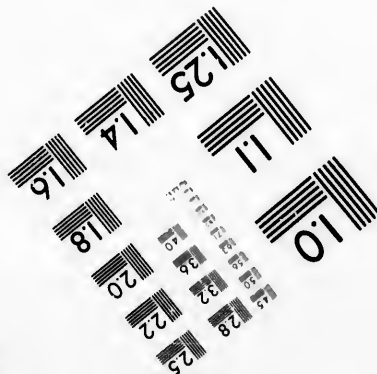
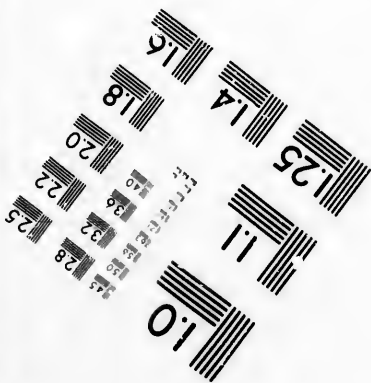
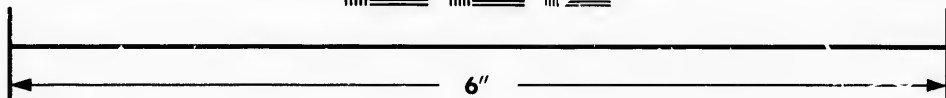
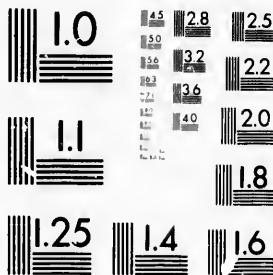


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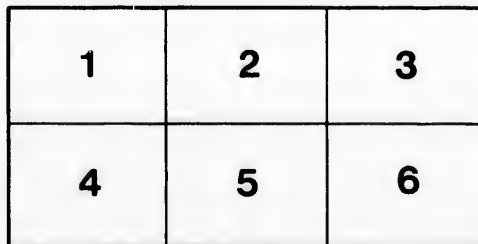
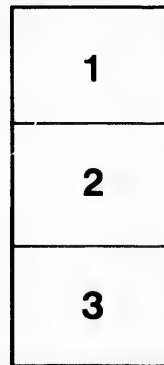
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SISTER OF A DECEASED WIFE,

CONSIDERED IN CONNECTION WITH THE

STANDARDS AND PRACTICES

OF THE

CANADA PRESBYTERIAN CHURCH.

BY

JOHN LAING,

MINISTER AT COBOURG, ONTARIO.

TORONTO:

ADAM, STEVENSON & CO., PUBLISHERS.

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1868.



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MARRIAGE

WITH THE

SISTER OF A DECEASED WIFE.

At the Synod of the Canada Presbyterian Church, which was held in Toronto, in June, 1867, the question: How men who had married the sister of a deceased wife should be dealt with by the Church Courts? came under discussion twice. One John Cunningham, who had been suspended from the membership of the Church by the Kirk Session of New Glasgow and Kintyre, appealed against the decision of the Presbytery of London, which had confirmed the action of the Session. The Synod, by a vote of 137 to 5, affirmed the decision of the Presbytery. The other case was as follows:—The Kirk Session of Knox's Church, Woodstock, Ontario, had referred for advice to the Presbytery of Paris the case of a Mr. Sherran, who had married in this relation. The Presbytery, "after due deliberation, instructed the Session "to suspend Mr. Sherran in the meantime from the membership of the Church, and recommended the Session "to overture the next meeting of Synod on the whole "question." The Session of Woodstock accordingly submitted an overture to the Presbytery of Paris, which was by them transmitted in due course to the Synod. It was received by the Synod and partly discussed. Finally it was agreed "That the further consideration of this "overture be postponed until the next meeting of Synod."

The overture was as follows:—

‘To the Rev. the Synod &c.....The Session of Knox’s Church, Woodstock, respectfully present the following overture:

‘Whereas by the 4th article of the 24th chapter of the Confession of Faith, marriage with a Deceased Wife’s sister is prohibited as contrary to the word of God:

‘And whereas the passages of Scripture cited in proof thereof do not prohibit the marriage in question:

‘And whereas other passages of Scripture teach with very considerable clearness the lawfulness of such marriage in the sight of God:

‘And whereas the present law of the Church on this point, consistently administered, consigns all persons so married to hopeless exclusion from Church fellowship—yea, even those who married in ignorance of such a clause in the Confession of Faith—the only condition on which their restoration is possible being a mutual agreement on their part to separate from each other—a course which few spiritual rulers in the Church would feel prepared to recommend:

‘And whereas the visiting of such heavy censure, if it is not warranted by the word of God, involves in great guilt those who bear rule in the Church:

‘Therefore, the Session of Knox’s Church, in accordance with a recommendation of the Presbytery of Paris, respectfully and very earnestly overture the Synod to take up and consider this whole question, in order that, if no clear and sure foundation for such prohibition to rest on can be pointed out in Scripture, the Synod may take the necessary steps to have the clause in question removed from the standards of our Church.

