

it shall not be construed to extend to Scotland. The Bishop of London's clause has, of course, no force in Scotland. What, then, is the law of that country on the subject?

Lord Rutherford, when Lord Advocate, said, in the House of Commons, that "he had before stated his belief, that if the matter came to be investigated before the courts, it would turn out that the marriage contemplated in this Bill, was in Scotland a lawful marriage; and he had good reason for saying that that was the opinion of an honourable baronet, than whom no person ever stood higher in the Church of Scotland—Sir Henry Moncrieff. For himself, having come to the deliberate opinion that the marriage in question was not forbidden by the law of Leviticus, he came also to the opinion that the connection was not a crime, and that the marriage was effectual for civil purposes."

Edmund Becket Denison, Esq., of Lincoln's Inn, barrister at law, says, "For reasons not relating to the clause in question, it is expressly provided, that nothing in this Act shall be construed to extend to Scotland." Now it turns out, probably to the no small surprise of all the English prohibitionists, both legal and ecclesiastical, that eminent Scotch lawyers, including a late Lord Advocate, now a Judge, declare that there actually is no Scotch law under which marriage with a wife's sister is null and void. There was, indeed, and is, a Scotch statute of 1567, which enacts, that "whosoever shall commit the abominable crime of incest with such persons in degree as God in his Word has expressly forbidden, as is contained in the 18th chapter of Leviticus, shall be punished with death." It is clear that this will not do, inasmuch as this marriage, at any rate, is not expressly forbidden in Leviticus xviii. Then it appears that the only other Scotch statute upon the subject is not a hanging, nor even a disabling one, but, on the contrary, an enabling statute, which declares marriage to be "as free to all estates of men and women as God's law hath made it," having been passed in order to sweep out the rubbish of the Popish prohibitions of marriage with second cousins and god-daughters, and pretty nearly every body whom you did not buy a dispensation to marry.—"If a marriage of this kind is good and valid in Scotland, then it inevitably follows that, however certain we may be that the persons who contrived the prohibiting clause of the Act of 1835 never contemplated any thing of the kind; they have, nevertheless, inadvertently provided, by another clause of the Act itself, a piece of machinery for making any marriage of a wife's sister valid by the purchase of a couple of railway tickets to Dumfries."

Not many years ago, the authorities of Edinburgh, not having read their Bibles attentively, at least not the 18th chapter of Leviticus, apprehended a man who had married his deceased wife's sister, thinking that what he had done was forbidden in the Act of 1567, but he was set at liberty without being tried. Indeed, it is not easy to see how a man could be tried for his life on account of having done that which the public prosecutor declared was no crime.

If these marriages are sinful, why did the archbishops and bishops concur with the other members of the Legislature in giving validity to all such as had taken place before 1835?

EXPOSTULATORY LETTER

TO THE RIGHT REV. R. WISEMAN, D.D.

ETC. ETC. ETC.

ON THE INTERPOLATED CURSE

IN THE VATICAN SEPTUAGINT

DEUT XXVII. 23.

Ἐπικατάρατος ὁ κοιμώμενος μετὰ τῆς ἀδελφῆς
τῆς γυναικὸς αὐτοῦ.

BY E. W. GRINFIELD, M.A.

AUTHOR OF AN APOLOGY FOR
THE SEPTUAGINT.

LONDON:

WILLIAM PICKERING.

1850.



AN EXPOSTULATORY LETTER

TO THE

RIGHT REV. BISHOP

ERRATA.

- Page 4. in favour of, *read* in defiance of.
Page 7. recipatur, *leg.* recipiatur.
Page 8. opimisque, *leg.* optimisque.

conscience. It is such a call, which now impels me to come forward and solicit your attention.

Having devoted the last twenty years, to a constant and unremitting study of that Greek version of the Old Testament, which the Church of Rome esteems of sacred and Canonical authority; I have been led to investigate the grounds, on which, such high prerogatives were assigned to this celebrated Version. After a long and impartial examination, I have arrived at the clear conviction, that you have trod in the footsteps of the Primitive Church, in thus associating the Septuagint with the



AN EXPOSTULATORY LETTER

TO THE

RIGHT REV. R. WISEMAN, D. D.

RIGHT REV. SIR,

IT is with extreme reluctance, I take my pen to address you on a subject, in which, the honour of the Church of Rome is essentially involved. I have long since taken leave of controversy, and should be sorry to revive it, towards the close of life. But, there are calls to duty, which, however irksome, cannot be evaded with an approving conscience. It is such a call, which now impels me to come forward and solicit your attention.

Having devoted the last twenty years, to a constant and unremitting study of that Greek version of the Old Testament, which the Church of Rome esteems of sacred and Canonical authority; I have been led to investigate the grounds, on which, such high prerogatives were assigned to this celebrated Version. After a long and impartial examination, I have arrived at the clear conviction, that you have trod in the footsteps of the Primitive Church, in thus associating the Septuagint with the

Hebrew original, as the united Canon of the Ancient Scriptures, and that Romanists and Protestants should no longer dispute, or differ, on this important question.

I have also arrived at another coincidence of sentiment,—that, the Vatican text, as set forth by Sixtus V. and Cardinal Carafa, is, on the whole, superior to the Alexandrine, or any other text of the LXX. This is the text, Rev. Sir, which has been almost exclusively circulated amongst us. It forms a part of our great English Polyglot by Bishop Walton, and has more recently been edited by Professor Lee, in the minor Polyglot of Bagster.—With the solitary exception of Grabe's Edition of the Alexandrian text, no Edition has hitherto been printed in England, which has not implicitly followed the Roman. Bishop Pearson, one of our most eminent theologians, has adorned it with a Preface. It has been repeatedly printed, at our English, and Scotch, Universities.—Its text is adopted in both the English translations of the Septuagint.

With such strong preliminaries in its favour, you may imagine, what was my surprise and regret, on discovering, that it contained (Deut. xxvii. 23), a "Curse," in addition to those, which are found in the Hebrew, and consequently, in the Vulgate Latin of Jerome—" *Cursed is the man who lieth with the sister of his wife!*"—Much as I had consulted the editions of Morinus and Bos (which follow the Roman of Pope Sixtus), my attention was never arrested by this specific passage, till a Correspondent in *The Times Newspaper* recently adduced its authority, in favour of Mr. Wortley's proposed enactment.

It then became my duty to investigate the authority, on which, this supplementary Curse, rested. Had the Vatican MS. been unanimously supported by the authority of other MSS., by the Oriental Versions from the LXX. by the concurrent testimonies of early Fathers and Councils, I am not prepared to deny, that I should have upheld it, as authentic. So many and so great are the discrepancies between the Hebrew and the LXX. that I should have felt inclined to rank it amongst them. I should have imputed its absence in the Hebrew text, to the frauds of Masorites, or, to the desire of freeing the modern Jew, from a troublesome matrimonial restriction.

But, there could be no foundation for such suspicion, when I found, it was omitted in the Samaritan Pentateuch; which, as you well know, for the most part agrees with the Septuagint, when it differs from the Hebrew. I then turned to the Alexandrian, as edited, by Grabe and Breitinger: It was not there. Perhaps, thought I, it is in the Aldine,—the *Editio Princeps* of 1518: It was not there. Was it in the next Edition of Cephalæus, 1526?—No. Or, in those of Basil, 1545, 1550?—No.

I began to be dubious of its authenticity, and resolved to consult the collations of Dr. Holmes, in his elaborate Edition of the Septuagint. With great labour and expense, he had consulted fifty MSS. containing Deuteronomy.* Of these, I found, that thirty omitted the clause, whilst twenty contained it.

* This is the correct statement. I have miscalculated the MSS. in the "Apology." It is in the *Codex Oxon.* (Holmes. 75).

It was then my duty to consult the ancient Versions in Walton's Polyglot, *all* of which, with the exception of the *Peschito*, had been made from the LXX.—Not one of these Versions contained the passage!

But, what most convinced me of the spuriousness of the clause, was this—that no allusion had been made to it, in the long and angry discussions, which took place between Augustine and Jerome, respecting the comparative merits of the Hebrew and the LXX. Had the text of the Septuagint then contained this passage, it must have formed one of the main topics of their controversy. When Jerome came to the Version of Deut. xxvii. 23, how could he avoid adverting to this essential discrepance?

But, previous to the days of Jerome and Augustine, several Councils had condemned such marriages, as *uncanonical*, and contrary to the *custom of the Church*; yet, had never alluded to any Biblical Curse. The Council of Elvira, about the year 305, in its 61st Canon, "imposes a penance of five years, upon him, that marries his wife's sister, unless the extremity of sickness oblige us to give him the peace of the Church, sooner." The Council of Neo-Cæsarea, A. D. 319, in its second Canon, affirms, that, "if a woman marry two brothers, she ought to be excluded from the Communion," &c. I give you this account, Sir, on the faith of your own Ecclesiastical Historian, Du Pin—a name, equally respected by Romanists, and Protestants. Not a word is here, about any "Curse" in Scripture. St. Basil, that great ornament of the Church, has an express Epistle on this subject, addressed to Diodorus, Bishop of Tarsus. He, also, strongly

condemns such marriages, as contrary to Ecclesiastical usage, yet denies there is any positive Scripture against them: "It is clear," says he, "*It is not written.*"

But, I can adduce a still higher argument. It is your own indirect testimony, Rev. Sir, against the validity of this passage. In your late evidence before the Legislature, you never once ventured to appeal to the authority of the Vatican Septuagint. Yet, it was thus set forth, by Papal authority: *Volumus, et sancimus, ad Dei gloriam, et Ecclesie utilitatem, ut Vetus Græcum Testamentum juxta LXX. ità recognitum et expolitum, ab omnibus recipatur, ac retineatur; quò potissimùm ad Latinæ Vulgatæ editionis, et vett. Sanct. Patr. intelligentiam utantur: Prohibentes, ne quis de hâc novâ Græcâ Editione audeat in posterum, vel addendo, vel demendo, quicquam immutare. Si quis autem aliter fecerit, quàm hâc nostrâ sanctione comprehensum est, noverit se in Dei Omnipotentis, bæatorumque Apostolorum Petri et Pauli indignationem incursum.* DATUM Romæ ap. Sanctum Marcum, sub Annulo Piscatoris. Die viii. Octobris. M.D.LXXXVI. Pontificatûs nostri Anno secundo.

We are distinctly informed, also, in the same official document, that this Edition was constructed by the collation of several other MSS. with the celebrated Vatican (No. 1209. Bib. Vat.)—*permultis exemplaribus ex diversis Italiæ Bibliothecis, et præcipuè, ex nostrâ Vaticanâ, diligenter collatis.* Thus have the Editors deliberately inserted this passage; conscious, that it was absent from the great majority of the other MSS. in the Vatican library. Out of eleven MSS. in the Vatican, collated for Dr.

Holmes, this clause is found only in two! Still further, they inserted it, *though they knew it was altogether absent from the Vulgate!*

How, Sir, are we to account for such a strange procedure? It had been omitted, as I have mentioned, in the Aldine of 1518, in the Venice of 1526, and in the Basil of 1545 and 1550. On the other hand, it had been countenanced by the Complutensian and the Antwerp Polyglots. But the Complutensian was formed on MSS. of which, several came from Rome: *vetustissimis opimisque exemplaribus undique accuratè conquisitis, et Româ usque acceptis.* (Nobil. Præf. Vers. Lat. Edit. Sixt.). Its authority, therefore, rests on no other basis, than that already mentioned. The Antwerp was a servile copyist of its predecessor, *à quibus Antuerpienses minimè discedendum sibi putaverunt.* Ibid. It follows, then, that the Editors of the Sixtine Edition, allowed this spurious "Curse" to go forth to the world, under Papal authority, with the full conviction, of its being unsustainable by sufficient manuscript authority, and directly at variance with the independent Editions, previously in print. They knew, also, that not one of the Fathers had ever appealed to this "Curse," and that several Councils had condemned such marriages, not, on the authority of Deut. xxvii. 23; but, on that of Levit. xviii. 6. 18, combined with the traditions and customs of the Church!

As a private individual, I am adverse to these proposed alliances; I believe them fraught with domestic evils, and *indirectly* discountenanced by Scripture. Whilst we

agree on this delicate subject, I trust we shall equally agree in denouncing this impious imposture. It would be alike dishonourable to Romanists and Protestants, should any Edition of the Septuagint hereafter be printed, with this interpolation, if not transfixed, with one of Origen's largest *obeli.*

You must grieve, Sir, to reflect on the triumphant success, which has hitherto attended this forgery. This spurious "Curse" appears, in every Latin version of the Septuagint. In the Basil Edition of 1550, though omitted in the text, it is found, in the translation. It is to be found, in both the English Versions—in every Polyglot, from the Complutensian, A. D. 1514, to that of Bagster, 1831. It has never, I believe, been detected, till the present day. In the multifarious evidence, produced for, and against, Mr. Wortley's Bill, it was never once alluded to. I have searched far and wide amongst Romish and Protestant writers, and have not succeeded in discovering a note of its existence.

Believe me, Sir, when I say, that my sorrow is chiefly excited, on account of the mischief and peril, which this bold interpolation now portends, to the general authority of the Greek Version, as the Canonical compeer of the Hebrew. In "The Apology for the Septuagint," which has just appeared, it is my object to show, that we may place the same reliance on the text of the LXX. as on that of the Hebrew MSS. or of any other ancient document. I have argued, that a Version, which, was considered as authentic and Canonical, during the first four centuries of the Church, cannot now be degraded from

that sacred eminence.—But, how can such arguments be sustained, if it can be shown, that a large number of its most valuable and ancient MSS. have been grossly interpolated, and that the Edition of the LXX. set forth, under the immediate auspices of the Head of your Church, has been defiled with such a spurious malediction?

You have passed many years in *The Eternal City*, and enjoyed all the literary treasures of the Vatican. Doubtless you have often gazed on this very MS. Should you revisit those academic abodes, you will possess a noble opportunity, for investigating the source of this “mystery of iniquity.”—Nor can you confer a more acceptable favour on the literary world, than by giving the exact *fac-simile* of this identical clause. We shall then be enabled to judge, whether it was in the original MS. or introduced by some later hand.

The literary and theological world will never be satisfied, till this point is fairly investigated. The character of the Vatican MS. is essentially dependant on the result. If *not* an interpolation in that MS. its reputation is lost. If it be an interpolation, the evidence will appear from the *fac-simile*. As the Sixtine Edition was formed partly from other MSS. it is possible, it may have been introduced, on their authority. Fain would I fly to any hypothesis, to rescue the honour of that celebrated Codex.—I would appeal to Cardinal Mai, from Cardinal Carafa.

In the mean time, Sir, we must be content to accumulate evidence, to fortify our accusation.—Of this supernumerary Curse, no trace can be found in the Remains of

Origen's *Hexapla*, though we have various readings of the *genuine* Curse, in the same verse. There is, however, *one* solitary Latin MS. which seems to allude to it, as Dr. Holmes observes, in the way of *explanation*:—“*Uxore patris sui, cum privignâ, vel, uxoris suæ sorore,*” *Latinus unus alludens, et explicans*.—But, in a scarce and valuable work,* now before me, containing the *Capitula, Sectiones et Stichometriæ*, according to the LXX. which (p. 35) recites the 12 curses, (Deut. xxvii. 15-26), this additional is not extant.—Neither is there any allusion to it in Philo, or Josephus, or, I believe, in any of the ancient Rabbins.

It would be very desirable, if practicable, to ascertain the age of the Vatican MS.—The following is the high character given by Montfaucon: *Est caractere, ut vocant, unciali, quadro, sine accentibus, quinti sextive sæculi. Et si porrò paris vetustatis Codices viderim, at non numeris suis et partibus absolutos, ut ille Vaticanus est.* Diar. Ital. p. 277.—After this disclosure, I think, you will admit, Rev. Sir, that it can hardly aspire to such high rank and antiquity. It is, by no means probable, that such a daring interpolation, would have been attempted, till a darker period had arrived. That, the impious hand, which introduced this forgery, might more securely conceal it, the stichometry was not disturbed,—contrary to the pre-

* *Sac. Bibl. juxta Edit. LXX. seu B. Hieron. Vett. Titt. sive Capitula, Sectiones et Stichometriæ, ex majore parte ante annos mille in Occidente usitata, una cum antiquis Prologis, Argumentis, &c. è MSS. Codd. prompta; nunquam primum edita, studio, curâque Jos. M. Cari Presb. Theolog. Romæ, 1688. Superiorum Permissu.*

ceding order, two distinct maledictions are comprised in the same verse.

From Dr. Holmes's remarks, on the first class of MSS. ἡ Κοινῆ, *Simplex, sive nondum ab Origine emendata*, we may infer, that this interpolation is not, in that family. In none of the MSS. viz. Nos. 29, 31, 59, 64, 83, is this spurious clause exhibited. This is important, because the corruptions of the LXX. MSS. may be commonly traced to the confusion, introduced by Origen's recensions. If so, the prevailing opinion, that the Vatican text of the Pentateuch is founded on the Κοινῆ, cannot be correct.—It is omitted in the Edit. Francof. 1597. In the note, *alii addunt ἐπικατάρατος, κ.τ.λ. abest ab Heb.*—It is also absent from *Nova Versio Græca Pentateuchi ex Cod. Venet.* edited by Ammon. Erlang. 1791.—It is not in the Saxon Heptateuch, by Thwaites, Oxon. 1698,—nor in the Slavonic, Georgian, or Armenian Versions. This reading, however, was doubtless prevalent, when the following memorial lines were composed :

*Nata, soror, neptis, matertera, fratris et uxor,
Et patruī conjux, mater, privigna, noverca,
Uxorisque soror, privigni nata, nurusque,
Atque soror patris, conjungi lege vetantur.*

The spurious passage is not in the celebrated *Codex Ambrosianus* (Holmes vii.), which is esteemed of the greatest antiquity,—nor in the *Codex Coislianus*, (Holmes x.) nor in the *Codex Basiliano-Vaticanus*, (Holmes xi.) which Montfaucon ascribes to the ninth century.—These are Uncial MSS.

Amongst the MSS. *in caractere ligato*, it is absent from the noted *Codex Coislianus* (Holmes xiv) and from the *Codex Medicæus* (16) which are both of the utmost antiquity. Its absence from *all* the Oriental Versions would be sufficient to condemn it. Whilst the Greek Church prohibits these marriages, as uncanonical, it is much to her honour, that she has not contaminated her Scriptures, with any such spurious additions. She has avoided the temptation—*She grants no dispensations.*

The marked distinction between the MSS. of the Eastern and Western Church appears to intimate, that this corruption of the LXX. could scarcely have taken place, till after their division. It cannot, at any rate, be ascribed to the original difference of Editions by Hesychius, or Lucianus, because these are alluded to by Jerome, (Præf. in Paralip.) *Alexandria et Ægyptus in Septuaginta suis Hesychium laudat auctorem. Constantinopolis usque ad Antiochiam Luciani Martyris exemplaria probat. Mediæ inter has provinciæ Palæstinos Codd. legunt, quos ab Origine elaboratos, Eusebius et Pamphilus vulgaverunt. Totusque orbis hæc inter se trifariâ varietate compugnat.*—Had any text of this kind, unsupported by the Hebrew, existed in the days of Jerome, he would unquestionably have noticed and denounced it.—His silence is conclusive.

It remains, therefore, for us to infer, that this interpolation took place, at some later period, when, even the historians of your own Church lamented its errors and corruptions.—When penances, for such marriages, were commuted into fines and payments of money; when, in-

stead of debarring the guilty parties from the communion of the Church, the penalty was inflicted by avarice and extortion—*excæcatum cupiditate pecuniarum*:—then it was, Rev. Sir, that even the most sacred transcripts of Holy Writ were not secure from fraud and imposition.—It was, at such a period of moral ruin and decay, that some daring scribe felt none of the remorse of Balaam—*How shall I curse, whom the Lord hath not cursed?*

Still, considering the general darkness and spiritual wickedness of those times, we may feel thankful, that the infection did not spread much farther, than we now know it to have reached. We have already observed, that it is absent from the majority of the MSS. collated by Dr. Holmes. When to this, we add the numerous MSS. of the Greek Church, and the various Oriental versions based on the LXX. of which, none record the spurious Curse; the great majority of MSS. will be found exempt from this Vatican pollution.

Having thus, Rev. Sir, laid before you conclusive evidence of this daring imposture, I trust, you will not deem me impertinent, if I appeal to you, as a scholar and divine, on the gross absurdity of continuing its insertion, in the standard text of the LXX. Surely, Sir, the honour of the Vatican is deeply involved in such a question. In your evidence before the House of Commons, you never once alluded to this supposititious Curse—nay, you virtually ignored its existence, by referring, exclusively, to other passages in Scripture, which only *indirectly* censure such marriages. I appeal to you, as a learned and accomplished Romish Prelate, whether it be consistent with

the respect due to the Vulgate, to permit such an interpolation to circulate hereafter, under the sanction of a Version, which so many of your most eminent divines have extolled, as of equal, nay, superior, authority, to the Hebrew text?

I am a devoted advocate of the LXX. I stand pledged to maintain its authority. Though I dare not adventure, with Morinus or Vossius, to elevate it above the Original; yet am I desirous of beholding the Septuagint, considered of co-ordinate importance, in the Canon of the Old Testament. The admissions which were recently made, respecting the ambiguity of the Hebrew texts in Leviticus, concerning these matrimonial alliances, fully bear out the assertion, that the Septuagint and the Hebrew should be indissolubly united, as the mutual expositors of each other. But, in advocating this canonical union, it is necessarily implied, that we should guard the text of the LXX. with the most scrupulous anxiety, against error, fraud, and corruption. The shock, which the authority of the Septuagint will now receive, from the discovery of an imposture, so long concealed, can hardly be estimated.

There is a still more serious consideration.—Though a staunch and devoted Protestant, I can take no pleasure in the scoffs and triumphs of infidelity, even when directed against the Church of Rome. How must it delight and gratify the sceptical scorner, to behold the Vulgate and the Septuagint, at open variance! What a fund of sarcasm is afforded, by knowing, that an edition of the LXX. put forth by Papal authority, is now ignored, even

by Dr. Wiseman, as if it were not in existence!—How would it have tarnished the eloquence of Mr. Shiel, had any allusion been made to this Vatican interpolation! Who could have thought, that *the Curse on the man who marries his wife's sister*, should never once have been alluded to, in all that mass of evidence, which was accumulated on Mr. Wortley's bill? Amongst all the nice distinctions, which were enumerated respecting Episcopal dispensations, why did you not candidly declare, that you considered this Vatican "Curse" as a base fabrication?

No doubt, by implication, this confession was brought out. Quæst. 1161: "Taking the question, first, with reference to Scripture, Is such a marriage, held by your Church, as prohibited?—*Certainly not. It is considered a matter of ecclesiastical legislation.*"—Pray, Sir, how can we reconcile this answer, with "the Curse," which still exists in the Roman Septuagint? Your Church has never rescinded, or modified the Papal sanction of Sixtus the Vth. She has continued to reprint this "Curse," in every subsequent Edition of the LXX. You have beheld that text circulated far and wide, over every part of Christendom; and yet you would now pass it by, as if it were a total nonentity!

Quæst. 1164.—"When you think proper to dispense with such unlawfulness, you think proper to dispense with a regulation of the Church, and not with a prohibition of Scripture?" "*Certainly!*" How, I ask again, can you reconcile this answer, with this "Curse," remaining in your standard Edition of the LXX.?—Whilst you superintended the English College at Rome, no doubt, you often instructed the Academics, in their studies of

the Greek Version. Your text, unquestionably, was that of Sixtus V.—Did you reveal the nullity of that denunciation? did you point out the forgery and imposture?

But, perhaps, I am bound, by the bonds of that charity, "which thinketh no evil," to suppose, that you did not, at the time of your evidence, call to mind this forgery in the Vatican text. Be it so.—It is no imputation on your character, either as a Christian, or a Scholar.—The same remark will equally apply, to the categorical answer of our own learned Dr. Pusey. Quæst. 435, *Have you anything further to add, with respect to these marriages being prohibited, by the words of Holy Writ?—No.*—The truth is, as I have before acknowledged, that this spurious Curse has remained unknown and unnoticed, both by Romanists and Protestants, till the present disclosure.

As if to render the case still more desperate, Pope Sixtus has expressly recommended this Edition of the LXX. as well adapted to the interpretation of the Vulgate—*quò potissimum ad Latinæ Vulgatæ edit. vel vet. Sanct. Patrum intelligentiam utantur.*—Now, the Vulgate contains no such Curse, nor do any of the Fathers even allude to this passage.—I ask, whether you are likely to convert those infidels, now swarming around the Vatican, who have lately dethroned his Holiness, and expelled the Cardinals, by such palpable contradictions? Is it not full time, to remove such stumbling-blocks out of their way? How can they believe in the infallibility of the Romish Church, whilst she sanctions a clause, which is not to be found in the Vulgate; whilst she retains a curse in her authorised Septuagint, which is known to be an indubitable forgery!

Pardon me, Sir—having devoted many years to this study, it is so bound up and identified with my thoughts and recollections, that every insult or injury, inflicted on the Septuagint, comes home, like an arrow, to my heart. It was my hope, that my efforts, however imperfect, would have gradually led to its more general study and adoption, and that it would eventually have been raised to the same standard, which it held in the Church, till the days of Jerome. But, this disclosure of imposture will now, I fear, arrest its progressive elevation. Many will suspect, that the corruption has spread, more or less, throughout the whole of the Roman text, and, as no other is in general circulation, it may affect its general authority.—I do not say, these suspicions are well founded; on the contrary, I am willing to believe the interpolation, though flagrant, is solitary and isolated.

Yet, there is one benefit, which may probably result from this disclosure. The urgent necessity for revising the text of the LXX. must now become too striking, to be any longer neglected.—Ample materials have been collected, for setting forth a correct and critical Edition of this Biblical and Canonical Version of the Old Testament. The Church of Rome has already displayed her liberality, by throwing open the treasures of the Vatican, to aid the collections of the Oxford Septuagint.—I doubt not she would still account it her duty and honour, to complete that elaborate undertaking.

In thus proposing a new and critical revision of the Septuagintal text, you will remember, Sir, that I am warranted by the memorable precedent which has been af-

forded, in the corresponding revision of the Vulgate.—Though the text of that Latin Version was declared *authentic* by the Council of Trent (A. D. 1545), it did not prevent Pope Clement VIIIth and Pope Sixtus Vth, from using their earnest endeavours to set forth a more accurate and amended Edition.—Thousands of errors, which had crept into the text were then expurgated, and with unaffected candour, they allowed, that they had still left room for future emendations—*etiam alia, quæ mutanda videbantur, consultò immutata relictæ sunt.* Præf. Edit. Vulg. 1592.

This precedent, Right Rev. Sir, applies, in all its force, to the spurious clause, which I have now brought before your notice. Nothing can justify, either your Church or our own, in suffering that passage any longer to contaminate the sacred text. It is against the Hebrew Original.—It is against your own Vulgate.—It is against the standard Edition of the Greek Church.—It is against all the ancient Oriental and Northern versions.—It is against the authority of the Fathers.—It is against the authority of the Canonists and Schoolmen.—It is against the majority of the best MSS.—No voice has ever been raised in its defence, and no murmur will be heard at its expulsion.—For once, Papists and Protestants may exult together—the voice and verdict of Christendom will be unanimous.

I am, RIGHT REV. SIR,

Your obedient Servant,

E. W. GRINFIELD.

Brighton,
April 25, 1850.

P. S. Since this Letter was in the Press, I have discovered, that a solitary notice of this spurious Curse may be detected in an Epistle, or rather Canon, of Siricius, who was Pontiff A. D. 384-398. — *Maledictus qui cum uxoris suæ sorore dormierit.* Sabatier, *Bib. Sac. Lat. Vers. Antiq.* Par. 1751, refers to Deut. xxvii. 23; but Gallandus, *Bib. Patr.* Venet. 1760, to Lev. xviii. 18.— So little did he recognise, or revere, the Vatican Septuagint! — But, I regret to add, this interpolation of “a Curse” was not confined, either to the *Italic*, or the LXX. The same trace of imposture may be found among the Vulgate MSS.— Many of the early Editions, (among which are, *Ulmæ. Zainer*, folio, 1480; *Lugduni. Sacon.* folio, 1521; *Ibid.* 8vo. 1522; *Colon.* folio, 1529; *Rob. Steph. Par.* 1528; *Froben, Basil.* 1530; *Benedict. Par.* 1565, *juxta Vulg. Edit. recognita et emendata*.) insert, Deut. xxvii. 25, *Maledictus qui dormit cum uxore proximi sui*; thus introducing the same number of maledictions, as in the Vatican LXX. ! It was not, till the Corrections of Lucas Brugensis had stigmatised this malediction, as *adjecticia et superflua*, that it was expelled the Vulgate. — I despair of unravelling this tissue of iniquity.—It is for your superior learning and sagacity to solve the enigma.

THE LAW OF MARRIAGE,
A REMNANT OF POPYRY ADOPTED BY PUSEYISM.

A CORRESPONDENCE

BETWEEN

MR. ALLISON,

THE BISHOP OF LINCOLN,

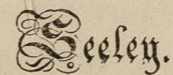
AND

THE VICAR OF LOUTH,

On Marriage with a deceased Wife's Sister.

“The great evil is the contradiction to the Law of God.”—Dr. Pusey. Blue Book, p. 53.

“I admit that a Marriage with a deceased Wife's Sister is not prohibited by the Levitical Law.”—Bishop of Lincoln, *infra*, p. 8.



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LONDON: MDCCCL.

Price 1s. 6d.

LAW OF MARRIAGE.

MR. ALLISON TO THE BISHOP OF LINCOLN.

Louth, Oct. 31, 1848.

MY LORD,

Learning from Mr. Mantell that he has communicated to your Lordship my wish and intention to marry a Sister of my deceased Wife, and acting on a suggestion made by Mr. Mantell, who has most kindly undertaken to see your Lordship on the subject, and to deliver to you this Letter, I venture most respectfully to offer for your Lordship's consideration, the views entertained by myself on this, to me, interesting question. In doing so, however, I shall rather address myself to the question, as it now presents itself to us, than consider it in reference to what may have been the feeling on the point in bygone times. Accordingly, I contend that the prohibition against these Marriages, made by the present Marriage Act, ought to be relaxed on the following grounds:—

1st. That previous to the passing of the Act 5 and 6 Will. 4. c. 54. these Marriages were not absolutely void, but only voidable, and voidable only by the sentence of the Ecclesiastical Court, pronounced during the lives of both the parties contracting the Marriage;

and that in default of any such sentence being pronounced on the death of either of the parties, the Marriage was absolutely good, and the Issue held to be legitimate.

2ndly. That no serious inconvenience in practice, arose from this state of things, the cases in which such Marriages were sought to be set aside by the parties contracting them being, I believe, exceedingly rare.

3rdly. That the Legislature, in confirming all such Marriages, as had been solemnized previous to the passing of the Act of Will. 4. and declaring that Marriages contracted after the passing of the Act, should be absolutely void, stultified itself, inasmuch as it seems contrary to all reason, that an Act should at the same time be declared valid and invalid.

4thly. That whatever may have been the feeling of the Church in the early ages, it is now utterly hopeless to expect to be able to revive that feeling, even if it were against such Marriages; it being acknowledged on all hands, that among the Jews such Marriages were not considered as prohibited under the Levitical Law—that for centuries the Church has acquiesced in the decision of the common Law of the Land, that such Marriages, though voidable at the time of contraction, became absolutely good on the death of either of the parties, so as to legitimize the Issue: that among the Dissenters, taken as a body, these Marriages are not held to be contrary to God's Law; that many Clergy of the Church of England entertain the same view; that such Marriages are not only allowed, but considered desirable in the United States; that in nearly all the European Continental States, these Marriages are recog-

nized as good, though in many of them a dispensation has to be previously obtained; that despite the prohibition contained in the Act of Will. 4. these Marriages are as frequent as they were before the passing of that Act.

5thly. That seeing how strongly the feeling of the people at large is against the continuance of the prohibition, it is manifestly to the prejudice of the best interests of religion and morality that it should be continued, inasmuch as its continuance will not check the contraction of these Marriages; and consequently the Marriage rite will be less and less held sacred, and less and less regarded, when it is found how large a portion of the people act in defiance of the Law, and how much larger a portion of them will be suffering from its effects, either in their station in society or in their rights to property.

Mr. Mantell has pressed on me the duty of Christians, "to submit themselves to every ordinance of man for the Lord's sake;" but I must confess that I do not in this case feel bound by that duty. The Legislature in the 32nd Henry 8. c. 38. enacted, "that all and every such Marriage, as within this Church of England shall be contracted between lawful persons, (as by this Act we declare all persons to be lawful that be not prohibited by God's Law to marry,) &c., shall be by authority of this present Parliament aforesaid, deemed judged and taken to be lawful, good, just, and indissoluble, &c. And that no reservation or prohibition, God's Law except, shall trouble or impeach any Marriage without the Levitical Degrees." Now this Enactment is so consonant to reason, that I deny the right of the Legis-

lature to restrain or interfere with the inherent right of every one to marry whom he will, so as the parties be not prohibited by God's Law to marry. I should not therefore, consider it an evasion of the Law of my Country, to avail myself of the Law of another country, to do that which I consider not contrary to God's Law.

Mr. Mantell has also pressed on my notice the evidence given by Dr. Pusey, who has brought together a large mass of curious matter, occupying from pp. 36—59, of the report, and has given a very decided opinion against these Marriages. This gentleman is, however, driven at the last to say, "The great evil is the contradiction to the Law of God;" thus begging the whole question, and rendering nugatory all the curious learning on which he has dwelt so much, and at once destroying the value of his own opinion.

6thly. It was stated by counsel in the case of the *Queen v. Chadwick*, p. 7, of the Report of that case, which I will hand over to Mr. Mantell with the Report of the Commissioners, "The Law, as expressly laid down in Levit. xviii. and xx., had been accepted by the Jews, and observed by them for 1500 years, down to the Advent of our Saviour. The same had been observed by the Christian Church down to the 4th Century, when a Council, consisting of nineteen Bishops, assembled at Eliberis, a little town in Spain. By that Council certain Canons were adopted, by which the Bishops were forbidden to marry at all, and the prohibition now contended for was first introduced." If this statement be correct, the authority on which the prohibition rests is a very slender one.

Trusting that your Lordship may, on examining and

considering the subject, be able to give your valuable and influential support to the Bill, which is promised to be introduced into the Commons House of Parliament early in the next Session, for the desired alteration of the Law, should that Bill reach the House of Lords, I have the honour to remain,

My Lord,

Your Lordship's most obedient servant,

W. GRANT ALLISON.

To the Right Rev.

The Lord Bishop of Lincoln,

Risesholme, Lincoln.

THE BISHOP'S REPLY TO MR. ALLISON.

Risesholme, Lincoln, Nov. 13, 1848.

MY DEAR SIR,

I have been prevented by various engagements from returning an earlier answer to your letter, which was placed in my hands by Mr. Mantell.

