MARRIAGE AFFINITY BILL.

REPORT

OF THE

PROCEEDINGS AT A PUBLIC MEETING,

HELD IN GLASGOW, TO OPPOSE THIS BILL,

ON APRIL 16, 1850.

SIR JAMES CAMPBELL IN THE CHAIR.

On Tuesday evening, a large and influential meeting of the citizens of Glasgow, was held in Hope Street Gaelic Church, in compliance with a requisition, numerously and most respectably signed, and presented to the Lord Provost, in opposition to the Bill before Parliament for legalizing the marriage of a husband with his deceased wife's sister.

Amongst the gentlemen on the platform, we observed Sir James Campbell, of Stracathro; Bailie Playfair; Andrew Wingate, Esq.; Andrew Galbraith, Esq., Dean of Guild; James Wright, Esq.; William Connal, Esq.; Dr. Rainy; Dr. James Wilson; William Buchanan, Esq.; G. L. Walker, Esq.; Nathaniel Stevenson, Esq.; Alex. Bryce, Esq.; William Davie, Esq.; John Pattison, Esq.; Hugh Brown, Esq.; Robert Lamond, Esq., writer; Anderson Kirkwood, Esq., writer; J. H. M'Clure, Esq., writer; John Meiklem, Esq.; James Scott, Esq.; Rev. Dr. Hill, Rev. Dr. Smyth, Rev. Dr. Symington, Rev. Dr. Buchanan, Rev. Dr. Craik, Rev. Dr. Lorimer, Rev. Dr. Napier, Rev. Dr. Runciman, Rev. Dr. Paton, Rev. Dr. Boyd, Rev. Mr. Gibson, Rev. Mr. Bonar, Rev. Mr. Somerville, Rev. D. Brown, Rev. A. M'Dougall, &c.

On the motion of John Pattison, Esq., Sir James Campbell was called to the chair.

Dr. Hill commenced the proceedings by offering up a suitable prayer.

The Chairman read the requisition calling the meeting. He said, This meeting has been convened for the purpose of opposing a Bill, which has been brought into Parliament, to alter the rule of affinity of marriage in this land—a rule which we hold to be the law of this country, and I believe the law of all European nations for ages past; and also, as we conceive, and according to the principles we profess, the law of God. (Cheers.) I will not enter upon the subject. There are gentlemen here who will address you, both in reference to the Divine authority, and the civil authority, in respect to this proposed innovation, in my opinion, on the usages of the people of this country, and opposed to their best feelings. (Cheers.) He concluded by calling on Dr. Symington to propose the first resolution.

Rev. Dr. W. Symington said—The object of our present meeting has been explained by the Chairman. The measure we have met this evening to oppose is one that has respect to the earliest of human relations—the marriage bond, the integrity and the inviolability of which stand more intimately connected with individual happiness, and the peace and purity of society at large, than almost any other one thing. The particular question now under consideration has been long regarded as definitively settled. For fifteen centuries in the Jewish Church, and for seventeen centuries in the Christian Church, the law of incest was held to be fixed. When, at a comparatively recent period, and in another country, the question was raised whether a man might not marry his deceased wife's sister, it took the

people by surprise; it had not been before their minds; they had been accustomed to think that such a connection was wrong, and, of course, they were not in circumstances to pronounce on it a distinct judgment. Such, indeed, if we are not greatly mistaken, is pretty much the state of matters in our own country at the present time. The majority of those we meet have never had their minds directed to the subject, and are liable to be carried away with specious representations on one side, or to look on the whole question with indifference. Hence the necessity of giving it a full and public discussion. The full discussion of this subject involves a variety of points, touching respectively on the law of God, the law of man, the creed, and discipline of particular churches, and the general interests of society. It is the first of these to which I am now to confine myself; the other points have been assigned to gentlemen who are well qualified to do them ample justice. The topic assigned to me is the Scripture argument on this point. This, in some respects, is the most important; it lies at the foundation of all the rest. It is that which is likely to make the deepest impression on the inhabitants of this country, Scotchmen having been always accustomed to make an appeal to the Word of God, as the infallible standard of wright and wrong. (Applause.) In discussing it we have to encounter some difficulties, arising in part from the peculiar delicacy of the subject itself, from the verbal criticism which it is necessary to introduce; and from the inferential character of the evidence that is to be adduced. There are some individuals who, on points of this kind, will not hear of inference. They must have express law and precept—so many words in the form of an explicit command or prohibition; but as the Westminster Divines have said, and as I believe all sober theologians are agreed, "what by good and necessary consequence may be deduced from Scripture" is as much "the counsel of God" as that which is set down in so many explicit words; and, in short, if we are to have nothing to do with inference, we shall, I apprehend, at the present time, get little good from the Bible. There must be an end, too, of all reasoning, as every argument supposes an inference, and every syllogism an *ergo*. With these prefatory observations, I proceed to address myself to the proposition—"That the proposed measure is contrary to the Word of God." Before proceeding to prove the truth of this proposition, I would beg leave to call your attention particularly to a few general principles which require to be understood and admitted, in order to the right understanding of what is to follow. The first of these general principles is, that the law of marriage, by which everything concerning it is to be determined, is to be sought for in the Scriptures, and particularly in the 18th chapter of the book of Leviticus. There we find the law of God; and there we find the foundation of all the laws of man on the subject. If they are not there, Where are they? I have no hesitation in answering, Nowhere. In short, the whole subject is thrown entirely loose, and left to the casualty and caprice of mere human legislation. The laws of man without this have no basis on which to rest, except mere expediency; and thus each and all might do what they choose in the matter, without incurring the guilt of sin. We have no hesitation in saying, if the principle is denied, that the law with regard to marriage is to be found in the Bible, a man must be held to be at liberty to marry whatever woman he chooses—his own sister, his own mother, or his own daughter. What law can take him up, if you do not go to the Bible for your authority? The law in regard to marriage, as contained in the portion of Scripture to which I have referred, is a moral law, and not a ceremonial law. It has nothing in it peculiar to the Jews—it applies equally to the Gentiles; and we find, particularly, that its violation by the Gentiles is deprecated, which clearly shows that it is moral. We may call it the statute law of heaven in regard to marriage, and hence we account for the solemnity with which it is introduced in the opening verse of the chapter to which I have referred. There is no middle course, as it appears to me, betwixt that which I have stated and the promiscuous intercourse that constitutes one of the foulest dogmas of Socialism; and I feel impressed with the conviction, that the tendency of that which the Bill we have met to oppose goes to legalize is to introduce into the upper classes, the same abominations which were lately attempted to be introduced amongst the lower classes—the loathsome abominations of Socialism. (Cheers.) The second general principle to which I would beg attention is, that the sexes are convertible. We mean by this, that what a man may do in respect of marriage, a woman may do; and what a man may not do, a woman may not do. A man and a woman are placed