(Signed) W. T. McMULLEN,
Moderator of Session.’

‘Woodstock. April 4th, 1867.’

In June last, consideration of this overture was resumed. On a question of order, however, it was decided that it was not competent to entertain the overture in the particular form in which it was presented, as it contained an expression—the 2nd clause of the preamble—impugning the standards of the Church. Another over-

ture was then prepared and submitted, of tenor following:—

‘Whereas many learned, eminent, and devoted Christian men
‘in different Churches have expressed doubts as to whether mar-
‘riage with the Sister of a deceased wife be prohibited by Holy
‘Scripture:

‘And whereas it appears to the undersigned questionable
‘whether the passages adduced in the Confession of Faith do prove
‘the unlawfulness of such marriages:

‘Whereas, further, the practice of this Church in dealing with
‘persons so married has been to excommunicate them, and the un-
‘dersigned entertain doubts as to this manner of dealing by the
‘Church being defensible on Scriptural grounds:

‘Therefore it is humbly overtured to the Rev. the Synod, &c.,
‘that the portion of our standards, to wit: the 4th section of the
‘24th chapter of the Confession of Faith, which implicitly teaches
‘the unscriptural character of such marriages, be carefully recon-
‘sidered, and such relief be afforded to parties concerned as the
‘Synod may deem to be conformable to the word of God.

W. T. McMULLEN,	JOHN JENNINGS,
JOHN LAING,	W. ORMISTON,
D. WATERS,	J. M. GIBSON,
D. WARDROPE,	ROBERT WALLACE,
A. YOUNG,	WILLIAM COCHRANE,
D. H. McVICAR,	JOHN MACCOLL,
R. EDMONDSON,	WM. MOORE.
THOS. WARDROPE,	

‘Montreal, June 10, 1868.’

After full discussion, the Synod resolved “That the
“prayer of the overture be not granted, but that the
“Synod affirm its continued adherence to the declara-
“tion of the Westminster Confession on the subject of
“the overture.” This motion was carried over a pro-
posal “to remit to Presbyteries to consider the subject
“and report to next meeting of Synod, as to whether the
“law of the Church should not be so altered as that the
“Church Courts may be relieved of the responsibility of

“casting out of Church fellowship, on grounds so much “disputed, those who are so married,” by a vote of 49 to 37; and on the yeas and nays being taken, by a vote of 52 to 37—not, indeed, a large majority.

This question is one of grave importance and far-reaching extent. Indirectly, it affects the claims of Scripture to be the guide of man, the obligation of the moral law, the powers of civil government, the principles of family and social morality. It has also practical issues which must be met. If, then, doubts are entertained to any extent within the Church as to the Scriptural basis of its doctrine or practice in the matter, they should be removed by a clear exposition of that basis. Men who feel aggrieved, whether in conscience, by being parties to the act of excommunicating others, or by being themselves excommunicated, should be shown “that our “rules of discipline do not rest on slight or arbitrary “grounds.” And surely when fifteen members of Synod, and some of them prominent ministers of the Church, are of so doubtful opinion as to sign the above overture; when out of eighty-nine votes, thirty-seven were recorded for a reconsideration of our standards; when, as is known to the writer, there are three instances of persons so married (he may say, since last June, four instances) enjoying the sealing ordinances of the Church, and as rumour has it, one of our elders is in this position; surely, in these circumstances, a reconsideration of the subject by the Church is called for.

Principal Willis proposed the appointment of a committee to give its consideration to the subject. Although the object of that committee, as specified in the motion, is very one-sided; nevertheless, had the proposal been adopted, it would have been not only courteous but dutiful to wait for the action of that committee. The deci-

sion of Synod, however, has peremptorily prevented consideration of the subject ecclesiastically, and those who have doubts, and whose conscience is aggrieved, have no course left, save to draw attention to the matter through the press.

In this manner to agitate the Church is far from desirable, especially in a matter as delicate as it is perplexing. But if a sufficient vindication of the position of the Church is thus evoked, we shall all rejoice in the result. If, on the other hand, it shall be found, that there is no scriptural basis for that position, then there cannot be a doubt that all who love God's word and believe our standards to be in accordance with that word, will, notwithstanding whatever prejudice or feeling, follow the light, and labour to have the standards conformed to Scripture.

Such is the only apology the writer has for laying before the public the following pages. He is seeking for truth. He believes others are also. He has carefully perused all the works within his reach, which he has been told settle the question against him. His doubts remain, and, as he hopes to make apparent, are scarcely noticed in the works referred to. His desire is to see the positions which he lays down fairly and calmly considered. And he will gratefully acknowledge his obligation to any father or brother who, bearing with his doubts, will patiently meet the points raised and show us the more excellent way.