If you refer to Sir H. J. Fust's decision in the case *Reg v. Sherwood*, you will, I think, find reason to distrust the soundness of your argument, founded on the distinction between void and voidable Marriages. The Ecclesiastical Court holds such Marriages to be void ab initio: though it was prohibited by the Courts of Common Law, from pronouncing them void after the death of either of the parties. The Act 5 and 6 Will. 4. c. 54. was partly occasioned by some flagrant cases in which men, having married the Sisters of their deceased Wives, had taken advantage of their own wrong doings, and procured the avoidance of the Marriages. The

Act prevented as far as it was retrospective, the possibility of the occurrence of such cases; while prospectively it brought the Statute Law into accordance with the Ecclesiastical, by declaring such Marriages void ab initio. I admit that a Marriage with a deceased Wife's Sister, is not prohibited by the Levitical Law. But the Church, acting as the Guardian of the purity of Christian morals, has in this, as in other instances, restricted the liberty accorded to the Israelites on account of the hardness of their hearts. The general object of the prohibitions in Leviticus xviii, is to prevent what may be called, the confounding of relationships; in the furtherance of this object, the Church has extended the prohibition to the case of Marriage with a deceased Wife's Sister. The Wife's Sister stands to the children of the Marriage in the same relation as the Husband's Sister, that of Aunt, and if such Marriages are allowed, the relations of Aunt and Mother, will be confounded in the same person.

It is a mistake to suppose that the condemnation of such marriages originated with the Council of Eliberis, that council only confirmed that which had long been the sentiment and custom of the Church. But whatever might be the date of the original prohibition, it was deliberately adopted into our Ecclesiastical Law by our Reformers, on the authority as it appears of Bishop Jewell. Our domestic intercourse has, in consequence, been regulated by it. A Husband regards his Wife's Sister as his own: she is received into the family on the same footing. Alter the law, and this can no longer be the case. She will be received on the footing of any other Female, with whom the Husband may contract

marriage after his Wife's decease: and must, to preserve domestic peace, be so received. The instances are rare, in which a Wife will be disposed to look with a friendly eye upon a Female, whom she thinks likely to succeed her in the event of her decease; and the circumstance that that Female is her Sister will make no difference in the case. The existence of the prohibition is the cause of the Sister's cordial reception into the Family at present.

The hardship occasioned by the Law as it now stands is, that a man is prevented from marrying a particular Female, his Wife's Sister. The evils which will arise from an alteration of the Law are, that we shall disturb the Law of marriage as it has existed since the Reformation: the Law on which it is most essential to the interests of society, that the minds of men should not be unsettled—that we shall open a door to further changes by proclaiming to the people that, in order to procure the repeal of a Law, it is sufficient that considerable numbers shall resolve to violate it: and we shall place the Statute at variance with the Ecclesiastical Law. This last is a consideration which will weigh, and ought to weigh, with members of the Church. The legislature has shewn that it regards Marriage merely as a civil contract: the Church regards it as a Divine Ordinance, and makes it the subject of a religious rite. If the Statute Law is altered, the Clergy will be placed in a very anomalous position: they will be required to sanction, by the performance of one of the services of the Church, a marriage condemned by the Law of the Church. This condemnation will still remain: though the clergy may be relieved by the Le-

gislature from any civil penalty for solemnizing such a Marriage, they will not be relieved in conscience.

It is scarcely necessary for me to add that I shall not be able to give my support to a Bill for altering the present Law, if such a Bill should be introduced into Parliament. I have the honor to be,

My dear Sir,

Your very faithful Servant,

J. LINCOLN.

W. Grant Allison, Esq.

FROM THE VICAR OF LOUTH TO MR. ALLISON.

Vicarage, Sept. 30, 1850.

MY DEAR SIR,

It is with extreme reluctance that I address you on the present occasion, but a paramount sense of duty impels me to do so. You will, I am sure, believe that I have no desire to give pain, but, on the contrary, a strong anxiety to learn that the step which you have recently taken is at least one duly sanctioned by Law. Having seen no public announcement of your union with Miss Falkner, I am ignorant where or under what circumstances the ceremony was performed. Pray, then, inform me on this point.

Believe me,

My dear Sir,

Yours, very faithfully,

E. R. MANTELL.

W. G. Allison, Esq.

FROM MR. ALLISON TO THE VICAR.

Westgate, Oct. 1, 1850.

MY DEAR SIR,

Do not be afraid of giving me pain by adverting to the subject of your note of yesterday. On the contrary, I am obliged to you for the opportunity which your letter affords me of stating openly, and of vindicating to myself, though I may not succeed in vindicating to you or to others the step I have, after mature consideration, taken. My Marriage with Miss Falkner did not appear in the papers, for it could only have done so by myself furnishing the information, and I think you have seen enough of me to know my aversion from obtruding myself on the public notice. We intermarried in Scotland, and I enclose you, for your satisfaction, though of course to be returned to me, my copy of the Declaration by which we contracted Marriage. You are aware that, by the Scotch Law, even a parol Declaration between the parties in the presence of a witness, or followed by the parties subsequently living together as Man and Wife, constitutes Marriage. You are aware also, that no rite or ceremony is required in the Bible, or even hinted at as necessary to constitute Marriage, and that our Church, in her 25th Article, says: "Those five, commonly called Sacraments, that is to say, Confirmation, Penance, Orders, Matrimony, and extreme Unction, are not to be counted for Sacraments of the Gospel, being such as have grown partly of the corrupt following of the Apostles, partly are states of life allowed in the Scriptures, but yet have

not like nature of Sacraments with Baptism and the Lord's Supper, for that they have not any visible sign or ceremony ordained of God." Cruden, too, in his Concordance, says: "Marriage signifies a civil contract by which a Man and a Woman are joined together, which was instituted by God for the prevention of uncleanness, the propagation of Mankind, and that the parties so contracting might be mutual helps and comforts to one another. Gen. ii. 18, 22, 23. John ii. 1. 1 Cor. vii. 2. Heb. xiii. 4." I have no objection to a religious rite, but I do not consider it necessary. You are aware that I should have had no difficulty in being married in England, according to the rite of the English Church, but I could only have done so by concealing the facts from the Clergyman who might, in ignorance of them, have innocently performed the Ceremony; and that I would not have done; and, in the present state of the Law, that would not have availed me. I therefore took that course which I thought the most straightforward and the most manly. That we are Man and Wife in the sight of God I am quite satisfied. Whether the Marriage would be held legal in Scotland I cannot say, as the question has not been decided there; but the present Lord Advocate, and Sir Henry Moncrieff, are clearly of opinion that Marriages with a deceased Wife's Sister are legal in Scotland; and, if legal in Scotland, I am inclined to think they would be held to be legal here, though I am ready to admit that eminent legal opinions are against me. I hold the present state of the English Law to be anomalous, cruel and unjust. You will recollect that the Bishop of Lincoln, in his Letter to me dated the 13th Nov. 1848,

says, "I admit that a Marriage with a deceased Wife's Sister is not prohibited by the Levitical Law:" and, I think I am correct in saying, that there is not a Bishop on the Bench that would hold, and that even the University of Cambridge will not hold, that these Marriages are contrary to God's Law. On what then did the prohibition against these Marriages rest? A Canon of the Church, which, by the Articles of the Church, ought to have been held absolutely bad as ordaining a thing contrary to God's Word written, See Articles 20 and 21. And what was the state of the Law for Centuries under this Canon, namely, that though the Ecclesiastical Courts held these Marriages to be absolutely void, the Courts of Common Law held them to be only voidable; and, on the death of either of the parties, would not allow the Ecclesiastical Courts to set them aside, so that the great majority of these Marriages proved absolutely good, and the issue were legitimate. And what was the conduct of the Church during these centuries? She took no notice of the monstrous anomaly, and you are aware that the consequence was that these Marriages were as common as under the circumstances they could well be. Let us now look at the Law as it stands. The present Marriage Act was introduced to answer a particular purpose, and to correct what was proved to be two great evils in the state of the Law as it then stood, and which it proved ineffectual to check, namely, to make absolutely good Marriages between Minors which previously were held to be absolutely void, and to legalize those Marriages which were then only voidable; and, in this state, the Bill passed the House of Commons, and one, if not two readings,

in the House of Lords, when, at the close of the Session, and in the last stage of the Bill, the Bishop of London had interest sufficient to cause the clause to be introduced to make absolutely void all future Marriages which should take place within the degrees of kindred and affinity; but, under a promise which has been shamefully broken, that the Law should be revised as to the Marriage of a Widower with his deceased Wife's Sister. The Law, as it stands, is virtually the Law of the Bishop of London, and is a disgrace to the statute book; for the very act itself declares the same act to be lawful and unlawful, and I claim for myself the right to act in this matter according to the dictates of my own conscience, especially as the Church in her 32nd Article holds that it is lawful for them (Bishops, Priests and Deacons) as for "all other Christian men, to marry at their own discretion as they shall judge the same to serve better to godliness," or as it is nervously expressed in the Act of the 32nd Henry VIII. ch. 38, "that all and every such marriages as within this Church of England shall be contracted between lawful persons (as by this Act we declare all persons to be lawful that be not prohibited by God's law to marry) shall be deemed, judged, and taken to be lawful, good, just and indissoluble, and that no reservation or prohibition, God's law except, shall trouble or impeach any marriage without the Levitical degrees." The truth is, that the Church is now in a false position. Formerly it might have been conscientiously held and believed that these marriages were prohibited by the Levitical law, and there is no doubt but that was the feeling of the parties who prepared the table of

kindred and affinity; a comparatively modern work, for it is stated to be "A Table of Kindred and Affinity, wherein whosoever are related are forbidden *in Scripture and our laws* to marry together."

Now you will at once perceive that the Church in her Prayer Books and her tables of affinity set up in her Churches, is propagating that which is untrue, for it is admitted on all hands that the marriage of a widower with his deceased wife's sister, is not prohibited in Scripture, and I have no doubt that the vulgar prejudice which exists against these marriages has arisen from this false teaching of the Church. I could have wished to have gone further into this subject, and to have adverted to the Bishop's reasons for opposing the alteration of this most obnoxious law, but I feel that I have perhaps already trespassed further than I ought to have done on your patience. Believe me to remain,

My dear Sir,

Your's very faithfully,

W. GRANT ALLISON.

The Rev. E. R. Mantell.

Copy of the Declaration of Marriage inclosed with the above letter.

I, William Grant Allison of Louth, in the county of Lincoln, Attorney at Law and Solicitor, call upon this person here present, to witness that I do take the undersigned Elizabeth Lucy Falkner of Bridlington Quay, in the county of York, spinster, to be my lawful wedded wife; and I the undersigned, the said Elizabeth Lucy Falkner, call upon this person here present, to witness that I do take the same William Grant Allison to be

my lawful wedded Husband, as witness our hands this twentieth day of July, in the year one thousand eight hundred and fifty.

The above Declaration was made, and this written Memorandum in triplicate was signed by the above named William Grant Allison and Elizabeth Lucy Falkner, on the twentieth day of July, one thousand eight hundred and fifty, at Kelso, in the county of Roxburgh in Scotland, in the presence of

Georgiana Falkner.

W. Grant Allison.
Elizabeth Lucy Falkner.

FROM THE VICAR TO MR. ALLISON.

Vicarage, Oct. 2, 1850.

MY DEAR SIR,

Your case distresses and perplexes me greatly. I heartily wish that I could say "God speed" you in it! but I cannot, as a Christian, still less as a Christian minister. Indeed I cannot conceive any contract a valid marriage, which is unsanctified by a religious ceremony, by a prayerful invocation of God's blessing upon it. I am aware that recent enactments sanction other unions in this country, but your's does not even come within those legalized in the Registrar's office. You could not have been married there, any more than "according to the rite of the English Church," without committing perjury in obtaining a Licence, or deception in putting in the

Bans. But the question now is, Is the contract you have entered into with Miss Falkner a legal marriage in Scotland? You admit your ignorance upon this point, and it is the one which I specially require for my guidance in a matter of the highest importance, viz. as my justification in admitting you to the Sacrament of the Lord's Supper. May I therefore beg of you not to present yourselves at the Lord's Table on Sunday next, nor until I can obtain correct information upon the subject. Kindly send me a line by the bearer.

I am, dear Sir,

Your's very faithfully,

E. R. MANTELL.

W. G. Allison Esq.

FROM MR. ALLISON TO THE VICAR.

Westgate, Oct. 2, 1850.

MY DEAR SIR,

On inquiry, you will learn, that we have not since our return, done that to which you refer, and that purposely, lest you might have thought that we had taken an undue advantage of your absence. You may rely on my not doing any thing to give you annoyance.

I am, my dear Sir,

Your's very faithfully,

W. GRANT ALLISON.

The Rev. E. R. Mantell.

FROM MR. ALLISON TO THE VICAR.

Louth, Oct. 31, 1850.

MY DEAR SIR,

I did not reply fully to your note dated October 2,

B

because you wished for a reply to it by the bearer, and that only for a particular purpose, namely, to give you an assurance that my wife and myself would not present ourselves at the Lord's Table until we heard further from you. A month having elapsed since I received that note, and not having heard further from you, I shall now reply fully to the terms of it, in the hope that my doing so, may tend to relieve the distress and perplexity under which you then appeared to be labouring. In adverting to the terms of your note, I shall use all plainness and freedom of language as becomes the interchange of thought between one friend and another, for such from the kindly tenor of your notes I hope I may still consider you, however apart we may seem to be at present. I much mistake what is truth, God's truth, and I still more over estimate its force and power if I am not mistaken in my conception of it, if on a prayerful invocation of God's blessing on your consideration of what I may advance (for I rely on your candour and your sincere and earnest desire to act rightly, however opposed the course may be to your former prejudices and conceptions) that consideration will not materially alter your views and relieve the distress and perplexity which my case gave you.

You say: "I cannot conceive any contract a valid marriage which is unsanctified by a religious ceremony—by a prayerful invocation of God's blessing upon it." This is however only an amiable, and perhaps I may designate it, a professional prejudice; for that can be nothing more than a prejudice which is not sanctioned in, or recognised by, God's word, the only binding authority in such a case; and may there not be as prayerful, as

available an invocation of God's blessing on entering into the simplest contract of marriage as under the more imposing rite of our Church? Consider for a moment the value of the prayerful invocation of God's blessing in ninety-nine cases out of a hundred of the marriages which are contracted, perhaps you will say, solemnized, in our Church. What is most thought of! the religious ceremony, the dresses, the bridesmaids, the grooms-men, the breakfast, the dinner &c.? On calmly considering the question, every unprejudiced person must admit that the Marriage Ceremony is now—whatever it may have been—little else than a solemn mockery of God; and nothing shows more fully the folly of man in ordaining that which has not been ordained by God. Of the five that at the time our Articles of religion were drawn up, were commonly called Sacraments, three, Penance, Orders, and Extreme Unction, have quite passed away; a fourth, Confirmation, is fast following them, and though the time may be more distant, the last, Matrimony, will be consigned to the tomb of the capulets. "If this counsel or this work be of man, it will come to nought." That it, the religious rite or ceremony, is of God, you cannot prove from his word. After all, what constitutes Marriage? simply the consent of the man and woman to live together as husband and wife. The ceremony of the Church, the Registrar's office, are but evidences or witnesses of the contract, and do not, in the sight of God, constitute Marriage. If God has not ordained "any visible sign or ceremony," if he has not forbidden these Marriages, why should man make himself wiser than God? Observe man's folly, nay, sin: "But if it be of God ye

cannot overthrow it, lest haply ye be found even to fight against God." As the law stood previous to the passing of the present Marriage Act, it was competent to the Ecclesiastical Court on a suit being instituted, to declare such a Marriage though only voidable at Law, void, and then to separate the parties; thus in fact breaking the commandment of our Saviour in Matt. xix. 6. "What therefore God hath joined together let not man put asunder." That parties so joined together are joined together by God, you cannot disprove. You may say that they were not joined together according to the Canon of the Church, but that does not answer the question. You must go further, "Whether it be right in the sight of God to hearken unto you more than unto God, judge ye," Acts iv. 19. If God has not thought it necessary to forbid these Marriages, man in forbidding them is fighting, that is sinning—against God. Note what St. Paul says in 1 Cor. vii. 36. Circumstanced as mentioned in the former part of that verse, we have married, and the Apostle says we have not sinned. But our Church, which professes to be a Church, if not the Church of Christ; and you, who profess to be a Christian—nay more, a Christian minister—and many others who profess themselves to be Christians, may Christians par excellence, say we have sinned? What blindness, what prejudice, what hypocrisy! What does Matthew Henry say on Acts v. speaking of the charges brought against Peter and the other Apostles? "That they had disobeyed the commands of authority, and would not submit to the injunctions and prohibitions given in verse 28. "Did not we by virtue of our authority, strictly charge and command you, upon pain of our highest dis-

pleasure, that you should not teach in this name? But you have disobeyed our commands, and go on to preach, not only without our license, but against our express order." Thus they who make void the commandments of God, are commonly very strict in binding on their own commandments, and insisting upon their own power. *Did not we command you?* Yes, they did; but did not Peter at the same time tell them that God's authority was superior to theirs, and his commandments must take place of their's, and they had forgotten that?" You say: "I heartily wish that I could say, God speed you in it; but I cannot as a Christian, still less as a Christian minister." Now my dear Sir, would it not have been acting more like a Christian, and still more like a Christian minister, if you had wished us "God speed," however you might be grieved that an old, a sincere, and an attached member of your Church, should have felt himself compelled to act contrary to the rule of that Church; but whether that grief should be for him who had wantonly, and without just cause, offended against that rule, or for the Church that had unrighteously put a stumbling-block of offence in his way, I leave for you to determine in your conscience before God. Was your's the spirit of our Saviour when he addressed the woman whom the Scribes and Pharisees brought unto him for him to condemn her?

You say you "specially require something more for your guidance in a matter of the highest importance, viz., as your justification in admitting us to the Sacrament of the Lord's Supper. What! when you have not attempted to disprove, when you cannot disprove any one of the three simple issues which I offer you, namely:

That in the sight of God, and before God, we are Husband and Wife.

That we are so joined together by God in accordance with, and agreeably to his word and will.

That we are living together soberly and honestly in that state instituted by God, that the parties so contracting might be mutual helps and comforts to one another.

Will you, as a minister of God and of Christ, dare to forbid us the Sacrament of the Lord's Supper, one of the Sacraments ordained of Christ our Lord in the Gospel? As having transgressed a Canon of our Church, you might, in your subordinate character as a minister of that Church, be justified in withholding from us any of the rights or ceremonies of the Church not ordained of God, but of what value are they, if when brought to the standard of, and tried by God's word, they are "not read therein, nor may be proved thereby?" But mark the impotence of man when fighting against God. You propose to withhold from us the Sacrament of the Lord's Supper; but can you so mark us that we cannot receive it elsewhere? Nay, further; can you prevent us from administering it to each other? Will not such an administration of it, if accompanied by a prayerful invocation of God's blessing on it, be as available, as acceptable at his throne of Grace as if administered by this or that clergyman, this or that minister of the Gospel; himself perhaps, a man noted for open and gross debauchery?

I have now adverted to the terms of your note so far as they are capable of being adverted to; and I cannot but express the satisfaction that I feel, that in it you have not attempted to grapple with the real, the only question:

Have this couple sinned in the sight of, and before God? Have they in what they have done, transgressed his law, his word written, or his will as manifested in and by that word?

If from God's word you can prove that we have so sinned—that we have so transgressed, I will submit with cheerfulness to your judgment in our case; but let me warn you to beware of giving an unrighteous judgment, of making God's word and will and law succumb to the false teaching of man, or the falser principles of the world.

Is it not a startling, a striking feature of the times, that a bold and manly assertion of the supremacy of God's law and word and will, over the traditions of men, instead of being avenged in that spirit which dictated Peter's reply, "Whether it be right in the sight of God to hearken unto you more than unto God, judge ye," or in that lofty spirit which animated Luther, and which under God, worked out for us the glorious Reformation, should by those who are the greatest sticklers for the alone authority of God's word in all matters of conscience, be avenged in a most pitiful, contemptible and unchristian spirit, and by a truckling servility to those very traditions of men for holding which, and thereby making void the commandments of God, the Scribes and Pharisees were, by our Lord, so severely reprehended as hypocrites.

I shall now conclude, and I shall never regret the obloquy to which my wife and myself may be subjected by the self-righteous, the prejudiced and the ignorant, if it be the means, in however small a degree, of assisting to rescue the Church of my infancy, my youth, and my manhood from her present false position, and from

the imputation to which she must henceforth be subject, of propagating a palpable lie for the most worthless of purposes, namely, of preserving intact a Canon in itself opposed to God's law and word, and enacted at a Council, which by another Canon forbade the Marriage of Bishops, Priests and Deacons.

Agreeing with a French Pastor, that the way of patience is better than that of secession, I shall continue earnestly to pray, that our Church may ere long retrace her steps, and make the amende honourable by abandoning her false assumption of authority, and her false teaching. Believe me to remain, with my warmest thanks for your many kindnesses to my family and myself, my dear Sir,

Your's very faithfully,
W. GRANT ALLISON.

The Rev. E. R. Mantell.

FROM THE VICAR TO MR. ALLISON.

Vicarage, Nov. 2, 1850.

MY DEAR SIR,

On my return from the country just now, I found on my table your note of the 31st ult.

I feel quite unable to reply to it to-night, further than to explain why you have not heard from me before.

Pressing engagements at home, and for some days a recurrence of acute bodily pain, prevented my going to Rischolme to confer with the Bishop until Friday last. Since then I have abstained from writing to you because I heard you were seriously indisposed, and I feared that the nature of my communication would not be calculated to relieve your mind.

You shall hear from me again early next week.

I am, dear Sir,

Yours very faithfully,

E. R. MANTELL.

W. G. Allison, Esq.

FROM THE VICAR TO MR. ALLISON.

Vicarage, Nov. 6, 1850.

MY DEAR SIR,

In a note to you on the 30th of September, I expressed strong anxiety to know whether your union with Miss Falkner was duly sanctioned by Law: meaning, of course, in Scotland, for I knew it to be otherwise in this country. In your reply on the 1st of October, you admitted your inability to decide the question; and such being the case, in my note of the 2nd of October, I requested you not to present yourselves at the Lord's Table until I had satisfied myself by obtaining correct information on the subject. This I have endeavoured to do, first by application to a very good and eminent Minister of the Scotch Kirk; and, subsequently, by a conference with my own excellent, kind and talented Diocesan. The reply from the former, a copy of which I enclose for your perusal, was, unhappily, long in coming, from the circumstance of his having misdirected it to Louth in Ireland. You will find it clear, explicit, and, to my mind, decisive on the point required to be known.

I have submitted it, as well as the declaration by which you say you contracted Marriage, to the Bishop of Lincoln, and have explained to his Lordship what

has passed between us relative thereto. I wish you could have witnessed the effect produced by the perusal on his mind, and could have heard the expressions of deep sorrow which escaped his lips, in feeling compelled to pass a similar judgment on your case.

I have read over your long note of the 31st ult several times, and each time have risen from the perusal of it with increased pain and regret. Every holy feeling, which a pious parent may have early instilled into one's mind on sacred subjects, and which subsequent personal study of God's word has served only to strengthen, seems to be outraged by the language you have used throughout. It needs, however, but few words to shew the utter futility of your arguments. They are based upon one great mistake; you have forgotten that we are under an obligation to human as well as to Divine Law. Human Law has the sanction of the word of God, for such enactments as are essential to the well-being of society, and may exceed what is contained in the Scriptures which do not profess to supersede the institutions of mankind, and it is the duty of individuals to submit to restraints thus imposed upon them. Undoubtedly Divine Law is of higher obligation, and limits our duty to the laws of men. It was so in the cases to which you appeal as in that of St. Peter. But yours is not a case at all parallel. He was divinely commissioned to act as he did, in defiance of the commands of the rulers, (granting that they were legal,) but if such resistance to established authority be sanctioned by the will of God, it can only be in rare and exceptional cases. Yours is not one. It would be ludicrous to pretend any Divine command, either for

marrying when the Law forbids, or in a manner which it does not recognize; and I should think it preposterous to mention such an idea, were it not the very thing which is wanting to make your case parallel to that which you cite. The most you can pretend is that such marriages are not expressly forbidden by Scripture; but it still remains a question, and it is a very difficult one to decide, whether there may not be sufficient reason for the legislature to forbid them. You may plead personal hardship, but it must often happen that laws for the public good will bring hardship to individuals. You need scarcely consider what would be the effect, if any person who feels himself aggrieved were to set the law at defiance—to be satisfied that it is the duty of individuals to submit, even though they suffer. You will observe that I omit all consideration of the question whether existing restrictions be religious or politic, or not; this is a question for *Law makers*, and I take no account of the Law of the Church which you regard so lightly. Surely then, as a lawyer, you will not consider it bigotry that I feel bound by the Law of the land, unless I see something more against it, than a case of personal hardship; and, unless it enact not merely what the word of God leaves undecided, but what it distinctly forbids.

And consider, Sir, for a moment, what would be the consequence to society, if our Sisters and Daughters were allowed that licence respecting the Marriage Ceremony which you claim for yourself. It often happens that persons who regard themselves united in heart, find obstacles of one kind or other to their union; and it is not uncommon for every one to think his own

hardship the greatest. Would you, putting aside all personal consideration, excuse a Sister or Daughter, or regard any one as married, who might please, for whatever reason, to dispense with those forms which the Law regards as essential? Would it be possible, if such things were tolerated, to distinguish a Marriage from any thing else? You must see that you demand more than it could ever be possible for any civilized, not to say Christian, Society to allow. I cannot question your sincerity, or doubt that you consider yourself married before God: but others would be less conscientious, and I am bound to act upon the same rule of conduct in your case that I should apply to others. I cannot say Mr. A. is a conscientious man, and I shall therefore regard him as married; Mr. B. is dishonest, I shall therefore believe no such thing of him, while the circumstances of the two cases are the same.

Let me then, in all kindness of intention, advise you to abstain from attending the Sacrament of the Lord's Supper, until this Marriage question has been again canvassed in the houses of Parliament, as the result of their deliberations may relieve all of us concerned from a dire necessity which must otherwise, at present, control us in this matter. I feel certain that if you could lay aside your personal interest in the case, you would soon be convinced that it is quite impossible for me to advise you differently, and instead of accusing me of bigotry, prejudice and ignorance, would see at once that it must be most painful to me to address you thus.

Believe me to remain, my dear Sir,

Very faithfully your's,

W. G. Allison, Esq.

E. R. MANTELL.

P. S. I return your Declaration Paper.

Copy of Letter inclosed with the preceding letter.

Edinburgh, Oct. 3, 1850.

REV. SIR,

I have no doubt whatever that the marriage in question is illegal, by the civil as well as by the Ecclesiastical Law of Scotland, and would be so held by our Civil Courts. Indeed, the confession of Faith is embodied verbatim, in an Act of Parliament 1690, and is regarded as having in Scotland all the force and effect of a Civil Statute. Upon this principle the House of Lords decided an appeal case from Scotland a few years ago, mainly upon the ground that certain statements contained in the confession of Faith, as to the way in which the Lord's day ought to be observed, had all the validity of a Civil Statute or Act of Parliament.

The Lord Advocate did not give a decided opinion in favour of the legality of the marriage, though he leant to that side, admitting at the same time, that all our constitutional writers and the great body of our lawyers were of an opposite opinion. Indeed, his doubts applied chiefly to the criminal aspect of the case; that is, the question of the competency of an indictment for the crime of incest, upon this ground. The extract from the Sun, mistakes the strength of the Lord Advocate's opinion upon this subject; and if Scotland is to be exempted from next year's bill, upon this ground, it is used merely as a pretence, in order to escape from the decided and almost unanimous opposition of Scotland to the proposed change.

I have no hesitation in saying, that it is the decided opinion of almost all competent judges, that the Marriage

in question is illegal by the Civil as well as by the Ecclesiastical Law of Scotland ; and that no marriage service, whether of a civil or an ecclesiastical kind, can make it valid, as to any civil consequences.

I am, &c.

Rev. E. R. Mantell.

FROM MR. ALLISON TO THE BISHOP OF LINCOLN.

Louth, Nov. 11, 1850.

MY DEAR LORD,

I did not acknowledge the receipt of nor reply to your Lordship's kind and obliging Letter to me, dated Nov. 13, 1848, because I felt from the distinct intimation given by your Lordship at the close of that Letter, that it would be useless my again addressing you and so putting your Lordship to unnecessary trouble; and I felt the less inclined to do so, as I could not but be sensible that your Lordship had, at great length, replied to the observations on the subject, which, on the suggestion of Mr. Mantell, I took the liberty of submitting to your Lordship. Since that time, however, Mr. Wortley's Bill has passed the Commons, and I believe that it will be introduced into the House of Lords early in the ensuing Session. Shall I, then, be obtruding myself too much on your Lordship and your valuable time, in again soliciting your Lordship's attention to, and reconsideration of, the subject; and in doing so, I will not trouble your Lordship so much by adducing new arguments in its favour,—for I know not how I could adduce stronger than those contained in my former letter—as by replying to your Lordship's reasons for

supporting the Law as it at present stands. Before, however, proceeding to notice in detail your Lordship's reasons for supporting the present Law, allow me to thank your Lordship for the candid, and to me, most important admission contained in the following words, "I admit that a Marriage with a deceased Wife's Sister is not prohibited by the Levitical Law."

In reply to the first ground taken by me against the existing Law, your Lordship says, "If you refer to Sir H. J. Fust's decision in *Reg. v. Sherwood*, you will, I think, find reason to distrust the soundness of your argument, founded on the distinction between void and voidable Marriages. The Ecclesiastical Court holds such Marriages to be void ab initio; though it was prohibited by the Courts of Common Law from pronouncing them void after the death of either of the parties." Now, my Lord, that is precisely what I had stated, but your Lordship has forgotten to notice that with which I concluded, namely, that in default of such suit being brought to a conclusion in the lifetime of both the parties, the Marriage was absolutely good, and the Issue were legitimate, despite the Ecclesiastical Courts' holding such Marriages to be void ab initio; and which statement your Lordship could not impugn. So far therefore, my Lord, we are agreed.

Your Lordship then goes on to say, "The Act 5 and 6 Will. 4. c. 54. was partly occasioned by some flagrant cases, in which men, having married the Sisters of their deceased Wives, had taken advantage of their own wrong doing, and procured the avoidance of the Marriages. The Act prevented, as far as it was retrospective, the possibility of the occurrence of such cases, while

prospectively it brought the Statute Law into accordance with the Ecclesiastical, by declaring such Marriages void ab initio." Now, my Lord, what you have advanced is in my favour rather than against me; for if, at the passing of the Marriage Act, it was good legislation for the reason assigned in the former part of the above paragraph, to make the Act retrospective, surely for the same reason it would have been sounder legislation to have allowed the Act to have stood as it was originally intended that it should have stood, and to have made these Marriages prospective absolutely, and at once good. I therefore again repeat, that the Legislature stultified itself, in making the same Act good and evil. But, my Lord, if that were true at the time the Act passed, surely there must be the stronger reason for restoring the Marriage Act to what it was originally intended it should have been, now that fifteen years' experience has proved that the greater stringency of the Law is totally inoperative in preventing these Marriages. May not the evil, which, according to your Lordship, suggested the retrospective operation of the Law, again occur; and should not wise Legislators, above all Christian Legislators, have provided against the recurrence of such an evil? But, my Lord, the latter part of the paragraph affords the true reason for this false legislation, a desire on the part of the Prelacy, the Priesthood, to make the Statute Law accord with the Ecclesiastical or Canon Law, and for that purpose the Imperial Legislature was found to be a much more compliant instrument, than the stubborn, good, sound, common sense of our glorious Common Law had been found to be.

After making the admission which I have before

quoted, your Lordship goes on to say, "But the Church, acting as the Guardian of the purity of Christian morals, has in this, as in other instances, restricted the liberty accorded to the Israelites, on account of the hardness of their hearts." My Lord, may I venture to ask on what authority your Lordship has ventured to make this, to me, most extraordinary assertion. I have read that Moses, because of the hardness of their hearts, suffered the Israelites to put away their wives, "but from the beginning it was not so;" but I have nowhere read that in the beginning it was decreed that a man should not marry his deceased Wife's Sister. My Lord, not having had a University Education, I may not be able to compete with your Lordship in any controversial discussion, but I do trust that I have an average portion of plain common sense, and I must confess, that twist and torture that common sense as I may, I cannot conceive by what process of reasoning your Lordship has brought your mind to infer that there can be a dispensation, when there has been no prohibition, no commandment, that that which is said to be dispensed with, shall not be done; and yet, my Lord, such is the inference to which your Lordship has had the temerity to give expression in the above paragraph. My Lord, is this trifling with, this perversion of sacred Writ and sacred things, worthy of a Bishop of the Church of England, of a Minister of God? It is not; but it is worthy of the wretched cause which your Lordship, and I should trust only a few of your brethren of the Prelacy, have taken in hand. Your Lordship speaks of the Church being the Guardian of the purity of Christian morals; surely she is a pretty Guardian, that persists in making yearly

perhaps 500, which she is pleased to call illegal Marriages, many of them contracted by perjury, or at least by misrepresentation, and illegitimatizing yearly a large number of children, and what is worse, giving an opportunity to many who call themselves Christians, under the cloak of religion, to give development or vent to the worst passions of our nature, pride, envy, hatred, malice, uncharitableness, and the desire, alas, too common, to efface from the memory, the sense or recollection of obligations conferred, kindnesses rendered, benefits received, injuries inflicted. My Lord, your Lordship speaks "of the Church acting as the Guardian of the purity of Christian morals;" may I ask your Lordship for a return of the number of Clergymen within your Diocese, who have confessed to, or have been convicted before your Lordship, of gross violations of the seventh Commandment; and who are, notwithstanding, allowed to minister in sacred things, or at least to spend at a distance, perhaps in foreign countries, these temporal endowments, which ought, under a Christian Pastor, to have irrigated the spiritual soil of the parish whence those endowments are derived. But mark, my Lord, the impotence of even mitred Prelates, when fighting against God. These Marriages, which you have impiously—for your Lordship has admitted that they are not prohibited by God, and with a lie in your right hand, see your table of Kindred and Affinity—cajoled, the Legislature to declare, as your Lordship expresses it, void ab initio, will at that Throne, which will judge the parties so contracting them, and even you yourselves, be pronounced valid, despite your Canons, your Ecclesiastical Courts, and your Acts of Parliament; and is not

the state of things, before the passing of the present Marriage Act, strongly illustrative of this, for then we had Marriages void according to the Church's teaching, but valid according to the Common Law and the Law of the land; and can any doubt whatever be entertained, of the validity of these Marriages in the sight of God. I challenge your Lordship to disprove from Scripture, that these Marriages, however contracted, are good, valid, and binding, in the sight of, and before God. Your Lordship speaks of restricting the liberty accorded to the Israelites; I ask your Lordship, on what portion of God's word you ground the Church's authority to restrict the liberty accorded by God, and so strongly acknowledged in the 32nd Article of the Church herself.

