

THE MARRIAGE LAW.

THE first question which presents itself, with regard to the proposed change in the law of marriage, is this, "Is the change lawful?" The State has confessedly power to change any law which is *merely* a law of the State, and the answer to our question will consequently depend upon the reply which must be given to another: "Is there any *divine* law of marriage, and is the change proposed in accordance with that law?" And, 1st. "Is there any divine law of marriage?" Men who accept the scriptures as the word of God, will reply that there is. Members of the Church of England, who accept the statements made in her formularies, can have no doubt on the subject. They will not forget the distinction made in her 5th. Article, between the "Law given by Moses touching Ceremonies and Rites," which "does not bind Christian men," and "the commandments which are called moral" from "the obedience of which no Christian man whatsoever is free." Our Church, and here she does not stand alone, recognizes the laws respecting marriage, contained in Leviticus, chaps. XVIII. and XX., as *moral* laws, no less binding than the Decalogue. Nor do we think that men will readily consent to abandon this belief in a Divine law of marriage. If there be no such law, what is our position? We are left, on this most momentous subject, to the moral sense of mankind and to the wisdom of civil governments. A "broken reed," indeed, to lean upon, which will too surely "go into the hand and pierce it." How has that moral sense been formed? Slowly and unconsciously, under the wholesome guidance and restraint of the Divine law. If that law be discarded, what will become of the moral sense which it has formed? It will, for the future, have no such stay; it will have been instructed to deny both the authority and the wisdom of that rule, from which its instincts have hitherto been derived; and the probable result will be a sudden and violent recoil from a restraint, which has been represented as being hostile to human enlightenment and freedom. It can scarcely be doubted, then that prudent thoughtful men will still cling to the belief that God has been pleased to make known His will in respect of a matter, which so nearly concerns the safety and the happiness of mankind.

If then it be conceded that the law given by Moses is of Divine origin, and still binding upon Christian men, what is its import? It lays down first a general principle, by which lawful marriages are to be distinguished from unlawful, and it then proceeds to give illustrations of this principle. The principle is this, that marriage is forbidden to a man "with any that is near of kin to him," literally, "flesh of his flesh." It is obvious that this general principle requires definition and limitation; and it is clearly proved, by the illustrations given, that the "nearness of kin," which renders marriage unlawful, is restricted to *collaterals* in the third degree, both of affinity and consanguinity. In the *direct* line no such limitation is required or provided. Is then the number of illustrations given in the sacred text exhaustive? It is not; and, accordingly, reason and common sense require that what is lacking should be supplied, or rather that we should assume that cases obviously parallel to those, which are *expressly* forbidden, are forbidden by *implication*; unless indeed we are prepared to assume that, while a man is forbidden to marry the wife of his *father's* brother, the Divine law leaves him at liberty to marry the wife of his *mother's* brother. Yet THE GLOBE, in a leading article of December 8th, says: "We do not see that there can be any inferential prohibitions claimed. Most

of those claimed by Prof. Gregg, are actual prohibitions." The palmary example of an inferential prohibition, alleged by Prof. Gregg, is that of the marriage of a father with his own daughter. This, THE GLOBE boldly says is *explicitly* forbidden in v. 7. The writer here opposes himself to the great body of biblical commentators. It may be observed against his view: 1st. That in verse 7, the word "even," would more correctly represent the original than the disjunctive "or;" 2ndly. That, as the prohibition is *addressed* to men, so the form in which it is expressed is *adapted* to that sex only; 3rdly. That the opinion that the mention of "Thy Father," implies an extension of the prohibition to the female sex, is precluded by the fact, that while in English those words might be addressed either to a son or to a daughter. The Hebrew term is modified according to the sex of the person addressed; and that the form adopted in the text proves the person addressed to be a man; 4th. That the latter clause of verse 8, seems to confirm our interpretation of verse 7; 5th. Had the legislator designed *expressly* to forbid this marriage, and not to leave its prohibition to be obviously inferred from the prohibition of a union strictly parallel to it, it may well be enquired why he did not prohibit it in the form observed in every other case, addressing the prohibition, as the writer in THE GLOBE elsewhere allows that it should be addressed, not to the woman but to the man. That writer says: "Women were in short, slaves, and not free agents. They were not married, but given in marriage, we suppose that he means 'They did not marry, but were given in marriage.'" It was unnecessary to forbid them to do things which they had no power to do, and hence the sole addressing of the prohibitions to men." If these words mean any thing, they mean that a daughter is not expressly forbidden to marry her father, and that the condition of women rendered it utterly unnecessary to forbid her to do that which she had no power of doing; yet the writer in the same article maintains that "this is not so," and that in verse 7, a daughter is forbidden to marry her father. The reason why this point has been so keenly debated is this, that, if it can be shown that every prohibited degree is expressly stated, and none left to be inferred, then the marriage with a deceased wife's sister must be regarded as lawful, because it is not expressly forbidden. If on the other hand the unlawfulness of unions such as that of a father with his daughter, is left to be inferred from the express prohibition of the parallel union of a son with his mother, then are we not only at liberty, but obliged to conclude that the prohibition of marriage with a brother's wife implies prohibition of marriage with a wife's sister. It is not a little startling to read the following statement in THE GLOBE: "He (Mr. Straith) declares that 'nothing can be clearer than that the Bible forbids the marriage of a woman with her deceased husband's brother.'" The fact is, that nothing can be clearer than that the scripture forbids no such thing. The words of Leviticus are "brother's wife," not "*deceased* brother's wife." So, on precisely the same principle it may be affirmed that Holy Scripture does not forbid marriage with a *deceased* uncle's wife, and many more of the laws in this chapter will be reduced to nothing else than superfluous enactments against the grossest forms of adultery, a crime already solemnly denounced in the general by the law given from Mount Sinai. Such misinterpretation of Holy Scripture may warn us what we are to look for from "the moral sense" of men, when they shall have utterly denounced the guidance of that which they thus miserably pervert.

