

MARRIAGE WITH A DECEASED WIFE'S SISTER

CONTRARY TO THE WORD OF GOD.*

A FULL discussion of the question regarding Marriage with the Sister of a Deceased Wife involves a variety of points, touching respectively on the law of God, the law of the land, the creed and discipline of certain churches, and the general interests of society. It is to the first of these we are now to confine ourselves—the argument from Scripture.

This is, in some respects, the most important; lying, as it does, at the foundation of all the rest. It is also that which is likely to make the deepest impression on the inhabitants of this country, Scotchmen being always accustomed to appeal to the Word of God as the ultimate standard of right and wrong. But it is not without its difficulties. These arise, in part, from the peculiar delicacy of the subject itself; in part, also, from the verbal criticism to which it is necessary to have recourse; but chiefly from the inferential character of the evidence to be adduced. There are many who will not hear of inference, in a matter of this kind. Nothing will satisfy them but express precept. This they arrogantly demand, as if they were entitled to dictate to God in what form he should reveal his will. But it has been held, by many more than the Westminster Divines, to be a sound principle, that *what by good, and necessary consequence, may be deduced from Scripture, is as much the counsel of God as that which is expressed in so many words.* If, indeed, we are not to be allowed to infer, it is comparatively little good that we can expect to derive even from the Bible itself. There must be an end, too, of all reasoning; as every argument supposes an inference—every syllogism an *ergo*.

I. Attention is requested to a few GENERAL PRINCIPLES.

1. *The law of marriage, by which everything connected with this relation is to be regulated, is to be sought for in the Scriptures, especially in the Book of Leviticus.*

There we have the law of God, and there, also, the only foundation for the laws of man, on this subject. If it is not to be found there, where are we to look for it? If it is not there, it is nowhere. Without the Word of God, the laws of men have no solid basis on which to rest—nothing but the ever-shifting sand of expediency. Discard the law of God, as contained in his Word, and the whole subject of marriage is thrown loose; is left entirely to the casualty and caprice of mere human legislation. In this case, men may do what they choose in regard to this matter, without committing sin. A man may marry any woman whatever—his own sister, his own mother, nay, even his own daughter—without contracting guilt in the sight of God. Such are the monstrous consequences that result from viewing the law of Scripture as not moral, but ceremonial; as not binding upon all, but peculiar to the Jews. It is impossible to show that the laws in question had a peculiar bearing on the Hebrews. Indeed, the things prohibited are expressly spoken of as ‘the doings of the land of Egypt,’ ‘abominations,’ ‘abominable customs which were committed by the men of the land’ of Canaan, and whereby ‘the land was defiled,’ showing clearly that they were of a moral nature, and binding on Gentiles and Jews alike (Lev. xix. 3, 27, 29, 30). The law laid down in the eighteenth chapter of Leviticus may, therefore, be regarded as THE STATUTE LAW OF HEAVEN on the subject of marriage, which accounts for the peculiar solemnity with which it is introduced—‘Speak unto the children of Israel, and say unto them, I am the Lord your God.’

2. *The sexes are to be regarded as convertible.*

Man and woman are placed on the same footing in regard to the law of marriage. What the one may do, the other may do, in like circumstances; and what the one may not do, the other may not do. The permissions and prohibitions of the law apply equally to both. The lawful and the prohibited degrees of marriage to a man in respect of a woman, are the lawful and prohibited degrees of marriage to a woman in respect of a man. This is a sound principle in regard to everything moral, as well as to that under consideration. It necessarily follows from viewing men and women as equally moral beings, as alike possessed of immortal souls, and responsible to God. Admit this, and the general principle cannot be rejected, that the sexes are convertible.

3. *In respect of the law of marriage, affinity and consanguinity are held to be equivalent.*

In the case of married persons, the relations of each are alike to both, of the same degree. To the husband, his wife's relations are the same as his own of the same degree; to the wife, her husband's relations are the same as her own, of the same degree. To the husband, as far as marriage is concerned, his wife's mother, sister, niece, are the same as his own mother, sister, and

* Being the substance of a Speech, delivered April 16, 1850, at a Public Meeting in Glasgow, to oppose Mr. S. Wortley's Marriage Affinity Bill, by the Rev. William Symington, D.D.