Your Lordship then proceeds: "The general object of the prohibitions in Levit. xviii., is to prevent, what may be called, the confounding of relationships; in the furtherance of this object, the Church has extended the prohibition to the case of Marriage with a deceased Wife's Sister. The Wife's Sister stands to the children of the Marriage in the same relation as the Husband's Sister, that of Aunt; and if such Marriages are allowed, the relations of Aunt and Mother will be confounded in the same person." If, my Lord, the last paragraph in your Lordship's Letter, on which I have adverted, contained a bold assertion, the reason assigned in the paragraph now before me, is as weak a specimen of reasoning as I ever met with. Why, my Lord, what occurs when first cousins marry living the parents of each; precisely that very confounding of relationship put by your Lordship in the latter part of the paragraph; and what can it signify, whether the children have to call their Aunt or a

stranger mother, neither being so in fact. Whatever might be the motive in the Divine Mind for giving the prohibitions contained in Levit. xviii., it could not have been the confounding of relationships, though it might have been to prevent the too close intermixture of blood, for we all know that when animals breed in and in too much, they soon become barren; but then, my Lord, this hypothesis would not have suited your Lordship's purpose, for in marrying two sisters, there would be no greater intermixture of blood in marrying the second, than there was in marrying the first. And so, my Lord, you see to what miserable shifts learned men, nay, even Bishops, will have recourse, to support a prejudice, a preconceived notion, and in attempting to defend that which is indefensible. And have I not a right again to complain of your Lordship's want of fairness in conducting this argument, in likening the Wife's to the Husband's Sister; when in the latter case, there is the direct prohibition, "the nakedness of thy sister, the daughter of thy father or daughter of thy mother, thou shalt not uncover;" whilst in the former case, your Lordship admits that there is no such prohibition. Again, my Lord, I ask your Lordship on what portion of Holy Writ, your Lordship will rest the Church's assumption of power, to extend a prohibition to a case in which God has not thought it necessary to give any such prohibition? Why should man make himself wiser than God? My Lord, can you hope by such wretched reasoning, such barefaced assertion, to hoodwink the plain common sense of the Laity of England? It may suffice for your Lordship's Charges to your Clergy, who care not a rush for what your Lordship says to them, so

as they do not forget to thank your Lordship for your admirable charge, and the usual request that it may be printed; but it will not suffice to satisfy the reasoning portion of English Society, the middle classes.

Your Lordship then proceeds: "It is a mistake to suppose that the condemnation of such Marriages originated with the Council of Eliberis, that Council only confirmed that which had long been the sentiment and custom of the Church. But whatever might be the date of the original prohibition, it was deliberately adopted into our Ecclesiastical Law by our Reformers, on the authority, as it appears, of Bishop Jewell." My Lord, it is a matter of indifference to me, whence originated the condemnation of these Marriages, the real question being, has God prohibited them? Your Lordship will recollect, that in my Letter to your Lordship in 1848, I referred to the evidence given by Dr. Pusey before the Commissioners, and which occupied twenty-three folio pages; and that I drew your Lordship's attention to that gentleman's concluding declaration, "The great evil is the contradiction to the Law of God," thus begging the whole question, and which your Lordship has decided against the Doctor: "I admit that a Marriage with a deceased Wife's Sister, is not prohibited by the Levitical Law." Of what value then, my Lord, is the practice of the early Church, the early Christians, the opinions entertained by Bishop Jewell, and our Reformers, when Dr. Pusey, the author in the present day of that damnable heresy, Puseyism; after ransacking the stores of all the black letter books he could lay his hands on, is, after all, compelled to confess, that "the great evil is the contradiction to the Law of God:" and

which contradiction, with all his learning, his research, and his Jesuitical casuistry, he has been unable to establish. Whatever the practice of the early Church may have been, if it cannot be supported by, and from God's Word, it must, as the 25th Article expresses it, be held to be a corrupt following of the Apostles.

Your Lordship then proceeds to the social question: "Our domestic intercourse has, in consequence been regulated by it. A Husband regards his Wife's Sister as his own; she is received into the family on the same footing. Alter the Law and this can no longer be the case. She will be received on the footing of any other female with whom the Husband might contract Marriage after his Wife's decease, and must, to preserve domestic peace, be so received. The instances are rare in which a Wife will be disposed to look with a friendly eye upon the Female whom she thinks likely to succeed her in the event of her decease, and the circumstance that that Female is her Sister will make no difference in the case. The existence of the prohibition is the cause of the Sister's cordial reception into the family at present." I hope, my Lord, the Women of England will be as indignant at this false libel on them, as I am at your Lordship's libel on the religion which you and I in common profess. What! my Lord, is the standard of female honor and right feeling so low?—is the standard of the influence of the religion of Christ so low, that the Men and Women in the higher circles of Society, require to be held by bit and bridle, by this miserable prohibition, in the right course of action? As to the middle and lower classes of society, I do not know that I can do better in replying to the above paragraph,

than refer your Lordship to the able view of the social question taken by the Commissioners towards the conclusion of their Report; and which I would have transcribed, had not my Letter already transgressed a reasonable bound. Contrasting these two views of the social question, I ask your Lordship whether it is right that the interests, the comfort and the feelings of the middle and lower classes, ought to be sacrificed to the prejudices founded on a mistaken view of the question of the higher classes, especially when it is considered that the concession now asked for, will not compel those parties who conscientiously think that these Marriages are objectionable, to contract them.

Your Lordship then proceeds: "The hardship occasioned by the Law, as it now stands, is that a Man is prevented from marrying a particular Female, his Wife's Sister." And what right, my Lord, has Man to tamper or trifle with the affections of his fellow-man, in a case in which God, the Creator of them both, and who has, for His own wise purposes, implanted these affections in Man's breast, has not thought it necessary to prohibit the indulgence of them?

Your Lordship then says:—"The evils which will arise from an alteration of the Law are, that we shall disturb the Law of Marriage as it has existed since the Reformation; the Law on which it is most essential to the interests of Society, that the minds of men should not be unsettled: that we shall open a door to further changes by proclaiming to the people that, in order to procure the repeal of a Law, it is sufficient that considerable numbers shall resolve to violate it; and we shall place the Statute at variance with the Ecclesiastical

Law. This last is a consideration which will weigh with Members of the Church." What nonsense, my Lord, to talk about disturbing the Law of Marriage as it has existed since the Reformation, the Law on which it is most essential to the interests of Society, that the minds of Men should not be unsettled. Look at the Statute Book, and see what alterations, what disturbances, as your Lordship childishly terms it, the Law of Marriage has undergone. Again: since the Reformation these Marriages, though void in the eyes of the Church, were, until the passing of the present Marriage Act, only voidable at Law, and in 999 cases out of 1000, ultimately became valid. Restore the Law, then, to what it was before in this respect! Again, my Lord, do you think that abiding by the present Law will tend to settle the minds of Men? Look around you, look at the daily papers, and judge if the minds of Men are getting settled by the greater stringency of the Law. As I told your Lordship in my former Letter, I tell you again, it is hopeless to expect to restrain these Marriages, unless you can convince Men that they are contrary to God's Law, and that your Lordship admits you cannot do, for they are not prohibited by God. Is it likely that Men's minds will be settled on this interesting and important subject, when such Men as Mr. Dale, Mr. Villiers, Dr. Hook, and other eminent parochial Clergy, so strongly advocate the repeal of the Law? Is your Lordship afraid of opening the door to further changes, and of placing the Statute at variance with the Ecclesiastical Law? At once make your Ecclesiastical Law accord with God's Law, and no one will give you further trouble. Your Lordship talks

about this last consideration weighing with Members of the Church. My Lord, I will not yield to your Lordship in attachment to the Church, and no one in my humble station of life has given greater proof of that attachment; but I cannot blind myself to her faults, nor the faults and failings of her Rulers, and I will not be withheld from expressing freely my opinions of both. And I must again complain of your Lordship's weak reasoning, as to opening a door for further changes by proclaiming to the people that, in order to procure the repeal of a Law, it is sufficient that considerable numbers shall resolve to violate it. Why, my Lord, was it not this very violation of the Law by considerable numbers, that is by Minors, that was the ostensible cause for passing the present Marriage Act; and which would, but for the mischievous interference of two or three Puseyite Bishops, have corrected both these anomalies in our Marriage Law? My Lord, what are human Laws but an expression of Men's minds, and which ought, according to the language of the 34th Article, to be changed according to the diversities of countries, times and Men's manners, so that nothing be ordained against God's Law.

Your Lordship then goes on—"The Legislature has shewn that it regards Marriage merely as a civil contract. The Church regards it as a Divine Ordinance, and makes it the subject of a religious Rite." I believe that your Lordship has again made a slight mistake, a slight confounding of ideas here; Marriage is not a Divine Ordinance, it is a Divine Institution, and the religious rite or ceremony is an ordinance not of God, but of Man. The Legislature is quite right in regarding Marriage as a civil contract. Can your Lordship prove

it from God's Word, to be by God's appointment, any other than a civil contract? Had the Church and Man left the question as it was left by God, what mischief, what sin, what heart-burnings would have been avoided?

Your Lordship concludes—"If the Statute Law is altered, the Clergy will be placed in a very anomalous position; they will be required to sanction by the performance of one of the Services of the Church, a Marriage condemned by the Law of the Church. This condemnation will still remain, though the Clergy may be relieved by the Legislature from any civil penalty for solemnizing such a Marriage, they will not be relieved in conscience." Alter the Law, my Lord, and the consciences of your Clergy will be soon relieved; they are squeezable, and with some Bishops whom I could name, and with many of their flocks, are like some of old, though they will strain at a gnat, they will swallow a camel.

I shall now conclude; and I claim from your Lordship, as a wise Legislator, nay, more, as a Christian Legislator, that religious liberty which is accorded to me by God himself, and by the 32nd Article of our Church—that civil liberty which is so nervously asserted in the 32nd Henry viii. ch. 38: "We declare all persons to be lawful, that be not prohibited by God's Law, to marry." And again: "that no reservation or prohibition, God's Law except, shall trouble or impeach any Marriage, without the Levitical Degrees."

I have the honour to remain, my dear Lord,

Your Lordships most obedient and faithful servant,
To the Right Rev. W. GRANT ALLISON.

The Lord Bishop of Lincoln,
Rischolme, Lincoln.

Extract from the Report of the Commissioners referred to in the preceding Letter.

It may be advisable to consider this part of the subject with reference to the community, as divided into three classes: the most elevated in rank and fortune; the next class; and the rest of the community.

Few of these Marriages are found to have taken place among persons of a high station. But we do not attribute this to any stronger sense of religious or moral obligation than in other classes. On the contrary, the evidence shows that where circumstances have placed persons of elevated rank in situations likely to create such attachments, connexions of this kind do take place, as among other ranks. Probably the true reason why such Marriages are rare in the highest class are: 1st, that the numbers of such class are small; 2nd, that in such a class a sister less often occupies the place of a deceased wife. Wealth provides otherwise for the management of domestic affairs; governesses take the charge of children where considerations of expense do not intervene: relations have much greater facility of seeing the children, and superintending their education, without actual residence under the father's roof: even under the roof, the society is less closely domestic and private; and the desire of not offending the opinions or scruples of the world, be they right or wrong, is stronger. These considerations, we think, account for the small number of marriages of this kind in high life, without supposing that the feelings would be different, or differently governed, if the circumstances were the same.

In the next rank of life, the evidence shows that

these attachments and Marriages are frequent; and we believe frequent in proportion to the occurrence of the circumstances which would naturally give rise to them; that is, in proportion to the number of cases where the sister of a deceased wife takes up her residence under the husband's roof, the parties not having passed the middle age. We find that the relations and friends of both parties have in some cases readily assented to the contraction of such Marriages; and in other cases, where a contrary feeling may have originally existed, they have not hesitated, upon a consideration of the subject, to sanction with their approval the connexion already formed.

We do not find that the persons who contract these Marriages, and the relations and friends who approve them, have a less strong sense than others of religious and moral obligations, or are marked by laxity of conduct.

Among the poorer classes of society, we believe that, in a great majority of cases, where the sister of the deceased wife becomes an inmate of the house, and the parties are not advanced in age, the end of such a state of things is Marriage, or concubinage. The constant and familiar intercourse, the want of separate accommodation, and the entire privacy, give rise to feelings which, in the ordinary course of things, naturally will produce the consequences which we have stated. When a poor man with a family has the misfortune to lose his wife, some assistance for his domestic concerns becomes indispensable; assistance too for which he cannot afford to pay, which must be rendered immediately. All circumstances and all feelings point to the sister of the deceased wife; and when once she becomes a permanent

inmate, the result, in this class, is almost inevitable; cohabitation with, or without, the form of Marriage.

On a review of the subject, in all these its different bearings, and effects, we are constrained, not only to express our belief that the Statute 5 and 6 Will. IV. has failed to attain its object, but also to express our doubt, whether any measure of a prohibitory character would be effectual. These Marriages will take place when a concurrence of circumstances give rise to mutual attachment: they are not dependent on legislation.

We are not inclined to think, that such attachments and Marriages would be extensively increased in number were the law to permit them; because, as we have said, it is not the state of the law, prohibitory, or permissive, which has governed, or, as we think, ever will effectually govern them.

FROM MR. ALLISON TO THE VICAR.

Louth, Nov. 21, 1850.

MY DEAR SIR,

The time allotted me in my present state of health, for application, whether of the head, the eyes or the hands, being very limited, I have not been able earlier to acknowledge and reply to your letter dated the 6th inst. Being now however at liberty, I commence to reply to it; and first let me assure you that there is no personal feeling on my part. I consider the present discussion to be a free and an open one— a trial of strength between that which I believe to be truth, and that which I believe to be error (though of course you will invert that order) or if you will pardon my putting it into a

professional dress, God, versus the Church and Man. This is a fair stand-up fight in which God's word is the battle-field, and the use of that word is free and unrestricted to either combatant. The only notice which I need take of your letter dated November 2, is on the concluding part, in which you say that, the nature of the communication which you promised to give me early in the next week, would not be calculated to relieve my mind. Now, my dear Sir, I can assure you that my mind is neither distressed nor perplexed. Before taking the step which has given rise to this discussion, I had fully counted the cost, and was fully prepared for all that has occurred. I have acted conscientiously, and feeling that "the Lord is on my side, I will not fear what man can do unto me."

And now I will proceed to your last letter; and first, as to my Marriage. That has been strictly legal according to the law of Scotland, so far as form goes, though, as I told you in my previous letter, I could not say, that being contracted between parties circumstanced as we were, it would be held to be so. This however, is a matter of so much indifference to me, that I am willing to concede in this stage of the question, and for sake of the argument, that it would not be held to be legal there, no more than it would have been here, had we obtained a Marriage in this country even from the Church. In passing however, let me notice the terms in which you speak of the Bishop of Lincoln. You call him "my own excellent, kind and talented Diocesan." I believe the Bishop to be a kind and an amiable man, but I have always understood him to be a man noted for violent prejudices, and a servile sycophancy to the

great; and if he be a man of talents, I can only say that he grossly prostituted them in replying to my letter in 1848. I shall not here advert to the judgment to which the Bishop and you have come on my case, but proceed to notice your observations on my letter, dated October 31. In that letter I offered you three simple issues, and put to you a plain question, and you have done wisely in declining the whole. I asked you for reason, and you give me feeling; I asked you for plain common sense, and you give me rhapsody; I asked you for bread, and you give me a stone, for a fish, and you give me a serpent. What, my dear Sir, cannot the Bishop and you, out of the ample stores of God's word, give me one text, one authority to counter-vail the three simple issues which I offered you; to support your Church's rule or doctrine; or even your own principles of action? What! cannot you out of those ample stores give a plain man a plain answer to a plain question? I know you cannot, and you have wisely not attempted it; but you have adroitly, though I must confess, not very honestly, turned the question from being a question arising under God's word, to a question of obedience to human legislation. You first addressed me as the minister of my parish, and you were quite right in doing so, but as a minister of God it is your duty to judge me according to God's law, and not according to human laws. If I have transgressed the law of the land, I am amenable to that law, and will pay its penalty. You admit that you are no law-maker, neither are you an administrator of the law. Your office is simply to act as a minister of God.

But to proceed with your Letter. You say "I have

read over your long note of the 31st ult. several times, and each time have risen from the perusal of it with increased pain and regret. Every holy feeling which a pious parent may have early instilled into one's mind on sacred subjects, and which subsequent personal study of God's Word have served only to strengthen, seems to be outraged by the language you have used throughout." Now, my dear Sir, this is mere rhapsody. What holy feeling have I outraged? Had you given me an example, I might have defended myself. In my first Letter, I shocked one of your early prejudices, when I asserted that Marriage was only a civil contract. In my second Letter, I vindicated myself at large, but neither the assertion nor the vindication have you attempted to invalidate.

You go on: "It needs, however, but few words to show the utter futility of your arguments. They are based upon one great mistake; you have forgotten that we are under an obligation to human as well as to Divine law. Human law has the sanction of the word of God for such enactments as are essential to the well-being of society, and may exceed what is contained in the Scriptures, which do not profess to supersede the institutions of mankind, and it is the duty of individuals to submit to restraints thus imposed upon them."

From what I have said in the former part of my note you will learn that in answering you, I considered that I was answering only a minister of God. I had not forgotten the bearing of the question of human law on the subject. Your assertion that human law may exceed what is contained in the Scriptures, I deny in toto. I deny my obligation to respect human law when it ex-

ceeds or is repugnant to that which is contained in the Scriptures; but of that hereafter. If, my dear Sir, you have used the word "exceed" advisedly, you have been guilty of impiety:—"Ye shall not add unto the word which I command you, neither shall ye diminish aught from it:" if inadvertently, it is an unfortunate expression, for if you allow that human law may exceed what is contained in the Scriptures, you must of necessity allow, that it may restrict and limit God's commands; and what says our Saviour? "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." And again: "If any man shall add unto these things, God shall add unto him the plagues that are written in this book; and if any man shall take away from the words of the book of this prophecy, God shall take away his part out of the Book of Life, and out of the Holy City, and from the things which are written in this book." With respect to our obligation to yield obedience to human laws, there is nothing that is more loose nor less capable of being defined (though I shall attempt it) and every case must of necessity depend on its own merits. Thus there is a law still standing in our Statute-Book—one of Elizabeth's—that every person shall attend his parish-church once on the Lord's-day, under a penalty of one shilling. The law has become obsolete, and deservedly so, but still it is a law, and who thinks of regarding it? The present chief magistrate of our borough allows that law to be broken every Lord's-day by six-sevenths of his family, and there are others who are very indignant at my acting in defiance of the law, who in themselves and their families

disregard this law altogether. Again, the law is imperative for enforcing the residence of the clergy, yet consider how the Bishop and one of his Rural Deans, resident in this town, have coquetted with the law until they have become the laughing-stock, the derision, and the scorn of the neighbourhood; the manna of righteousness which ought to have fed the people by the residence among them of their pastor, being sacrificed for the benefit of that pastor, to the mammon of unrighteousness. Again, were not the Bishop, yourself and others, as trustees for Humberstone's Charity, bound to carry out the trusts and intentions of the donor, and yet did you hesitate attempting to evade those intentions by a miserable subterfuge, which has recoiled on your own heads. Again, as to the Church's law. What says the 20th Article on the unworthiness of ministers? "Nevertheless it appertaineth to the discipline of the Church that enquiry be made of evil ministers, and that they be accused by those that have knowledge of their offences, and finally being found guilty, by just judgment be deposed." How many clergy are there in this Diocese who are known to the Bishop to be confirmed drunkards, or to be reputed guilty of adultery in its worst form, and who are yet allowed to minister in sacred things?

Again, as to God's Law. A family of young persons with whom my family was on terms of intimacy cannot now look on that side of the road on which my house stands, and yet not two months ago, on the Lord's day, the lover of one of them—himself in Holy Orders, or about to take them—perhaps after attending service in the morning, was driven by a brother of his fair one

through the streets of Louth, in mid-day, at a slashing pace, to take the afternoon-train: I believe he had to be in Oxford the next morning. This offence against God's law—the 4th Commandment—is venial, but an offence against man's law is not so. You know however, the wretched spiritual guardianship under which these poor deluded young women are unhappily placed; for though the gentleman alluded to be high in the Church, he is eaten up with the scrofula of Puseyism. Again, what did Luther? Was he wrong when he evinced his own opinion in the clearest manner by espousing a nun, and who not only, whilst professing himself a member, and being a priest of the Church of Rome, married, which he was forbidden by the law of his Church to do, and which was also against his own vow made on ordination; but he married a nun, who was equally forbidden by the same law to marry, holding that the doctrine of Rome on this subject had been prophetically condemned by St. Paul as a doctrine of devils; and is not our own Church liable to the like condemnation in prohibiting to marry where God has not thought it necessary to forbid it? But perhaps you will say that Luther's is one of your rare and exceptional cases; but surely if his be, mine is equally so, the error against which I combat only being a little less than, and not so general, as his. Recollect the saying, "Those who live in glass-houses should not throw stones." Has the Bishop told you the circumstances under which the obnoxious clause in the Marriage Act was smuggled into the Bill when in the House of Lords? If he has not, ask his Lordship for them, and you will not be surprised at my regarding lightly a law so obtained. The circum-

stances are known to me, but for the credit of the Church I think the less that is said about them the better; and I do not wish, if I can avoid it, to expose men high in the Church, and who are already subject to sufficient obloquy.

You then proceed: "Undoubtedly Divine Law is of higher obligation, and limits our duty to the laws of men. It was so in the cases to which you appeal, as in that of St. Peter: but your's is not a case at all parallel. He was divinely commissioned to act as he did, in defiance of the commands of the rulers, (granting that they were legal,) but if such resistance to established authority be sanctioned by the will of God, it can only be in rare and exceptional cases: your's is not one. It would be ludicrous to pretend any Divine command, either for marrying where the Law forbids, or in a manner which it does not recognise; and I think it preposterous to mention such an idea, were it not the very thing which is wanting to make your case parallel to that which you cite." Now in this very curious paragraph, you admit that which was the basis of my argument, that which in the same paragraph you are attempting to controvert, namely, that Divine Law is of higher obligation, and limits our duty to the laws of men: but then you say that my case is not parallel to the cases to which I had appealed, as in that of St. Peter. Now if you compare me to St. Peter, they are certainly not parallel; but if you make that a condition precedent to the application of the instance, and the rule deduced from the instance, you fritter away a very important portion of God's Word, that portion which asserts the supremacy of God's Law; for if your reading and assumption be

correct, none could avail themselves of it, but those who are divinely commissioned, and which none have been since the time of the Apostles. Your parenthesis "(granting that they were legal)" I am at a loss to understand, unless it be to throw dust in my eyes. Why, my dear Sir, the rulers had laid hands on the Apostles, and put them in hold until the next day, so that they clearly had power, and power in such a case, constitutes right or Law. You say, "it would be ludicrous to pretend any Divine command, either for marrying where the Law forbids, or in a manner which it does not recognize." Now, my dear Sir, only think of the folly to which you have here given utterance. What is the Divine Law? "So God made Man in his own image, in the image of God created he him; male and female created he them. And God blessed them, and God said unto them, Be fruitful and multiply, and replenish the earth, and subdue it." Here is a general direction; and when God, in more express terms, instituted Marriage, did He restrict this direction—this Law? He did not; but in Lev. xviii. he did restrict it by certain prohibitions, and by those prohibitions Man is bound. If human law can exceed those prohibitions in one case, it may in hundreds. Human legislators might say it would be wise and right to restrict the right to marry in first cousins, in those families in which there is insanity, gout, blindness, deafness, dumbness, scrofulous affections—to those who are not in a situation to maintain a wife; and, as our law has in vain attempted it, in the case of Minors. After a struggle against God's word and will for centuries, our Legislature was obliged, by the present

Marriage Act, to make good the marriages of minors, and to concede to the scruples of men that which is in fact God's appointment,—that Marriage is simply, and ought to be only, a civil contract. Obedience is due to human law where it does not exceed, nor limit, nor restrict, nor is repugnant to, nor subversive of, God's law, but no further. Compliance with human law in any of these cases, is sinning against God. Obedience is due to rulers only when they rule in accordance with God's law, and the laws of the country over which they are called to rule, and no further. I now fearlessly leave the question of parallelism to the judgment of unprejudiced men, and I doubt not that they will decide that my case is as strong as St. Peter's, and as Luther's. And I trust that you have sufficient candour to acknowledge that your idea was preposterous, that reasoning or argument such as that on which I have now commented, could prove or shew the utter futility of my arguments.

You then proceed: "The most you can pretend to is that such marriages are not expressly forbidden by Scripture, but it still remains a question, and it is a very difficult one to decide, whether there may not be sufficient reason for the Legislature to forbid them." I trust that I have already satisfied you that no reason can justify a Legislature in forbidding that which has not been forbidden by God, when God has already given such prohibitions in the case as He thought necessary for Man's guidance.

You then say: "You may plead personal hardship, but it must often happen that laws for the public good will bring hardship to individuals. You need scarcely

consider what would be the effect, if any person who feels himself aggrieved were to set the law at defiance, to be satisfied that it is the duty of individuals to submit, even though they suffer." To this doctrine I readily assent, where the legislation is not contrary to God's law and word and will.

You proceed: "You will observe that I omit all consideration of the question whether existing restrictions be religious or politic or not—this is a question for law-makers, and I take no account of the laws of the Church, which you regard so lightly—surely then, as a Lawyer, you will not consider it bigotry that I feel bound by the law of the land, unless I see something more against it than a case of personal hardship; unless it enact not merely what the word of God leaves undecided, but what it distinctly forbids." I have already shewn that the law, against which I am now contending, has exceeded God's law in forbidding that which God has not forbidden. And let me ask you, my dear Sir, which law of the Church I have regarded lightly, except this most unhappy one? Have I accused you of bigotry?

You go on: "And consider, Sir, for a moment, what would be the consequences to Society, if our sisters and daughters were allowed that license respecting the Marriage ceremony which you claim for yourself." I claim no license than that which God allows me, nor any greater license as to the mere ceremony than that which exists in Scotland, a country far before our own in morality, so far as the intercourse between the sexes is concerned.

You then say: "It often happens that persons who

regard themselves as united in heart, find obstacles of one kind or other to their union; and it is not uncommon for every one to think his own hardship the greatest." This is true; but the cases are not analagous. In the one case, the restraint is self-imposed; and is not this beautifully shewn in Matt. xix. 12, and 1 Cor. vii. In the other case, the restraint would be compulsory, if the law had, which thank God it has not, the power to enforce its own enactment.

You proceed:—"Would you, putting aside all personal considerations, excuse a sister or daughter or regard any one as married, who might please, for whatever reason, to dispense with those forms which the law regards as essential? Would it be possible, if such things were tolerated, to distinguish a marriage from any thing else? You must see that you demand more than it would ever be possible for any civilized, not to say Christian, society to allow." Now, my dear Sir, what is the case in Scotland? there, mere cohabitation as man and wife is sufficient evidence to constitute marriage, and that country is a Christian society. As I told you in my first letter, I have no objection to a religious ceremony; and, for civil purposes, I think a register desirable; but let not the ceremony nor the register impose restraints not sanctioned by God's law. If they do, I should not hesitate, as I have not hesitated, to act in defiance of them. We would have been married according to your form, but you would not marry us: the fault then is not ours. The case put by you is not analogous to mine, and would only tell where parties were living together, to whose union, in the usual form, no unjust restraint is opposed.

You proceed: "I cannot question your sincerity, or

doubt that you consider yourself married before God: but others would be less conscientious. And I am bound to act upon the same rule of conduct in your case that I should apply to others. I cannot say that Mr. A. is a conscientious man, and I shall therefore regard him as married; Mr. B. is dishonest, I shall therefore believe no such thing of him, while the circumstances of the two cases are the same." Here again arise those issues and that question, proposed in my last letter, and which you have virtually conceded in my favour, for neither you nor the Bishop have closed with me on them—Are these parties husband and wife in the sight of God? Are they so joined together by God in accordance with, and agreeably to His will? Are they living soberly and honestly in that state of life as instituted by God? Have they, in what they have done, sinned against God, His law, His word, or His will, as manifested in that word? As you cannot controvert these very simple issues, this very plain question, what is your duty as a minister of God, but to acknowledge us as such? You have nothing to do with the honesty or dishonesty of parties, of that God alone is the Judge. All that you have to do is to judge men by their actions.

You then proceed: "Let me then in all kindness of intention, advise you to abstain from attending the Lord's Supper, until this Marriage question has been again canvassed in the Houses of Parliament, as the result of their deliberations may relieve all of us concerned from a dire necessity, which must otherwise at present control us in this matter." With this paragraph I shall take that, the consideration of which I deferred in the early part of my note, and which is as follows: "I have submitted it," (the Scotch opinion which you had

obtained,) "as well as the declaration by which you say you contracted marriage, to the Bishop of Lincoln, and have explained to his Lordship what has passed between us relative thereto. I wish you could have witnessed the effect produced by the perusal on his mind, and could have heard the expressions of deep sorrow which escaped his lips, in feeling compelled to pass a similar judgment on your case." Having virtually conceded to me that we are husband and wife in the sight of and before God; that we have been so joined together by God, in accordance with and agreeably to His word; that we are living soberly and honestly in that state instituted by God; that we have not sinned in the sight of God; nor transgressed His law, His word, or His will; I cannot but express my surprize and indignation, at the unrighteous judgment to which the Bishop and you have come. By your own admissions, we have only transgressed man's law, whilst his Lordship permits men, who have transgressed God's law, to continue to minister in sacred things. Are your ways equal? Would you hesitate to administer the Sacrament of the Lord's Supper to the two young men to whom I have before referred, and who were guilty of transgressing God's law; and yet you deny it to us who have only transgressed human law. In what is our case different from that of the Bishop of Exeter? He openly set the law at defiance, and had not the law provided another remedy, Mr. Gorham would not now have been in possession of his living of Bamford Speke. So in our case, you refuse to marry us, and we have availed ourselves of the liberty accorded to us by God, the Supreme Lawgiver, and have married ourselves. You have taunted me with lightly regarding the law of the Church, and yet you

lightly regard the Sacrament of the Lord's Supper, "one of the Sacraments ordained by Christ our Lord in the Gospel," in asking us not to present ourselves at the Lord's Table for the next nine or ten months. If that Sacrament be of so little importance, so little value, why not throw it aside altogether? In my first letter, I told you I should be sorry to give you any personal annoyance, and in the same spirit I consent to accede to your suggestion, on condition that you will allow such a pause in the service, on the Sunday preceding the Sacrament, between the Creed and the exhortation to partake of the Lord's Supper, as will enable Mrs. Allison and myself decently and without hurry to leave the Church; and you will at once see the propriety of this request, when you consider that it would be a mockery of God to give the exhortation, when, as to two individuals at least, it was your intention to refuse their participation of it. If you will not accede to this request, we shall be compelled to present ourselves, and then on you will lay the sin, if you unjustly refuse us.

And now, my dear Sir, let me again assure you that I have no personal feeling against you or the Bishop, on the contrary, I entertain the highest respect for you both, though I cannot help thinking that you are acting on no Christian principle, but are acting in a manner unworthy of men, nay more, of Christian men, in so stoutly endeavouring to bolster up a wretched prejudice, especially at a time when, alas, too many are striving to revive the traditions of men, and to set them up above the word of God. Is there not too much reason to fear that God is permitting a judicial blindness to be spreading over this Church, this land, this people? Let me then once more beseech the Bishop and you to act

like men ; to follow the example of that truly noble man, the late Sir Robert Peel, and not be ashamed to own yourselves in the wrong, but set your shoulders to the wheel, to relieve our Church from this incubus of the Devil which is now pressing upon her.

You will perhaps think that I have spoken harshly of the Bishop, but I have spoken only what I have heard, and my first charge against him is in my mind confirmed, by his Lordship's very weak and inconclusive reply to my letter in 1848 ; and the determination expressed in the conclusion of it, to oppose the alteration of the law ; a determination, which could have arisen not from the result of reasoning on the case, but from the strongest prejudice. My second charge against his Lordship, is confirmed by an incident which occurred to myself. Shortly after his Lordship's translation to this Diocese, and when Sir Robert Peel was Home Secretary, I submitted to the Bishop a written scheme for the commutation of tithes, the taking of tithes in kind being then much complained of, as an intolerable hardship. My scheme was to have the rent-charge revisable every twenty-five years, and that would have been received by the owners and occupiers of land as an acceptable and a valuable boon, and one with which they would have been satisfied ; and the necessarily constant increase in the productive quality of the land, would then have met and counteracted the depreciation in the money-value of its produce which has taken place, and is likely to continue, whilst under the present state of things no increase can take place in the quantity of produce, which is the measure of the money payment, however much that payment may be depreciated. When presenting to his Lordship my scheme, I gave its

outline verbally. His Lordship said, "The Archbishop of Canterbury has obtained an Act for the commutation of tithes." I replied, "His Grace has, but it will prove a dead letter, it is impracticable." The Bishop then replied ; "The Archbishop has taken the matter in hand, I cannot therefore interfere." It will be well if the Church has not to regret his Lordship's deference to the Archbishop. Believe me to remain,

My dear Sir,

Yours very faithfully,

W. GRANT ALLISON.

The Rev. E. R. Mantell.

P. S. Since writing the above, I have noticed the following sentence reported in the *Times* of Saturday, the 16th inst., as part of an address delivered by the Archbishop of Canterbury to the Deputation from St. Andrew, Holborn, on the Papal Aggression. "The sure method by which we can oppose such aggression, and preserve ourselves free from such domination, is to diffuse, as widely as possible, those truths on which our Protestant Church is founded, resting as they do upon the pure word of God, without human addition or adulteration." Now it strikes me that this last expression strongly corroborates one of my arguments. God, in Lev. xviii. gave to man certain prohibitions restrictive of the general direction to marry given in Gen. i. 27, 28, and which prohibitions would have been inconsistent and impossible of observance when man was first placed on the earth. By these prohibitions, man is bound ; but the Church says a man shall not marry his deceased wife's sister, a prohibition which the Bishop of Lincoln admits is not one of the prohibitions

contained in Lev. xviii. The Bishop, attempting to support the rule of his Church, weakly adds "that the Church, acting as the guardian of the purity of Christian morals, has in this, as in other instances, restricted the liberty accorded to the Israelites on account of the hardness of their hearts." Is this no human addition to, or adulteration of, God's word? It is true it is not incorporated with, nor interpolated in, the word of God itself, the Bible; but when the Church imposes it as a rule of life on her people, is it not virtually adding a prohibition to those contained in Lev. xviii.? You say, in your letter, that human law may exceed that which is contained in the Scriptures. If it do, is it not a human addition to or adulteration of God's pure word. Are not the cases in Matt. v. 31, 32, and Matt. xv. 3—9 both inclusive, analogous, or as you express it, parallel. If there be any truth in the deductions of reason, I do not see how you can get away from this argument, nor how the Archbishop can refuse his sanction and support to the repeal of the present law, forbidding a man to marry his deceased wife's sister.

