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MARRIAGE
WITH
DECEASED WIFE'S SISTER.

THE SPEECH

OF HIS GRACE

THE ARCHBISHOP OF CANTERBURY,

AND OTHER AUTHORITIES,

ANCIENT AND MODERN,

ON

MARRIAGE WITH A DECEASED WIFE'S SISTER.

LONDON:
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ST. BASIL to Diodorus, on Marriage with the Sister of a
Deceased Wife.—*Epistola cxcvii.*

A letter has reached us, bearing the superscription of Diodorus: but its contents betoken any one rather than Diodorus. For it seems to me that some schemer, disguising himself under your appearance, wishes thus to obtain credence with his auditors: one who, having been asked by somebody whether it was lawful for him to *marry the Sister of his deceased Wife*, instead of being horror-struck at the question, on the contrary, entertained it complacently, and set himself to co-operate daringly and pugnaciously with the incestuous desire.

Were the letter at hand, therefore, I would have sent it to you forthwith, and you would be equal to the vindication at once of yourself and of the Truth. But, inasmuch as he who showed it me carried it off with him, and put it into circulation, as a silencer of us, who have prohibited this [sin] from the beginning, affirming that he had *written authority* for it, I now write to you, in order that we may come down double-handed upon this spurious piece, and render it powerless, lest it should prove hurtful to unwary readers.

In the first place, then, the main ground in all such questions is, *the Rule of custom*, which we put in the foreground, because *it has the force of Law*, by reason that our Institutes have been transmitted to us by holy men; and this is one of these: "If any man, conquered by the lust of concupiscence, shall fall into *unlawful alliance with two sisters*, this is not to be accounted marriage, nor is such to be received into communion with the Church until they separate themselves from each other." Therefore, were there nothing more to be said,

custom alone would suffice to guard against such an evil. But since the writer of this letter endeavours, by sophisticate argument, to introduce so great an evil into life, it becomes necessary that we should not decline the aids of sound reasoning, although, *in matters intuitively manifest, every one's own previous impression is superior to argument.*

I maintain that the Lawgiver has *not been silent* in this matter, but has *most strongly interdicted it.* For that precept, "Thou shalt not come in unto any that is near akin to thy flesh," is comprehensive of this kind of kindred: for what can be nearer akin to a man than his own wife? Yea, rather his own flesh? "for they are no more twain, but own flesh." By the wife, therefore, the sister passes into the kindred of the husband; for as he must not take the mother of his wife, nor the daughter of his wife, neither his own mother nor his own daughter, thus neither the sister of his wife, because neither his own sister; and, *vice versâ,* neither is it lawful for the wife to unite herself with the near kindred of her husband, for the laws of relationship are common to both.

But I testify to every one seeking counsel concerning marriage, that "the fashion of this world passeth away" and "the time is short;" therefore let those who have wives be as not having them. But if he rejoin this upon me, "Increase and multiply," I answer, it is the quotation of one not discerning between the times of the legislations. Second marriage is a remedy against fornication, not a passport to impurity. If they cannot restrain themselves, saith he, "let them marry," but let them not in marrying break the law: but, blinded by their corrupt affections, these men do not look to nature, long since fixing the denominations of kindred. For by what names of relationship will they call their offspring? Will they style them brothers or cousin-germans? for both titles will fit, because of the confusion. But the sum of this matter is—If any one desire to marry lawfully, the whole world is open to him; but if an unlawful affection transports him, for *this very reason*

the more let it be shut out, that he may learn "to possess his vessel in sanctification and honour, not in the lust of concupiscence."

A Letter of BISHOP JEWEL, concerning the lawfulness of marrying two sisters successively; from an Appendix to Archbishop Parker's Life, book ii. p. 56, No. xix.

You say, there are no express words in the Levitical law whereby I am forbidden to marry my wives sister: *Ergo*, by the Levitical law such marriage is to be accounted lawful.

Notwithstanding the statute in that case makes relation unto the xviiiith chapter of Levit. as unto a place whereunto the degrees of consanguinity and affinity are touched most at large, yet you must remember that certain degrees are there left out untouched, within which nevertheless it was never thought lawful for men to mary. For example, there is nothing provided there by express words but that a man may marry his own grandmother, or his grandfather's second wife, or the wife of his unkle by his mother's side; no, nor is there any expres prohibition in al this chapter but that a man may mary his own daughter; yet wil no man say, that any of these degrees may join together in lawful mariage. Wherefore we must needs think, that God in that chapter hath especially and namely forbidden certain degrees; not as leaving al mariage lawful which he had not there expresly forbidden, but that thereby, as by infallible precedents, we might be able to rule the rest. As when God saith, No man shal mary his mother, we understand, that under the name of *mother* is contained both the grandmother and the grandfather's wife, and that such mariage is forbidden. And when God commands, that no man shal mary the wife of his unkle by his father's side. Thus you see God himself would have us to expound one degree by another. So likewise in this case, albeit I be not forbidden by plain words to mary my

wives sister, yet am I forbidden so to do by other words, which by exposition are plain enough. For, when God commands me I shal not mary my brother's wife, it follows directly by the same, that he forbids me to mary my wife's sister. For between one man and two sisters, and one woman and two brothers, is like *analogy* or proportion, which is my judgment in this case. And other such like ought to be taken for a rule. And therefore the Rabbins of the Jews have expressly forbidden divers degrees by this rule, which God by plain words forbad not.

Constitutions and Canons Ecclesiastical of 1603.

XCIX. None to marry within the degrees prohibited. No persons shall marry within the degrees prohibited by the laws of God, and expressed in a table set forth by authority in the year of our Lord God, 1563; and all marriages so made and contracted shall be adjudged incestuous and unlawful, and consequently shall be dissolved as void from the beginning, and the parties so married shall by course of law be separated. And the aforesaid table shall be in every church publicly set up and fixed at the charge of the parish.

Dr. HAMMOND'S Works, vol. i. page 581.

The Second Quaere. Of marrying the wife's sister.

In the next place, therefore, if it be questioned by what law of God it can be defined unlawful for a Christian to marry his deceased wife's sister, I shall offer you my resolution by these degrees:—

1. That by the law of God given to the Jews, as it is now recorded, Lev. xviii. this prohibition is distinctly found, verse 16, *Thou shalt not uncover the nakedness of thy brother's wife, it is thy brother's nakedness.* Where by the positive law of God, given there to that people, it is apparent, that as there is a

restraint prescribed, and from that, some boundaries by law cast up against unbridled lust, not permitting to marry those that are near of kin, and that extended to the kindred of his wife, as well as the man's own kindred, upon that ground of Scripture, that the man and his wife are one flesh, one body, and in reputation of law one person Lev. xviii. 8, 14. So this is directly applied to the prohibiting the marriage of the brother's wife, verse 16. And for this there need not any farther proof be brought, than that text; nor inquiry be made of the reason of God's doing so, than this will of his, that being reason sufficient to those to whom his prohibition is given, till it be by him freely superseded or suspended again.

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This, therefore, being thus confirmed and cleared to have been a law given to the Jews, and that standing in force till it was to them as a positive law dispensed with (and then the contrary either permitted or commanded for a determinate end, the preserving the name and family of the elder brother), it now follows, by laws of unavoidable consequence, 1. That the marrying the wife's sister, was to those Jews forbidden also; and that 2. Not superseded afterwards by that countermand in Deuteronomy. I shall briefly evidence these two parts of this consequence. The first of these appears by the parity of reason. And the Jews have resolved in this matter, even those of them (the Karaeans or Scripturarians) that bind themselves most to the Scripture rule. 1. That there is place for argumentation and deduction from the words of the law; and 2. That whatsoever can be deduced thence either *à fortiori*, or *à pari*, either because the remoter degree is prohibited, or that which is equally remote is to be deemed piously and rightly concluded. Thus when ver. 7, the father and mother are both named; and ver. 12, the father's sister; and ver. 13, the mother's sister; and ver. 14, the father's brother; yet the mother's brother is not named, nor the sister's daughter, which would be equivalent

with that. And yet this being the marriage of the uncle on the mother's side with the niece, which is of the same distance with the uncle of the father's side with the niece, and the aunt on the mother's side with the nephew, from the naming and prohibition of these, ver. 13 and 14; by the parity of reason, that which is not named is by all resolved to be prohibited.