niece; to the wife, her husband's father, brother, nephew, are the same as her own father, brother, and nephew, as far as marriage is concerned. It is, however, in respect only of the parties themselves united in marriage that this law of affinity holds, and not in respect of their mutual relations. The relations of each are the same to the other, but these respective relations are not the same to one another. The brother of the husband is the brother of the wife, the sister of the wife is the sister of the husband; but the husband's brother and the wife's sister are not brother and sister as regards one another. The ground on which this law of affinity rests is that which lies at the basis of the marriage relation, and is recognized in the words of institution:—'Therefore shall a man leave his father and his mother, and shall cleave unto his wife; and they shall be one flesh' (Gen. ii. 24; Mark x. 7, 8). The peculiar identity constituted by marriage between the parties entering into this state, is such as to give rise to an identity in regard to the respective relations of both. It is of the utmost importance, in a moral point of view, that this identity be recognized and respected. This is done in the laws of our country as they at present exist. And the principle, that affinity and consanguinity are equivalent, pervades the whole of the eighteenth chapter of Leviticus, where the law of marriage is laid down. It is remarkable that, of the seventeen instances of prohibited degrees which occur in that chapter, *eleven* are cases of affinity, and only *six* cases of consanguinity. There are nearly twice the number of cases of affinity compared with those of consanguinity. From this we are surely warranted to conclude, that affinity constitutes at least as valid a ground of prohibition as consanguinity. The general principle is thus made out, that affinity and consanguinity are equivalent; and it is, therefore, not without good reason that the Westminster Divines have declared, that 'the man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than her own.'—(*West. Conf.* chap. xxiv. § 4.)

4. *The prohibited degrees all take their rise out of one circumstance, namely, nearness of kin.* Propinquity is the common root from which they all spring. Foundation is laid for this in what has been already remarked, that married persons are 'one flesh.' If so, *nearness of kin* cannot be affected by the question of affinity or consanguinity. In cases of the one description, as well as in those of the other, therefore, the law of prohibition is nearness of kin. The grand law on this subject is propounded, Lev. xviii. 6, 'None of you shall approach to any that is near of kin to him, to uncover their nakedness; I am the Lord.' That this passage refers to marriage, appears from the words 'to uncover their nakedness.' Its universality is expressed in the terms, 'None of you; to any.' The ground of universal prohibition is propinquity—'to any that is near of kin to him.' The stringency of the law may be gathered from the use of the word 'approach.' And the peculiar solemnity with which it is clothed, should not pass unobserved, as this is brought out in the closing phrase—'I am the Lord.' This verse, then, may be looked upon as containing, what, in the language of modern legislation, may be called the *enacting clause* of the statute—the great principle by which all the succeeding clauses are to be explained. This principle is that, on the simple score of nearness of kin, marriage is prohibited to persons between whom certain degrees of consanguinity or affinity subsist.

II. With these general principles before us, let us advance to THE PROOF, that marriage with the sister of a deceased wife is contrary to the Word of God.

1. *In the Word of God, a man is expressly forbidden to marry his own sister.* Lev. xviii. 9, '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 nakedness thou shalt not uncover; see also Deut. xxvii. 22. The argument from this passage is very simple. The verse distinctly prohibits the marriage of a man with his own sister; whether his *full* sister (the daughter of his father and his mother), or his *half* sister (the daughter of his father or of his mother, by another marriage). He is not to uncover the nakedness of such. But, according to the third general principle, already laid down, that affinity and consanguinity are equivalent, this law forbids, not less clearly, the marriage of a man with the sister of his wife. By that principle—a principle, as we have seen, which is in harmony with Scripture, reason, and common law—the sister of a man's wife is the same to him as his own sister; and, consequently, the prohibition which shuts him out from marrying the latter, shuts out also from marrying the former. Sanguinity forbids his marrying the one, and affinity forbids his marrying the other—for affinity and consanguinity are equivalent. The general principle once admitted, there is no possibility of evading the force of the conclusion at which we have arrived—that the marriage of a man with his deceased wife's sister is contrary to this part of the Word of God.

2. *In the Word of God, a man is forbidden to marry his brother's wife.* Lev. xviii. 16, 'Thou shalt not uncover the nakedness of thy brother's wife; it is thy brother's nakedness; see also Lev. xx. 21. No law can be more explicit than that which is here laid down. Now, mark its bearing on the point in hand. This bearing may be exhibited in a two-fold form.

It may first be stated thus:—A man may not marry his brother's wife. If so, as, according to the second general principle, the sexes are convertible, a woman may not marry her husband's brother; if the man may not marry the woman, the woman surely is not at liberty to marry the brother; if the man may not marry the woman, cannot, of course, marry that man. Well, then, man; the woman, whom a man cannot marry, cannot, of course, marry that man. Well, then, a woman may not marry her husband's brother; but a husband's brother and a wife's sister are

precisely analogous relations—the only difference being that of the sexes. The sexes, however, are convertible; and, consequently, the law which forbids a woman's marrying her husband's brother, equally forbids a man's marrying his wife's sister.