FROM THE VICAR TO MR. ALLISON.

Louth Vicarage, Nov. 22, 1850.

MY DEAR SIR,

Would it not be wiser, and more prudent for your own sake, not to provoke so public an attention to your case as that suggested in your Letter of yesterday? If, however, you still think otherwise, and desire it, I shall not refuse to pause during the service, in order that you may quietly quit the Church, although such a proceeding on your part would be a most unusual, if not an actually illegal one.

As to the other parts of your Letter, I consider your reflections upon our worthy Bishop so unjustifiable, and the other personalities so needless, as well as your arguments throughout so baseless and untenable, that I deem it unnecessary to reply in detail.

I am, my dear Sir,

Yours very faithfully,

E. R. MANTELL.

W. G. Allison, Esq.

Mr. Allison and the Louth National Schools.

VOTE OF THANKS TO MR. ALLISON ON HIS RESIGNING THE OFFICE OF TREASURER.

"At an adjourned Meeting of the Committee, held at the National School-Room, in Westgate, on Friday the 18th day of October, 1850:—

"It was (amongst other things) Resolved,

"That this Committee, deeply regretting that Mr. Allison should have resigned the office of Treasurer, which he has held for the long period of twenty-five years, to the great advantage of the Institution, and with the unqualified approval of all those connected with him in its management, beg to tender to him the expression of their sincere gratitude and esteem for his many and very valuable services."

FROM MR. ALLISON TO THE COMMITTEE.

Gentlemen:

YOUR Honorary Secretaries have kindly favoured me with a copy of a Resolution passed at your adjourned meeting held on the 18th Oct., expressive of the regret felt by you at my having resigned the office of Treasurer to the Institution, which I had held for the long period of twenty-five years, and which office I resigned on the 4th Oct. In begging to return you my thanks for the kindly expression of feeling towards me contained in the Resolution referred to, I shall avail myself of the opportunity of stating the grounds on which I felt myself compelled to resign that office, and which, in consequence of a communication which was then taking place between the Vicar and myself, I did not feel that I was at liberty to state on the occasion of my resigning the office.

You will readily imagine that it was with no small pain that I felt myself called upon to resign my connexion with an Institution to which I had been a subscriber, and of which I and my family had been steady and liberal supporters, from its formation in this town to that period; the first Sunday-school having been held in my Father's warehouse in Kidgate, and my Grandfather having preceded me in the office which I have resigned; and I need not remind you that, during the long period of a quarter of a century, during which I held the office, I did not allow the efficiency of the Institution to be impeded for want of funds when its income for a series of years was below its requirements, and that during that period my annual subscription was largely increased, until that increase was no longer required.

To you who are my fellow-townsmen it is unnecessary for me to do more than refer to a recent change in my domestic life, which I have thought it conducive to my own happiness and the welfare of my family to make, nor to the peculiar and delicate circumstances connected with that change. Suffice it to say, that that contemplated change compelled me to examine closely God's Word on the subject of Marriage, and our Church's views on the same subject; the result of which examination was, that I found our Church holding a rule or doctrine unsane-

tioned and unsupported by, and in fact in opposition to, God's Word; and that in her Book of Common Prayer, which she puts into the hands of her people, and in her Table of Kindred and Affinity, which she hangs up in her churches, she is propagating a direct and palpable lie, to support a rule or doctrine at variance with the Divine Word and Will. Our Church forbids the marriage of a widower with his deceased Wife's Sister—a prohibition not found in or sanctioned by God's Word; for in a letter addressed to me by the Bishop of Lincoln, and dated the 13th Nov., 1848, the Bishop says, "I admit that Marriage with a deceased Wife's Sister is not prohibited by the Levitical Law." And in the Table of Kindred and Affinity, parties so related are forbidden to marry, the Table being thus headed: "A Table of Kindred and Affinity, wherein whosoever are related are forbidden in *Scripture* and our Laws to marry together;" and which in the 17th Degree is on all hands, so far as *Scripture* is concerned, admitted not to be true.

As a consistent Christian, and as a sincere lover of truth, I feel that I cannot any longer, either passively or actively, do any thing which may forward the interests or extend the influence of a Church which must henceforth have, in my mind, inscribed on her forehead the odious appellation of "a liar, and the mother of lies." Should it please God that that foul blot may be effaced during the period of my continuance here, I should hail the event with satisfaction, and again be glad to give my feeble support towards wishing the Church "God speed."

With many thanks for your kind expressions of regret, and with still stronger feelings of regret on my part that our connexion should be thus dissolved,

I remain, Gentlemen,
Your obedient Servant,
W. GRANT ALLISON.

Louth, Nov. 2, 1850.

FROM MR. ALLISON TO THE SUBSCRIBERS.

Ladies and Gentlemen:

PERCEIVING by the Thirty-ninth Annual Report of the Committee, that the Committee have drawn the attention of the Subscribers to my resignation of the office of Treasurer to the Institution, I feel it due to you, whose confidence, with the confidence of the Committee, I have enjoyed for twenty-five years, to submit to you, as well as to the Committee, the reasons which compelled me most unwillingly to relinquish my connexion with an Institution with which I had been so long intimately associated. Those reasons are set forth in my letter to the Committee, printed above. I feel it due also to the fair fame and name which my family, for a period of now eighty years, have borne in this my native town, to take this step, in the confidence that ultimately it will be acknowledged that that fair fame and name have not been tarnished in me, the present head of the family, notwithstanding the obloquy which some self-righteous, prejudiced, and ignorant people have attempted to cast on me, (and which attempt I laugh to scorn with the contempt which such pitiful and unchristian conduct so richly merits,) for daring to assert the supremacy of God's law over man's law—a law originated in ignorance (or, as the 25th Article expresses it, a corrupt following of the Apostles)—confirmed in folly (it was confirmed by a canon of the early Church, which enacted another canon, that forbade the marriage of Bishops, Priests, and Deacons, and which canon, and, I contend, the other canon to which I have alluded, the 32nd Article has abrogated)—imported into our ecclesiastical or canon law (and which law is the curse and bane of our country, and is a disgrace to and a reflection on our times and the legislature and government of this great and enlightened empire in the middle of the nineteenth century), where for centuries it smouldered away an ephemeral and doubtful existence, the laughing-stock and scorn of our courts of common law, unrecognized by our statute law, and openly set at defiance by all who came in contact with it; a rickety bantling, though nursed into a strong prejudice by the false and lying teaching of the Church, yet uncared for by those who should have been its nursing-fathers, the Bishops of the Church, but who were in their generation wiser than the Bishops of our day, and who, knowing the weakness of their title, like wise men courted not an inspection of their title-deeds;—and which would have been finally stifled by the present Marriage Act, but for the mischievous interference of two or three Bishops, whom the insanity of Puseyism had tainted, and who had become lovers of wax-lights, lighted tapers, genuflexions, and such like mummeries, and had set up in their hearts the Book of Common Prayer, and the Rubric, above the Bible, God's Word;—and who smuggled into the Act the obnoxious clause, to bring the statute law into accordance with the ecclesiastical, as the BISHOP OF LINCOLN expresses it in his letter to me, referred to in my letter to the Committee;—and which must ere long (having been already condemned by the popular branch of the Legislature) be effaced from our statute-book, which it has disgraced. The blockheads! Did they think that the legislation for the British empire in the nineteenth century was to be directed in its course by the wretched mummeries of the early councils?—that the plain common sense of Englishmen, and that deep-rooted attachment to civil and religious liberty which is their distinguishing characteristic—their reverential love for the Word of God as their alone standard of truth, and their sole authority in matters of conscience, would not soon compel the misguided men to retrace their steps?

Begging to thank you for the confidence which for so long a period you placed in me,
I remain, Ladies and Gentlemen,
Your most obedient and faithful Servant,
W. GRANT ALLISON

LOUTH, Nov. 16, 1850.

A

SUMMARY

OF THE

CHIEF ARGUMENTS

For and Against Marriage

WITH A DECEASED WIFE'S SISTER.

NEW EDITION.

With Remarks upon an Article in the Quarterly Review.

LONDON:

HOULSTON AND STONEMAN, PATERNOSTER ROW,

1850.

SUMMARY

CHIEF ARGUMENTS

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WITH A DECEASED WIFE'S SISTER

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LONDON:

HOLLISTON AND STONEMAN, PATERNOSTER ROW.

LONDON: PRINTED BY WILLIAM CLOWES AND SONS, STAMFORD STREET.

PREFACE.

THAT great is the force of PREJUDICE, is a truth taught by experience of mankind and the history of the world. And in nothing has this truth been more strongly illustrated than in the resistance made to the various efforts to remove unjustified restrictions on holy matrimony.

Prejudice for centuries held fast by the prohibitions imposed on the marriage of the clergy and on the marriage of cousins. *Prejudice* in our day resists the attempt to remove the prohibition of marriage between a widower and the sister of his deceased wife. And in each of these cases the prejudice has been of the same character. The objections urged have been the same, viz., Scripture, The Church, and Social Expediency: and the course of action has been the same, viz., a repetition of oft-refuted statements, a reassertion of oft-exposed fallacies, a dogged resolution to ignore inconvenient facts, and to pass by damaging evidence, and to listen to no argument which might possibly correct the judgment or disturb the determination.

But with prejudice have mingled, in the present instance, *sectarian zealotry and party intolerance*. This is a painful charge to make; but it is compelled by the tone of the clerical leaders of the opposition, and by the acts of their blind and unscrupulous followers.

What but these misguiding influences could have led Dr. Pusey to accuse eleven hundred of his clerical brethren, who have petitioned in favour of Mr. Stuart Wortley's Bill, of "tampering with the word of God," of setting up "a plea for passion," and of "irreverent treating of the word of the Lord"? What but these could have prompted Mr. Keble to class those who differ from him on this subject with "thieves, smugglers,

and other evil doers," and "the predicted forerunner of Antichrist"? What but these could have bewitched men into giving and receiving an illegal and impracticable pledge to deny Holy Communion and Christian burial to all who shall contract the marriage, though it were sanctioned by the Legislature? Even charity, which "believeth all things," cannot believe that pure *love of truth* put forth an admitted human addition to the word of God, and the manifest corruption of a late Christian scribe, as "an integral part of the Septuagint," (Summary, p. 18:) or hat mere *zeal for the glory of God* falsified the documentary evidence it quoted; suppressing what it found, and inserting what it found not (p. 19.) What but a determination to make impression at the expense of veracity could mislead men into insisting that the marriage is contrary to the will of God, *because forbidden to the Jews*, with the evidence in their hands all the while that *it has been ever allowed to the Jews*, and held in especial favour by them, (p. 17, Dr. Adler's Evidence,) or contrary to the voice of England, when of the petitions presented to Parliament it appears that only 17,300 signatures are against the Bill, whereas 68,800 are in its favour? Could desire to *elicit truth* be the sole motive inducing bands of clergymen, by united influence, to compel booksellers to suppress the sale of works in favour of the marriage?

The cry against the marriage (out of Parliament) is, whatever may be pretended, the cry of a PARTY. And confederations of *party* men, falsely styling themselves *Church Unions*, take up the cry, and issue circulars,* and canvass parishes, and organize opposition. And fussy, self-sufficient young Hildebrands, who in ordination pledge themselves to be "modest and humble,"

* It appears that "The London Church Union" has sent out circulars to the incumbents of 271 parishes, inviting returns of the numbers of these marriages; the object being to show that they are few. The parishes have, doubtless, been *discreetly selected*. The reliance to be placed on the returns may be judged of from the fact, that the Rev. Mr. Tyler, rector of St. Giles, London, stated before the Marriage Commissioners, that he did not know "a single instance of such a marriage" in his populous parish. It now turns out that (besides others) *one of his own churchwardens contracted such a marriage in the year of his office!*

and to "set forth peace and quietness," rush forward, with grotesque impetuosity, in answer to the summons; and, on the authority of square-cut collars and cassock vests, presume to wield the Church's anathemas, to extort from unconvinced and unwilling parishioners petitions against the proposed relief to thousands of their fellow Christians.

But party arrogance and party fraud have equally failed in their object. This important question is not to be disposed of by *such*. Churchmen (both cleric and lay) are now on their guard; and they demand to know what can be fairly said on *both* sides. It may not be doubted that more dispassionate investigation and more ample discussion must overcome present prejudice, and frustrate future party machination. Let it be borne in mind that the prejudice against the marriage of clergymen and of cousins was more inveterate than is now felt against marriage with a deceased wife's sister. Long after the marriage of clergymen had been rendered legal by Act of Parliament, prejudice continued in all its intensity; and a second Act was needed to put down (as it states) "scandalous imputations" still resting upon the marriage of priests:—and declaring such marriage to be "most lawful by the word of God," it denounces as "evil disposed" all who should presume to "draw a blemish" upon the same.* In the instance of the marriage of cousins it required all the piety, learning, and eloquence of good Bishop Jeremy Taylor to lay prejudice at rest, and vindicate the marriage from reproach.†

Reason and investigation of the grounds on which marriage with a deceased wife's sister has been hitherto condemned, has already done much. The Bills of Lord Wharncliffe and of the Earl of Ellesmere, some few years since, excited but little sensation, and received but little support. Mr. Stuart Wortley's Bill last year obtained a *majority of thirty-four*; and this year its second reading has been carried by a *majority of fifty-two*.

Easter, 1850.

* Act 5 and 6 Ed VI., c. 12.

† Works, vol. xii. 321.

REMARKS ON THE QUARTERLY REVIEW.

THE former edition of the "SUMMARY" being exhausted, it is thought desirable to give to the public another and improved edition of a work which has the great advantage of being compiled subsequently to the issue of all the leading controversial writings on the subject;—with the exception of an article in *The Quarterly Review* of last July. A few remarks may be well devoted to that article;—not on account of any peculiar merit in itself (for, although superior to most in invective, it is inferior to most in argument), but that the public may understand the measure of knowledge and honest thought to suffice for an article addressed to intelligent and conscientious Christians, on a subject deeply affecting the happiness and the morals of thousands.

The Reviewer adopts most of the objections urged against the marriage by those who have preceded him. Such will be passed by here, since they have been met in the former edition of this work: it is only in the few additional objections he raises that he will be noticed in the following pages.

He opens with the cuckoo cry that divorce and desecration of the Lord's day are more rare in England than on the Continent. Who denies or doubts it? That divorce should be more common in lands where it is allowed "for every cause," than in England where it is permitted but for one, might be certainly anticipated. But what possible connexion has this with marriage with a deceased wife's sister? In America, where such unions are allowed and divorce discountenanced, the marriage bond is as much respected as with us: on the other hand, in Russia where the Greek Church predominates,—a Church vociferously lauded for prohibiting these unions,—infidelity to the marriage bed and desecration of the Lord's day are flagrantly common.

In dealing with the asserted condemnation of the marriage by Leviticus (cap. xviii), he is unable to *face* the two facts (1) that marriage with a brother's widow, prohibited generally in Leviticus is, in Deuteronomy (xxi) permitted, nay enjoined in certain events; (2) that marriage with a deceased wife's sister, said to be by "parity of reason" prohibited in the 16th verse of Leviticus, is in verse 18 unequivocally permitted. So he *eludes* them thus:—"The prohibition (Levit.) was part of the *universal*

law of mankind; the *permission* (Deut.) was part of the *municipal law of the Jews*! This is ingenious, but not ingenuous, nor reverent. THE BIBLE does not say as the Reviewer says, or in any way justify the profane suggestion that God, for the municipal convenience of the Jews, enjoined a marriage *universally* and *morally impure*. "God is not the Author of such confusion." Deuteronomy is simply a republication of Leviticus;—the one is not more particularly than the other addressed to the Jews. The injunctions of each are equally imperative: and no mortal can, without irreverence, say "these are of universal, those of municipal, obligation," when God has not so said.

The 18th verse of Leviticus,—that verse upon which the whole case mainly rests,—he *passes by altogether*. His reason is singular, and singularly unsatisfactory. He thinks it "*not justifiable*" to lay stress on this "famous verse," *because* there is no text on which philologists are more divided: but he refers the "curious in criticism" to Dr. Pusey's book, and Mr. Baddeley's speech in the Queen's Bench. He seems to think it "*not justifiable*" to state, or to remember, that there was *no* division as to this verse until party writers, to serve their purpose, made one; and that there is no division, and never was, among the best Oriental scholars. Moreover, there is a "criticism" infinitely more valuable than the *dictum* of a party leader of undoubted learning but of very questionable candour, or the professional speech of a respectable, but still professional, advocate,—namely, the *law and custom of the Jews*; who, on the very authority of this "famous verse," have ever held the union valid, and have encouraged it by peculiar advantages and stamped it with peculiar favour.

The Reviewer repeats the assertion of condemnation by "*The Early Church Universal*." The audacity of this assertion has no parallel, save in the celebrated NAPOLEONIC *lie*; which, sure to be ultimately exposed, yet produced temporary effect, and so *served a purpose*. The assertion is *altogether and absolutely untrue*; and the Reviewer *knows it to be so*. He is compelled to admit that there is *no evidence of condemnation during the first three centuries*;—a deficiency fatal to the validity of any supposed tradition of the Church. But he says that for the *last fifteen centuries* the voice of the Church has condemned them as contrary to the word of God. This is to begin where he ought to have ended. He chooses to commence just where the Church chooses to consider it must relinquish its reverence for tradition. He passes by Our Lord, His apostles, and the primitive Church, and quotes the Church of the "last fifteen centuries as condemning them." This, if true, would not help him. But it is *not* true;—the Church has *never* condemned them, as is shown in the former edition of

the SUMMARY (p. 19). They have been condemned by just the same sort of Church authority as, for many centuries, condemned the marriage of *cousins* and of the *clergy*,—that is to say, sections of the Church during the "last fifteen centuries," and ascetic and fanatical individuals.

The Reviewer is manifestly distrustful of his "*Catholic Church*" (as well he may be), and so he lays hold on the *Greek* and *Romish* Churches, as make-weight. To the former he is heartily welcome. A Church which dares to plead *Holy Writ* for her condemnation of the marriage, not only of cousins and of two brothers with two sisters, but also with a deceased wife's cousin up to the 7th degree, with god-children and with adopted children, or their relatives, to the same degree, can have but little influence with English churchmen. The Romish Church prohibits marriage with the wife's sister on ecclesiastical, not on scriptural, grounds. This is distinctly and unequivocally stated by Bishop Wiseman, in his evidence before the Marriage Commissioners (p. 104). And so her prohibition has no bearing on the present question.

But he claims also the *Scotch* Church. Does he wilfully forget that that Church no less condemns *Episcopacy*? Is he prepared, on her authority, to unmitre our Bishops, and disown the great facts of the Church Universal? He rejects the testimony in favour of the marriage offered by the American *Episcopal* Church, with whom we *are* in sisterly communion, and eagerly clutches at that of the Scotch *Presbyterian* Church against it, with which we are *not* in communion.

But he claims also the *Church of England*. She speaks (he says) in the Table of Degrees, and in the Canons. A history of this "Table" will show its claim to represent the voice of the Church. Henry VIII. married Catherine, widow of his brother Arthur. In time the charms of Catherine faded, and Anne Boleyn appeared at Court. Her beauty inflamed the king; but her ambition resisted his criminal advances. Her resistance acted as a "*table of degrees*," and convinced his "conscience" that his marriage with Catherine was criminal;—that he must repudiate it, and get rid of her. His lust subdued, however, by a dangerous sickness, his "conscience" took a different view; and he recalled Catherine to his affections, repented his evil thought of putting her away, and remitted Boleyn to her family. He recovered. With convalescence returned the beautiful Boleyn and Henry's "religious" scruples. But he was in a dilemma; for Boleyn demanded a crown as the price of her favours, and the Pope refused to annul Catherine's marriage. In happy moment arose Cranmer to help the virtuous King:—

Cranmer, the compliant go-between Henry and Boleyn; who, *winking at bigamy*, sanctioned and bare part in their clandestine marriage, Catherine being yet alive and undivorced;—Cranmer, who, having written a letter to Osiander to prove that second marriage *after* legal divorce was contrary to Scripture,* thought it consistent with Scripture to sanction a second marriage *before* divorce. The admirers of Cranmer should, in prudence, say as little as possible of his conduct in reference to Henry's marriages, in which the insincerity and subserviency of the Archbishop were greater than the most charitable heart can excuse, even when viewed as a sacrifice to the stern will of Henry. As has been well observed, it is not possible to believe but that if Boleyn had been the sister of Henry's deceased wife, instead of the supplanter of his brother's widow, we should have found a very different arrangement in the table of degrees.

And now, the Pope standing firm, the device was hit upon of getting the Universities to sanction the annulment of Catherine's marriage. Bishop Jeremy Taylor thus speaks of that device:—"This question (that is, whether the Levitical laws of marriage bind Christians,) was strangely tossed up and down upon the occasion of Henry's divorce from Catherine; and, according as the interest of princes uses to do, it much employed and divided the pens of learned men; who, upon that occasion, gave too great testimony with how great weakness men that *have a bias* do determine questions, and with how great force a King that is rich and powerful *can make his own determinations*. For though Christendom was *then* much divided, yet *before then there was almost a general consent* upon this proposition, that *the Levitical degrees do not, by any law of God, bind Christians to their observation.*"†

Henry did indeed "*make his own determinations*" with the Universities. At Oxford the Masters of Arts were threatened: but standing firm, they were expelled and punished. At Cambridge the recusants were bullied without effect; but at last were persuaded to leave the house without voting.‡ The foreign Universities were bought over by bribes. This is expressly stated by Cavendish,§ and expressly alleged by the English Parliament, (1 Mary, Sess. 2, c. 1.) Intimidation and bribes prevailed; these religious reasonings were irresistible, and Henry obtained the decision he demanded. Thus armed, Cranmer pronounced Catherine's marriage void; and an Act of Parliament was obtained declaring it contrary to God's law.

* Coll. Eccles. History, iv., 156.

† Vol. xii. 307.

‡ Coll. iv. 150.

§ Cavend. Mem., p. 99.

Henry died, and (after the brief reign of Edward VI.) Mary, daughter of Catherine, ascended the throne; and then Parliament enacted the marriage of Catherine to have been "agreeable to God's law;"—thus declaring Henry a bigamist, and Elizabeth (the daughter of Boleyn) illegitimate. Nevertheless, on the death of Mary, Elizabeth was called to the throne; and her legitimacy was not further assailed by the people. But that astute Princess was fully sensible of the awkwardness of her position. She appointed Parker, *who had been the favourite and chaplain of Boleyn*,* Archbishop of Canterbury; and Parker, to support Elizabeth's legitimacy and title, promulgated a table of degrees, declaring unlawful (among others) marriage with a brother's widow, or with a deceased wife's sister.

Such is the history of the "Table." It was an injunction of the then Archbishop of Canterbury, issued by his sole authority; having force only within his own province, and on such only within that province as should choose to observe it.

But, says the Reviewer, the Canons passed by Convocation in 1603 adopted that table. To this the reply is short and conclusive:—those Canons have, *proprio rigore*, no force, and therefore can give none to the table.

In the first edition of the "SUMMARY" it is shown (p. 21), that the Canons of 1603 have no valid authority, never having received the sanction of Parliament. The Reviewer cannot be ignorant of this well-known law of our constitution. But he tries to evade it by a truism involving at once the *suppressio veri* and the *suggestio falsi*. He says, "If the authority of Convocation was sufficient to establish the Thirty-nine Articles, it was sufficient to establish the Canons." But the authority of Convocation was *not* "sufficient to establish the Articles." Convocation proposed them, and *Parliament* "*established*" them: and without this sanction by Parliament, the Articles would be, like the Canons, without validity.

The Reviewer, sensible of the reproach justly attaching to those clergymen who, clamouring for the enforcement of one Canon (No. 99), yet habitually disregard the remaining 140, strives to exculpate them by the following piece of burlesque:—"The clergy sometimes wear white stockings, though the Canon (74) forbids them. But then this Canon does not allege Scripture for the prohibition: whereas the Canon forbidding the marriage expressly alleges Scripture." The logic of this is refined, but

* Strickland's Lives of Queens of England, iv. 196, 243

not convincing. "Canons which *allege Scripture* must be obeyed: Canons which do *not*, may be disobeyed." Canons, one should think, having intrinsic authority are to be obeyed, whether they *allege Scripture*, or not. Canons having no validity in themselves are not to be obeyed, merely *because* they *allege Scripture*. If the mere *allegation* of Scripture could stamp a Canon with the *authority* of Scripture, and so protect it from interference, how can these sticklers for the sacredness of Canons justify the *Reformation*? The errors of Rome were confirmed by the most solemn acts of the Church, and vindicated by the most abundant *allegation* of Scripture authority. The question is, not whether the Canon *alleges Scripture*, but *whether it alleges it truly*. The whole subject in debate turns upon that point: and *had* the Canon forbidding white stockings *alleged* scriptural prohibition, the *allegation* would have added nothing to the obligation on the clergy to wear black.

If Canons could be law without the concurrence of Parliament, Convocation would be, to a great extent, an independent and dominant Legislature even in civil matters; since many of the Canons bear directly on the civil and personal rights of the subject. It is needless to say that such a Legislature is altogether unknown in the Church of Christ, or in the Constitution of England. It is little to the purpose that Parliament is no longer, nor necessarily, Christian. That is, doubtless, a good reason for watching its proceedings with great jealousy; and may be a reason for remodelling the connexion between Church and State. But so long as that connexion continues, so long the power in the Legislature to entertain the present question must remain. To talk of referring it to Convocation, as the only competent tribunal, is a mere trick to shelve the question. *Suppose* it so referred. Convocation must either confirm the Canon, or alter it. But in either case, their act must be submitted to *Parliament*—that element in our Constitution which can, alone, stamp it with authority, and without whose impress it could have no binding force. *From Convocation laymen are excluded*. To claim for the clerical section of the Church power to legislate for the lay section, without their being represented or heard, would be to make Convocation *absolute*; and to deny to the laity a voice in the Church of which they are an integral portion no less than the clergy.

But the Reviewer tells us that "the expounders of the mind of the Church" (that is, the Judge of the Arches Court) from their judgment-seat have proclaimed the same doctrine as the Canon, namely, that the marriage is prohibited by the law of God. One can but reply, that in so proclaiming, the Judge

the Arches Court indulged himself in a license which does not belong to him. That person is the expounder of the *law of the Church*;—NOT OF THE WORD OF GOD. So long as he confines himself to expounding the law of the Church, we accept his exposition, until overset by superior authority. But when, leaving his own office, he takes on himself to expound the *word and will of God*, we may be pardoned if we scorn his exposition, and declare our opinion that Sir J. Fust is not exactly the person to "ventilate" such a question. The point at issue is not what the Canon *alleges*; but whether what it alleges is IN CONFORMITY WITH SCRIPTURE:—a question not to be determined (as the Reviewer thinks it should be) by the opinion of Dr. Pusey, the argument of a feed counsel, or the unauthorized, and unauthoritative, interpretation of Sir H. J. Fust.

To the arguments of others on the point of *Social Inexpediency*, the Reviewer adds nothing;—except giving with amusing gravity the declaration of some very sensitive "married lady," that, unless the marriage were prohibited, she should be so jealous of her sisters that she would not have them in her house, "particularly at the periods of her confinement." It is not easy to understand why the sisters should be objects of especial jealousy during "the periods of her confinement," or why they should be objects of jealousy at all more than cousins, nurses, or strangers, who, in case of her "happy release," might equally supply her place. To complete the absurdity, it appears that this over cautious lady *did* "receive her sisters to live in her house, as they grew up, until they married in succession:" and this must have been before the passing of the Act Wm. IV. (since it appears she is of a mature age) when practically there was no restriction, and these marriages were as frequent as they probably would be were they rendered legal by Mr. Stuart Wortley's Bill. And on such miserable puerilities as these, would the Reviewer enforce the continuance of a prohibition having no support from Scripture, fruitful in deadly sin, and fatal to the happiness of thousands of his fellow countrymen.

The *general* question of Social Inexpediency is discussed in the Summary (pp. 24, 25). Social inexpediency is the plea of PREJUDICE; a last refuge to those who, beaten in the appeal to Scripture and reason, are yet unwilling, or ashamed, to acknowledge their defeat and relinquish a long-cherished error. To all who would retain the present law let the words of Lord Montague* act as a solemn caution. "In a law three things ought to be considered. (1) Whether it is *necessary*. (2) Whether it is *just*. (3) Whether it is likely to prove *operative*."

* Coll. Eccles. Hist. vi. 350.

There can be no *necessity* for this law which restricts a natural right, since God has not restricted it. There can be no *justice* in a law which, at the bidding of those who do not wish to avail themselves of this natural right, restrains those who *do*. There cannot but be *difficulty and danger to religion and morals in carrying it into execution*. Repugnant to the feelings of the people, it will be defied by the rebellious, and sullenly submitted to by the conscientious. A law which clashes with reason and bears unduly on liberty, will either provoke to opposition or render justly discontented:—an alternative no wise Government will lightly adopt. The prohibition of these marriages is assuredly “not read in the word of God, nor may it be reasonably concluded therefrom.” Hence the prohibition by man is rash, profane, and inexcusable. It is a maxim which allows no contradiction, that no man has a right to impose restrictions on his brother in any matter wherein God has left him free, unless the social necessity be peremptory and unquestionable—a necessity which in the present case no man will affirm who is not resolved to listen to no argument that shall not support his own notions and wishes. The testimony of *all* nations by whom these unions have been sanctioned, from the Jews downwards, is emphatically in their favour. And therefore it would seem the duty of Parliament to repeal the Act of Wm. IV. People will then contract these marriages, or not, as their feelings and consciences may suggest; and *public opinion* will speedily determine their position in society:—as it did in the instances of the long-condemned marriage of cousins and of the clergy.

Easter, 1850.

FIRST EDITION, (1849.)

THE question of marriage with a deceased wife's sister has now been fully argued on both sides. The following brief summary of the more prominent arguments may be acceptable.

The sources from which it has been mainly compiled are given below*.

The objections urged are:—i. Prohibition by Scripture; ii. Condemnation by the Early Church; iii. The Canons of the English Church; iv. Social Inexpediency.

i. The Scriptural authority put forth for the prohibition is the 18th chapter of Leviticus. It is said that the intercourse there prohibited is spoken of as abomination in the Canaanites, who were not under the Law, and *therefore* is naturally impure, morally wrong.—(Keble, *Profane Dealing*, page 10.)

This inference is *directly negatived by fact*. (See Jeremy Taylor—Works, vol. xii., pp. 305, 316, 320, 324, 330.)

Some of the connexions prohibited in Leviticus are clearly *not* naturally impure, morally wrong. One is a mere legal defilement, constituted such by Leviticus itself (ver. 19). Another, a marriage, by Leviticus first prohibited, had been contracted by faithful Abraham without reproach. Another is a marriage forbidden under certain circumstances, and in different circumstances commanded (Deut. xxv. 5). Moreover, marriage with a *deceased wife's sister* is not prohibited at all in Leviticus.

It certainly is not forbidden in express terms; but by implication it is, since marriage with “near of kin” is there expressly forbidden.—(Pusey, *Evidence*, p. 37, No. 456.)

Marriage with “near of kin” is undoubtedly forbidden: but a wife's sister is *not* “near of kin,” is not of *any* “kin,”

* *In favour of Prohibition*: Dr. Pusey's letter to the British Magazine, Nov. 1840; republished by Parker, Strand.

Against Profane Dealing with Holy Matrimony, by the Rev. J. KEBLE. Parker, Strand. Price 6d.

Against Prohibition: ΣΥΓΓΕΝΕΙΑ, a Dispassionate Appeal to the Judgment of the Clergy of the Church of England. Cox, 12, King William Street, Strand.

An Examination of the Rev. J. Keble's Tract against Profane Dealing with Holy Matrimony, by an ENGLISH CHURCHMAN. Houlston and Stoneman, 65, Paternoster Row. Price 6d.

Marriage with a Deceased Wife's Sister not forbidden by the Law of Nature, not deprecated by Expediency, not prohibited by Scripture. By the Rev. J. F. DENHAM. Simpkin and Marshall.

And on *both* sides—The Evidence taken before the Marriage Commissioners.

to the *husband*. Whom God includes in "near of kin" is plainly shown in Lev. xxi. 2 (Jer. Taylor, vol. xii. p. 325). All beyond that is human suggestion. For ages disregard of this distinction condemned marriage of COUSINS as "incestuous and adulterous."—(Συγγένεια, Pref. xii. and p. 24.)

But in marriage "two are made *one flesh*;" and the wife's sister thereby becomes the husband's, as much as his sister-in-blood. To doubt this is irreverence.—(Pusey.)

The most reverent divines of our Church do not so read the words. Patrick, Bull, and the other commentators, all agree that the words are intended to express the extreme intimacy of a new relation, exceeding that of father and mother;—*and nothing more*. St. Paul certainly did not understand the words to bear Dr. Pusey's sense, when he says, "Know ye not that he that is joined to a harlot is one body; for Scripture says, the two shall be one flesh" (1 Cor. vi. 16). He did not mean that the man becomes literally the harlot's body.

This doctrine, if now affirmed, must again place under ban the marriage of *cousins*, and of *two brothers with two sisters*; and, carried on to its inevitable results, must lead to the sacramental character of marriage held by the Romish and Greek Churches, to all the absurd prohibitions still maintained in the Greek Church, (*Examination* of Rev. J. Keble's tract, pp. 9, 18;) and to the fearful consequences pointed out in Συγγένεια, (p. 10.)

The 16th verse forbids a man to marry his deceased brother's widow; and, by "parity of reason," it forbids him to marry his deceased wife's sister—the marriages are, both, incestuous.—(Pusey, Evidence, p. 38. No. 434.)

The prohibition in ver. 16 is certainly not grounded on anything *incestuous* in the marriage; for in Deut. xxv. 5, it is *commanded* if the brother died childless; and is so commanded for a reason involving no absolute necessity; for if the brother refused (as he might), the next kinsman was to supply his place. God cannot be imagined to command a marriage "incestuous," "naturally impure," "morally wrong:"—this would be to make Him the Author of evil, not of "ALL GOOD." In the case of the seven brethren marrying, successively, the same woman, our Lord intimated no objection whatever to the marriage.

It is worthy of notice how inconsistent are the objections and the objectors on this portion of the subject. Natural impurity and positive prohibition; nearness of kin and oneness of flesh; implication and parity of reason; some urged by some, other by others, and all by some. (Συγγένεια,

p. 18.) And they are all disposed of by ver. 18, where is a *clear permission* to marry her sister *after the wife's death*; the prohibition being, in direct and unambiguous terms, limited to the wife's life.

Sophistry has done its utmost to elude this last conclusive argument. Thus:—

"The marginal reading, 'one woman' to another, is to be preferred." "The verse is wrongly translated."