on the same footing, and the same prohibition applies to both. (Cheers.) The prohibited degrees of marriage to a man in respect of a woman, are the prohibited degrees to a woman in respect of a man. This, I apprehend, none will deny. It is, indeed, indisputable, if we admit that a man and a woman are equally moral beings—(Cheers)—that a woman has a soul as well as a man, and is equally responsible to God. If that is admitted, the convertibility of the sexes must be admitted also. (Cheers.) The third general principle which I am anxious to bring before you is, that affinity and consanguinity, as grounds of prohibition and permission, are equivalent. To the husband, his wife's relations are the same as his own in the same degree; and to the wife her husband's relations are the same as her own in the same degree. That is to say, to a husband, his wife's mother, sister, niece, are the same as his own, and to a wife, her husband's father, brother, nephew, are the same as her own. The relations of each, in short, are alike to both, in the same degree. Now, the principle on which this rests, is the principle which lies at the foundation of the law of marriage. God said, "let a man leave his father and mother, and cleave unto his wife, and they two shall be *one flesh;*" there is an identity thus formed between the man and the wife; this identity lies at the very foundation of marriage. The importance of this, in regard to social morality, must be apparent at once. The principle I have stated, of affinity and consanguinity being equivalent, is admitted in the laws of our country, as might be shown by referring to Blackstone's Commentary, and other legal authorities. But it is more to my present purpose to remark, that this principle of affinity and consanguinity being equivalent, pervades the whole of the 18th chapter of the book of Leviticus. There are in that chapter seventeen instances of prohibited degrees; and it is not unworthy of notice, that of these seventeen degrees eleven of them are degrees of affinity, and six only degrees of consanguinity. We are apt to think that consanguinity is a stronger ground of prohibition than affinity; but the majority of prohibitions has respect to cases of affinity, and this entitles us to draw the conclusion, that at least affinity is an equally valid ground of prohibition with consanguinity. (Hear, hear.) The fourth general principle is, that the prohibited degrees all spring out of one circumstance. They have all one root. What is that root or circumstance? It is propinquity, or nearness of kin. Whether they be cases of affinity or consanguinity, the prohibition always proceeds on this one circumstance of nearness of kin. The foundation is laid for this in man and wife being "one flesh." Now, let me read to you the 6th verse of the 18th chapter of Leviticus: "None of you shall approach to any that is near of kin to him, to uncover their nakedness; I am the Lord." This phrase refers distinctly to marriage; it is a universal law expressed in language of universality. Observe, too, that the principle on which the prohibition rests is nearness of kin, or propinquity. And mark the solemnity of the announcement—"I am the Lord." This is what may be called the enacting clause of the statute, which is afterwards more fully unfolded. According to the language of modern legislation, it contains the great principle of the bill—the great principle applicable to what follows on the subject of incest. This makes out the fourth general principle. Now, taking these general principles along with us, let us look to the Scriptures, and see whether we have there any proof that the marriage of a man with his deceased wife's sister is contrary to the Word of God. I have to bespeak your patience, as the question is entirely didactic; but I do not so much ask your patience, as your undivided attention, for a very short time. The first thing we remark in way of proof is, that a man is expressly forbidden to marry his own sister, or his half-sister. Turn up with me that chapter in Leviticus, the 18th, and there we find at the 9th verse—"The nakedness of thy sister, the daughter of thy father, or daughter of thy mother, whether she be born at home or born abroad, even their nakednesss thou shalt not uncover." Now, here, clearly and distinctly, is marriage forbidden between a man and his own sister, the daughter of his mother, or even his half-sister—although she be daughter only of the father or the mother, and not the daughter of both. Nothing can be clearer than this. Remember then the third general principle, that affinity and consanguinity are equivalent, and from this it will appear equally clear that a man is forbidden to marry his wife's sister. On the principle of consanguinity he is forbidden to marry his own sister, and on the principle of affinity he is forbidden to marry his wife's sister; for affinity and consanguinity are the same. If this principle is admitted, as we have endeavoured to

show that it is in harmony with reason, Scripture, and common law, then is it contrary to the Word of God for a man to marry his wife's sister. (Hear, hear.) Again, a woman is forbidden to marry her husband's brother. Now I beg attention to this. In Leviticus, 18th chapter and 16th verse, we read, "Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness." Here, clearly, a woman is forbidden to marry her husband's brother; for if a man is forbidden to marry his brother's wife, of course the wife is forbidden to marry her husband's brother. Now observe, that if a man may not marry his brother's wife, on the second general principle (that the sexes are convertible), it follows that a woman is not to marry her sister's husband, which is done when a husband marries his wife's sister. But the former is strictly forbidden, and, on the principle of the convertibility of the sexes, the latter must be forbidden also. It is clear and distinct, therefore, that on the principle of the convertibility of the sexes, this passage forbids a man to marry his brother's wife, and forbids a woman to marry her sister's husband. But there is a double inference from the passage, and you may take it thus: a wife's sister is to the man what the husband's brother is to the woman; and if a woman may not marry her husband's brother, so neither may a man marry his wife's sister. There is no inference in the world that can be more legitimate than this. (Cheers.) True, it existed under the former dispensation, that there was a law authorizing a man to marry his brother's wife. We find in the book of Deuteronomy, 25th chapter, and 5th verse,—"If brethren dwell together, and one of them die, and have no child, the wife of the dead shall not marry without unto a stranger; her husband's brother shall go in unto her, and take her to him to wife, and perform the duty of a husband's brother to her." There may seem to be something a little inconsistent here; but observe, this exception strengthens instead of weakening the general rule. It does so, inasmuch as, nothing else than the original authority which made the first law could dispense with it, by making this exceptive one. That exceptive law was introduced for a special purpose, and being so, it left the law in force in every other case. And then, still further, the special purpose for which this exception was made having ceased to exist, the law now stands without any exception whatever. And if this will not satisfy our opponents, we beg their attention to this, that the exceptive law, while in force, constituted not a permission, but an obligation to marry a deceased brother's wife. (Hear, hear.) The widow was allowed to punish him, and to cast on him contempt, if he refused to marry her; and if men will argue from this circumstance in connection with the subject before us, they will find that their argument will go further than they intended; it will oblige every man whose wife dies, leaving a marriageable sister, to marry that sister; and this, we presume, will not always be found quite agreeable or convenient to parties. (Great laughter.) Now, the third point to which I would refer, is one to which I attach great importance. I do not see how it is to be got over. It is this, that degrees of affinity more remote than that of a wife's sister are directly prohibited. There are two in particular to which I would refer. The first is contained in the 14th verse of this 18th chapter of Leviticus, "Thou shalt not uncover the nakedness of thy father's brother, thou shalt not approach to his wife: she is thine aunt." Here a man is prohibited from marrying his aunt-in-law. Then, if you look at the 17th verse of this same chapter, you will find, "Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness: it is wickedness." A daughter by a former marriage—this is a grand step-daughter. Here are two cases prohibited, marriage with an aunt-in-law, and marriage with a grand step-daughter. Now, what is the principle on which they are prohibited? It is given in the conclusion of the 17th verse—"For they are her near kinswomen." It is the principle of propinquity. Very well, if marriage with such is prohibited on the principle of nearness of kin, surely marriage with an individual nearer still, must be prohibited also. These individuals are in the collateral relation of the second degree, whereas a wife's sister is in the collateral relation of the first degree; and if the former are not to be married, does not every one see that neither can the latter be taken into the relation of marriage? (Cheers.) The conclusion in this case is not less legitimate, or conclusive, from the premises, than either of the former. Now, we have three arguments, any one of which were sufficient to establish the

