of it. Either you must hold the connections actually mentioned to be the only ones forbidden, or if you add to them at all, on the general ground of nearness of kin, your guide in adding must be the extent to which kindred is counted in any of the prohibitions. This is a definite principle, and any other course is mere subjective arbitrariness.

And besides these perplexities, which would undeniably ensue from an interpretation of verse 18, that warranted the successive marriage of

sisters, there are not a few difficulties in the verse itself, which render it a very uncertain foundation for a conclusion diametrically opposed to what the preceding verses would have led us to expect. There is hardly a verse in the Bible, regarding whose meaning there has been more difference of opinion. Yet it is the one and only verse upon which the whole cause of our opponents rests. True, a single statement of Scripture, if it be quite clear and explicit, is entitled to decide our judgment. Yea, a bare inference, which is all our opponents pretend to find in this verse favourable to their opinion, if it be grounded upon a correct general view of the verse, and if it be also logically drawn, has a just title to our acquiescence. But when the general meaning of the single verse to which reference is made is greatly disputed, and when also the logical character of the inference drawn from it is questioned, then certainly it furnishes a very frail foundation on which to build an important practical principle; the more especially when that principle is an acknowledged anomaly, as compared with other principles explicitly taught in the same chapter. The prohibition of a brother's wife is express and clear; the lawfulness of taking a wife's sister is a doubtful inference from a very much disputed verse.

First of all, it must be remembered that there are two renderings of this verse in our English Bibles, the textual and the marginal. And we are not to suppose that the translators them-

selves always preferred the textual, because they put it into the text, for many of their marginal translations undoubtedly deserve the preference; and we know that the translators proceeded upon the principle of making as few changes as possible upon previous versions. They did not extrude a rendering from the text to make room for another, unless the textual were decidedly inferior, and such as could not at all make good its claim to the retention of its place. Now, what are the two renderings of the particular verse under consideration? The textual is this:—"Neither shalt thou take a wife to her sister, to vex her, to uncover her nakedness, beside the other in her lifetime." The marginal, again, runs thus:—"Neither shalt thou take one wife to another to vex her, to uncover her nakedness, beside the other in her lifetime." According to the former of these translations, the verse implies the lawfulness, or at least the toleration, of polygamy, for it only forbids two sisters to be taken simultaneously, and their relationship is the reason assigned for the prohibition. Take two wives that are not sisters, and then you are not transgressing this law. But according to the other rendering of the verse, it contains an express prohibition of polygamy, and it says nothing at all regarding two sisters, but leaves that case to fall under the operation of the law laid down in verse 16. Now, many men of great name have adopted the marginal rendering; and

they argue in defence of it, that it is most in harmony with the general principles of God's Word, that it quite coincides with what is understood to be the law of the New Testament, as also with the spirit of the Old, and with the recorded fact, that but one human pair were created at first to be husband and wife to one another. And they remind us that although polygamy was practised to some extent, though not a very great extent among the Jews, yet there is no passage of Scripture that sanctions it, unless it be the one now under consideration. The mere fact that some good men fell into the practice, is no proof, they say, that it was sanctioned by God.

But let us look more narrowly to the words of the verse, for although the sentiment brought out is always to be employed as a test in judging of the soundness of a translation, yet no sentiment is to be obtruded upon a passage in opposition to the laws of grammar and the usages of language, which are always entitled to the first consideration. And here I have no hesitation in acknowledging that I consider the textual rendering of the first four words of this verse, to be the one that is most consistent with the idiom of the Hebrew tongue. The original phrase, אִשָּׁה־אֶל־אֲחֹתָהּ, literally denotes "a wife to her sister." No doubt it also, with great frequency, occurs with the idiomatic acceptation of "one to another." But I quite agree with those who think that it cannot possibly bear the signification assigned to

it in the marginal rendering, viz., "one wife to another." It must either mean "wife to her sister," or it must mean "one to another," but it cannot on any account mean "one wife to another." The fault of the marginal rendering is, that it mixes the literal with the idiomatic acceptation. It renders one part of the clause literally, and the other idiomatically; or rather, it translates one of the words both literally and idiomatically at the same time. In short, one of the words is twice translated; אִשָּׁה signifies "wife," it also signifies, when coupled as here with אַחַת, "one;" but it never denotes, and it never can denote both "wife" and "one" at the same time. The invariable usage is, when the phrase under consideration is employed idiomatically, that the things spoken of are first of all mentioned, and then, when they have been brought under the eye of the mind, the phrase "one to another" is added; as in the expressions, curtains one to another, loops one to another. Now, in the passage before us, the phraseology, if modelled after the same pattern, should have run thus, wives one to another thou shalt not take. This argument is perfectly conclusive against the marginal rendering. It cannot stand when tried by the test of rigid Hebrew grammar. There is a word wanting, which is indispensable to make out that sense, viz., the plural of the word wife.

There is another way in which the same sense as that exhibited in the marginal rendering

might be brought out, without any violation of the proprieties of Hebrew idiom, and perhaps it is this view which our translators have taken of the passage. It is allowed on all hands, that the phrase, אִשָּׁה אֶל־אֲחֹתָהּ, and also the corresponding masculine phrase, אִישׁ אֶל אָחִיו, are of very frequent occurrence; and that wherever they do occur, with the single exception of the passage before us, if it be an exception, they signify idiomatically "one to another." Now, may not this be the meaning here also, an ellipse of the objects spoken of being supposed? What is it the Jewish legislator treats of all this passage through? It is women. He addresses himself exclusively to men, and he speaks to them about women. Now, as thus the subject of his discourse could not possibly be misunderstood, is it altogether unreasonable to suppose that there may be an ellipse here of the word for women, which might the more readily occur, as the first word of the idiomatic phrase is the singular of the same term? "One to another thou shalt not take," viz., "wives," or "wives one to another thou shalt not take." This ellipse, moreover, is not altogether unprecedented. The word here rendered "take" is the proper Hebrew expression for "marry," and it describes, not the act of the woman in marriage, but the act of the man. Accordingly, there are cases where the verb לקח is employed, both to express the man's act in marrying, and also to designate the object whom he marries. In other words, there is an ellipse of

the term for wife, the verb by itself alone indicating both act and object. A case of this kind we have in Exod. xxxiv. 16—"Ye shall not take to your sons," where it is plain from the context the meaning is, ye shall not take "wives" to your sons. Now may we not, in the same manner, suppose that the verb "take" in the passage before us includes in itself the object taken, viz., wives, and therefore render it thus "one to another," viz., wives "ye shall not take?" The Greek word *μνάομαι*, also, though it generally has *γυνᾶικα* after it, yet sometimes occurs without any accusative expressed, as in Homer's *Odyss.* 16, 77. 19, 529. Possibly it may have been in this way that the translators made out the marginal rendering.

It is considered by those who adhere to this rendering, to be a powerful argument in its defence, that it relieves us from the great difficulty involved in the supposition that there is here something like a legal sanction for polygamy, whilst certainly this practice, although mentioned in Scripture as a historical fact, is nowhere else sanctioned in anything having the shape of a law. Some indeed have maintained that the 17th verse also permits polygamy, the meaning of it being, according to their idea, that a man might marry two wives simultaneously who were not related to one another, but that he was not to take a woman and her daughter at the same time. This interpretation, however, puts something into the verse

which is not there at all. What Moses forbids is union to a woman and to her daughter, but there is not one word in the verse referring to time. Of course, the prohibition applies when the mother and the daughter are both alive, but it continues equally applicable after either of them is dead. It is an absolute prohibition of marriage with a wife's mother, or grandmother, and with a wife's daughter or granddaughter, and there is nothing at all in the verse that in any way implies the lawfulness of polygamy. But suppose it were conceded that the 17th verse referred to polygamy, in the way of forbidding it in the cases specified, then the conclusion would follow, according to the logic applied by our opponents to the 18th verse, that after the death of his wife a man might marry her mother or her grandmother, her daughter by a former husband, or her granddaughter. Here, therefore, are four additional marriages which the law of our country would require to legalize, as well as marriage with a wife's sister. And those who defend this last marriage, and at the same time believe that the 17th verse refers to polygamy, are not acting fairly when they conceal that their principles equally require them, to agitate for the repeal of the prohibitions relating to all these marriages.

The argument in favour of the marginal rendering, grounded upon the fact that it excludes polygamy from the verse, is possessed of some weight, and it ought at least to be perfectly decisive with

all those who argue, from the command in Deuteronomy to marry a brother's wife in certain circumstances, that in no circumstances could such a marriage be sinful; for they cannot, consistently with this principle, conceive polygamy to have been sanctioned in the Pentateuch, and yet maintain that it is now a sinful practice. They must either maintain that it is blameless now, or they must deny that Moses gives any sanction to it. And to be consistent they ought to agitate as strenuously for the repeal of the law against bigamy, as of that against the marriage of two sisters in succession. A warrant for the latter practice can be found in the 18th verse, only if there be a warrant for the former; and if it be true that nothing which God ever permitted can be in any circumstances sinful, as those who appeal to the Levirate law maintain, then bigamy, which is the smallest possible degree of polygamy that can exist, ought no more to be hindered now by law than marriage with a wife's sister.

To us, however, the argument, grounded upon the present acknowledged sinfulness of polygamy, does not carry the conviction that in no age of the world could it be tolerated by God. We believe that in one position of circumstances a thing may be allowed, and consequently afford no ground for blame, whilst in another it may be forbidden, and consequently become sinful. We cannot think that the practice of Abraham and Jacob and David, in having a plurality of wives, was the

violation of as clear an appointment of heaven as it would be in our case; or that it entailed upon them the same amount of guilt which it would bring upon us. In short, it does not seem consistent with their position as members of the visible church, and not simply members, but most distinguished members, yea, members openly recognized by God himself, and favoured with many tokens of his gracious presence, to suppose that they were persisting, and persisted all their days, in the habitual violation of a known and explicit law of Jehovah. It is quite true that sins of deep aggravation have been committed by men of undoubted piety, as, for example, adultery and murder by David; but who will say that the polygamy practised in ancient times is exhibited in Scripture, in terms at all similar to those employed in describing these sins of the psalmist? The polygamy of Abraham and Jacob and David was not a transient act, it was habitual, and the idea of its being sinful seems never once to have crossed their minds. All the while, too, they enjoyed the most marked tokens of the Divine favour and friendship. In consequence of other acts, such as David's adultery, their communion with God was for a time destroyed or marred, but it does not appear that for their polygamy they were exposed to any manifestation of the Divine displeasure. In these circumstances I find it hardly possible to believe that that law, in which David tells us he delighted to meditate by night and by

day, contained a condemnation of polygamy so express and pointed as Lev. xviii. 18 would be, if its meaning really were, thou shalt not take one wife to another. What polygamist at the present moment could deceive the church, or even himself, into the idea that he was a pious man? The conclusion, therefore, can hardly be resisted, that although the original law intended for the human race was monogamy, one woman to one man, yet during a number of ages the opposite practice, on account of the comparative rudeness of the times, was, not perhaps sanctioned or legalized, but at least permitted or tolerated. The plan of God's providence has been to carry on a gradual education of mankind. More is required from them, as they receive greater light. Higher purity and elevation of moral principle are expected from us under the Gospel, than in any former age. The radical principles of God's law were, indeed, always the same, but with increasing privilege and increasing light there has been an increasing stringency in the requirements made by God from his creatures.

No argument, then, can be grounded upon the nature of polygamy against the textual rendering of the verse before us. I am not surprised that many continue to prefer the marginal rendering, which clears away a number of difficulties, and gives a unity and consistency to the published moral law of all times. But still the historical facts regarding polygamy seem to show, that we cannot consider it as having been expressly con-

demned by the law of heaven. Polygamy and adultery are with us very nearly synonymous terms, and the guilt of them is much the same. Most certainly it was not so in the days of the patriarchs, who, although polygamists, were very far from being adulterers. And as we have seen that "a wife to her sister," and not "one wife to another," is the true grammatical rendering of the original Hebrew words, quite complete without the supposition of any ellipse, it seems indispensable to abide by the textual translation of the verse.

There is another consideration which, in my view, clears away every remnant of doubt with regard to the true rendering, and that is the employment of the phrase "uncover nakedness," which, we have seen, is used only in cases where there is a previous relationship, either of affinity or of consanguinity, between the parties. This language designates carnal connection between persons too nearly related, to which offence, in English, the name of incest is given. But there is no incest in polygamy as such. How studiously Moses shuns the phraseology in question, both in chapters xviii. and xx., when he is speaking even of adultery, which, although a sin of the deepest dye, yet has nothing in it of an incestuous character. And if this language is not applied to adultery, with less propriety still could it be employed in speaking of polygamy. The verse before us, therefore, cannot be viewed as a condemnation of

polygamy. It must be two sisters, in the literal sense of the terms, that are spoken of, and not merely two wives. It would be contrary to all propriety and all linguistic usage to employ the words "uncover nakedness," if it were wives, wholly unrelated to one another or to the husband, that were spoken of. These words are thrown in on account of the relationship, not to designate the consummation of marriage, but to mark out such consummation as an incestuous act. These words were not needed, and would have been altogether improper, if the legislator had been uttering a law against polygamy. In that case the full and complete enunciation of thought would have been, thou shalt not take one wife to another to vex her in her lifetime. But we shall see immediately that, as applied to sisters, the additional words have a most important part to play, and could not on any account be dispensed with. They indicate what gives its characteristic feature to the sin condemned by the legislator.

CHAPTER IX.

CONSIDERATION OF THE INFERENCE DRAWN FROM LEV. XVIII. 18, IN FAVOUR OF MARRIAGE WITH A WIFE'S SISTER.

For the reasons already assigned, we entertain no doubt that the textual rendering of Lev. xviii. 18,

is the correct one. Let us proceed, then, to examine the conclusions which this view of the verse obliges us to draw. The general import of it may be thus exhibited: "Though you may take two wives at once," a relaxation of the original law of marriage allowed, as Christ's words warrant us to believe, on account of the hardness of their hearts, "yet you must not take a wife to her sister to vex her, to uncover her nakedness beside the other in her lifetime." Now, does the statement thus made afford ground for an inference in favour of the successive marriage of sisters? Our opponents say that it does, and this is the one single ground upon which their whole case rests. We altogether deny that the inference which they draw has the slightest foundation. It is a mere deception, grounded upon a distortion of the verse from its connection, and upon an oversight of the most significant words in it. And the justice of this statement we proceed to evince by a variety of considerations.

One thing is plain, that the lawfulness of marrying two sisters in succession is not affirmed in this verse. That such marriages are lawful is only an inference, whose conclusiveness is liable to very serious objections. What is the substance of the verse? Tolerating polygamy, it restrains the practice of it. The precept is a prohibitive one. Though you may take two wives at once, yet you must not take two sisters in this manner. The law relates solely to polygamy. It has no bearing

at all upon monogamy; and it is inferring too much from it to suppose, that it was in the law-giver's mind at all, to say anything here about whom you might or might not take for a sole wife. There are multitudes of passages in Scripture, where statements are made in one direction, which is the only point the sacred penman is looking to at the time, from which it would be absurd to infer that the opposite held good in other directions. "Remember now thy Creator in the days of thy youth;" this does not imply that we are at liberty to forget God in old age. "Samuel visited Saul no more till the day of his death;" he may have seen him on that day, but the text would furnish a very sorry proof of it. "He knew her not till she had brought forth her first-born son;" with regard to the time posterior to that event, nothing is here either affirmed or denied. "The sceptre shall not depart from Judah till the Shiloh come;" whether it should depart then is not stated, and this might depend upon various circumstances. "Therefore Michal, the daughter of Saul, had no child unto the day of her death" (2 Sam. vi. 23); it can hardly be imagined that she had any after that. The dove sent forth by Noah returned to the ark, but the raven roamed at large until the waters were dried up from off the earth; will it be seriously maintained that it came back to Noah then? Statements made regarding a certain time, do not imply that the opposite holds good after that time. This must always be deter-

mined by other considerations. The prohibition of polygamy, therefore, in the form of having two sisters, is not to be understood as saying anything at all about the marriage of them in succession. Whether they might be so taken or not, must be settled on other grounds. Nay, so far is the prohibition of two sisters at once, where polygamy is supposed to be a lawful thing, from implying that they may be married in succession, that it seems rather to suggest the opposite idea. For if the sister of a deceased wife were just as lawful an object of desire to the surviving husband as any other woman, then if he might take any other woman, even in the lifetime of his first wife, why should there be a barrier to his taking her sister? Any reason which can be given, or which is supposed to be given in the text, is just as conclusive against his taking any other woman. The prohibition of sisters, where polygamy is lawful, undoubtedly suggests the idea that sisters stand in too near a connection to one another, ever to be married to the same man. With regard to women whom one might marry at the same time, not a shadow of doubt could exist that he was at perfect liberty to marry them in succession; but where two women were forbidden to a man on account of their relationship to one another, certainly there would be some room for doubting whether he might marry the one even after the death of the other. And in such circumstances it could not but appear preposterous reasoning to

make the prohibition, viz., the very thing which suggests the doubt, a reason for believing that he was at liberty to marry them in succession. The prohibition, so far as it goes, only points to sisters as too nearly connected to be married to the same man, and if it be maintained that they might be married to him in succession, this would require to be shown on other grounds. In short, it would be requisite to produce a passage of Scripture sanctioning such marriages. Most unquestionably the prohibition of the 18th verse does not embody such a sanction. You may take two wives at once, but you must not take sisters. So far as this prohibition goes, it frowns upon one man having to do with two sisters; there is nothing but prohibition in it. And if we look to a period posterior to the time which the text actually speaks of, it may not unreasonably be supposed that, as the fact of sisterhood was not altered, the barrier to marriage offered by the relationship continued. And it could not but be remembered, as strengthening this idea, that in all other cases, where a man might marry two women in succession, he was supposed, in this verse, to be at liberty to marry them at the same time. The very utmost that can be said about the 18th verse is, that it says nothing about what may be done when the two sisters are not both alive, and that therefore it could not be held as condemning the successive marriage of them, if other passages offered no obstacle to such a connection. Even

this, however, I am persuaded, is more than can be truly said, as will appear when we come to consider the most significant words in the verse. But leaving these out of view for a little, the most, I maintain, that any man can say about the 18th verse is, that it is silent about the successive marriage of sisters; that, in short, if the 16th verse did not exist, the 18th verse would not condemn marriage with one sister after the death of another. But the 16th verse does exist, and we have seen that if we set aside the principle of extending the prohibitions of the law to other cases where the relationship, which is the only reason assigned, is exactly the same, then we must legalize many more marriages besides that with a deceased wife's sister. We must legalize marriage between a father and a daughter, between an uncle and a niece, whilst we forbid it between a mother and a son, and between an aunt and a nephew. Now, if we are not prepared to do this, then we must regard the 16th verse as forbidding marriage with a deceased wife's sister, and, of course, as we have found that the 18th verse, so far as it goes, lies altogether against the idea of a man's taking two sisters to wife, and as at the very utmost it can only be said that it does not speak about sisters in succession at all, the unlawfulness of marrying a deceased wife's sister is undeniable. The 18th verse, indeed, would not of itself, so far as the words we have yet considered go, establish this conclusion, neither would it warrant an inference

to the opposite effect; but it would leave the ground clear and open for the operation of the principle laid down in the 16th verse, which would therefore settle the question.