The marginal reading is *not* to be "preferred," or accepted, by us. It is *not a different authorized translation*; it is a *variation* made by the Karaites—a small sect amongst the Jews, who rejected polygamy, and falsified the passage to favour their opinions. If their variation were adopted, it would amount to a prohibition of polygamy. But polygamy was then, and for ages after, allowed.

The verse is *not* "wrongly translated." It is the translation given us by our Church; its accuracy is admitted by the best scholars; and it accords with the Septuagint, Chaldee, Syriac, Arabic, Vulgate, and every other version.—(*Examination* of Keble, p. 10.)

Mr. Keble and others admit the correctness of the translation; but they insist that its meaning cannot be merely that a man may not marry two sisters at *the same time*, because the reason in Leviticus assigned for such a prohibition, viz., the danger of vexation from jealousy,* is insufficient; for two sisters would be less jealous than two other women.—(Keble, p. 17.)

When we remember that it is the HOLY SPIRIT Himself who says it would provoke to jealousy, and assigns this as the reason for the prohibition, to allege that it is an *insufficient* reason surely warns us how cautious we should be lest we fall into "profane dealing" with other things besides "holy matrimony."

The surest comment on the meaning of the verse is the sense in which it was received by the people to whom it was first delivered. The Jews, whose customs are immutable, always have held, and do at this day hold, marriage with a wife's sister after the wife's death lawful and commendable. They even made especial provisions to promote it, in the event of there being living children by the first marriage.—(See Evidence of Dr. Adler, Chief Rabbi of the Jews, Report of Commissioners, p. 152, iii.)

All the attempts made to evade this decisive testimony—which disposes for ever of "analogy," "implication," and "parity of reasoning,"—are so poor and trifling as to require no notice.

* The word rendered "to vex," is literally "to provoke to jealousy."

Dr. Pusey's learning and research obliged him to admit before the Marriage Commissioners that the prevailing construction and practice of the ancient Jewish Church were to allow these marriages (*Evidence*, p. 39. No. 443). Subsequently to this (in a letter published in "The Guardian") he strives to raise a contrary inference. He says, "In the Septuagint translation there are the words (Deut. xxvii. 23), 'Cursed is he that lieth with the sister of his wife.'" He acknowledges that this is *an addition to the sacred text*; yet he thinks right to accept it as "*an integral part of the Septuagint*;" and so, an indication how the Alexandrian Jews understood the prohibition earlier than the Talmudic authorities.

This effort to escape the fatal fact of the marriage having been ever allowed and favoured by the Jews has been, by ignorant partisans, bolstered up by an attempt to exalt the authority of the Septuagint above the Hebrew original (*ex. grâ.*)—

"It was the version quoted by our Lord and by the apostles in preference to the Hebrew."

The words are admitted to be a *human "addition" to the words of God.*

Supposing them, then, an "integral part of the Septuagint," they would prove *only* that the Alexandrian Jews differed from the rest of the Jewish nation, and corrupted God's word to favour their own views.—(*Examination of Keble*, p. 28.)

But the words are *no part of the Septuagint at all.* The earliest MSS. of the Septuagint are five hundred years after Christ. The majority of these MSS., including the oldest and best, have not these words: they are the interpolation of some late Christian copyist.

Supposing our Lord and the apostles to have quoted the Septuagint in preference to the Hebrew, this would not show that they sanctioned this *human "addition*;" even did it exist in their days, *which it did not.*

But *our Lord did not quote the Septuagint.* And one should have thought that ignorance itself could hardly have accepted so palpable a falsehood, so preposterous a fiction. Our Lord confined his ministry to the people of Palestine; and would not quote to them a tongue they did not know. The apostles, though necessarily quoting the Greek version in writing to Greeks, were so far from preferring the Septuagint to the Hebrew, that they deliberately rejected it where the two differed, and gave a new translation of their own conformable to the Hebrew text.

It is instructive, but also mournful, to notice how, to

serve a purpose, the spurious corruption of a Christian scribe can be raised to an authority above the word of God itself. First, it is declared to be, *in spite of the clearest evidence to the contrary*, an integral part of the Septuagint: next, it is boldly asserted that our Lord always quoted the Septuagint; then, that the apostles quoted it in preference to the Hebrew;—*the truth being exactly the reverse*: and so, finally, that which is by all *allowed* to be a mere *human addition* is magnified into authority superior to the text given us by the sacred writer himself.

It must be thought that a cause which needs, or admits of, *such* support can but little recommend itself to the good sense and piety of true-hearted members of Christ's holy religion.

ii. These marriages have been "*always*" "*from the first*" condemned by The Church (*Pusey*, *Evidence*, p. 39. No. 443). In the Apostolic Canons it is decreed, that "he who hath married two sisters or his niece (before he was converted) cannot be a bishop or a clergyman; the same evil mark which in the same Canons is set upon bigamy and other discreditable marriages."—(*Keble*, p. 22.)

The so-called Apostolic Canons *do not date earlier than the beginning of the fourth century.* This at once disposes of the asserted *Catholicity* of the condemnation.—(*Examination of Keble*, p. 13). The Canons in question do *not* say "before conversion,"—*which is inserted by Mr. Keble*,—they say "after baptism:" "Bigamy" is *not mentioned at all*: and the marriages with which marriage with a wife's sister is coupled in this prohibition of Orders are those with *a widow, an actress, a slave, and second marriages*;—marriages *not* "discreditable" in a religious sense. *This Mr. Keble omits.*—(*Examination of Keble*, p. 14). By one Canon, marriage after ordination is forbidden altogether.

The Councils of Eliberis and Neo-Cæsarea condemned them.—(*Pusey*; and *Keble*, p. 23.)

These were two petty provincial Synods of a few bishops in Spain and Pontus;—of no authority whatever. The earliest dated only A.D. 315. The former forbade the marriage under a penalty of five years' penance; the latter excommunicated a woman marrying two brothers in succession till death or sickness.—(*Denham*, p. 67:—*Examination of Keble*, p. 15.)

The General Council of Chalcedon, A.D. 451, which is received by our Church, pronounces it fit that the Canons of the holy Fathers made in every Synod to this present time be in full

force; "thus adopting, among others, the censures which had been previously enacted against marrying two sisters."—(Keble, p. 25.)

Mr. Keble cannot be ignorant that Chalcedon did *not* "adopt the censures which had been previously by Eliberis enacted against marrying two sisters," or any other canon of *Eliberis*. The "Synods" alluded to are the previous GENERAL COUNCILS (*by none of which had these marriages been condemned*), AND NO OTHERS. Our Church has never received either the Canons of Eliberis, or the Canons of Neo-Cæsarea.

St. Basil emphatically condemned these marriages in a letter to Diodorus, afterwards Bishop of Tarsus.—(Pusey; also Keble, p. 23.)

St. Basil is of still later date, and the one solitary Father cited against them. From his letter it, at all events, appears that such marriages were not then unknown in Christendom; and that another Bishop, Diodorus, a man of high esteem, thought them unobjectionable. And surely the opinion of St. Basil is of little value on a question of "Holy Matrimony" who held *all matrimony "unholy."*—(Examination of Keble, p. 18.)

On this head, three things are worthy of especial notice:—(1.) The loudness and confidence of the assertion of early Church condemnation of these marriages compared with the utter worthlessness of the proof produced—nothing earlier than a Canon of the *fourth* century, two obscure provincial Councils, and one Father; and of them the last alone condemning them absolutely. (2.) The spirit which animated these early prohibitions, viz., that of regarding marriage as an inferior state, was not a Catholic but an heretical spirit. It did not originate with the orthodox Christians; but was borrowed from the Gnostics and the Montanists, and took root in the Church a short time before the date of the Apostolic Canons. In some provinces the people would not receive the Sacraments from the hands of *married* priests. (3.) The condemnation of marriage with *cousins* is supported by testimony more ample and more Catholic than that of marriage with sisters-in-law.—(Συγγένεια, Pref. xii. also p. 24.)*

iii. The marriage is prohibited by the 99th of the Canons of the *Church of England* (1603); and it cannot be altered save by the authority of the same Church in Convocation.

If the question is made to rest upon the *Canons of our*

* See also Evidence, p. 41, and Bingham, book xvi, cap. xi. s. 4.

Church, the argument from *Scripture* must be presumed to be abandoned. And then the simple question is, Have the Canons of 1603 such inherent force that the supreme authority of Parliament cannot constitutionally control it?

Now it is very certain that Convocation cannot, without the concurrence of Parliament, make Canons which shall have any binding power upon the *laity*. This is laid down as constitutional law by Lord Hardwicke, in *Middleton v. Crofts*, 2 Atkyns' Reports. He particularly observes, that Convocation "cannot make Canons to limit the degrees of consanguinity within which marriage may be contracted;" and he is speaking expressly of the Canons of 1603.

Those Canons *never had the consent of Parliament*, do not affect the *laity*, and clearly may, as regards *them*, be dealt with by Parliament.

If the Church could of her own act make Canons to bind the *laity*, and Parliament could not interfere, a large part of legislation would be brought within her *exclusive* power; without the concurrence, or the consent, of the *laity*.

But in Canon 99 our Church has given *her interpretation of Scripture* on the point—which Churchmen are bound to accept.

No national or provincial Church has authority to give a *binding interpretation of Scripture*:—else would she be a judge, not a "witness and keeper of Holy Writ." (Art. xx.) A Canon of a provincial body gives, at most, the individual opinion of the parties to it. Such an opinion may sometimes be entitled to great respect: but it may be rejected, or departed from, by their successors; or by any other competent authority.

Our Articles declare that particular Churches (as Rome and Jerusalem) have erred. She claims no infallibility for herself. If anything requires to be amended, it were doubtless better that she should herself, in Convocation, assist in amending it: but if that is impracticable, there is reason to be glad and thankful that an authority exists elsewhere to correct what is amiss.

But Parliament cannot free the *clergy* from their obedience to the Canons.

It is very certain that Parliament *has repeatedly* so freed the clergy, and exercised the right of altering the Canons: and this right has been acknowledged, and is so at this day, by the clergy, who disobey the Canons in many things *by virtue of Acts of Parliament*.—(Συγγένεια, p. 28.)

Cardwell, in his "Synodalia" (Preface, p. xxi.) justly lays it down, as the result of our legislation by and for the

Church, that "Parliament possesses an exclusive jurisdiction in most matters, and a decided superiority in all." Thus, it may alter or nullify any of the Canons; and has repeatedly enacted things contrary to them. And such has been the rule in the Church ever since States were Christian.* Laymen may be bound in conscience, and the clergy may be bound in conscience and perhaps also by ecclesiastical obedience, to respect the Canons *so long as they are unaltered by an authority acknowledged to have jurisdiction.* When repealed or contravened by the Legislature, they no longer demand, or admit of, the obedience of Churchmen, whether lay or cleric.†

But the Clergy *have subscribed to the Canons, and have sworn to obey them.*

This has been asserted with much perverse iteration by those who know, or ought to know, better. All that is required from a clergyman, is this—before Ordination he subscribes the *three Articles* in the 36th Canon.

These *Articles* are—

1. That the Queen is supreme in this realm.
2. That the Book of Common Prayer is not contrary to the word of God, and may be lawfully used, &c.
3. That the subscriber allows the Book of Articles, &c.

At the time of Ordination he *swears* allegiance to the Sovereign, and abjures interference by foreign potentates.

THIS IS ALL: the Clergy do *not* subscribe to the *Canons*, do *not* swear, vow, promise, or pledge themselves to observe them. That the Canons are tacitly accepted by the Clergy, as a guide and rule of conduct, is true; but this acceptance can only be required, or justified, so long as they remain unrepealed or altered by competent power.

And even, of such of the 141 Canons as have not been repealed or altered, how many are now observed?—SCARCELY ONE.

Suddenly, to make a case of tender conscience of this one Canon, whilst they have no scruple about others having equal obligation, would place the clergy in a most unfavorable light.—(*Examination* of Keble, p. 25.) This very Canon 99 was nullified by Parliament, when (in 1835) with the concurrence of the Bishops, it made these same marriages at that time contracted valid, the *Canon declaring them invalid.*

* Palmer's *Antiquities of English Church*, vol. ii., p. 3. Also Jer. Taylor's *Works*, vol. xiii., p. 494.

† See Sharp on *Rubric*, p. 83.

It is worthy of remark that these marriages are not now *invalid* by virtue of this, or any other CANON. The ground on which they have been declared invalid is that in the preamble of a *Statute* (28 Hen. VIII.), yet unrepealed, they are said to be contrary to Scripture. But for this, they would *at this moment* be valid and good, the Canon not being recognized by the Courts of Law as of any force.

The Table of Degrees made by Archbishop Parker, and approved by Convocation in 1603, is printed in the *Prayer Book*—to which the clergy solemnly declare their assent and consent.

The Table of Degrees made by Parker, Archbishop of Elizabeth (*whose title depended on such a marriage being declared invalid*), of his own authority, and ordered to be put up in churches, *never was made part of the Prayer Book; it is not now part of the Prayer Book.* It is not in the "sealed" copy, the sole authoritative standard.—(*Συγγένεια*, Preface, p. xvi., note, and p. 32, note.) In Prayer Books in which it may be found, it is there by *just the same right* that hymns and private devotional matter are there,—namely, *the printer's humour.* Neither the Table of Degrees nor the printer's unauthorized hymns are any part of the Book of Common Prayer to which the clergy subscribe.

But suppose Parliament to make unscriptural requirements from the clergy, are they bound to obey it rather than the Church?

It were easy to retort, suppose the Church to make unscriptural Canons (*ex. grâ.*—against second marriages, marriage with cousins or widows) are the laity or the clergy bound to observe them?

But it is more decorous, and more just, to suppose that neither would make a clearly unscriptural requirement. In a doubtful case, where an Act of Parliament and a Canon are at variance, doubtless we are to follow the civil law; because that power is supreme and imperial.

Jeremy Taylor well says, "If the civil power and the spiritual differ, the spiritual must yield so long, and forbear to do what is forbidden by their lawful supreme, *until it be certain* that to forbear longer is to neglect their duty, and to displease God."*

Such extreme cases may, but do very rarely, happen. No general rule can be laid down to meet them. They must be dealt with as they arise. If resistance could be

* Vol. xiii. p. 524.

justified, it would be not because the enactment required was contrary to a *Canon of our Church*, but because it was contrary to *Scripture*,—which is quite a different thing.

The Reformation would be perilled if we were to admit that the Reformers had wrongly interpreted Scripture. It would be to desert them; and we could no longer support their doctrine on the Supremacy and Transubstantiation.

This argument looks very like an attempt to catch the sympathies of the Evangelical party in the Church; and it is to be remarked that it is an argument here employed by those who, ordinarily, hold the Reformers in little esteem, and speak of them with little respect. The Reformation would *indeed* be in peril, if it could offer no better argument, and produce no better authority, against Papal Supremacy and Transubstantiation than against marriage with a deceased wife's sister: to place both on the same footing would be the act of an ENEMY to the Reformation.

Of the Reformers who have objected to these marriages there are but few, and they fallible men: and it is not essential to the *Reformation* to support *their errors*.

Marriage with *cousins*, as well as with *sisters-in-law*, was prohibited in England by Gregory; and both so continued to the Reformation, but with the power of dispensation. Reformation swept away the prohibition of cousins and others; but retained this marriage with sisters-in-law, *because* it was necessary to Henry's passions and the state purposes of Cranmer and Parker. The Church of England differs from the Church of Rome, and from nearly every Protestant Church in the world, in her Scriptural view of these marriages: and to what is this to be attributed? What but the *gratification of Henry's lust, and the subsequent necessity of supporting Elizabeth's title*? The dealings of the Reformers with Henry's various marriages are the greatest blot of the Reformation; and the very last thing a true churchman would wish to defend.

iv. Social Inexpediency.—If the prohibition were repealed, the wife's sister could not reside in her brother-in-law's house, even to tend her sister in sickness or during her temporary absence.—(*Keble*, p. 7.)

This argument rests on the monstrous assumption that men's feelings towards their wives' sisters are more perverted and impure than towards other women. Cousins and other relations need not the protection of an Act of Parliament ere they can tend the wife in sickness; and, so far from sisters-in-law requiring more protection, they notoriously require less. In England the purity of the

connexion has always been deeply respected. Before the Act of 1835 there was virtually no prohibition: all who wished could, and did, contract such marriage. And the intercourse between the husband and his sister-in-law, during the wife's life, was then as free, as pure, and as happy as it has been since. Intercourse *more free* would not be desirable. (*Συγγένεια*, p. 39.) In the Eastern Church, where these restrictions prevail, the intercourse is not more pure or happy than in Protestant Europe and in America, where there are none.

After the wife's death, her sister could not reside with the widower, unless marriage were *prohibited*. If marriage were *permitted*, he *must be by law compelled* to marry her.

Under prohibition a man and his sister-in-law could *not* always with propriety live together, as a man and his sister *in blood* may. If they were both young, nature, stronger than a thousand Acts of Parliament, would tell them that they were not as brother and sister in blood. (*Συγγένεια*, p. 40.) The sense of propriety, the feeling of society, would in each case allow or forbid co-residence, according to circumstances, without, and in despite of, statutory regulations.

Any attempt at protected intimacy would generally end in sin, or in hopeless misery. (See Evidence, p. 153; Letter to Right Hon. J. Stuart Wortley).

Why cousins and others may, and often do, superintend a widower's children without either compulsion or bar to marriage, and sisters-in-law may *not*, is difficult to comprehend.

The *advantages* of such unions have been strangely lost sight of. Yet surely to secure to the children of the first marriage the most affectionate mother, and to the family the largest measure of peace, is a blessing incalculable. Experience in other lands has incontrovertably established these advantages. (*Συγγένεια*, p. 43; and *Denham*, p. 18.)

The law, by prohibiting marriage, would *repress desire*.

To have read the evidence in the Report of the Commissioners, and the numerous petitions for repeal of the existing law, and then to talk of human law "*repressing desire*," shows perfect blindness to fact.

Human laws have ever been impotent against the force of human nature. (*Συγγένεια*, p. 41.)

Desire can be restrained only by laws possessing the most awful sanction: and where neither God nor nature forbids, statutes of men are but cobwebs of restraint.

The newest argument by the favourers of prohibition is, that this is chiefly "a woman's question," and should be decided by their suffrages.

Why this question is a woman's, rather than a man's, has not been explained, and is not easy to perceive. If it be a woman's question, because it deeply affects woman's happiness, surely, by "parity of reason," it is no less a man's question.

Many clergymen would *refuse to solemnize such a marriage*,—which would create great confusion. Some of the clergy have pledged themselves to *deny Communion and Christian Burial* to such as shall presume to contract them.

It is not probable that any great difficulty will arise, practically, should Parliament think right to repeal the prohibition. Doubtless the great body of clergy will obey a legally constituted authority, as they ever have done, according to good conscience and clear duty.*

To refuse Communion and Christian Burial *does not lie with the clergy*. They have no authority in the Church of Christ so to do. The ground of refusal must, in each case, be submitted to the *Bishop*; and its propriety be determined by him.—(See Rubric to Communion Service.)

The clergy have *never sworn to obey the Canons: they have vowed to obey their Bishop*. The vow of obedience made to the Bishop cannot be superseded by a vow unadvisedly imposed on themselves.—(*Examination of Keble*, p. 25.)

This inconsiderate step of a small knot of clergymen is greatly to be deplored. It has the appearance of petulance, rather than of piety. Many such marriages had been made before the Act of William IV., and were by that Act declared valid. If marriages made after the passing of the Bill now in Parliament would be incestuous and impure, those confirmed by the Act of William IV. are no less so; yet no clergyman refuses the parties communion or Christian burial: and to make a difference would be an outrage on consistency of character; and the refusal a violation of Christian charity.

The desire to repeal the Act of William IV. and the support that attempt has met with, proceed alike from the spirit of lawlessness, which is the characteristic of the present age, and a "predicted forerunner of Antichrist."—(*Keble*, p. 32.)

That men should endeavour, by quiet and constitutional

* The Bill of the present Session does not affect the ecclesiastical law. The clergy are left to use their own discretion.

means, to obtain the repeal of a law which, while suffering from its injustice, they yet conscientiously obey, is no great proof of "lawlessness." To assume a voluntary pledge which, if ever carried out, must involve an usurpation of the powers, and contempt of the authority, of the bishop, and a disregard of the law of the Church and of the land, seems much more to savour of that predicted "lawlessness;" and is the more unhappy as it is evinced where it would least have been expected.

To say that the repeal of the law is advocated by those only who have broken the law, must appear simply absurd, when it is remembered *by whom* the repeal has been moved in Parliament, and that the measure has been supported (amongst others) by hundreds of the clergy, and thousands of the laity who have neither broken the law, nor intend, nor wish so to do.

The charge that to regard these marriages as allowable can proceed only from "an inveterate disregard of the Word of God," must surely appear eminently presumptuous, were it not eminently preposterous, when several of the Bishops of our Church, and such men as Dr. Hook, Mr. Dale,* and others of all parties in the Church, have recorded their deliberate conviction that there is in them nothing unscriptural.

It is thought that no candid mind can fairly weigh these short arguments without admitting that at least this is a subject whereon good men may reasonably differ; and that there is no room for bitter invective or uncharitable ascription. By *such* it will probably be felt that there is enough of doubt and difficulty in the subject to make men cautious, whilst they stand on their own scruples, *how they seek to impose those scruples on the consciences of others*.

* See Letters of the Rev. Messrs. Dale, Villiers, Champneys, and Gurney, and of Dr. Hook, 1849.

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* See Letters of the Rev. Messrs Dale, Willis, Chambers and Gorey, and of Dr. Hook, 1819.

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THE

14

XVIIITH CHAPTER OF LEVITICUS

NOT

THE MARRIAGE CODE

OF

ISRAEL.

BY

J. P. BROWN-WESTHEAD, M.P.

"To the law and to the testimony."—Isaiah, viii, 20.

"It is almost as difficult to make a man unlearn his errors as his knowledge."—COLTON.

LONDON:

J. HATCHARD AND SON, 187, PICCADILLY.

1850.

TO THE READER.

WHEN I commenced an investigation of the subject of Marriage within the Degrees prohibited by the 99th Canon of the Church of England, it was my intention to deliver a speech in my place in Parliament on the Bill of the Right Honorable Stuart Wortley. It will be at once evident, from the form in which the argument appears in the following pages, that it was composed with a view to oral delivery.

The matter, however, which seemed to me to be pertinent to the question, so much exceeded what I had originally expected, and the references to Scripture and other authorities became so frequent, that I resolved to abandon the idea of attempting to speak it *in extenso*.

I now commit it to the press, in the hope that it may receive the serious consideration of those persons who feel an interest in the subject.

J. P. BROWN-WESTHEAD.

ON THE

XVIIITH CHAPTER OF LEVITICUS.

I do not believe that the 18th chapter of Leviticus was intended by the Jewish Lawgiver to be, or was ever in ancient times regarded as, the Marriage Code of the Jewish nation; and if it were not the Marriage Code of the Jews, it certainly is not of force among Gentiles or among Christians.

But, even supposing that it was the code of the Jewish people, the question still exists—Is it binding upon Christians?

There can be no doubt, that if the 18th chapter of Leviticus were the Marriage Code of the Jews, the man who should “*have his father’s wife,*”* as the Corinthian had, to whom St. Paul refers, would have been liable to the punishment of death. (See Leviticus, xx, 11.)

Let us, then, ask how St. Paul acted towards the offending Corinthian.

Did he cut off and *irrevocably* excommunicate him? He did not; but, on his repentance, he readmitted him to the Communion of the Church.

Hence it is, at least, evident, that the measure of punishment assigned by the Levitical Code was greatly mitigated under the Gospel dispensation. I will not, however, insist, at any length, upon this part of the argument; I will content

* 1st Corinth. v, 1.

myself by quoting two or three passages from authors of undoubted authority on Biblical literature. Referring to the Table of prohibited degrees, that learned and talented casuist, Bishop Jeremy Taylor, asserts that—

“No nation of old did observe all these laws, and there was never any sufficient argument to enforce upon us their obligation, because it must needs remain to us, as it was before, the law; if they were not obliged neither are we.”

And again :

“The ascending and descending lines cannot marry, but are forbidden by God in the law of nature; so mothers-in-law and their husbands’ children, and brothers and sisters, by the law of all the world, are for very great reason, forbidden, but not by the law of nature.”

“But for all other degrees of kindred, it is unlawful for them to marry interchangeably, when and where they are forbidden by any positive law, but none else; and, therefore, the marriage of uncles and nieces, and aunts and nephews, becomes unlawful, as the laws of our superiors supervening make it so, but was not so from the beginning, and is not so by the law of Christ.”

And, in commenting upon the following passage from St. Austin,

“There is in the modesty of mankind something that is natural and laudable, by which they abstain from congression with those to whom they owe honour and reverence,”—

Bishop Taylor makes this remark :

“This is indeed a good account, when the modesty of nature doth really make restraints, and own duty and reverence; and, therefore, is one of the most proper and natural reasons against the marriage of parent and children; and is, by the allowance of some proportions, extended to brother and sister; but if it be sent out one step further, you can never stop it more, but it shall go as far as any men please to fancy. Therefore, let it stop where God hath set its first bounds, and let not the pretence of natural reason or instinct carry us whither nature never did intend, for it is certain she gave larger commissions, however the fears or the scruples, or the interest of some men have made them speak otherwise.” (*Duct. Dut.* B. II, C. 2.)

The learned Dr. Waterland, in his work entitled ‘Scrip-

ture Vindicated,’ has thus expressed himself in relation to this subject :

“Certain it is, that in those early ages of the world, the rules about marrying with their own kindred were not so strict, neither was there any reason that they should be.”

Before going into my main argument—I mean the argument based upon the proposition, that the 18th chapter of Leviticus does not contain the Jewish Code of Marriage—I beg attention to a paper entitled ‘Heads of Objection to the Marriage Affinity Bill,’ submitted to the notice of members of the Legislature by a deputation from the Free Church of Scotland, and bearing the following signatures :

M. MACKAY, D.D., Moderator of the General Assembly.

P. CLASON, D.D.

R. BUCHANAN, D.D.

ROBERT S. CANDLISH, D.D.

In the Second of those ‘Heads of Objection,’ it is insisted that, according to the word of God, “*affinity and consanguinity are to be treated as equivalent or identical grounds of relationship.*” Now I contend that if this be “the principle regulating the divine law upon this subject,” it will be necessary to extend the table of prohibited degrees considerably; for example :

A and B are brothers;

C and D are sisters.

A desires to marry C, and B to marry D. But if A marry C, and if affinity and consanguinity are “*equivalent or identical grounds of relationship,*” then C having become the wife of A, she has also become the sister of B, and consequently her sister D is also the sister of B. It is plain, therefore, that B may not marry D, for she is the sister of his brother A, and necessarily his (B’s) sister; for affinity and consanguinity are, according to the dictum of these divines, “*identical.*”

Let us offer another illustration of the necessity which, if this principle be admitted, there exists for extending the Table of prohibited degrees.

John is a widower, and he } is the father of William. }	{	Anne is a widow, and she is the mother of Jane.
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John marries Anne.

Now, if affinity and consanguinity are identical, William and Jane have become brother and sister; for John and Anne having become one flesh, Anne has become the mother of William, and John has become the father of Jane; but *there is no clause in the 18th of Leviticus, or in the Table of prohibited degrees, which forbids the marriage of William with Jane.*

These 'Heads of Objection' appear to me to be by no means worthy the distinguished men who have appended their signatures to the document.

If we look at their Fourth head, we find that they boldly allege, that the 18th verse of the 18th chapter of Leviticus "really forbids, not a particular sort of polygamy, but all polygamy." With all respect for the marginal interpretation, and the critical argument which may be adduced in its favour, it is, I confess, difficult to conceive of any allegation more completely opposed to the whole scope of Jewish history.

For adultery and other crimes, signal punishment was inflicted upon the most distinguished personages of Israel, but I am not aware that we can find any evidence in the Old Testament Scriptures of a visitation of a punitive character on the simple ground of polygamy.

These Scottish divines next pass on to state, that the statute law, as they term it, of the 18th chapter of Leviticus, is unrepealed; and they cite, in proof of that assertion, the 18th verse of the 6th chapter of Mark, and the 1st verse of the 5th chapter of 1st Corinthians.

Now, be it observed, that the passage from St. Mark's Gospel has reference to Herod's cohabiting with the wife of his *living brother* Philip (or Herod Philip), a case manifestly out of point for the purpose of the Reverend objectors; and, indeed, not only out of point, but *decidedly* against *their* argument; for John the Baptist said, "It is not lawful for thee to have thy brother's wife." Herodias was, therefore, according to the Baptist, the *lawful wife* of Philip. But Herodias was the *niece* of Philip* as well as his wife, and, therefore, if, as is alleged in their Third head of objection, the sexes are placed upon the same footing, in respect of these prohibited marriages, Philip had violated the law given in the 12th verse of the 18th chapter of Leviticus, and, consequently, Herodias could not be, if that law were an unrepealed law, the lawful wife of Philip, and the Baptist would more appropriately have reprov'd Herod for polygamy, because his wife, the daughter of Aretas, was still alive; or for incest, because he was the *paternal uncle* of Herodias.

When, therefore, the Baptist styles Herodias *the wife* of her paternal uncle Philip, it is evident, that he did not consider the 12th verse of the 18th chapter of Leviticus to bar the first marriage, i. e., her marriage with Philip himself.

The other reference to the New Testament, in proof that this so-called Marriage Code is unrepealed, is to 1 Cor. v. 1. Now, this passage has no bearing upon the allegation of these learned divines, for it simply condemns the Corinthian Professor of Christianity for taking to his bed, or marrying the wife of his own *living* father. (See 2d Cor. vii, 12.) Assuredly, when reverend doctors are so put to it, that they can furnish no better New Testament references for their very bold assertion on this head, we may well doubt the propriety of giving implicit belief to all their other averments in relation to this subject.

* See Horne's Introduction, &c., vol. iii, p. 99.

And here, by the way, I may observe, that it seems to me, if it had been intended that this so-called Code of Marriage should be of force under the new dispensation, it would have formed an important part of the teaching of the Saviour and of his Apostles. And yet, notwithstanding the custom of Christ to convert every passing incident into a lesson for his disciples, we do not find that he afforded any instruction upon this most important question.

The case of the woman who, according to the Sadducees, had married in succession seven brothers, doubtless, presented a natural opportunity for discoursing upon the subject of Marriage. The case, too, of the incestuous Corinthian gave a favorable opening to St. Paul to treat upon Marriages between near kindred; but neither in the Gospels nor in the Epistles do we collect anything on this topic of a distinct and express character. And yet, if the 18th chapter of Leviticus be an unrepealed statute in regard to marriage, was not express teaching upon this question of affinity, in its bearing upon the sacred institution, most especially needful? For, be it remembered, the Gentiles were not familiar with the Jewish Scriptures, the Pentateuch was not in circulation in the way that our Bibles now are, and the converts from Heathenism may well be supposed to have required distinct directions in the practical department of Christianity. And, further, as the Jewish ceremonial law was in many particulars greatly modified, and as to others entirely abrogated, by the new dispensation, it is plain, that the two references furnished by the deputation of the Free Church of Scotland could avail little for this purpose, as, in fact, they are no more than reiterations of the Seventh Commandment.

That the Corinthian Church needed a full exposition of their duty in respect of Marriage generally is most certain. It was composed partly of Jews, but mainly of Gentiles;

and yet, notwithstanding that Jews were members of it, we read that they were, as a Church, "puffed up," elated, rather than shocked, at the extraordinary conduct of their incestuous brother.

On a careful consideration of the subject, I feel that there is scarcely the shadow of a justification for maintaining that the 18th chapter of Leviticus is in force as a marriage statute under the Christian economy.

I now proceed to my main proposition, which, I doubt not, will startle the convictions, not to say the prejudices, of no small number of Christians.

I do not believe, that the 18th chapter of Leviticus was ever intended by the Jewish Lawgiver to be, or was ever in ancient times regarded as, the marriage code of the Jewish nation. I have now to offer reasons, both historical and critical, for my conviction on this very interesting question.

And, first, as to the reasons for this conviction, acquired from history, as well sacred as profane.

I do not believe, that all mankind are the offspring of incest.

I do not believe, that the Almighty and good Being who made us, rendered that necessary to be done, and, indeed, commanded that to be done in the earlier history of our race, which he afterwards stigmatised as one of the foulest and most revolting of crimes.

It is said by the opponents of the Bill of the Right Hon. Gentleman the Member for Bute, that the prohibition to marry near kin, as given in the 6th verse of the 18th Leviticus, rests upon the fact, that the husband and wife have become "one flesh."

But, I ask, was not Eve one flesh with Adam? Said he not of her, this is "bone of my bones, and flesh of my flesh?" and *being such*, she became his wife. Did not

Abraham marry his half-sister, or as some, perhaps with good reason, conclude her to have been *his own niece*, the daughter of his brother Haran? Did not Nahor, Abraham's brother, marry *his niece*, Milcah, the daughter of Haran? Did not Abraham, when he would obtain a wife for his son Isaac, direct his servant to go to his own kindred in quest of one? And did not God,—most signally responding to the prayer of the faithful servant,—direct him to select a descendant of this incestuous Milcah, even Rebecca, the grand-niece of Abraham; and thus, by an alleged unlawful conjunction, were not Esau and Jacob introduced into the world? And when Jacob repaired for safety to his uncle Laban, did not Laban say to him (Genesis, xxix, 14), "Surely thou art my bone and my flesh?" and yet Laban did not hesitate to enter into a contract to give him his daughter Rachel to wife?

Did not Esau displease his parents by marrying strange wives, and to please them did he not marry the daughter of his uncle Ishmael? And was it not a custom, hundreds of years previous to the promulgation of the Levitical law, for a brother to take to wife his brother's widow, witness the case of Er, Onan and Shelah, not that in that age impurity was tolerated in Israel, for Tamar, being summoned before Judah her father-in-law, to be burnt for whoredom, was, on an inquiry into her case, exempted from the threatened punishment, her prosecutor and judge exclaiming, "She hath been more righteous than I." (Gen. xxxviii, 26.) And here it may be observed, that the offspring of Tamar by Judah, were not branded with infamy, nor shut out from the inheritance of Israel; they and their descendants were more conspicuous far in Jewish history than the descendants of Shelah. Nahshon, a descendant of Pharez, was the captain of the children of Judah. (See Numbers, chapter ii.)

Nor does it appear, that Tamar, nor yet the transaction

with which she was connected, were held in reprobation by the elders and the people of Israel; for when Boaz married Ruth, because a nearer kinsman would not fulfil that duty, the witnesses of the marriage said, "The Lord make the woman that is come into thy house like Rachel and like Leah, which two did build the house of Israel: and let thy house be like the house of Pharez, whom Tamar bare unto Judah." (Ruth, iv, 11-12.)*

Then, again, after the Israelites had entered the promised land, do we not find that Caleb gave Achsah, his daughter, to Othniel, the son of Kenaz, his younger brother?