point, that marriage with a deceased wife's sister is contrary to the Word of God; and taken together, they supply an irrefragable proof of the proposition with which we set out. (Cheers.) But I think I hear some one say, Does not the chapter to which you have referred, contain a verse prohibiting a man from marrying his wife's sister merely during her lifetime, and leave him at liberty when his wife is dead? The passage is the eighteenth verse of this same chapter, where we read, "Neither shalt thou take a wife to her sister to vex her, to uncover her nakedness, beside the other, in her lifetime." This text deserves a little attention; and in the first place, I would say, if taken in the sense attached to it by those who hold the legality of marriage with a deceased wife's sister, it would go to legalize bigamy, or polygamy, in every other case, except that of sisters. According to these views, of course, it leaves a man to marry any other woman, and would be a permission of bigamy or polygamy. Now, I apprehend, that for the very opposite purpose has it been introduced into this chapter. But there is a marginal reading of the phrase in the text, which renders it "one wife to another," and this marginal reading appears to me to give a key to the reading of the passage. It shows that this clause, "one wife to another," refers not to the sisterhood of women, but to the sisterhood of wives. The individual pointed to is "sister-wife;" that is to say, just another wife. The two wives are designated sisters, not as being the daughters of one father and one mother, but the joint wives of one husband. There is no other name by which persons so situated could more appropriately be named. This is, therefore, a distinct prohibition of bigamy—that a man is not to take one wife to another to vex her during her lifetime. Now, in confirmation of this, the phrase here translated, "a wife to a sister," and on the margin, "one wife to another," is a phrase which occurs often in Scripture, sometimes applied in the masculine, and sometimes in the feminine gender. If a male, it is a man to his brother; and if a female, it is a woman to her sister. Now, I could occupy much of your time in quoting instances, from Scripture, of the use of this phrase in the case of females. I shall just refer to two or three. For example, in Exod. xxvi.3, we read, "The five curtains shall be coupled together one to another; and other five curtains shall be coupled one to another." What do you think is the expression in the original there? "A woman to her sister." The word is in the feminine gender, and the phrase, if literally given, would be, "a woman to her sister," whereas the idiomatic import is clearly, as rendered, "one to another." In the same sense, it occurs in the 5th verse, and again in the 6th and 17th verses; and again, in the book of Ezekiel, 1st chapter, "The wings of the cherubim were joined one to another." In the original it is, "a wife to her sister;" but idiomatically it is "one to another." Now, without dwelling on this, let me make a general statement. This phrase, "a man to a brother," or, "a woman to a sister," occurs thirty-five times in the Old Testament; and thirty-four out of the thirty-five times it is idiomatically rendered "one to another," and the thirty-fifth is this unhappy passage now alluded to, in which the text is translated "a wife to a sister," where it should be idiomatically read, "one to another." This is further confirmed, I think, by the reason that is assigned for not taking a wife to a sister, namely, "lest you vex her." Would the marrying of a wife's sister be the only thing that would vex her? Would the marrying of another woman, although not her sister, not vex her? In all probability, she might be less vexed at her husband marrying her own sister; but, certainly, if he married any other woman, that would vex her not a little. Now, I have to say, that the view I have now given of the phrase in question is the view of the most learned lexicographers, such as Buxtorff and Gesenius; and the general import of the verse at large, is the view which has been supported by the most learned men in every age of the church. It is the view which is taken—to the shame of the modern defenders of incest—by Mahomet himself; and the principles he has laid down in this matter might shame the individuals who are contending for a low and lax morality in the present day. In short, I think I have shown that this 18th verse has no bearing whatever on the question before us. It refers only to bigamy, or polygamy; and, therefore, the proof arising from every source formerly adduced stands unaffected by it. The proposed measure, then, is contrary to the Word of God; and if we are to pay respect to the voice of God, we are bound to use all proper means to defeat this atrocious Bill now before Parliament. (Cheers.) Let us go to the Legislature, and ask them, instead of breaking down the laws of the country and of God to the level of the lax morality

of men who, however great in rank and influence, to bring up the conduct of these men to the standard of these laws. Let these men be taught, as they need to be, that, rather than that the laws of God and man should be broken, in accommodation to the errors of certain individuals, it is a thousand times more reasonable that the incestuous contracts of these parties should be forthwith broken up. (Loud cheers.) This is the course we should pursue, if we are any longer to have the power of singing:—

"Hail! wedded love, mysterious law, true source,
Of human offspring * * * * * *
Perpetual fountain of domestic sweets."

Let us, by what we do this evening, as citizens of Glasgow, which "flourishes by the preaching of the Word,"—let us wash our hands free of all participation in the guilt of those who have gone up to a forbidden bed, saying, each for himself, in holy indignation, "My soul, come not thou into their secret; unto their assembly, mine honour, be not thou united." (Great cheering.) Dr. Symington concluded by moving—"That the proposed measure is contrary to the Word of God."

Bailie PLAYFAIR seconded the motion, which was carried unanimously.

Mr. KIRKWOOD.—Mr. Chairman, I have the honour to submit to the meeting the next resolution, which is in these terms:—"That the proposed measure is destructive of domestic purity and peace, and injurious to the well-being of society at large." And, if it has been demonstrated to your satisfaction, that the measure is contrary to the Word of God, I might assume that it must be as injurious to domestic and social happiness, as my motion declares it to be. But this is not the point in hand. I take up my resolution as a separate proposition; and, if I succeed in establishing it, I shall then be entitled to turn round and say, that what is destructive of domestic purity and peace, and injurious to the well-being of society at large, cannot possibly be in accordance either with the letter or the spirit of the Word of God. Before proceeding, however, to the proper business intrusted to me, it is very desirable to know something of the origin and history of this measure. Were it a public measure, called for by the community at large, in order to redress some clamant national grievance—were it a measure introduced upon the responsibility of Government—were it a measure originating with a powerful, even with an independent party in the Legislature—we might approach its consideration with temper and moderation. But the Bill we have met to oppose has no such recommendations. It is, on the contrary, a private Bill, in the strictest acceptation of the term, as I shall presently show. (Hear.) The agitation which has led to it commenced in 1840. It has taken ten years to develope. In 1840, a gentleman, who had either married or who was desirous to marry, contrary to law, the sister of his deceased wife, felt uneasy in his conscience or his status. He bethought himself of various expedients to set himself right; and ultimately resolved that, as the law was the pinching point, he had better apply to his lawyer for relief. Straightway he goes to a highly respectable firm of solicitors in Coleman Street, London, and they undertook his case, and the case of a few others in a similar predicament. They have performed their *professional* duty admirably. They began by boldly asking the Archbishop of Canterbury, as the head of the Church of England, to espouse their cause, but his Grace very properly declined to interfere. They next tried the other archbishops and bishops, but with equal want of success, except in the case of the Archbishop of Dublin, who is generally somewhat singular in his opinions. Having thus failed with the dignitaries, they had a clever pamphlet written, designed and calculated to unsettle men's minds on the question, and this and other pamphlets were industriously circulated amongst the parochial clergy of England. Many of the clergy were caught in the trap, and committed themselves. Flushed with this partial success, the solicitors of the measure were emboldened to try the bishops again, at a time when it was politely said they would be less burdened with their *arduous* parliamentary duties; but this second application was not much more successful than the first. The solicitors then *assumed* that there was no *Scriptural* bar to the measure. Having so easily disposed of this formidable objection, the next thing done was to take numerous opinions of eminent English counsel; but I do not imagine anybody will think that a parcel of such opinions would be of use one way or the other in settling such a question. Next, we have a foreign jurisconsult consulted as to the law of marriage in other countries, particularly