The phrase בְּחַיֶּיהָ, literally "in her life," is the one that is mainly relied upon for justifying the inference that a man may marry his deceased wife's sister; but that is too narrow a foundation to bear the weight laid upon it, and can never justify an inference contradictory to the principle laid down in verse 16. In that verse, two brothers are forbidden to have the same woman for a wife. But the relation of two sisters is the same, and therefore they also must be viewed, the ground of the prohibition equally existing, as forbidden to have connection with the same man, unless it be said, that two brothers are more nearly related to one another than two sisters. What, then, is the force of the phrase, "in her life?" According to the textual rendering, it merely defines the fact that it is a polygamic connection which is spoken of in this verse. It is altogether a gratuitous assumption that it points to a future period, and is designed to suggest what may be done after the death of the first sister. It simply expresses the idea that a man must not have two *living* sisters as wives, though he might have two *living* wives who were not sisters. And, possibly, as "vexation" is introduced in the verse, as a special reason over and above the fact of sisterly

relationship, the phrase may be conceived as standing in contrast with other annoyances, which were of a kind to terminate before death. Many wrongs might be done by a man to his wife, which were susceptible of remedy. The evil might be redressed, and matters restored to the state in which they were before the wrong was perpetrated at all. Not so with the marriage of another wife, whether she were stranger or sister. That was a wrong of a character to endure for life. Rachel and Leah, in so far as either of them had a right to feel the injured party, felt the grievance to be one which death alone could terminate.

But I believe that the legitimate reference of the phrase "in her lifetime," is to the fact that it is a polygamic connection which is spoken of; and its full and proper import may be best perceived by looking at the connection of the verse with the verses which precede it. We have seen that we must either legalize some very shocking marriages, such as those of a father with his own daughter, of a grandmother with a grandson, of an uncle with his niece, or we must admit the principle, that the cases expressly prohibited include those also where the relationship is the same. On this clear ground the marriage of a deceased wife's sister must be viewed as forbidden in verse 16. But verse 18 forbids the simultaneous marriage of two sisters; and, therefore, the two prohibi-

tions stand thus related to one another—Thou shalt not marry thy deceased brother's wife, nor, by parity of reasoning, thy deceased wife's sister; neither shalt thou take a wife to her sister to vex her in her lifetime. To this it may be objected, that if the successive marriage of two sisters was wrong, equally must the simultaneous marriage of them, even where polygamy was allowed, be unlawful; and that, therefore, there was no occasion to make special mention of this in a separate law. But it has generally been allowed, even by our opponents, that the reason why this particular species of polygamy was expressly specified as forbidden, was grounded upon the well-known history of Jacob, and was intended to prevent the example of a man so highly extolled in Scripture from being inconsiderately followed; and this is quite sufficient to account for the insertion of this particular law, although, in strict logic, the matter of it might have been inferred from verse 16. We conceive marriage with sisters in succession to be prohibited in verse 16, as really as marriage between father and daughter is forbidden in verse 7. Then, in verse 17, mother and daughter are interdicted from being wives to the same man, whether simultaneously or successively. But a Jew might say, did not Jacob marry two sisters at the same time? True; but the law responds, this license is no longer to exist. Sisters are not to be taken in succession any more than brothers, neither is one sister to be brought

home to another in her lifetime. This we believe to be the genuine sense and connection of the verses.

It is generally acknowledged that, in the verse before, there is an allusion to Jacob, and that the enactment which it embodies was occasioned by what he had done. Now, on our principles, this is quite a reasonable supposition, but on the principle of our opponents it involves something very like an absurdity. Is it meant that if Jacob had not married two sisters simultaneously, then no mention would have been made in the law of such a connection, and that consequently it would not have been wrong? Would not this be charging the lawgiver with inconsistency and caprice? He would be represented as constituting an act sinful, merely because Jacob had done it; whereas, if Jacob had abstained from it, then it would have been left free to the Jews. But on our principles, although the 18th verse were omitted altogether, the marriage of sisters in any circumstances would be a wrong connection. We can say quite consistently, the 18th verse was thrown in with a special view to Jacob's case, and but for that case it would probably have been omitted; and yet the substance of the law would have been in no respect altered. The thing forbidden in the 18th verse was logically deducible from the 16th verse; but on account of the eminent position of Jacob as the father of the twelve tribes, the deduction was actually drawn, so as to prevent his example from having an injurious

effect. In short, the bearing of the law upon that case was exhibited, whereas otherwise this might not have been done, and yet the applicability of the law to the case would have been as certain as its applicability to uncles and nieces, to fathers and daughters.

The idea that verse 18 tolerates the successive marriage of sisters, would place it in conflict, not only, as we have seen, with verse 16, but also with verse 17. For what is the reason assigned in that verse against marriage with a woman, and her daughter, and her daughter's daughter? It is that they are near kinswomen to one another, and therefore it is said such a connection is wickedness. It is wickedness, observe, because the women are nearly related to one another. But are not two sisters nearly related to one another also? In verse 12, a man's sister is called his near kinswoman, and in verse 13, a woman's sister is called her near kinswoman, and in verse 17, the fact of being near kinswomen to one another, is said to constitute the marriage of such persons by the same man wickedness. Unless, therefore, all logic be a perfect delusion, the marriage of two sisters to the same man is wickedness, because sisters are declared to be near kinswomen to one another. To make the conclusiveness of the argument apparent, it may be thrown into the form of a syllogism of unexceptionable construction. Females who are near kinswomen to one another can never be married, as verse 17 assures us, to

the same man without wickedness. But sisters are near kinswomen to one another, as verse 13 declares; therefore, sisters can never be married to the same man without wickedness. There is no possibility of evading this conclusion, and if verse 18 really sanctions the successive marriage of two sisters to the same man, then it contradicts a principle most explicitly laid down in verse 17.

The words "for vexation" or "to vex her," are deserving of special attention. If the verse implies the lawfulness of marrying two sisters in succession, and only forbids the simultaneous possession of them, then this vexation is the only reason that is assigned for the prohibition laid down by Moses. Now, is this a well-grounded and a sufficiently discriminating reason? Does it meet the circumstances of the case? Are we to suppose that a living wife would feel it to be a comparatively small grievance that her husband should marry a stranger, but would regard it as a sore and vexing annoyance that he should bring home her own sister? So far as vexation is concerned, and the disagreements that spring from the jealousies of rival wives in a household, the likelihood of them seems decidedly greater in the case of strangers than in the case of sisters, who will more probably be of similar dispositions, and who already have many reasons for loving one another. On these very grounds, in fact, it is argued by our opponents that a wife's sister is the best second wife a man can take; but there is no argument which can be urged in defence of

this position, which will not equally show that a wife's sister will make the best additional wife, when two are to be taken at the same time. In either case, whether they are married simultaneously or successively, there will probably be a mixture of families, children of both living together; and if the children of the first married wife are likely, as we are told, after her decease to be more happy under the care of her sister than in the hands of a stranger, it is difficult to imagine why, when the two sisters are living together as wives, there should be more of family disturbance than if they were not related to one another at all. One would rather conceive that a wife, if under the necessity of admitting an additional wife into the household, would prefer a sister of her own, and be more happy and comfortable with her; for the very same reason that when dying, she prefers, as we are assured, the idea of being succeeded by a sister of her own, and cherishes a more confident persuasion that the interests of her children shall not be sacrificed to the interests of a second family. All the considerations which are so eloquently urged in support of the advantage of taking a first wife's sister for a second wife, are really just as powerful to show that, when a man is determined to have two wives at once, there will be less vexation to all the parties concerned, and more of mutual interest in the different children, if he takes two sisters, whose minds are likely to be

cast in a similar mould, and who already have strong reasons for mutual attachment. It would be interesting to know, from the experience of countries where polygamy prevails, whether the jealousies of wives have been in the direct or the inverse ratio of their propinquity of relationship. We have not many materials from which to form a judgment in reference to this point. But looking to the interior of those polygamic households, whose history is recorded by the pen of inspiration, we find results directly at variance with the reason supposed to be assigned in the verse before us, for allowing polygamy in some cases and forbidding it in others. The wives of Jacob were sisters, and although certainly they had their mutual jealousies, yet they lived on far friendlier terms than Hannah and Peninnah, the wives of Elkanah, of whom it is not said that they were related to one another at all.

It thus appears that the only reason which, according to the view of our opponents, is assigned by Moses for the prohibition laid down in the 18th verse, is really no reason at all. Nay, it rather tells in the opposite direction. Polygamy is permitted in general, but an exception is made in one particular case. The reason, however, assigned for the exception, is really less strong against the excepted case, than against the permitted cases. Does the Hebrew legislator indeed mean to say, you may take two strangers into your bosom, and yet have a tolerably happy

home; but if you take two sisters, it will be a vexatious business for you all. For it must be remembered, that the original phrase, translated "to vex her," has no pronoun expressed in the Hebrew. It literally means "for vexation," and although doubtless the wife's vexation is included, and is probably the thing mainly referred to, yet it is not the only vexation that is meant. It is family vexation and household disturbance that are indicated by the language.

The reason plainly that is supposed to be assigned for the prohibition of two sisters simultaneously, is destitute of all discriminating force; and if there were no other reason in the verse but vexation, this would furnish a most weighty argument in favour of the marginal rendering, and would in fact shut one up to the adoption of it, notwithstanding the serious objections to which it is liable. For if the marginal rendering be followed, and polygamy be considered the thing forbidden, then it is obvious at a glance that the reason assigned is most pertinent and forcible, and such as all experience acknowledges. If you want to have a happy home, marry but one wife at a time. If you desire to keep your wife free from vexatious annoyance, confine your attentions to her alone. Wives take not *one to another* for vexation. The cogency and discrimination undeniably characterizing the reason thus assigned, would furnish a powerful argument in defence of the marginal rendering, if there were no other

reason mentioned in the verse but vexation; for mere vexation, so far from being a reason for permitting polygamy in general, but forbidding it in the case of sisters, rather tells the opposite way. And at the very least, it is no stronger an argument against the case prohibited, than it is against the cases tolerated, and thus it stands convicted of an utter want of discrimination. It is as if you were to forbid a man to plunge into the sea, because that would endanger his life, but give him full permission to leap into a furnace.

Now if vexation does not, according to the textual rendering, which we believe to be the only correct one, furnish of itself an adequate and pertinent reason for the prohibition embodied in the verse, where is the reason of the enactment to be found? It lies in the words, "to uncover her nakedness," which are too often overlooked in the consideration of this verse, as if they were a mere synonym for marriage. But terms fully describing the marriage spoken of have already occurred at the beginning of the verse:—"Neither shalt thou take a wife to her sister." The thing forbidden is most explicitly set forth in these words, and not another syllable requires to be added on that head. It were utterly superfluous to introduce the words "uncover nakedness," if they meant nothing more than completing the marriage already sufficiently described. Why are these words introduced then at all? Are they a mere tautology, a feeble repetition of a thing

already mentioned? By no means. They do not describe the thing prohibited, but they indicate the main ground of the prohibition. We have seen that the phrase in question is employed to designate intercourse between the sexes, whether conceived as taking place in marriage or out of marriage; but then it is never used excepting where the act is exhibited as a thing peculiarly offensive and immoral. It is only employed where connection is forbidden on account of the propinquity of the parties. In short, it corresponds very exactly to our English word incest. Uncovering of nakedness is a thing that ought never to take place. It is in all circumstances to be shunned. Nowhere is it mentioned in Scripture, but under the ban of prohibition. If parties are not related to one another, then their connection may be adultery, or it may be fornication, or it may be lawful marriage, but it is nowhere called uncovering of nakedness. That phraseology is appropriated, like our word incest, to connection between parties too nearly related. You may say the phraseology is fitted to designate any kind of connection, and no doubt that is true; but Hebrew usage has restricted it to a certain kind of connection, just as in the case of our own word incest, which, formed from the Latin *incastus*, etymologically means unchastity, but by usage has been appropriated to a particular kind of unchastity. When parties wholly unrelated to one another

violate the seventh commandment, it would be the same impropriety to use the words "uncover nakedness" in describing their offence, as to use the word incest.

What, then, is the force of the language in the verse before us? Manifestly it embodies the grand reason for prohibiting the marriage spoken of. Viewed in any other light, it is a needless and enfeebling tautology. "Thou shalt not marry two sisters at the same time, to vex the first by consummating marriage with the second." This is not what Moses means to say. No; uncovering nakedness indicates the reason why marriage with two sisters was not to take place; and that was because, on account of their being sisters, there was something immoral—there was incest—after you had known the one, in your ever having carnal connection with the other. Sisters are near kinswomen to each other, and therefore it is wickedness for them to become wives to the same man. The reason thus assigned held good, of course, both in the case of the expressed prohibition and the implied prohibition contained in the 16th verse; and it equally holds good with regard to the prohibition embodied in the 18th verse, with this addition, that on account of the sisters being both alive at the same time, there is vexation superadded, to the first wife particularly, viz., the special vexation of having an incestuous husband.

The view we have thus given of the meaning

of the verse makes no change at all upon the syntax of it, nor upon the common English rendering. It only requires that we have a right conception of what uncovering nakedness is. "Neither shalt thou take a wife unto her sister to vex her." Then follows לְגַלּוֹת, the object of which is to point out how the vexing is produced. The infinitive with לְ expresses various shades of thought, and Ewald states that it subordinates an act to the leading statement, and may be rendered by the Latin *gerund* in *-ndo*. Among the examples which he cites are Ps. lxxviii. 18, "And they tempted God, לִשְׁאֹל, by asking meat for their lust." Neh. xiii. 18: "Yet ye bring more wrath upon Israel, לְחַלֵּל, by profaning the Sabbath."* So here the meaning is, "to vex her by uncovering her nakedness beside the other," that is, as we have shown, by the commission of incest with her in the lifetime of the first wife. Of course it does not follow that incest may lawfully be committed with the sister after the death of the first wife. No doubt the legislator is only speaking of her lifetime, for the very good reason that polygamy is his subject; but the reason which he assigns is equally cogent for all subsequent time. The readiness with which the mind darts forward from the words "in her lifetime" to the conclusion that the thing spoken of must be lawful afterwards, is grounded upon the idea that the expression "uncover nakedness"

* Ewald's *Ausführliches Lehrbuch der Hebräischen Sprache*, p. 520.

merely designates the consummation of marriage; but the moment it is remembered that these words always carry with them the idea of turpitude and pollution, the unsoundness of such an inference becomes apparent. Do not vex your wife by doing a vile thing while she lives; this, of course, embodies no permission to do a vile thing afterwards.

Perhaps it may be alleged that, allowing the words "uncover nakedness" always to involve the idea of turpitude and pollution, or incest, still this incest is to be conceived of as existing, only if the two sisters are alive at the same time. But this view is inconsistent with the structure of the verse, and with the nature of incest. It robs the reason of all independent force. It accommodates and squares the reason to the prohibition, overlooking the fact that, although a reason must not be narrower than what it is applied to, yet it may stretch out greatly beyond it. It is polygamy the legislator is speaking of in verse 18. He tolerates polygamy to a certain extent, but he forbids the simultaneous possession of sisters. Why does he prohibit sisters as joint wives more than other women? Because on account of their being sisters, near kinswomen to one another, there is incest, there is wickedness involved in one man's ever having connection with them both. This incest is a most complete and satisfactory reason for all that is enjoined in the verse. Of course it is a reason for more. It holds equally after the

death of the first sister. But that does not prevent it from being perfectly conclusive, so far as the lawgiver applies it. And why does he not apply it farther? For the very good reason that it is polygamy only, of which he is speaking in this verse. And, moreover, there was no occasion to apply it farther, because the 16th verse, according to the analogy upon which the law undoubtedly does proceed, had already settled the question.