Did not Tamar too, the daughter of King David, when remonstrating with her half-brother Ammon, say to him, as he pressed his unholy suit, "I pray thee speak unto the king, for he will not withhold me from thee," i. e., in marriage; and if she had understood the Levitical law as we have been taught to do, would she, on Ammon's commanding her to begone, after he had violated her, have replied: "There is no cause; this evil in sending me away, is greater than the other that thou didst unto me."

Have we not, moreover, strong confirmation of the correctness of the view which I have taken, in the case of Adonijah, who requested Queen Bathsheba to entreat his brother Solomon to permit him to marry Abishag, the wife of their deceased father David?

Was Bathsheba horrified at the proposal? It would appear not. She said, "I will speak for thee unto the king."

And, when she preferred the request to her son Solomon, she thus spoke:—"I desire one *small petition* of thee.†

* "Both Boaz and all the Bethlehemites derive their origin from Pharez." (PATRICK.)

"The family were honorable and numerous." (POOLE.)

† See 1st Kings, ii, 19, and following verses.

I pray thee say me not nay. Let Abishag, the Shunamite, be given to thy brother to wife."

It is indeed true, that her suit was unsuccessful; not, however, because such a marriage would have been a violation of the law, but because Adonijah was believed to have had a political object in view, even a design to secure for himself the throne of Israel.

And lastly, as having immediate reference to the chapter in question, could anything be more incongruous than for Moses, himself an incestuous birth, the son of his great aunt, (for Amram, the father of Moses, married Jochebed his father's sister,)*—could, I ask, anything be more incongruous than for Moses to proclaim the shame of his own parentage? and to forbid such marriages, and to class them with those Canaanitish abominations, for indulgence in which, and for the punishment of which, the inhabitants of Canaan were to be exterminated under his leadership, by the children of Israel?

Assuredly, it is most difficult to harmonise these historic facts with the interpretation put upon this chapter, viz., that it is a Marriage Code: and here let me refer to that law of the Jewish legislator, which it would appear was not formally delivered until some years after the 18th chapter of Leviticus; I allude to the law given in the 25th chapter of Deuteronomy, verses 5-10, requiring, that if a brother die "and have no child," "the husband's brother" should "take her to him to wife."

Now if the 16th verse of the 18th chapter of Leviticus, and the 21st verse of the 20th chapter of Leviticus, had prohibited *marriage* between these relations, and if the penalty for such a breach of law were that the parties should "die childless," is it not marvellously strange, that such a startling exception should have been enjoined?

* Exodus, vi, 20.

"But these marriages," says a writer in 'The Times,' under the signature of Lælius, "were compulsory; they were a burden, not a blessing . . . they must be regarded in all respects as one of those specialities in the Divine Legislation, which distinguish the provisions intended exclusively for the Hebrew race from those comprehensive of all mankind."

Now, I deny that these marriages were compulsory: they were enjoined as desirable. But let those who lay so great stress upon this extraordinary and inconsistent speciality in the law, remember, that the penalty for refusing a compliance with it was infinitely less than that assignable to the transgression of the general rule. Surely, if the penalty of being "*childless*" were the proper punishment for marrying a brother's widow, who had already children living, it would not have been reasonable, that the refusal to conform to an exception so important and weighty should have been visited with a penalty far less serious.

To "*be childless*" was the punishment for the infraction of the general law.

But to meet this speciality, that penalty was abrogated, and marriage was enjoined. What, then, shall be the penalty for a refusal to conform to this speciality in Divine Legislation? Shall it be heavier or lighter than that under the rule which the exception abrogates? Heavier, all reasonable men would reply. Read, then, the sentence for this weightier crime:

"The elders of his city shall call him, and speak unto him: and if he stand to it and say I like not to take her;

"Then shall his brother's wife come unto him in the presence of the elders, and loose his shoe from off his foot, and spit in his face, and shall answer and say, So shall it be done unto that man that will not build up his brother's house." (Deuteronomy, xxv, 8-9.)

The writer above referred to has stated further, that through marriage legitimately solemnised before the face of

the church, man and wife lose their distinct individuality, and become "one flesh." "This truth," he says, "was proclaimed by Adam in Eden, and reaffirmed by our Saviour during his ministry on earth, with the additional and emphatic sanction, 'So they are no more twain, but one flesh.'" "It is a mystery," &c.

To this I reply—True, but death dissolves the union. If not, how can St. Paul say: "The wife," this mysterious compound of two natures, "is bound by the law as long as her husband liveth, but if her husband be dead, she [the one flesh of her departed husband] is at liberty to be married to whom she will." (1st Cor., chapter vii, 39.) And again (Romans, vii, 3):

"If while her husband liveth, she be married to another man, she shall be called an adulteress; but if her husband be dead, she is free from that law, so that she is no adulteress, though she be married to another man."

Surely, then, if the wife,—she who stood in that mysterious relation to her husband,—if she, the one flesh of the deceased, may be married to another man, it is hard to prohibit the sister of a wife from marrying her sister's husband, the wife being dead.

And, that death entirely dissolves the union, may also be clearly collected from the answer of Christ to the Sadducees on the subject of the law of Moses in regard to the marriage of a brother's widow, and its bearing upon the doctrine of the resurrection:

"Ye do err," said Jesus, "not knowing the Scriptures nor the power of God."

"For in the resurrection they neither marry, nor are given in marriage, but are as the angels of God in heaven." (Matthew, xxii, 29-30.)

I now turn to the works of the historian Josephus, who was himself of the order of the priesthood, and whose writings do, I think, incontestibly prove, that the Jews of

his time did not conceive that the 18th chapter of Leviticus was the Marriage Code of their nation.

Herod the Great, as Josephus informs us, married, for his third wife, the daughter of his own brother. He also offered his daughter in marriage to his own brother Pheroras, but the latter excused himself. Why? on the ground of consanguinity or affinity? No! But on account of a previous attachment. Herod offered the daughter thus rejected to the son of his other brother Phasael, and to him she was married.

Some time after, Herod resolved to give his brother Pheroras another proof of his affection, by offering him his other daughter, Cypros, in marriage. Pheroras consulted his friend Ptolemy, and then assented to the union, promising to dismiss his concubine, by whom he had one daughter. He ratified his promise with an oath, but relapsed into his former fondness for his concubine, and failed to fulfil his promise in regard to Cypros; but she was subsequently married to his own son; Pheroras himself having preferred the request to his brother Herod.

Again, Josephus tells us, that Agrippa,—the son of Aristobulus, and grandson of Herod the Great, and father of that Agrippa before whom Paul pleaded,—bestowed his daughter Bernice on his brother Herod, who thus stood in the two-fold relation of brother and son-in-law to Agrippa; for Josephus expressly states, "Now, after this, Herod of Chalchis died, and left behind him two sons, born to him of his brother's daughter Bernice; their names were Berenicianus and Hyrcanus." And of Herod of Chalchis, Josephus says,* "He was a person of great gravity;" and of Agrippa, "He was a person that deserved the greatest admiration."

It is also recorded by this historian, that Joseph, the

* Whiston's Josephus. 1st Book against Appion.

nephew of Onias, the High Priest, married, for his second wife, the daughter of his brother Solymius, by whom he had a son of great talent, named Hyrcanus; and it is most evident, from the peculiar circumstances which led to this union, that the marriage was deemed to be in accordance with, and not in opposition to, the law of Moses. For Joseph having conceived a passion for an actress, a foreigner, and the Jews being forbidden by their law to come near to such, the brother of Solymius succeeded by a stratagem in frustrating his purpose, and so prevented his disgrace. He, in fact, substituted his own daughter for the foreigner, deeming it a less serious evil to suffer his daughter to be abused, than for Joseph to disgrace himself by intercourse with an alien.*

That the law of abstaining from marriage with foreigners was Pharisaically observed by the Jews, is also apparent from the fact, that Herod the Great refused to permit the marriage of his sister Salome with Sylleus, the Arabian, unless he would embrace the religion of the Hebrews. This Salome was afterwards married to Alexas, and one of her daughters to Alexas's son, who was, of course, her brother by marriage.

So much for the practice of the Jews in regard to marriage. I have already, in treating on another part of this subject, referred to the fact, that Philip the Tetrarch married his niece Herodias. Surely it is scarcely possible to resist the weight of evidence thus furnished from the highest records of antiquity, that the 18th chapter of Leviticus was not considered by the Jews in the light of a Marriage Code.

Nowhere throughout the Bible, whether in the Old or New Testament, do we find one word indicative of the divine displeasure at the fact of marriages between near

* Josephus, Book xii, c. iv.

kindred; nowhere in Josephus do we find the least intimation of such unions being adverse to the laws or customs of the Jews.

But we find this same historian zealously defending the laws of Moses. He condemns the conduct of Herodias in marrying Herod, as confounding the laws of her country. He greatly admired the law of Moses, and inquires:

“What can be invented that is better, or what can we take out of other people's law that will exceed it?”

“What are our laws about marriage?”

“That law owns no other admixture of sexes but that which nature hath appointed, &c.

“It abhors the mixture of a male with a male; and if any one do that, death is its punishment.

“A husband is to be only with his wife whom he hath married; but to have to do with another man's wife is a wicked thing, which if any one ventures upon, death is inevitably its punishment; no more can he avoid the same who forces a virgin betrothed to another man,” &c.

He states, too, that Moses “abhorred men's lying with their mothers, as one of the greatest of crimes; and the like for lying with their father's wife, and with aunts and sisters, and sons' wives, as all instances of abominable wickedness.”

And yet Moses was the son of his great aunt, but not by fornication or adultery, but in lawful wedlock.

I must also beg especial attention to another fact, which bears most importantly upon the argument raised on the subject of affinity, which is alleged by the opponents of the Bill to be equivalent to consanguinity.

In the account of the embassy of Philo to Caligula, that learned Jew refers incidentally to Syllanus, the father-in-law of Caligula.

“Syllanus,” he observes, “acted an absurd part in attempting to exercise authority over his son-in-law Caligula,—his affinity ceased with the death of his daughter.” And he adds:

“It is beyond contradiction, that marriage connects families in a state of alliance; but it is equally certain, that the alliance is only temporary, for the dissolution of all relationship takes place on the death of either of the contracting parties.”

I make no comment upon this dictum from this ancient author, of whom that most excellent writer, Hartwell Horne, affirms, “that he was descended from a noble and sacerdotal family, and was pre-eminent among his contemporaries for his talents, eloquence, and wisdom. He was certainly born before the time of Jesus Christ. He was of the sect of the Pharisees, and was *deeply versed in the scriptures of the Old Testament.*”

I have now to assign my reasons, based upon critical considerations, for the view which I entertain upon this question.

I do not affect to understand the language in which the Scriptures were originally delivered, but I trust I shall be able to offer such evidence of the high authority of the source from which I derive my conviction of the meaning of the terms of the 18th chapter of Leviticus, as will tend to satisfy all unprejudiced minds of the sufficiency of my reasons for doubting the generally received opinions as to the purport of the chapter in hand.

In the year 1753 was published, by a person of great ability, named Fry, a work entitled ‘The case of Marriage between near Relations considered.’ The book is now extremely scarce.

After much inquiry for it, I at length found a copy of it in the British Museum. It enters into the scriptural, legal, and natural bearings of the question. It will amply repay the trouble of a careful perusal. I shall endeavour, briefly, to give the interpretation which the author assigns to the terms of prime importance in the supposed Code of Marriage.

1st. As to the term “*near of kin.*”

2d. As to the term “*uncover the nakedness.*”

3d. As to the word translated “*wife.*”

1st. As to the term “near of kin.”

The word translated kindred, saith Dr. Willet, signifieth properly, “a remainder or part, or remnant of one’s flesh.”

Mr. Ainsworth says it signifieth “flesh;” he translates the words “near kindred of his flesh.”

Tindal, Matthews, and the great Bible, all render it “nearest kindred;” most other translations, “kindred of his flesh;” our present authorised version, “near of kin;” but in the margin, “remainder of his flesh.” Bishop Patrick says, “It must be confessed that the words near of kin do not sufficiently express the full sense of the Hebrew phrase, nor are they of a determinate signification.” The author, to whose work I have referred, thus paraphrases the 6th verse of 18th chapter of Leviticus:

“No man shall come near to any that are descended from the same flesh to do any action, or use any such freedom as may be a temptation to him to commit adultery or fornication with her.”

And here I would suggest that possibly this verse had reference to the nearest of all relationship, for “remainder or part of, or remnant of one’s flesh,” may well be deemed to apply to children, to sons and daughters; and as the 7th verse of the chapter proceeds to specify a precise degree of relationship, and as no mention is made in direct terms of son or daughter, it does not appear improbable, that they were especially intended.

2d. As to the term “uncover the nakedness,” our author affirms that such an expression is *never once used in Scripture for marriage, nor yet for the lawful use of the marriage bed.*

But a phrase directly contrary to it is there used, namely, “*the spreading a skirt or garment over a woman and*

covering her nakedness." Thus we have in Ruth, iii, 9, "Spread thy skirt over thy handmaid;" that is, as Dr. Poole expresses it, "Take me to be thy wife, and perform the duty of a husband to me."

This interpretation the learned author vindicates at some length, and concludes, that the phrase "uncover the nakedness" is invariably to be understood to indicate or apply to adultery or fornication.

It is clear, that the terms of the 16th chapter of Ezekiel, 8th verse, support this reasoning: the prophet, describing God's regard for Jerusalem, thus expresses it: "Now when I passed by thee, and looked upon thee, behold thy time was the time of love; and I *spread my skirt over thee, and covered thy nakedness*: yea, I swore unto thee, and entered into a covenant with thee, saith the Lord God, and thou becamest mine."

3d. As to the word translated "wife." The literal rendering from the Hebrew is simply *woman*—it signifies nothing more. It may mean a woman married or unmarried. It is, therefore, by the context that we must judge when it is intended to stand for a man's wife, and when for a single woman. For example, in the 20th chapter of Leviticus and 10th verse, we have this direction.

"The man that committeth adultery with another man's wife, even he that committeth adultery with his neighbour's wife, the adulterer and the adulteress shall surely be put to death."

It will not be denied, that in this verse the word interpreted "*wife*" means a woman whose husband is yet alive, but the same word is used in the case of a woman whose husband is dead, or, of a *widow*; when, therefore, the Scripture says, "the nakedness of thy father's or thy brother's wife thou shalt not uncover, it *is* thy father's or thy brother's nakedness;" the affirmation being in the *present tense*, the true import of the passage is, thou shalt not commit adultery

with thy father's or thy brother's wife. The words clearly do not refer to marriage. Observe the phraseology of the 19th verse of the 18th chapter, "Thou shalt not approach unto a woman to uncover her nakedness, as long as she is put apart for her uncleanness." It were strange indeed to interpret this verse as follows: Thou shalt not approach to a woman to marry her so long as she is put apart, &c. Certainly the command here given is merely to abstain from intercourse for a time.

When, also, it is said, in the 20th chap. of Leviticus, 21st verse, "If a man shall take his brother's *wife*, it is an unclean thing;" or it is a "separation." (See the margin.) It is manifest that the word translated *wife* must refer to a woman whose husband is living, how else can it be termed a separation betwixt her and her husband.

With the exception, then, of the 18th verse of this much discussed chapter, I believe that there is not a word in it which has application to marriage.

It is levelled at the horrid fornications and adulteries of those heathen nations which the Israelites were to expel from the land of Canaan.

Bishop Taylor states, that the Persian priests, from the earliest period, qualified themselves for their office, by lying with their mothers, daughters, and sisters.

Prideaux says, that in the Sacerdotal tribe, those born of the mother by their sons were looked upon as proper for the highest stations. And, truly, the children of Israel greatly needed the injunctions here given, for into these practices they, alas, finally fell. In the catalogue of sins in Jerusalem, we find Ezekiel testifying:

"In thee have they discovered their father's nakedness: in thee have they humbled her that was set apart for pollution.

"And one [or every one] hath committed abomination with his neighbour's wife; and another hath lewdly defiled his daughter-in-law; and another in thee hath humbled his sister, his father's daughter."—Ezekiel, xxii, 10-11. (See also the Prophet Amos, ii, 7.)

Now let me request particular attention to the 1st verse of the 5th chapter of 1st Corinthians. St. Paul writes: "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*;" but if St. Paul by the term wife meant widow, he would have stated that which it is not easy to believe; for among the Arabians it was the custom for the eldest son to take by inheritance, and cast his garment over his father's widow. (See Dr. Hammond and also Whitby on this text, and Minucius Felix.)

I think I have now given the substance of the arguments contained in Fry's work. I proceed to furnish the opinion of a good Hebraist, and an excellent scholar and divine, on the merits of that publication. John Wesley writes (see his Journal, 16th October, 1756):

"I read over Fry's case of 'Marriage between near Relations considered,' and two points I think he has fully proved.

"1st. That many marriages, commonly supposed to be unlawful, are neither contrary to the law of nature nor the revealed law of God, nor the law of the land.

"2d. That Ecclesiastical Courts have no right to meddle with cases of this kind."

And, after the lapse of twenty-nine years, Wesley again refers to the work (see his Journal, 14th Nov. 1785):

"This week I read over again, and carefully considered Mr. Fry's tract upon Marriage. I wonder it is not more known, as there is nothing like it in the English tongue.

"I still think he has proved to a demonstration, that no marriages are forbidden but those of brothers and sisters, and those in the ascending and descending line.

"The contrary supposition seems to be built wholly on a misrepresentation of that expression in the 18th chapter of Leviticus, 'Thou shalt not uncover the nakedness;' but this he clearly shows does not mean to marry a woman, but to deflower her."

In relation to the case of marriages within certain degrees of affinity, several letters were written about the year 1774,

by John Alleyne, barrister, in one of which he makes the following remarks on Fry's tract:

"At length a work entitled, 'Marriage between near Relations considered,' fell into my hands.

"I admired the book, and found great satisfaction in the perusal of most parts of it; but being entirely ignorant of the Eastern languages, I applied to an eminent and learned divine, and through his means procured the interpretation of the text of Leviticus from one whose masterly acquaintance with the Hebrew language is known and admired in every learned society.

"I will leave you to judge," he adds, "what were my feelings when I found a gentleman of such distinguished abilities referring me to Fry's work as being the most correct and accurate comment on that chapter (the 18th Leviticus) to be any where found."

He adds:

"The term which has occasioned the mistake is the rather indelicate one, 'Thou shalt not uncover the nakedness.' This term, the learned author of the work above cited, observes, is never used throughout Scripture to signify marriage, but the contrary expression is always used, viz. 'Spreading a skirt over and covering the nakedness.'

"Uncovering the nakedness meaning wanton luxurious intercourse, but covering the nakedness the purity of conjugal relation alone."

And now, let me ask, is not what I have advanced consonant not only with holy scripture and ancient history, but also with the native feelings of the human heart? Who but remembers the astonishment and the involuntary risibility which he experienced, when his eye first rested on the injunction, "A man may not marry his grandmother." Is there, I would ask, in the whole compass of the Bible, any commandment which is calculated to strike the mind, even of a child, as being foolish and absurd? I think not. And, I conceive, the effect thus produced by some of the injunctions of the Table of Prohibited Degrees, is attributable to the fact, that that Code is a teaching for doctrines of God, what is really only an ordinance "after the doctrines and commandments of men." (Col. ii, 22; Matt. xv, 9.)

I ask you, reader,—Did you ever desire to marry your

grandmother? Heard you ever of an instance of a human heart having, with regard to one in that relation, become conscious of, or inspired by, the ravishment of "first love?"

Marriage with a grandmother! little necessity, surely, was there to prohibit such an alliance; little restraint, truly, did such an injunction impose upon the longings of the heart! But, who shall presume to say, that it was other than wise, right, and needful to brand with indelible disgrace, and to punish with severest penalties, congression unhallowed as that of Reuben*—foul and cruel as that of Ammon†—flagrant and revolting as that of Absalom.‡

And here I close my argument.

Let me earnestly entreat a calm and careful review of what I have written. I feel that the prejudices, the natural prejudices, of almost every one will, at the outset, rise up in array against me; but I also feel, that my argument will not be inconsiderately condemned.

The question has been, I trust, clearly, dispassionately, and inoffensively discussed.

Thank Heaven! it is, in this country, the undoubted privilege of every man to search the Scriptures, that he may be "fully persuaded in his own mind." (Rom. xiv, 5.) See, then, by a reference to holy writ, and to other ancient writings, if what I have here contended for, be not sustainable.

I have endeavoured to prove,

1. That even if the 18th chapter of Leviticus were the Marriage Code of the Hebrew nation, it is not binding upon Christians.

2. That the argument of the Scottish divines, "*that affinity and consanguinity are to be treated as equivalent and identical grounds of relationship,*" is entirely untenable.

* 1st Chron. v, 1. † 2d Sam., c. xiii. ‡ 2d Sam., c. xvi, 22.

3. That the New Testament Scriptures afford no instruction in support of that Table of kindred and affinity, wherein whosoever are related are forbidden by the Church of England to marry together.

4. That, on the contrary, John the Baptist admitted the legality of the marriage of Philip, with his niece Herodias.

And, lastly, *that the 18th chapter of Leviticus never was the Marriage Code of the Hebrew nation.*

It may be thought, that I have acted a presumptuous part in attempting to deal with a question which may be regarded as more properly within the province of learned divines and accomplished theologians.

Let it be remembered, however, that theologians are but men, and that from their vocation they are less likely than persons engaged in other pursuits to suspect the teaching of antiquity.

The human mind, perhaps, by the ordination of an All-wise Providence, is predisposed to venerate whatever bears the stamp of authority.

It requires, indeed, an effort of no common kind to effect our extrication from the deep-worn tracks of prescriptive error,—of error which, at first unsuspectingly received, has "grown with our growth and strengthened with our strength," until it has been enthroned in our minds, and invested with all the sanctions which properly pertain to truth alone.

Errors, thus firmly fixed, are oftentimes more zealously defended, and more religiously observed, than doctrines of highest trust.

How many learned men and profound theologians lived and died in the conviction that what, in this age, we know to have been absolutely false, was both philosophically and scripturally true?

Unfold the roll of history,—extend not your investigations

to the far-off times of the misty past,—it will suffice to read the scroll on which are recorded the transactions of the century next but one only to that in which we live.

What is the scene thus presented to your gaze? There, in the chamber of an edifice, associated with mystery and dread, are congregated the Reverend Doctors and Cardinals of the Holy Roman See. They have already deliberated, and their decision has been pronounced. But, the object of their sentence, where and who is he?

Bowing beneath the full measure of the days of man's years, and suffering from a painful corporeal malady,—behold that aged one!

He kneels before that dread tribunal,—his hands rest upon the book of the holy Gospels,—the chains of a power that wields alike the spiritual and temporal sword,—of a power that claims the prerogative of dictating the faith of the soul, and of assigning limits to the range of deathless mind, are upon him.

Sadly, faintly, despairingly, with a crushed spirit and a prostrate form, in terms prescribed by the Holy Church Infallible, he groans out, "I abjure, curse, and detest the error and heresy of the motion of the earth, and never more will assert verbally, or in writing, anything purporting that the sun is in the centre of the world and immovable."

"His recantation o'er, that old man went,
To penance and the tomb.—*But, the earth moves,*
And 'till the hand that rolled it erst in space
Shall give the sign—and earth shall pause and perish—
Thy name, great GALLILEO, shall endure."

(15)

MARRIAGE WITH A WIFE'S SISTER:

THE
SUBSTANCE OF AN ARTICLE
IN
FRASER'S MAGAZINE

FOR JANUARY, 1850;

WITH SOME ADDITIONS.

BY

EDMUND BECKETT DENISON, M.A.

LONDON:
JOHN W. PARKER, WEST STRAND.

M DCCCLI.

BY THE SAME AUTHOR:

SIX LETTERS ON DR. TODD'S LECTURES ON
THE APOCALYPSE.

These letters were written, at the request of a friend of the author, for the purpose of exposing the inconsistencies of the system of prophetic interpretation which is most in favour with those who desire to 'whitewash the Church of Rome.'

PAINTER, 342, Strand. 12mo. 3s. 6d.

MARRIAGE WITH A WIFE'S SISTER.

It was announced at the close of last session that the Bill for repealing so much of the Act of 5 and 6 William IV., cap. 54, as prohibits marriage with a wife's sister, would be introduced this year in the House of Lords. In 1849 it was substantially, and in 1850 completely, passed by the Commons; but though its opponents were in both years beaten in every division, both on the principle and the details of the bill, yet by methods which must always be effectual when pertinaciously acted on against a bill not promoted by the Government, they prevented it from reaching the House of Lords at all in 1849, or in time to be discussed in 1850. The gentleman who is allowed to write leading articles in the *Times* against this bill, thought fit to assert, that it not only reached the Lords in 1849, but was rejected by them; and he duly enlarged thereon. Of course, the mistake was never acknowledged; and, as the promoters of the measure apparently did not think it worth while to pay for the correction as an advertisement, it remained uncorrected. However, the opponents of the bill must for the present be contented with the fact, that the only House of Parliament which has yet had an opportunity of voting on the question has in two successive sessions expressed an unequivocal opinion that this bill ought to pass, in spite of unexampled canvassing against it—and not only by that sex which usually conducts the public affairs of mankind.

No doubt, that opinion is not binding on the House of

Lords. But when their lordships are told, as they probably will be, that the feeling of the public is against the repeal of the existing law, some of them may possibly ask in reply, what evidence is to be given that the House of Commons does not represent the feeling of the country on this question. The opponents of the Bill will hardly refer to the petitions, because they know very well that the evidence of petitions is still more overwhelming against them than that of votes. The Bishop of Oxford, indeed, discovered that those votes did not indicate the real sense of the House of Commons; for he told the House of Lords, in a short conversation that took place on the postponement of the bill to this year, that—

‘He believed that a distinct majority of all the members of the other House had voted at different times against the bill: it was merely owing to the accident of members not attending, that it had been allowed to struggle through the other House.’ And he added, that ‘he was himself inclined in the first instance to regard the measure favourably, but subsequent consideration had induced him to change that opinion.’

Very likely. But unfortunately, on this occasion, the statement which he made for the purpose of guiding the deliberations of their lordships and the public, during the recess, to the same conclusion, was deprived of its effect by a premature refutation. For Mr. Wortley, just before the end of the session, informed the House of Commons that the division lists had been carefully examined, in order to test the accuracy of this rather surprising announcement, and that the result was, that, instead of ‘a distinct majority of all the members of the house having at different times voted against the bill,’ the number that did so was only 223, or about *one-third* of all the members of the House; and moreover, that very nearly one-third of that number more, or 294, had voted in favour of it: a proportion considerably *more* in favour of the bill than most of the later divisions of the session. In other words, the negligence in attending, which

was imputed by the Bishop to his own party, ought rather to be charged upon the other. I may add, from my own examination, that if you take the votes on the three readings of the bill, apart from the divisions on the various amendments, motions for delay, &c., the proportion is still higher (though, of course, the numbers on both sides are rather smaller) in favour of the bill, and against the accuracy of the Bishop of Oxford’s statement or belief.

The reason for making this short reference to the proceedings of the last two sessions is this: the opponents of the measure have truly said that an unsettled state of the law, a state in which people are tempted to contract invalid marriages in the hope that Parliament will some day make them valid, is the most mischievous of all states. And if they have been right in attributing to the unsettled state of the law, or rather of men’s minds respecting it, the many illegal marriages with wives’ sisters that have hitherto taken place, what do they expect will be the case now that the uncertainty has been augmented by the repeated votes of the House of Commons in favour of a repeal of the law? Suppose the opponents of the bill turn out to be right in expecting that the House of Lords will throw it out. The experience of a few years converted Lord Ellesmere’s minority in the Commons into a majority; and the promoters of the measure are not likely to despair of converting the Lords also, when the experience of a few more years shall have aggravated the mischief of the present law, and made it too apparent to be disregarded, even by theologians whose theories require it to be maintained, or by that portion of mankind to whom imaginary evils are always more alarming than real ones.

But this is far from being the only reason why no such rejection of this bill by the House of Lords as its opponents reckon upon will, in the smallest degree, tend to settle the

question, or to stop the growth of the evils which have arisen from the Act of 1835. A very little attention to the history of the law relating to these marriages, and the circumstances connected with it, will be sufficient to convince any reasonable person of the hopelessness of any such expectation as that, whatever may be his own opinion of the propriety of the prohibition of marriage with a wife's sister.

Before the Reformation, it is enough to state that this, and many other marriages now lawful, were prohibited by the Church on its own authority, and the prohibition dispensed with by the same authority in favour of those who were sufficiently rich or powerful to obtain such a relaxation.* From the Reformation to 1835, the law was, that the ecclesiastical courts were bound to 'separate the parties' and annul the marriage, if anybody instituted a suit against them for that purpose, while they were both alive to be separated. It is evident that such suits would be very rare;

* I know it is said that the first Pope who granted a dispensation for this marriage was that infamous possessor of the seat of infallibility, Alexander VI. But this appears to be a mistake; for Mr. Wortley said he had found an instance of one in the preceding century. And whether it was so or not is of very little consequence; for of course Romanists are satisfied that the power of dispensation is right, as it exists (though Mr. Shiel does oppose this measure, as his patron Mr. O'Connell did); and Protestants are not referring to the doctrine or practice of the Roman Church as a theological authority, but merely for the purpose of showing that, in nearly every country in Europe, the feelings of mankind have for four or five centuries practically demanded and obtained the permission of these marriages, even where they have been *nominally* prohibited; as they are by the Roman Church, and by some Protestant States, with a power of dispensation, and as they were in England until the Act of 1835, which for the first time prohibited them really as well as nominally.

We must not, to be sure, forget the Greek Church, which does prohibit them, without dispensation: but so it does marriage with a *father's wife's second cousin*, and all others of the like degree. Sir Robert Inglis and the Quarterly Review have not failed to insist on the orthodox concurrence of the Greek Church with ours on this question: they appear to presume that nobody has read the evidence but themselves.

for except where there was somebody who had a clear interest in bastardizing the issue (if any) of the marriage, it was extremely unlikely that any one would interfere. The result therefore was that, during these 300 years, there was in reality, whatever there might be in theory, no further law against these marriages than this, that persons whose property and family were in a particular condition, and who made a marriage of this kind, ran considerable risk of having the children of the marriage declared illegitimate; but all other persons ran no risk at all. In other words, in the vast majority of cases the law was practically invalid and non-existent, and the marriages practically valid; and, as everybody knows, they were made continually without the least difficulty or objection.

The cause of the introduction of the Act of 1835, commonly, though erroneously as regards what is now the only important part of it, called Lord Lyndhurst's Act, is sufficiently notorious; but there are some circumstances in its history which deserve to be better known than they generally are. It was introduced as 'An Act to *limit the time* for commencing suits in the Ecclesiastical Courts, so far as the same affect the children of parents married within the prohibited degrees;' and it professed to limit the time within which these suits should be commenced, to six months after the passing of the Act in the case of existing marriages, and to two years after their celebration in the case of future marriages. All this was at any rate consistent: the Bill, as Lord Lyndhurst introduced it and explained it in his speech, being in favour both of the past and the future marriages of this kind, only naturally giving a slight advantage to those already subsisting over such as might be afterwards contracted.

There are no traces of any subsequent debate upon it; but it appears from the Lords' Journals, that after being several times quietly amended in committee, it finally

emerged, and passed that House in its present shape. So that having been introduced and announced to the public as a measure to give *increased security* to these doubtful marriages, nothing more was heard of it until it went down to the other House as 'An Act to render certain (past) marriages valid, and to *alter the law* with respect to certain voidable (future) marriages.' It certainly did 'alter the law' with a vengeance; for inasmuch as 99 out of 100 of these marriages were before practically secure and valid, and although this Bill had professed and intended to make them still more secure, it ended by invalidating them altogether.

When the present Lord Ellesmere made the first attempt to repeal this Act (as regards the marriages now in question) in 1842, he said he could not learn how such an extraordinary change as this had been effected. It appears, however, from a speech made by the Bishop of London on the presentation of some petitions on this subject, that it was effected by him, and by others who acted with him. And it was in fact stated in the House of Commons by those who had the charge of Lord Lyndhurst's bill there, that the disabling clause as to the future marriages was the only condition on which the relieving clause for the past marriages would be allowed to pass 'in another place.' And as the House of Commons was desirous to grant that relief for which the bill had been introduced, at any rate, and there remained only a few days of the session to do it in, they at last allowed themselves to be seduced by the assurance of Sir William Follett, rather more dexterous than sincere, that consenting to the restoration of the disabling clause would not prejudice the question on any future occasion; for they had actually, by a considerable majority, previously struck out that clause, on account of these very marriages. And thus was brought about that solemn and deliberate settlement of the English law of marriage within the prohibited degrees which is now in force.

But the contents of this Act are not less deserving of consideration than its history. The contrivers of these amendments in it were not contented with making all past marriages within certain degrees absolutely valid, and all future ones of the same kind absolutely void, but, in order that they might not be open to the charge of inconsiderately dealing with such an important subject, or of giving the sanction of law to marriages about whose absolute sinfulness there could be no doubt, they carefully distinguished between the past marriages within the prohibited degrees of *affinity* and those of *consanguinity*; excluding the latter from the relief or sanction which they gave to the former. A very proper distinction, some persons will say, and just what was to be expected from those who appear to have been its authors. Perhaps it is: but still this careful distinction between consanguinity and affinity is rather curious on two accounts: first, because it is one of the main arguments of those who are now resisting the partial repeal of that Act, that there is *no* distinction between consanguinity and affinity, that a man and his wife being 'one flesh,' his wife's relations are equivalent to his own, and that a sister-in-law is therefore to be regarded as a sister. And this distinction is even more remarkable on another account, especially considering who were the authors of it—viz., that the only marriage within the prohibited degrees which is condemned in the New Testament, and that in the strongest terms, is one, not of consanguinity, but of affinity—to wit, with a stepmother.* (1 Cor. v.)

I am aware that some of those who are responsible for the alterations and inconsistencies of that Act, and their followers, have attempted to defend it by boldly denying that it gave any sanction at all to existing marriages of this kind,

* Herod's case is not in point, because the sin of his marriage with his brother's wife was, that her husband was still alive.

inasmuch as it did not relieve the parties from their liability to ecclesiastical censures for having committed 'incest,' but merely protected the marriages themselves from being impeached in the ecclesiastical courts—the only courts where they could be impeached. What do these gentlemen think the writer of the First Epistle to the Corinthians would have said, if they had replied to that fifth chapter by proposing, that the man who had committed the incest there mentioned should receive the censure of the Church, but that the marriage itself should be unimpeachable, and the parties allowed to continue their incestuous union?