Prussia. We have also an opinion as to the law in the United States. Now, I have no repugnance to corn being imported *duty* free from these places, but I have an insuperable dislike to morality being admitted on the same easy terms. (A laugh.) With regard to Prussia, you must recollect the saying of its greatest monarch, that "Moses did not consult me when making his laws, and I will not consult him when making mine." His subjects have literally followed his advice; for, in Prussia, they allow a man and his niece, by consanguinity, to intermarry, and it is no wonder, therefore, that they find no obstacle in relationship by affinity. I cannot, therefore, consent to follow Prussia's morality. And, with reference to the United States, it must be borne in mind that, owing to the prevalence of boarding establishments in America, no fair comparison can be instituted between the state of domestic society in their country and ours. We must, on this ground alone, setting aside any higher, decline to take an example from the United States. The next thing the promoters did, was to enlist the sympathy of 80 London solicitors as petitioners in their favour, and to employ nine barristers and students-at-law to get up a case. One of the barristers remained at head-quarters in London. The other eight scoured the populous manufacturing, mining, shipping, and agricultural districts of England, to collect instances of the forbidden marriages. They had no success in London; but, in the other towns visited by them, they found about 1560 cases. But they furnish no names or particulars to enable any one to trace and test these cases. One of the barristers in question—a Mr. William Campbell Sleigh—has recently ventured across the Border, and has rendered himself conspicuous by maintaining, that not to hear a paid advocate at a public meeting is an invasion of constitutional liberty—an interference with freedom of speech. I would be the last individual to prevent the full expression of opinion by gagging any man; but it were monstrous to permit the hired agent or barrister of a party to obtrude himself on a public meeting. If the meeting to which I refer had known who Mr. Sleigh was, I am much mistaken if they would not have given him a much worse reception than they did. So much for the means employed by the promoters to make out a case. But they had still to try a more popular foundation for a Parliamentary inquiry. They must, therefore, have a general petition from the clergy and laity. And, after canvassing 51 cities and towns, they got 5147 signatures to such a petition—being at the rate of 100 signatures for each place. This was made the basis of the Royal Commission of 1847, which was moved by Mr. Stuart Wortley. Six Commissioners were appointed, including Mr. Wortley; and including also the Lord Advocate of Scotland. The Commissioners examined 41 witnesses—a formidable number, certainly, if their testimony were important. But let us look at the composition of the witnesses. You have, in the first place, the Solicitor for the promoters, and his nine paid barristers. Nobody will call their testimony impartial evidence. Next, you have twelve parties (many of them anonymous) who have either married, or who are desirous to marry, their sisters-in-law. These, surely, are not disinterested witnesses. And the same remark applies to the evidence of Mr. Rice, M.P., Lord Hill, and Mr. Richard Cobden, M.P., all of whom have near relatives married to sisters-in-law. Dismissing these different classes of witnesses as inadmissible, the number 41 dwindles down to 16—one of whom is a foreign jurisconsult, thirteen are clergymen, one is an Irish layman (Mr. Matthews), and one is the Lord Advocate, himself a Commissioner. The jurisconsult cannot aid us. The clergymen are divided in opinion, as to both Scriptural and moral obligation. But even those in favour of the Bill can give scarcely any facts in regard to the prevalence of such marriages. One clergyman says he knows of two cases. Another can condescend upon none in Plymouth, which is his present parish, although he speaks of some having occurred in his previous parish. A third clergyman says there are none in his own parish, but he knows of seven elsewhere. And, without further detail, it may be stated that not above sixteen cases are thus spoken to by disinterested witnesses. Passing from the clerical to the lay witnesses, Mr. Matthews states, that there is a very strong opinion in Ireland against marriages by affinity. And the following is the Lord Advocate's evidence as to Scotland:

"Are you aware whether these marriages do take place in Scotland?—These marriages take place in Scotland, I should say, hardly at all. Certainly, I do not think that persons in the better classes of life would be received in society,

having made such a marriage; and I should think that, in the lower orders, the impression against it was very strong indeed."

There is not a single disinterested layman examined to express the feeling of England and Wales. And this is the sort of evidence which forms the foundation of the Commissioners' Report. The substance of the Report, in so far as the feeling of the community is concerned, will be found in the following paragraphs:—

"We are satisfied that a great diversity of opinion prevails, among the clergy of the Established Church in England, upon both questions. We think that very many of them do not consider such marriages to be prohibited by the law of God; but that the majority object to them, either upon this or upon other grounds.

"In Ireland, the great majority of the clergy of the Established Church are represented as disapproving of these connections; which are rare, also, among the Presbyterians in that country, and are generally disapproved of by their ministers.

"In Scotland, the opinion of the clergy is decidedly against these marriages.

"Among the laity of the United Kingdom, divers opinions obtain; but we think that the prevailing feeling is against these marriages, and that a large majority, if asked their opinion, without time for consideration, would express a very strong dislike and disapprobation of them."

Such is the Report of the Commissioners, and then, in 1849, Mr. Stuart Wortley brings in his first Bill, making it lawful for a man to marry either his sister-in-law or his niece by affinity. That Bill was read a first and second time, and was then withdrawn. But it re-appears this year with the niece struck out—the sister-in-law remains in; so that we are asked to swallow the camel and to strain out the gnat. Probably the gnat will appear in another year. Having thus gone over the history of this curious attempt at legislation, I think you will agree with me that it cannot be considered in any proper sense a public measure. On the contrary, it is a private Bill, originating with interested parties, agitated by means of their influence and their money, and promoted solely for their advantage. And is it possible not to be indignant, in such circumstances, at the introduction of a measure which, if passed into a law, will infallibly be destructive of domestic purity and peace, and injurious to the well-being of society at large! (Cheers.) This is a serious but a delicate subject, and does not require to be dwelt upon, because the objections to it come home spontaneously to the feelings of the meeting. At present, a sister-in-law is either the permanent or the frequent inmate of her brother-in-law's family. She is treated as a sister, with the same familiarity and affection. Her presence and aid are freely called for and given, in the time of domestic distress. She is oftentimes the nurse of her dying sister, and as often does she continue in charge of the family, after her sister's death. But pass this Bill, and the relationship must be changed. The sister-in law must be treated with the reserve of a stranger, lest any look or word should create a jealousy in the wife. The world's keen glance must also be studied, and a restraint put upon the free interchange of the kindnesses of domestic life. In times of sickness, the sister-in-law cannot be resorted to; and what will be the parties' feelings in cases of death, when one sister feels herself shifting from the scene, and sees her successor standing by her bedside. The conflicting struggle of duty and affection will be most painful. And then, with regard to the poorer classes, the mischief will be still greater, for their domestic arrangements and accommodation do not admit of the presence of a sister-in-law, except as a member of the family. To descend a stage lower in the social circle, and who can tell what may occur in the annals of crime? Poison is now the favourite agent of murder, and it will be no difficult matter thus to get rid of a wife, if the husband and sister-in-law conspire together for the purpose. (Hear.) It is but yesterday that we read in the public prints of two executions at Cambridge for this very crime; and if this has occurred even when the law forbids the future marriage of the guilty parties, may it not far more readily occur, if the law shall sanction that marriage? On every domestic and social ground, therefore, do I ask your assent to my resolution against the Bill. The only arguments in its favour are,—1st, That the sister-in-law is the proper mother of her sister's children; but, should the Bill pass, the sister-in-law will necessarily be excluded from that place in her sister's household which at present fits her for taking charge of the family. But 2d, It

is said that the children of such marriages should not be branded with illegitimacy, since they are free from all blame. This argument, however, if good for anything, would make it proper to remove the stain from all illegitimate children whatever, and no one is bold enough to carry the argument that length. But I cannot detain the meeting longer, and I shall therefore conclude by reading the following appropriate remarks of one of the clergymen examined before the Commissioners:

"Certainly one great object of Christian marriage has been to make the union, in its collateral effects, as entire and as ultimate as all the relationships of blood. This is evidently for the good of society, and the well-being of the offspring. But, under the supposed alteration, all the brotherhood and sisterhood of affinity would be weakened, if not destroyed. I have also an apprehension, approaching moral certainty of anticipation, that in many cases the seeds of suspicion, and jealousy, and heartburnings, would be sown in the heart of the wife. Especially would these unhappy feelings be most likely to arise, and to interfere with domestic peace and comfort, under such circumstances as would render them the most painful and bitter: I mean when a woman of delicate health might find herself gradually declining, and would more and more require the endearing attention and care of her own sister. Especially, I must add, would these causes operate during the trying seasons of her confinement. Doubtless, a husband and wife of high Christian principles and purity, and firmness of character, might prove such an apprehension to be, in their individual case, groundless; but taking human nature as we know it to be, I cannot help hoping that a wise Legislature would be unwilling to remove that prohibition which either entirely excludes, or tends materially to mitigate, these breaches on the blessings of wedded life.

"And then, again, after the death of the wife, when the widower feels his home to be the place of desolation, and when no one could so naturally or so effectually come to his aid, and administer comfort through the first days, and weeks, and months of his bereavement, as the sister of her whose love and devotedness to him he finds memorials everywhere around, I have reason to fear that an almost insurmountable obstacle to the widower's being blessed with that solace would operate in the minds of most women of refined delicacy and ingenuous sensibility. Such an one would shrink from exposing herself to the suspicion of others, or even of her own conscience, that selfishness was mingling itself with her benevolence; and that, in devoting herself to the consolation of her sister's husband, and to the well-being of her sister's children, she might, at the same time, be, perhaps, influenced by the secret desire of engaging his affections, and of ultimately becoming his wife. I am apprehensive that such a state of things would, in very many cases, materially interfere with one of the truest and purest charities of life, and, in other cases, where the mind was less under the influence of habitual and pure feelings of delicacy, would tarnish and corrupt that charity." (Cheers.)

The Dean of Guild seconded the motion, which was also carried unanimously.

Dr. Buchanan, who was received with cheers, said—The resolution, Sir James, which I have been asked to submit to the meeting is as follows:—"That the proposed measure is at variance with the standards, and subversive of the Discipline, of the Presbyterian Churches in Scotland, and, so far as known, of all the other branches of the Christian church in Scotland." There are some questions which manifestly belong both to the State and the Churches of Christ,—questions of such a nature that both of these parties are necessitated to deal with them,—questions as to which the State on the one hand and the Churches of Christ on the other must form a judgment, and must lay down a rule. Marriage is evidently a question of this nature. It is indispensable that the State should handle the question of marriage. The State cannot get rid of the responsibility of dealing with it. The very necessity of circumstances requires the State to come to a judgment as to who those parties are between whom marriage may be lawfully contracted. If the State were not to do this, then it would of necessity leave the whole subject of the law of succession and the rights of property in a state of wild and ruinous confusion,—in a word, it would leave society exposed to all the horrors and abominations of Socialism,—every man, in respect to marriage, being left to do what seemed right and good in his own eyes. (Hear, hear.) It is equally plain that the Church, on the other hand, must also handle this question. The Church cannot keep her own communion pure, unless she lays