And just thus it is in this matter: this of the wife's sister which is not named, being directly the same degree of propinquity, that the brother's wife, which is named and prohibited. And that will appear by either of the two ways of measuring the propinquity, the wife's sister being as near to the husband as the husband's brother is to the wife, and the sister's husband as near to the other sister as the brother's wife can be to the other brother. And, accordingly, the Scripturarian Jews, as well as the rest, do here resolve, That a man is forbidden to marry *לשני שארדים* two, which are kin to one another, and specific in a woman and her sister.

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Beyond all this it is farther manifest, that the Church of Christ (which will bear sway with all humble and sober Christians, and to whose canons none did ever obstinately deny submission, without the brand and reward of schism, that great sin of carnality in the Apostle's account, most contrary to the unity of members, and to the meekness prescribed by Christ) hath, through all ages, from the Apostolical first and purest times, been most strict in prescribing abstinence from such liberties, particularly this, which we have now in hand, which appears partly by the infamy which hath attended such marriages, which supposes them to have been reputed unlawful by some former law, partly by the plain words of canons which have forbidden them.

A Commentary upon the Old Testament by BISHOP PATRICK.

Lev. xviii. 18.—“In her life-time.”

From hence some infer that a man was permitted to marry the sister of his former wife when she was dead. So the Talmudists; but the Karaites thought it absolutely unlawful, as Mr. Selden observes, lib. i. de Uxore Heb. cap. 4. For it is directly against the scope of all these laws, which prohibit men to marry at all with such persons as are here mentioned, either in their wives' lifetime or after. And there being a prohibition, ver. 16, to marry a brother's wife, it is unreasonable to think Moses gave them leave to marry their wives' sister. These words, therefore, *in her lifetime*, are to be referred, not to the first words, *Neither shalt thou take her*, but to the next, *To vex her*, as long as she lives. Chaskuni refers it to both the sisters, according to Targum, and makes this the sense—*Lest they should both be afflicted widows as long as they live*; for nobody would marry either of them, being defiled by such an incestuous conjunction, for which God cut off their husbands.

BISHOP PATRICK on *Leviticus xviii. 18.*

In this the ancient Christians were so strict, that if a man, after his wife died, married her sister, he was, by the tenth canon of the Council of Eliberis, to be kept from the communion five years.

Annotations on the Bible, London, 1651, by certain learned Divines thereunto appointed.

Lev. xviii. 18.—The marriage of a brother's wife is forbidden before (ver. 16), and by consequence a woman must not marry her sister's husband; and so two sisters are already forbidden to be married to one man.

Dr. BERRIMAN'S Correspondence.—Marriage within the prohibited Degrees.

From Vol. I. p. 398—400, of "Christian Doctrines and Duties explained and recommended in Forty Sermons," by William Berriman, D.D., late Rector of St. Andrew's Under-shaft, and Fellow of Eton College. Published from his MSS., by his Brother, John Berriman, M.A. London, 2 vols. 1751.

"SIR,

"Though in a matter of real difficulty I should willingly refer you to some abler person for advice and satisfaction; yet in the case which you propose, I think the matter is so clear, and so generally agreed on by the best Casuists, that I make no scruple to deliver my opinion, that *the marrying of two sisters is utterly unlawful*. You will allow me, I suppose, that the Prohibitions in Leviticus are part of the Moral Law, obliging all nations; since the neglect of them is charged among the abominations of those nations that were cast out before the Israelites. And then, in applying those Prohibitions to our purpose, there are two rules to be observed; which, being clear and rational, will put the matter out of dispute: 1. That as the man and wife are become one flesh by marriage, whatever degree of Consanguinity makes it unlawful for him to marry with his own relations, the same degree of Affinity makes it unlawful for him to marry with his wife's relations. So that, if he is expressly forbidden to marry his own sister, he is implicitly forbidden to marry his wife's sister. 2. That whatever is forbidden to one Sex is in the same degree unlawful to the other Sex: so that if a woman is not allowed to marry two brothers, neither may a man marry two sisters. But that a woman cannot marry two brothers,—or, which is the same thing, that a man may not marry his brother's wife,—is plain from Levit. xviii. 16, and upon that Law, I make no doubt, St. John Baptist grounded his reproof of Herod. Pray read over that xviii

Chapter of Leviticus ; and see if you can fairly acquit the Marriage you propose from the charge of Incest, and from being one of those abominations, which God had so severely punished in times of greater ignorance, and cannot be expected to approve in days of clearer light. As you seem to put this matter wholly upon the foot of conscience, I beseech you to weigh it very seriously, and to refrain from all such freedoms as may be the means of drawing you into further snares and temptations ; and I pray God to preserve you from sinning against Him.

W. B.

“ July 31st. 1734.

“ N.B. The Law concerning the marrying of the elder Brother’s wife to raise up seed unto the Brother was special and peculiar ; a temporary dispensation appointed by the Supreme Lawgiver in a particular case, which did not weaken, but confirm the general Law, in cases not excepted.”

Marriage with Two Sisters contrary to the Holy Law of God and Nature. By the Rev. CHARLES FORSTER, B.D.

It is said, that our authorized version of Lev. xviii. 18, “ a wife to her sister ” must of necessity designate the blood relationship of two sisters. Now the truth is, that this phrase, together with the similar formula in the masculine, viz. “ a man to his brother,” occur, with slight variations of the intervening preposition or conjunction, *two and forty* times in the Hebrew Bible. And that *never once* does it designate the blood relationship of two sisters or two brothers, but always and invariably means (when used of persons) simply *two men together*, or *two women together* ; and when used of things (for it is used of things as well as of persons) it means two masculine or feminine things of *the same kind*. And it is actually thus translated in our Bible in thirty-two out of the forty-one other places where it occurs ; and in the other nine places, *brother* obviously does not refer to consanguinity, but to proximity.

If, therefore, this expression designates in Lev. xviii. 18, the blood relationship of two sisters, I can only say that this is the solitary instance in the whole Bible where it has such a meaning.

Out of two and forty times, then, in which this Hebrew idiom occurs, it is agreed on all hands, that, in forty-one instances, it has no reference to the blood relationship of two brothers or two sisters, but simply means two persons or things of the same kind. [See also *Dwight*, "Hebrew Wife," p. 85—90.]

I have myself had the charge for many years of two large village parishes in Kent and Essex. I have carefully consulted authorities of much wider experience, both in villages and in large towns; and I know but of *one instance* of "a widower inviting his wife's sister to replace their mother's care over his children;" and we know not, and have never heard, of one which "terminated in concubinage." It is our entire belief that the result of the most extended inquiry will be similar.

Let us uphold the Scripture Rule of Marriages. By the Rev.

ABNER W. BROWN, M.A.

If—which God forbid!—the law should allow a man to marry his deceased wife's sister, the place of a wife's sister would from that moment be changed throughout all society, even during the wife's life-time. She will no longer be a sister,—she will become an acquaintance, one whom the husband *may* marry: too close to be merely a friend, yet cut off from being a sister, she would be placed in a position of uncomfortable awkwardness to herself and her sister's husband. The comfort to a wife in the middle or upper classes of having, when away from home, or confined to her sick room, her sister to head her table, take care of her children, and nurse her, will be gone. That perfect freedom which a wife's sister

now feels and shows, and which is felt and shown towards her, could be felt and shown no longer: it would be indelicate; since she is no longer the husband's sister, hedged round from any awkwardness by the insuperable bar of sisterhood, but a lady living in the house, towards whom, inasmuch as she may one day be come his wife, the same caution and restraint (nay, greater) must be felt and shown as towards any other lady of his intimate acquaintance: and because, from the very closeness of intercourse, the busy tongue of idle gossip would often give pain by misinterpreting what was perfectly harmless. she would become a dangerous friend in a family, however in every way correct. Among the poor, the effect would be of the same kind: the husband would lose a sister even in his wife's lifetime; a check would be put upon the free and sisterly intercourse which the state of the law for the last 1800 years has fixed as a habit in the minds of all. And shall every husband in England be deprived of his sister, deprived of this comfort, because a few persons wish to transgress what is generally acknowledged to be Scripture Law? Shall awkwardness and uncomfortableness be introduced into millions of families of rich and poor, who do not wish the law changed, merely to suit the ungoverned desires or the convenience of a small number who wish the law changed? Why are the many to become sufferers for the pleasure of a few? in a point, too, which the many know to be fixed by the Word of God, and which the few cannot say is contrary either to the words or principles of Scripture. There is neither justice nor fairness in the whole measure.