THE GLOBE, in reference to certain physiological surmises which have been introduced into the discussion, observes that the "points raised would only be in place in the columns of a medical or live stock journal." We entirely agree with THE GLOBE; but we must call attention to the fact that the points in question have been raised, not by the opponents, but by the advocates of the proposed change in the law, in order to prove that the general principle, on which the prohibitions in Leviticus are based, cannot extend to the sister of a deceased wife, because there is no kind of consanguinity between her and her deceased sister's husband. Such arguments must be met, and the blame of any indecorum, which the discussion involves, must rest with those who have persistently introduced these topics, not only in papers published on the subject, but also in private conversation. We affirm then that the law in Leviticus recognizes affinity of a certain degree as a bar to marriage no less than consanguinity. Marriage with a wife's mother or a wife's daughter or grand-daughter is forbidden, (verse 17) and in these cases there is no consanguinity, as that term is interpreted by the promoters of the change. The mother of the wife is no less an alien in blood than the sister of the wife. The wife's daughter, born of a previous husband before the second marriage, is equally an alien, as is also the daughter of that daughter or of a son by the same marriage; yet are these all declared to be the wife's near kin's women, and marriage with them is therefore forbidden to the husband of that wife; unless, indeed, according to the theory of THE GLOBE. The prohibition is limited to the life time of the wife, and after her death, marriage either with her mother, or with her daughter, is permissible by the law of God. We may observe that this verse has also been cited as containing an express prohibition of the marriage of a man with his own daughter; it is, however, clear that the verse speaks of the *step-daughter* only, and that consequently, for ought which is expressed in verse 17, or in verse 7, the marriage of a man with his own daughter, remains prohibited only *by inference*.

In considering the lawfulness of the proposed change in the law, it must never be forgotten that our Lord has solemnly re-affirmed the principle on which the Levitical law is based, so far as it relates to the wife's near kins-women.

He has given His sanction to the primeval utterance which declared a man and his wife to be one flesh. Unless we venture to rob His words of more than half their meaning, and thus grievously limit their practical application to the subject before us, we must allow the unity of man and wife to be strictly reciprocal; and admit that, while in respect of others there remains a difference between consanguinity and affinity, (so that the marriage of a man with a woman, forms no impediment to the marriage of his brother with her sister;) yet, in respect of the married persons themselves, the distinction between consanguinity and affinity is merged, by virtue of their oneness in marriage, so that those who are near of kin to either party, are placed in precisely the same relation to the others as those who, irrespectively of the marriage, are his or her near kins-folk.

This principle is fully recognized in Leviticus xviii. 17, while our Lord, by reference to the original institution of marriage, and to the consequent union of man and wife, has thrown a clear light upon the *rationality* of the Mosaic legislation; has explained *why* the man may not take to himself the near kindred of his wife; and has proved that the prohibition rests upon *no* partial or transitory grounds; but finds its source in the earliest records of the history of our race, and is decreed to continue unto the end.