Rev. F. H. Marling
Toronto

Marriage

THE RELATIONSHIPS WHICH BAR MARRIAGE

CONSIDERED

To the [illegible]
Eng[illegible]
[illegible]PTURALLY, SOCIALLY, AND HISTORICALLY:

BEING A RESPECTFUL ADDRESS

TO

The Nonconformist Ministers of England

BY

Ministers of the Presbyterian Churches of Scotland.

EDINBURGH:
EDMONSTON & DOUGLAS, PRINCES STREET.
LONDON: HAMILTON, ADAMS, AND CO.

1871.

NOTE.

ALTHOUGH it has fallen to me to prepare the following [redacted] idea of it did not originate with me, but was suggested by some f[redacted]. Fully approving of the suggestion, I endeavoured, to the best of my ability, to carry it out.

It is perhaps right to say that I do not understand the esteemed Ministers who, after carefully perusing the Paper, and suggesting various amendments which have been mostly adopted, have signed it along with me, to be thereby committed to every expression, or even detail of the reasoning, so much as to the substance of the Address,—its main scope and drift,—its conclusions, and the general lines of argument by which they are reached. Although they have not requested me to say this, it was only on some such understanding that their signatures could reasonably have been expected.

I may be allowed further to express an earnest hope, that the respected Ministers to whom the Address is sent, receiving it in a kindly spirit, will have regard to the substance of the reasonings, more than to mere subordinate details.

CHAS. J. BROWN.

25 LAUDER ROAD,
EDINBURGH, 2*d October* 1871.

EDINBURGH: PRINTED BY JOHN GREIG AND SON.

To the MINISTERS OF THE NONCONFORMIST CHURCHES OF ENGLAND, the respectful ADDRESS of the undersigned MINISTERS OF THE PRESBYTERIAN CHURCHES OF SCOTLAND, on the proposed change of law as to the RELATIONSHIPS WHICH BAR MARRIAGE.

REVEREND AND DEAR SIRS,

It is necessary that we explain in an opening sentence the somewhat unusual step we take in thus writing to you. Although we have not learned to place very great reliance on statements of fact put forth by those parties in the country who have long agitated for a change in its marriage laws, we have been unable to avoid feelings of anxiety and deep regret on finding them boast of a wide-spread sympathy with their views among the Nonconformist Ministry of England. And well knowing the power of such a sympathy, if it really exists,—the important influence it cannot fail to exert both on the public mind and on the action of the Legislature, we are thus moved to address you, and respectfully submit for your consideration some thoughts and views on the whole subject.

I. We will reserve for a later part of this paper the question of expediency,—the more immediately practical and social bearings of the proposed change of law. As ministers of the Word, writing to brethren in the same ministry, it is fitting that we begin with Scripture, stating, as plainly as we can, what the grounds in God's Word are on which we hold the opinion expressed in the following words of the Westminster Confession of Faith (Chap. xxiv. sec. 4), of course attaching no weight whatever to them save as resting on Scripture authority: "Marriage ought not to be within the degrees of consanguinity or affinity forbidden in the Word. . . . The man may

not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than of her own." Suffer us here earnestly to invite your attention to four general positions.

1. *It were a strange thing, to say the least, if Scripture should be found to utter no authoritative voice, binding Christian countries and churches and individuals, as to the relationships which bar marriage.* For the whole subject of marriage lies within the sphere of religion, and religious law. It is certain that our blessed Lord, while keeping jealously aloof from matters purely political, saying, "Man, who made me a judge or a divider over you?" legislated for his Church, and the whole world eventually, on marriage. And it is very noticeable how, in doing so, he fell back on that older Divine law, "For this cause shall a man leave his father and mother, and cleave to his wife; and they twain shall be one flesh"—authoritatively adding there (after the Septuagint) the word "twain," so as to bring out the force and import of the primeval law in bolder relief; further, drawing the inference from it of the unlawfulness of divorce on any such minor grounds as the law of Moses had for a time suffered; and still further, by implication drawing the inference of the unlawfulness of polygamy, which thenceforth was to be disallowed among his disciples (Mark x. 2–12). Thus our opening position seems abundantly evident, that it were a strange thing, to say the least, if Scripture should be found to utter no authoritative voice, binding Christian countries and churches and individuals, as to the relationships which bar marriage—entering, as these do, into the very heart's core of moral and religious life.

2. *It is certain that, whether there be now a written and definite law of Scripture on this subject or no, there* WAS *one, at least, from and after the time of Moses.* It is chiefly found in the eighteenth and twentieth chapters of Leviticus, and thus opens (xviii. 6), "None of you shall approach to any that is near of kin to him, to uncover their nakedness: I am the Lord." Then follow a variety of examples of the "nearness of kin" which is referred to. And three things seem to us clear on the face of the whole statute. More generally, first, it is clear that, as in the general prohibition just cited, so in the various particular ones which follow, the legislation is not about fornication, or adultery, but about forbidden sexual connection, under any circumstances whatever, between persons standing in the relations specified, since there could have been no necessity for specifying relationships at all, if

the sins of fornication and adultery had been all that was intended. Or, in other words, the statute is one of *incest*, and so of the relationships which bar marriage. Second, and more specifically, it is clear on the face of the statute, that its prohibitions belong *equally to consanguinity and affinity*,—to relationships by blood, and relationships by marriage. In both chapters, indeed, the larger number of the prohibitions belong to affinity; nor are they set down in distinct classes, as if resting on grounds anywise different, but are intermingled, as if the more plainly to intimate that, in the whole matter of prohibited degrees, consanguinity and affinity were to stand on the same footing—that "the man might not marry any of his wife's kindred nearer in blood than of his own, nor the woman of her husband's kindred nearer in blood than of her own." It is impossible to make sense of the statute on any other understanding of it. Thirdly, it is clear that the statute is not constructed on the principle of a full and exhaustive enumeration of forbidden connections or degrees, but on that of a sufficiently large number of regulative specimens, from which the whole may easily be determined. Thus, the prohibition of a son's marriage with his mother carries with it the analogous case, though not specified, of a father's marriage with his daughter. The prohibition of a nephew's marriage with his aunt carries with it the analogous case, though not specified, of an uncle's marriage with his niece—and so on.*

Before leaving our second position, and recurring for a moment to that equalisation of consanguinity and affinity which is so obvious on the face of the Levitical law of incest, we submit, in passing, that it must have had its root and ground in that primeval

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* It may be well to give here a summary of the forbidden connections specified in Leviticus xviii. and xx. They are as follows:—

A man with his mother, xviii. 7.
... his father's wife (or step-mother), xviii. 8; xx. 11.
... his sister, full or half, xviii. 9, 11; xx. 17.
... his grand-daughter, by son or daughter, xviii. 10.
... his aunt, by father or mother, xviii. 12, 13; xx. 19.
... his uncle's wife (or aunt-in-law), xviii. 14; xx. 20.
... his son's wife (or daughter-in-law), xviii. 15; xx. 12.
... his brother's wife (or sister-in-law), xviii. 16; xx. 21.
... his wife's mother (or mother-in-law), xviii. 17; xx. 14.
... his wife's daughter (or step-daughter), xviii. 17; xx. 12.
... his wife's granddaughter (or step-granddaughter), xviii. 17.

enactment, "they twain shall be one flesh,"—the conjugal oneness carrying this result with it, that the kindred of either spouse become by the marriage the kindred of the other, and, more specifically, that the immediate blood relatives of either, standing within the forbidden degrees, become related to the other in such a manner as to forbid subsequent marriage. Our present position, however, simply is, that, from and after the time of Moses, there at least *was* a written and definite Divine law of forbidden degrees in marriage.

But then, it is questioned whether the Levitical law of incest be any longer binding,—whether it was ever intended for other nations than the Jews—intended to be a law of universal and enduring obligation. Our third and fourth positions belong to this vital question.

3. *The law of incest in Leviticus was unquestionably moral in its nature, nowise belonging to those ceremonies of the ancient dispensation which were to be done away in Christ.* This seems to us too clear to require proof. The whole subject of marriage, and emphatically the relationships which ought morally to bar it, must needs belong to moral law. We will only here invite the attention of theologians to the remarkable fact, that when Paul is marking out, in Gal. iii. and Rom. x., the distinctive character of "*the law*," as such,—"the law" in contrast with "the promise,"—"the law," as from the beginning it had a promise of life in it to perfect obedience, he takes his proof, in both epistles, from that word of the Pentateuch, "The man that doeth those things shall live by them." It so happens, however, that this great word (belonging surely to "the law" in its most essential and unalterable character) is found nowhere in the Pentateuch save in the introduction to this very statute of incest —thus (Lev. xviii. 5, 6), "Ye shall therefore keep my statutes and my judgments; *which if a man do, he shall live in them:* I am the Lord. None of you shall approach to any that is near of kin to him," &c.

4. *The divine law of incest in Leviticus is of universal and enduring obligation.* Does not this follow unavoidably, from the *moral* character of it—unless, at least, an express statute of repeal can be produced? But where is any such repeal to be found? On the contrary, we crave attention to the following considerations.

First.—A definite law of incest is at least as much required in our time, and in these Western countries, as it was in the East, and in the days of Moses. So far is the state of society in our

day, and in Western countries, from requiring less stringent rules of marriage than were necessary in the East, and in older times, the necessity lies all the other way, from the freer and more familiar intercourse of the sexes which prevails among us. Nor can it be doubted that it was partly in the view of that elevation of woman, and more free intercourse in society between the sexes, which were to result from his blessed Gospel, that our Lord, so very far from relaxing the previous laws of marriage, made them, in several important respects, more stringent than before.

Second.—The law of incest in Leviticus could not have been designed for the Jews only, since it is declared expressly to have been binding on other nations, and binding before the Jews as a nation existed. The statute of the eighteenth chapter thus opens: "After the doings of the land of Egypt, wherein ye dwelt, shall ye not do; and after the doings of the land of Canaan, whither I bring you, shall ye not do; neither shall ye walk in their ordinances." And these solemn words close it: "Defile not ye yourselves in any of these things: for in all these the nations are defiled which I cast out before you. And the land is defiled: therefore I do visit the iniquity thereof upon it, and the land itself vomiteth out her inhabitants. Ye shall therefore keep my statutes and my judgments, . . . that the land spue not you out also, when ye defile it, as it spued out the nations that were before you." But "where no law is, there is no transgression." Whence it follows that the Levitical law of incest must, in the matter of it, have bound the Canaanites as part of the law of nature, which of course is of universal and enduring obligation.