Now, according to the view thus given, every word in the verse tells. Not one single syllable of it is superfluous, or could be wanted; whereas, according to the view commonly taken, one whole clause might be left out, without the slightest detriment to the sense. "Neither shalt thou take a wife to her sister, to vex her beside the other in her lifetime." This expresses all that our opponents imagine to be in the verse, and in fact they often quote it thus. But it does not, I am persuaded, express all that Moses intended to say. The ground of the prohibition lies in the words "to uncover her nakedness." Thou shalt not take thy brother's wife, nor, by parity of reasoning, thy wife's sister; neither shalt thou take a wife to her sister, to vex her by such incestuous conduct in her lifetime. The grand reason for the prohibition is the incestuousness of having to do with two sisters; and in the particular case of their being both alive at the same time, this originates a very heavy grievance to the first sister. Were she dead, there would still be dishonour to her me-

mory; but being alive, she has the vexation of witnessing the dishonour with her own eyes. Only thus do we find an adequate reason in the verse for the prohibition of polygamy with two sisters, whilst yet it is supposed to be tolerated where the wives are not related to one another. Shut out the idea of incest from the words of Moses, and then the only reason left is vexation; but that reason furnishes just as strong an argument against marrying any two women at the same time, as against marrying two sisters. Polygamy is tolerated, but there is an exception made of one case. The reason, however, given for the exception tells just as strongly against what is permitted as against what is excepted, and thus in fact it becomes no reason at all. If there be nothing worse in ever having to do with a wife's sister than with any other woman, then it is difficult to see why it should be worse to marry her while that wife is alive than to marry any other woman; and, most unquestionably, the mere vexation caused by the step could furnish no reason at all. All the arguments by which it is attempted to show that a wife's sister will make the best second wife, are equally powerful to show that she will make the best additional wife. It is not mere vexation that is the reason assigned, but it is vexation caused by the commission of incest. It is the vexation of uncovering nakedness. This does not merely mean consummating marriage with an additional wife.

Such consummation takes place whether the additional wife be sister to the first or not. The vexation connected with uncovering nakedness, is vexation springing from the fact, that consummation of marriage with a wife's sister is an incestuous act. Sisters are near kinswomen to one another, and if there be any truth at all in the 17th verse, this is sufficient to constitute their marriage to the same man, whether at once or in succession, a wickedness. Now, this reason is thoroughly discriminating. It does not apply at all to the polygamy which is tolerated in the verse; it only holds good against the particular case of polygamy which is forbidden. If you will have two wives at once, do not take two sisters, for they are too nearly related to one another, as the principle of the 16th verse, and the reason stated in the 17th verse both imply, ever to have the same man for husband. Here all is consistent. The reason assigned is cogent and discriminating. It applies to the case forbidden, and it does not apply at all to the cases which are tolerated.

CHAPTER X.

HAS THE GOSPEL MODIFIED IN ANY WAY THE LAWS EXHIBITED IN LEV. XVIII.?

It has now been evinced, we think, that among the connections forbidden by Moses, are those of

a man with his brother's wife, and with his wife's sister. It has also been shown that the prohibitions of the 18th chapter of Leviticus are of universal and permanent obligation. They were obligatory upon the Canaanites by the law of nature, and they were enjoined upon the Jews by positive statute. If they were obligatory upon the Canaanites, this shows that they were not peculiarities of the Jewish economy; and the mere fact of their being embodied in the writings of Moses, no more destroys their obligation in regard to us, than the written inculcation of the seventh commandment upon the Jews, renders it lawful and safe for us to commit adultery.

It may be interesting to consider whether Christianity has in any respect modified the laws laid down by Moses regarding the intercourse of the sexes. One thing we are persuaded of, that if there be any modification, it must be in the way of requiring greater strictness, and not in the way of permitting greater laxity. A progression, in this respect, is perceptible from Adam down to Moses. The children of Adam married one another. Abraham married a wife who was his half-sister, a connection afterwards forbidden. Jacob married two sisters at the same time, which the Mosaic law subsequently prohibited. Moses' father married his own aunt (Exod. vi. 20), but the Jewish legislator afterwards included this connection among those which were proscribed (Lev. xviii. 12). Thus, a gradual progression is

apparent, a strictness increasing from age to age. And did that progression stop at the era of Moses? It did not. Our Lord, in his commentary upon the moral law, plainly declares that greater excellence of conduct, and higher purity of motive, were incumbent upon men under the new order of things, on account of the more exalted privileges which were to be enjoyed; and we can point at least to one additional prohibition now embodied in the marriage law. If polygamy continued to be tolerated by Moses, it will not be said by any Christian that it is a lawful practice under the gospel. Not less, therefore, undeniably, than what was embodied in the Mosaic code, but more, is now incumbent upon us. And even were the interpretation a correct one, which is given by our opponents of verse 18, viz., that it permits the marriage of two sisters in succession, which we altogether deny, it would still be a question whether the increased strictness of gospel morality did not now place that relationship upon the same footing, as verse 16 places the relationship of two brothers with regard to the same woman. And there are two considerations which would go very far to settle this question.

In the first place, it is universally acknowledged, that one of the things supposed to be tolerated, in that very verse upon which our opponents rest their whole case, viz., polygamy, is now actually set aside under the gospel, and

the marriage law is made more strict for us than Moses made it for the Jews. Now it is undeniable that Lev. xviii. 18 can only be viewed as permitting the marriage of two sisters in succession, if it permits the marriage of two other women at the same time. It is only possible to obtain a permission for the one practice out of the verse, by supposing a permission for the other. No man who imagines that two sisters were allowed to the Jews in succession, dreams of denying that two women sufficiently disconnected were allowed to them at the same time. Now when we know that everything like a permission of polygamy has been withdrawn under the gospel, ought not this to originate grave doubts whether the other alleged permission of the verse must not also have terminated. The latter has no existence apart from the former. If there is no warrant for polygamy in the verse, neither is there any warrant for the successive marriage of sisters. If polygamy, then, has been cast out, may not the successive marriage of sisters, supposing it ever to have been there, have gone along with it? That that particular portion of the marriage law, upon which the whole case of our opponents rests, has been made more strict under the gospel than Moses made it, they themselves do not pretend in the least to doubt. How then is it possible for any man to build upon this verse an argument in defence of relaxing any law? If polygamy continued a recognized and tolerated

practice under the gospel, then I could conceive how those who interpret the verse as our opponents do, might conclude from it that the successive marriage of sisters continued to be allowable also; and I can conceive how Jews, following the same interpretation, should continue to draw the same conclusion. But among Christians, who believe that polygamy has ceased and determined, I am unable to comprehend how any man can prevent grave doubts from arising in his mind whether verse 18, on any view of it he chooses to take, can now be considered as a safe ground on which to build a plea for a questionable marriage. Is not this verse the very one in regard to which, above all others in the chapter, it is undeniable that the matter of it has been altered under the gospel, and altered in the way of being made more stringent?

But there is a second consideration which, still supposing our opponents' interpretation of verse 18 to be the correct one, although, of course, we altogether deny this, would go far to prove that the permission to marry sisters in succession no longer existed under the gospel. According to this interpretation, it is a very perplexing anomaly why it should be forbidden in verse 16, that the same woman should belong to two brothers in succession, whilst yet a man is supposed at liberty to take two sisters in succession. The only explanation which our opponents have ever attempted to give of this anomaly, is that

the Mosaic law only consulted the feelings of the male, and paid no regard at all to the feelings of the female; and we acknowledge that if the fact be what is alleged, this is the best explanation of it that can be given, for certainly the female sex occupied a comparatively degraded position in ancient times. But is it not one of the glories of the gospel, that it has quite changed this state of matters? It has elevated woman from her undue depression, and placed her much more nearly upon a level with man than formerly. Male and female are now all one in Christ Jesus. If a consideration, then, of the feelings of the male sex required in ancient times that a brother should be forbidden to marry his brother's wife, must not the very same reason now require, under the gospel, that a sister should be prevented from becoming the wife of her sister's husband? If the absence of all consideration of female feeling in ancient times prevented this enactment from being placed alongside of the other, must not the different genius of the gospel now require that the same law be applied to both sexes? What but this change of genius abolished polygamy? Moses allowed a man to take two wives, but he never allowed a woman to have two husbands. Now what has the gospel done? It has just placed the sexes upon a level in this respect. It has made the marriage law stricter than Moses made it, and more equal in its bearing upon the sexes. For these reasons

we maintain, that even although the interpretation given by our opponents of verse 18 were the correct one, still it would not furnish a foundation for the marriage law which they would now build upon it. They themselves allow that the principle of verse 18 has been modified by the gospel, in the way of being made more stringent, and in the way of placing the female sex more upon a level with the male.

Whatever was the case, then, in ancient times, it would be wrong now to have one law relating to the marriage of a woman with two brothers, and another to the marriage of a man with two sisters. I do not believe there was a different law in ancient times, but supposing there had been, the more equal principles of the gospel would require that it ought not to be so now. And these principles would be quite adequate to our guidance in deciding such a question. Polygamy has not ceased under the gospel in consequence of anything that can be called a positive statute of repeal. It has ceased because the gospel gives us higher views of the sanctity of the married state, because it elevates females to a position of greater dignity than they formerly enjoyed, because our Lord has brought prominently into view the principle originally promulgated in Eden that a married pair became one flesh. And these principles, which led to the discontinuance of polygamy from the very commencement of Christianity, are just as decisive in requiring

that the same law, which is applied to a woman with reference to two brothers, should equally be applied to a man in respect of two sisters. It is universally felt to be an outrage upon the Christian consciousness to make a difference between them; so much so, that when the idea of a difference is now first presented to men's minds, they are filled with amazement and wonder (allow the one, and not allow the other!!), and most of those who are desirous of having marriage with a wife's sister legalized, are willing to compound for this concession by tolerating also marriage with a brother's wife. But as it admits of no question at all, that marriage with a brother's wife is denounced by Moses as an unclean and abominable thing, therefore there is no way of putting the two connections upon a level, but by placing them both under prohibition; and this is what the principles of the gospel would dictate, even although the ancient law had made a difference between them, which, however, we have shown, was far from being the case.

The increasing strictness of the marriage law from age to age is a phenomenon requiring some attention. Some, perhaps, may put the question, how could a marriage be right in one age, and then become wrong in another. But the fact is palpable that it was so. Passing from Adam to Abraham, and from Abraham to Jacob, and from Jacob to Amram, and from Amram to Moses, and from Moses to Christ, we see that things which

were permitted in one era were forbidden in the succeeding, the prohibitions multiplying as we go along. We are not bound to account for this, nor does the validity of our argument at all depend upon the satisfactoriness of any explanations that may be offered. With this proviso the following remarks are submitted. The moral law, in its intrinsic ideal excellence, was always the same. But the extent to which it can be embodied in a judicial or municipal law, for the government of a people, varies at different times. In a state of society where the moral consciousness has been but little evoked, if the common law were made too elevated in its requirements, it would be incapable of execution, and would thus defeat its own end. Among the rude people for whom Moses legislated, a marriage law, or any law as strict as the gospel now requires, would have been unsuitable. Things done by a child before the moral sense is awakened, are never tried by the same standard which is applied to a full grown man. Polygamy, therefore, was tolerated in remote times, and a license of divorce also was tolerated, which is now altogether condemned. Does not our Lord himself say, "Moses, because of the hardness of your hearts, suffered you to put away your wives, but from the beginning it was not so. At the beginning God made them male and female, and said for this cause shall a man leave father and mother, and shall cleave to his wife, and they twain shall be one flesh" (Matt. xix. 8, 4, 5). When the root of

the human family, therefore, was first planted upon this earth, it was God's purpose that a perfect marriage law should exist among them, but on account of the degradation which ensued after the fall, a less perfect marriage law was permitted for a time, the object being gradually to educate mankind up to the point where the perfect law of the gospel, the law originally designed for the world, might be applied. And these considerations perfectly harmonize with the remark already made, that there cannot possibly be less incumbent upon us now, than is embodied in the marriage law of Moses, although there may be a great deal more.

It has now been shown, I think, that Lev. xviii. 18 implies no permission of marriage with two sisters in succession. It has also been shown that even if such a permission were supposed to be embodied in the verse, still there are weighty reasons to evince that this permission has not been transferred to the Christian church. The marriage law has been made more stringent under the gospel than it was previously, and Lev. xviii. 18 is the very portion of the ancient law where the increased stringency undeniably comes into play. Yet this verse is actually the one and only text in the whole Bible which our opponents pretend gives any countenance to their views. Their whole case rests here. Now, surely, when it is considered that there has been much difference of opinion with regard to the proper translation of this verse—many men of undoubted acquire-

ments preferring the marginal rendering—when it is considered that, even allowing the correctness of the textual rendering, the lawfulness of marriage with a deceased wife's sister is not stated in the verse, but is a mere inference, and one of very doubtful accuracy; when it is considered that even this doubtful inference acquires any small appearance of force it has from the reduction to a nullity of one whole clause, viz., "to uncover her nakedness," which, according to the view of our opponents, must be treated as a tautology; when it is considered that the inference in question not only stands in opposition to the principle of the 16th verse, and contradicts a reason assigned in the 17th, but would also, by obliging us to shut out all cases excepting those which are expressly mentioned, sanction marriage between father and daughter, and between uncle and niece; and when, in fine, it is considered that it is this very part of the Mosaic marriage law into which our opponents themselves allow that the gospel has introduced greater stringency; I say, when all these things are considered, it cannot but appear that Lev. xviii. 18 is a very frail ground upon which to rest the demand which has been so loudly urged upon the government to relax the marriage law of Great Britain. It is, indeed, the most insecure of all positions upon which to build an argument in favour of diminishing restrictions.

CHAPTER XI.

CONSIDERATION OF SEVERAL ARGUMENTS OF A GENERAL KIND, WHICH ARE ADDUCED IN DEFENCE OF MARRIAGE WITH A WIFE'S SISTER.

THOSE who are pleading for a change of the marriage law of Great Britain, attach great importance to the opinion of the Jews, who, they tell us, have in general held the lawfulness of marrying sisters in succession; but this, I confess, does not appear to me a consideration possessed of much weight. The fact is that, with regard to the opinions of the Jews in very ancient times, we are to a great extent in the dark. Still it must be remembered that, coming down to a period subsequent to the Christian era, one whole sect among the Jews, and those by no means men of little name, viz., the Karaites, were decided in their opposition to marriage with a wife's sister. They maintained that the substance of the law of incest lay in Lev. xviii. 6, and that the various particular prohibitions which follow this general principle were to be considered as specimens of the extent to which kindred was to be counted; and, accordingly, they supplied all the analogous cases, and held that the law which forbade a man to marry his brother's wife, equally debarred him from marrying his wife's sister. And they denied that the 18th verse of the chapter warranted any inference

in favour of this connection.* With regard to the Talmudists, again, it is by no means clear that they were unanimous in favour of the lawfulness of marriage with a wife's sister, though in general they approved of it. It is certain, however, that Maimonides, one of the greatest names among the Jews, declares that this connection was forbidden as well as marriage with a brother's wife. This is explicitly stated in his *More Nevochim*, part iii., chap. xlix. It is also stated, though not so explicitly, in his book of prohibitive precepts, No. 344, 345. In appealing to the Jews, therefore, what have we after all but Jew against Jew?

But even if all the Jews had been of the same mind, are they our standard? Is it not a fact that they have utterly perverted multitudes of passages in the Old Testament? Does not our Lord himself declare that in his day they made void the law of God by their traditions, and taught for doctrines the commandments of men? And are we to imagine that they greatly improved, after they rejected the Divine teacher whom God sent to instruct them? With regard to the signification of particular Hebrew words and phrases, the testimony of an ancient Jew is entitled to some deference; but with regard to the exposition of particular passages of Scripture, and more especially with regard to inferences deduced from Scripture, there is no reason at all why we should follow

* Selden's *Uxor Hebraica*, pp. 539–542.

them. Do not our Lord's words rather suggest the idea, that we should be suspicious of any views which are peculiar to them?

Another consideration, which is urged with great frequency in favour of marriage with a wife's sister, is that most other countries sanction this connection. A long list of names is recited, comprehending many insignificant states, and then the question is triumphantly asked, is it likely that we alone are right, and all the rest of the world wrong? By the same argument, they might exhort us to give up our free constitution, and place ourselves, like our neighbours, under despotic rule. By the same argument they might demonstrate the superiority of Popery and Lutheranism to the Reformed faith that prevails in Britain. But throwing out of view these general considerations, and confining our attention to laws regarding marriage, the argument grounded upon this alleged general consent is one whose unsoundness is apparent from the fact that, like all the arguments in defence of marriage with a wife's sister, it proves a vast deal too much. Do the nations, whose example is held up to our imitation, differ from us only in regard to marriage with a wife's sister? Is their law the same as ours in all other respects? And are they all perfectly agreed with one another in regard to those connections which are proper? By no means. They differ greatly amongst themselves, and most of them sanction unions which no man in this

country has yet said he wants legalized. It is dishonest, therefore, to cite their authority in favour of one particular marriage, without stating the other marriages which their example would equally recommend to us. But the fact is, that if these other marriages were always stated at the same time, so far would their example be from appearing worthy of our imitation, that it would be universally recognized as a rock which the vessel of our laws should carefully shun.

In France, marriage between brothers-in-law and sisters-in-law was first legalized under the republic, by the law of 20th September, 1792; but the consequences were such, that they were afterwards completely interdicted by the Code Napoléon. Another change took place in 1832, relaxing the stringency of this code, but not by any means repealing it. The law was continued in force, but dispensations were to be granted in particular cases, for grave and weighty reasons shown. And it appears, from the first report of the Marriage Law Commissioners,* that the law forbids all such marriages: prohibition is the rule, and dispensation is the exception. And not only so, but dispensation is granted for marriage between uncles and nieces, as well as between brothers-in-law and sisters-in-law. It is not true, therefore, that marriage with a wife's sister is legal in

* "Il ne faut point oublier qu' entre beaux-freres et belles soeurs, comme entre oncles et nieces, la prohibition du mariage est la regle et les dispenses l'exception."—*First Report of the Commissioners*, p. 136.

France; it is illegal; but an exemption may be procured from the operation of the law. Now, is this the state of things which it is desired to introduce into Britain? Is it meant that the law should still continue to prohibit marriage with a wife's sister, but that particular individuals should be permitted to enter into this connection, when they can convince some official of the propriety of the step in their case? Is it meant also that uncles and nieces should have the same indulgence extended to them? Or is it meant that because France admits these marriages, as an occasional exception from a law which is judged necessary as a general rule, we should go beyond France in relaxation, and make what is their exception our rule? What, then, is the use of referring to France at all? In common honesty, however, those who do refer to France should not content themselves with stating that marriage with a wife's sister is allowable there; they should state that it is allowable only by dispensation, and they should state what else is allowable in the same manner. And if they did so, the effect would be to make us thankful to God that the law of Britain is what it is.