I.—STATE OF THE QUESTION.

That we may avoid unnecessary and irrelevant discussion, it may be well to state distinctly that the writer has no sympathy with the views of those who say, either that in the matter of marriage Holy Scripture is not to

be our guide; or that the Old Testament is not to be held binding as to the question. He accepts the Bible as the judge—the whole Bible, from Genesis to Revelation. He further believes that Scripture teaches that there is such a thing as Incest; that God has given a law of Incest, forbidding marriage in certain relations; that in Leviticus xviii. chiefly this law is found; and that this law is of permanent obligation, binding on Christians.

On this understanding we propose to consider the marriage of a man with his deceased wife's sister, in connexion with the standards of the Canada Presbyterian Church, and the ordinance of that church, which excommunicates parties so married. As our Church professes to "sincerely own and believe the whole doctrine contained in the Confession of Faith to be founded on "the word of God," we do well to examine the Scripture basis for the statements of the Confession. This is our main design. If other matter shall be introduced, it will be sparingly, not *as discussing* other points, as of History, Law, or Expediency, but only as throwing some light on the principal subject of consideration.

II.—THE STANDARDS OF THE CHURCH.

The enquiry regarding the standards is three-fold. 1. Is the marriage in question forbidden by the Confession of Faith? 2. On what ground is the prohibition based in the Confession? 3. Is that ground found in the Word of God? Such enquiry is legitimate, as we are told (Conf., chap. i: 10) that "all decrees of councils and "doctrines of men," as well as articles of synods and assemblies, "are to be examined by Holy Scripture as "supreme judge."

1. Does the Confession forbid the marriage in question?

It says, chap. xxiv. 4, "Marriage ought not to be within the degrees of consanguinity or affinity forbidden in the Word; nor can such incestuous marriages ever be made lawful by any law of man, or consent of parties, so as those persons may live together as man and wife. The man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than of her own."

The answer to this query then must be: Yes, the Confession forbids the marriage. The relation is not expressly named, but it is implicitly stated. The argument is simply this: A man may not marry his own sister, therefore he may not marry his wife's sister.

2. On what ground is this prohibition based? It is not express prohibition—but INFERENCE. The inference is: As a man may not marry any of his wife's kindred nearer in blood than he may of his own; and as he may not marry his own sister, so he may not marry his wife's sister. The ground, then, on which the inference rests is the statement, "*A man may not marry any of his wife's kindred nearer in blood than he may of his own.*"

3. We next enquire: Is this ground found in the Word of God; and particularly in the passage quoted in the Confession of Faith as proof?

Let us first examine the passage quoted by the Westminster divines as proof. We find under letter K, in small type, under the text of the Confession, the passage rested on as proof of the statement above given in italics. It reads in full:

"Lev. xx. 19-21. And thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister; for he uncovereth his near kin; they shall bear their iniquity. And if a man shall lie with his uncle's wife, he hath uncovered his uncle's nakedness; they shall bear their sin; they shall die childless. And if a man shall take his brother's wife, it is an unclean thing, he hath uncovered his brother's nakedness; they shall be childless."

This is the only passage cited. Does it *prove* the proposition? The relatives specified are a man's aunts *by blood*; the wife of an *uncle*, and the wife of a *brother*. In other words, *a man's own blood relatives and the wives of blood relatives*. Of the *WIFE'S blood relatives* there is no mention in any way. And yet this is the only passage adduced to prove that the "*man may not marry any of his WIFE'S blood kindred nearer in BLOOD than he may of his own.*" Surely the language of the overture is warrantable,—“it appears to the undersigned questionable whether the passages adduced in the Confession of Faith do prove the unlawfulness of such marriages.”

Other passages, such as Gen. ii. 24, Matt. xix. 5, Eph. v. 28, 31, we are told, *may* be quoted in proof. We answer that, at present, we are dealing only with the passages cited in the Confession, and there, we repeat it, no such passage *is* cited. The proof is made to rest on the solitary Lev. xx. 19-21.

Nor will it do to say that Lev. xviii. having been already quoted under letter H, it is to be regarded as proof under letter K. Principal Will's well reminded us that Lev. xviii. is not quoted on the point in dispute. The compilers of the Confession were wont to re-quote a passage under successive letters, wherever they considered it as supporting successive propositions. Their plan was to establish each separate proposition by independent proof, that each may stand on its own sufficient evidence. It is not then inadvertently, but of purpose, that the Westminster divines quoted only this passage.

The passage contains (1) a statement that incestuous marriages will be punished. (2) A statement that a father's or a mother's sister is a man's flesh, and it is incest to marry her. (3) A statement that an uncle's wife is one with the uncle, and a brother's wife one with the

brother, and it is incest to marry them. As regards any *principle* to be gathered from the passage, all we can see is: (1) It is wrong to marry a woman who is a *blood relative*, or near kin. (2) It is wrong to marry a woman who is the wife of a blood relative, as *she is one with that blood relative*. Further than this, we cannot find our way. *No mention* has been made of a man's wife, or of any of *her* blood relatives; and surely no principle can be gathered from a passage in which they are not mentioned, which *must* apply to them. Far less can it be said that the principle *has been laid down* in this passage: "The man may not marry any of his wife's "kindred nearer in blood than those he may of his "own."