Dr. J. A. HESSEY—A Scripture Argument, &c.

Here you will perhaps remind me that you have heard the 18th verse of Lev. xviii. adduced more than once as an argument for the lawfulness of marriage with a wife's sister. For my own part, I conceive that this verse has nothing to do

with the matter, especially if the case in question has been, as I suppose it to have been, already decided in the earlier part of the chapter. The words of verse 18 are as follows—"Neither shalt thou take a wife to her sister to vex her, to uncover her nakedness, beside the other in her life-time." It is assumed by some persons that this verse is correctly translated, and that its meaning is, that a wife's sister may not be married during a wife's life, but that she may be married after a wife's death. But this interpretation, to say the least of it, is not a very intelligible one. It seems strange that the only indication of the lawfulness of marrying two sisters at all (which is contrary to what we should otherwise have inferred from analogy) should be found in a prohibition against marrying a second sister during the life-time of the first. I have little doubt, therefore, that the margin of our Bibles which gives "one wife to another," supplies at once the true translation of the words represented by "a wife to her sister," and a key to the true meaning of the passage. The verse will then stand thus—"Neither shalt thou take one wife to another, to vex her, * * * beside the other in her lifetime"—and thus too it will furnish, as we supposed, a prohibition of polygamy—a practice which prevailed to as great an extent as marriage within the forbidden degrees, or adultery, or the unnatural offences also mentioned in the chapter, amongst the Egyptians and Canaanites.

With this interpretation of verse 18, which I may tell you has been sanctioned not merely by the translators of the Bible but by other Hebrew scholars of considerable eminence, you will, I hope, be satisfied.

ARCHBISHOP OF CANTERBURY.

The Archbishop of Canterbury said he had a duty to perform, which he must not hesitate to fulfil. It would not, however, be necessary to trouble their Lordships at any length;

the argument on which he relied, and on which he grounded his opinion, lay in a small compass; in fact, he considered that the question at issue had been decided for them, being already settled by the law of God. And surely it was no slight advantage that it should be so settled, and that on a subject involving so many interests, and exciting such strong feelings, as the subject of marriage, a line should be drawn for us beyond which we must not deviate. In a kindred subject, likewise relating to marriage, we had a like advantage;—in the case of divorce, how many vague reasonings and conjectural arguments were silenced at once by the single sentence of the divine law, which declared the marriage tie to be indissoluble, except only in the case of unfaithfulness! And so, on the question before them, it was highly expedient that they should be told by authority which could not err where the conjugal relationship might and might not exist—where the ties of affinity and consanguinity began. This he considered to be laid down in the 18th chapter of Leviticus, in the interpretation of which he must be permitted to differ from the noble Mover of the Bill. That chapter began by condemning the practices of the nations by whom the Israelites were surrounded, as displeasing to the Most High, and not to be suffered in a people which he had chosen for His own—chosen to preserve His name and the knowledge of His laws in the world, until that fuller revelation of His will which was hereafter to be made at the appointed time. “Ye shall do my judgments and keep my ordinances, to walk therein; I am the Lord your God.” After this solemn beginning, the well-known prohibitions were enumerated. The principle was first stated, “None of you shall approach to any that is near of kin to him.” Specific cases followed which would violate the principle; cases, first of consanguinity, nearness of blood, members of the same family. “Thou shalt not approach thy father’s sister, thy mother’s sister, thy father’s brother’s wife; they are thy parents’ near kinswomen.” Though there was

no nearness of blood, there was that nearness of kin, which (as was known to Infinite Wisdom) would render such alliances, if permitted, injurious to the welfare of families, and of the community. Then followed verse 16th, which he considered to settle the present question—"Thou shalt not approach thy brother's wife." Between the sister of the wife and the brother of the husband the analogy was so clear and plain, that what was forbidden in the one case, must clearly be forbidden in the other. No possible reason could be assigned why the brother should not marry the brother's widow, which did not equally forbid the sister from allying herself with the sister's widower. Unless they admitted the principle to which the noble Earl objected, and argued *pari ratione*, they were left with no principle at all. If they waited till the instances were specifically named to which the prohibition was to extend, they would find no exact prohibition of connexions which were most revolting to all our feelings. The father was not expressly forbidden to approach his daughter. Out of the thirty prohibited degrees, fourteen were specified in terms, and sixteen were left to implication and analogy. It was argued, however, by the noble Earl, that the effect of the 16th verse was neutralised by the sentence which followed:—"Thou shalt not take a wife to her sister, to vex her, in her lifetime;" as if the prohibition ceased with the life of the sister. But he need not tell their Lordships that the interpretation of this passage was so uncertain that no argument could be satisfactorily based upon it. In the text of our version, the words were as he had stated them. But in the margin of our Bible, which was of nearly equal authority with the received text, the words were, "Thou shalt not take one wife to another." In the opinion of the best critics, there was as much authority for one interpretation as for the other. And it seemed to be a case where the judicious rule of Paley might be properly applied, who warned them not to suffer what they did know to be disturbed by what they did not know. They did know

the meaning of the 16th verse—"Thou shalt not approach thy brother's wife." It could not be disputed. They did not know the accurate meaning of the verse that followed. In the Court of Queen's Bench, when a cause connected with this subject was tried, six different interpretations of the passage were alleged. Therefore what was plain must not be disturbed by a sentence of which they only knew that it was of uncertain and disputed signification, especially where the interpretation which he maintained was defended by the opinion of the Christian Church from the earliest times. He did not, indeed, profess to treat that judgment as infallible, or to assert that it precluded their taking the subject into consideration. The Church, though consisting of a congregation of faithful men, was still a congregation of fallible men, among whom error might possibly be permitted to prevail. But the concurrent opinion of religious persons and collected Churches in different ages and countries would never be lightly disregarded or set aside without cogent reasons, more particularly when their decision was not in accordance with the natural bias and inclination, which would be rather to relax than to tighten the prohibition. This appeared from the practice of some Protestant States of Europe in modern times, and from what had taken place in the Roman Catholic Church. The marriages in question had never been heard of in that Church until the 15th century. In that period of corruption the Pope, in the plenitude of his power as the vicegerent of the Most High, took upon himself to grant a dispensation to Emanuel of Portugal, who married his sister-in-law, and afterwards to Ferdinand of Sicily for an alliance with his aunt. He maintained the principle, but in practice allowed it to be infringed, yet in terms which contained their own confutation: *si urgens necessitas vel evidens utilitas postularit*. Their Lordships would judge of the validity of such a dispensation. And with whom did it originate? Not with one who was an ornament to the communion to which he belonged—as there had

been many such ornaments—but of one who was a disgrace to any Church; the very last example which a pure Church or a moral nation would desire to follow. He trusted that it would not be followed by their Lordships, and that they would concur with him in rejecting the proposed Bill. They were told much of the inconvenience and the many mischiefs which attended the law as it now stood; and no doubt it was much to be lamented that this or any other law, divine or human, should be transgressed. But the part of the Legislature must be not to lower the law to the standard of the practice, but to elevate the practice to the standard of the law. Very grievous mischief arose from all unlawful connexions, from the practice of concubinage, for instance; but we did not, for that reason, dispense with the obligation of marriage, or legitimise the guiltless progeny of a guilty connexion. He did not deny that there were cases in legislation when convenience or expediency must be considered, and when they might justly weigh the evils on one side with the evils on the other, and decide between them as best they might, whether “to bear the ills we had, or run the risk of others that we knew not of.” But reference to expediency supposed the absence of acknowledged principle or settled law. When principle began, the province of expediency was at an end; and he held that, in the present case, they were bound by a settled principle and divine law, and could allow of no other consideration. On these grounds he trusted that their Lordships would hand down to their children the law of marriage in the same purity and integrity as they had received it from their ancestors. He should not trespass longer on their attention, but sit down with moving, as an Amendment, that the further consideration of this Bill should be postponed to that day six months.