It appears also, from the same report of the Marriage Law Commissioners, that in Holland the law forbids marriage between brothers-in-law and sisters-in-law, and between uncles and nieces, and aunts and nephews; "but the king may, on weighty grounds, remove the prohibition con-

tained in this article, by the grant of a dispensation."* In Prussia, however, marriage with a wife's sister is quite legal, without any dispensation at all; but then it should be remembered, that marriage between uncle and niece is equally legal. Marriage also between aunt and nephew is allowed, but where the aunt is older in years than the nephew, a dispensation is requisite, which is only granted on very special grounds.† Throughout the numerous petty states of Germany, the law differs from that of Prussia, in this respect, that marriage with a wife's sister is prohibited as a general rule, but a dispensation may be procured for it on cause shown; and the same is the law with regard to uncles and nieces.

What is proved, then, by the long array of continental countries, so frequently exhibited to our view as favourable to marriage with a wife's sister? This much, in my view, is demonstrated, that we should not tamper with our existing law, but be thankful to God that we have no such system of dispensations among us. What can the effect of such dispensations be, but to obliterate from the public mind all sense of the difference between right and wrong? And if it be said that we should not adopt their dispensing system, but legalize the connections out and out, will not this be going immensely ahead of the example which it is said we should follow? And are we

* *Report of Commissioners*, p. 86.
† *Ibid.*, p. 85.

to legalize marriages between uncles and nieces, and also between aunts and nephews, unless the aunt be so old that she might perchance domineer over her stripling nephew-husband, and wear the garb of rule which of right belongs to him?

One thing is very striking in the laws of other states now referred to, that the permission of marriage, whether absolutely or by dispensation, between uncle and niece, keeps pace with the license to marry a wife's sister. Nor is this a casual circumstance. There is a logical necessity for it. These are both cases in regard to which there is no express prohibition laid down by Moses. The unlawfulness of them is matter of inference, the one being included under the case of aunt and nephew, and the other under that of a brother's wife. And of the two I have no hesitation in saying, that the evidence against the latter, viz., wife's sister, is stronger than the evidence against the former, viz., uncle and niece. For whilst there is absolutely no allusion at all to uncle and niece, we find that the words uncover nakedness, whose import has been already unfolded, are employed in speaking of two sisters, and we find also an explicit announcement of the principle that the fact of two females being near kinswomen to one another, constitutes it a wickedness for them ever to be married to the same man. There is no principle, therefore, on which the legislature can legalize marriage with a wife's sister, and stop there. If they begin to change,

they must go farther, and it would be well, first of all, to consider where the final resting-place is likely to be.

The law of some of the American states, too, is appealed to as allowing marriage with a wife's sister. And Mr. Justice Storey's evidence with regard to this law, as also his own individual opinion, have been much paraded before the public eye. But we should have been told the whole of this gentleman's views on the subject. He professes that he can find no natural principle on which any prohibited degrees of affinity can be maintained at all, or any of consanguinity more remote than brother and sister.* He would prohibit no marriages at all, but those between parents and children, and brothers and sisters. Are we prepared for this? If not, what is the use of referring to Mr. Justice Storey?

An argument in defence of marriage with a wife's sister, is often grounded upon a consideration of the benefits which would accrue to a young family left without a mother's care. Who so suitable to become their step-mother, as their own mother's sister, who already cherishes for them much of a mother's love? But there are two sides to every question. It is never considered by those who harp upon this string, how many motherless children would be left destitute of an affectionate aunt's superintendence, if the

* Hansard's *Parliam. Debates*, vol. civ., p. 1234.

law were changed. A young unmarried female cannot with propriety live under the same roof with an unmarried man, whom it is quite legal and suitable for her to marry. This is a universal feeling in society, and it is grounded upon right and proper considerations. There are multitudes of virtuous females who would not on any account place themselves in such a position. The probability therefore is, that far more families of motherless children would be deprived of the kindly care of an aunt, if the law were changed, than would obtain benefit from having their aunt become their step-mother. This would certainly be the case, unless marriage took place between widowers and sisters-in-law in the majority of instances. A change in the law would in fact compel a young widower either to marry his wife's sister, or to want her assistance in managing his family altogether. But as the law stands at present, a wife's sister can live in the same dwelling with a man, with just as much propriety as his own sister.

The unsoundness of the argument under review may be exhibited in another way. The very same considerations would just as decisively establish the propriety of other marriages, which no one would think of legalizing. Would not a wife's mother prove as kindly a guardian to a family of young children as a wife's sister, and in many cases just as suitable in point of years to become the father's wife; but who would think

of advancing this as an argument in favour of legalizing such a connection? As strong an argument, too, might be made out in favour of marriage between a widow and her husband's brother. Think of a widow left with a numerous and helpless family. What an advantage would it be to these children, that their father's brother should become their father and protector? But these are the very circumstances in which God of old declared marriage with a brother's wife to be unclean and abominable. No: the laws of marriage rest on totally different principles. All such reasonings are wide of the mark, and they only remind one of a drowning man, who grasps at straws when nothing more substantial is within his reach.

An appeal is also made to the great hardships which are brought upon many children, whose parents have entered into the marriage under consideration. They have the stigma of bastardy affixed to their name, and they are liable to be deprived of property which, in all justice, ought to be theirs. But whose fault is this? It is not the fault of the law. No law which it is possible to enact will prevent children from suffering hardships in consequence of what their parents do. But this very fact ought to be with every man a reason for not entering into any connection, however much his own inclinations may lie to it, which he knows will certainly entail sorrow and loss upon his offspring. If he does so, it is he

alone who is to blame; and to ask a change of the law, in order to rescue him, or even his children, from the inconveniences which he has brought upon them, is the highest presumption. On the same principle the entire abolition of marriage might be demanded, because there are multitudes of children, born not in wedlock of any kind, who do suffer in consequence of this very great hardship, which no man can say that they, as individuals, have merited. These children are quite innocent, and much to be pitied; but to think of remedying their grievances by a change of the law of marriage, would be productive of the most fatal consequences to the wellbeing of society.

Another argument, of a much more shameless kind, has actually been advanced. It has been said that the present state of the law leads persons who would otherwise marry one another, to live in concubinage. They cannot lawfully become husband and wife, and therefore they live together without marriage; and it is said that not a few respectable people are actually in this position at the present moment. I protest against the application of the word respectable to any such persons. It is an utter abuse of language. They are setting the laws of God and man at defiance. And it is an insult to common sense to adduce their misconduct as a reason for altering the statute-book of the country. Change the law, because men take occasion from the law to sin! Then if uncles and nieces, encouraged by

those continental laws which are so much held up to our admiration, should begin also to live in concubinage here, because their marriage is interdicted, we shall next be called upon to change the law, in order to accommodate them. Nay, might it not be the shortest method, anticipating the demands which may be expected to present themselves one after another, at once, on account of the prevalence of fornication, to abolish all laws that have any reference to marriage, so that no man henceforward might be accounted a transgressor, on the principle that where no law is there is no transgression? The apostle tells us that the law is *made* for the lawless and the disobedient; but this maxim, it seems, must now be reversed, and laws henceforth must be *unmade* for the sake of those who are determined to transgress them. If we are to change every law of which individuals disapprove, for the sake of allowing them to do as they please without censure, we shall change a vast many more laws, than that which prohibits marriage with a wife's sister.

I fondly hope that it is merely the zeal of those who are advocating a change, which leads them to say there are numerous cases of concubinage, which have arisen from the present state of the law. Still, were it so, it would only be a mournful proof of the wickedness and self-deception of the human heart; but it would furnish no ground whatsoever for abolishing one single existing restriction. Just as powerful an argument of the

same kind might be constructed for the repeal of the law against bigamy, and in fact has actually been employed. Towards the close of the last century, there was a work published by Mr. Madan, a clergyman of the Church of England, with the view of showing that the law against bigamy was productive of immense immorality. It was said that multitudes of persons, unhappily married, separated from one another; and then, as the law did not permit them to marry, they lived in adultery. "By a wife's unconquerable violence of temper, or perpetual refractoriness of disposition, or levity of behaviour, a husband may be reduced to the situation of an unmarried man; yet his condition is tenfold worse—the one may marry, the other cannot; so he must remain helpless and hopeless, or plunge into vice and misery, because he is debarred of the remedy which God has provided, by the lies and forgeries of fathers and councils."* All this vice and misery, it was said, would be prevented, if the law allowed men more wives than one. And it was argued that there was no scriptural law against polygamy. The practice was tolerated by Moses, and the New Testament had never formally repealed the toleration. Now, there is just as much force in this argument for more wives than one, as in the similar argument for a wife's sister. No man who appeals to Lev. xviii. 18 for the lawfulness of marrying a wife's sister, denies that polygamy is

* Hansard's *Parliam. Debates*, vol. civ., p. 1235.

there equally sanctioned; but, on the other hand, many, who cannot avoid seeing polygamy in that verse, altogether deny that there is any ground for the inference about a wife's sister, which can only be drawn by overlooking the most emphatic words in the verse, and which, moreover, would contradict the principle of the 16th verse and the reason assigned in the 17th. And although we believe that polygamy is altogether opposed to the genius of the gospel, yet it would be no easy matter to produce, from the New Testament, an express and universal condemnation of it. It is by inferential reasoning, particularly from the words of Christ, that we reach the conclusion of its unlawfulness. And it was on this very ground, Mr. Madan affirmed, that "the indiscriminate and total prohibition of polygamy had no warrant from the Word of God." How often are we told that the prohibition of marriage with a wife's sister took its rise from the canons of councils and the decrees of popes! Mr. Madan, we see, ascribes a similar parentage to the prohibition of polygamy, viz., the lies and forgeries of fathers and councils; and there is as much truth in the one representation as the other. And then, if we look to the facts described by Mr. Madan, it will be seen that his argument is far stronger than the one bearing upon a wife's sister; for a widower, though prevented by law from marrying his wife's sister, has the whole world to choose from; whereas, a married man in the position described is absolute

forbidden to marry any woman under the sun. Yet who would say that, for the reasons stated, the law against bigamy should be abrogated? With immeasurably less reason can the abolition of the law against marriage with a wife's sister be asked for on any such ground.

There is a mode of representing their case, which is often employed by those pleading for the removal of restrictions from the marriage law, which throws an air of considerable plausibility around their views. They fix attention upon some connections near the outside of the circle of forbidden degrees, and they ask whether any man can say that these are at all so bad as others, which they name, near the centre. But this proves nothing. For relationship, from its very nature, is a thing of varying degrees. We go outwards from a centre, and at every step the connections become more remote. No matter, therefore, where the limit had been fixed, it would still have been true that the prohibitions relating to the remoter connections, would not appear so obviously requisite as the rest. But when the law has once defined the limit, all this reasoning goes for nothing. It may be quite true that, on natural principles, marriage between aunt and nephew would not appear to any person so shocking as between mother and son; but the law lays both under prohibition, and therefore we are equally bound to abstain from both. It may be quite true that connection with a brother's wife

is not so bad in itself as with one's own consanguineous sister; but the law declares both to be forbidden, and therefore we are equally bound to abstain from both. The question, therefore, is not, whether marriage with a wife's sister appears in our view to be as bad as some other forbidden connections, but whether, upon a fair construction of the statute, it be included among the forbidden degrees; and that it is so, we think has been abundantly shown.

CHAPTER XII.

THE EXTENT TO WHICH CHRISTIANS ARE BOUND TO OBEY THE LAW OF THE LAND IN REFERENCE TO MARRIAGE.

LET us proceed now to a different aspect of the question. For the sake of argument, let us suppose that the marriages which are at present so much disputed, are quite in accordance with the Word of God, that they are not at all forbidden by the principles of the gospel, and let us inquire what would be the duty of Christians living in a country where the civil law interdicted these connections. This is a question of great importance, and it is one regarding which many are in serious error. Very loose notions prevail in some quarters regarding the submission which is due to magistrates; and their authority is sometimes set at nought, in a way that pours contempt upon the

Word of God. We are enjoined in Scripture to obey those who are invested with civil authority. Every man is bound to submit to the laws of his country, and a Christian is doubly bound. He is bound by the same obligation which rests upon others, and he is bound by the additional obligation of Christ's command. Nor is he to render obedience only for wrath's sake, but also for conscience' sake; not simply that he may avoid penalties, but mainly that he may discharge a duty enforced by Divine authority. It is not simply a crime to violate the civil law, but it is a sin against God; and it is a sin, not merely in so far as the particular act may be condemned in Scripture, as in the case of murder and robbery, but it is a sin also on the simple ground of being a violation of public law, and that for the plain reason that God has commanded submission to the powers that be. The thing required by civil rulers may be in itself a matter of indifference, neither commanded in Scripture nor forbidden, as is the case with ten thousand regulations upon the statute-book, but it is not a matter of indifference whether we observe them or not, when commanded by lawful authority.

Are there, then, it will be asked, no cases at all in which we are justified in resisting civil rulers, and disregarding the laws of our country? Yes, there is one case, and only one, but that is a case expressly provided for in Scripture. Where obedience to the civil law would lead men into the commission of sin, whether in the way of doing

something which the Bible expressly forbids, or in the way of neglecting some duty which the Bible expressly enjoins, there they have no alternative but disobedience. The Jewish rulers commanded Peter to preach no more in the name of Christ, but Christ had commanded the apostles to preach his name everywhere. Here there was a direct contradiction, and Peter felt not one moment's hesitation as to the course which it was incumbent upon him to pursue. So in all cases we are not only warranted, but we are bound to disregard every law that would involve us in the commission of sin; and we must disobey, if we would maintain our allegiance to the King of kings, although imprisonment, or banishment, or death should be the consequence. We must obey God rather than man; in such cases we have no option; and in no case where we are warranted to disobey a magistrate, can we have any option. If we have an option, if we feel that we may do the thing or may not do it, without running counter to the Bible, then that is demonstration that we are bound to obey the magistrate. In such circumstances we have no ground at all for disobedience. If the neglect of what the magistrate forbids or enjoins would bring us into conflict with God's law, then we are bound to disobey the magistrate; but if we can comply with his law, without being thereby involved in any sin either of omission or of commission, then we are bound as Christians to yield obedience to his authority.

The principle of resistance to civil rulers is often greatly abused, by being applied to cases which do not at all come within its sweep. Some seem to think that they may violate a civil law if they consider it unjust, if they think that it does them a wrong, if they suppose that it unduly restricts their freedom. But this is an egregious mistake. These may be good reasons for endeavouring to procure the repeal of an obnoxious law, but they are no reason at all for transgressing it. Never was there a law enacted in any age or country, no, not in the freest nation upon the face of the earth, which was not considered by numbers of individuals to be wrong; and if every man were justified in disobeying a civil statute when he conceived it to be unjust or uncalled for, this would be equivalent to saying that every man was bound to obey only those laws of which he approved. In short, the bonds of society would be dissevered, and each individual would do just what seemed right in his own eyes. In all cases when charged with transgression, it would be a sufficient defence to say, that we considered the law wrong. The law may be wrong, nay, it may do us a real injustice, but submission is our duty, and that not merely for wrath, but also for conscience' sake. When we are suffering under the operation of an unjust law, we are suffering, if our submission be grounded upon Christian principles, for righteousness' sake, and we shall not lose our reward. By all means procure the abro-

gation of an unjust law if you can, but obey it while it is law, unless the crisis be one of those great eras which occur at rare periods, when the community as with one soul feels itself summoned to revolutionize society. A whole nation in cases of irremediable tyranny, where under colour of law the most grinding oppression is exercised upon all ranks, may by force resist and overthrow its government, when it is felt that there is no remedy short of this extreme and perilous expedient. But an individual is never warranted to transgress any law of his country, unless he is prepared to say that obedience to that law would place him in a position of rebellion against God.

Now let us look for a little to that particular law of the British statute-book which forbids marriage with a wife's sister. Is this one of those laws which a man may conscientiously disregard, provided he thinks that it is a wrong law, and that marriage with a wife's sister is not opposed to the Bible? I say, emphatically, no. The utmost that can be said, even on the principle of our opponents, is that this law too much restricts a man's freedom of choice. But it does not compel him to do a sinful action, which is the only reason Christianity recognizes as sufficient ground for resisting the powers that be. This law neither compels a man to do anything which God has forbidden, nor does it restrain him from performing aught that God has commanded. The only ground, therefore, of justifiable violation of civil

law is wanting. If a man is persuaded that Scripture does not forbid marriage with a wife's sister, that may be a good reason why he and those who think along with him should desire a change of the civil law, but it is no reason at all why he should transgress it. To warrant him in transgressing it, it would be requisite for him to show that he had received a positive command from God to marry his wife's sister. Then he would stand precisely in the position of Peter, who was on the one hand commanded by Christ to preach the gospel, and on the other was forbidden by the Jewish rulers to name the name of Christ any more. But when a thing is merely left free in Scripture, neither made obligatory on the one hand to be done, nor on the other to be left undone, there is not the shadow of a reason for violating a civil law, which prescribes a definite course of action. The utmost that can be said in such a case, is that the law too much restricts the liberty of the subject; but a Christian is bound to submit to the restriction, aye and until the law be altered, and he is bound not only for wrath's sake but also for conscience' sake. And if he transgresses he is guilty of rebellion against God, who enjoins submission to the powers that be. He violates the law of Christ in violating the law of the land. He cannot say that submission to the law of the land would have obliged him to refrain from doing anything that God has commanded. He can only say that submission

keeps him from doing something, which but for the law he would have felt at liberty to do. But this is nothing more than may be said with regard to the vast majority of laws upon the statute-book. They impose restrictions upon us, which but for them would have no existence. But if this were a good reason for breaking them, then the houses of Parliament might be closed at once, and all the statute-books of the kingdom consumed in one great conflagration. Law-making might cease and determine, and law-breaking become lord-paramount in the realm.