If it be said that the principle is laid down, 'that relation by marriage is a ground of incest equally with relation by blood,' we reply 'that this is indeed true of the relations *mentioned in the passage*, viz.: relations of affinity, where a woman is married to a blood relative; but surely it does not apply, far less *necessarily* apply, to relations not mentioned, viz.: those which are formed by a man's connection, through his wife, with women who have no blood relation to him. Whether these two relationships be of equal effect, as a bar to marriage, we do not now discuss; we merely note that as the former *is* in the passage, and the latter is *not*, the passage may prove *the one*, and not prove the other. In this case, the second, if proved at all, will require some additional passage to be cited.'

But other passages, it may be said, give us the principle, though this Lev. xx. 19 to 21 does not. Suppose so. Then admit that the Confession is defective in its proof texts. If passages giving us the principle *can* be cited, by all means let us have these proof passages;

print them below the text in small type, and there let them stand, an immovable foundation, "the word of the Lord, that endureth for ever," to remove doubt from every candid reader. Till this is done, we cannot but feel that the Confession of Faith contains one proposition for which it does not afford sufficient Scripture proof.

III. SCRIPTURE TEACHING.

Having disposed of the passage cited in the Confession, the larger question remains,—Is *any* ground of prohibition of the marriage under discussion found in the Word of God? We have already stated that we accept Lev. xviii. 6 to 18 as the law of Incest. We must therefore inquire: Does this law forbid the marriage as incestuous? Now it may serve to meet the objection, that "if we set aside this principle of the Confession some of the most monstrous marriages which it is possible to imagine must be legalised," as well as to make clear our own position—if we give here our interpretation of

1ST. LEVITICUS, XVIII., 6—18, OR THE LAW OF INCEST.

1. Analysing the chapter, we have in verse 6 the general or radical principle enunciated, "None of you shall approach to any that is near of kin to him," literally "flesh of his flesh;" also the reason, "to uncover nakedness," that is, "it is incest;" and lastly the sanction—"I am Jehovah." The principle, then, thus laid down by God's authority, not as a dogma of natural religion, but a positive enactment of revelation is: "NEARNESS OF KIN IS A BARRIER TO MARRIAGE."

But within what degrees are we to understand this term, 'Nearness of Kin?' Is every man to set his own limits, and draw inferences on his own principles? No. God specifies the limits and lays down the principles in the following verses:

(1.) We have specified, *relatives of the MAN.*

(a) *His own female BLOOD relatives*, who are prohibited, verses 7, 9, 10, 11, 12, 13.

(b) *His own male BLOOD relatives*, whose wives are prohibited, verses 8, 14, 15, 16.

(2.) We have specified, *Relatives of the Wife*, who are prohibited.

Blood relatives, verses 17, 18.

(3.) We have specified, certain *principles* which are to guide us in ascertaining what relations come within the forbidden degrees, as v: 10, 17, 8, 16, &c.

Now, it will surely be admitted that we have here *positive enactments and principles laid down*, so that we are not at liberty to extend the prohibitions beyond the terms of the statute, nor to fall back on *natural* principles, or add principles of *our own*. The law is to be our only guide, and that as we find it laid down.

2. Before giving in detail our table of forbidden degrees, we may state the Principles according to which that table is formed.

(1.) Children are one with, or are in their parents. This is *expressly* stated: v. 7, "She is thy mother; v. 10, The nakedness of thy grand-daughters is thy own nakedness; and v. 17.

(2.) The wife is one with the husband; v. 8. The nakedness of thy father's wife is thy father's nakedness; v. 16, The nakedness of thy brother's wife is thy brother's nakedness; also chap. xx., 20 and 21.

(3.) The sister is one with the brother: v. 11, She is thy sister, and v. 12, Thy father's sister is thy father's flesh; also, ch. xx., 19.

These three principles we find *expressly* laid down. It is manifest at a glance that *all* their applications are not mentioned, and we must, by applying them to the many

relations of a man, ascertain which of these relations are prohibited.

In the following table, we mean, by *Direct Line*, the relation of parent and child, or the line of generation ascending and descending; by *Collateral Line*, the relation of brother and sister. Under *Blood Relatives* we class those who are either in the direct line of generation or in the collateral, and who partake of the same blood; under *Consanguineous Affinity*, those women who are married to blood relatives and so partake of the same blood, or are one with them; under *Simple Affinity*, those women who are blood relatives of the Wife.*

Guided then by the foregoing principles, we develop from Lev. xviii.