down in her standards what it is that constitutes lawful marriage, and who those parties are who are living in lawful wedlock. If, then, these two parties,—the State on the one hand, and the Church on the other,—are necessitated to deal with this common question, What is to be the rule that is to determine their judgment concerning it? What is to be the rule for the State? Is it to be simply the light of nature? Unquestionably, if it were a heathen State, a State on which the light of Divine Revelation never shone, it would be necessitated to do the best it could in regulating that question, according to the light of nature alone; and thus we find, that all the states of antiquity, destitute though they were of the light of Divine Revelation, had their code of laws concerning marriage and the prohibited degrees, more or less near to that which is the only infallible rule—for even they, without the light of Divine Revelation at all, felt it to be essential to the existence of society, that rules should be laid down on this subject. But will it be said that a Christian State, enjoying the inestimable privilege of possessing the Holy Scriptures, is to take the glimmering taper of the light of nature for its guide, when it may walk through the intricacies of this question in the broad sunlight of the Word of God? (Hear, hear.) Manifestly, Sir, on every subject that the State is called to handle, if it be a subject on which God has spoken, a subject concerning which God has indicated his mind and will, the State is as much bound to take the Word of God for its rule, as is the minister of Christ when preaching the glorious Gospel. I need not say, that if it is manifestly the duty of the State to take the Bible for its rule, in determining this question, the Church must take the same infallible authority for its guide. The Church has no other guide, it has no other authority but Christ speaking in his Word, and this Word must be its guide in laying down a rule on the question,—who are the parties who may contract lawful marriage, and what, on the other hand, constitutes an incestuous connection? In determining that question, it must be guided by the authority which has this evening been so luminously and impressively expounded. (Hear, hear.) Here, then, we have these two parties,—the State for its own purposes determining who may lawfully contract marriage,—the Church for its own purposes dealing with the same question; and both with the Word of God in their hands. For those very Commissioners, on whose report the bill has been introduced, confess that if God has spoken on this point, and if God has interdicted these marriages, *cadit questio*, the question is at an end; there is no room for discussion on the point. Now, if it be so that these two parties, the Church and the State, are to handle the question, and each to handle it by the same authority, is it not a matter of the mightiest moment that they should come to the same decision? Is it not manifest, that if the State declares that to be lawful which the Church of Christ declares to be sinful and abominable, it is laying the axe at the root of public morality, and shaking the confidence of society in the authority of the Word of God itself? (Cheers.) Hitherto it has been our happiness, that the two parties of whom I have spoken, the State on the one hand, and the Churches of Christ on the other, have been in this favoured land both at one on this question. You have been already told that since ever the question was agitated, since ever the Churches of Christ had occasion to lay down a canon on the subject, they have been of one mind, and that the mind which has been set forth this evening in the opening address —viz., that the marriage of a man with the sister of his deceased wife is prohibited by the Word of God. The law of England, and the law of Scotland, have equally prohibited it. Unhappily, indeed, for England, from the complication in that country between the civil and ecclesiastical courts or jurisdictions,—in which some things are left to the ecclesiastical courts, such as questions affecting marriage, wills, and matters of that nature,—from the complication of the two classes of courts there arose a certain ambiguity which made the decision of the State, in regard to the validity of that kind of marriage, not so clear and manifest as in its own nature it really was. The validity of any marriage, according to the law of England, must be decided in the ecclesiastical court. The civil court could not interfere to deal with any question of succession or property that might grow out of the marriage, until the ecclesiastical court had first decided on it—first found that the marriage was either good or bad. In this position of matters, supposing a man married the sister of his deceased wife, unless the ecclesiastical court took the case in hand, and declared the marriage void, the secular tribunals could not touch the questions of succession or property which might have grown out of that marriage; and the secular courts feeling that this was a grave inconvenience—that it was injurious to the public interest, that they should be barred out from doing their own proper duty until the ecclesiastical court was pleased to perform the functions which belong to it, about 200 years ago sought that a limitation should be provided, by which it was declared, that unless the ecclesiastical court pronounce its sentence in regard to the validity of a marriage, while the parties between whom it was contracted are still living, they should not be competent to touch it at any subsequent period. And this was done for the purpose of preventing confusion in regard to the law of succession and the rights of property. It was this circumstance which gave rise to a distinction of most mischievous import in England, between marriages which were void and marriages voidable—marriages which, from their own nature, were from the beginning null and void, and marriages which could be made so by a process in a court of law. This kind of marriage manifestly by the law of England was meant to be void, and it needed only that any individual whatever should go to the ecclesiastical court, and call attention to the case, to have the question raised and the marriage declared void. But in consequence of the state of matters to which I have referred, people imagined that the law was not so clear and decisive on the question as it really was, and it was because of that ambiguity alone, that these marriages began to creep gradually into English society. But Lord Lyndhurst's Act, which was passed in the year 1835, declared these marriages without any process at all, natively null and void and of no effect whatever, without requiring any sentence regarding them to be pronounced. In Scotland there never was any such complication or ambiguity; and not only in Scotland would such marriages have always been held no marriages, so far as civil consequences were concerned, but they would have been held as incestuous marriages, and liable to bring down on the parties concerned criminal punishment. I repeat then, that the Church and the State have hitherto been at one on this question. It is very true that the same unity does not exist in every country on the Continent; and when recently in London, on a mission connected with this very question, and when conferring about it with a distinguished person in high authority, that fact was put that there were nations on the Continent in which these kind of marriages could be contracted. I took the liberty of inquiring, Why is it so? Is it not manifestly because in these continental nations society and legislation have gone away from the great standard of the Word of God, relaxing all the bonds by which society is held together? And is it not the glory of Great Britain, that to this hour it has not gone after the example of these other lands, but has stood in the main in the paths of our fathers, and based its legislation on the foundations of Divine Truth? (Cheers.) But now we are to have this distinction taken from us, and we are to follow the example of our continental neighbours; and, not only without the voice of the country, but against the settled convictions and usages of the country, we are to have a state of law introduced subversive of morality. This is a question which goes to the foundations of society itself. We are to have, if this bill passes, the State saying one thing, and the Church of Christ saying another thing—the State saying that *that* is lawful which the Church of Christ pronounces to be incestuous and abominable. It is manifest, if that Bill passes, that it must bring on serious collisions between the civil and the ecclesiastical courts of the Church of Christ in these lands; and must, therefore, materially damage the discipline of all the Churches of Christ. It is quite evident, that the framers of the bill have themselves foreseen that these dangers are involved in this measure. The bill itself, a copy of which I hold in my hand, shows that they are to some extent aware of these dangers, because it shows that they have done something, apparently to prevent them. For example, this bill provides, that if any minister shall celebrate one of these marriages—the marriage of a man with his deceased wife's sister, he shall not for that deed be exempt from any censure to which the law and authority of his Church may expose him for so doing. The bill states, that he is not to be held as required by this Act to celebrate the marriage, and therefore, if he does it, he does it at his peril; and is to be subject to such ecclesiastical censure as his Church may deem it necessary to inflict upon him for so doing. But, observe, while this provision seems to be intended to protect the discipline of the Church, it refers only to ministers, and refers to them only on the one point of celebrating the marriage. The Bill will not carry a minister scathless through the ecclesias-

tical courts, if he celebrates that marriage; but then the Bill will carry him scaithless *if he form such a marriage himself*, and it will carry scaithless *any member of the Church who contracts such a marriage*. Mr. Kirkwood mentioned, that the Bill of this year was a second edition of the measure, and a comparison of the Bill of 1849 with that of 1850, will bring out the point I am now dealing with. The Bill of 1849 read in this way:—

"And be it enacted, that no clergyman or other person shall hereafter be liable to any suit, action, or proceeding, civil or criminal, in the ecclesiastical or any other courts of this realm, in respect of the *contracting, celebrating*, or *solemnizing*, or refusing to solemnize, any such marriage between a man and the sister of his deceased wife, or between a man and the daughter of the brother or sister of his deceased wife, by reason only of the affinity between the parties thereto, nor shall such affinity be or be deemed any lawful impediment within the meaning of the several acts regulating and providing for the granting of certificates or licenses for marriages."

In the first edition, he is to be carried scaithless for contracting, celebrating, or solemnizing these marriages. He is not for any of these things to be subject to censure or punishment in any court, civil or ecclesiastical. But in the Bill of this year there is this difference, that he is left exposed to the censure of the Church, in so far as he may celebrate or solemnize these marriages, while the contracting remains the same as before. The last clause of the Bill of 1850 reads in this way:—

"Provided always, and be it enacted, That nothing in this Act contained shall be deemed or construed in any civil or ecclesiastical court of this realm, to alter or in anywise affect any doctrine, canon, or law ecclesiastical of the United Church of England and Ireland, or of the Church of Scotland, whereby the degrees of consanguinity and affinity within which marriage is now held to be prohibited by the doctrine and discipline of the same churches respectively, are settled or defined; and no clergyman, minister, or officer of either of the said churches shall be required or authorized, by virtue of this act, knowingly to solemnize or grant any license for solemnizing any marriage contrary to the doctrine or discipline of the church of which he is such clergyman, minister, or officer; nor shall any such clergyman, minister, or officer, who may hereafter knowingly solemnize or grant any license for solemnizing any such marriage be exempted, by virtue of this Act, from any spiritual or ecclesiastical censure or punishment to which he would by law be subject if this Act had not passed; but this Act shall nevertheless operate and be construed to prevent any marriage which has been or which may be hereafter actually celebrated between a man and the sister of his deceased wife, either by any clergyman or minister of the said churches respectively, or otherwise howsoever, from being afterwards annulled or pronounced void (except in the cases hereinbefore specially excepted) on account of any canonical or other objection or impediment founded only on such affinity as aforesaid to the validity of such marriage or to the celebration thereof, or to the validity of any licence or certificate under which the same may have been celebrated; and the affinity of a man to the sister of his deceased wife shall not, for any civil or temporal purpose, be deemed or considered any legal impediment to marriage, except in the cases hereinbefore specially excepted, *nor shall the parties to any such marriage be by reason only of such affinity subject to censure or punishment by suit in the ecclesiastical court.*"