Sir F. THESIGER, now LORD CHANCELLOR.

Considering, however, the question to be one of the highest importance, he could not permit it to be disposed of without, to some extent, laying before the House the views which suggested themselves to his mind. In the first place, he believed that the prohibitions contained in the Levitical law were part, not of the political, but of the moral law of the Jews, and that those prohibitions were of universal application. These laws were in his judgment in full operation under the Christian dispensation, where they are enforced by a higher sanction and a purer morality. The close and mystical union between husband and wife which is so often inculcated, and so strikingly enforced in the Gospel, leads irresistibly to the conclusion that a marriage with the near relations of the wife would be abhorrent to the more refined and higher principles of Christianity. Much might have been permitted under the looser morality of the ancient Jews, which was excluded under the purer rule of the Christian dispensation, for the union of man and wife, under the law of Christ, was far holier and more intimate than under the older law; and what was allowed under the one, might very well be made sinful by a higher and holier law. Looking, then, at the old law and at the Gospel, he conceived that he was enabled to sustain the opinions which he entertained, not only from parity of reasoning, but from positive injunction. The prohibition contained in one of the verses of Leviticus, on which so much of this case was supposed to rest, could only be construed in the way contended for by supposing it contained a divine sanction for polygamy, which—though indulgences were permitted to the Jews on account of the hardness of their hearts—will hardly be asserted by any one, was ever sanctioned by the Divine will. Still, many persons stumbled at that text in a state of doubt and perplexity, finding it impossible to come to any satisfactory conclusion. Now, to these who entertained such doubts, he should venture to address

this interrogatory. What, under such circumstances, did wisdom require of them? He did not mean a narrow, selfish, worldly, prudence — but what did a high and enlarged wisdom require of them? It required this, that they should not concur in an act which, for anything they could tell, might be opposed to the Divine law, and so, as was said on a more honourable occasion, “they should haply be found fighting against God.”

Last year the Bill of the right hon. and learned Gentleman proposed to remove the prohibition against marriage with a wife’s niece. His right hon. and learned Friend had now remodelled the Bill, and confined himself to allowing marriages between the husband and the wife’s sister. Now, he should like to know on what principle, when this Bill had passed, the right hon. and learned Gentleman could refuse his concurrence and approbation to a measure for legalizing marriages with a wife’s niece, if any hon. Member should bring in such a Bill? The right hon. and learned Gentleman allowed of marriage in the nearer degree, and left the more distant degree under a prohibition. He wondered, too, why the right hon. and learned Gentleman refused to allow the brother to marry his brother’s widow. These parties stood in the same analogous position as the parties for whom the right hon. and learned Gentleman now proposed to legislate, and the marriage of a brother’s widow ought to be equally lawful. The Bill, in fact, was only an introduction to successive alterations in the law that would allow of marriages within almost all the degrees of affinity.

THE BISHOP OF LONDON (*Dr. Blomfield*).

The Bishop of London said, On this most important and most vital question he would not say that his mind was now entirely made up; but having carefully reviewed the whole subject, and read much that had been said on both sides of

the question, he was much more inclined to think than he had been at any former period, that these marriages were prohibited by the law of God. This weighed with him to a great extent, that by an analogy and parity of reasoning the same argument must apply to one woman and two brothers as to one man and two sisters. Unless they admitted that analogy, he was not aware that they were able to point to any distinct scriptural enactment which said that a man should not marry his own daughter. Upon that principle, and believing that a correct interpretation had been put upon the 18th verse of the chapter which had been alluded to, he was inclined to attribute much more weight to the proposition of its being prohibited by the law of God than he was ten years ago.

In France these marriages had been prohibited until 1792, when the law was altered, and the consequence was such a flood of immorality, and such injury to domestic purity, that the Emperor Napoleon had, in his *Code Civil*, found it necessary to renew the prohibition. In 1832, the law was again changed, and dispensations were allowed to be granted in certain cases—the worst possible state in which the law could be placed; and, with respect to the effects of the law in France, he thought their Lordships would not be induced to alter the marriage law of England from any admiration of the present state of society in that country. As to Germany, the facility with which divorces were granted was quite frightful; moreover, it must not be forgotten, that the advocates of this measure had not dissembled that this was the first step towards a general relaxation of those prohibitions on which the purity of our domestic relations, and the peace and happiness of families, so mainly depended. It was said that there existed a very general feeling against such restrictions upon marriage, but he did not believe it—the feeling was quite the other way.

THE BISHOP OF EXETER.

Now, as respects the marriages which are the objects of the present Bill—marriage with a deceased wife's sister—and marriage with the daughter of a deceased wife's brother or sister—the 16th and the 14th verses are those which are to be specially considered. The 16th says, "Thou shalt not uncover the nakedness of thy brother's wife." This is the degree of propinquity which is here forbidden, and every case which falls within this degree must be considered as equally forbidden. Now, it is manifest at once, that a wife's sister is in the same degree of nearness as a brother's wife; therefore, in the prohibition of marriage with a brother's wife, marriage with a wife's sister is included.

Again, the 14th verse—"Thou shalt not uncover the nakedness of thy father's brother, thou shalt not approach to his wife, she is thine aunt," equally applies to the marriage of the daughter of a deceased "wife's brother or sister," for the degree of propinquity is the same; and it might equally be said to the wife of such a husband, "He is thine uncle."

Now this last-mentioned degree is especially worthy of our attention; for it is a distinct declaration by God himself, that degrees of affinity are not less regarded in His law as impediments to holy matrimony, than similar degrees of consanguinity. It is, indeed, remarkable (and the words may have been used for this very purpose—that is, to point the sameness of affinity and consanguinity), that it is in the case of affinity only those words are added, "She is thine aunt."

The truth is, that this great principle is throughout enforced in the divine law in the strongest manner. The first positive commandment delivered by God to man, after his creation, was that man and wife shall be one flesh. It was again promulgated by our Lord himself—"They twain shall be one flesh." His Apostle declared the union of holy matrimony to be so complete, that it is a type of the mystical

union of Christ with his Church. It becomes us, therefore, to be specially cautious not to admit any construction of God's words which shall interfere with this great primal law. Thus much I have deemed it necessary to say of the absolute sameness of affinity and consanguinity, as they affect the lawfulness of marriage.

Now, the Church, from the very earliest time to which we can look back—even from the second century, when the knowledge of the gospel was first vouchsafed to our forefathers—has always held these marriages to be contrary to the law of God. The noble Earl has spoken with some disparagement of the *Apostolic Canon*, which marks the Church's reprobation of such marriages by excluding those who may have contracted any of them from the episcopate, and even from the clergy; and, again, of the Council of Elvira, which awards sentence of excommunication for five years on the same account; and he adds, with an air of triumph, that neither the one nor the other attempted to annul those marriages. The noble Earl is quite correct in saying this. But is it possible that he has forgotten, that, in those days, the Church had no power to do what he thinks it must have done, if it judged of such marriages as the Church now judges of them? My Lords, St. Paul, in censuring that incestuous union, of which he says it was too foul to be so much as named among the Gentiles, “that a man should have his father's wife”—even St. Paul did not pronounce a sentence of nullity, he was content to sever the guilty pair by the terrors of excommunication.

My Lords, during no less a period than the first 1,500 years, the whole Church persisted in holding that these marriages are contrary to the law of God, and as such admit not of being made lawful by any human authority whatsoever.