3. THE TABLE OF FORBIDDEN DEGREES.

I. BLOOD RELATIVES.

1. DIRECT LINE.		2. COLLATERAL LINE.	
(a) Expressed.	(b) By inference.	(a) Expressed.	(b) By inference.
Mother.	Father's Mother.	Father's sister.	Brother's daughter.
Son's daughter.	Mother's Mother.	Mother's sister.	Sister's daughter.
Daughter's Daughter.	Daughter.	Sister.	

II. CONSANGUINEOUS AFFINITY.

Father's wife.	Father's father's wife.	Father's brother's wife.	Brother's son's wife
Son's wife.	Mother's father's wife.	Mother's brother's wife.	Sister's son's wife.
	Son's son's wife.	Brother's wife.	
	Daughter's Son's wife.		

* It is said that the ground of prohibition is not consanguinity, but a regard to moral propriety, in preventing improper intimacy between men and women who are thrown into familiar intercourse; and verse 17 is quoted as an instance in which there is no *blood* relation. Now supposing this granted in reference to verse 17, (although, perhaps, the principle of descent and the parental and filial relation of *guardianship* and obedience would account for its inclusion within the law,) is it not manifest that the verse applies the principle *only to the direct line*, and verse 18 to the collateral line, during the life of the wife? The moral impropriety ends when the wife dies. So says Moses, whatever others say.

III. SIMPLE AFFINITY.

Wife's mother.	Wife's father's mother.	Wife's sister, during the wife's lifetime.
Wife's daughter.	Wife's mother's mother.	
Wife's son's daughter.		
Wife's daughter's daughter.		

(1.) This table contains twenty-eight out of the thirty-three degrees which are found in our common Bibles. The five which are in the latter and not in our table are, wife's father's sister, wife's mother's sister, wife's sister, wife's brother's daughter, and wife's sister's daughter; or to use the terms of the table, the relatives in the collateral line of simple affinity, or the wife's blood relatives in the collateral line. It may be asked, why not include them? We reply, *because Moses has not included them, nor given any example applicable to them, nor laid down a principle which will include them*—just as he has not included first cousins, nor set down a limit which would reach them.

(2.) It may further be asked, why do you not develop a table of degrees prohibited to women? We reply, Because it is unnecessary; for if men do not marry within forbidden degrees, women *cannot*; and when the *relation* is forbidden, the prohibition lies on both the contracting parties, on the woman as well as the man—she must be included. Our principal reason, however, is, that *Moses has not given us a law for women*, nor laid down principles to regulate them; and as we are simply showing what Moses ordained, it is out of place to set forth in our exposition something which he did not ordain, no matter what may have been the reason of the omission. We go as far as the law which we have goes, and we stop where it stops. Dr. Lindsay in his 'Inquiry,' page 76, reminds us "that those who hold that

“ consanguinity and affinity constitute equal obstacles to marriage, do not set out from this as a *first principle*, nor do they even conceive it to be *obviously implied* in verse 6 ; but they reach it as a *deduction* at the end of their enquiry, in consequence of finding that the prohibitions laid down refer *de facto* just as frequently to affinity as to consanguinity, and mark out the one to just as remote limits as the other. It is a deduction from the series of *particular cases adduced* as examples by Moses ; and the fact that a grand-daughter and a wife’s grand-daughter are both specified, is one of the proofs of the conclusion so drawn.” But how can we find proof of this conclusion being applicable to a case which is *not specified*, viz., the wife’s relatives in the collateral line ? They are not in the *series of particular cases adduced* by Moses as examples ; the *prohibition de facto* does not refer in a single example to simple affinity. How, then, at the end, can a general principle, which is admittedly a deduction based on a series of particular instances, be held as including a particular instance not in that series ? The principle may be true of every instance specified, and yet be untrue of a relation which is not specified. This, we think, is the case. The principle is correctly applied to *consanguineous affinity*, but is not applicable to *simple affinity* in the collateral line, and that solely because *Moses has not de facto so applied it*.

Another remark of Dr. Lindsay’s seems important in this connection—page 17. “ Moses employs the very same terms in speaking of both kinds of relationship, viz., consanguinity and affinity ; and not only so, but he intermixes the cases, as if the idea of there being any difference between them had never struck him.” How far this is correct, any one may judge for himself. With the exception of verse 8, all the verses between 7

and 13 refer to blood relatives; and with the exception of verse 8, all the instances of Consanguineous Affinity are to be found between verses 14 and 16—Simple Affinity being confined to verses 17 and 18. This is scarcely intermixing the cases.

In this respect, however, Dr. Lindsay's remark is very true, that Moses' order of stating the instances and use of the same terms shows that he regarded Blood Relationship and Consanguineous Affinity as equally a bar to marriage, and within the same limits. While the change of expression in verse 17, and the addition, "It is wickedness," found only in connection with *wife's relatives*, indicates that "the idea of difference" between the relationship of verses 14, 15, 16, and verse 17 "*struck him.*" And the still greater change of expression in verse 18, when he comes to speak of the *Collateral line of Simple Affinity*, indicates that he was sensible of a still more *striking* difference between that relationship and those preceding. What that difference is we shall now try to show.