It is quite plain then that we are to be landed in this difficulty. If the State shall pass this Bill, if it shall become the law of the land, and supposing that a minister of one of the Established Churches contracts one of these marriages, no doubt his Church, according to its standards, would find itself called upon to depose him as living in an incestuous and an unlawful connection—and they would depose him from his office. But by this clause of the Bill he would be upheld in his office notwithstanding. The law would say he is not to be liable to be cut off for having done this thing—he has done nothing but what the law proclaims to be lawful, and he is entitled to stand upon this enactment, and claim all his emoluments and privileges in connection with his office as a minister of the Established Church. But this collision will not be limited to the Established Churches; it cannot be limited to them. Suppose it were in any of the non-established Churches in the kingdom that the thing took place. Suppose the case of an influential member of the communion of a non-estabished Church con-

tracting such a marriage, the Church to which he belongs would find it indispensable, according to its standards, to call those parties before it, and to admonish them, that they had entered into an incestuous connection; and while they continued in it they must be excommunicated from the Church as persons living in open wickedness. Neither they, nor the offspring which they had begotten, could be admitted to the privileges of the Church. In these circumstances, there can be no doubt that the man who is capable of contracting such a marriage, in defiance of the law of the Church, would also be capable of doing this other thing, capable of going to the civil court and demanding reparation for the ill which had been done to his character, and to that of his children, in having them branded as illegitimate, while his marriage was sanctioned by the law of the land. I put it to you, Mr. Chairman, to say what would be the consequence of setting the law of the Church of Christ and the law of the State in direct collision on a question such as this? Society would be torn in pieces, and the end of the whole would be, that gradually the tone of public morals and right feeling would be lowered, and we would sink down far away from the honourable place which this kingdom, in everything connected with morality, has been accustomed to occupy. And why is all this to be done? You have heard an account of the circumstances in which this measure has originated. I believe that they are unprecedented in the history of legislation. I believe that it would be impossible to find, in the history of legislation in this kingdom, anything more deserving to be called a deliberate conspiracy—a conspiracy of a handful of men, who, having broken the law of God and the law of the land themselves, are bent on getting both laws subverted for their own shameful ends. (Cheers.) I do hope that, notwithstanding of the favour which, in high places and in Parliament, this measure has received, it is not yet too late to arrest its progress, Confident I am, that if there is any apathy in this city on this question, it only arises from the fact, that the public mind has not been aroused, has not been brought to grapple with the interest that is in danger, and that people do not yet believe that it is intended to make so fatal a change in the law and usage of this kingdom. (Cheers.) I trust it is not too late to arouse them, and I hope this meeting will not separate without taking measures of a permanent character—measures which shall continue to operate until this revolting Bill is finally crushed and destroyed. (Cheers.)

William Connal, Esq., had the greatest pleasure in seconding the resolution. —Carried unanimously.

Robert Lamond, Esq., said—We have been proceeding methodically, and by successive steps, and I beg to ask this meeting to acquiesce in the next resolution, which has been given to me to propose. It is, "That the proposed measure is an unjustifiable invasion of the laws of the land, and an outrage upon the long-cherished feelings of the people of Scotland." It is not necessary to take up a single moment in speaking of the law of England on this subject. I was surprised to hear it stated by the Commission that there was some doubt in regard to the law of Scotland, although they acquiesce in the general statement that the law of Scotland is founded on the Word of God. Permit me to show, in three sentences, which I have extracted, how the law stands. The first extract is that which treats of marriage and the parties betwixt whom it is to be contracted; the second is that which treats of the more awful, question of crimes. Erskine has two passages on the subject—first, in treating of marriage; and, second, when he is treating of the more awful subject of crimes. In the first passage he says, "Marriage is null when it is contracted within the degrees of propinquity, or affinity, forbidden by law." And again, "As to the degrees in which marriage is prohibited, the law of Scotland has adopted the Jewish law. By act, 1567, c. 15, declaring that marriage shall be as free as God had permitted it; and that second in the degree of consanguinity and affinity, and all degrees further removed, contained in the Word of God, may lawfully marry; by which manner of reference," and here let me remind you of the argument so admirably put by Dr. Symington, of the necessity of inferential construction of Scripture, "it would seem that our Legislature hath considered the law of Moses, in that matter, to be obligatory on all nations." And he adds—"By Lev., chap. xviii., the following rules are established, either expressly or by consequence:"—among others, "The degrees prohibited by the law of Moses in consanguinity are *in every case virtually* prohibited *in affinity;* and by the aforesaid Act, 1567, the prohibition is equally broad in the degrees of

affinity as in those of consanguinity. Thus (and let me call your attention to the words that follow,—words which almost seem as if the writer had in view that very sort of connection which the Bill before us would seek to legalize—thus he says) *one cannot marry his wife's sister more than he can his own.*" In the other part of his Institutes, when he comes to treat of crimes, he has these important observations,—"Incest could not be committed by the law of Moses, but by those who stood within the degrees either of consanguinity or affinity, in which marriage was forbidden—(Lev. xviii. 7–16)—and it was punished capitally (ver. 29). Now," he adds, "the law has been adopted by us *in all respects* by the Act 1567, c. 14; and though an act was passed during the Usurpation in 1649, which extended the former to certain degrees more remote, it was repealed by the 'Act Rescissory' of Charles II., and never revived." Lord Stair, an earlier Institutional writer, and who is by jurists considered our most philosophical writer, lays down the law in these words, and he assigns the reason of the law in his statement:—"The degrees," says he, "in which marriage is allowed or forbidden are *by Divine institution.*" * * * "And, therefore, (Lev. xviii.,) where the degrees of marriage are expressed, and unlawful connections forbidden, it is subjoined (ver. 24, 25) 'Defile not 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.' But unless these degrees of prohibited marriage were a part of the law of nature, written in man's heart as a positive law known to all nations, the Lord, who hath declared that he will judge men by the law which is known, could not have judged the Canaanites by the transgressions thereof."

And again, Book I., T. 4, § 6, Stair further observes—"Marriage is also void and inconsistent, when contracted within the degrees prescribed in Lev. xviii., whereby the the next degree collateral is only prohibited both in consanguinity and affinity, which makes those joined in affinity in the same degree as being by marriage *one flesh.*" And here, again, let me ask you to recollect the beautiful reasoning of Dr. Symington on these last words, in his argument drawn from the Word of God. And finally, Professor More, the latest editor of Stair, affirms the same view as Law, and supports it by reference to the Confession of Faith, as ratified by Parliament in 1690, and by the Act 1700, cap. 2. Such is the law of Scotland, as laid down by our institutional writers; and the Levitical law, in the question on hand, as expressed in its ordinary acceptation, in the manner in which we have been accustomed to receive it, and not with the gloss of the witnesses who support this new bill, has been confirmed by decisions in our Supreme Courts,—decisions, however, most honourable to Scotland, occurring at very distant intervals, even with centuries intervening. The first case I have collected occurred in the year 1613. A person of the name of Stewart was "dilaited, accusit, and persewit" by the public prosecutor for incest, whose indictment, in the language of that day, ran—"Pursued for the vyle, odious, and detestable cryme, in the presence of Almychtie God, and be the samo eternall God his express Word, sa cleirlie condemned; thairfore our soverane lord, out of his godlie desposition and zeale, be dyuerse his hienes Actes of Parliament, hes expreslie statute and ordainit, that quhatsoevir persone or persones committes the said abhominable cryme of incest, sall be puneisched to the death, as the saidis Act of Parliament in thame selffis proportes; notwithstanding quhairof, &c." Now, in this case the accused went to trial on this charge; the capital crime was found proved; and the criminal was condemned, and suffered the extreme penalty. No doubt, this was a case which occurred during the sister's lifetime; but the crime is laid specially as *incest*, and in the indictment the conclusion is for the pains of law applicable to incest *and* adultery, but adultery was not at that period punishable capitally. Again, a century afterwards, in the year 1705, in the case of Drysdale and Tannahill, the question occurred in a clear and unambiguous form, and just in the circumstances which it is the object of the present atrocious Bill to legalise. In that case, after the wife's death, the husband married her sister. They were both indicted for incest "upon the law of God, the law of this and all other well governed realms, on the Act of the 14th Parliament of James VI." The court found the libel relevant to infer the pains of death; and MacLaurin, who collects this decision, and reports it, hints no doubt of its authority, nor has any doubt ever been cast upon it till some time ago, and again recently by one of the