Thirdly.—The apostle Paul thus writes: (1 Cor. v. 1, 2) "It is reported commonly that there is fornication among you, and such fornication as is not so much as named among the Gentiles, that one should have his father's wife. And ye are puffed up, and have not rather mourned, that he that hath done this deed might be taken away from among you." The bearing of this passage, not only on the matter now in hand, but on the whole subject of the present address, seems to us very vital. The case was one of simple affinity,—that of a step-mother. If it should be said, as it has been, that the father might possibly have been alive, we reckon this incredible, unless it can be also believed that the Corinthian Church had sunk so low as to have retained in its communion, without compunction, a man guilty of the

double crime of adultery and incest. But supposing it were granted, though we deem it incredible, that the father might have been alive, yet the apostle places the sin distinctively on the footing of the relationship of the parties, "that one should have his father's wife"—even as John the Baptist said to Herod, "It is not lawful for thee to have thy brother's wife," although we *do* know from Josephus that in this case the former husband was alive. The Baptist's charge of guilt, however, had distinctive reference to the sin of incest,—to the violation of that Levitical law (which admitted of but a single exception, and that of the most express character), "If a man shall take his brother's wife, it is an unclean thing: he hath uncovered his brother's nakedness; they shall be childless." And so it happens, accordingly, that we know further from Josephus that the case of Herodias lay outside the shelter of the single exception; for he tells us that there was a child of the previous marriage, "after whose birth," he says, "having made up her mind to violate the *laws of her country*" (but *adultery* was, of course, a violation of the laws of all countries), "she was married to Herod, brother, by the same father, of her husband, whom, though still in life, she forsook." Returning, however, to the apostle's words, and as more expressly bearing on the matter presently in hand, it is to be observed that Paul assumes manifestly the existence of a law, well known in the Christian Church, and binding all its members, prohibiting connection with a step-mother. What could that law have been but the Levitical, which, more than once, solemnly denounces such a connection as incestuous and vile? Even should it be thought, indeed, that he may refer only to the law of nature, this reference would but strengthen our argument in some respects the more. The contrast, however, which he marks to the Gentiles, who had the law of nature only, seems to us to forbid the idea of his having intended nothing more than that the Corinthian Church were under that law, as to relationships barring marriage, and to shut us up to the conclusion that he refers to the Levitical law of incest, as of unchanged, well known, and universal obligation.

Fourthly,—and finally as to the permanency of the law of incest in Leviticus,—it is to be borne in mind that so far has the Gospel been from relaxing previously existing restrictions on marriage, that whatever changes it has brought with it have been all in the opposite direction—the Lord Jesus having both made an end of the previous toleration of polygamy, and confined the lawfulness

of divorce within limits unknown under the former dispensation. Whence it would appear to us that, even supposing doubts to remain in any mind as to the permanently binding character of the Levitical statute, more strictly and technically considered, the whole *principles* of it, at least, with its prohibitions—belonging, as they undoubtedly do, to things moral and universal in their nature—must be held both to bind the Christian conscience to the full, and to form the regulative principles according to which the marriage laws of Christian countries ought to be framed.

But now it is alleged that, admitting the law of incest in Leviticus to be of permanent and universal obligation, an *exception is made in the body of that law itself in the case of marriage with a deceased wife's sister*. The exception is said to be found in the eighteenth verse of chapter eighteenth, as follows—"Neither shalt thou take a wife to her sister, to vex *her*, to uncover her nakedness, beside the other, in her life-*time*." We are persuaded that the allegation is thoroughly and demonstrably groundless; and we will look at it with some care.

Let the eighteenth verse, then, be first for a moment supposed absent from the statute. In this case it is certain that marriage with the sister of a deceased wife is prohibited by it in more ways than one. Generally, it is forbidden by the great principle which we have already seen to pervade the statute throughout, and apart from which it is altogether unintelligible, that consanguinity and affinity stand, in the matter of forbidden degrees, on the same footing—so that a man no more may marry his wife's sister than he may marry his own. And, more specifically, it is prohibited in the law of the sixteenth verse against marriage with a brother's wife, the degree of propinquity being in both these cases the same—brother's wife, wife's sister—and the whole structure of the law demanding that the one prohibition be held to carry the other along with it, even as, for instance, when a son is forbidden to marry his mother, we have seen that this carries unavoidably with it the prohibition, though not expressed, of a father's marriage with his daughter—which last were otherwise not forbidden in the statute at all. Or, to put the argument otherwise. The prohibitions in Leviticus xviii. and xx. are all masculine in their form,—all, after the manner of the Old Testament, addressed to the man. But just as when, in the tenth commandment of the Decalogue, the man is forbidden to covet his neighbour's wife, the woman is thereby no less forbidden to

covet her neighbour's husband, so any one who will glance at the summary given in our foot-note on page 5 of the forbidden connections specified in Leviticus xviii. and xx., will at once perceive that, although they take the form of the *man's* duty only, they necessarily and throughout imply a correlative and corresponding duty on the part of the woman,—that, for example, when the man is forbidden to marry his step-mother, the woman is thereby forbidden to marry her step-father; and, in like manner, when the man is forbidden to marry his brother's wife, the woman is thereby no less forbidden to marry her sister's husband. It is certain, in short, that, supposing the eighteenth verse absent from the statute, marriage with a deceased wife's sister is prohibited by it as incestuous, more ways than one.

But then the eighteenth verse is in the statute, and we are certainly not entitled, disregarding the allegation which is made respecting it, to assume that God could not possibly have made an exception in his law in favour of the marriage in question. But we *are* entitled to affirm this, that the probabilities and presumptions are all against the allegation, and that the alleged exceptional permission, as running counter to the entire principles and tenor of the statute otherwise, behoved at least to be given *in a manner clear and unmistakeable*. Thus, to take the Levirate law for an illustration. It did seem meet to the supreme Lawgiver, that there should be a single exception to the prohibition of marriage with a deceased brother's wife. But then the exception became the subject of a clear and express law (Deut. xxv. 5), "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," &c. But how stands the case, on the other hand, as to the exceptional permission alleged to be given in favour of marriage—not in a single defined case, but under any and all circumstances—with a deceased wife's sister? Is it given in a manner clear and unmistakeable? Is it really given at all? The following considerations will, we think, make it apparent that both questions must be answered unhesitatingly in the negative.

(1.) *First.*—The exceptional permission is not alleged to be given in express terms, but by implication only, or inference, thus, "Neither shalt thou take a wife to her sister, to vex *her*, to uncover her nakedness, beside the other, in her life-*time*." Surely it is a thing very unlikely, that a permission running in

the face of the whole principles and tenor of a statute should be given in the form of a mere inference from one of its prohibitions.

(2.) *Second.*—The exceptional permission, if given at all, is given in a verse confessedly of very peculiar language, and disputed interpretation. We do not require to remind the brethren we address that there is a marginal rendering of it, adopted by distinguished men, which makes it a simple prohibition of polygamy, without reference to the subject of a wife's sister at all.

(3.) But, *thirdly.*—Let it be assumed that the textual rendering is the correct one, "Neither shalt thou take a wife to her sister, to vex *her*, to uncover her nakedness, beside the other, in her life-*time*." The argument for the alleged exceptional permission lies in the closing words, "in her life-*time*." But it is well known to the student of Scripture that when a thing is stated with reference to a particular time, it does not by any means follow, as a matter of course, that the reverse holds good *after that time*. Everything as to this depends on the particular circumstances. And thus the inference drawn from the words "in her life-*time*," in proof of the lawfulness of marriage with a wife's sister after her death, is wholly precarious,—wholly insufficient to establish a permission running in the face of the entire principles and tenor of the statute otherwise.

(4.) *Fourthly.*—Since, according to the hypothesis, this verse is a restriction placed on polygamy—tolerated at that time among the Jews "for the hardness of their hearts"—the closing words "in her life-*time*" cannot be shewn to be anything more than a fuller and more express intimation that it *is* a case of polygamy which is the subject of legislation in the verse—as if it had been simply said, "If thou mayest take two wives, yet on no account shalt thou take two sisters at the same time." No doubt, the obvious objection presents itself—If, as you maintain, marriage with a wife's sister, under all circumstances, has already been prohibited by the statute, to what purpose the superfluous and confusing repetition in verse 18th? A comparison of verse 11th with verse 9th furnishes at once an analogous case and a solution of the difficulty. In legislating for the Israelites on the relationships which bar marriage, two cases might very naturally receive peculiar prominence, and be guarded with special care. The revered fathers of the nation, Abraham and Jacob, had married, the one his sister by the father's side, the other, two

sisters. In verse 9th the prohibition is full and express against marriage with a sister, whether daughter of father or mother, lawfully or unlawfully begotten. Nevertheless, lest an Israelite might plead the example of Abraham and Sarah (Gen. xx. 12) as an excuse for transgressing the statute, their special case is singled out in verse 11th, and again marriage with a half-sister is prohibited, in order to leave no room for dubiety or evasion. In like manner, marriage with a wife's sister had by clear implication been prohibited, both by the general principle pervading the statute, and specifically by verse 16th. Lest, however, Jacob's having married Rachel and Leah might tempt the Jews to follow his example, the simultaneous marriage of sisters is expressly prohibited in verse 18th, special mention also being made of the evils, very apparent in Jacob's family, of every case of polygamy, which, though still tolerated among the Israelites, is here tacitly discouraged, when they are reminded of the mutual jealousy and vexation to which it had given rise even under the most favourable circumstances. Altogether, the words "in her life-*time*" (on which, in the face of the entire statute otherwise, rests the whole argument for the lawfulness of marriage with a deceased wife's sister), cannot be proved to import necessarily anything more than that the connection which is referred to and forbidden in the verse is with *two sisters taken together*, while the prohibition of marriage with sisters under *other* circumstances had already been enacted in a manner much too clear to admit of any words in this verse being stretched beyond that case of polygamous connection which is the express subject of it.

(5.) *Fifthly.*—Before the inference drawn from the closing words of the eighteenth verse, in the face of the entire statute otherwise, can be made good, it requires to be proved that the verse will not admit of *any other fair construction*—any construction save that of an implied permission to marry a wife's sister after her death. But, apart altogether from the marginal translation, and still assuming the textual rendering to be the correct one, there are other views of the meaning of the verse which may be, and have been, taken. We, who stand on the clearly expressed and quite unambiguous general law, are not obliged to make an absolute choice among these. It is enough, for the setting aside of the anomalous alleged permission, if the verse admits of being interpreted, *in any way*, in harmony with the general law. As, for example, it will be observed that, in

the two clauses, "to vex *her*," and, "in her life-*time*," the words "her" and "time" are written in italics, as expletives. Let these clauses, then, be read *in connection with each other* (as some have thought they ought to be, and it will not be easy to prove that they cannot fairly be), then we have nothing more here than an injunction to the effect, that the first wife is not, by such incest, to be *vexed* or made *miserable for life*—thus leaving no ground for any inference as to marriage with her sister after her death. Or, taking for granted that the last clause, "in her life-*time*," is to be read in connection with the first, "neither shalt thou take a wife to her sister," the prohibition may be viewed as having reference simply to *an additional aggravation* of the violation of the general law, by reason of the peculiar vexation and sorrow that might arise from such incest to a living sister—as if it had been said, Thou shalt not uncover the nakedness of thy wife's sister, it is the nakedness (by the law of affinity) of thy sister. But *least of all*—in imitation of the evil practice of the heathen, a practice into which even a patriarch was tempted to fall—shalt thou take her, to uncover her nakedness, in thy wife's life-time; since such an alliance, besides involving the incestuous violation of the law of affinity, in general, would additionally entail on her a life of aggravated vexation and misery.—We must be allowed to repeat, what is of high importance in the argument, that we are not required to make a choice among the different methods of explaining a difficult verse in harmony with the statute generally—of which other examples might have been given, had space allowed. But one and all of them must be proved wholly inadmissible, else the verse can avail nothing as a sanction for the marriages in question.