2ND. LEVITICUS XVIII.—18.

The words are "Neither shalt thou take a wife to her sister to vex *her*, to uncover her nakedness, beside the other, in her life time." Literally translated, it is, "And a woman to her sister thou shalt not take, for vexing, to uncover her nakedness, beside her, in her life."

1. We regard this as part of the law of *Incest*, as treating of a prohibited marriage. The relationship prohibited is evidently a wife's sister, or the wife's blood relative in the collateral line; that is, the collateral line of Simple Affinity. A *reason* is next given for the prohibition, "for vexing," whatever that may mean. Then follows the usual phrase to declare the connection *ince-*

tuous, "to uncover her nakedness." And, lastly, comes a limitation as to time, "beside her in her life time."

2. Taken, then, in its obvious sense, and in its connection with the preceding part of the law, it seems to mean—A man is forbidden to marry his wife's sister; thus vexing her by doing what is incestuous beside a sister and during her life. Hence a man is forbidden to marry his wife's sister during her life. This by no means *proves* that he may marry her when the wife is dead, although it *implies* it. For upon the recognized principle, that in prohibitory legislation a man has the right to do anything not specified in the enacting statute, it follows that a man may thus marry, unless a prohibition be found in some other passage. Whether there is such a prohibition elsewhere, we shall by and by consider. We are, however, told that, If the thing is incestuous during the woman's life, it must still be incestuous after her death. Now, if it can be shown that this marriage is incestuous from other passages of Scripture, then this verse 18 cannot make it not incestuous, or *justify* it. But if no other passage can be shown proving it incestuous, this passage, though declaring the marriage incestuous during the wife's life, does not condemn it after her death. For, as Dr. Lindsay well shows, "Incest is just a connection which is forbidden on the ground of relationship, "by a competent authority." Marriage with a sister was not incest to Abel, Cain, or Seth; because that marriage was not forbidden, but enjoined by God on them. It is, however, incest to us, because it is forbidden by God. Even so, to marry a wife's sister during her life *is* incest, as it is forbidden in verse 18. It *may not*, however, be incest after the wife is dead.

Such, then, is a full statement of the way in which we feel constrained to interpret Leviticus xviii.—6 to 18.

And the Table of Forbidden Degrees on pages 16-17 gives the practical results of that interpretation. We have thought that giving a positive statement of what we regard as the Law of Incest would serve most clearly to set forth our position on the disputed relation. But we by no means wish to overlook the objections which will be made to our view. On the contrary, we hope now to be able more intelligently and satisfactorily to consider the statements of those who differ from us.

IV. SCRIPTURE ARGUMENTS AGAINST THE MARRIAGE.

1. To meet the implied permission of the marriage which we think is to be found in verse 18, it used to be said that this verse is merely a prohibition of polygamy. To support this opinion, great stress is laid on the marginal reading, "One wife to another thou shalt not take," &c. Dr. Gibson seems still to cling to this view, endorsing the argument of Sereno Dwight as conclusive. In 1867, the majority of our Synod seemed to favour it. In 1868, however, it found only one advocate, and even he only quoted in support of it the new version of Rev. Robert Young, but laid no stress on it as an argument. Dr. Lindsay, in his able, candid, kindly conceived, and in many respects most satisfactory "Inquiry," gives up this view. Nay, he grounds a great part of the most telling part of his argument against legitimising the relation, on the fact that polygamy existed among the Jews, and that Leviticus xviii. 18 is to be interpreted in view of the "polygamic connection which is spoken of." No more satisfactory answer to Mr. Dwight can be found than that part of Dr. Lindsay's book in which this idea of the verse being a prohibition of polygamy is discussed. As most of our readers, however, cannot have access to the "Inquiry," it may not be amiss to show why we

reject the marginal reading, and hold to the text of the English version of the Bible.

This translation rests on the supposed use of a Hebrew idiomatic phrase, 'a woman to her sister,' which, it is said, means 'one to another'. Now we object, that in order to obtain this meaning: (1.) The words 'woman' and 'sister' are taken in a sense different from that in which they have uniformly been used in the context. (2.) It is not the idiomatic phrase for one *woman* to another. That is invariably 'a woman and her *neighbour*,' not sister. When the phrase in the text occurs, it is without an exception applied to things without life; and to render the phrase in this place 'one woman to another' is to give it a meaning which it has in no other place in the Hebrew Bible. (3.) When the phrase is used idiomatically, it is uniformly preceded by a word in the plural number to which it refers. To meet this *usus* the verse would require to read 'and *women*, a woman to her sister thou shall not take;' whereas the word 'women' or 'wives' is wanting. (4.) In verse 29 it is said: "Whosoever shall commit any of these abominations, even the souls that commit them shall be cut off from among their people." If then this verse forbids polygamy, the polygamist was to be cut off. Instead of this, however, we find polygamy existing among the Israelites. Even David, the man after God's own heart and the chosen Head of the covenant people, was a polygamist, and was not cut off. (5.) If the verse is a prohibition of polygamy, it does not belong to the law of incest, and the phrase 'uncover nakedness' is irrelevant, for polygamy was not incest.