Or, the case may be put thus:—A man, by the very terms of the law before us, may not marry his brother's wife. A brother's wife, however, and a sister's husband, are precisely analogous relations. It follows, the sexes being convertible, that the law which prohibits a man from marrying his brother's wife, prohibits a woman from marrying her sister's husband. But when a man marries his wife's sister, the woman must, necessarily, marry her sister's husband; consequently, the law which prevents a woman from marrying her sister's husband, shuts the man for ever out from forming a relation by marriage with his wife's sister.

The inference to which we are thus conducted is no way weakened, but rather confirmed, by the regulation which existed under the former dispensation, authorizing a man to marry his brother's wife, under certain circumstances (Deut. xxv. 5, 6), '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 an husband's brother unto her. And it shall be, that the first-born which she beareth shall succeed in the name of his brother which is dead, that his name be not put out of Israel.' This law formed an exception to the general rule from which we have been arguing; but it, in various ways, confirms that general rule. It, first of all, shows that no authority less than that by which it was enacted could dispense, even for a time, with its obligation. Then, its having been introduced for a particular specified purpose, supposes that, in all other cases, its authority was binding. And still more, the specific object for which the exception was made having ceased to exist, the original law is left in full force, without any exception whatever. If these considerations fail to command concurrence in the permanent obligation of the law in question, we beg to call attention to the fact, that the exceptive law, of which we are speaking, did not merely permit, but obliged a man, in the given circumstances, to marry his brother's wife. If persons, then, will argue, from this exceptive law, for exemption from the original law on which we have been reasoning, their argument will carry them further than they intend. It will not merely permit them to marry a deceased wife's sister, which is what they want, but it will compel them to do so; it will oblige every man, whose wife dies leaving a marriageable sister, to marry that sister; and this, we presume, will not always be regarded as either quite convenient or agreeable.

3. *In the Word of God, degrees of affinity more remote than that of a wife's sister are prohibited.*

We solicit particular attention to this. It is a point to which great importance is attached. Indeed, we see not how it can be got over by our opponents.

Well, then, look at Lev. xviii. 14: 'Thou shalt not uncover the nakedness of thy father's brother, thou shalt not approach to his wife; she is thine aunt.' Here is marriage forbidden with an *aunt-in-law*. Look also at Lev. xviii. 17: '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; for they are her near kinswomen: it is wickedness.' Here is marriage forbidden with a *wife's grand-daughter* (the daughter of that wife's son or daughter, by a former marriage), that is, with the man's *grand-step-daughter*. Now, what is the ground on which such marriages, with an aunt-in-law, or with a grand-step-daughter, are prohibited? Of course, agreeably to verse 6th, on the ground of propinquity—*nearness of kin*; and with regard to the latter of the two cases, this is especially noted in connection with the prohibition itself—for they are her near kinswomen. But the parties in question, namely, an aunt-in-law and a grand-step-daughter, are, let it be carefully marked, collateral relations of the *second* degree; while a wife's sister is a collateral relation of the *first* degree, one degree nearer than the others. And, if marriage with the former (the more remote) is unlawful on the score of nearness of kin, how is the conclusion to be resisted, that, *a fortiori*, marriage with the latter (the less remote) is unlawful also?

We have thus three separate arguments, any one of which had been sufficient of itself to establish the point in hand; but, taken together, they furnish satisfactory and irrefragable proof of the proposition—that the marriage of a man with the sister of his deceased wife is contrary to the Word of God.

III. But is there not a verse, somewhere in the chapter which has been so often referred to, which is understood to authorize such a connection as that which we have found to be forbidden? The passage in question is certainly not to be overlooked in such a discussion as the present. Nor have we any wish whatever to keep it out of view. The very reverse, indeed, is the case; as we feel persuaded that, however stumbling it may appear at first sight to such as have not been led to examine carefully into its meaning, this only requires to be done to produce the conviction that it refers to a different subject altogether.

The much-vaunted text to which we refer is Lev. xviii. 18: 'Neither shalt thou take a wife to her sister (*marg.* one wife to another), to vex her, to uncover her nakedness, beside the other in her lifetime.' On this passage, we beg to remark:—

1. If taken in the sense attached to it by those who hold the lawfulness of marriage with a deceased wife's sister, it goes to legalize bigamy in every case, except in that of sisters. If a man is only prohibited from taking his *wife's sister* during her lifetime, it follows that he may take *any other woman* while his first wife lives.