At length, a Pope was found hardy enough to grant a dispensation to marry the sister of a deceased wife; it was in the case of Emanuel King of Portugal, who had married a

daughter of Ferdinand of Spain, and, after her death, wished to marry her sister. Now, my Lords, who was this Pope who ventured on so unheard-of an assumption of spiritual authority? It was Alexander VI.—Alexander Borgia—it was that man—I recall the word, I beg pardon of our common humanity for so applying it—it was that monster in human shape, himself stained with incest of the deepest dye, as well as by every other vice which can pollute and degrade our nature—it was Alexander Borgia who first granted a dispensation for one of those marriages which the present Bill would legalise in the gross. Yes, my Lords, Alexander Borgia it is, whose principle your Lordships are invited to make your own; whose legislation in a single case you are now called upon to extend to the whole compass of similar relations. Are your Lordships prepared to follow such a guide? to choose such a guardian of the sanctity of our English hearths and homes? My Lords, I may answer my own question—You will not.

The next instance of a dispensation, in a similar case, was that granted by Julius II., a Pontiff scarcely less regardless of spiritual considerations than Alexander; in short, the most turbulent spirit of the very turbulent age in which he lived. It was granted on the death of Arthur Prince of Wales, the elder brother of King Henry VIII., to enable a marriage to be contracted between him (I need not say a mere child at the time) and Katharine of Arragon, the widow of his deceased brother. My Lords, it is gratifying to know that this marriage was opposed in Council by Warham, Archbishop of Canterbury, as contrary to the law of God, and therefore not admitting of a dispensation by the Pope. And this proves the accuracy of what I just now said, that, until it was necessary by the refusal of Clement VII. to decide against this dispensation, the Church of Rome never pretended to deny that the Levitical prohibitions of marriage are still binding as a part of the moral law of God.

There is the important instance of Prussia. That kingdom is indeed included under the general description of "Protestant States on the Continent of Europe." But when, as such, and as the chief of all those "Protestant States," its authority is claimed in favour of the objects of the Bill, it would, I think, have been well—it would have been fair—it would have been in accordance with the honourable character of the Commissioners—if they had stated what is the general law of marriage in this exemplary Protestant State. My Lords, not only is marriage with a wife's sister and a wife's niece permitted, but also marriage of an uncle with his own niece. Are your Lordships willing to follow the authority of Prussia in this instance also? Again, of another branch of marriage law in Prussia, the law of divorce, what will your Lordships think or say? Divorce may be had in Prussia, I believe in all cases, by consent—"Requests," as it is technically called. Now, it appears by the evidence appended to this report, that divorces, amounting in number to 7,800, occurred in three years. The number appears to have been of late diminished by official difficulties thrown in the way of these "Requests," not by any illiberal intrusion of stricter principles. The population of the Prussian monarchy may be computed at about the same as the population of England and Wales; it is, I believe, somewhat less. Now, just let us imagine in England and Wales 7,800 divorces taking place in three years, 2,600 in every year. Is this a state of matrimonial relations to which we wish to bring the people for whom we have to legislate? Why, my Lords, the grave and virtuous part of the Prussian nation hang their heads with grief and shame when they are forced to speak of these things. This is stated in the evidence, but it is deemed wholly unworthy of a place in the Report. But can a country cursed with such a system of laws on the most important relation of human life—can it be fairly—ay, or honestly—adduced as an authority on such a subject, without at least letting us know what

is the general character of its own matrimonial code? My Lords, are you prepared to adopt the whole system of laws on this subject which prevails in Germany? Do not think you can stop with passing this Bill. The very advocates of the measure give you notice that you cannot.

I am glad to turn to another portion of the Report:—"In Ireland, the great majority of the clergy of the Established Church are represented as disapproving of these connections." Why, my Lords, the evidence states, that in one diocese they are "almost unanimous" against them; and that in another, comprising three united dioceses, there are only three clergymen in their favour.

So much for the disapprobation of the clergy of Ireland. The Report proceeds to say, "In Scotland the opinion of the clergy is decidedly against these marriages." We will take the evidence of one of the Commissioners themselves—the right hon. the Lord Advocate. He first cites the *Confession of Faith*:—

"Marriage ought not to be within the degrees of consanguinity or affinity forbidden in the Word, nor can such incestuous marriages ever be made lawful by any law of man, or consent of parties, so as those persons may live together as man and wife."

This is the law of Scotland. Now for the feelings of the people:—

"Such a marriage generally is held by the people of Scotland in very great abhorrence."—[*Evidence, Q. 1141.*]

My Lords, I turn to another part of this Report, which gives me more pain and more astonishment than any which has preceded:—

"Some persons contend that these marriages are forbidden expressly, or inferentially, by Scripture. If this opinion be admitted, *cadit questio*. But it does not appear that this opinion is generally entertained."

"Some persons!" Who are they?—private, isolated individuals? Such the phrase would make us conclude them to

be, and only a small number even of them. But, if we turn from the Report to the evidence on which it professes to be founded, we shall find that these "some persons" are public functionaries reporting to us the judgment of whole bodies of clergy in England, and more especially in Ireland—of the whole Presbyterian Establishment in Scotland—of all who own the *Confession of Faith*—of the law of England, and therefore of the State of England—lastly, of the whole Church of England, speaking in national synod, which is the Church of England by representation. The 99th canon, exhibited by these Commissioners in their Appendix, but carefully kept out of their Report, solemnly declares that marriages within the prohibited degrees expressed in the Table set forth by authority in the year of our Lord 1563, are prohibited by the laws of God—are incestuous and unlawful.

THE BISHOP OF ST. DAVID'S.

The Bishop of St. David's said, he agreed in the remark which had been made—that only a very insignificant minority of the clergy entertained any doubt on the subject; and he thought that the opinion expressed by an immense majority of the clergy was a most important fact. Such a fact ought to have great weight on their Lordships' deliberations, not simply on account of the weight they might attach to the opinions of the clergy, either as a body or individually, but because he considered it to be impossible that the clergy, as a body, would be deeply impressed with such an opinion if it were not the feeling which prevailed throughout the great mass of the community.

On these grounds he found his course to be perfectly clear. He was quite sure that the measure of the noble Earl, if carried, although it might afford gratification to a number of individuals who had been led into ill-advised courses, would bring distrust, and jealousy, and alarm, and disturbance into

thousands of other families, which had hitherto remained pure and happy. He would not presume to entreat or to plead with their lordships, but would only say that, for his own part, he could never consent to share the responsibility of passing such a measure as that proposed by the noble Earl.

THE BISHOP OF OSSORY.

The Bishop of Ossory said, Upon this point he believed that such marriages were prohibited in the word of God. Now, he thought that it must be felt that the opponents of this measure were only following out and fairly applying this rule of interpretation when they took the 6th verse of the chapter referred to—"None of you shall approach to any that is near of kin to him, to uncover their nakedness: I am the Lord"—as laying down the general principle, that nearness of kin was to be a bar to marriage; and when this further regard to the particular prohibitions which follow, not as a full enumeration of all the cases in which marriage was, on such grounds, unlawful, but as examples, intended to illustrate and explain what was the nearness of kin which was contemplated in the general prohibition. Among these particular prohibitions, one was found in the 16th verse—"Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness." This only forbids in terms a marriage with a brother's wife—that is, of course, the wife of a deceased brother; but he thought it was impossible fairly to consider the grounds of the prohibition without feeling that it must be understood, at the same time, to forbid the marriage of a man with his deceased wife's sister. For, connecting this verse with the general prohibition in the 6th verse, we learned from it, that a brother's wife was near of kin to a man in the degree which made it unlawful for him to marry her. But how is his brother's wife near of kin to a man? Manifestly by the effects of marriage. By marriage she has become one with his brother.