We may, therefore, safely dismiss the statement objected to, saying with Principal Willis, that it must be conceded that the weight of evidence is in favour of the

text of the authorised version, and with Dr. Lindsay "the verse before us cannot be viewed as a condemnation of polygamy. It must be two sisters, in the literal sense of the term, that are spoken of, and not merely two wives."

2. But this brings us to the main position. And although the argument is not stated as it is in the Confession, it is to the same effect. We have admitted that verse 18th does not *justify* the marriage in question, and have asked: does any other passage *forbid* it? We are at once answered, Yes; it is forbidden in verse 16. The words are: 'Thou shalt not uncover the nakedness of thy brother's wife.' Hence it is inferred that a woman is forbidden to marry her husband's brother. On what principle? we ask; and we are told, that *the relation is the same*, or parallel, or like, or analogous. Now it is this principle which must be established, or proved untenable, in order to settle the question in dispute.

It is asserted, that the relation between a man and his brother's widow is the *same* as between a man and his wife's sister. It is agreed also that the question is; are they the same *in law*, as laid down in Leviticus?

It is then aside from the point to prove that the proximity is the same and the *simple* relations the same, that is, that in both cases there are two relations, (1) blood relation, (2) affinity relation, and this of equal nearness. No one calls *this* in question. What we call in question is the sameness of the *compound* relation—*whether, according to the law of Moses, a relationship formed by blood and marriage is the same as a relationship formed by marriage and blood*: or to use the terms already employed, we ask whether, according to the law of Moses, simple affinity in the collateral line is the same *in effect* as consanguineous affinity in the collateral line. **This**

we think cannot be shown *from the law of Moses*, inasmuch as simple affinity in the collateral line is not mentioned in that law save in verse 18, in which marriage is not prohibited after the wife's death. We are therefore thrown back on principles, and to these we must look.

(1.) We are told that, *e converso*, if a man is forbidden to marry his brother's wife, a woman is forbidden to marry her sister's husband; for this is the *analogous* relation. But we may ask where *in the law of Moses* is the warrant for interpreting its clauses *e converso*? It is by no means axiomatic that *all* laws may be so interpreted.

But it may be replied all *moral* laws are binding on woman as well as man, and as this is a moral law it must be binding on the woman: consequently she is forbidden to marry in any relation parallel to that in which the man is forbidden. We shall now examine this position.

We at once concede that any moral prohibition includes the woman in all cases in which she *can* be included, and *so far as she must* be included. A moral prohibition laid on man, as *Homo*, includes the woman. If, however, the prohibition is addressed to the man, as man, *vir*, it *cannot* include the woman. The prohibitions in Leviticus are generally of this kind. Some indeed, as Lev. xx, 16 are addressed to the woman and exclude the man. Others, as Lev. xx, 17, are addressed to both man and woman. The prohibitions of chap. xviii, however, are addressed to the man, *vir*. They include the woman only in so far as by the nature of marriage she must be included. For example, a man is forbidden to marry his sister; but a woman cannot marry her sister; and therefore is included in the prohibition only in so far as, from the nature of marriage, it follows that when a man marries his sister the woman must necessarily marry her brother. The *relation* is forbidden, and the prohibition

lies on both parties who form the relation. *Thus far only is it true, that the Mosaic marriage laws include the woman as well as the man.* Wherever a certain relation is forbidden to a man, that *same relation* is forbidden to the woman with whom alone it could be formed.

It is quite another thing to assume that, because a man is forbidden to marry in *one* relation, therefore a woman is forbidden to marry in *another* relation, which is only parallel to it, and not the relation prohibited. It is the right to *assume* this conversion of the law which we question. We must have proof to show that this may be done.

Here we are met with the statement, that husband and wife are one, and as Blackstone puts it, "Husband and wife being considered one flesh, those who are related to the one by blood are related to the other by affinity; therefore a man, after his wife's death, cannot marry her sister, aunt, or niece."