(6.) *Sixthly.*—It is impossible to hold that this verse gives an exceptional permission to marry a deceased wife's sister, without rendering the whole statute self-contradictory and unintelligible, and, more specifically, without placing the seventeenth verse, running, though it does, without a break into the eighteenth, in irreconcilable contrariety to it. The seventeenth verse is in these words, "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." Then, "Neither shalt thou take" (literally, "and thou shalt not take") "a wife to her sister, to vex *her*, to uncover her nakedness, beside the other in her life-*time*." In the one verse, that is to say, it is forbidden to

a man, in the most solemn manner, to have connection with his step-daughter, or his step-granddaughter, and on the express ground that, although there is no blood relationship between him and them, they are the near kinswomen of his wife, and so his near kindred by affinity, and it were "wickedness." And yet it is affirmed that in the very next verse,—quite incidentally,—as in part of the same sentence, and as if there were no anomaly at all in it, permission is given to a man to marry his wife's sister, though quite as nearly related to him as his step-granddaughter, whom it were *wickedness* for him to take! Is this credible? No doubt the words "in her life-*time*" occur in the eighteenth verse, and it is said that the decease of the first wife makes now all the difference. But it palpably can make no difference at all *between the cases in the seventeenth and eighteenth verses respectively*. If the "wickedness" of marriage with a wife's sister ceases with and by the death of the wife, necessarily by the same death must cease also the "wickedness" of marriage with her step-daughter or step-granddaughter. And it must be in fact held that the Lawgiver intended in the seventeenth verse, though he does not say so in as many words, to permit marriage with a step-daughter also, after the death of her mother. But what in this case comes of the alleged *exceptional* permission in favour of marriage with a wife's sister? Assuredly the words "in her life-*time*" cannot avail to prove this marriage lawful, without proving a very great deal more—even that the "wickedness" of marriage with a step-mother, or a mother-in-law, or a daughter-in-law, or a step-daughter, ceases with the death of the woman by whom the affinity came. It is impossible to escape this conclusion if the eighteenth verse permits marriage with a deceased wife's sister. This permission cannot possibly be held as *exceptional*, without setting the seventeenth verse, notwithstanding its intimate connection with the eighteenth, in flat contrariety to it. The lawfulness of marriage with a wife's sister can be maintained only on the much more sweeping, and altogether untenable, ground, that the death of either spouse in a marriage *makes an end of the whole affinity which came by it with the kindred of the other*. We are persuaded, accordingly, that this last is the ground, however extreme, which is held at bottom by the friends of the proposed change of law. No doubt they find that the eighteenth verse respecting the wife's sister affords, in its closing words, a plausible pretext for the marriages they desire to have legalised, and so they usually prefer taking the ground of an exceptional permission given in that verse in favour of marriage with a wife's sister. But their reasonings run up unavoidably into the far broader ground, that the death of either party abolishes the whole relationship together with the kindred of the other. Unfortunately they do not often venture to avow this ground frankly and openly. If they did, the country would at once take alarm, discovering that the lawfulness of marriage with a wife's sister was pleaded for, and could only be pleaded for, in conjunction with that of marriage with a mother-in-law, a step-mother, a daughter-in-law, a step-daughter. And as for the voice of God's word about the abolition, by the death of either spouse, of the whole relationship to the kindred of the other, it would easily be seen that Scripture and natural feeling were as to this thoroughly at one. It would be seen that the whole Book of Ruth, for example, proceeds on the assumption, and again and again expressly declares, that the death of Elimelech left altogether untouched the relationship, with its whole claims and duties, between his blood relative Boaz, on the one hand, and Naomi his widow, and her daughter-in-law Ruth the Moabitess, on the other. And as regards the Levitical statute, it would be seen that its prohibition, for example (xx. 21), "If a man shall take his brother's wife, it is an unclean thing; he hath uncovered his brother's nakedness; they shall be childless"—necessarily assumes the relationship with the wife to remain untouched by the brother's death; since, otherwise, and if it be affirmed that the prohibition is merely directed against marriage with the wife of a brother *still alive*, the wild conclusion must follow that, although the enactment is now no more than a law against adultery, the punishment of childlessness, in place of death, is attached to an adultery peculiarly aggravated, while the entire prohibition of adultery *with a brother's wife*, is something at least very like a license to commit that crime with any other woman. Beyond question it is marriage with a *deceased* brother's wife which is prohibited, and prohibited on the ground that his decease leaves the whole relationship which came by the marriage untouched.

Before passing from our reference to the seventeenth verse, and its prohibition of marriage with a step-daughter or step-granddaughter, we cannot help noticing how it disposes at once of an assertion often and confidently made, that there might be *physiological* reasons for the prohibition of marriage with a brother's wife, while marriage with a wife's sister is not for-

bidden. In different ways the assertion might be refuted; and no one, we think, can calmly read the statute without perceiving that its grounds and reasons are throughout moral, not physical. Suffice it, however, to say that, physiologically, there can be no difference between marriage with a wife's sister, and a wife's daughter, or granddaughter; and yet the seventeenth verse is in these decisive words, "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."

(7.) *Finally.*—The words in the eighteenth verse, "to uncover her nakedness," are viewed by the advocates of the proposed change of law (and their cause requires that they view them) as simply equivalent to the consummating of marriage. And so, considering them of no importance in the verse, they are accustomed to quote it thus, "Neither shalt thou take a wife to her sister, to vex her, beside the other, in her life-time." We are persuaded, however, that this peculiar expression is not a mere synonyme for the consummating of marriage,—is not a superfluous redundancy in the verse, but belongs to its very soul, being expressive of an *intrinsic vileness* in the marriage of sisters, which must render it unlawful under any circumstances. On an examination of all the places where the phrase "uncovering nakedness" occurs, it will nowhere be found descriptive of simple marriage, but found everywhere to relate to something intrinsically odious and vile. It is the proper and constant phrase for an incestuous connection—occasionally, indeed, used otherwise, but never apart from what is in its own nature loathsome. So that the true and full ground of the prohibition in this verse is, Neither shalt thou take a wife to her sister, *to vex her by uncovering her nakedness*,—to vex her, that is to say, *by the shame and grievance of an incestuous husband.* And thus does it come out at last, that so very far is this verse from giving permission to marry a wife's sister, that it actually by implication forbids it—although, certainly, such a prohibition was not necessary, the statute having before forbidden it in different ways; and although it is but a gross misrepresentation, or entire misapprehension, of the grounds on which the present marriage law is vindicated, to affirm, as has often been done, that the defence of it rests mainly on this eighteenth verse. The fact is far otherwise indeed. But the *adversaries* of

the existing law have absolutely and confessedly nothing save this verse in all the Scriptures on which to rest their cause. That it is but a foundation of sand, has, we trust, been made evident. A single verse, of difficult interpretation, is taken forth, and, in place of being explained in harmony with the rest, is so interpreted as to stand in flat contradiction to the rest, stultifying the principles and legislation of the chapter. And, on the whole, so certain is it that marriage with the sister of a deceased wife is forbidden by the Levitical statute, that, fain as its advocates are to plead this eighteenth verse, as seeming, on a first view of it, to favour their opinions, their only real ground is the alleged temporary and obsolete character of the entire statute. They are very willing, in other words, to avail themselves of the eighteenth verse, and, in using it, to seem as if they acknowledged the authority of the whole. But they are just as ready, when it seems to them more expedient, to exchange this ground for the assertion, that the authority of the entire statute has long since passed away. But this ground also has, we trust, been proved wholly untenable. And thus, bringing our argument from God's word to a close, we humbly think it has been demonstrated that the words of the Westminster Confession rest on irrefragable grounds of Scripture—both Old Testament and New—"The man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than of her own."

II. And now a much briefer space will be sufficient, as we hope, to make it manifest that the proposed change of law would be as *destructive socially* as we hold it to be demonstrably opposed to the authority of God in his Word. We touch, in the second place, on the question of expediency,—the more immediately practical and social bearings of the legalising of marriage with a deceased wife's sister.

1. And first, let us assume for a moment, what the advocates of this change would fain persuade us of, that it need not carry any farther changes along with it,—that marriage with a deceased wife's sister might be legalised without the risk of otherwise unsettling and altering our marriage laws. But this one alteration would involve a revolution in the whole domestic life of the country. It were the abolishing in effect, as has been often said, of the entire relation of brothers and sisters-in-law. A woman who may eventually become a man's wife, never can be his sister. The familiar attentions of a brother he may not shew

to her, nor may she accept them at his hand. In the same hour in which marriage becomes possible with her sister's husband, she must for ever pass out of the shelter and the sacredness of sisterhood, and, at the best, be in his house simply as any other friend, or more distant relative, would be. At present she may, without embarrassment or suspicion, be constantly under his roof, shewing his children, as their aunt, all fond attentions, and, as his sister-in-law, receiving from him expressions of familiar brotherly endearment. But once let it be made possible for the sister-in-law to become the wife, and the aunt the step-mother, and all is immediately changed—and not changed, be it borne in mind, for those households only where these marriages are not disapproved of, but, out of regard to their interests, changed for the whole families and households of the country. They tell us it is a hard thing that, because *we* reckon marriage with a wife's sister contrary to God's will, they, who entertain a different opinion, and have contracted such marriages, shall be held as living in concubinage. But where does the *real* hardship lie? Is it theirs, or is it ours? They were under no pressure *of conscience* to contract these marriages. They entered into them because they would—believing them, we are quite ready to suppose, not forbidden by Scripture, but assuredly not believing them *enjoined* by it, and well knowing that they were forbidden at least by the laws of the country, which no man is entitled to break unless they forbid his doing a thing which God requires, or require him to do what God forbids. And now, for their relief from the effects of a wilful violation of their country's law, they claim to have a change made on it which cannot affect their condition only, but must tell vitally on ours also—forcing an entirely new state of family life on all the households of the country. Even while our wives are in good health, our beloved sisters-in-law must cease to be in our homes what they once were. So soon, however, as the health of a wife gives way, and she becomes unequal to the charge of her family, the new and strange question is invited within the household, whether the attentions of sister-in-law and aunt shall not be exchanged for those of wife and step-mother. The less can the question fail to arise, since the very ground on which the change is advocated is the special suitableness of the sister-in-law to occupy the place of the deceased wife. And thus does it come to pass, strange to say, that the very attentions which it *is* so natural and desirable for the sister-in-law to pay during the sickness of the wife, become impossible to be shewn during that period

without the most painful misunderstandings. And when at length the wife dies, how can there now any longer be a medium course between the widower's at once proposing marriage to the sister, and her retiring out of that very position of usefulness for the sake of which these marriages are pleaded for? An extraordinary method truly this, of relieving from their self-imposed hardship the comparatively few persons who have contracted these marriages, to make a change in the law which shall not only abolish, for the country at large, the whole relation of sisters and brothers-in-law, but deprive the overwhelming majority of its households of that very care of the sister-in-law and aunt, for whose sake it is affirmed that the change ought to be made! All this on the supposition that, by a change of law, the relation of sisters and brothers-in-law can be so thoroughly dissolved as to place the parties affected in the same condition with utter strangers. But is this possible? Take the case of the female. She is no longer a sister-in-law,—no longer a sister so far that to tamper with her purity, or dream of sexual connection with her, would involve all the horror of incest. But she continues to move in the same family circle, after this shield of chastity is withdrawn. She may be in constant and familiar intercourse with those whom the present law constitutes her brothers. She may live under the same roof. Temptation would come with opportunity, and we can only hint at the widespread demoralisation of society which might thus ensue—not to speak of sad results, which, under the circumstances supposed, actually have ensued.