When the opponents of the present bill, therefore, profess to be standing on ground as old as the Reformation—some of them say as old as Christianity, they ought to be answered, that the prohibition, as it existed before this Act, was a merely nominal one, practically inoperative in nearly every case where people wished to violate it, and almost universally disregarded; and that the moment a person of sufficient distinction and influence came within its reach, the Parliament of England, with the concurrence of those who are the special guardians of ecclesiastical law, stepped in to relieve him, and all who were in the like case with him, and for them repealed the prohibition, and restrained the ecclesiastical courts from interfering with their marriages. And whatever the defenders of the prohibition may say of its antiquity, or sanctity, or expediency, the ground which they are really standing on, is nothing but an Act of Parliament fifteen years old, which was notoriously introduced for a merely private job, just as much as Henry the eighth's general marriage acts were, which is inconsistent with itself, and with the theological principles on which it professed to be founded, and which went through one house of parliament completely in the dark, and under a false impression as to its real effect, and was only extorted from the other, in the last hours of a very late session, by a compromise, consented to by one party

in order to gain their private object of making the marriages of certain persons valid, and by the other party, in order to gain their object of making the very same kind of marriages, of all other persons, invalid; an object which they would never have achieved by the straight-forward method of bringing in a bill for that purpose; as is proved by the House of Commons having, before they were seduced into the compromise, deliberately rejected it, as the present House has in effect done, not once but many times, and thereby declared, what is undeniable, that the Act on which the opponents of this bill now rely '*improvidè emanavit.*'

I have not forgotten that Lord Ellesmere's attempt to induce the House of Commons of 1842 to do what the present House has done, failed, by a small majority. But at that time nobody was in possession of any evidence, beyond a few petitions, to refute the assertion which was confidently made, and could not be at once disproved, as it can now, that there was no general demand for the alteration of the law, though it might have been violated by a few profligate or ignorant persons, who were of course not to be considered. So it soon afterwards occurred to those who were interested in obtaining a repeal of the prohibition, which had been thrust upon the country in the manner I have described, to ascertain as well as they could, by inquiries in various parts of the kingdom, 'to what extent the Act of 1835 had been infringed, and whether any hardships were inflicted by the operation of that Act to such an extent as to warrant an application to Parliament for an alteration of the law.' And of the inquiry which was instituted for that purpose, her Majesty's Commissioners say, they 'feel bound to observe that, although made at the instance of interested parties, it appears to have been conducted by gentlemen of intelligence, station, and character, and with discretion as well as *perfect integrity and good faith*;' and this statement is signed—not by a set of notorious par-

tisans, decorated with the title of Commissioners, and commissioned to print their own ready-made opinions in a blue cover, and call them a Report—but by a bishop, a judge of common law, a judge of ecclesiastical law, a judge advocate of England, a lord advocate of Scotland, and an Irish lawyer and privy councillor; all of them persons, whose report of mere matters of fact one would have expected to be received with some degree of credit and attention, even by those who may not concur with their opinions.

The well-known result of that inquiry was, that 1364 marriages within the prohibited degrees were ascertained to have taken place since the Act of 1835 in eleven counties, or parts of counties, including London only to a small extent, and with very little inquiry about the poor, in both cases on account of the difficulty of obtaining accurate information; and about 150 more were included in the list, which appeared to have been contracted before the Act. And it was found that about ten-elevenths of the whole number thus discovered were marriages with a wife's sister, and the remaining one-eleventh with a wife's niece, or other equally remote relations by affinity: the marriages with a wife's daughter, or within any of the prohibited degrees of consanguinity, being such a small fraction of the whole number as to be quite inconsiderable, except that it shows the futility of the argument, that if once the present Table of prohibited degrees is invaded, the same relaxation will be speedily demanded for marriages with step-daughters and nieces.

The opponents of the bill, in spite of their continual assertion that a law is not to be repealed because a good many persons have broken it (which is of course true, if the law itself is a proper one), soon perceived that it was essential to their cause to throw as much discredit as possible upon the evidence which had satisfied the Commissioners that 'the Act of 1835 had failed in effecting its object,' and led them to 'express doubt whether any measure of a

prohibitory character would be effectual;' and this they have attempted to do by various methods.

One of the most common is that of Sir Frederick Thesiger, who says that the information obtained by the persons who were employed to make these inquiries 'can only be regarded as partial and unsatisfactory, because they would naturally get into communication with those who were interested in the repeal of the law.' Probably they did; for it is not very likely that they would have got such correct information in any other way. Mr. Tyler's churchwarden did not tell *him* that he had married his wife's sister; and if one of these inquiring agents had gone to ask the Rector how many such cases there were in St. Giles's, we know that Mr. Tyler would have told him, as he did the Commissioners, that he believed there were none. The fact is, that Sir Frederick ingeniously confounded two kinds of inquiry, as distinct as two things well can be. If these agents had professed to tell the Commissioners that the *general feeling* in such and such places was in favour of the repeal of the law, it would have been a very good answer to say that they only went among people who were interested in procuring the repeal. But when they tell the Commissioners that they found, as a bare matter of fact, that A, B, C, and D, in such a town, had married their wives' sisters, it does not very much diminish the weight of their testimony to tell us that they probably saw nobody in that town except A, B, C, D, and their friends.

Another method of refuting this positive evidence of 1500 of these marriages in only a small portion of the population, is, to bring forward in opposition to it the negative evidence of certain clergymen of large parishes, who (like Mr. Tyler) say they know of none or very few of such cases. And this, Mr. Goulburn thought it perfectly fair to do, when one of those very clergymen stated, at the same time, that he had himself been obliged to *refuse* no less

than seven applications from persons in a condition of life to marry by licence, who had told him (with obviously unusual frankness or ignorance) that they wanted to marry their wives' sisters; and when four of those clergymen stated in their evidence, as the Vicar of Leeds did afterwards in a letter, that their own experience had convinced them that (in the words of one of them) 'the disadvantages of the present law are so many and grievous, that it would be a great boon to the community if it were repealed;' and when another of them, a strong partisan on Mr. Goulburn's side too, had the honesty to add, that though he knew of no such cases by name, yet—

'He thought it *highly probable that a prodigious number of them had taken place since the Act;*' and that 'he was aware that it has not been unusual for wives on their death-bed to desire their husbands to marry their sisters;' and that 'he thinks it very likely that the result of women going, as they frequently do, to live with their brothers-in-law among the poor, is generally *either marriage or concubinage.*'

Mr. Wood, indeed, is convinced that these admissions of Archdeacon Hale, with respect to the poor at least, must be all a mistake, for the following reasons. First, because he could only hear of one such case in the parish of St. Margaret's, Westminster, where he lives. It is astonishing what a difference it seems to make, whether the persons who inquire for these cases are anxious to find them, or anxious not to find them. Mr. Wood appears not to have been more lucky in St. Margaret's than Mr. Tyler in St. Giles's; for in a few days after his speech there was a letter published from a person who had been employed as a 'City Missionary' for eleven years in that parish, and who gave the names of four persons in the lower orders whom he had known there for some time living with their wives' sisters *unmarried*; and he also said—

'He had met with numbers of similar cases during the time he had been labouring among the poor there;' and that he had 'conversed with two persons on the subject lately, who have lived in the low parts of the

parish for many years, both of whom stated that they have known several cases of the kind; and he believed they spoke the general feeling of the poor when they said—'What is the poor men to do when they lose their wives by death? the sisters is the best persons to take care of the children; and the law won't let them marry; so they marry themselves by living together.'

And not long afterwards another letter was published in the *Times* from a person who gave his own name and address, and a description of sixteen cases (including three on the authority of the aforesaid City Missionary) of either marriage or concubinage with a wife's sister in St. Margaret's parish, and all among the lower orders, that is to say, small tradesmen and journeymen or labourers; though only one appeared to be an actual pauper relieved by the parish, which, I understand, Mr. Wood says he meant by the word 'poor:' a limitation which is evidently quite arbitrary, and irrelevant to the present question.

But, secondly, Mr. Wood contended that not only was it improbable that there should be many of these marriages among the poor in general, when there is only one in St. Margaret's, Westminster, but that it is *impossible*, or nearly so, inasmuch as the great majority of the poor marry early, and therefore there can be no wives' sisters at liberty to marry their brothers-in-law. But Mr. Wood, like Sir F. Thesiger, forgot that this is not a question of proportion; and that, even if it is true that a large proportion of poor women marry at an early age, there is always, nevertheless, an immense actual number of them of a marriageable age and unmarried—enough to supply all the 18,000 widowers who marry in England during the year with wives several times over. And suppose he was right in saying that all poor women marry early; do they never *die* early too, or before all their sisters are married? And is not this, whether among the rich or the poor, exactly the state of things which most frequently leads to these marriages?

Lastly, Mr. Wood thinks it very extraordinary that,

if there are many of these marriages among the poor, the inquiring agents 'should only have been able to scrape together 40 out of their 1500 cases. It would have been more extraordinary if they had scraped together any considerable number: they very soon found, as might have been anticipated, that there was such difficulty in ascertaining the particulars of the previous relationship of persons in an obscure condition, without spending much more time upon it than they could afford, that they gave it up. However, it is perhaps too much to expect any attention to reasoning of this kind from those who find no difficulty in believing that the same opportunities and temptations, which have led so many of the higher and middle classes to disregard the immorality, and to incur the inconvenience of these connexions, are virtuously resisted by that portion of the population of Manchester and London, to whom the inconvenience of an illegal marriage is comparatively trifling, and the immorality not likely to be a more serious objection.*

I must not omit Mr. Goulburn's great statistical feat of demolishing the estimate, that 30,000 marriages within these prohibited degrees have taken place in England since 1835; for so much has been said of this exposure of the accuracy of the Commissioners, that it will be proper to bestow a little attention upon it. The ex-Chancellor of the Exchequer, who sits in the seat of Newton, is reported to have spoken and calculated on this wise: 'But there is further evidence

* If any one still believes that so little positive evidence of these marriages among the poor is produced because they do not exist, I may tell him that since this was written I have learned that, in consequence of Mr. Wood's denial of the existence of such cases, the promoters of the measure have received information of no less than 150 of them in London and the neighbourhood, all among persons below the condition of shopkeepers; besides a vast number of others, in the classes whose connexions are more easy to discover, and who are more ready to communicate them; for it appears that there is an impression among the poor, that if their marriages of this sort were discovered, they would be liable to punishment.

of the exaggeration of the Commissioners; the whole amount of marriages conjectured by them was 30,000, in the fourteen years' from 1835 to 1849: that the total number of all the marriages in England in 1835 was about 100,000, which had increased to about 144,000 in 1848. Of late, a column of the marriages of widowers with spinsters had been added in the returns, and there were nearly 12,000 of them in the year 1847 (the last year of which that analysis had been published); assuming, therefore, that the marriages in question had increased since 1835 in the same ratio as marriages in general, it would be found on calculation, Mr. Goulburn said, that if there have been 30,000 in the whole fourteen years, there must have been more than 3000 in the year 1847; and he proceeded to 'ask the House whether they could believe that one out of every four widowers who married, contracted marriage with his wife's sister. Yet the Commission over which his right honourable friend presided made such a statement the basis on which they sought to introduce this alteration of the law.'

Now, in the first place, it is to be remarked, as has been done already by Mr. Wortley, that this conjecture of 30,000 of these marriages was for the whole kingdom; whereas Mr. Goulburn's matrimonial statistics were those of England only. Consequently, in order to apply the statistics to the estimate, we must first reduce the 30,000 in the proportion of the population of England to that of the whole kingdom, or to about 18,000. Secondly, for some reason which he did not state, he assumes that no *widow* ever marries her sister's husband, and so he neglects at once about 6000 marriages of widowers with widows in the year 1847. Thirdly, even taking Mr. Goulburn's own data in all respects, his calculation of 3000 as the number that would fall to the year 1847 is *wrong* by about 550, as any mathematician will see in a few minutes. Fourthly,

supposing he was right in assuming that no widows ever marry their sisters' husbands, still that was no excuse for his pretending to have proved that, if the conjecture of 30,000 of these marriages was right, 'one out of every four widowers who had married,' instead 'of one out of every four widowers who had married *spinsters*,' 'must have contracted marriage with his wife's sister.' The true result (if it is worth talking about), after making the proper corrections for all these mistakes, is that, for 'one out of every four widowers,' Mr. Goulburn ought to have said, 'rather less than one out of every *twelve*!'

For anything I know, even this may be too high a proportion; though I believe it would be very difficult to prove that it is: but whether it is or not, is of extremely little consequence to the credit of the Commissioners or their Report. For the fact is, that this 'exaggerated statement,' which Mr. Goulburn twice deliberately charged upon the Bishop of Lichfield and his colleagues, was nothing at all but a sort of rough guess thrown out by Mr. Wortley, in a speech on the first reading of the bill in 1849. Whether Mr. Goulburn heard that speech or not, he certainly read the Report; and as nobody reads a document so carefully as a person who wants to pick holes in it, we may be quite sure that he read the following words of the Commissioners themselves:—

'We forbear to make any calculation deduced from this inquiry, limited in time and extent as it necessarily was, as to the number of marriages within the same degrees, which have probably been contracted since 1835 throughout the whole of England and Ireland; but it is probable that they would bear a proportion to those ascertained in the districts already referred to. . . . These marriages, on a low computation, must amount to several thousands.'

This inference, I think, can hardly be accused of any violent degree of exaggeration or improbability—unless we are to suppose that the gentlemen who made the inquiries were directed by some kind of divination to exactly those

eleven out of the fifty-two counties of England and Wales, in which alone such marriages are to be found. Some of the opponents of the bill, indeed, have admitted that there may be as many as 3000, while they deny their existence, to any extent worth mentioning, among the poor. And taking that obviously low estimate, if a law of this kind has been violated by any such number as 3000 in fourteen years, and those not persons in that condition of life in which probably the same number of violations of almost any law might be found, it is very clear that the Commissioners were fully justified in saying that the Act has failed to effect its object.

For nobody can be really deceived by the fallacy of the assertion, that all these 6000 men and women are necessarily immoral and profligate, or else they would not be living together without lawful marriage, and that they are, therefore, entitled to no consideration. Of course, in so marrying, or professing to marry, they did commit an immoral act; so does everybody who breaks any law—the lady who smuggles a handkerchief, as well as the thief who steals one—in different degrees according to the nature of the law. But we are not now trying offenders for breaking the law, but trying the efficacy and wisdom of the law which has been broken, and inquiring whether it has succeeded in doing what it was intended to do, and whether it has done, and is likely to do, more harm or good. And as we are told that the general character of the persons who have broken or disregarded this law is of no consequence, I should like to know what the advocates of it would have said if these persons had really been, what everybody understands by the words 'immoral and profligate' which have been so freely applied to them—that is, immoral and profligate *generally*, and in other things besides just the thing which is itself in question. That these people are not immoral or profligate in this ordinary and rational sense of the words, is one of the clearest results of the evidence, and is even admitted by some of the

prohibition witnesses. If this law has not prevented brothers and sisters-in-law from cohabiting as man and wife, it certainly cannot be alleged to have been successful; and if, besides, in consequence of it, a great number of persons, otherwise religious and well conducted, have been led into an immoral and irreligious way of living, it will not be easy to deny that it has done, and is likely to do, more harm than good. For nothing can be more clear, than that a law of this peculiar kind, if it is not successful, is a great deal worse than no law at all; for if there were none, the worst that people could do would be to cohabit with their wives' sisters after marrying them *legally*; whereas, the law existing and being disregarded, they cohabit equally (which is, of course, what the framers of the law intended to prevent) after marrying *illegally*: to say nothing of the many evils, both social and moral, that must arise from the continual occurrence of such marriages among persons who, from their general character, are more likely to be regarded as an example than a warning by those who may feel inclined to break other laws of less doubtful authority.

For want of better topics, some of the advocates of the Act of 1835 have attacked the Commissioners themselves for partiality and unfairness in conducting the inquiry, for examining many more witnesses on one side than the other, and, among others, for their very grave misconduct in not taking care that their secretary gratified Mr. Hope's curiosity, by recording which of the Commissioners put every particular question: the first of these charges (if, indeed, they ought to be noticed at all) will be best answered by the words of the Commissioners themselves:—

'We have to the utmost of our power caused it to be known that we were ready to receive information from every quarter, and *more especially from the clergy*; and we have taken the evidence of those who were known, by their published opinions or otherwise, to have carefully considered the subject, and on both sides of the question.'

And those who complain of the preponderance of witnesses on one side, forget that the evidence on that side consists chiefly of facts which required many witnesses to prove them; and if they had not been proved, it would immediately have been said that 'the case for the plaintiffs had failed' (to adopt the excellent joke, that the Report ought to have been endorsed, 'Crowder and Maynard, Solicitors for the Plaintiffs'): whereas the evidence on the other side consists almost entirely of opinions and arguments, which could be, and were, stated just as well by two or three witnesses of ability and learning, as by fifty.

But some of the witnesses were *paid* for making the inquiries above-mentioned, and the evidence on that side was *got up* by Messrs. Crowder and Maynard. What then? The inquiries must either have been made, or the question referred to the Commissioners must have been determined without anything beyond a guess at the facts they were to report upon. And as nobody else was likely to make the inquiry, or to pay for getting it made, the parties who were interested made it for themselves, *i. e.*, they employed competent persons to make it. And nobody ever before heard evidence objected to, either because it was given by 'persons of skill,' who were paid for their investigations, or because it was got up by an attorney instead of being left to find its own way into court. The simple question is—Is it true? The objectors have now had nearly three years to prove that it is not, and we see what they have made of their attempts at refuting it.

The Bishop of Salisbury, indeed, says that it is by no means to be assumed that even the Commissioners themselves, who of course believe their own Report to be true, are advocates for repealing the prohibition. 'On the contrary,' he said, 'though he did not distinctly know the opinion of his right reverend friend, (the Bishop of Lichfield,) yet if he was to adopt an inference, he should say he was decidedly opposed

to the bill.' As the bill was not before the House, and the Bishop of Salisbury had no authority whatever to deliver the Bishop of Lichfield's opinion upon it, nor any information that that was his opinion, it will perhaps be thought that he need not have displayed such premature anxiety to make the public believe that his right reverend friend had been frightened by clerical agitation, and the maledictions of 'religious newspapers,' into defending a law of which he has, under his own hand and seal, delivered his opinion thus:—

'We cannot avoid the conclusion that the statute has *failed to attain the object* sought to be effected by its prospective enactments. It has not prevented marriages with the sister of a deceased wife from taking place in numerous instances. . . . No doubt this is a great and continually increasing evil. . . . We are constrained not only to express our belief, that the statute has failed to attain its object, but also to express our *doubt whether any measure of a prohibitory character would be effectual*. These marriages will take place when a concurrence of circumstances gives rise to mutual attachments, and *they are not dependent on legislation*.'

No doubt, as the Commissioners say, 'if these marriages are forbidden in scripture, *cadit quæstio*.' They, at any rate, do not think they are; and they say that it does not appear to be the general opinion that they are: even in 1841, when the subject had not been at all discussed, and nine out of ten of those who were shocked at the notion of allowing such a marriage would have told you, without the least hesitation, that it is forbidden in the Bible, the Bishop of London carefully abstained from expressing his own belief that it is; and nobody can have attended to the debates and publications of the last few years, without observing that the supporters of the prohibition on religious grounds are becoming fewer daily. Still, as those who do support it on those grounds are really the leaders of the opposition to this bill, it is necessary to devote a few pages to the consideration of their arguments.

First, then, they say that, whether this prohibition was really part of the Mosaic law or not, and whether that law is

binding upon us or not, this prohibition has been observed by the Christian Church from the very beginning, just as certainly as the keeping holy of the first day of the week, or the government of the Church by bishops. But of this assertion they have not only never given the slightest proof, but the most learned—and I dare say I shall shock some people by adding, the fairest—of the theological writers in favour of the prohibition, Dr. Pusey, even in his title-page, abandons the claim to apostolic authority, and only states his case thus: '*Marriage with a wife's sister prohibited by Holy Scripture, as understood by the Church for 1500 years*;' which is of course, in plain English, 'Marriage with, &c., prohibited by the Church since the fourth century;' and that in fact is the utmost that he, or anybody else, has attempted to prove. It is hardly worth while to join issue on the question, whether this evidence really proves any such prohibition by the Church, even at that date: it certainly does not; but let us admit that it does, and merely attend to what that fact amounts to.

It is a tolerably obvious remark that the fourth century is not 'the earliest times of Christianity' at any rate. But they say that, as nothing to the contrary effect is to be found earlier, it must be *presumed* that the prohibition had always been understood, though there was no occasion to put it into writing until the compilation of that ecclesiastical code, which the Bishop of London designated as 'that very early body of constitutions called *the Apostolical Canons*,' and which Mr. Keble and others have referred to as a 'genuine code of canons of the Primitive Church.' Dr. Pusey, however, admits that there is no proof of their being earlier than the fourth century.

The prohibitionists have made a great point of these 'canons ecclesiastical of the holy Apostles themselves,' as their own title veraciously calls them; and as they no doubt do contain the earliest Christian declaration against the

marriages in question, it will be worth while to bestow a little attention upon them, especially as it will render any examination of the later evidence of the same kind which has been adduced quite unnecessary.

The form in which this declaration appears in these canons, is that of excluding from holy orders any one who has married two sisters: we may admit, because the makers of them deemed such marriages absolutely sinful; though it is odd that they did not say so at once, since the canons are not confined to the duties of the clergy. There are however in the collection three, and only three, more canons about the marriages of the clergy: one of them excludes from ordination any person who has *married twice* after his baptism (*i.e.* after his conversion to Christianity); another, any one who has married a *widow*, an actress, or a maidservant; and the third declares that no bishop, priest, or deacon, who was single when he went into orders, shall *marry at all* afterwards; and among the rest of these canons there are several on other subjects, which are equally conclusive as to their apostolic origin, and equally consistent with common sense, and with the belief and practice of at least every *Protestant* bishop, priest, and deacon in the world.* And seeing that this prohibition makes its first appearance in the fourth century, and in such company as this, it is perhaps not quite so easy to receive it for an apostolic precept, as for the incipient fulfilment of an apostolic prediction, that the time would come when men should 'give heed to doctrines of devils forbidding to marry and commanding to abstain from

* Although most of the English bishops and clergy have violated some of these matrimonial canons, (as well as others of the code,) there is one bishop living, and only one, who has broken *every one of them* (except of course the one in question); and oddly enough, he is the very person who first introduced these 'apostolical canons' to the notice of Parliament, as the earliest Christian authority for enforcing upon everybody else the only one of these prohibitions which he has not himself broken.

meats, which God hath created to be received with thanksgiving.' (1 Tim. iv.)

Such being the origin, or the earliest known authority for this prohibition, it is plain that it cannot mend the matter to cite in support of it controversial letters of 'Saints,' or decrees of councils of still later date; and we know that corruptions of this kind were exactly those which, when they had once set in, got worse and worse till they produced the Reformation. As for the excuse, which is sometimes made, for the want of any really primitive or credible evidence of these marriages having been condemned by the early Church, before such corruptions had begun, viz.—that they were no doubt condemned as soon as anybody ventured to contract them, it is sufficient to remark that the same excuse would have done just as well if the prohibition had made its first appearance in the fourteenth century instead of the fourth. St. Paul did not leave those who should forbid to marry and command to abstain from meats, to be condemned by the Church when they should arise, but provided the condemnation for them beforehand; as he, and St. John, and our Lord also, did for sundry other heresies and sins, not yet developed while they remained on the earth.

But some of its advocates profess to have not only the authority of this 'genuine code of canons of the primitive Church' on their side, but also that of the Apostles themselves. First they say that, as St. Paul (in 1 Cor. v.) calls marriage with a stepmother fornication (*πορνεία*), therefore all marriages within the Levitical degrees, and therefore marriage with a wife's sister, is included in the same condemnation. This reasoning would have been bad enough, if St. Paul had condemned marriage with a stepmother on account of its being expressly forbidden by the law of Moses, seeing that marriage with a deceased wife's sister is not so condemned in the law of Moses: but he does no such thing; he condemns it as 'such fornication as is not named among

the Gentiles;' such, that is, as is contrary to 'that law of God which is written in their hearts;' for the breaking of which law, and marrying their 'near of kin,' the Gentiles of old had incurred His wrath, and were driven out before the Jews, and the Jews were warned against doing the like.

Secondly, these theologians say that this is one of the four prohibitions contained in the letter of the apostles at Jerusalem to the Gentile converts, in Acts, xv., enjoining them to abstain from 'fornication, and from meats offered to idols, and from things strangled, and from blood;' whereby, according to Mr. Keble, 'there is no small reason to believe that the Levitical restrictions were in a manner re-enacted, and proclaimed as binding upon Christians.' Of course Mr. Keble, and Mr. Gladstone who followed him, take care never to eat of anything that has been strangled, or has not bled to death. But as people's actions are not always consistent with their arguments, we may observe further that this notion of 're-enacting Levitical restrictions' is not only unsupported by, but contrary to the tenour of the whole New Testament; and that whatever the word *πορνεία* may mean in that passage (about which there is considerable doubt), there is one very simple reason why it could not possibly mean marriage with a wife's sister: viz.—that the Christian converts were enjoined, and that merely as a temporary measure (see 1 Cor. viii.), to abstain from these things as contrary to the law of Moses, solely out of deference to the prejudices of the Jews among whom they lived; and it is admitted by Dr. Pusey, as well as asserted by the Jewish rabbis, that marriage with a deceased wife's sister was never believed to be contrary to the law of Moses by the Jews themselves, except an insignificant sect of them called the Karaites.

As the Jews are against the prohibition, of course the advocates of it protest that the Jews are no authority, because they corrupted their own law by their traditions. If it were the Jews who put the non-natural construction upon the

words of their law, and their opponents who put the natural and obvious construction upon it, this argument might be listened to; but it happens to be the other way. And if it be the fact that the true interpretation of this important prohibition was obscured by their traditions, why were they not rebuked for it, as they were for their perversions of other moral laws; and why was not the true meaning of the law restored by the only authority that could restore it?

According to these theologians, indeed, there was no need of any such restoration; for they have discovered that it is, after all, of no consequence whether these marriages were really permitted to the Jews or not, inasmuch as the Christian religion enforces a 'purer morality,' than the Jewish, and therefore we, at any rate, are bound to abstain from them. I believe that as soon as these gentlemen have proved that there is any more impurity in marrying a wife's sister than anybody else, nobody will give them any further trouble about the matter. But the world knows pretty well by this time what 'purity' means in the mouths of divines of a certain class—that it means abstinence from marriage, enforced or inculcated upon every fanciful and mischievous pretext: and we know, also, what that kind of 'purity' generally ends in. And certainly, in this instance, the purity enforced by Act of Parliament in 1835 has not contradicted the general experience of mankind as to the consequences of setting up ourselves to be, as Jeremy Taylor says, 'wiser than the Lawgiver,' and 'laying snares for men's feet, by putting fetters on their liberty without just cause, but not without great danger.'

But the favourite theological argument with all the prohibitionists is, that, as it is affirmed both in the Old and the New Testament that 'a man and his wife are one flesh,' therefore the wife's relations must be treated as equivalent to a man's own relations of equal degree: in other words,

that affinity is to be regarded as equivalent to consanguinity—the very doctrine which, as I before showed, the episcopal amenders of the Act of 1835 contradicted. But there is a much more serious difficulty in the way of that doctrine than an Act of Parliament: not only does the common sense of mankind at once reject it as paradoxical and absurd, when applied to a matter of this kind, but the propounders of it have got to answer this question, which they have never answered yet:—If affinity is equivalent to consanguinity, or a sister-in-law to a sister, how do you make out that it is lawful to marry your wife's sister-in-law, while you say it is sinful to marry her sister?

Nothing can more clearly show the utter inability of the prohibitionists to answer this objection, than the manner in which the Archdeacon of London dealt with it, when the Commissioners desired to know how he got over that difficulty on his advancing this argument. He said, after a little hesitation:—

'My brother-in-law's wife would be regarded *by me* as a sister, and marriage with her would, *according to my own private feeling*, be wrong, though it is not within the prohibited degrees.'

In other words, he admits that the objection is valid and unanswerable; and that the 'one flesh' argument proves, not that the Table of prohibited degrees is right, but that it is defective. He thinks if it went one step further it would do; but if the Commissioners had been disposed to cross-examine the witnesses on that side, as they have been accused of doing, they would not have failed to ask him whether his brother-in-law's wife's sister would, on the same principle, be regarded by him as his brother-in-law's sister, and therefore as his own sister, as she inevitably must be, if he believes in his own theory; and so on, *ad infinitum*. And those who advance this paradox have given yet another proof that they do not practically believe that a sister-in-law is equivalent to a sister; for if they

did, they must maintain that marriage with a sister-in-law is much *worse* than marriage with a niece: whereas (like the rest of mankind) they do just the contrary, and always speak of marriage with a niece as a sort of climax of the abominations which are to follow after the permission to marry a wife's sister is granted.

The reader must be weary of this kind of theology: but it is no use answering some of the arguments on the other side, and leaving it open to your antagonists to say that those which they really rely on are some others, which you have not answered; and neither their number nor their quality is the fault of those who have to answer them.

A few years ago, if nine out of ten of the persons who expressed their horror at the idea of allowing marriage with a wife's sister had been asked their reason, they would have said it was expressly forbidden in the 18th chapter of Leviticus, in the well-known verse in which that connexion is mentioned. Even so lately as the time of the Commission, no less a person than the Archdeacon of Middlesex, who said that he had always had a strong impression against relaxing the prohibition, though he was not prepared to state all the reasons for it, said that he *thought* this 18th verse was one of the grounds of the prohibition. Now, however, it is pretty generally known that the tables are turned, and that the prohibitionists are not relying on, but trying to explain away the obvious and natural meaning of the words, 'Thou shalt not take a wife, *to* her sister, *to vex* her, *beside* the other, in her *lifetime*.' What we have to consider therefore is, the various methods by which they seek to effect this laudable object of giving to a verse in the Bible a meaning directly contrary to that which any plain man would infer from the words, if he was unprejudiced by Tables of prohibited degrees, Acts of Parliament, 'Apostolic Canons,' and such like human inventions, and merely reading the Bible for the purpose of learning his duty and the will of God; who

is not a Judge 'apt to quarrel with men by unknown measures and secret rules of interpretation.'—(Bp. Taylor.)

The first and most plausible of these methods is that of getting rid of the obnoxious verse altogether, by the help of a translation adapted for that purpose. For they say the words *her sister* do not really mean a sister at all, but merely *another woman*: which interpretation is indeed given in the margin of our Bibles, as a possible one in the opinion of some of the authors of the authorized translation. It is rather strange, however, that even with this strong inducement of getting rid at once of perhaps the principal difficulty in their way, not one, I believe, of all the modern advocates of the prohibition has ventured to come forward, and stake his own reputation as a Hebrew scholar on the assertion, that *another* is the right translation, and *her sister* the wrong one. Not only that, but the Regius Professor of Hebrew in the University of Oxford, who is certainly second to no one in the earnestness of his vindication of the prohibition, refuses to give his sanction to this attempt to support it by the aid of a corrupt translation. For that it is corrupt may be seen at once, without any knowledge of Hebrew, by merely referring to the passages which are cited in support of it, as containing the same word, of which it is not denied that the primary or literal translation is *sister*, though it may be figuratively used to signify *another*.

The passages referred to for that purpose are, Ex. xxvi. 3, 5, 17; and Ezek. i. 9, 23, and iii. 13. Not only do none of them relate to *persons* at all, but in every one of them, the expression used either is, or is equivalent to, not *another*, but to the compound word *one-another*: a translation which would simply make nonsense of the verse in question. Moreover, in all those other verses, even if the literal translation, *sister*, had been left standing, it would have caused no mistake, because its figurative meaning is *self-evident*, just as that of

the word 'brother' often is in the Bible: whereas, in this verse, the substitution of the figurative translation for the literal is not only forbidden by the analogy of the very cases cited in support of it, but is a wanton violation of Hooker's well-known and unquestioned dictum: 'I hold it for an infallible rule in expositions of sacred Scripture, that, where a literal translation will stand, the farthest from the latter is commonly the worst.'—(Book iv. c. 59.) After this, not to mention other objections, no one can be surprised at the positive assertion of the present Chief Rabbi of the Jews in England, that this new interpretation 'is destitute of all authority, and discordant with the spirit of the sacred language.'

Failing, then, in this bold attempt to efface altogether from the Bible the inconvenient words, 'Thou shalt not take a wife *to her sister*, to vex her, beside the other, in her life time,' the prohibitionists next tell us that this verse no more implies a permission to marry her after her sister's death, than the seventh Commandment, by prohibiting fornication to married persons, implies a permission of it to unmarried ones. *If* the Bible contained no unequivocal condemnation of fornication in other places, as it does contain none of marriage with a wife's sister, will any of these logicians venture to affirm that the seventh commandment, by only declaring it unlawful for married persons, would not imply that it was lawful for all others?

Instead of bringing forward these foolish parallels about fornication, bigamy, and other known sins, when the whole question is whether this marriage is sinful or not, let them find a single instance in the Bible, or anywhere else, in which a prohibitory law is held to extend to cases, not similar, but contrasted, to those which are expressly mentioned in the prohibition—in contravention of that rule, both of common sense and civil law, which Bishop Taylor quotes, 'Quod in lege prohibitoriâ non vetitum est, permissum intelligitur.'

Having, then, as they imagine, disposed of the only verse

in the Bible in which this kind of marriage is mentioned, and, according to all common rules of construction, sanctioned, in the only case in which it can be contracted now that polygamy has ceased, they tell us that it is unequivocally condemned elsewhere in the Bible, to wit, in this same eighteenth chapter of Leviticus; and of this unequivocal condemnation the first proof that they discover is, that a wife's sister is exactly analogous to a brother's wife, with whom marriage was expressly forbidden. It is, no doubt, very easy to pronounce, according to Bishop Jewel's often quoted, and never proved dictum, that 'when God commands me not to marry my brother's wife,' it follows directly by the same, that He forbids 'me to marry my wife's sister.' *Why* does 'it follow directly by the same?' Of course, if this natural analogy between the relationships of the sexes holds now, it held always. 'The man that committeth adultery with another man's wife . . . they shall surely be put to death,' was God's law for the Jews (Lev. xx. 10). Did it 'follow by the same,' that the woman that committeth adultery with another woman's husband, they shall surely be put to death? And if not, why? The House of Lords, at least, can have no difficulty in answering this question, seeing that it has always been the settled rule of Parliament in divorces, conformably to the understanding and feelings of, I suppose, every nation in the world, that the adultery of a wife is to be dealt with in a very different way from adultery of a husband: not, of course, because the latter is not a great sin, but just because there is *not* that analogy between the relationships of the sexes which Jewel and his followers have chosen to assume. In fact, it is almost idle formally to state such a proposition, when we are talking about the Mosaic laws of matrimony, for that distinction between the sexes runs through the whole of them. Do the believers in this doctrine of analogy of the sexes suppose that the law of Moses allowed women to have several husbands, as it allowed men to have several wives?