Those parties who are transgressing and encouraging others to transgress the law of the land, in so far as it forbids marriage with a wife's sister, are proceeding upon an utter misconception of the cases where resistance to human law is allowable. Such resistance can only be defended on the plea of Scripture, where compliance would involve the individual in the commission of sin; but resistance is not a duty, nor is it at all consistent with Christian character, where compliance would merely prevent him from doing what, but for the law, he would have felt at liberty to do. Let us apply the principle of our opponents to some other cases. One man thinks that marriage with a wife's sister is not forbidden in the Word of God; and, therefore, he imagines that he is at liberty to transgress the law of the land. But another man is equally persuaded that marriage with his own niece, or his own aunt, is not forbidden in Scripture. Has

not he the same right to transgress the civil law? Another man is convinced that marriage with a father's wife, when she becomes a widow, is not contrary to the law of God. Has not he also a right to disregard the British statute-book? Nay, there are not a few who are convinced that the whole chapter of Leviticus relating to this subject has fallen to the ground, and is not now any part of Christ's law at all. An individual, therefore, who on this ground thinks that marriage with his own sister is not forbidden under the gospel (where is it forbidden?), has a right also to transgress the law of the land; and when he is brought before a magistrate, it is a sufficient defence for him to say, point out to me the chapter and verse of the New Testament where this connection is condemned. Where are you to stop? You can stop nowhere. Only let a man be thoroughly convinced in his own conscience, that any connection which he thinks of entering into is not forbidden by the Word of God, and he has the very same right to transgress the law of the land, as the man who marries his wife's sister. In short, you abolish the civil law altogether, and you make every man the judge in his own case. Nay, more, on the same principle you have no right to bring a Jew to trial for committing bigamy whilst living under the protection of British law. The Jews, we are told, believe that Lev. xviii. 18, tolerates marriage with a wife's sister, but then it should be remembered, they believe just as firmly that

that same verse permits polygamy. Now the old Testament in their view is the only Divine revelation in existence. No part of the old law do they consider as set aside by any subsequent revelation. They do not own Christ's authority. Polygamy, therefore, according to their religious standards, is as much permitted to them now, as it was to their fathers of old. If the Christian, then, who thinks that his religion permits marriage with a wife's sister has reason to complain of the civil law against that connection as an encroachment upon his conscience, has not the Jew, who believes that his religion tolerates several wives at once, equal reason to complain of the civil law against bigamy as an infringement of his religious rights? And if the Christian is warranted on this ground to transgress the one of these British statutes, is not the Jew equally warranted to transgress the other? The very same plea of conscience that suffices for the Christian when he marries his wife's sister, equally exonerates the Jew from all blame when he marries two wives at once. It is to no purpose to say that the Jews do not in general now practise polygamy, and that there are regulations among them favourable to monogamy. These regulations are not conceived by themselves to be of Divine authority. They take rank with the laws and regulations and confessions of faith existing in our churches. And if a Christian may say, I set aside your confessions of faith on the one hand, and your British law on the

other, and I take my stand upon the simple Word of God, I marry my wife's sister; equally may the Jew say, I set aside the traditions of the elders, and the glosses of Rabbis, and the enactments of Parliament, and taking my stand upon the law of Moses, the only Divine authority on the subject, I marry as many wives as I please. Undeniably the Jew's plea of conscience is just as valid as the Christian's, and he is as really a persecuted man when the penalties of the law of bigamy are inflicted upon him.

The fact, however, is that in neither case is the plea of conscience worth a straw. The Jew residing on British ground cannot say, your law against bigamy compels me to do a sinful thing. He can only say, it restrains me from doing what but for it I should have felt at liberty to do; and therefore he is bound, as before his God, to obey the laws of the country whose protection he enjoys, and to content himself with one wife at a time. So also the Christian cannot say that the civil law forbidding the marriage of two sisters in succession, obliges him to incur guilt in any shape whatever; and therefore he is bound, as he shall answer to God, to obey the law of his country, and he has no right to complain of the disabilities, such as the bastardy of his children, and their consequent liability to the loss of property, which ensue upon his transgression. For any man to say that he, a British subject, will on grounds of conscience marry his wife's sister,

because he does not consider that Scripture condemns the connection, is a palpable absurdity. His conscience should teach him that he is bound as a Christian to obey every civil law, when obedience to it does not necessarily lead him into the commission of sin.

CHAPTER XIII.

HOW SHOULD THE CIVIL LAW OF MARRIAGE BE MOULDED, WHERE THERE IS A DIFFERENCE OF OPINION ABOUT THE CHRISTIAN LAW?

THE arguments exhibited in the preceding chapter suggest a view of the subject which is altogether overlooked by many, although it is one of vast importance. It is said that the civil law on the subject of marriage ought not to include more prohibitions than are contained in Scripture. Now most people will concur in this general principle. But then it ought to be remembered that there is a considerable difference of opinion, with regard to the number of connections which the Word of God forbids. Some fix the limit of scriptural allowance at one point, and some fix it at another. It is absolutely impossible, therefore, for Parliament to enact any law which all parties shall acknowledge to be perfectly coincident with scriptural law. The thing is beyond human power. An angel could not do it. It is an utter and absolute impossibility. Mould the civil law as you

please, you can never make it, in the estimation of all Christians, exactly accordant with Scripture. If you carry your prohibitions only up to a certain point, many will say your civil law tolerates connections which are condemned in the Bible. If, on the other hand, you include more prohibitions, then others will say your civil law forbids connections which God has left free. It is a manifest and undeniable impossibility to make the civil law agree with the scriptural law in the estimation of all Christians. Here, therefore, a question presents itself, seeing the civil law cannot be moulded in accordance with the views of all, whether is it better that it should embrace more prohibitions than some persons consider necessary, or fewer than others conceive to be required by the Word of God? One or other of these things it must do, and the true practical view of the subject for a Christian statesman to take, is, which of these courses would be attended with least evil? which of them would do least violence to the conscientious convictions of men? Now, we do not see how there can be a moment's doubt about this point. A law embracing more prohibitions than some persons think needful, will violate no conscience, it will lead no man into the commission of sin, it will only restrict liberty of choice to a small extent. But, on the other hand, a law tolerating connections which multitudes regard as forbidden in Scripture, will be productive of immense mischief. It will introduce disorder and confusion into so-

ciety. It will stir up strife and hostility in families. Friends will see their friends living in what they consider to be incest, and children will be born who will be looked upon by many as the fruit of incest. Much uneasiness of conscience also will be engendered, for young individuals taking the liberty which the civil law allows without having considered the scriptural aspect of the question at all, may afterwards become persuaded that the opinion of their friends, as to the incestuousness of the connection into which they have entered was correct; and a source of bitter disquietude may thus be opened up within them to torment them all their days. Undeniably, it is impossible for the law of the land to be thrown into a shape which all shall recognize as perfectly accordant with Scripture. Make the law what you please, it must always deviate in the view of some from the standard of the Bible, either in the way of including too many or too few prohibitions. And the evil without a doubt in the one case is immeasurably smaller than in the other. In the one case, it can only be said that the liberty of certain persons is restricted more than they think needful, but in the other, a public sanction is given to marriages which multitudes regard as incestuous, and the whole machine of government becomes polluted in their eyes.

And this view of the subject becomes far more striking, when we pass from a consideration of the bearing of the civil law upon individuals, to

its bearing upon Christian churches. These are communities which have a separate and independent government of their own, based not upon the civil law, but upon the Holy Scriptures. Now, conceive the law of the land to embrace fewer prohibitions of marriages, than the churches consider to be required by the Word of God, and is it not obvious that this would originate a most distressing state of matters? For multitudes would have entered into matrimonial unions during the days of their religious indifference, which, when they became Christians, they would find to be opposed to the Word of God, and all the relations of life would thus be thrown into confusion and disorder. There would be no difficulty in the case of those who were reared in Christian families, for they would both obey the law of the land in abstaining from all those connections which it forbade, and over and above this, they would also as Christians abstain from those additional connections which the Bible prohibited. But there would be extreme difficulty and hardship in the case of persons who had gone all the length which the civil law permitted, before they were brought under serious impressions. Yet, what could the church do? They could not admit into communion persons whom they believed to be living in incest. A civil law embracing fewer prohibitions than the church considered to be indispensable, would be an evil of a most serious and perplexing character. But, on the other hand,

a civil law embracing more prohibited degrees than the church considered to be specified in Scripture, would be an evil of a comparatively trifling kind. In this case, it would be the plain duty of the church, first, to require the observance of all those prohibitions which were common to the civil and the Christian law; and then, further, to require also the observance of those additional prohibitions which were embodied in the civil law, on the ground already stated, that it is the duty of a Christian man to obey every law of his country which does not oblige him either to do a positively sinful thing, or to refrain from doing something which is expressly enjoined as a duty.

Again, let us bring into view the case where differences of opinion exist within the Christian church itself, and let us consider how the two aspects of the civil law, viewed as embracing either a redundancy or a deficiency of prohibitions, would bear upon this case. The question now presents itself in the following shape. Whether would it be better for the peace and well-being of the church as a society, that the civil law should embrace fewer prohibitions than some members of the church considered on scriptural grounds to be indispensable, or more prohibitions than other members conceived the Bible required? Now here, we think, there is not room for one moment's hesitation. Those parties in the church who thought that there were more prohi-

bitions in Scripture than according to the one supposition, would be embodied in the law of the land, would be tied down by their principles to exclude from the church many whose marriages were quite legal. They would have no option. Conscience would demand from them the exclusion of persons who, although not transgressing any civil law, were yet in their view living in incest. To ask them to square the government of the church by the law of the land, would be to ask them to transgress God's law. They could not tolerate incest in the church, let the law of the land say what it might.

On the other hand, conceive the law of the land to embrace more prohibitions than some persons in the church thought the Word of God required, then, although these persons might regret that it was so, yet they could not say, that this state of matters obliged them in any way to violate their consciences. Those prohibitions which they considered to be common to Scripture and to the civil law, they would obey on both grounds; and those two or three additional prohibitions which they considered not to be required by Scripture, they would also obey out of deference to the law of the land, feeling that they were not thereby led into any sin, but only suffered a partial restriction of their liberty. Conscience and Scripture would require them to obey the law of the land, and if at any time in doing so, their inclinations met with a serious disap-

pointment, it would be a suffering for righteousness' sake. They would be bound on Christian principles to submit to the powers that be, seeing they could not say that this submission entailed upon them the necessity of sinning against God. And as they would thus act for themselves in perfect harmony with Scripture and conscience, so they would enjoin upon others the Christian duty of pursuing the same course; and any individuals who wilfully violated the law of the land, and brought the stigma of bastardy upon their children, would be fairly liable to church discipline on the ground of transgressing the scriptural principle, that Christians are bound to submit to the powers that be. They would be transgressing this great principle without having the only apology that ever warrants transgression, viz., that they could not otherwise avoid sin. Their submission would neither lead them to the doing of any thing that was forbidden in the Bible, nor to the neglect of any thing that was commanded there; and, therefore, they would be chargeable with inexcusable violation of the scriptural law regarding the obedience due to magistrates.

Of course, where men take different views of any question, that has a bearing upon the daily concerns of life, it is always difficult to devise a joint plan of action. Each sees most clearly the inconveniencies that will be experienced if his own view should be somewhat put into the back-

ground. But, in the present instance, seeing it is impossible in the very nature of things to make the civil law just exactly scriptural in the view of all parties, we think candour herself must acknowledge that the exclusion of two or three prohibitions which multitudes considered to be embodied in Scripture, would be an immeasurably greater evil, than the inclusion of two or three which others thought should be left out. In the one case, different parties might act together on plain and palpable principles; but, in the other, it would be impossible for them to conduct a joint government of the church. The difficulty those would have, who believe all the existing prohibitions of the civil law to be accordant with Scripture, in governing the church along with others after some of these prohibitions were removed, would be infinitely greater than the difficulties at present experienced by those who think there are two or three more prohibitions in the civil law than need be. On these grounds, even although it were my conviction, which is very very far from being the case, that marriage with a brother's wife or a wife's sister was not forbidden in Scripture, I would not agitate for a repeal of the existing civil law, nay, I would oppose such repeal, while multitudes of my fellow-citizens and fellow-christians regarded the connections referred to as unscriptural, because I would regard it as an infinitely smaller evil that my liberty should be somewhat curtailed, than that the conscien-

tious convictions of my fellow-subjects should be violated. All law implies the curtailment of individual liberty of action, and if such curtailment does not oblige men to sin, then they have no scriptural ground whatever for complaint. Conscience has nothing to do with the matter. Not conscience, but inclination alone, is interfered with in such a case, and the plea of conscience is an utter abuse of terms.

CHAPTER XIV.

IS OUR OBLIGATION TO OBEY EXISTING LAWS IN THE STATE OR REGULATIONS IN CHURCHES DIMINISHED, ON THE HYPOTHESIS THAT THE MOSAIC CODE OF INCEST IS NO LONGER BINDING?

THERE is another aspect of the question which is deserving of serious consideration. It is maintained by many and partially believed by others, that the prohibitions embraced in the 18th chapter of Leviticus are no longer binding upon the Christian church, and that, consequently, there is no written law at all under the gospel, with regard to prohibited degrees in the matter of marriage. Scripture neither enjoins nor forbids any thing, but leaves the Christian consciousness to decide what connections are proper and decorous, and what connections are to be shunned. Now, although we altogether dissent from this view of

the subject, for reasons which have been already sufficiently stated, yet we do not start back from it with horror; for we are persuaded that in the case of Christians generally, there would be developed such a tone of moral feeling and such a delicacy of sentiment, as would for the most part prevent them from contracting any very questionable alliances. With no written law at all on the subject of marriage, the majority of Christians would be a tolerably safe law to themselves.

Various questions, however, according to the hypothesis before us, press themselves forward for an answer. Is it meant that each individual person in the community is to be left entirely to the guidance of his own moral sense, and that no one is to be called to account in any quarter, let him contract whatsoever kind of marriage he pleases? Is it meant that neither is the legislature to enact any civil law on the subject of marriage, nor are the churches to have any regulations with regard to the procedure of their members in this matter? Are all to marry just as seems good in their own eyes? If this be what is meant, then we are persuaded that a very anomalous state of society might be expected to arise, for both in the world and in the church, the moral sense is developed in very different degrees in different men. One man may have no feeling of repugnance to the idea of marriage with his brother's wife. Another may imagine that there is nothing offensive in his taking his own niece. Another may have no

scruple at all about marrying his stepmother. Nay, possibly another, remembering that Abel married his sister and Abraham his half-sister, may think that he is following very good examples when he does the same. Now, are all these persons to be held as acting quite rightly because their own consciences do not condemn them, and is no person to be entitled to say that they are doing wrong? Particularly is a church bound to receive such persons into its communion, it being acknowledged, according to the hypothesis, that not one of them is acting against the letter of Scripture? No man will say this. Even were the hypothesis a sound one, that Scripture is silent, and that the moral sense as educated by the gospel is the only rule which God intended we should now have, still it would be indispensable to frame regulations beforehand, by gathering up the dictates of enlightened and purified Christian intelligence, and embodying them in civil statutes and in church regulations. No man can deny this who believes the Bible, and who remembers that Paul censures the Corinthians for retaining a man in communion who had his father's wife.

Let it be supposed, in the absence of all scriptural law upon the subject, men being left individually to the guidance of their own moral sense, that no civil laws were enacted, nor any regulations made by churches for their own government, then the man who married his niece or his

sister, or his own mother, could not be excluded from church membership. By the hypothesis he has violated no law of Scripture, he has violated no law of the land, he has violated no law of the church. Must he not therefore be retained in communion? But, perhaps it may be said, that each particular case of unwonted marriage would require to be tried by the church upon its own merits at the time of its occurrence, and the parties excluded or admitted according as the general feeling of the members might dictate. Now it is easy to see what a world of confusion would spring from this plan of procedure, and what room there would be for the operation of partiality and prejudice. On the occasion of every unusual marriage, a church would be shaken to its foundations, the feelings of some leading them to look upon it with abhorrence, and others declaring that they could see nothing so very bad about it. In the end, however, after a prodigious amount of bad feeling had been excited, some kind of decision would be come to, and this decision would unavoidably acquire the authority of a precedent; and on the next similar occasion it would be appealed to as the shortest and safest way of settling the question. If one man had been shut out formerly for a certain marriage, his neighbour could hardly now be admitted if he had entered into the same connection. And thus, step by step, a system of regulations would arise in every church, which would have all the authority

of law. True, these regulations would have no foundation in Scripture, but they would rest upon what we are told is the only rule God intended we should have, viz., the moral sense of the community; and they would all be binding by the one and only kind of Divine authority, that could be pled for any prohibition of marriage whatever. Now these considerations guide us at once to the conclusion, that if the Scriptures really have enacted no law upon the subject, then the marriage regulations embodied in the standards of our church must be obligatory upon us; and they must all be equally obligatory, for not one of them has a different foundation from the rest. It is absurd for any man to say, I will not submit to this or that particular regulation—say the one about a wife's sister—because it cannot be proved from Scripture; for, according to the hypothesis, there is no Scripture authority for any of them. The whole of Leviticus that relates to incest has fallen to the ground, and all existing regulations about marriage, have their foundation simply in the authority of the church. Not one of them has more Divine authority than another. If you may disregard one prohibition, therefore, for its lack of Scripture authority, you may equally set them all at defiance for the very same reason, and claim your church membership whatever kind of marriage you enter into. It would, of course, be quite competent for a church, on the principles at present under consideration, to re-

view its regulations regarding marriage, and to expunge some of them if they seemed to the general mind such as might be dispensed with, or to add to their number, if the expanding Christian consciousness and an augmenting delicacy of feeling so suggested. Indeed, we should naturally expect, if the marriage law really has no other basis than the one alleged, that stricter and stricter regulations, analogous to the progression apparent from Abel to Abraham, and from Abraham to Moses, and from Moses to Christ, would be required by the more developed and refined instincts of the Christian heart. And whatever changes might at any time be made, whether in the way of removing restrictions or adding to their number, it would always be the duty of the minority to submit to the majority, because, on the principle supposed, the decision of the majority would be the only existing exponent of the Divine will, the only guide God intended we should have, Scripture being altogether silent upon the subject.