2. Thus far we have reasoned on the assumption that marriage with a wife's sister might be legalised without necessitating any further changes on the marriage law of the country. The fact, however, we believe to be far otherwise indeed. Those who are acquainted with the history of this agitation (extending now over a period of more than thirty years), are well aware that other changes have been again and again proposed in the Legislature, and withdrawn only to give this one, with its semblance of support in a single clause of the Levitical statute, better hopes of success. But as the real ground of the agitation has had little indeed to do with that statute from the beginning,—as, on the contrary, its manifest drift has been all along, if possible to get rid of its whole obligation, and to have our marriage laws henceforth weighed and dealt with independently of it, so it is certain that the legalising of marriage with a wife's sister would immediately be found a change much too arbitrary, and

destitute of any solid foundation of principle, to be permitted to remain alone. As it would be tantamount to the practical abandonment of the Levitical statute—which is the basis of our present marriage laws—marriage with a brother's wife, and with a wife's niece, would become the next subjects of agitation. And should other marriages still more obnoxious, but which, in Continental countries that have admitted this one, have followed in its wake, be clamoured for, at least they could no longer be resisted on any definite ground of principle.

3. It is of the last importance that the law as to forbidden degrees in marriage *should proceed on some thoroughly simple and intelligible principle*. Apart from such a principle, legislation could not possibly be wise or self-consistent; nor could the country be reasonably expected to yield a hearty and unhesitating compliance with the law. Failing to commend itself to the understanding and conscience of the community, the law, instead of continuing settled from age to age, behoved to be liable to ceaseless change,—to be open to endless and not unreasonable questions, as to why such a marriage was permitted, and such another forbidden; and thus the conscience of the nation, in a matter of singular delicacy, should become gradually debauched, and its domestic peace and purity be by degrees undermined and destroyed. Well; here is a principle thoroughly simple, self-consistent, intelligible—"The man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than of her own." This is the principle which, from time immemorial, and taken from the Levitical law of incest, has actually ruled the marriage laws of Britain. But this whole principle must be abandoned if marriage with the sister of a deceased wife is to be permitted. Thenceforth forbidden degrees might remain, but none of them on the ground of *this principle*. And the advocates of the proposed change have never even attempted to indicate another which shall take its place. Of course there are numberless matters of civil legislation which may proceed with sufficient safety on calculations of simple expediency. But if there be any one matter as to which, more than another, the guidance of some fixed and definite principle is required, surely it is that of the relationships in which marriage shall be allowed or forbidden by law. To legalise marriage, in short, with a deceased wife's sister, were unavoidably to unsettle the whole marriage laws of Britain, and throw them loose from

all fixed and intelligible principle together. In 1849, Mr Gladstone, dwelling on the danger of breaking down the existing law of prohibited degrees, which he described as "a law perfectly definite," emphatically asked, "Where is this legislation to stop?" The present Lord Chancellor, in a very able pamphlet published by him (Sir Wm. Page Wood) some years ago, thus writes:—"I have taken mere heathen ground in this letter.* But by all the joys of that tie of real brotherhood which binds us to the sister of our wife; by all the aspirations of a high and holy morality, be the man's religious faith what it may; by all the horrors of an ever-deepening, hopeless sinking into the abyss of cold, cynical indifference as to the purity of our national life, I implore all men to aid us in resisting the proposed change of the home life of England. A friend smiled when I said, 'I would rather hear of the landing of 300,000 French at Dover than of the passing of this Bill.' It was no exaggeration of my feelings. We can, and should, repel an external foe; but inward decay and rottenness will destroy us, sap our morals, and our only life worth having is at an end. Rome was burnt by the Gauls, but the Roman senate was unappalled. Hannibal caused her power to shrink to the dimensions of her walls, but a Roman nobly bought at full price the ground on which he had encamped. In the reign of Claudius, on the contrary, she seemed to command the known world, but that decree by which he was permitted to impugn her moral code, shewed that she was tottering to her fall. And most firmly do I believe, that the first breach in the social laws of England that govern marriage will be a clear indication of a moral failure, and a fall graver than any that ancient or modern history has recorded."

III. But now, passing from the grounds of Scripture and of social Expediency, suffer us to touch, in the third place, on the head of *history and authority*. It is very inexplicable to us, that not only interested partizans of the proposed change of law, but many intelligent persons besides, should have gravely affirmed that the prohibition of marriage with a deceased wife's sister can be traced to no higher origin than the Canon law, the Papacy, and the traditional discipline of the Church of England. But how stands the fact historically? During the first three centuries no authentic document is found bearing on the subject. But in the middle of the fourth, a letter of Basil the Great

* The first of two.

exists, of unquestioned authenticity, in which, while declaring his own mind on the precise question in strong and decisive terms, he both grounds it on the Scriptures, and assumes its well known accordance with the previous mind of the Church. The letter is addressed to a person named Diodorus, who had written to him about the lawfulness of marriage with the sister of a deceased wife. Basil speaks of such a marriage as an unheard of thing, and which he is surprised that Diodorus did not shudder (ἔφριξε) at the thought of. "First of all," he says, "we have to allege that which is of the greatest weight in such matters—the custom established among us, which is equivalent to a law, inasmuch as such ordinances have been handed down to us by holy men: and the custom is, if a person, at any time mastered by an impure passion, shall have fallen into a lawless union with two sisters, neither to account this a marriage, nor to receive such at all into the body of the Church before that they are separated from one another; so that if we had nothing else to say, custom had sufficed, as a safeguard of what is right." In regard to the want of any express mention of the case of a wife's sister among the prohibitory verses in Lev. xviii., he says:—"But what ought we to do? To declare what things are written, or further to work out those things that are passed over in silence? To take a case in point; it is not written in these laws that father and son ought not to cohabit with one woman: and yet by the prophet it is denounced as the greatest of crimes, 'for the son,' it is said, 'and the father have gone in to one woman.' . . . But I maintain that this point is not passed over in silence, but that the legislator hath prohibited it in the very strongest manner; for the expression, 'None of you shall approach unto any that is near of kin to him, to uncover their nakedness,' embraceth also this species of relationship. For what can be more akin to a man than his own wife, or rather his own flesh? for 'they are no longer two, but one flesh.' So that by means of the wife the sister also passes into the kindred of the husband, so that as he shall not take the mother of his wife, nor the daughter of his wife, because he shall not take his own mother or his own daughter, so in like manner he shall not take the sister of his wife, because he cannot take his own sister. And, on the other hand, neither shall it be lawful for a woman to marry the kindred of her husband, for on either side the rights of kindred are common to both."

About the same date with Basil's letter, shortly before which the

Roman empire had become professedly Christian, it is well worthy of note, that the *civil law* underwent a change in this matter, so as to raise it to the Christian standard—Constantius and Constans, A.D. 355, enacting a law in the following terms, "Although the ancients" (the old Romans) "thought it lawful, when the marriage of the brother was dissolved, to marry the brother's wife, and also, after the woman's death or divorce, to contract marriage with her sister—let all abstain from marriages of this sort, nor think that legitimate children can be born of this union, for it is agreed that the children are spurious." It is unquestionable that from this period these marriages were held unlawful throughout the universal Church and Empire.

No doubt, with the advancing tide of superstition and corruption in the Church, *additions* came to be made to the prohibitions of the Levitical law—additions which both fell in with the asceticism of the time, and furnished a convenient field for the exercise of that impious dispensing power which was claimed by the Bishops of Rome. It is very remarkable, however, that in no single instance did the Popes venture to dispense *in any of the Levitical degrees*, until the infamous Alexander VI. (Borgia), so late as the year 1550, granted a dispensation to Emmanuel, King of Portugal, to marry the sister of his deceased wife, and afterwards a dispensation to Ferdinand II., King of Sicily, to marry his aunt. At length—so far is it from being true that the prohibition of these marriages came of the Papacy—the Council of Trent, desirous, as it would seem, of throwing its shield over Alexander's audacious use of the dispensing power, and over a like subsequent use of it by Julius II. in the case of Henry VIII., pronounced an anathema on those who "deny that the Church can dispense in some of the Levitical degrees." But perhaps it is most important of all, in reference to the alleged human origin of the prohibition in question, to note the great fact, that the Reformers, while rejecting the entire authority of the Canon law, and refusing to attach the slightest weight to the restrictions which it had added to the Levitical ones, *with one voice held marriage with a deceased wife's sister to be forbidden by the Scriptures.** In like manner in the seventeenth century, there was absolutely no difference of opinion about this question among the Protestant theologians, of all classes, of England, of Scotland, and of the Continent. The Synod of Dort con-

* Zanchius (De sponsalibus, Questio II., Thesis V.) says:—"Martin Luther was once of a different opinion, but afterwards changed his mind."

demned these marriages as forbidden by Scripture. And we have had occasion already to cite the judgment of the Divines of the Westminster Assembly.

It is painful to be obliged to say, as to the venerable Matthew Henry, that attempts which we will not venture to characterise have been made to represent his widely known Commentary as favouring these marriages. But the simple fact as to this is, that, while the sentence quoted from it, and industriously sent all over the country by the parties who lead the present agitation, really affirms nothing to their purpose, side by side with it Henry has the following unmistakeable words, *which they do not quote*:—"The relations forbidden are most of them plainly described; and it is generally laid down as a rule that what relations of a man's own he is bound up from marrying with, the same relations of his wife he is likewise forbidden to marry with, for they two are one. . . No relations that are equals are forbidden, but only brother and sister, either by the whole blood, or by half blood, *or by marriage*." We presume that in future advertisements Henry will be left out—even as the same parties were accustomed to cite Thomas Scott as in favour of their views; but he was dropped out of their list after an exposure had been made of the real character of the reference. With respect to the illustrious Chalmers, it is undoubtedly true that, in a short comment on the eighteenth verse of the eighteenth of Leviticus, he expresses the opinion that its closing words imply a permission to marry a deceased wife's sister. The comment occurs, however, in Dr Chalmers's "Daily Scripture Readings," which were published posthumously, and as to which Dr Hanna, his son-in-law and biographer, makes the following statement in his Preface:—

"These writings were not intended to be the vehicle of learned research. They were not intended to constitute an elaborate exposition. He had no intention of drawing up for the use of others a regular commentary on the Holy Scriptures. He used the pen in this instance for his own private benefit alone. Seeking to bring his mind into as close and as full contact as possible with the passage of the Bible which was before him at the time, he recorded the thoughts suggested, the moral or emotional effects produced—that these thoughts might the less readily slip out of his memory, that these effects might be more pervading and more permanent. His great desire was to take from the sacred page as quick, as fresh, as vivid, and as complete an impression as he could; and in using his pen to aid in this, his object was far more to secure thereby a faithful transcript of that impression than either critically to examine

or minutely to describe the mould that made it. His own description of these 'Horæ Biblicæ Quotidianæ' was, that they consisted of his first and readiest thoughts, and he clothed these thoughts in what, to him at least, were the first and readiest words."