witnesses for this bill, the present Lord Advocate, who states in his evidence before the Commission, that he has discovered a manuscript note by a Lord Royston, doubting the decision; but who Lord Royston was, no lawyer here knows, and certain it is his name does not stand high in Scotch law as an authority. But, in still more recent cases, the most conclusive proof has been afforded that the Levitical law has been adopted into and forms the statute law of Scotland. In a case which occurred in 1842, before the Court of Justiciary at Perth, in which not the crime to be legalised by this bill, but another, between a father and a daughter of the name of Cuthbert; and in a case in 1845, in which an uncle and niece of the name of Stewart were indicted—crimes which we may well fear will fast become too common if this bill passes—and in each of these cases the crime charged is incest, and the form of the indictment is very remarkable. In both, the words are these—"Albeit, by the laws of this and of every other well-governed realm, incest is a crime of an heinous nature, and severely punishable; and albeit, by an act passed in the 1st Parliament of the reign of King James the 6th (c. 14), entitled 'Anent these that committes Incest,' it is statute and ordained 'That quhatsumever person or persons that committes the said abhominable cryme of incest; that is to say, quhatsumever person or persons they be that abuses their bodie with sik person in degree as God in his Word has expressly forbidden in any time cumming, as is contained in the 18th chapter of Leviticus, will be punished with death: and albeit, uncle and niece are of such persons in degree as are so forbidden in the said 18th chapter of Leviticus. Yet true it is and of verity,'" &c. It was in trying this last case, that the present Lord Justice Clerk, in concurrence with Lord Wood, in commenting on an argument by the counsel for the accused—whether he was one of the travelling barristers alluded to by Mr. Kirkwood I know not, but who had been urging the same sort of objections as are scattered through Mr. Wortley's Commission—made use of these important words,—"It is (he said) a different matter altogether, when you have nothing to urge against the decisions on the subject of incest except the over-rigid spirit of former times; for of this I am thoroughly convinced, that decisions, dictated under the influence of the spirit which actuated our early Reformers, would be more consistent with reason, and more in accordance with the Word of God, than the result of the most learned and refined discussions of modern speculating theologians." (Hear, hear.) Well, Sir James, this is a rapid sketch of the law of Scotland on this subject; and if you have already agreed, that the connection now sought to be legalized, is contrary to the Word of God, and to the Standards of the Church, you may be equally assured it is prohibited by our municipal law. I have no hesitation, therefore, in asking the assent of this meeting to my resolution, that the proposed measure is an unjustifiable invasion, not an innovation, but an actual invasion of the law of the land. It is not justified, as has been shown to you already by Mr. Kirkwood, by any necessity, but called for only by a few who have been, and not too strongly, termed by Dr. Buchanan, conspirators —a knot of conspirators against our laws and our morals. And need I ask you, whether, in the second part of this resolution, the measure is an outrage on the dearest feelings of the country? No. Ever since the light of Christianity beamed upon these lands, and ever since the early Reformers incorporated into their statute-books the Word of God, as the alone rule of faith and manners, so long has the existing marriage law been cherished and revered; and surely we shall not now wantonly defile it. For these reasons, I move the resolution which I have already read. (Cheers.)

Andrew Wingate, Esq., seconded the motion.—Carried.

Dr. Craik moved that a petition, founded on the above resolutions, for the rejection of the Bill, be presented to both Houses of Parliament, and that a standing committee be appointed, to use all proper means against such a measure, whenever, and by whomsoever promoted. The Rev. Dr. urged upon the meeting to exert themselves for the arresting of this abomination, so deeply to be deplored, and which, there was reason to fear, might speedily be consummated.

Dr. Rainy seconded the motion.—Agreed to.

Unto the Honourable the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled.

The Petition of the Citizens of Glasgow, assembled in Public Meeting, Opposed to the Bill presently before Parliament for Legalizing the Marriage of a Man with his Deceased Wife's Sister,

Humbly Showeth,

That your Petitioners have observed, with deep regret and serious concern, the introduction into your Honourable House of a Bill, for the purpose of Legalizing the Marriage of a Widower with the Sister of his Deceased Wife:

That, in the humble opinion of your Petitioners, the proposed measure is contrary to the Word of God: That, if passed into a law, it would be destructive of domestic purity and peace, and injurious to the well-being of society at large: That it is at variance with the standards, and subversive of the discipline, of the Presbyterian Churches in Scotland, and, so far as known, of all the other branches of the Christian Church in Scotland: And further, That the proposed measure is an unjustifiable invasion of the laws of the land, and an outrage upon the long-cherished feelings of the people of Scotland.

Your Petitioners therefore humbly pray, that it may please your Honourable House to take these and similar considerations into account, and refuse your sanction to the present measure, or any of similar tendency; and your Petitioners shall ever pray.

Names of Standing Committee to oppose the 'Marriage Affinity Bill.'

The Very Rev. Principal M'Farlan.
Rev. Dr. Hill.
Rev. Dr. Black.
Rev. Dr. Symington.
Rev. Dr. Patterson.
Rev. Dr. Buchanan.
Rev. Dr. Lorimer.
Rev. Dr. M'Leod.
Rev. Dr. Paton.
Rev. Dr. Smyth.
Rev. Dr. Henderson.
Rev. Dr. Roxburgh.
Rev. Dr. Craik.
Rev. Mr. Gillan.
Rev. Mr. Gibson.
Rev. A. S. Patterson.
Rev. Mr. Watson.
Sir James Campbell.
Andw. Galbraith, Esq., Dean of Guild.
Henry Dunlop, Esq. of Craigton.
Baillie Playfair.
Robert M'Haffie, Esq. of Eastwood.
John Henderson, Esq. of Park.
Andrew M'George, Esq.
Alexander Bryce, Esq.
William Connal, Esq.
Baillie Gilmour.
John Bain, Esq.
Andrew Wingate, Esq.
Jas. Buchanan, Esq.
N. Stevenson, Esq.
Hugh Moncrieff, Esq.
Wm. Buchanan, Esq.
Adam Paterson, Esq.
John Pattison, Esq.
Dr. Rainy.
Anderson Kirkwood, Esq.
James Hannan, Esq.
Adam Monteith, Esq.
Wm. Robertson, Esq.
John Mitchell, Esq.
J. H. M'Clure, Esq.

With power to add to their number, and to appoint Sub-committees.

Mr. WINGATE, *Convener.*

The CHAIRMAN intimated that letters, apologising for unavoidable absence, had been received from certain gentlemen, amongst whom were the Very Rev. Principal Macfarlan, and John Henderson, Esq., of Park.

Dr. BUCHANAN said he had been in Edinburgh to-day, where he learned that at a similar meeting held there, it had been determined to send a deputation to London to arrest the bill. The deputation was to consist of Principal Lee, Dr. Cunningham, and Professor Swinton; and perhaps it might be advisable for the Committee appointed by this meeting to adopt a similar course. (Cheers.)

A vote of thanks having been given to Sir James Campbell for his conduct in the chair, the proceedings were concluded with prayer by Dr. Smyth.

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