Now, if it were determined that the marriage law, alike in the church and in the state, had no other ground to rest upon than the principle above described, would it be necessary, seeing the enactments do not rest upon scriptural authority, to enforce them with inflexible determination? We maintain that there would be no alternative between a rigid execution of the law in all its parts, and the entire abrogation of it. As the law, by hypothesis, has no scriptural basis,

but rests solely upon the authority of men, it may be expected that very different views shall prevail regarding some of its provisions. It is by majorities that laws are always carried, and there are never wanting some who think quite conscientiously that certain regulations ought to have been omitted. Now, what is an individual to do, who thinks that some particular prohibition ought not to have been embodied in the law, say the prohibition of a wife's sister? May he disregard the law? If so, then the entire law is so much waste paper. For if one man may violate one prohibition, because he disapproves of it, then another man has an equal right to disregard another, when it does not carry conviction to his own mind. Only let a man believe that there should be no prohibition of a brother's wife, of a niece, of an aunt, of a father's wife, of a sister, of a half-sister, and then he will be justified in marrying any one of these relatives. For, according to the hypothesis at present under review, none of the prohibitions of the law rests upon Scripture authority; they all rest only upon the basis of human authority, and the transgressor, in every one of the cases supposed, has the very same defence to offer, viz., that he does not think the law right. In fact there would be less room for doubt on the part of individuals, if the law were acknowledged to have its only ground in the opinions and sentiments of mankind, than if it were allowed, on all hands, to

be founded upon the Word of God. For in this latter case, if an individual thought that some particular prohibition of the law was not warranted by the Word of God, then the idea might suggest itself to him, that there was less obligation connected with that part of the civil law, than with the rest of it. In this, no doubt, he would be wrong, as has already been shown, for a civil law is not binding upon individuals because they feel the force of the reasons which led to its enactment, it is obligatory solely on the ground that it has been enacted. Nevertheless, there would be a feeling excited that there was at least less evil in disobeying, where the scriptural authority was supposed to be deficient. But, on the other principle, there is not even a pretext for making the slightest difference between the different prohibitions of the law; they all rest upon precisely the same foundation, viz., the moral sense of men collected and embodied into law. If, then, transgression of this law be allowed in any one case, it cannot consistently be hindered or blamed in any other. Where are you to begin to interfere? Where are you to begin even to blame? Manifestly, there is no alternative between the rigid execution of the law in all its provisions, and the allowing of it to fall into entire desuetude. And all are bound to obey any one prohibition, just as much as they are bound to obey any other. No civil law is binding upon you merely because you may happen to approve

of it, it is equally binding upon your conscience, though you were in the minority that opposed its enactment, always, of course, excepting the case where the law would oblige you to do a positively sinful thing, or to abstain from performing a divinely commanded duty. When you can plead either of these reasons, then not only may you transgress the law, but you are bound to transgress it, be the consequences what they may.

It appears, then, we think, that the idea entertained by not a few, that there is no written revelation with regard to marriage and degrees of propinquity under the gospel, makes very little change upon the general aspect of the question. It does not impair the obligation to submit to every existing regulation in the church, and to every existing law in the state. It only grounds the obligation upon a somewhat different basis, not immediately but mediately upon Divine authority, not upon a written revelation of God's will, but upon the collected moral sentiment of Christian men, which we are told God intended to be our only guide in the matter. And one very obvious effect of this hypothesis is, that it utterly sweeps away all those peculiar apologies which have been made for disregarding the prohibition about a wife's sister, as compared with the other prohibitions of the civil law of Britain, for they are all equally destitute of revealed written authority. They all rest upon precisely the same basis, viz., the authority of Parliament. Another equally

obvious effect of this hypothesis is, that it quite alters the kind of argumentation, which it would be incumbent upon you to employ, if you were desirous of effecting some modification of the existing law. You would not, for example, if you wanted marriage with a wife's sister, or a brother's wife to be left free, for a moment dream of troubling yourself or others with criticisms upon Lev. xviii. 18. You would not ground anything upon the use of the word wife rather than widow in Lev. xviii. 16. You would not argue from the silence of the New Testament regarding the two connections mentioned. On your own principle, these arguments have not the weight of a feather. They have no bearing upon the question. It is quite true, according to the hypothesis, that the Word of God does not condemn the marriages you plead for, but then it is equally true that it condemns no marriages at all; and if your argument is conclusive for the removal of two prohibitions from the statute-book, it is equally conclusive for the abolition of the entire code of forbidden degrees.

There are few subjects with regard to which more use is made of mutually destructive arguments, than that of marriage with a wife's sister. The most inconsistent pleas are employed, and the force of a double argument is ascribed to them, whereas their conjunction just reduces them to no argument at all, like the combination of algebraic quantities with opposite signs, or the meeting of

two chemical substances, which make each other explode and dissolve into thin air. What an egregious inconsistency, for example, is the following, into which many fall. They question, on the one hand, whether the prohibitions in Leviticus be now obligatory under the gospel, that is, whether there be any written revealed law at all on the subject of incest; and yet, almost in the same breath, they affirm that a Christian is not bound to obey any enactment of the civil law regarding marriage, unless he be persuaded that there is Scripture authority for it. What, then, in the name of common sense, is he to do? If Scripture be utterly *silent* on the subject of degrees, and if a Christian is not bound to obey the civil law unless Scripture *speaks* in its support, then plainly he is exonerated, not merely from the prohibition regarding a wife's sister, but from every other prohibition which the law contains.

CHAPTER XV.

WHAT METHOD SHOULD BE FOLLOWED IN DECIDING WHAT IS INCESTUOUS, ON THE ASSUMPTION THAT SCRIPTURE EMBODIES NO LAW ON THE SUBJECT?

WE, of course, are persuaded, on grounds which have been already clearly pointed out, that the Word of God contains all needful direction with regard to those connections which ought to be

shunned. But very many who take a part in the existing controversy on this subject, although they bring the prohibitions of Leviticus into view and discuss them, yet end with avowing the conviction that they are now of no authority. They might save themselves and others much trouble, by avowing this conviction at first.

Now, on the principle thus assumed, that the only guide God intended we should have, is our own moral sense as enlightened and elevated by the gospel, it becomes a very important question how we are to proceed, supposing a civil or an ecclesiastical law were about to be enacted or revised, in making up our minds what we, as individuals, would consider requisite to be embodied in it. Those who say Scripture is now silent on the subject, are clearly bound to settle this question, and they are bound to abstain from all agitation against the existing law, until they have done so, otherwise they cut the ship from her moorings in the midst of a storm, without pointing out a harbour to which she can be steered. This, however, which is the very marrow of the controversy on the principle assumed, is the very difficulty which not one of all those who are demanding a change has set himself to solve. If the prohibitions in the 18th chapter of Leviticus are no longer of any force, then criticisms upon the different verses of that chapter, upon the extent of meaning borne by the phrase near of kin, upon the use of the word wife rather than widow,

are a mere pastime, which leave the question very nearly where they found it. If we are a law unto ourselves, how are we to settle what the dictates of a sound Christian conscience are in regard to the relationships which ought to bar marriage?

I have already said that, although far from adopting the hypothesis at present under review, yet I do not look upon it with horror and alarm, for I am persuaded that if heathen nations were able in some cases to enact pretty good marriage laws, a community where the gospel of Christ was enjoyed might be expected to devise superior ones. How, then, would a Christian man proceed in preparing his mind to give judgment, either as an elector looking forward to a parliamentary enactment, or as a member of the church looking forward to ecclesiastical regulations? I think I would begin by taking a general view of the progress of society, so far as my knowledge went, observing the different regulations which natural reason had led different nations to institute, and tracing their effects upon the morality of the people. Some heathen nations were much more dissolute and lascivious than others. I would compare the marriage laws of the one class, with the marriage laws of the other, and endeavour to ascertain how far those laws were either cause or consequence of different degrees of corruption, or, perhaps, in some measure, both cause and consequence at the same time. The ancient Greeks were a more loose and dissolute people than the

ancient Romans, and connections accordingly were allowed among them which were abhorred in Rome. Brothers were permitted to marry their half-sisters, in some places, when they were the children of the same mother, and in others when they were the children of the same father. The Lacedemonian lawgiver allowed marriages between those who had the same mother, but different fathers. The Athenians, again, were forbidden to marry sisters by the same mother, but not those by the same father. "Cimon had his own sister for a wife, led not more by love than by his country's custom, for the Athenians may marry those born of the same father."* Nay, Zeno and Chrysippus even maintained that parents and children might intermarry, and that it was absurd and unreasonable to lay any restriction upon their union.† The Romans, on the other hand, were a much more chaste and virtuous people; and their marriage laws accordingly were far stricter. Cousins were the nearest blood relatives who were permitted to marry with one another.‡ Adoption was a practice which prevailed to a great extent among the Romans, and for the purpose of guarding the purity of domestic life, even this artificial relationship, once legally constituted in due form and therefore entitling to certain privileges, was made a barrier to marriage in the

* Archbishop's Potter's *Antiq.*, iv. 11.—Philo-Judæus on 6th and 7th *Precepts of Decalogue.*

† *Elements of the Civil Law*, by John Taylor, LL.D., p. 318.

‡ Ibid., p. 329.

same manner as consanguinity.* It is true, indeed, that the degrees of consanguinity which barred marriage were not always the same. It would appear that in early times, marriage with a niece, if she were a brother's daughter, was not forbidden; but under Constantius and Constans, this connection was declared to be incestuous, and death was assigned as the punishment to it. With regard to relationships of affinity, the law varied at different times, as in the case of consanguinity. A wife's daughter, a son's wife, a wife's mother, and a father's wife were forbidden from a very early period. But the circle was enlarged until the maxim was adopted: Quocunque gradu quis uni conjugum junctus est consanguinitate, eodem gradu junctus est alteri affinitate.†

Gibbon mentions the difference between the Romans and other heathen nations, and he states briefly, but very explicitly, the extent to which their prohibitions went, whether as regards consanguinity, affinity, or adoption. He does not consider that either interest or superstition swayed them. "In Egypt, the marriage of brothers and sisters was admitted without scruple or exception. A Spartan might espouse the daughter of his father, an Athenian that of his mother; and the nuptials of an uncle with his niece was applauded at Athens as a happy union of the dear-

* Taylor's *Elements*, p. 324.—Selden's *De Jure Naturali*, lib. v., p. 556.

† Taylor's *Elem. of the Civil Law*, p. 338.

est relations. The profane lawgivers of Rome were never tempted by interest or superstition to multiply the forbidden degrees; but they inflexibly condemned the marriage of sisters and brothers, hesitated whether first cousins should be touched by the same interdict, revered the parental character of aunts and uncles, and treated affinity and adoption as a just imitation of the ties of blood."*

Selden states, on the authority of Gaius, Paulus, and Ulpian, that before Christianity was received as the religion of the Roman empire, step-mother, mother-in-law, step-sister, brother's wife, sister's wife,† and daughter-in-law, were all forbidden by public authority.‡ The accuracy of this view, so far as the period referred to is concerned, has been questioned by some; but no man can question that under Constantius and Constans all these degrees of affinity were legal barriers to marriage, and the children sprung from such connections were declared to be spurious. The same law was confirmed by Valentinian, Theodosius, and Arcadius, who declare that the liberty of marrying either brother's wife or two sisters is wholly interdicted, no matter how the prior marriage may have been dissolved,§ whether by death, desertion, or divorce.‖

* Gibbon's *Decline and Fall*, book xliv.

† *Uxoris prioris Soror*, sister of former wife.

‡ Selden, *De Jure Naturali et Gentium juxta Disciplinam Hebræorum*, lib. v., pp. 556, 557.

§ *Codex Justinianus*, lib. v., tit. 5.

‖ *Dissoluto quocunque modo conjugio.*

Thus it is plain, that among the Romans there was a gradually increasing strictness in the laws forbidding marriage, both on the ground of consanguinity, and on the ground of affinity. If it be true that in the earlier ages of Rome, marriage with a wife's sister, and with a brother's wife was not forbidden, it is equally true that at the same period marriage between uncle and niece, if she were a brother's daughter, was tolerated. It was under the same emperors that these relationships of affinity and of consanguinity were first made legal barriers to marriage. The stringency of the laws relating to affinity, kept pace with the stringency of those grounded upon consanguinity. And thus it appears that the Romans were mainly guided in framing their law, by a regard to that principle which is the grand reason for having laws of incest at all, viz., the preservation of the purity of domestic life. Persons whose relationship gives them frequent opportunities of being together, and of remaining for lengthened periods under the same roof, are morally benefited by a law which prohibits them from ever entertaining the idea of marriage. An evidence that it was such solicitude for the preservation of purity of morals which influenced the Romans, is found in the extension of the prohibitory laws regarding marriage to relationships grounded upon adoption.

Now, there is no doubt that the laws of the ancient Romans are not binding upon us. Never-

theless, they are worthy of consideration as historical monuments; and when we reflect that the virtues of justice and chastity were highly prized among that people, it cannot appear unreasonable that we may profit by their example. If their higher sense of purity led them, under the influence of natural reason, to institute stricter regulations than the Greeks did, what may be expected from us under the gospel? I would not square my opinions exactly after the Roman model, but certainly I would be somewhat influenced by it in forming a judgment. I would be influenced in this way, that it would appear strange to me for a Christian people to fall behind even the purest of heathen nations; and, in so far as I was influenced, the effect would be to prevent me from supposing, that fewer prohibitions than those actually upon our statute-book could suffice. If it be true that the Word of God prescribes nothing at all to us upon the subject, but leaves us to frame laws and regulations for ourselves, then there is no other course left for us, but to be guided by considerations similar to those which influenced the ancient Romans. What methods will best preserve the purity of domestic life? And it would be strange indeed, if a people, long under the discipline of the exalted principles of the gospel, satisfied themselves with a lower standard than was known to have existed in certain heathen countries.

But I would not confine my attention to the ancient Greeks and Romans. I would look also to the position and customs of the ancient Canaanites and Jews, on this ground, that we have more unexceptionable information regarding them, than regarding any other ancient people. I would say, here is a historical record in Leviticus, and as it is inspired, we may receive with confidence all its details. True, according to the hypothesis upon which we are at present proceeding, the code of laws here laid down is not formally binding upon us. But it is very instructive as a history, and being Scripture, it is profitable for doctrine, for reproof, for correction, for instruction in righteousness. Now, I see it stated in this inspired document that God himself considered the deeds here forbidden as abominations when done by the Canaanites, although they had nothing but the law of nature to guide them. I infer, therefore, that they ought to have been led by natural reason and experience, as the ancient Romans actually were, to impose these restraints upon themselves; and that they were not so led, was one of the reasons why they were doomed to extermination. My Christian moral sense, therefore, would say, surely connections, which are described by the pen of inspiration as filthy and abominable when entered into by the Canaanites, ought not to be considered as right and proper among Christians, whose privileges and position are so vastly superior. If the Canaanites, with no revelation,

ought to have been led, by their own experience and feelings, to set up for themselves the standard described, then I would at once conclude that Christians, if God has indeed left them to find out what is right in this matter, might be expected to establish, at the very least, as elevated a standard. Nay, it would appear to me that if there was to be any difference at all, a still purer and stricter law might be expected to emanate from men placed on the high vantage ground of the gospel. And keeping this in view, when I looked at particular prohibitions in Leviticus, and observed, for example, that while connection between a mother and a son was forbidden, nothing at all was said about a father and a daughter, I would, without a moment's hesitation, conclude, either that that case was held as included in the other, though not mentioned, or that the higher moral feeling of Christians ought now to supply it. Again, I would notice that connection between a man and his brother's wife was forbidden, and conceding for the present, what we have shown was very far from being the case, that connection with a wife's sister was left free, my Christian consciousness would at once put the question, Whether the alleged difference between these perfectly analogous cases ought not now to cease under the gospel? By the hypothesis we are left to construct a law for ourselves, and my Christian feeling would say, by all means put the two cases upon a level; and as you would never

dream of going down to a lower standard, you can only put them upon a level by forbidding both. The reason generally assigned for the alleged ancient difference in the treatment of these cases, is that the feelings of the male only were consulted in the matter of marriage, and that little or no regard was paid to the feelings of the female. And this we believe is the best explanation which can be offered. My moral sense, then, would at once lead me as a Christian to say, surely it was to be expected that the gospel would alter this state of things. Is it not a fact, and one of the most striking facts in history, that Christianity has elevated the female sex out of the degradation which overwhelmed them in ancient times? Is it not a fact that, in regard to rights and privileges, and particularly in regard to consideration shown to feelings, women now stand much more nearly upon a level with men than formerly? If it was the difference, then, formerly existing in these respects, which led to the difference said to exist between the legislation of Lev. xviii. 16, and Lev. xviii. 18, ought not the elevation which Christianity has effected of the female to a level with the male, to lead us to the abolition of the alleged ancient difference in the law. We have a right to do so by the hypothesis, if it seems proper and advisable, because God has left us, we are told, to construct a law for ourselves.