She is, therefore, his sister, near of kin to him, and he may not take her to wife. But is not his wife's sister in the same way, and for the same reasons, near of kin to him? Has not marriage made him and his wife one, as it has made his brother and his brother's wife one? And is not his wife's sister, therefore, his sister, even as his brother's wife is his sister; the one near of kin to him in the degree in which the other is near of kin to him; and, therefore, marriage with the one a forbidden union, on the same ground on which marriage with the other is forbidden? He saw no mode of escaping from this inference.

LORD CAMPBELL.

Lord Campbell said, that, having the honour to hold so high an office in the magistracy, he thought it his duty to express his opinion upon this Bill, which sought so importantly, and he thought so fatally, to change the law of England. He should not be doing his duty unless he reminded their Lordships of the manner in which this agitation was begun and carried on. They had had agitations upon the Reform Bill, upon the repeal of the Corn Laws, and upon other great political measures; but he believed this was the first time that societies had been instituted for the purpose of changing a law resembling that of marriage, and where, purely for the purpose of personal interest, a great effort had been made to influence public opinion. He could not help saying, from the evidence that had been laid before him, that this agitation was begun by those who had violated the law, and that it had been carried on by them in conjunction with those who had entered into engagements which the law forbade. Let us see the manner in which it was conducted. They began by retaining counsel, by retaining solicitors, by sending lecturers over the country; by writing pamphlets, and by holding public meetings, at which their advocates spoke from the platform. And what was the topic with which they begun? That, as the law

then stood, these marriages of a man with the sister of his deceased wife were perfectly legal. And it was by having taught to the people of this country that these marriages were lawful that they had occasioned in many instances the law to be broken, and then they brought forward those breaches of the law as arguments in favour of now altering the law of marriage. Although, as had been said, from the time when, in the second century, Christianity was first planted in this country to the present, such marriages had been prohibited, yet it was asserted positively that they were perfectly lawful. Now this subject had been solemnly argued in the Court of Queen's Bench, before his distinguished predecessor, Lord Denman. The question arose whether such a marriage was lawful or was void; and, by the unanimous judgment of the whole Court of Queen's Bench, they were declared to be void and incestuous.

The argument of the right rev. Prelate (the Bishop of Exeter) was unanswerable, that man and wife were one flesh, and that, by the declaration of the Redeemer, the relations of the one were to be considered as relations of the other. If they adopted that line, there would be no difficulty in enforcing it.

He (Lord Campbell) thought it hardly necessary to touch on the argument which was used with respect to the benefit to be derived by the children of the deceased wife from the fact of the sister becoming their step-mother. It had been already shown that, in a great majority of instances, the children must be sufferers, because, in a great majority of instances, they would be deprived of the tender care of an aunt, which they now enjoyed. Legalise marriage between the widower and the deceased wife's sister, and the children must be deprived of the care and attention of that near relation, because, from this time forth, it would be utterly impossible for the sister of the deceased wife to remain under the same roof with the widower.

Could they have the benefit of purity of domestic life unless that connexion (that involved in the Bill) was looked upon with abhorrence, as contrary to the law of God and the law of man? It was only by such a feeling being instilled into the mind, until it became a sort of instinct in all who came within its operation, that they could have the full benefit of that purity, peace, and happiness of domestic life which they now enjoyed.

If the ground of consanguinity was to be the only ground of prohibition, they might go on from permitting marriage between a man and his deceased wife's sister, to an extent fearful to contemplate. In some foreign lands such marriages were permitted; but he hoped that, though we might avail ourselves of the discoveries of science in other countries, we might, with regard to morality and domestic life, teach all the nations of the world. In no other country was the conjugal tie held with such sacredness as in England. In other countries they allowed marriages between an uncle and a niece; but he hoped that in England they might still (though how long it would be so he knew not) look upon such marriages with abhorrence. In all those countries—Germany for instance—marriage was set aside on the most frivolous pretences.

Scotland was excluded from the operation of this Act. And why? Because it was utterly impossible to include Scotland. The people of that country, with hardly a single exception, looked upon such unions, to use the language of the right rev. Prelate, with abhorrence; and they would have just ground to complain, because such marriages were declared by the *Confession of Faith* contrary to God's law; and the *Confession of Faith* had been made part of the law of Scotland by an Act of Parliament which was still in force. But was not the omission of Scotland fatal to the Bill? In Scotland these marriages would be void; in England they would be valid. They might just as well make one law for Middlesex, and another for Surrey; and the confession of the

noble Earl that he could not extend that measure to the whole island, was reason enough for its rejection.

It was one of the melancholy facts that, if passed, this would not be a final Bill. Jealousy and alarm would be introduced into every family in England. And he (Lord Campbell) must refer to an assertion made, not by the noble Earl who had brought the measure forward, but in various interested publications, that this is a measure of relief merely for the poor. That argument was perfectly fallacious. According to the statistics of the promoters of the Bill, these unlawful marriages were not contracted in the greatest number by the poor; they were contracted by persons chiefly in the middling and upper ranks, well-educated, fully aware of what they were doing, and of the consequences of their own acts. Therefore it was not for the sake of the poor, but for the sake of those who had consciously and deliberately violated the law, that the measure was to be passed.

WILLIAM PAGE WOOD, ESQ. (*now Vice-Chancellor*).

I certainly was never more astonished than when I first heard the proposed measure advocated on the ground of a charitable regard to the poor. Now, I had never met with an instance of such a marriage being had or desired amongst the poor. I am sure every one, who has had much experience of the habits of the poor, must know that they marry at so early an age that it would be a rare chance for a widower to find any of his late wife's sisters still unmarried. But the case does not rest upon general reasoning. The able solicitors employed to get up the case in support of this Bill have, it appears, ascertained that since Lord Lyndhurst's Act about fifteen hundred marriages with a wife's sister have taken place. Out of these, one hundred and fifty, or thereabouts, were amongst classes in a professional or higher rank, about thirteen hundred in the middle classes of

society, and not fifty, or little more than three per cent. of them, amongst the poor. This is a statistical fact; and, although the right honourable gentleman has to-day read to the House many letters from clergymen stating that they know of many such cases amongst the poor, I confess that I have very little confidence in general impressions, where there has been no statistical inquiry.

I have myself inquired into the matter in the parish in which we are now sitting. The two parishes, indeed, of St. Margaret and St. John are united, as regards the relief of the poor; we have 60,000 parishioners, and about 26,000 of the lowest poor. Now, I have made inquiry of persons specially employed by the clergy and others in visiting the poor, and who have had great experience in so doing, and they tell me that they only know of one instance of marriage with a wife's sister amongst the poor of these parishes, and that the man is looked down upon by his neighbours. There are, however, two cases of men living with their own sisters; and of course in such a parish you may meet with other instances of criminal intercourse. I contend that, if this case is to rest upon the position of the poor, it must be given up. My belief is, that the poor, of all others, retain the impressions of long-existing customs. They become deeply ingrained in their minds; and an impression having once been made upon them that such marriages are incestuous, could with difficulty be removed. In England we have reason to believe this impression is strong; but in Scotland it is yet stronger. In truth the poor are more tenacious in such matters than the rich, and are less susceptible of those changes of opinion which civilization and luxury introduce.

To conclude, then, with expressing my own views of the question as regards Divine prohibition. I think that, notwithstanding Bishop Wiseman and the Romish Church, few persons will doubt that the prohibitions in the 18th chapter of Leviticus, whatever dispute there be as to their terms, were

general, and not confined to the Jewish people. We are expressly told that the prohibited unions were *abominable* in the eyes of God; that on account of such abominations the land of Canaan, in the forcible words of Scripture, vomited out its inhabitants. Now, who were those inhabitants? They were heathens, who had not been taught any peculiar code, but were amenable to a moral code only. We cannot conceive that they would be thus punished for disobeying a law intended for the Jews only, and which they had never heard of. It is plain, then, as I have endeavoured in the previous part of my argument to show, that the offences were moral offences, contrary to natural no less than to revealed religion; and therefore that the Canaanites were justly punishable for such abominations. It remains only to be seen whether this case of the wife's sister be among the prohibitions. It is not so in words, neither is that of a man's own daughter; and it is plain that strictly verbal interpretation is not the true key to open the meaning of the passage. On the other hand, marriage with a brother's wife (except in the case I have above referred to) is prohibited, and so is the marriage with a woman and her daughter, both of them cases of affinity only. It is upon this ground that the Church has always prohibited the marriage with the wife's sister by parity of reasoning. Jurists also, Grotius, Basnage, and Merlin, all lay down the rule that the prohibition of marriages between parties related by affinity extends to the same degrees as that of marriage between parties related by blood.