2. Only two verses before, a man is forbidden to marry his brother's wife. This, as we have seen, supposes that a woman is not to marry her husband's brother. Is it possible that, with almost the next breath, the Lawgiver can be found neutralizing, nullifying, indeed, that prohibition, by giving his sanction to the formation of an exactly analogous relation, with only a simple change of the sex; this being all the distinction that exists between a *husband's brother* and a *wife's sister*? Is it to be supposed that, in one verse, we have a connection of a particular kind forbidden, and, in the next verse but one, a connection of precisely the same nature fully authorized?

3. The marginal reading of the passage under consideration supplies the key to its meaning. Instead of the phrase, *a wife to her sister*, read, as in the margin of the common version, *one wife to another*, and the whole aspect of the passage is changed. Its bearing is no longer on incest, which is the subject of the preceding verses, but on polygamy, of which it gives a pointed prohibition. This is confirmed by the manner in which the original phrase, which is of frequent occurrence, is translated in other parts of the Hebrew Scriptures. Its idiomatic meaning is *one to another*; by which words, or words of corresponding import, it is usually rendered. In some cases it is in the masculine form, in others in the feminine. When masculine, the words, literally rendered, would be, *a man to his brother*; when feminine, *a woman (or wife) to her sister*: but whether masculine or feminine, they mean, idiomatically, *one to another*. The authority of the most learned Hebrew lexicographers can be adduced in support of this. In the passage before us it is, of course, the feminine form that occurs. But the very same phrase, in the very same form, occurs in Exod. xxvi. 3, 5, 6, 17, where we read of the curtains being coupled *together one to another*; of the loops taking hold *one of another*; of the curtains being coupled *together with the taches*; of the tennons being set in order *one against another*. And also in Ezek. i. 9, 23, where the wings of the cherubim are spoken of as joined *one to another*, and placed *one toward another*; and, likewise, in Ezek. iii. 13, where we read of 'the living creatures that *touch* *one another*.' In short, the phrase in question occurs, in the Old Testament, thirty-five times; in thirty-four out of the thirty-five instances, it is idiomatically rendered by the words *one to another*, or words to the same effect. The thirty-fifth instance is that of the verse now under review, where it is given *literally* in the *text*, and *idiomatically* in the *margin*. It requires but that the textual and the marginal readings be made to exchange places; *that* in the text being transferred to the margin, and *that* in the margin introduced into its place in the text, to secure perfect uniformity in all the places where it occurs. Can any candid individual hesitate to admit that such transposition ought to take place? And, when it has taken place, what becomes of the countenance which the marriage of a deceased wife's sister is supposed to derive from the Word of God? It has vanished like a midnight dream.

4. Nor must we omit to notice the confirmation which the view we have taken of the meaning of this celebrated passage derives from the phrase 'to vex her,' which occurs in the verse itself. Are we to suppose that the only thing that can vex a married woman, is her husband's marrying her *sister*? Would his marrying *any other woman* not vex her? Such, certainly, contrary to all that we know, is the conclusion to which we must come, if the view of this verse which we are combating is taken. That her husband should marry her *sister* during her lifetime would vex her, of course—whether more or less than his marrying another woman, we care not to inquire—but certain we are, that his marrying *any woman whatever*, would inflict a pang more vexatious than language can express; and, therefore, we regard it as utterly inconceivable that the prohibition before us could ever be designed to be restricted to one small class of females. The view we take of it, by giving it a meaning commensurate with the sex, converts it into an interdict against polygamy in every form; and, at the same time, restores to the reason assigned an import which finds its confirmation in the bosom of every virtuous female.

These remarks serve to show that the text in question has no bearing whatever on the point in hand. It belongs not to those cases of prohibition which come under the category of *nearness of kin*; the reason assigned takes it clearly out of this class, and places it in another, the generic feature of which is *vexing*. The conclusion, therefore, to which we had come, by a process of inferential 'reasoning out of the Scriptures,' stands unimpaired; and we regard ourselves as entitled to hold it proved, that THE MARRIAGE OF A MAN WITH HIS DECEASED WIFE'S SISTER IS CLEARLY CONTRARY TO THE WORD OF GOD.

'Wherefore, come out from among them, and be ye separate, saith the Lord, and TOUCH NOT THE UNCLEAN THING; and I will receive you, and will be a Father unto you, and ye shall be my sons and daughters, saith the Lord Almighty.'