Further, while one was thus engaged in making up his mind, it could not but appear to him

a very material circumstance, that there had been a gradually increasing stringency in the laws of marriage from the days of Adam downwards. This is apparent, as we have seen, in passing from Adam to Abraham, from Abraham to Moses, from the early days of Moses to the enactment of his law, and from that period to Christ, as the change with regard to polygamy shows. Now, in these circumstances, ought not the moral sense of Christians—constituted, according to the hypothesis, the only judge—at once to come to the conclusion, that if a change upon the ancient regulations is to be made, it ought to be most decidedly not in the way of relaxing but in the way of tightening them. If God has left us in this matter to make laws for ourselves, could it be with the view of giving us the opportunity of laying fewer restrictions upon ourselves? Does not the increasing stringency of marriage laws up to the time of this alleged freedom, taken in connection with the high position of privilege which we now occupy, rather suggest the conclusion, that if we have indeed been left to judge for ourselves, it must have been in the expectation that we would be even more scrupulous and more self-restraining than the ancient Jews were commanded to be? And in fact, we do find that the ancient Romans, flourishing some ages after the Canaanites and the days of Moses, actually did—under the guidance of natural reason, and in a more advanced state of society—add some prohi-

bitions to the list, thus making the law more stringent.

Nor can it be said that there is less occasion now for strict laws of incest than there was in ancient times. The very reverse is the case. What is it that originates the necessity for laws of this kind at all? It is mainly the opportunities of unrestricted intercourse possessed by near friends from their earliest years, before moral feeling has been properly developed. These opportunities might be abused, and thus lead to a total degeneracy of manners; and therefore, to guard against this tremendous evil, the idea of marriage between certain relatives requires to be put altogether out of the question, as a thing never once to be dreamt of; and it is the doing of this by means of a law which first generates the feeling of there being something peculiarly odious in such connections, to which the name of incest is given. On this principle, of course, it is obvious that in countries where great freedom of intercourse takes place between relatives of different sexes, there the requirement is for strict laws of incest. On the other hand, in countries where even near friends of different sexes are kept very much apart, the reason for the existence of laws of this kind operates with less force, and fewer prohibitions are required. The justice of this principle is allowed by Mr. Binney himself.* "A Hebrew," says he, "could see the wife

* *Reasons*, p. 63.

of a paternal uncle without her veil; then he must not marry her. He could not see the sister of his wife so, then he may marry her." Here it is implied that if a Hebrew had been allowed to look upon the unveiled face of his wife's sister, then his marriage with her would have been expressly forbidden in the Mosaic law. If there had been a little more freedom of intercourse among Jews of different sexes, then marriage with a wife's sister would have been constituted a sin, as it is allowed that marriage with the wife of a paternal uncle was.

Now, what is the constitution of society among modern nations, particularly in western countries? Is there not a very great freedom of intercourse between the sexes from their earliest years? Who is ever prevented from looking upon the face of a female relative? Such opportunities of intercourse, however, just constitute the fundamental principle upon which we must proceed, if it be true that God has left the decision to ourselves, in settling how far laws of incest ought to go. And it is obvious that, so far is there from being any just reason in our day for diminishing the number of such laws, that if there is to be any change at all from ancient times, everything demonstrates that it ought to be a change in the very opposite direction. It is no answer to this argument to say that in ancient times men looked through nothing but the senses, and had none of the sentiments which elevate and purify a Chris-

tian circle. But can it be truly said, that the mass of society are less under the dominion of the senses now than formerly? Can it be truly said that the mass of society are now thoroughly impregnated with Christian principles? We fear it cannot. And even if the number who have imbibed the spirit of the gospel were greatly more numerous than it is, it must be remembered that prohibitive laws mainly find their use in the case of those who are unsound in their principles and irregular in their affections. So far as multitudes —yea, the vast majority, are concerned, the laws against murder and robbery might be repealed to-morrow; but they are indispensable on account of those, however small may be their number, who are actuated by violence and injustice.

Perhaps it may be said, that this whole course of reasoning, by which we propose to ascertain the dictates of the purified Christian intelligence, is out of place. You ought just to appeal to the feelings of men. You ought just to say to this man and to that man, Does it strike you that such and such a connection has anything revolting about it? This, however, is an egregious mistake, and shows that even the origin of the idea of incest is altogether misapprehended. It was not the belief that a certain thing was incest, which first led to the prohibition of it; but it was the experience or the apprehension of immoralities, arising, or likely to arise, from the opportunities of meeting which certain persons had, which led

to the prohibition of marriage between them, and then this prohibition originated the idea of a special baseness in the connection, to which the designation of incest was applied. This is the true genesis of the idea of incest and of the feeling regarding it; and it is quite a ὕστερον πρότερον, a turning of things upside down, to say, when reasoning on general principles, you must first prove a thing to be incest, before you are at liberty to forbid it. This is nothing short of an absurdity, according to the hypothesis upon which we are at present proceeding. Were the existence of a written law upon the subject in Scripture allowed, then the demand first to prove a thing to be incest, would be most just and reasonable; but when you set out from the principle, that it is left entirely to our own judgment to make a law, you destroy the possibility of proving anything to be incest, in any other way than from a consideration of the evils which unrestricted intercourse between certain relatives, unless marriage were absolutely forbidden, would be likely to produce. The very idea of incest would be utterly unknown to Adam and Eve and their children at first. They could not have formed the remotest conception of what it meant, and the conscious commission of it would be for a time an impossibility. The first idea of incest that would spring up, would have respect to connections in the ascending and descending line. The odiousness of these is obviously founded in

natural feeling. But, for a considerable period, there could be no farther extension of the idea of incest. Brothers, as in the case of Abel, and Cain, and Seth, would marry their sisters, without the slightest feeling of there being aught wrong in the connection. After a period of years, however, our belief is, that God Himself gradually restricted the liberty of men, and that thus the idea of incest became more and more comprehensive, and that became sinful which was not sinful before. But make the supposition that no Divine direction had been given to them at all, as it is said we have none, then how would the idea of incest first attach itself to connections between brothers and sisters, and remoter kindred? It would only be when it was found necessary by parents, on account of the numbers of children who were growing up together, and of near friends who were living in close proximity, to say such and such persons must never think of inter-marrying; that then this prohibition or restriction would originate the conception of something base in these forbidden connections. What was the fault of the Canaanites? The fault of the Canaanites was that they remained in a great measure destitute of the idea of incest. They had no concern about the evils which spring from unrestricted intercourse between near friends, and they never attempted to prevent these evils by enacting proper marriage laws. They established no prohibitions, and therefore hardly a feeling was

generated of any special baseness in any connections whatever. They were sunk into a state of brutal degradation, and they had no proper sense of the enormity of their conduct. It is not the conviction that a certain thing is incest, which first originates the prohibition of it, but it is the prohibition of it emanating from a competent authority which generates and fosters the proper feeling. It is obvious, therefore, that in settling what may be the dictate of the Christian consciousness at the present day, we are not to appeal to mere feeling. The question must be settled far more by reasoning, and experience, and historical deduction.

Some tell us that multitudes experience no sentiment of disapprobation in regard to marriage with a wife's sister, and therefore they argue that it ought not now to be forbidden by law, seeing that those who disapprove of it are at liberty to avoid it. This, however, is an evasion of the real question at issue, and quite overlooks the nature and origin of the idea of incest. It may be quite true that many do not now feel, with regard to marriage with a wife's sister, as was once felt, and as ought to be felt; but this state of feeling is no more than might be brought about in the space of thirty or forty years, with regard to some other of the forbidden degrees. Let the idea become general, that we have no written inspired law on the subject; let there be even a vague doubt whether the Mosaic code of incest be still obligatory; let mar-

riages with an uncle's wife, or an aunt, or a niece, become somewhat numerous, and let as much be said in their favour as has been said about union with a wife's sister; and after the lapse of a few years the feeling of aversion towards them would be modified in many minds. But neither in the one case nor in the other would the evils and the dangers be one particle the smaller, which constitute the original ground for any prohibition of marriage, and which would in all cases, if the prohibition were faithfully observed, generate and maintain the idea of incest in connection with them. The position of the whole question is most unfortunate at the present day. There has arisen, in the view of many, an uncertainty as to the true ground of incest, in consequence of the denial by some, and a vague doubt on the part of others, of the morality and obligation of the laws in Leviticus. Neither, on the one hand, is the scriptural standard altogether abandoned, nor, on the other, is the true standard set up to which we must come, if we leave the Word of God. There is a vacillation between the two, and a consequent uncertainty as to what incest is, and how the boundaries of it are to be defined. What is incest? It is just a connection which is forbidden, on the ground of relationship, by a competent authority. This we have seen is the definition of the word given in Johnson's *Dictionary*, and Webster is even more specific than Johnson, for he says it is connection between persons within the degrees, in

which marriage is forbidden by the law of a country. Whatever is prohibited by a competent authority, on the ground of relationship, is incest. There is no other definition that will stand the test but this. Every other fails when it comes to be applied to particular cases. What was incest under the Mosaic law? It was just the violation of any one of the prohibitions laid down by Moses with regard to the intercourse of relatives. What was incest among the ancient Romans? It was just the transgression of any one of the special laws which they had enacted on this subject. What is incest under the gospel? My conviction is that incest under the gospel is just the violation of any of the prohibitions relative to kindred, which are grounded upon a fair construction of the code embodied in Lev. xviii. But, on the principle that there is not now any written revealed law on the subject, but that God has just left Christian communities to make a law for themselves, incest is neither more nor less than the violation of any prohibitions which may be embodied in any law thus made. Some, perhaps, may say, the lawgiver ought to prove a thing to be incest before he forbids it. There would be common sense in this, if you allowed the existence of a written revealed law of permanent obligation; but, on the principle that Scripture is silent, it is a palpable absurdity. The lawgiver must prove a thing to be incest before he forbids it!! Most egregious trifling! Where is he to find the proof?

You have destroyed the proof, root and branch, by saying that Scripture gives no deliverance upon the subject. If Scripture, indeed, be dumb on the point, then incest in Britain is just what the law of Britain forbids on grounds of relationship. You say, but perhaps British law includes too many prohibitions. Too many, I ask, as tried by what standard? On your own principle there is no standard. But it is just as possible that the law may embrace fewer prohibitions, than the circumstances of society and the freedom of intercourse characteristic of modern times really require. Some would make mere feeling the standard of incest. Is such and such a connection abhorrent to men's ideas of propriety? It is obvious what an utter uncertainty this view involves us in. One order of minds will shrink back from one connection, and another from another, some will put more under the ban of their disapprobation, and others fewer; and there may be a few individuals whose blunted moral sense will hardly recognize impropriety in any, these few being the very persons all the while who have most need of a stringent law, to guard against the evils with which their looseness would pollute society.

Very inconsistent pleas are put forth by those who are agitating for a change of the marriage laws of Britain. On the one hand, they say that there is not a general feeling of repugnance to marriage with a wife's sister; and, therefore, they argue that the prohibition of it should be abol-

ished. On the other hand, they say that if there be a strong and general abhorrence of it, as in Scotland, then there is no occasion for a law against it, as men's own feelings will keep them from the connection. But these two arguments, it is obvious, when taken together, will prove a vast deal more than those who employ them intend. They will prove not only that the prohibition of marriage with a wife's sister should be abrogated, but they will equally demonstrate that every other prohibition upon the statute-book should be swept away, some for the one reason, and some for the other. Which of all these prohibitions is there to which neither the one reason nor the other will apply? This new logic is indeed an instrument of marvellous power. With regard to any connection, no matter what it be, we have only to ask the question, is this a connection repugnant to the feelings of men? If the answer be *no*, then the conclusion is, that it ought not to be forbidden by law. But if the answer be *yes*, then, strange to say, the conclusion now is, that there is no need of its being forbidden by law. There is certainly more zeal than discretion in many of those who are agitating for a change of the existing law in reference to marriage.

And not only are these arguments mutually destructive, but they are also, when singly taken, worthless. The first, which makes men's feelings the criterion of what is right or wrong in this matter, has been already sufficiently considered;

it quite misapprehends the true nature and origin of the very idea of incest, and the second overlooks the grand use and purpose of all prohibitive laws. No need of a law against certain connections, because they are already held in general disrepute!! Yet the Lord Advocate of Scotland actually employed this argument in the House of Commons:—"When it was said that these marriages were unknown in Scotland, that circumstance, instead of operating as a reason for excluding Scotland from the effect of the bill, only showed that they might, without fear, include that country within it, unless they gave to the Scotch people but little credit for the sincerity of their religious feelings."* There is more compliment and flattery here than good logic. We do not spurn the compliment, however. We take it without scruple, because we believe that the Scotch are indeed warmly attached to their religious principles, and particularly to the principle at present in question. But that is no reason at all why a marriage, which they almost universally condemn, should be legalized among them. Make a thing lawful because the bulk of the people think it wrong, and are not likely to do it!! Just as reasonably might it be said, that if the bulk of the people thought it right, then the law should make it wrong. This is sheer trifling. The universality or general prevalence of a conviction that a certain thing is wrong, is no reason at all why the

* Hansard, vol. cvi., pp. 1323, 1324.

law should leave it free, otherwise the whole criminal code might be abolished. Are we to forget what the apostle has said, that the law is not made for a righteous man, but for the lawless and disobedient, for the ungodly and for sinners? (1 Tim. i. 9) I do not entertain the slightest doubt that, although the entire law of incest were abolished by the British Parliament to-morrow, the great bulk of the community would be kept from serious mistakes by their own sense of propriety, and by public opinion. There would always be very many, whose concern for the morals of society would lead them to discountenance certain connections as of dangerous tendency, although, by the hypothesis, not forbidden by any law, human or Divine. And I have just as little doubt that, although all laws against murder and robbery and dishonesty were abrogated at the same time, the majority of mankind would abstain from these enormities. Men are not honest merely because there are public laws against fraud; nor are they monogamists merely because Parliament has branded bigamy as a crime. But who would say that for this reason these laws ought to be expunged from the British statute-book? Or who would argue that, if they did not exist, this would furnish the smallest ground for not enacting them? The main use and benefit of law is not to keep the majority right, but to prevent, it may be, a comparatively small number of individuals from going wrong. Abolish the laws against dishon-

esty, and then what would be the consequence? Would the whole world become dishonest? By no means. Multitudes would continue as honest as they were before, but certainly there would be reason to apprehend an increase of dishonesty. Impunity would tempt some, who might not otherwise have fallen. So, also, with regard to the law of incest. Let it be abolished, and then would the whole world run into questionable connections? Not at all. The great bulk of society would continue, under the influence of existing ideas, to act as they have hitherto done. But still there would be danger that some individuals here would enter into one kind of questionable connection, and some individuals there into another, and the effect might gradually be to lower and destroy the healthy tone of public feeling. For let it be remembered, that by the hypothesis there is no scriptural law upon the subject, as there is in the case of dishonesty, and, therefore, after the abrogation of the civil law, there would be the greater likelihood of a deterioration of public sentiment, and in the end the consequences to society might be very serious. There would always be many, I doubt not a majority, whose innate sense of propriety, and whose concern for the morals of a rising generation, would prevent them from entering into certain connections, or giving any countenance to them in others. But there would also be some who, when in their view there was no Divine law upon the subject, and

when the human law also was abolished, would enter into connections calculated to pollute the family circle by breaking down those barriers which at present make the unrestricted intercourse of young relatives quite innocent and safe. Neither, therefore, does the absence from some minds of all feeling of repugnance to certain marriages, furnish any good reason for their being tolerated; nor does the existence of a strong dislike to them in others, show that there is no occasion for their being prohibited. The question is not one to be decided by feeling at all. It is a question whose settlement must be regulated mainly, by a consideration of the comparative freedom of intercourse characteristic of the present state of society, and also by a review of the marriage laws which have existed in different ages and countries, and the effects which have attended them.

One thing is very clear, that those who consider the prohibitions of Moses to be abrogated, and who therefore believe that there is no existing scriptural law of incest, are bound, at the very outset, to point out the principles on which a law may now be constructed, unless they think there should be no law at all, and if this be their opinion, they ought boldly to avow it. It is exceedingly wrong in them to oppose particular prohibitions of the British law, using arguments which they must know full well prove a vast deal more than they profess to want. According to their view, the law ought to be remodelled, not on scriptural

principles, for there are no such principles in existence, but on principles of reason and experience; and therefore the whole of it would require to be brought under revision; all its provisions would need to be overhauled, and some consistent principle pointed out on which those enactments can rest which are to be retained. And we ought now to be told explicitly, what method they propose to employ for settling and defining the boundaries of incest, before we are asked to change one single article of the existing law. Are we such fools as to set out upon a perilous journey, when we are not told where we are to be taken, nor who is to be our guide? Are we going to quit one place of abode whose advantages we know, for the sake of another whose foundation even has not yet been fixed upon? No; if it be true that we are all wrong in supposing the Scriptures to embody a law of incest, then I say it is a fair demand, that before one single provision of the law grounded upon this alleged mistake be altered, a programme of a new law in all its parts be exhibited to the public, with a distinct statement of the principles upon which its various prohibitions are to rest, and of the reasons why, stop where it may, it goes just so far and no farther. The public mind ought to be matured on these points before one single pin of the old tabernacle be taken down. Those, I allow, who believe, *bona fide*, that the Scriptures contain all needful information on the subject, and who think that one connection has

been forbidden by the civil law without a sufficient warrant from Scripture, are quite consistent, though I believe they are altogether wrong, in asking that the law be changed in that one respect. But those who entertain the belief, or even the suspicion, that the Mosaic prohibitions are now of no authority at all, are acting quite a preposterous part when they join in that demand. The task to which they are bound to address themselves, is plainly one of a totally different kind.

CONCLUSION.