It is altogether unfair to deal with Dr Chalmers's remark as if either the great general question had been before his mind, or the comment had been the result of mature study. Undoubtedly the eighteenth verse, read by itself—apart from a careful study of the whole series of illustrative examples of prohibited degrees in the passage, with the principle which pervades them—might well seem, on a first view, to favour the interpretation which Dr Chalmers puts on its closing words. It is a remarkable fact, however, and strongly confirmatory of his having penned the comment on the eighteenth verse without close attention to the principles pervading the entire passage, that when he comes to the twentieth chapter, he lays down a principle leading directly to the opposite conclusion from that which he is represented as having deliberately arrived at in writing the previous comment. The nineteenth verse of chapter twentieth is in these words:—"And thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister; for he uncovereth his near kin; they shall bear their iniquity." On this Dr Chalmers says:—"Let me remark that a mother's sister is not of nearer kin than a sister's daughter, nor is a father's sister of nearer kin than a brother's daughter." But that is the very principle on which we affirm that marriage with a wife's sister is prohibited—namely, that a brother's wife is not of nearer kin than a wife's sister, while marriage with a brother's wife is expressly prohibited more than once.

For ourselves, we should be well content that this question were weighed and judged on its naked merits, apart from all mere human authority—although it were a very easy thing to shew that the immensely preponderating weight of authority has ever been against the lawfulness of these marriages. As their advocates, however, deal much in advertising "authorities," we have thought it right so far to follow them into this field. And there is one more of their appeals to authority to which we deem it necessary to advert. They have advertised far and wide an opinion in favour of marriage with a deceased wife's sister from Dr Adler of London, whom they designate "Chief Rabbi of the Jews in the British dominions!" And they are accustomed to affirm that the views of men of the Hebrew persuasion are

entitled to peculiar weight in those scriptural questions which arise about this matter. The idea, however, is an altogether groundless one. For, in the first place, the right import of the law in Leviticus is a matter of simple Hebrew exegesis, as to which Gentile scholars are quite as competent to judge as Jewish. Secondly, it is known to Biblical scholars that, apart from this particular question, Jews are not to be regarded as by any means absolute authorities, even as to the customs and history of their own nation—not to speak of the interpretation of Scripture—the materials also for judgment on such questions being open and at hand equally to Gentiles and Jews. Thirdly, if we do appeal to the Jews as to the lawfulness of marriage with the sister of a deceased wife, what have we, after all, but Jew against Jew? As regards the opinions, indeed, of the Jews in very ancient times we are to a great extent in the dark. It is certain, however, that, coming down to a period subsequent to the Christian era, one whole sect of the Jews, and these by no means of little note, the Karaites, were decided in their opposition to marriage with a wife's sister, holding it condemned in Leviticus xviii. And Maimonides—one of the most distinguished authorities among the Jews—declares, more than once, that this connection is forbidden in the law, as well as marriage with a brother's wife. But, once more, it is not necessary to remind those whom we now address that our blessed Lord, so far from attaching peculiar weight to the interpretations of the Rabbis, charged them, again and again, with perverting the sense of Moses and the Prophets, and "making the word of God void through their traditions." It may be permitted to add here, that the late Principal Cunningham of Edinburgh, whose rare acquirements in Historical Theology entitle his statements to very great weight, in a speech delivered by him in one of the courts of the Free Church,* "referred to the notorious looseness of Jewish interpretation on the whole subject of polygamy and the prohibited degrees. 'Perhaps this,' he said, 'might, in some measure, be traced to external influences. The Jews in most places, were few in number, and only intermarried among themselves. The subject might have been brought before them in connection with cases of practical difficulty, and this might have led to a tendency loosely to interpret Scripture. It was a remarkable fact that there

* See Life of William Cunningham, D.D., Principal and Professor of Theology and Church History in the New College, Edinburgh, pp. 388, 389.

never had been any doubt among interpreters, as to marrying within the prohibited degrees, till early in last century, when certain Jews in Holland, desirous to legalise marriages with a deceased wife's sister and niece, and also between aunt and nephew by consanguinity, petitioned the State to legalise such a connection in the case of Jews. The State referred the question to the theological professors of the three universities of Holland, who gave in an elaborate report, and were unanimous in affirming, not only that such connections were unlawful, but that they were such as no Christian government should tolerate on the part of their subjects.' . . . 'Every one knew,' Dr Cunningham added, 'that the law was a law of the Church from the beginning, grounded upon the Word of God. There was no difference of opinion in the Church on this subject until the beginning of the seventeenth century, when some petty German princes wished to marry their wives' sisters. There was no difference among the Reformers of the Continent, or of England, or of Scotland. They believed the prohibition to be part of the universal law of God for men; and for men to come before the public and pretend to justify their zeal for the Bill, on the ground that the prohibition is founded on an ecclesiastical canon of the Church of England, was really an extraordinary exhibition. The beginning of any doubt on the subject occurred, as he had stated, from some German princes wishing to marry the sisters of their wives. In order to get a justification of the step, they asked some of the professors at the universities to undertake the defence of it. Two or three of them did so, and this was the origin of the discussion.'"

IV. But now, last of all, we may be permitted to touch—though aware of the delicacy of the subject—on the sources of the present agitation, and the too large measure of popular favour which, in England especially, it has succeeded in winning for itself. In respect to the sources of the agitation, it has been sedulously attempted to represent this as the cause of the poor, and of the humbler classes of the community. Two facts may suffice to dispose of the representation. First. At the instance of the advocates of a change of law in the House of Commons, a Royal Commission of Inquiry was issued in 1848—a Commission which was strangely and altogether one-sided, both in the members of it (who, one and all, had declared themselves in favour of the change), and in the class of witnesses whom they summoned to give evidence. The result nevertheless was to bring out this fact,

that of 1,648 marriages which were found to have taken place within the forbidden degrees, only 40 had occurred among the poorer classes. The other fact is this certain one, that the whole agitation took its rise with *wealthy* men, who, having married their wives' sisters, and being resolved, if possible, to escape from the consequences by a change on the law which they had deliberately broken, began to contribute largely of their means—as ever since they have continued to do—to the support of a systematic and organised agitation with this view. For the last twenty years, the agitation has been carried on through the medium of a kind of private Association—styled the "Marriage Law Reform Association"—which, by means of paid agents, and with the command of ample resources, has laboured in this cause with unremitting zeal, and, apparently, with but too little regard to the sort of means it has made use of. Lest in this we should seem to speak uncharitably, it may be allowed to give two examples, out of many, of the kind of means which have been employed. We have had occasion to allude to their strange manner of citing "authorities." Our first example shall be taken from the same head. In the year 1835, J. P. Plumptre, Esq., M.P., proposed, in the House of Commons, an amendment on Lord Lyndhurst's Bill (which, having passed in that year, is now known as Lord Lyndhurst's Act), to the effect of sanctioning marriage with the sister of a deceased wife, in exceptional circumstances. In the same House, in 1849, Mr Plumptre, on the occasion of Mr Stuart Wortley's asking leave to bring in a Marriage Affinity Bill, avowed an entire change of opinion, declaring his resolution to oppose the Bill in all its stages, and expressing regret that he had ever given countenance to the proposal for sanctioning such marriages, under any circumstances whatever. And yet, in 1852, the Marriage Law Reform Association—in that first form of their Advertisement which included the name, afterwards dropped out, of Thomas Scott—actually had Mr Plumptre among their "authorities" in favour of marriage with a deceased wife's sister, quoting a passage from his speech of 1835, without the slightest reference to his changed utterance of 1849! Our second example is of a different class, but of much the same character. In the House of Lords, in 1852, Lord Campbell used the following words:—"The agitators had been very unscrupulous. They first asserted that, according to the law of England as it now stands, the marriage of a man with the sister of a deceased wife was lawful. They induced a great number of marriages to take place between parties in that relation and these

marriages are now brought forward as an argument for legalising such marriages." Lord Campbell's reference was to statements which had often been made by the promoters of a change of law, in advertisements and otherwise, that marriage with a deceased wife's sister could not be pronounced unlawful by the English Courts, but was sanctioned by the law of England. After this matter had been conclusively settled by the Court of Queen's Bench in 1847, which found all such marriages null and void, it was impossible exactly to repeat the former statement. It was still possible to say, however, and it *was* again and again asserted in the advertisements of the Marriage Law Reform Association, that such marriages, if celebrated in a country in which they were lawful, would certainly be held valid in England. In confirmation of this, a "judicial opinion" of Lord Stowell was quoted, in the following words (introduced in the advertisement thus, "The Committee also desire to call attention to the following judicial opinion"), "English decisions have established this rule, that a foreign marriage, valid according to the law of the place where celebrated, is good everywhere else." It was in vain the advertisers were publicly told, at the time, of the absurdity of quoting Lord Stowell's words as having the slightest reference to the prohibited degrees of marriage, or to anything except the mere outward forms and circumstances of marriage. It was in vain the extreme absurdity was pointed out of supposing that the essential principles of the law of England should be subject to the legislation of any foreign state; or that it was shewn that the principle in support of which Lord Stowell's words were cited would necessarily imply the lawfulness of any incestuous marriage celebrated in any petty German principality that might legislate in favour of it,—would even imply that, if a man filled his harem in Constantinople in accordance with the law of Turkey, all his wives would be held to be lawful wives on his arrival in England. The Marriage Law Reform Association persevered in repeating the statement along with the citation of Lord Stowell's "judicial opinion," until an end was put to all doubt on the subject by the decision of the Court of Queen's Bench in the case of Brook *versus* Brook, in 1858. In giving his judgment in that case, the Vice-Chancellor, Sir James Stuart, said:—"The words quoted from Sir William Scott's" [Lord Stowell's] "judgment in the case of Dalrymple *versus* Dalrymple have no reference to anything but the acts and solemnities necessary to bind the persons. The words are

wholly inapplicable to cases where there is a positive legislative incapacity to contract at all. . . . The law of England as to this matter is a personal law, acting upon the persons of English subjects, and creating a personal incapacity which must accompany the persons into every country." After this decision, which was confirmed upon appeal, no more was heard of Lord Stowell's words, or of the statement that had so often been made in connection with them. But, meanwhile, it had doubtless served its purpose, and wretched men and women had been induced to go abroad—to Denmark, Germany, or elsewhere—to contract marriages which they knew would be invalid if contracted at home!