To my mind, sir, convinced as I am that the prohibitions are founded on a general and not a particular law of God, and that the awful penalties denounced against the Canaanites are held out as the sanction of that law, it appears that any one who has but a doubt as to the interpretation of the particular verse in question, will not hesitate to retain the law of England unaltered. Instead of admitting the argument, that we are bound to show a clear prohibition, I say, that where the

penalties are so awfully denounced, where the moral feeling of all Christendom, no less than its religious convictions, has, till the last few years, acquiesced in the law as we happily yet hold it, the only safe course of action is to abide by the existing state of things, and not to step into a new path, the commencement, I fear, of a downward course in all that is high and sacred in our social relations.

From the Appendix to the above Speech.

The state of our law is singularly misunderstood, not only "out of doors," but by many members of Parliament. It is supposed that because the marriage with a wife's sister was *voidable* only, and not *void* until Lord Lyndhurst's Act, there was a species of half sanction to such unions. Now, the fact is, that no such marriage was ever in the smallest degree sanctioned; but the Courts of Common Law would not allow any proceeding in the Ecclesiastical Court to set them aside after the death of either party, so that after the death of husband or wife there was no mode of obtaining a judicial decision, and of course all marriages actually solemnized are good till such sentence is given. The best mode of making this understood is to call attention to the case of marriage with a man's own sister or mother, being in precisely the same position, and in the same sense voidable only, not void.

Another prevalent error is the assumption that the law, until the passing of Lord Lyndhurst's Act, rested entirely on ecclesiastical interpretations of Scripture. Now, there has ever been a remarkable unanimity of the lay and clerical interpretation of the 18th chapter of Leviticus. For, in consequence of the 32nd Henry VIII., c. 38, having enacted, "That no reservation or prohibition, God's law except, shall trouble or impeach any marriage without the Levitical degrees," the Courts of Common Law, being the proper courts to determine on the construction of a statute, were in several

cases called upon to prohibit proceedings in the Ecclesiastical Courts for invalidating marriages, on the ground that such marriages were within the saving of the Act of Parliament. Amongst other such cases that of marriage with a deceased wife's sister was fully argued in *Hill v. Good*, Vaugh. 302 ; and the Court determined, as it has repeatedly done since, down to the present day, that this marriage is not within the meaning of the Act of Henry VIII., and that it is within the Levitical degrees. There is no point, therefore, on which there has been more complete unanimity of opinion on the part of both the lay and Ecclesiastical Courts.

With regard to the Levitical degrees, it is a favourite argument that the marriage in question involves no union of blood relations. Now a stepmother is not a blood relation ; yet St. Paul tells us that incestuous intercourse with a stepmother was repugnant even to heathen morals. And it is remarkable that the *express* prohibitions in Leviticus extend to *six* blood relations, and to *nine* who are related by *affinity* only.

Mr. SHEIL.

I shall apply myself exclusively to the moral and domestic results of the proposed measure, and inquire what will be its effects upon the wife, the husband, and the prospective bride, whose pathway to the altar is to cross her sister's grave. An amiable woman now receives her unmarried sister with open arms ; she cherishes her with a truthful and trustful love ; she watches over her well-being with the solicitude of an almost maternal care ; no injurious suspicion can come near her ; and, although her sister should pass hours and days in her husband's company, upon her deep and still affection no dark conjecture is allowed to cast a shade. But if this Bill should pass, if the wife be taught to regard the daughter of her father and of her mother as the heiress to her bed, and as having peradventure an illegitimate pre-occupation of her husband's

heart, her feelings would undergo an inevitable alteration, the worst of all the domestic fiends will enter into her soul, and possess itself of all her being; trifles "light as air" will be invested with their proverbial confirmation; the most harmless familiarities will be misconstrued; she will detect a glance in every look, and a pressure in every touch; her fancy will be stained with images of sin, and in those hours of ailment, to which almost every woman is condemned, she will be pursued and haunted by many a dark and distracting surmise. I turn to the husband. He now looks upon his wife's sister as his own; he feels for her no other than the fraternal sentiment; his intercourse with her is unsullied by a wish; but if he shall be taught to regard as an object of future possession the woman to whom he will be placed in perilous proximity, phantasms, which ought to be chased away, will crowd upon him, and a change of moral temperature will never fail to follow. But upon the wife's sister what sort of influence will be produced by this measure? She now regards her sister's husband as her protector and her friend; into her unimpassioned gratitude no undue admixture of tenderness is infused; but if she shall have a contingent, or rather a vested, remainder in the pillow on which her sister's cheek may soon be coldly and lifelessly laid—if she shall be taught to associate her wedding garment with her sister's shroud—I am afraid that the spirit of conjugal enterprise will be awakened; she will have recourse to all the expedients of captivity—all that she says, and looks, or does—all her gestures, her attitudes, and her intonations will be swayed in her intercourse with her sister's husband by that spirit of speculative endearment which women can so readily and almost instinctively assume. These considerations induce me to think that this measure is unadvisable. If my right hon. and learned Friend the Member for Buteshire shall succeed in this project, where is he to stop? At which of the prohibited degrees is he to pause? Why may not a man marry his wife's daughter, as well as his wife's sister; for in neither case is the

barrier of consanguinity interposed? There, however, it may be said that Leviticus intervenes. I might quote some of the authorities of the Established Church, Bishop Jewell for example, to show that the inference from Leviticus against the projected marriage is irresistible; but I shall adhere to my resolution not to enter into the dogmatical part of the question; at the same time, it is by no means inconsistent with that resolution to state what I consider to be an indisputable fact, that the religious feelings of the country are against this measure. The women of England, who are the best judges upon a question in which their domestic happiness is so much concerned—the wives and daughters of Dissenters—are opposed to it; the vast majority of the clergy, having a natural regard to the indisputable doctrine of the Church, are against it; the whole Scotch nation are adverse to it, and the right hon. Gentleman the Lord Advocate declared in his evidence that a marriage with a wife's sister was abhorrent to the feelings of the Scotch people; Ireland regards it with a sentiment stronger than one of mere aversion; and the Catholic priesthood deprecate the law that should include these marriages within that dispensing power from the exercise of which the public sentiment would recoil. No amount of popular prejudice or passion would induce me to do an injustice to any man, or to any class of men. Rather than do the slightest wrong, I should hold the religious feelings of the whole country in disregard; but I would not, on the other hand, wantonly and gratuitously run counter to that feeling, for the sake of a more than hazardous innovation, which breaks down the moral fences that protect your homes.

Mr. ROEBUCK.