Again, what proof has ever been given that this same prohibition of marriage with a brother's wife is binding upon Christians at all? It may be true that there is, from social causes, very little inclination to contract such marriages, and therefore very little necessity to alter the law; but when we are considering the real foundation and Scriptural authority for the law in question, we are not to take for granted that marriage with a brother's wife is contrary to the law of God, because it suited Henry the eighth to declare that it was, or because Queen Elizabeth's archbishop, Parker, put it into the Table of prohibited degrees. And when we remember that this very marriage was not only permitted but commanded to the Jews under certain circumstances, and those not rare and urgent, such as might excuse almost any marriage, but in the common and every-day case of a man leaving his widow childless—when we remember also that this command was not, as has been alleged, a special and extraordinary provision of the Mosaic law, but had been known to the world as having the express sanction of God long before the time of Moses (Gen. xxxviii. 8)—when we observe that, even in the cases where it was forbidden to the Jews, the punishment of death was not attached to it, as it was to nearly all the other prohibitions—it is perfectly incredible that this was one of those things by which the Gentiles had 'defiled their land;' and this, it must be remembered, is the only reason which is alleged for considering any of these prohibitions as more than ceremonial ones, intended merely for the Jews to whom they were given.

That this law of nature, which is written in the hearts of the Gentiles, and which they were punished for violating, extends so far as to condemn marriage with what may be conveniently termed, lineal relations by affinity, we know from the express assurance of St. Paul—at least, unless we prefer the assurance of the *Quarterly Review*, that 'it is a remarkable but an incontrovertible fact,

that there is not, in the whole volume of Scripture, one prohibition or restriction of any kind as to the marriage relation, except in the book of Leviticus. Neither can it be denied that every marriage is condemned, as contrary to that same law of nature (or perhaps of original, though unrecorded revelation), which falls within the general denunciation against connexions between those who are 'near of kin,' or, as Dr. Pusey and others say that it ought to be translated, '*flesh of a man's flesh.*' (Lev. xviii. 6.)

Now, before we inquire what relations are included in this term, it seems very clear that a wife's sister is not, for this incidental, but striking reason: can any one believe, that if God had been about to denounce marriage with two sisters as an abomination and a defilement, for which the land should spue out its inhabitants, He would have so ordered the goings of a man under His special and singular guidance as Jacob was, as to cause him to make this very marriage; and that, after it had for some time promised to be a childless one—not because Jacob had made it unlawfully, but because he 'vexed' his first wife with his partiality for his second—God should have opened Rachel's womb, and raised up from her the two most blameless sons of their father—one of them signalized above all the rest by the Divine favour, the preserver of his father's house, and therein of the whole Jewish nation?

One would think that if not the words *near of kin*, yet certainly that more correct version, *flesh of a man's flesh* (which, by a fatality like that which led them to insist on the Apostolic Canons as their earliest Christian authority, the prohibitionists have been the persons to bring forward) would have shown them that a sister-in-law is not within that general description. The common argument, that all the specified cases in Lev. xviii. are only intended as specimens of the degrees of relationship comprehended in the general term 'near of kin,' is, of course, nothing but a

begging of the question. And if a wife's sister was included in this general prohibition, then the law, in order to express what they say it implies, would run thus: Thou shalt not marry thy wife's sister, for she is *flesh of thy flesh*: neither shalt thou marry her in the lifetime of her sister, *to vex her sister?* Who does not see that such a combination of reasons for the prohibition, after the death, and during the life of the first wife, is absurd and inconceivable?

The theologian of the *Quarterly Review* has a still more summary way of settling the question: he tells us that 'learning is thrown away' in discussing the meaning of the words here translated 'near of kin,' for 'we have only to refer to the best of our dictionaries, Johnson's,' and we shall see at once that '*kin, kindred,*' may include a sister-in-law. Certainly, learning would be thrown away in arguing with a person who believes in the plenary inspiration of the Bible in the English language, and translates Hebrew by means of Johnson's Dictionary.*

Mr. Walpole is a little better: he does advance from an English dictionary to a Greek one, and expatiates on the meaning of *οἰκεῖος*, which he observes is the Septuagint translation of the phrase in question. But, begging his pardon, it is not: it is only half the translation: *οἰκεῖα σαρκὸς αὐτοῦ* is the whole; which does come up pretty nearly, though not quite, to Dr. Pusey's undisputed translation, 'flesh of his flesh.' And that full expression, either the Hebrew, or the Greek one, occurs nowhere else in the Bible. The less full one, which is translated *οἰκεῖος*, occurs

* Even if the Bible had been written, as this gentleman appears to suppose, in English, and even if these words are sometimes in a loose sort of phraseology, extended to relations by affinity, any lawyer will tell him that the words 'near of kin' are invariably confined to their proper meaning of relations by blood, whenever it becomes necessary to determine it: so that the English interpretation really does not contradict, but agrees with, the Jewish.

in a few places: and in every one of them, even this less limited expression is confined to very near blood relations. There are two close at hand, one at the beginning of Lev. xxi., where it goes no further than a sister; and the other, Lev. xx. 9, where it is extended to an aunt, and therefore, of course, to a niece. Furthermore, in every place in the Bible, as, for instance, several in the book of Ruth, where relations by affinity are intended to be described, an entirely different expression is used, both in the Hebrew and in the Greek versions.

I cannot forbear to notice under this head another instance of the recklessness of argument which has been indulged in by these upholders of the authority of the Scriptures and the sanctity of matrimony. They have said, over and over again, that, unless the Levitical prohibitions are allowed to be extended, by the principle of 'analogy,' beyond what is expressed, there is no prohibition of marriage even with a *daughter*. I should like to know how a man could marry his daughter without violating the prohibition in verse 17, against marrying a woman and her daughter. And as I presume nobody means to deny that a daughter is flesh of a man's flesh, there are no less than two clear prohibitions against this thing, for which we are told that there is no provision at all, and that the word of God is insufficient for its purpose, unless it is extended by a rule of our invention, which has not the slightest Scriptural authority for it.

Here I am happy to be able to close the examination of what are called the Scriptural arguments for the prohibition of marriage with a wife's sister. But there is one more, of a quasi-religious kind, which is well calculated to make an impression on persons who do not happen to know or to perceive the answer to it. It is, that, though this law may

have had its origin as late as the fourth century, yet it cannot be considered as a mere corruption of the same kind as those which were swept out at the Reformation, because it was then preserved on due consideration, first by Act of Parliament, and afterwards, along with others, in the present Table of degrees, which Archbishop Cranmer wanted to make, and which Archbishop Parker did make, and which the authors of the Canons of 1603 adopted. This is perhaps a delicate subject to deal with just now: but, at least, I shall hardly shock anybody by suggesting that as we have no reason to believe that Cranmer was inspired, his reasons and his motives are just as fair a subject for examination as those of his successors in 1835. And what do the upholders of the authority of Cranmer suppose would have been his judgment, if Anne Boleyn had happened to be Henry's deceased wife's sister, instead of the supplanter of his brother's wife? If they have any difficulty in answering this question, it may assist them a little to be told, or reminded, that *Anne Boleyn actually was the sister of Henry's living concubine*: which, the prohibitionists themselves allege, has always been (as of course it ought to be) held equivalent to a wife, in questions of 'incest,' both in theology and in law. The account of this little episode to the matrimonial history of the English Bluebeard, who was the founder of our present laws of prohibited marriages, is (as might be expected) to be found in Lingard's History (vol. vi. pp. 152, 172, 2nd. ed.); and unless he has forged the authorities and documents which he refers to and quotes, there can be no doubt that Henry's cohabitation with Mary Boleyn was so notorious to all who were concerned in the divorce business, that care was taken to insert in the dispensation which he wanted to get from the Pope a clause to meet this very objection to his marriage with Anne. If this is true, it will not be pretended that Cranmer was ignorant of it when he sanctioned that marriage; and I think such a fact as this throws rather more

light upon the real value of his judgment respecting the sinfulness of marriage with a wife's sister, than his afterwards refusing to grant a 'dispensation' for 'one Massey' to marry his wife's niece, not at the desire of Henry, as Mr. Goulburn represented, but at the request of Cromwell: which was not exactly the same thing.

It is true that marriage with a wife's sister was prohibited in the Act 25 Henry VIII., c. 7, notwithstanding the reflection thereby cast upon Henry's marriage with his concubine's sister. But when he once had made up his mind to be his own Pope, he was not the man to stick at such a trifle as that, or to exclude a wife's sister from the Act, when inserting it manifestly appeared to enforce the prohibition of marrying a brother's wife, which was all he cared about. And whatever it was natural for Henry VIII. to enact with this view, it was not less natural for his daughter Elizabeth to retain, and for her archbishop, Parker, to insert in his Table of prohibited degrees (which he had really no more 'authority' to make than Archbishop Sumner, or than I;) and on the great principle of *quieta non movere*, it was equally natural for the makers of the canons of 1603 to adopt that table as they found it. But to talk of this or any other of the marriage prohibitions, as a religious question solemnly settled at the Reformation, is not only to assume what there is not the slightest proof of, but to contradict the plainest evidence that, as Bishop Taylor says, 'Learned men upon that occasion gave too great testimony with how much weakness men that have a bias do determine questions, and with how great ease a king that is rich and powerful can enforce his own determinations.'

That the Canons are invalid against the laity, is a maxim of law too well known to need confirming by authorities. And yet the Canon which adopts Archbishop Parker's table is directed, not against the clergy, but against the laity:—

'No person shall marry within the degrees prohibited by the laws of

God, and expressed in a Table set forth by authority in the year 1563. And all marriages so made shall be *judged* incestuous and unlawful, and consequently shall be dissolved as void from the beginning, and the parties so married shall *by course of law* be separated. And the aforesaid Table shall be in every parish church publicly set up, and fixed at the charge of the parish.'

The truth is, that neither the table of degrees, nor the Canon which adopted it, have anything whatever to do with the matter:* nor had the Convocations of 1603-4 any business or power to meddle with it at all. So far as the 99th canon did not exceed the prohibitions already existing by law—i. e., by express Act of Parliament, or by so much of the old Canon Law as was adopted by Act of Parliament (35 Henry VIII., c. 16), of course it was valid—and was, equally of course, superfluous. If it had exceeded the existing law of the realm, no lawyer will deny that it would have been invalid, as another Canon was held to be which did profess to enact that marriages should be void under certain circumstances under which they were not then void by the laws of the realm. It might just as well be contended that if a Convocation met now, and endorsed the 'Royal Marriage Act' with a canon, Parliament would have no right afterwards to repeal or alter that act without the consent of another Convocation.

Several cases may be, and have been, cited to prove this position: it will be sufficient to refer to one, *Middleton v. Croft*, 2 Strange, 1056, to which various judges have expressed their assent, and in which Lord Hardwicke, Lord Chief Justice, said, 'There are many things of an ecclesiastical nature, *which no canon can touch, as the degrees of consanguinity, &c.* These are matters that have always been regulated by the legislature.' And anybody who has looked into the various marriage acts in the statutes at large (not to speak

* This was admitted, or rather asserted, in one of the debates upon this question, by Dr. Nicholl, an ecclesiastical lawyer, and an advocate of the prohibition.

of many other acts on ecclesiastical subjects), knows that Lord Hardwicke's statement entirely agrees with the practice of the legislature, which has at all times and in various ways not only dealt with the law of marriage as if no canons existed, but has both directly and indirectly repealed them whenever it has thought fit; relieving the clergy from penalties to which they were exposed under the canons made by their own legislature, which had power over them, though not over the laity; and rendering them liable to penalties to which they were not liable by the canons.

Although the penalties of the Canons, however absurd or unjust, can be enforced against the clergy in their own Courts, as having been made by themselves, except where they have been relieved from them by the laws of the realm, yet it is a mere vulgar error to suppose that they are bound in conscience to obey the Canons by some vow, promise, or subscription. No clergyman, at any time, or in any way, promises obedience or expresses assent to the Canons, as they do to the Prayer-book and the Articles; and the Canons have never been received as law by 'this Church and Realm!' And they will not, I should think, contend that, because some of the Canons can be *enforced* against them, they are therefore irrevocably bound in conscience to obey and believe in whatever the Canons may command or assert; for if they do, they must by the same rule hold themselves bound to believe in the orthodoxy and propriety of every Act of Parliament.

I suppose, however, that the Bill of this year, like that of last, will profess not even to *allow* clergymen to perform these marriages, though the marriages themselves are to be made lawful. I say the bill *professes* not to allow it, because, though there are persons who flatter themselves that they are thereby preserving what they call 'the law of the Church,' inviolate, they must know perfectly well that such a prohibition is a mere legislative sham, and will never prevent one single marriage

of a wife's sister from being solemnized in a church, when the parties are sufficiently anxious about it to go to a strange place to be married. One would have thought the fifteen years' experience of the working of the much more substantial prohibition of the marriage itself would have convinced any one of the vanity of such an attempt. However, if this kind of legislative fiction is the only condition on which any number of persons can be induced to consent to the removal of the great moral evil and social injustice which is inflicted and perpetuated by the existing law, perhaps the promoters of the bill can hardly be expected to endanger it by refusing to indulge them with a nominal prohibition of such marriages by the clergy.

Of course, this concession is very far from satisfying a genuine theological opponent. Mr. Roundell Palmer has no idea of letting churchmen, at any rate, escape so easily; and so he proposed to reserve power to the ecclesiastical courts to inflict 'censure or punishment' upon members of the Church who should dare to violate the canons by contracting such a marriage—a power which those courts *must* in that case exercise, if called upon. The House of Commons, however, by one of the largest majorities of all the divisions on the Bill, declined to entrust Mr. Palmer and his friends with the power of persecution which they thus modestly desired. And as the House was equally unmoved by Sir Frederick Thesiger's considerate apprehension lest some of the clergy should feel themselves bound in conscience to refuse the Communion to persons contracting these marriages—i.e., as being '*notorious evil livers*,' I do not think it necessary to say any more upon the ecclesiastical objections to the measure. For although persons are still found in remote parts of the country to repeat Sir R. Inglis's assertion, that the table of Prohibited Degrees is part of the Book of Common Prayer, because it is found in common Prayer-books; I believe it is by this time pretty generally understood that the

binders or printers of Prayer-books have never really been invested with the functions of an ecclesiastical legislature, and that the table of degrees is no more a part of the Prayer-book than the New Version of the Psalms; and also, that hanging up an invalid law in a church is not sufficient to make it valid.

The petitions of the clergy against the Bill are not entitled to be regarded as an ecclesiastical objection, even as respects churchmen; not merely because the clergy are not the church, and have not, even if they had a convocation to-morrow, the smallest power to make or alter the law of prohibited marriages; but because they have themselves deprived their petitions of the only special value they could have had, by not confining themselves to expressions of opinion on the theological part of the question, knowing very well that if they did, they would lose more in number than they would gain in weight. 'And considering the methods that have been employed to obtain signatures, I am surprised that a far greater number have not been procured. As many petitions could easily be got up upon any subject connected with the church. The mode by which a great proportion of these signatures have been obtained is as follows: the arch-deacon, who has always great influence with the parochial clergy, circulates printed forms of petitions against the Bill among the rural deans: the rural dean goes with them to the parochial clergy; and he must be a bold or a very well-informed man, who refuses to sign a petition so recommended by his immediate ecclesiastical superiors.' For this full and accurate description of the mode of getting up clerical petitions, I am indebted to no less an authority than the Lord Bishop of London, who so expressed himself of the petitions against a bill which he was advocating in the year 1840, by probably as many clergymen as have petitioned against this bill.

I am not aware that any one has openly contended for

the proposition that, even if churchmen were unanimous in believing this prohibition to be required by the law of God, they would have a right on that ground to enforce it against dissenters, who almost unanimously believe the contrary. And for a mere majority to compel the minority to do, or abstain from doing, what the majority happens to think right or wrong, is the very essence, and almost the definition of intolerance. And after relieving that small number of persons who take advantage of the Dissenters' Marriage Act (only one-ninth of all who are married) from the necessity of being married with the forms of the Church, it is monstrous to insist that all the dissenters shall remain subject to the incomparably more substantial grievance of not being allowed to marry a wife who is prohibited by an ecclesiastical law which they almost unanimously reject.*

Mr. Roebuck, I know, says, 'that it is perfectly idle to talk of it as a question of religious liberty; that that is nothing but a mere hypocritical statement.' This appears rather strong for parliamentary language: it looks more like a quotation from a 'religious newspaper.' However his audience seemed to take it very much as a matter of course. And perhaps it would not be easy to find fault with it, if it were true, as he also asserted, that 'they who call for this innovation are persons who feel that their unlawful desires are checked and coerced by the Act now in operation, and who long for such a modification of the law as will enable them to gratify their unholy propensities.' I confess I should not have ventured, without Mr. Roebuck's assurance, to assume that those who are suffering from the coercion of the

* Russia is not a country famous for toleration or liberty. But it appears from the evidence, that though the established church there is the most strict of all the churches in the world in this matter of prohibited degrees, yet a marriage in Russia between a man and his wife's sister, if celebrated, as it can be, between persons not of the established religion, is valid and unimpeachable.

present law are so many as 108,000, which appears to be the number of those who called for this modification of it by their petitions last year; of whom 25,000 were in Scotland, where we have been so confidently told, not merely by Mr. Roebuck but by others, that the people are all but unanimous in favour of the prohibition.*

By way of further convincing his hearers and the public that it is mere hypocrisy to call it a question of religious liberty, whether the advocates of this prohibition are to be allowed to impose their notions of what is holy or unholy upon these 108,000 petitioners, and all who agree with them without having signed or seen any of the petitions (as I have not myself), Mr. Roebuck assured the House that they '*may take his word for it*, that however well intended such legislation may be, jealousy, disunion, and rancour will follow in the train' of a wife's sister made into a wife. This oracular mode of arguing is neither very difficult to execute, nor very convincing when it is executed. It would have been rather more to the purpose if Mr. Roebuck had explained *why* jealousy, disunion, and rancour are always hereafter to follow in the train of these marriages, when there appears to have been no single point more clearly established by the evidence, than that they have hitherto been singularly free from these evil effects; probably from the very obvious reason,

* Even if this were true, which it clearly is not, the Scotch are not so remarkable for either religious toleration or consistency, or for the general excellence of their matrimonial laws, as to be entitled to any special consideration. Not to mention more notorious illustrations of these points, it was last year stated on high authority, and, as far as I know, not contradicted, that they have not even any law by which a man's marriage with his own illegitimate sister can be set aside. The people of England are not likely to allow the prejudices of such a nation as this to prevent us from reforming our own laws, or to add one more to the anomalies already existing between the marriage laws of the two countries, any more than we shall adopt their intolerant prohibitions of all Sunday labour except hard drinking.

that such marriages are very seldom the result of mere passion, and that the parties have had ample opportunity of becoming thoroughly acquainted with each other before they venture upon that step; from which jealousy, disunion, and rancour do unfortunately sometimes follow, even when the marriage has been perfectly lawful.

Much the same may be said of the favourite social argument of the prohibitionists, '*Convert not an affectionate aunt into a cruel stepmother;*' a saying which contains as many fallacies as could well be compressed into so small a compass. All *novercæ* are not *injustæ*, even when there are children of both mothers, and much less when there are not, which is obviously the more common case. But suppose they are: which is likely to make the most '*unjust*' or '*cruel*' stepmother; a near relation, who, by the hypothesis, is an affectionate one to begin with, or a mere stranger, who has no previous connexion with the children, who has never been in the habit of partially supplying their mother's place to them, as an aunt probably has, and who brings upon the husband a new set of connexions of her own, having still less in common with the first set of children than herself? Why, do these arguers suppose, do women (as their own partisan, Archdeacon Hale, admits) on their deathbeds, frequently desire their husbands to marry their sisters? Is it in order to make sure of their children having a stepmother who will not '*spoil*' them? Really one would think men and women might be trusted to judge what is best for their own children, quite as well as Mr. Roebuck and Mr. Gladstone, with their theory about marriage '*transforming kind and beneficent aunts into callous and heartless stepmothers.*' And on this point, as on Mr. Roebuck's '*jealousy and rancour,*' it is strange that nobody on his side should have thought it worth while to produce any evidence of the fact, that this inevitable loss of affection does frequently take place on the connexion between the sister-in-law and her

nephews and nieces being made closer by her marriage with their father.

But supposing all this to be true, instead of being, I will not say 'hypocritical,' but unfounded and imaginary, and merely invented to bolster up a case which it is found will no longer stand upon its original foundation of Scriptural authority, is Parliament to prohibit every marriage which is likely to turn out ill, either for the parents or the children? If so, not only they will have enough to do, but, as the Archbishop of Dublin says, such 'a meddling system of government amounts practically to a most intolerable tyranny.' And there can be no doubt that he is equally right in saying that four out of five of the objectors to this Bill suppose that the question is whether marriage with a wife's sister is an *advisable sort of marriage*;—

'But ask the same persons whether they think it advisable for a man to marry his servant girl, or a woman young enough to be his daughter, or old enough to be his mother,' 'or where there is a taint of insanity,' &c. ; 'and when they answer No, ask them whether they would have a law to prohibit such marriages, and I think they would then perceive that it is absurd to keep men in leading-strings, and to take away all right of private judgment whenever it is possible for men to judge wrong.'

The only grounds on which restrictions of this kind can be defended, or would be listened to, if they were now proposed for the first time, are, either to prevent flagrant and scandalous offences against morality, or else that they are for the benefit, not of some particular class who want everybody else to be restrained for their supposed convenience, but for the benefit of the nation at large, as in the case of the Royal Marriage Act, which can certainly be defended on no other ground. The first of these excuses, the advocates of this restriction on social grounds do not allege, and it is plainly out of the question, for the reasons before stated. And I do not know that anybody has actually contended that it is in any way beneficial to the nation at large, that a certain number of brothers and sisters-in-law should be, theoretically

and conventionally, able to live together unmarried, while it is found practically every day, that they very frequently 'end in either marriage or concubinage;' and so are led, by relying on this security by Act of Parliament against falling in love, to do the very thing which the Act intended to prevent.

The supporters of the law generally profess to dispose of this rather serious objection to their theory, by some such answers as these: 'If a man is willing to do so, he can just as easily control his feelings of affection for his wife's sister as he can for his own sister:'—'possibly another generation of persons may rise up in the course of twenty-five years, under the existence of the law, who may be more inclined to obey it;*' a possibility which seems remarkably likely to be realized, now that it has been clearly proved that those who are *not* inclined to obey it, have public opinion and the votes of the House of Commons in two successive sessions on their side. Mr. Tyler, indeed, another of the witnesses in favour of the law, takes a more rational view of the question, and admits that 'it must depend upon every individual case,' i. e. upon the age and dispositions of the parties, whether the prohibition of their marriage will operate as a prohibition of their falling in love. But that is by no means the popular view of the matter on the side of the prohibitionists, and some of them have expressed great dissatisfaction with Mr. Tyler's evidence; which is very natural, seeing that he thereby admits that the law has nothing whatever to do with what Mr. Roebuck calls the 'unholy propensity' of men to seek for a wife for themselves, and a mother for their children, as little removed as possible from the one they have lost.

What, then, after all is the reason, why, both under the

* See Archdeacon's Hale's evidence. The reader has now the opportunity of contrasting some of the learned archdeacon's arguments with his admissions as to matters of fact.

old state of the law, when the prohibition was little more than nominal, and under the new law, which is proved to be ineffectual, there has been no scandal in such persons living together as brother and sister, except when they have given cause for it by their actions? The best of all reasons, experience. Experience has satisfied the world that, though perhaps rarely, yet occasionally, young persons so related can and do live together without any sexual feeling arising between them; whereas experience has long ago shown that Platonic attachments between young men and women are so nearly impossible that the world inevitably presumes against them, in all cases where the parties are not already on those terms of perfect familiarity which nothing but near relationship can produce. And therefore the Archbishop of Dublin's remark is really unanswerable, though it may appear at first sight a very obvious answer to it to say that it would apply to any other man and woman, just as well as to a brother and sister-in-law living together:—

‘Whatever scandal could arise would be rather promoted than prevented by the prohibition; for as long as they were free to marry, it would be inferred by all charitable people that if they wished to cohabit they would marry; but if prohibited, they would be exposed to temptation to illicit intercourse.’

It is of no consequence to speculate to what degree of relationship this doctrine might safely be extended; and it is plain that no precise line can be drawn, because as Archdeacon Hale truly remarked (with that noble disregard of consequences which distinguished so many of his answers), these feelings depend in a great measure upon the previous degree of communication and familiarity that has existed; and in some cases even cousins might safely go on living together ‘in perfect purity, when they have been brought up together as children in great intimacy and familiarity.’ It is enough for us to know as a matter of fact, that though brothers and sisters-in-law so living together do very frequently

acquire the wish to marry, yet that they also sometimes do not; and therefore, when the prohibition is repealed, and made as inoperative in law as it has always been in fact, the world will not, any more than it did before 1835, adopt the absurd and uncharitable presumption that people who can live together, and who appear to be living together as brother and sister, against whom ‘the great kitchen inquisition which sits in every house’ has found no verdict, are really living in fornication; and it will manifestly do so the less and not the more, when, if they wish to cohabit, they will have nothing to do but to get married.

It was proved by many witnesses that in most places, if not in all, the persons who have made these marriages (as far as they could make them) are just as well received in society as they were before, and that in every rank of life. I mention this, not at all by way of justifying those illegal marriages, but because it suggests this remark: that the kind of consideration which must have been given to this question by the friends of those who have made such marriages, is evidently a very different thing from a mere abstract opinion delivered in conversation, or in pamphlets and newspapers, or even in petitions to the Queen, by persons who have had no occasion to consider the matter practically, or with a view to their own conduct. And, therefore, when we are told that such a relaxation of the law would offend the feelings of society, especially the female part of it, which is conventionally assumed to be the arbiter of the fate of offenders against social laws, the natural reply is, Let us see how society now expresses its feeling practically on this very point. We all know how society practically expresses its feeling respecting common cases of cohabitation without marriage: why does it not deal with this case at least as severely, considering especially that, according to Mr. Keble and his followers, it has the additional aggravation of the sin of incest? Why, because

the law has *not* the real concurrence of society, because society does *not* regulate its feelings on such subjects by Act of Parliament, and is not so stupid as to confound those who have done their best to bind themselves in a marriage which is forbidden by no law of God, with those who live in concubinage merely because they do not choose to marry.

Nobody supposes that a brother and sister-in-law living together in concubinage without any form of marriage would be received in society as those are who have done their best to marry; and yet in point of law there is no difference between them; and this is another proof how little the law has to do with the opinion or conduct of society respecting these marriages. A somewhat recent case of a royal marriage, which was really no more of a marriage than one of these, afforded another striking instance of the distinction which the highest ranks, at any rate, recognise between connexions which are mere wilful cohabitation, and those in which the parties have really done their utmost to plight their faith to each other, and are believed to be *bonâ fide* keeping it. And yet it has been said by some, who, if they have no higher reason than that to give, would more becomingly hold their peace, that this alteration of the law ought not to be allowed, because the ladies among the higher orders are against it. One would have expected, *à priori*, that those who are quoted for having so expressed themselves, would have thought the removal of a frequent temptation to cohabitation without lawful marriage, a matter of more consequence than the opinion of Belgravia.

Sir Robert Inglis told the House of Commons, by way of proving the strong opinion that is entertained on the subject, that two ladies who had been living with their sisters' husbands had actually left them at the bare prospect of the law being altered, and rendering it possible for them to marry their brothers-in-law. One cannot too much admire such exquisite delicacy of mind; but, perhaps, these ladies

might as well have waited to see whether it really was necessary for them to go. Their friends would hardly have taken away their characters directly the bill was passed, without timely notice that they could only preserve them by departing. There may be a little outcry of that sort raised at first by the 'nice people of nasty ideas' (according to Swift's great apophthegm), and echoed by some who, without deserving that character themselves, are intimidated into following the fashion of those who do. But it will abate: the result of past experience will be remembered, and new experience will soon be added to it by those who are pure-minded enough, and therefore bold enough to despise such nonsense, and who will go on living as they have done with no thought of matrimony; and, before long, the suspicion and the scandal will be left to the exclusive use of those to whom 'nothing is pure, for even their mind and conscience are defiled.'

These remarks will apply equally to another very serious objection which has been raised to the repeal of the law, viz., that it will not only prevent the intercourse which can now exist between widowers and their sisters-in-law, but that it will destroy that which subsists during the life of the wife between her husband and her sisters. But those who make this objection, forget that the whole cause of the present difficulty is that men do fall in love with their wives' sisters in spite of the law, and marry them. And therefore I do not see how any woman can feel the least more secure that her husband is not even now contemplating marriage with her sister, than she would if there were no prohibition. But there is something more to be said about this objection. Have those who make it ever considered what they really mean by it? No doubt it sounds extremely plausible to talk about destroying the pure and affectionate intercourse in which sisters-in-law are assimilated to sisters, and so on; but all this, when it is translated out of sentiment into

common sense, means simply this: that a notoriously ineffectual prohibition of marriage, by a modern Act of Parliament, is sufficient to secure purity of intercourse between brothers and sisters-in-law, and to prevent them from contemplating marriage with each other, i.e., from wishing to commit adultery; *but that the existence of a living wife is not.* Perhaps those who set up as the representatives or advocates of the 'women of England,' had better reflect upon the full import of this compliment to the morality of their clients before they repeat it.

It is quite true that this is in one sense, though not in the sense in which it has been alleged, 'a woman's question,' inasmuch as everything which tends to promote the sanctity of marriage is. It is, undoubtedly, a woman's question, whether the three thousand, or ten thousand, or whatever the number may be, of women who have married their brothers-in-law, and all who will hereafter do the same, are to be wives, or concubines; and whether their children are to remain bastards merely because they were born on one side of the year 1835, while all born on the other side were made irrevocably legitimate by the self-same Act of Parliament. And if 30,000 was (what it has never been proved to be) an exaggeration of the number of women directly interested in this question as regards their own marriages, it is certainly no exaggeration of the number indirectly interested; to say nothing of the far greater number, of children of these marriages, who are yet too young to make themselves heard, but who, we may be sure, will do so very effectually before many years are over. If these self-styled advocates of the female sex had any real regard for their interest in what is usually considered the most important of all temporal concerns to them, they would apply themselves at once to the removal of this 'great and continually increasing evil' in the only feasible way, instead of trying to keep it up and to augment it, by parading the sentimental and fanciful objections of

those who have no practical interest in the matter, and nine out of ten of whom would have yielded to the same temptation, if it had been thrown in their way.

I have already noticed the falsity of the assertion, that this bill is only called for in order to relieve those who have wilfully broken the law from the evils they have thereby brought upon themselves. The opponents of the measure know very well that the number of these offenders is not brought forward as a reason why *they* should be relieved, but as a proof that the prohibition ought never to have been made, that it is not supported by the opinion of society, without which no social law can possibly answer or be long maintained, and that, though it may prevent people from living with their wives' sisters in lawful marriage, it does not and cannot prevent them from living together in unlawful marriage, that is, from living in fornication, with the formalities of a legal marriage and the sanction of society. It does not follow, because these people have done wrong, that we are to shut our eyes to the fact, that the only way in which we can prevent others from doing the same wrong every day, is to allow them to do right;* and that what the law now says to those who have made these marriages is this: 'You must take your choice of two things; you must either go on living in this state of concubinage, or you must turn out of your house the woman you have seduced (for it is obviously impossible that she could remain there on the footing of a sister, after having occupied the place of a wife); but, as for marrying her, that you shall not do at any rate.'

The women of England do not appear to be particularly in-

* Those who sincerely believe that this prohibition ought to be maintained, ought to endeavour to enforce it by more stringent penalties, now that it is found that bastardizing the children will not answer the purpose. Nothing can tend more to bring a legislature into contempt, than neither daring to enforce its prohibitions by adequate penalties, nor consenting to withdraw them when they are found to be ineffectual and mischievous.

interested in preserving such a law as this; and those who are so fond of attributing the purity of English morals to the strictness of our *prohibitions of marriage* (not seeing that the mere statement of such a cause is a self-evident absurdity) had better consider what answer they can make to foreigners who say: 'Here is a nation that is always boasting of the extraordinary purity of their morals compared with ours, when they have got a law which, by their showing, and the report of a Royal Commission, has produced several thousand cases of open and tolerated concubinage in fourteen years, and which they nevertheless persist in retaining, because certain persons of influence among them object to its being repealed.'

And although those who have broken a law are not entitled to ask to have it repealed *ex post facto* for them, there is a clear distinction between those who have broken this law, and those who have incurred penalties by violating a law plainly required for the defence of public morality, or the protection of public or private rights. And to compare the request of those who have made these marriages and desire to have them ratified, with a proposal to relieve people from the penalties of bigamy,* or with the natural wish of thieves and smugglers to be relieved from the penalties of the law,† is to display (as Paley said of indiscriminate praise) 'a settled contempt of all moral distinctions,' when they stand in the way of a controversial victory.

I believe I have now noticed all the principal objections that have been made to the repeal of this prohibition of marriage with a wife's sister—some, perhaps, which might safely have been left unnoticed; but when one sees daily the singularly small crotchets, as they appear to all but the owners, on which men's votes sometimes turn in great ques-

* Lord Campbell's *Lives of the Chief Justices*, vol. ii. p. 410, note.

† Mr. Keble's *Profane Dealing*, p. 4.

tions, it is hard to say what argument it is prudent to leave unnoticed. The substantial points on which this question really turns are, after all, very simple. If it is true that thousands of men are living with their sisters-in-law in mere concubinage—uncondemned by their neighbours—setting a bad example to all around them, and the more so, because they are in other respects well-conducted and religious persons, and because those who sanction their marriages are so too—teaching those who ought to learn respect for the laws from them, to consider themselves as the judges whether the laws ought to be obeyed or defied, and to confound the distinctions between right and wrong—adding to the number of illegitimate children an entirely new class of them, who will always feel their condition an act of legislative injustice, and not merely an unfortunate 'accident of birth;' we need not throw into the scale the evils and inconveniences to the parties themselves and all belonging to them, in order to justify us in saying that this law has been ineffectual in doing the little and very questionable good it was intended to do, and has been and will continue to be effectual in doing as much harm as possible.

And when we are told that the harm is only done by men's wilfully disobeying the commands of God, we may, besides denying the unproved and refuted and nearly abandoned dogma, that this marriage is contrary to His commands, confidently ask those who propound it to point out any one undoubted law of God which has ever produced the like effects, or which has ever been generally and deliberately set at nought by those who are neither unbelievers in a revelation of the will of God, nor can be pronounced by the most unscrupulous of their opponents to be generally profligate and depraved. Yet this is the law which we are told must be maintained at all hazards, because of its conformity to the Divine will, and of the social happiness and domestic purity which it produces or

secures. I take leave to say, on the contrary, that the sin and the disgrace of all these things will henceforth rest in no small degree on the heads of those who persist in maintaining a law which produces such fruits, either wilfully refusing to look at the truth, or deliberately postponing the happiness and morality of thousands to the theological prejudices of one set of people, or the sentimental fancies of another.

THE END.

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