It is unquestionable, however, that the cause which the Marriage Law Reform Association has so long existed to promote has gradually succeeded in winning for itself a large measure of popular favour in the country. There has, indeed, been much exaggeration as to this; and it is not true, as has been affirmed, and is by many taken for granted, that the House of Commons has always, and by large and increasing majorities, given its voice in favour of the proposed change of law. In 1841, that House refused leave even to introduce a Bill for legalising these marriages. It threw out a Marriage Affinity Bill, by a very decided majority, so lately as 1866. Only since the present Parliament assembled has the majority in favour of a change of law been great; and in 1869 it was greater than it has since been in either 1870 or 1871. Still, a large measure of popular favour has undoubtedly attended this agitation, especially in England. And we are anxious, very respectfully, yet with all frankness, to indicate the sources to which, as it seems to us, this fact is to be traced.

(1.) And first, we think it can be easily and certainly shewn that there has existed all along an extraordinary amount of ignorance and misapprehension of the true character and grounds of the prohibition of marriage with the sister of a deceased wife. Thus, one of your own number, an able and esteemed minister, wrote, a few months ago, to one of ours in the following terms:—"I will tell you candidly what lies at the root of a great deal of the hostility to the prohibition of this particular alliance. It is because it is *Church Law*. It smells of the priest, and this makes it odious to multitudes who do not care about the alliance itself, or about the people who have a personal interest in agitating for its legislation. The law of God they would submissively bow to, even though its reasons might be obscure and its operation hard

—if such a thing were conceivable. But to ecclesiastical assumption and authority they owe no allegiance, and they kick against them with hatred and defiance." It were doing injustice to the writer to believe that he penned these words in the knowledge, or recollection at least, of the undoubted fact, that all Protestant theologians of both the 16th and 17th centuries, including those most opposed to all mere ecclesiasticism, held these marriages forbidden of God in his Word, and were accustomed to give the proofs of it at large in their writings. For ourselves, we need scarcely repeat that in quoting, as we have done, from the Westminster Confession of Faith, we have referred to it simply as expressing, in clear and definite terms, what the doctrine was which we wished to vindicate out of the Scriptures, and attaching no weight or authority to it whatever as "Church Law." Again, it appears from the evidence which was given before the Royal Commissioners in 1848, that no less prominent a minister than Dr Cox, having been asked "If those marriages, in your opinion, are not prohibited by Scripture, are you at all aware that they were prohibited by any authority in the early Christian Church?" answered, "I am not aware that there was any prohibition of the kind!" Another witness, the Rev. John Hatchard, admitted unhesitatingly the fact of which Dr Cox was "not aware," but stated his belief that the early Church was mistaken, "*as resting upon an untrue interpretation of Lev. xviii.* 18." "Do you apprehend," he was asked, "that at an early period of Christianity a construction was put by the Church upon any passages of Scripture to the effect that such marriages ought not to be allowed?" "Unquestionably," he answered. "I believe that the general construction of the Church and of commentators has been in opposition to such marriages, founded upon what I humbly believe to be a mistaken view of the passage in the xviii. of Leviticus, *and the 18th verse.*" (*Evidence of Rev. John Hatchard, No.* 516.) Now the simple truth is, that no one of the Fathers (any more than of the Reformers and theologians of the 16th and 17th centuries) rested his objection to these marriages on that verse. And only an extraordinary ignorance of the facts could save the witness from the much more serious charge of misrepresenting wilfully the cause against which he gave his evidence. In like manner, a much esteemed minister of the Church of England, actually affirmed, in a speech delivered at a public meeting in 1851, that "the only passage" of the Word of God "bearing on the question" is "the 18th verse of the xviii. chapter of Leviticus."

"This text," he added, "was the one on which their greatest theologians rested this question." The twenty-second in the list of "authorities" to this day advertised by the Marriage Law Reform Association, consists of an extract from this speech! Another instance may be given of extraordinary misapprehension and ignorance. A witness had said that marriage with a sister-in-law was not contrary to nature because it was not prohibited by heathen legislators, especially those of heathen Rome and Greece. Another contended, however, that just because it *was* so prohibited, the prohibition was of civil, not of religious origin. "I will state," he said, "as briefly as possible, the source from which the prohibition was derived in the Christian Church. From the Institutes of Gaius it was introduced into the Justinian Code. It became, by that means, a part of the law of the whole empire, and, of course, the law of Christians, who, after their conversion, obeyed the marriage-law of the empire." The fact was assuredly just the reverse. The ancient Roman law, as we have seen, did not prohibit marriage with a sister-in-law. It was when the empire had become professedly Christian that that alliance was prohibited —the State following, in this as in many other things, the Church, and not the Church the State.

There is one other class of misconceptions, arising from confusion of thought, to which it may be worth while for a moment to advert. Strange to say, no less a person than Lord Penzance is reported to have spoken thus in the House of Lords in the last debate on the subject:—"But it is said that the law of marriage must be based upon some principle, and that the principle upon which it is rested in this country was the doctrine, that when persons married, 'the twain became one flesh.' But that was an absurd fiction, and was not acted upon in any relation in life. If it were, two brothers could not marry two sisters." And immediately after a public meeting which was held in Edinburgh, a letter appeared in the newspapers, written apparently in good faith, inquiring whether, upon our principles, it be lawful for a man to marry his *wife's brother's wife*. Now it is admitted, that if we had nothing to guide us in this matter but the words of the Lord Jesus, "They twain shall be one flesh," it might perhaps be difficult to avoid the conclusion that such marriages are unlawful. But, although these words contain the great general principle which underlies the divine legislation on the subject of marriage, yet the sense in which they are to be understood, and the restrictions which they impose, must be

ascertained from the more definite statements of the law, and especially from the illustrative cases in the Book of Leviticus. An examination of these cases will shew, in the first place, that, while persons marrying abridge their own liberty, in the event of a second marriage, to this extent, that neither of them may marry the other's blood relations within the prohibited degrees, yet this act of theirs does not interfere with *the liberty of others*—so that the members of their respective families may lawfully intermarry. This meets the case of two brothers marrying two sisters. In the second place, these cases teach us that, while a man may not marry any of his wife's kindred nearer *in blood* than he may of his own, he is free to marry any of those who are related to her by the bond of affinity alone. In other words, he is forbidden to marry any within the two circles of his own near relations, by blood or by marriage; but he is not forbidden to marry any within the third circle of those who are the near relations of his wife by marriage. This answers the question as to the lawfulness of marriage with a wife's brother's wife. These are the qualifications or limitations with which the more precise legislation of Leviticus requires us to receive the general principle, "They twain shall be one flesh."

(2.) But secondly, among the sources of popular favour, we crave attention to the insidious and delusive character of those *advertisements* of the Marriage Law Reform Association to which reference has already been made more than once. Thus, the most recent one (which, like its predecessors, has appeared prominently, over and over again, in all the leading newspapers of the kingdom) opens in the following manner:—

"MARRIAGE WITH A DECEASED WIFE'S SISTER.

"'Neither shalt thou take a wife to her sister to vex her—beside the other in her lifetime.'—LEVITICUS xviii. 18."

Of course, this verse, taken forth thus from the statute of which it forms a part,—separated from the 16th verse, forbidding marriage with a brother's wife, and from the 17th, with which it stands so intimately connected, and which forbids, as "wickedness," all connection with a wife's step-daughter or step-granddaughter, can scarcely fail to be read by plain people as a permission to marry a deceased wife's sister. No hint is given, when the verse is quoted with inverted commas from the Authorised Version, that another rendering is given in the margin, which

strips the verse of all reference to the subject in dispute. Nor has the plain reader any means of discovering the vital fact, that, among those eminent men who prefer the textual rendering, the overwhelming majority have never believed that its closing words were intended, in the face of the entire statute otherwise, to convey the permission which, on a first reading of them, they might seem to imply. And, worst of all, this verse is placed at the head of their list of "authorities" by the very persons who are quite ready, when it suits their purpose, to take the other ground, that the entire statute has long been obsolete, and from the first was intended for the Jewish people alone! Then, in the next line, we read,—

"Rev. Thomas Chalmers, D.D., LL.D."

whose brief comment on the same verse (given without any reference to the posthumous work from which it is taken, and as if it undoubtedly contained what the distinguished author had given to the world as his matured mind, and the result of his careful study) cannot fail to confirm the unwary reader in the impression he has before received from the isolated verse itself. Next we have,—

"Rev. Matthew Henry,"

who, as we have already seen, is adduced as an authority in favour of these marriages, by means of a few words taken from his Commentary which really affirm nothing on the subject, while the words immediately preceding, expressly and strongly condemning them as contrary to Scripture, are deliberately left out! Next,—

"Sir David Brewster"

(a greatly esteemed man, undoubtedly, and of great distinction in science, but nowise specially entitled to speak as a Biblical authority) is made to do service in the following words—the italics are ours—"*I have read with great attention the pamphlets you were so good as send me on the marriage question.* . . I consider it clear that the Old Testament directly permits marriage with a deceased wife's sister!" And—one example more—

"Chief Justice Story of Massachusetts"

is quoted as saying, "In my whole life I never heard the slightest suggestion against these marriages founded on moral or domestic

considerations." An extraordinary fact truly! Had this American judge never read Dwight's *Hebrew Wife*,* the work of an American lawyer, in which, while the Scripture argument against marriage with a deceased wife's sister is certainly the chief theme, arguments are far from wanting "founded on moral and domestic considerations"? Had he never seen the articles on this subject which had appeared in the *Princeton Review?* Had he heard nothing of the discussions in the American Churches? No one acquainted with the history of this question in America can fail to be aware that the most strenuous opposition was made to the sanctioning of such marriages, and on moral and domestic considerations, as well as the interpretation of the Divine law, which in itself involves moral considerations of the highest kind. But, as respects Justice Story's authority, the public ought to have been told *the whole* of his views on this subject. The fact is (see Hansard's Parliamentary Debates, vol. civ., p. 1234), this eminent lawyer professes that he can find no natural principle on which any prohibited degrees of affinity can be maintained at all, or *any of consanguinity more remote than brother and sister*. He would prohibit no marriages at all but those between parents and children, and brothers and sisters!—It were not difficult, in short, and if the limits of an Address like this had allowed, we could have desired, to shew how little weight, on one ground or another, is due to many of the twenty-one remaining names and authorities. But enough. It is unquestionable that the advertisements of the Marriage Law Reform Association, whatever their real merits, have, for the last twenty years, contributed very largely to that measure of popular favour with which a change in our marriage laws has come to be viewed.