It has now been shown, I think, that even were it true that Scripture is silent upon the subject of forbidden degrees, it would still be the duty of every citizen to yield entire obedience to the law of the land; for if one man might disregard one prohibition because he considered it unwarranted, another man might disregard a different one for the same reason, and thus the whole law might be set at defiance. Laws are not obligatory upon us, because we approve of them; they are obligatory, because they have been enacted. It is plain, too, that if a revision of the law were to take place on the principle stated above, it would be incumbent upon those who desired any change to state explicitly how they proposed to ascertain the boundaries of in-

cest, what cases they conceived fell within those boundaries, and what cases lay beyond them. The exclusion of one case for a reason which applied equally to others that were included, would be an arbitrary and unsatisfactory course. Some consistent principle would require to be enunciated and agreed upon, before any change was made at all. And arguments grounded upon the silence of Scripture with regard to one case, would of course be utterly futile, for by the hypothesis, Scripture says nothing at all with regard to any case, God having designedly left us to make a law for ourselves.

This whole hypothesis, however, I think, has been shown to be wrong; and it has been proved that the Word of God really does contain a law which is obligatory for all time. The mere fact that the prohibitions referred to are to be found in the Pentateuch, no more disproves them to be moral, than the same fact with regard to the decalogue, shows it to be merely ceremonial or political. These prohibitions, which constitute the law of incest, are just a branch of the seventh commandment. This law, therefore, with such additional stringency as the New Testament undoubtedly does introduce into some parts of it, ought to be the basis upon which all regulations at the present day are founded.

The law of Britain with regard to marriage professes to be grounded upon the Word of God, and I am fully persuaded that it is so in all its parts. There is, however, a difference of opinion

with regard to this point. Some conceive that one or two of the connections forbidden by the civil law ought to have been left free. Hence arises a question, seeing it is impossible in the nature of things for the law to be made scriptural in the view of all, whether is it better that it should include one or two more prohibitions than some think necessary, or one or two fewer than others believe to be required by Scripture? Now, keeping out of view the fact that the immense majority are satisfied with the law as it is, and supposing even that parties were equally divided upon the subject, I see not how it can be doubted on general principles, that it is a less evil to include one or two prohibitions conceived by some to be unnecessary, than to exclude one or two conceived by others to be indispensable; for, in the one case, it is merely a partial restriction of liberty that takes place; whilst, on the other, connections are legalized which are conceived by multitudes to be incestuous, and thus government becomes in their view a party to wickedness. And, with regard to those who think that there are more prohibitions than should exist, they are bound as good citizens and as good Christians to obey them all; because it is merely a restriction of liberty which they suffer, and they are consequently destitute of the one and only reason which ever warrants disobedience to the civil law. They cannot say that the law in question obliges them to sin, either in the way of doing what God

has forbidden, or of neglecting what God has positively enjoined. Neither can they say that legislation about marriage is a thing altogether beyond the province of the civil magistrate. It is not like the imposing of a tax for the endowment of some form of worship. It is not like the enactment of a system of religious belief, which the subjects are held bound to receive. No; legislation about marriage is a thing strictly within the magistrate's province, if any thing be within his province at all. And, therefore, we as Christians are bound to obey all his laws on the subject, unless where they would oblige us to do a sinful thing. But I have heard it said, what if Government were to forbid marriage altogether? Would you obey that law? Now, in argument, this is quite a fair question, and I shall give it what I conceive to be quite a sufficient answer. Such a law would strike at the very existence of society, and therefore it would be the duty of the community to overturn altogether the government that enforced it, and to set up another government in its room. I am far from holding the principles of passive obedience. But so long as a government is allowed, upon the whole, to answer the ends of government, it is the duty of the citizens, and more especially is it the duty of Christians, to obey all the laws, excepting in the case where obedience would oblige them to sin against God.

Some, however, allege that marriage with a

wife's sister is not forbidden by the law of Scotland, but only by the law of England. Why, then, are so many persons in Scotland taking steps to procure a change of the law? Why do they not rather bring some case before the proper tribunals to have the state of the law ascertained beyond a doubt? But I am persuaded the allegation in question is an utter mistake. Although Lord Rutherfurd held this view, yet it is not the opinion of lawyers generally, as his Lordship himself confessed, "though he was aware that the general opinion of lawyers went the other way,"* and certainly no judgment favourable to this view has ever been pronounced by the Court of Session. What is the ground of Lord Rutherfurd's opinion? It is that the statutes of the Scottish Parliament do not enumerate the various connections which are forbidden, but refer to the prohibitions of Moses as still in force. "For himself," said his Lordship, "having come to the deliberate opinion that the marriage in question was not forbidden by the law of Leviticus, he came to the opinion that the connection was not a crime, and that the marriage was effectual for civil purposes." Lord Rutherfurd does not question that the Scottish Parliament considered the Mosaic code as forbidding marriage with a brother's wife and with a wife's sister, and that they also intended to prohibit these connections; but his argument is, that if we are now

* Hansard, vol. cvi., p. 1323.

persuaded the Mosaic law should be differently interpreted, then the Scottish law is so worded, that it may be viewed by us, although not so intended originally, as permitting the marriages referred to. Now, according to this view, the question what Scottish law is on this subject, just resolves itself into the point, what the Mosaic law is; and this is a question which a theologian ought to be as competent to decide as a lawyer, so that I do not feel myself chargeable with any presumption in avowing an opinion directly the reverse of Lord Rutherfurd's. If it has been shown, in the preceding pages, that the law of Leviticus forbids the marriages in question, then, according to Lord Rutherfurd's own view, the Scottish law forbids them also.

But this is not all. It is a fact, that although the acts of the Scottish Parliament refer to the book of Leviticus, and prohibit the connections which are there forbidden, they do something more. The act of 1567, c. 14, c. 15, refers to Leviticus, but the act of 1690 c. 5, embodies the Confession of Faith as part of the statute, and the civil law, therefore, with regard to marriage, besides referring generally to the Mosaic prohibitions, is couched also in the following terms: "The man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than of her own." No matter, therefore, what view individuals may now take of the Mosaic pro-

hibitions, it admits of no question that the existing law of Scotland actually does include marriage with a brother's wife and with a wife's sister amongst incestuous connections. And it is a fact, accordingly, that the High Court of Justiciary have decided that the above marriages do infer the crime of incest. See Baron Hume's *Commentaries on Crimes*, vol. i. p. 449. Indeed there is no point upon which all the institutional writers on the law of Scotland are more uniform and decisive. Lord Stair, one of the greatest authorities in Scottish law, explicitly states that prohibitions are the same in affinity as in consanguinity, *Inst.*, vol. i. 4, § 6. Sir George M'Kenzie, too, *Inst.*, 1, 6, 3; Lord Bankton, vol. i. p. 118; Erskine, 1, 6, 9; Forbes, i. p. 61; Bayne, *Notes on the Criminal Law*, p. 25; Wallace, p. 145; Hutcheson, ii. p. 208, all concur in stating that, by the law of Scotland, the same degrees are prohibited in affinity as in consanguinity. And Mr. Erskine, in illustrating this rule, says expressly, "that one cannot marry his wife's sister any more than he can *his own*." Without a doubt, therefore, the law of Scotland, as well as that of England, prohibits marriage both with a brother's wife and with a wife's sister.

And it has been our effort, in the preceding pages, to prove that this law has a solid foundation in Scripture. The arguments which are employed to show that marriage with a brother's wife and with a wife's sister, ought to have been

left free, have all this radical defect, that they prove a great deal more than those who urge them have any desire to establish. The 18th chapter of Leviticus, it is said, refers not to marriage at all, but only to casual connections. The utter unreasonableness of this idea has been fully exposed. But, suppose it were granted, is it not obvious that the argument, if it proved the lawfulness of marriage with a brother's wife and a wife's sister, would equally demonstrate the lawfulness of marriage with one's own mother, or sister, or any of the relatives mentioned in the chapter? Now, unless you are prepared to go this length, it is mere deception to use this argument at all. Much stress is laid upon the fact, that Moses employs the word wife, and not widow. The ignorance of Scripture displayed in the use of such an argument is marvellous. But let it be conceded that Moses meant wife, as distinguished from widow, and then is it not obvious that, if the argument proves the lawfulness of marriage with a brother's widow, it equally proves the lawfulness of marriage with a father's widow, with a son's widow, and with an uncle's widow? Either, therefore, throw the argument for ever aside, or follow it out to its legitimate consequences. Again, it is said, that only those connections which are specifically described, are to be conceived as prohibited, and not any others, though precisely the same in regard to propinquity. But, it should be remembered that, while doubtless this principle would

establish the lawfulness of marriage with a wife's sister, it would equally establish the lawfulness of marriage between a father and a daughter, an uncle and a niece, a grandmother and a grandson, not one of these relationships being mentioned by Moses, but only the analogous ones of mother and son, aunt and nephew, grandfather and granddaughter. The validity of the argument, therefore, must either be given up, or these connections must also be legalized. Another favourite idea of many is, that the case of a wife's sister, although analogous to that of a brother's wife, was designedly omitted by Moses, as his law consulted not the feelings of the female, but only those of the male. We have shown that this idea runs directly in the teeth of some of the prohibitions of Moses, the fact being with regard to parents and children, grandparents and grandchildren, that, whilst one of the two possible combinations in each case is omitted, it is not one similarly related to the two sexes, but transversely. Let it be conceded, however, that disregard of female feeling was the principle which occasioned the omission of certain cases in the law of Moses, and would not the spirit of the gospel, whose distinguishing glory it is to have elevated woman from her degradation, and to have made male and female all one in Christ Jesus, require that all cases omitted on such a ground, should now be supplied? But the main argument that is employed in defence of marriage with a wife's sister, is the one grounded upon

Lev. xviii. 18, which, it is said, warrants an inference favourable to the connection. That no such inference follows from the text, we believe has been made good. It can only be drawn by altogether ignoring the meaning of the emphatic phrase, "uncover nakedness," or cutting it out of the verse. And, in fact, I do observe that, in the advertisements which are poured out in so profuse a stream upon the country by those who are seeking a change, these words are actually, when the verse is quoted, left out, as if their presence were felt to be either an inconvenience or a vain repetition, as may be seen on the first inside page of the cover of the *Missionary Record of the United Presbyterian Church*, for January, 1855. But even although these decisive words were not in the verse at all, the inference has been shown to be a most uncertain one. And even were the inference ever so certain, should it not shake the confidence of those who would act upon it now, that this verse undeniably is one into whose provisions greater stringency has been introduced under the gospel than existed among the Jews of old? Two permissions are said to be embodied in the verse, viz., the permission of polygamy, and the permission of marriage with sisters in succession. I believe there is only one of these. But let the existence of them both be supposed. Now, is it not acknowledged on all hands, that an allowance for the successive marriage of sisters can only be found in the verse, on the assumption that an

allowance for polygamy is found in it also? But we know that the gospel has abolished this license, and has made the law of marriage more strict than this verse made it. How insecure a foundation, then, must this verse be, for a conclusion in favour of marriage with a wife's sister, the more especially when it is considered that that conclusion, if allowed, would stand as an anomaly in the law! It would be quite opposed to the principle of the 16th verse, which forbids marriage with a brother's wife. It would directly contradict what is affirmed in verse 17, viz., that the fact of females being *near kinswomen to one another*, which sisters are expressly said to be in verse 13, makes it wickedness for them ever to be wives to the same man. And it would also oblige us to doubt whether we had any right to supply the omitted cases of father and daughter, uncle and niece, uncle-in-law and niece-in-law. The permission of marriage with a wife's sister breaks up the integrity and consistency of the law, and robs it of any clear, distinct principle.

As the marriage law exists at present in Britain, and in the standards of our church, there is a beautiful consistency and completeness about it. The principle upon which it rests is precise and definite. All consanguineous relationships in the ascending and descending line are made barriers to marriage; parents, children, grandchildren, are all interdicted to one another. Then, with regard to the collateral branches, connection is forbidden to

the third degree, that is, between brothers and sisters, and also with a father or mother's sister or brother, or, as otherwise expressed, between nephew and aunt, niece and uncle. But beyond that point connection is left free, the descendants of brothers and sisters, viz., cousins, being at perfect liberty to intermarry. Then, again, with regard to relationships of affinity, prohibition goes just exactly to the same limits. Here there is consistency and precision; but if we once infringe upon this principle, it is impossible to say how far the spirit of change may carry us. We shall have no principle left on which definite boundaries can be fixed between what should be forbidden, and what should be allowed.

There are some who regard the placing of relationships of affinity upon a level with relationships of consanguinity, as altogether unwarranted. Now, I have no doubt that, keeping in view the grand reason for having laws of incest at all, a very sound argument could be constructed on principles of reason and experience, for extending the law equally far in both cases. We have seen that the ancient Romans did so, and Gibbon declares that it was neither interest nor superstition which swayed those profane or heathen lawgivers. It was a regard to the purity of domestic life. But I do not enter upon this topic. The true reason among Christians for placing affinity and consanguinity upon a level, in so far as they are to be considered barriers to marriage, is that the Word

of God does so. The proof of this is obvious and undeniable. It is a fact, that relationships of affinity are made obstacles to marriage in Leviticus, up to the very same point as relationships of consanguinity. What are the remotest consanguineous connections which are forbidden in Scripture? First, in the ascending and descending line, they are grandparents and grandchildren. Of course, we do not believe that great grandparents and great grandchildren are left at liberty to marry; we consider that Taylor* is right in extending this prohibition indefinitely far; but that is not the point at present before us. The remotest connections that are actually mentioned in the ascending and descending line, are grandparents and grandchildren. And the very same is the case with regard to relationships of affinity. A man is forbidden to marry his wife's grandmother or granddaughter. The extreme limits mentioned both in the case of affinity and of consanguinity are the same. Then, again, with regard to collateral relationships, we find a similar coincidence. The remotest collateral consanguineous connection that is forbidden, is that between nephew and aunt. Beyond that point connection is lawful. Blood cousins may marry. Now, what is the remotest connection of affinity that is expressly prohibited? It is the very same. A man is forbidden to marry his aunt-in-law, his uncle's wife. Beyond that point there is no pro-

* *Elements of the Civil Law*, p. 320.

hibition. As he may marry his own blood cousin, so he may marry his cousin's wife or his wife's cousin. The extreme limits that are actually specified, whether you look to lineal or collateral relationship, are the very same in the case of affinity as of consanguinity; and I must confess I do not see what stronger evidence could either be produced or desired, in proof of the lawgiver's purpose to place affinity and consanguinity upon a level as barriers to marriage. If the fact had been that the prohibitions relating to consanguinity had extended a step farther out in all directions than those relating to affinity, then we should have concluded that affinity, although a bar to marriage to some extent, was not meant to be a bar to the same extent as consanguinity. But when the outside limits to which the two kinds of prohibition actually reach are precisely the same, there seems to me to be no plausible ground on which any difference can be made between them. It is vain to say that there are some connections of affinity within the extreme limits, which are not expressly mentioned by Moses, for there are just as many connections of consanguinity of which the same thing holds true. But who would say that marriage between father and daughter, grandmother and grandson, uncle and niece, was allowed by Moses, because not expressly forbidden. When the outside limits of the two kinds of relationship which are expressly specified as obstacles to marriage are precisely the same, and

when, although there are interior or closer cases of affinity not specified, there are also interior or closer cases of consanguinity not specified, then I must confess that I see no resting-place but in the principle that affinity and consanguinity were intended to be placed upon the same level, so far as relates to the law of marriage.

In short, I am persuaded that our forefathers have correctly ascertained and defined the boundaries between what is scripturally lawful and unlawful in this matter; and no words could more briefly and pointedly, yet quite fully and sufficiently, state the truth than those employed in the standards of our church. "The man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than of her own."—*Confession of Faith*, sec. xxiv. 4. This is the law of all the Presbyterian churches in Scotland. It is also the law of Scotland itself. The same, too, is the principle of the law of England. And it is a principle clear, explicit, and well-defined. It is precise and self-consistent, and all the parts of it hang together. It is level to the capacities of all mankind, which a law of marriage above all others ought to be, as affecting the dearest interests of all, whether high or low, rich or poor, learned or unlearned. Before this principle is broken up, let us see what other is to be put in its room. As yet nothing that can be called a principle has even been proposed. What

principle has been proposed? I am aware of nothing in the shape of a principle, but the idea that affinity should be conceived as expiring with the death of the individual out of whose marriage it has sprung. But it hardly needs to be mentioned that this idea pours contempt upon the plainest declarations of Scripture, as exhibited in Leviticus, and also in 1 Corinthians, and, even were it adopted, it would carry us an immense deal farther than any person has yet proposed we should go. It is a vain dream to imagine that the principle of the existing law can be broken in upon to the extent of removing only a single case from under its operation. This is a logical impossibility. Change the law in regard to marriage with a wife's sister, and other changes must be made either at the same time or shortly afterwards, because the arguments adduced in defence of this connection are equally powerful in regard to others, which no person as yet has ventured to propose. It is not a casual circumstance that the continental states, whose permission of marriage with a wife's sister is so incessantly exhibited to our view, conjoin with that permission other licenses from which we as yet shrink back. They are but following out principles to their legitimate consequences, and if we abandon the consistent and well-defined principle of our own law, we shall be compelled to pursue the same course. If the long lists of foreign countries, which are so profusely advertised as favourable to marriage with a wife's sister, were

always accompanied with a statement of the fact that these countries do not, with the exception of Prussia and one or two more, actually legalize that marriage, but only permit it by dispensation, as a thing not altogether right in itself—and if there were also a statement always made, as honesty requires there should be, of the other marriages which they equally permit in the same manner—I feel persuaded that the people of this country would take the alarm, and would at once crush the efforts which are made to infringe upon the well-defined and clear principle of our own law.

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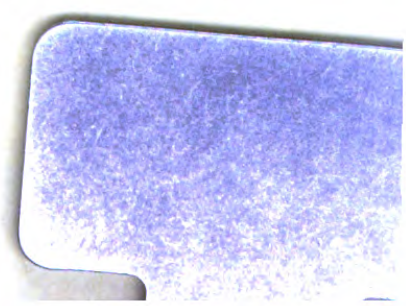
ERRATA.

Page 120, line 5, insert *us* after *before.*

Page 192, line 20, insert *that* after *and.*