If he were to point to any relation which had in it more of kindness, more of benevolence, more of exalting and hallowed feeling than any other, he would point to the relation of brother

and sister. There was a tenderness, a feeling of hallowed affection and endearment about it, which, although between persons of different sexes, was entertained without the slightest feeling or imputation of carnal passion. There was all the gentleness of woman, with all her kindness, all the emotions which could be introduced into the relationship, without any of the sensual feelings by which the highest feelings of affection between the sexes were tarnished. Could these relationships be increased? If, by any mode of legislation, they could multiply the relations of sisterhood, they would confer an inestimable boon upon humanity. But was there no other view of the case? Pass the Bill according to the wishes of his right hon. and learned Friend, and they would immediately plant a thorn in the side of almost every family. Do not let us, then, hide these things, or be afraid or ashamed of telling the truth. A man might marry into a family, his wife had several engaging sisters, younger than herself, some of them, perhaps, more beautiful. At the time of his marriage, he felt perfect safety against any mishaps arising from the connection; at the time he married he loved the woman whom he made his wife; he was now made a member of a family, with, say, three other sisters, young and perhaps beautiful, loving him because of the connection which subsisted between their sister and himself. Of what an inestimable worth was the love and companionship of those sisters! But, if this Bill passed, could they be so ignorant of human nature—so blind to the realities of life, as not to know that in spite of themselves the wife in that case would not have the same feelings which she might otherwise have, if she knew that her sisters actually felt towards their brother-in-law just as her sisters did with respect to her? There was a sacredness in the case of actual brothers and sisters which rendered all jealousy, all fear, all anxiety impossible; but once break down that barrier, and every hour in which those relaxations would exist would bring its hour of pain, anxiety, jealousy, and misery in the family, instead of its

being, as now, a multiplication of all the kindly feelings of the heart. But then it was said that the deceased wife's sister would be an excellent guardian for the children. Now, in cases where the wife dies, and leaves behind a young family, he fully admitted that there was a reason why the aunt, in that case, should have love and affection for her sister's children, and might be anxious and attentive for the preservation of their interests. While he admitted that, he did not think it would increase the care and watchfulness of the aunt over the children by making her a wife. Quite the contrary. The aunt would then be converted into the mother-in-law, and have children, perhaps, of her own; all the passions and feelings of the stepmother would be grafted on to the aunt, and instead of increasing her tenderness and love, and making her more of a benefactor and protector to the children, they would have done their utmost by the passing of the Bill to diminish all her feelings of kindness. The very grounds, therefore, which had been laid down in support of the Bill, were just those which led him to vote against the Bill. He could not think that a more mischievous result of legislation could be conceived than that of converting the kindness and tenderness of the aunt into the jealousy of the stepmother, which would in fact be the very effect of this Bill. He was not aware of how many marriages of this kind had taken place since this question had been mooted; but of this he felt quite certain, that the numbers were not so great as the right hon. and learned Member who had brought forward the Bill had suggested. But, even if they were, what good would be done by legalizing these marriages? They did not get over the fact that they had converted the aunt into the stepmother, and the jealousy of the wife that would be caused by the Act passing. He saw no harm, but, on the contrary, great good, which would result from restraining marriages of the kind; and, as for importing into the question the cry of religious liberty, it was perfectly idle to talk of it. It was nothing but a mere hypo-

critical statement. When a legislator, weighing all these things, said that he thought that, for the benefit of mankind, this was a relation which ought not to be allowed to exist—if a legislator came to that conclusion, it was the duty of every religionist—he did not care of what class—to bow down and obey that law. If he could persuade the legislator out of his view, well and good, let him do so; but do not let any man, or set of men, whine and cry out about religious liberty, call it a religious question, or make himself a religious martyr upon the subject. But he must show, when the Bill became an Act of Parliament, they had done a good work by changing the old law, and that, by so doing, they had really benefited the most important of all institutions of nature and of law—viz., the institution of family. Because he thought that, of all the relations of life, that of brother and sister was the most hallowed and exalting, and connected by the strongest ties—with the exception of that of parent and child, and one which was most entitled to their love and support—because he thought this Bill would be a direct attack upon that most pleasing and useful of the relations of man—he felt himself bound, after weighing carefully the arguments which he had heard for and against the measure, without the slightest hesitation, whatever might be the imputation attaching to him, to express his strong and determined opinion against the Bill.

Mr. A. J. B. HOPE.

At the time of the Reformation, the Church and State of England, assuming that a man and his wife became "one flesh," found in the xviiiith chapter of Leviticus a prohibition of marriages within certain degrees. The State, upon this assumption, proceeded upon the principle that there could be no harm, and must be good, in adopting this as our rule; and she called upon to obey this law all those who enjoyed the benefit of English citizenship. Such restraints

might be in some cases burdensome, but the good of the State required that persons should sacrifice some of their liberty to the common weal.

They must come to this—had they been on the wrong tack for three centuries, and were they now to change it? The right hon. Gentleman had made certain changes in the Bill, as compared with that of last year, for the purpose of conciliating the clergy; but, in his opinion, those changes formed only an additional snare and difficulty, and certainly they did not remove his objections to the measure. Before concluding, he would state, on the authority of a Manchester paper, that this Bill, instead of being applicable to the poor of that part of the country, was not wanted by them, and was not at all suited to their circumstances. It was stated in the *Manchester Courier*—

“That Mr. Wortley must be deplorably ignorant of the circumstances of the working population—at all events, in this part of the kingdom. In the first place, such marriages are almost unknown among the workpeople, who (greatly to their credit) feel an instinctive repugnance to them.”

Mr. ROUNDELL PALMER.

He (Mr. Palmer) must say something about the practical point which had been suggested on the other side, as to the moral tendency of this law. Why, that was really nothing less than begging the whole question, because, in the first place, if this marriage was prohibited by the divine law, they could not make it moral by calling that a marriage which was no marriage. If, on the other hand, they proceeded upon the social view of the question, the Legislature, feeling that it was for the general interest of morality that a man should treat his wife's sister as his own, both before and after the decease of such wife, passed a law to that effect. If that opinion was well founded, what became of the argument from its violation? The violation of such a law in particular instances no more

proved that law to be the cause of its own violation than did the laws against bigamy prove themselves to be the cause of bigamy. Were they gravely to be told that all the violations of law which took place on this or any other matter were attributable to the law, and not to those who committed them? They might as well say that all acts of theft, or other immoralities, were committed because they were prohibited. Hon. Gentlemen who supported this Bill, of course, did not mean to lay down such a doctrine, but their argument had that tendency. Then, if the question were put on the point of compassion towards the children or wives who had been born in, or had contracted those marriages, he admitted that he felt the deepest compassion for those suffering women and innocent children, who, through a violation of any law, human or divine, were placed in a situation in which the former had forfeited their character, their honour, and estimation in society; and the latter had forfeited their right of inheritance as legitimate children. In such cases, if by any act consistent with morality and sound principle he could restore the parent to virtue, or the children to their lost inheritance, natural feeling would lead him to do it; but it was impossible to do so—it would be undermining, for particular individuals, the general laws of morality and justice established for the general government of the world. There was only one other argument upon which he intended to make any observation—an argument which he had frequently heard urged by the other side upon this question—“England is the only country in the world where we cannot contract these marriages, and there can be no good reason why the law of England cannot be the same as the law of other countries.” Now, in the first place, what was the principle of the law of other countries? Did the House wish to adopt it? It was the principle of dispensation. Roman Catholics expressly said, “We do not hold ourselves bound by the Levitical degrees; we establish such a law of marriage as we think necessary for the general interests of morality

amongst our people ; and, having done that, we judge, in particular cases, whether the circumstances are of so exceptional a character that the general law may be suspended." What Protestant countries, which also proceeded on the principle of dispensation, did was this : they admitted the Scriptural propriety and social necessity of these particular prohibitions, but they said that the necessity rested upon certain social reasons, and the state set itself up as judge in cases of particular exceptions. That was the principle of dispensation. Now, at the Reformation, England peremptorily rejected that principle of dispensation, and it was a remarkable thing that the principle of the right hon. Gentleman's Bill was totally without a parallel in the legislation of any country. There was no country which separated this particular case of marriage with a wife's sister from the rest of the Levitical code ; they all treated it merely as one of a class of marriages which, although within that code, were considered as dispensable. He was told that in Prussia, in 1791, they passed a general law allowing this kind of marriage. Yes, and all others which were previously dispensable, so that, in fact, they made permanent dispensations in all cases in which particular dispensations had been before granted, and that showed the tendency of such laws as were founded on the principle of dispensation. And then they knew that in those countries there were a great number of other cases in which they allowed the law to be dispensed with, but with which the right hon. Gentleman had not attempted to deal. So that this Bill now, for the first time, endeavoured to establish a principle, with respect to this particular case, which, unless it could be founded upon some theological argument, or a particular verse in Leviticus, would create a state of things entirely different from what was to be found in any other country. They might be told it was inconvenient to differ in this respect from foreign countries. But looking at the contrast between foreign countries and this, in point of family blessings and prosperity, in point of domestic