(3.) Thirdly, among the sources of the same favour, we must include a growing laxity of opinion respecting the Old Testament Scriptures, as being, along with those of the New, our authoritative rule of faith and life. We are fully persuaded, indeed, and think it has been sufficiently shewn, that the teachings of our Lord and his apostles as to the relationships which bar marriage, if less full and systematic than those of the Law, are yet in perfect harmony with them. Assuredly, however, if the continued binding force of the moral precepts which

* Re-issued in this country, with an Introductory Recommendation by Ralph Wardlaw, D.D.

were given by God in the old time be denied or doubtfully held, the basis on which the laws of the New Testament rest must be very seriously shaken, if not undermined. It is not necessary that we remind our brethren in the ministry that, equally as to matters of doctrine and duty,—faith and life, the teachings of the Lord and his apostles presuppose everywhere, and are built on, the teachings of the earlier revelation,—that everywhere Augustine's saying holds thoroughly true, "*Novum testamentum in vetere latet; vetus in novo patet.*" We do not need to remind our brethren of those words of the Lord (Matt. v. 17–19), "Think not that I am come to destroy the law or the prophets: I am not come to destroy, but to fulfil. For verily I say unto you, Till heaven and earth pass, one jot or one tittle shall in no wise pass from the law, till all be fulfilled. Whosoever therefore shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of heaven: but whosoever shall do and teach them, the same shall be called great in the kingdom of heaven." Of course, we are aware that questions of considerable difficulty may easily be raised as to all this. But the old distinction remains alike obvious and true, between things moral, and therefore enduring and universal, and things, on the other hand, which, as political and judicial, belonged to Israel as a commonwealth, or things ceremonial, which belonged to them as a church under age. Is not this old and vital distinction strangely lost sight of in the following words from the same letter of one of your number from which we quoted a little ago:—"I do not think it is wise to press too much the Mosaic legislation, even if that were in favour of your argument, while I hold that it is dead against you. That it was not very inflexible, is evident from the exception made in the case of Levirate marriages. And if you go in for one part very strongly, I do not see how you can emancipate yourself from the rest. You commit as great a sin in wearing 'linsey-woolsey' as in marrying your wife's sister (Lev. xix. 19)." We will not offer any comment on this, except that, as respects the reference made to the Levirate law, we will take leave to append to this address an extract from the late Dr Lindsay's admirable work, lately re-issued, entitled, "Inquiry into the Christian Law as to the Relationships which Bar Marriage." Perhaps also, as to laxity of opinion respecting Old Testament law, the following passage from Dr Wardlaw's Introductory Recommendation of Mr Dwight's work may carry a weight of its own:—

Says he, "I was delighted with the work in another view. I had long been convinced that, on the topics here discussed, as well as on several others—(those, for example, of the laws of *retaliation* and *veracity*)—the generally prevailing opinion of a difference between the morality of the Old Testament and that of the New, was held with a vague and inconsiderate laxity, of which the tendency was exceedingly prejudicial to the immutable principles of sound ethics, as well as to the evidence of the authority and inspiration of the Bible; and that the opinion itself, originating partly in a well-intentioned but morbidly excessive solicitude to vindicate from blame the characters of certain good men of the patriarchal and Mosaic periods, had led some writers, in maintaining it, to adopt, or seem to adopt, principles of Biblical exposition the most unwarrantable and hazardous, and to involve themselves in a labyrinth of moral metaphysics, from which their attempts at extrication only augmented their perplexity. I was more than pleased to find my previous convictions so clearly and ably confirmed, in regard to the particular points argued; and, at the same time, in the conduct of the argument, certain general principles established, by which other points might be placed in the same satisfactory light; and thus to see one of the sarcastic reproaches of infidelity, so successfully—by a process of reasoning so clear, straightforward, and manly—repelled from the blessed Book of God.

"It was moreover no small recommendation of the work, that it served to settle on so well-ascertained a basis of Divine authority, the principles of jurisprudence and of morals, respecting the important subjects of which it treats; and thus at once to direct legislators in the framing of their public statutes, moralists in the construction of their systems of practical ethics, and individuals (especially in peculiar circumstances of temptation, such as not unfrequently occur) in the regulation and restraint of their affections. This last consideration is one of prime importance, and of great general interest. There are cases of affinity, respecting which doubts have been entertained whether they are within or without the line drawn by the Divine law in regard to the matrimonial union; and in not a few instances, as might have been anticipated, such doubts have given way before the strength of inclination. I need not shrink from saying, that I refer especially to marriages on the part of widowers with the sisters of their former wives. In the volume before us, these doubts are settled in the only way, as it appears to me, that is consistent with

the safety of either the virtue or happiness of domestic life; both of which would, in many ways, be awfully endangered by such an extension of that sacred boundary as some have pleaded for:—and the decisions of the inspired Volume are satisfactorily shewn to be in full harmony with the secure maintenance of that

> '. . . . . only bliss
> Of Paradise, that has survived the fall.'
>
> COWPER."

(4.) But finally, among the sources of a growing popular inclination towards a change in our marriage laws, we note a certain vague desire after greater liberty, and imitation of some other countries which are alleged to have left us behind, as to this matter, in the march of freedom and progress. As for the desire of increased liberty,—vague and undefined cravings after the removal of restraints and prohibitions of all kinds, how often amid these is the obvious truth forgotten, that the due restricting of liberty is its only effectual safeguard; that the whole institution of marriage is of the nature of a restriction on natural freedom; that increased liberty yielded to the demands of a few is not rarely purchased at the cost of much real oppression inflicted on the quieter many! But, "we are invited to copy the example of the continental states.* Which? 'France, nearly the whole of Germany, Denmark, and all the Protestant states on the continent.' But these very states do not agree among themselves; and we are invited, by a sort of composition, to adopt the fullest laxity used in any of these countries on the one class of marriages, and to retain a strictness unknown to any of them as to the other. In France, I am informed, the marriage with the deceased wife's sister was, under the Republic, first allowed indiscriminately; then 'the effects were so horrid,' that it was changed. It was absolutely prohibited by the Code Napoleon, and all dispensations absolutely refused, as well as in the case of uncle and niece. By the law of 1832 (See

* Here we use the language of an eminent and well-known writer from whom we differ widely in many things, but who, as it happens, having been the only witness of any mark opposed to these marriages whom the Royal Commissioners of 1848 saw fit to summon before them, afterwards published his evidence in a separate volume, with an able and lengthened Preface, from which we quote. The facts respecting the continental countries are well known and unquestionable, and we simply give them in the language of this Preface as being well and briefly stated.—"Evidence given," &c., "with a Preface by E. B. Pusey, D.D."

documents in the Evidence), both are admitted by dispensation 'for grave reasons' and 'grave causes;' *in both cases the prohibition was to be the rule, the dispensation the exception;* 'and care was to be taken that the prohibition was not to become a sport, the exception take the place of the rule, and the system of the law be overthrown.' These 'grave causes' are indeed large enough to make the prohibition a dead letter, if men will. They even encourage men to make it so. It is held out that dispensations will be granted between uncle and niece, nephew and aunt, where uncle or aunt would take care of children, or an establishment would be preserved, the ruin of which would hurt important interests, or means of subsistence would be obtained for one of the parties, or when the union would tend to prevent or end a lawsuit, hinder an injurious division of property, facilitate family arrangements; these are held out as 'motives of nature to gain the approbation of authorities.' Motives of nature, truly; but it is the very misery that where such marriage is allowed, every act of love, every care of 'mind, body, or estate,' which uncle or aunt could personally shew, as standing in a parent's place, can only be shewn through what even some heathen accounted incest. Yet, whether strict or lax, the law of France is wholly different from what men wish to introduce into England. It equally prohibits or allows, as a rule or as an exception, the marriage of the wife's sister or brother's wife, the niece or the aunt.

"Exactly the same is the state of the law in Holland. 'Marriage is prohibited,' but 'allowed under dispensation,' 'between brother-in-law and sister-in-law, legitimate or illegitimate; between uncle or great uncle and niece, or great niece, aunt, or great aunt, and nephew or great nephew, legitimate, or illegitimate.'

"In Prussia, on the other hand, all these same marriages are permitted without dispensation. All is allowed except between 'parents and children and their offspring; step-parents and step-children, or parents-in-law and their children; brothers or half-brothers and their sisters.' All else alike is allowed, uncle or aunt, great uncle or great aunt. Yet, remarkably enough, even this law preserves the principle, disputed by some of the advocates for this change, that the death of the wife or husband does not at all weaken the relation of affinity once formed by the marriage union. 'These prohibitions continue even when the marriage, through which the connection between the step-parents or parents-in-law and children had its existence, was dissolved by death or a judicial sentence.' The evidence as to the rest of

Germany is given generally only. Yet thus much appears that, 'under dispensation, it is permitted generally throughout Germany for an uncle to marry his niece.' . . .

"An appeal is made to our modesty and humility. 'What! are you in England alone right, and divers European nations all wrong?' But what if the whole state of the marriage law in those very countries be such that we cannot, dare not, follow it? Let it be laid before Englishmen, and they would at once say, 'We will not pollute the honourable estate of marriage with such defilements as this.' We are not prepared, either by dispensation or otherwise, to invade the fatherly relation of uncle and niece. What to us, then, is such legislation as that of France, Holland, Prussia, which treats incest with a niece in exactly the same way as, *upon their authority*, we are recommended to do that with the wife's sister? We are not prepared as Englishmen (I speak not now of the English Church) to make marriage a matter of state policy, and allow of divorce on any other ground than that on which our Lord permitted it. Marriage is altogether in a degraded state, when parties on mutual consent can have the marriage vow dissolved, and each marry anew, as they will. When this is so, marriage is not that hallowed bond by which they twain become one flesh, until death do them part. . . . A German lawyer employed to procure evidence as to the marriage of the wife's sister, admits thus much: 'Our divorces in Germany, I regret to say, are too frequent.' . . 'Our legislators in Prussia are desirous now to render the divorce *a vinculo* rather more difficult; but it is a difficult task.' Again, then, the German marriage law is at a lower stage than that of heathen Rome during its first 520 years. . . It admits laxity in dissolving the bond of marriage itself, so as to allow parties to re-marry. Yet on every case in which this permission is acted upon, what says our Lord Himself? 'Whosoever shall put away his wife saving for the cause of fornication, causeth her to commit adultery; and whosoever shall marry her that is divorced, committeth adultery.' This reformed marriage law of Germany, then, sanctions what our Lord solemnly pronounces to be adultery; and every one who avails himself of its sanctions, is living as an adulterer in God's sight, though under the sanction of the law of man."

As for the state of things in the United States, we crave attention to a paragraph from the work of Mr Dwight—so strongly recommended, as we have seen, by the venerable

Wardlaw:—"The effect," he says, "of these innovations on the law of incest, has been to unsettle the minds of the community on the whole subject, to introduce a loose and vague scepticism with regard to the guilt of incest in all cases whatsoever, and to leave a painful uncertainty as to the actual extent of the alterations to which the original law has been subjected. The people at large rarely consult the statute book. Few of them, so far as my observation extends, appear to be aware, that inroads have been made upon the law of incest by a legislative act; yet, perceiving that marriages are actually celebrated, which are among those prohibited at the end of the Old Testament, they conclude that the law of incest has grown obsolete. Knowing propinquity to be the only ground and rule of incest, they naturally place all marriages, where the degree of propinquity is the same, on a level. The consequence has been, that marriages, still pronounced incestuous by the statute-book, have been extensively contracted. The parties have thus ignorantly exposed themselves to an infamous punishment, and their children to the loss of their inheritance, and to a disgraceful epithet under circumstances peculiarly humbling and painful. I have known two instances of marriage between an uncle and niece, and have heard of one between a half-brother and sister. So general, however, is the impression, that this uncertainty is fairly attributable to the legislature, and to the zig-zag plight of the statutes, that incest passes unmolested and unnoticed. Not less general perhaps is the impression, that incest, except between lineal relations, cannot be prosecuted to effect. These facts should teach us 'to leave off' the revisal of the law of God, 'before it be meddled with.'"

It may further be allowed to give part of a letter from an American clergyman, which was published by Sir William Page Wood (now Lord Chancellor Hatherley) in the Appendix to his able pamphlet before referred to. The tone of the letter is so candid and fair, that Lord Hatherley was led to say in introducing it, "I have given the extracts fully and fairly, whether they appear in any way to press for or against my views:"—"It is evident to those of us who are old enough to remember the state of things previously to this innovation, that it has brought about already a change for the worse. I can well recollect when ladies in the lifetimes of their husbands used to feel as if their brothers-in-law were their *own* brothers, and to treat them accordingly, in all the unreserve of domestic intercourse; when a brother-in-law,

after an absence, would kiss his brother's wife 'in all purity' as his own sister, and she would confide in him without a thought of evil, or a feeling of embarrassment; and when, too, in case of a wife dying, her sister would remain in charge of his family, or would remove to the bereaved home, to live with the widower, and take care of his children as a thing of course, without a whisper of slander, or any occasion for it; when the children, too, knowing that their aunt could never be in any nearer relation to them, loved and reverenced her, and confided in her, and yielded readily a most wholesome influence to her.

"But since such increased nearness of connection has been deemed not improper and even desirable, there has grown up in families a perceptible and painful constraint, the children learning to look with apprehension on their mother's sisters, and the wives becoming jealous of their influence with their husbands, while familiarities which formerly were thought to be, and really were, innocent, have come to possess a consciousness of evil tendency which itself is of the nature of sin.

"I know of a wife whose health was gradually declining, a woman of the world, with a husband as worldly as herself, and in their house was a young and attractive sister of hers, between whom and her husband there had grown up gradually a degree of affectionate intercourse which, in the days of the wife's health, had been thought only natural. But as her end drew near, it became on his part more pointed, and drew to it her attention so agonisingly, that it became the one engrossing feeling of her soul for the last few weeks of her life, exciting in her an undisguised dread of what she foresaw would, as it did take place, and so absorbed her as to shut out all thought of religion, and make her miserable to her very death.

"In another instance I knew of an excellent sister-in-law who had been living with and watching over her sister's children until the death of their mother, but who on that mother's death, would not remain another night in the widower's house, though he was left with children too young for him to take care of, and to whom she had become warmly attached, as they to her. . . . But it is fair for me to add that others do not share the feelings I have thus expressed. Not only do laymen and laywomen thus married stand well in the communities wherein they live, but clergymen in good repute have formed such connections, and bishops have officiated at them. . . . Indeed, the public mind of our entire country seems to me to be alarmingly unsettled on this

whole subject of marriage—the laws and usages in the different States being exceedingly diverse as to alike the formation and dissolution of the tie. In many of the States, divorces and remarriages are shamelessly common, and for most trivial causes, and even pretences, and not a meeting takes places of Legislature, or Court, without numerous divorces being granted. Men meet in society sometimes with several women who have been successively their wives. . . . I know of persons in the best society in the town where they live, who do meet in that society those that once were joined to them in this closest of earthly ties, but who now are united to others, while they themselves in their turn have formed that tie anew, and yet associate familiarly with their discarded consorts.

"My best wishes attend you in your efforts to avert from your favoured isle such a state of things.

"If you make any public use of this letter, I request only that you do not mention my name, though if the accuracy of my statements be questioned, I shall be ready to substantiate them under my own signature if you desire it.

"I mention, as a perhaps not uninstructive instance of the unsteady movements of civil legislation, when once the Bible is lost sight of, that in a neighbouring State, where divorce is allowed for almost any allegation, first cousins are forbidden to marry."

And now, apologising earnestly for the length of this Address, suffer us to bring it to a close with a sentence or two of respectful and affectionate appeal. If your views on this great question agree with ours in the main, then would we, with the utmost earnestness, entreat you to bring your influence to bear, by petitions to the Legislature and otherwise, against the threatened change of law. If, on the other hand, we have failed to carry conviction fully to your minds, yet we take leave to submit a view of the course of duty which seems to us worthy of very serious consideration. Scripture assuredly does not *require* any man to marry the sister of his deceased wife, even assuming that it does not forbid him. Thus the existing law brings no pressure to bear on *conscience*, but, at the worst, only places an unnecessary restraint on freedom. Conscience is then touched for the first time, when human law either commands what God forbids, or prohibits what God has commanded. It is further certain that no state of the marriage law could exactly meet the views of all. For example, if marriage with

a deceased wife's sister were legalised to-morrow, there would remain many persons who believe that marriage with a deceased brother's wife, or with a wife's niece, involves no impropriety. If there be real hardship from the present law in the one case, there could not fail to remain, until it should be further altered, a hardship precisely similar in the others. *Some* fixed law of forbidden degrees there must be. No single change made on the present one would please all; and no injury is done to any one's *conscience* by the law as it stands. Thus it seems to us to follow unavoidably, that if the present marriage law be, as a whole, scriptural, and socially expedient,—if it be not radically and vitally unsound (as no one we know of has ever affirmed it to be), then it were most unwise —even apart from the far higher ground we have taken in this address—to tamper with it, for the sake of a small number of persons who deem their freedom to be needlessly restrained by it in some one particular, and have possibly, without any pressure on their *consciences*, married in deliberate defiance of it. But how, on the other hand, does the case stand as to *us*, assuredly representing in this matter multitudes over the country, who believe these marriages to be *forbidden by God in his Word?* It is with us no mere matter of "Church Law," but an article of our faith. *As* an article of faith, however, it has of course become, over and above, the law of our Churches, which we have no choice but to administer, in the way of shutting out from the table of the Lord Jesus those who have entered into these alliances—just as we should still be compelled to shut them out were the civil law changed, and the alliances rendered valid as to civil effects. Moreover, as to the hardship to us, and to the multitudes who think with us, it were no consolation to be told (as at present we are so often told in public prints) that no one seeks to compel *us* to contract these marriages. No doubt. But, unfortunately, the simple legalising of them would at once revolutionise the state of all our households together! We know how much you revere the memory of your forefathers' struggles in the cause of liberty of conscience. May we not, on that sacred ground, make our closing appeal to you, since *conscience* is not aggrieved by the law as it stands, while the proposed legislation must force a change we recoil from the thought of on the condition of all our households and families, and compel our Churches, so far as we know their mind, to enter into a painful and enduring conflict with the law of the State—unless, indeed,

we should be tempted to avoid the conflict by suffering a civil law, anti-scriptural, in our judgment, and religiously void, to become the rule of our spiritual discipline? May we venture, with the utmost respect, to submit this question for your consideration, whether anything short of a clear and full conviction that the present law is both without ground in Scripture and socially inexpedient, can warrant the lending of any countenance to the agitation for its change?

With great regard, we are, Reverend and Dear Sirs, yours in the bonds of the Gospel,

CHAS. J. BROWN, D.D., Minister of Free New North Church, Edinburgh.
JAMES BEGG, D.D., Minister of Newington Free Church, Edinburgh.
WILLIAM BINNIE, D.D., Professor of Theology in the Reformed Presbyterian Church.
DAVID BROWN, D.D., Professor of Theology, Free Church, Aberdeen.
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EDINBURGH, *October* 1871.

EXTRACT FROM DR LINDSAY'S WORK ON THE RELATIONSHIPS WHICH BAR MARRIAGE.* (See p. 36.)

"THE objection grounded upon Deuteronomy xxv. 5, to the conclusion drawn from Leviticus xx. 21, regarding the unlawfulness of marriage with a brother's wife, is not one that has the weight of a feather; and it is astonishing that men of judgment and sense should allow themselves to be misled by it. It may be repelled in two ways, either of which alone is sufficient to demonstrate its hollowness. First of all, I solicit attention to the distinction between the more fundamental principles of morals and the less fundamental principles of morals—the distinction between those principles which have their foundation in the nature of the Divine Being, and those which have their foundation in the will of the Divine Being. Principles of the former kind are such as those mentioned by our Lord, the two great commandments on which hang all the law and the prophets—thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy strength, and with all thy mind; and thou shalt love thy neighbour as thyself. Now these principles are absolutely immutable. Even God himself—I speak with all reverence—cannot alter or suspend them. The Sovereign of the universe cannot make it to be right for a man to hate his Creator or to hate his neighbour. But when we come down to particular applications of the great general principles of morals—when we come to those minuter regulations which God has been pleased to appoint for the guidance of His creatures—the case is widely different. They are what they are, just because God has willed it so. That is the highest reason we know or need to seek for their existence; and God might have so constituted society, that very different regulations would have been proper and requisite. For example, society is so constituted, not by any necessity inherent in the nature of things, but by God's will, that each individual is required to labour within a definite sphere, and is permitted to enjoy the fruits of his own labour. Private property, therefore, is at present a right thing; but God might make such arrangements that private property would be a wrong thing; and there is reason to believe the time will come, possibly even in the present world, but certainly in the future, when there shall be no private property at all, but when the very idea of it shall be a sin. . . . Then again, the relation between the sexes is the result of God's will or positive appointment. He has made it what it is, and it is His will that must dictate the rules for their intercourse. . . . Not that God's commands are ever arbitrary. They are always conformable to the nature of things; but the nature and order of things are themselves of God's appointment. What He chooses to command in any given relation is our highest rule; and if He varies the command in altered circumstances, our duty varies accordingly. . . .

"These are cases which make it clear and undeniable that God may at one

* "Inquiry into the Christian Law as to the Relationships which Bar Marriage." By William Lindsay, D.D., Professor of Sacred Languages and Biblical Criticism to the United Presbyterian Church. Second Edition. London: James Nisbet & Co. 21 Berners Street. 1871.

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

"The objection to the idea of there being any sin in marrying a brother's wife, drawn from the exceptional case mentioned in Deuteronomy, may be repelled in another way. A parallel case, of precisely the same nature, having reference to the intercourse of the sexes, may be adduced. Every man will allow that the marriage of a brother with his own sister, of two persons who are the children of the same parents, is a most wicked marriage. It is incest, if there be such a thing as incest at all. Two persons so circumstanced would be excluded from the fellowship of every Christian Church in the world. Yea, they would be driven from the society of savages. Universal execration would dog their steps wherever they went. Yet there was a time when God commanded brothers and sisters to marry one another, and when, consequently, it was perfectly right and proper for them to do so. . . . Cain, and Abel, and Seth, and whatever other sons Adam had, were commanded to marry their own sisters; and their conduct in doing so was perfectly blameless; and if they had not done so they would have been resisting God's will, and the human race would have died out immediately. Now, if it be said that the command in Deuteronomy to marry the wife of a deceased brother, in certain specified circumstances, demonstrates that there could be nothing sinful in such a connection in any circumstances, equally may it be affirmed that the command to Cain, and Abel, and Seth to marry their own sisters, makes it obvious that the marriage of a brother with a sister is not in itself a sinful thing. The one conclusion is just as valid as the other. They are identical in so far as connection with their respective premises is concerned. But they are both miserable sophisms. The marriages of Cain and Abel were right, because God commanded them; but the marriages of brothers and sisters now are wrong, because God has forbidden them. So the marriage of a Jew with his childless brother's wife was right, because God authorised it; but it was wrong in all other circumstances, and it is wrong now, because God has utterly forbidden it."