But again we ask, what is meant by "one flesh?" Does it mean that they have equal rights? Certainly not according to the law of Moses. In it, man is emphatically the head of the woman. He may buy his wife, marry her without consent, betroth her to another, divorce her, as he sees fit. She can do none of those things to him. He may have many wives and concubines, and be no adulterer; she, as an adulteress, must die if she take a second husband. Lev. xx, 10. The same distinction is found in Roman law, English, and generally in Civil law, and forms the ground of what has sometimes been denounced as partial legislation. Even nature teaches the distinction. For who does not regard as revolting, as subversive of all morality, and of the family institution, to speak of polygamy among women? Who would plead for that? Men may have more wives

than one, but there is no confusion or mingling of blood, so long as wives are chaste. The superiority of man to woman in the marriage relation cannot be annulled, and the law of Moses is in uniformity alike with nature and human law. This accounts for what we find, that the prohibitions are laid on the man and not on the woman. They include woman, as a prohibited marriage cannot take place without a woman being a party. But we are not warranted, because husband and wife are one, in inferring that therefore *everything* allowed to the husband is allowed to the wife, and *everything* forbidden to the husband is forbidden to the wife, *e converso*. Moses' law knows no *such oneness* or equality.

Another thing is worthy of note. Dr. Lindsay says, page 85, "The nakedness of the husband is the nakedness of the wife, and the nakedness of the wife is the nakedness of the husband. *This is reiterated again and again throughout the chapter in Leviticus.*" This is said in vindication of the identity of the relation as between man and woman, and it is *essential* to Dr. Lindsay's argument. Now, what is to become of the argument when it is made manifest, as a glance at the chapter will make it, that instead of being *reiterated*, *it is not once said that the nakedness of a man is the nakedness of his wife?*

It would be quite contrary to the whole legislation to say so. The wife's nakedness is the husband's, but the husband's is not the wife's. The man may, where polygamy exists, marry a second wife, but he does not thereby injure his first wife,—that is, uncover her nakedness: he does nothing abominable. But a woman cannot receive another man without doing something vile, abominable, for she thereby uncovers her husband's nakedness. This may appear one-sided, but whether it

is or not, it is the law of Leviticus, and to that alone we appeal.

(2.) Again it is objected; "The ground of incest in "the Levitical law is as truly affinity as consanguinity," and therefore a man is as truly forbidden to marry a sister by marriage as a sister by blood.* We must now look at this statement intelligently.

By affinity is meant relationship by marriage. A brother's wife is related to a man by affinity, and all prohibitions of marriage between a man and the wife of his blood relatives are prohibitions regarding degrees of affinity. This we have called *Consanguineous Affinity*. The use of the word has, however, been further extended, and it has been applied to the relationship of a man to his wife's blood relatives. This we have called *Simple Affinity*. Now, let us remember that we have two *distinct and perfectly different relations* under the name of affinity, and let us not deceive ourselves by the ambiguous term. The first results from the marriage of a woman with the man's blood relatives; the other is the relation in which a man stands to his wife's blood relatives.

The law of Moses legislates for both these affinities. It forbids the man to marry any woman who is married to his blood relative, whether in the direct line of generation or in the collateral. That is, it prohibits marriage with a woman related by Consanguineous affinity, both in the direct and collateral lines. It also forbids a man to marry any woman who is the blood relative of his wife in the direct line. That is, it prohibits marriage with a woman related by Simple affinity in the direct line. *It*

* Assuming this, and interpreting the law on the principle stated in the Confession; what need is there of verse 16? A woman may not marry her own brother; therefore, she may not marry her husband's brother. Yet Moses prohibits this. Is it not manifest that *he* did not assume the principle?

does not prohibit marriage with a woman related by Simple affinity in the collateral, except during the life of a sister who is wife to the man. Thus, while we admit that in some cases affinity is a bar to marriage equally with consanguinity, we distinctly exclude from the forbidden degrees relatives by Simple affinity, in the collateral line, after a wife's death; and we do so because Moses has not included them.

Thus, the objection under review is vain, inasmuch as it is not true of *all* affinity that it is a bar to marriage equally with consanguinity, but only of one kind of affinity in both lines, and of the other in the direct line; while the relation in question—'wife's sister,'—falls under the collateral line of simple affinity.*

3. Another distinct and independent argument is based on the 13th verse, taken in connection with verse 17. It is this: In verse 13th, a man is forbidden to marry his mother's sister, because she is her near kinswoman; in verse 17th, he is forbidden to marry his wife's grand-daughters, because they are her near kinswomen. But as he may not marry near kinswomen of his wife, verse 17—and sisters are near kinswomen—therefore, he should not marry his wife's sister.

Let us now examine this argument. In verses 12 and 13 we have to do with *blood* relations; in verse 17 with relations of simple affinity. In the first case, a man is forbidden to marry his aunts by blood, and *because* they are blood relatives, as is clear from Lev. xx. 19, "He uncovereth *his* near kin." In the other case there

* If affinity and consanguinity are *equally and in the same sense* a bar to marriage, it would follow that as a man may not marry his own brother's wife, so he may not marry his wife's brother's wife; and on the *e converso* principle, as a woman may not marry her own sister's husband, so she may not marry her husband's sister's husband. This, however, is not asserted. Lu we are told that *double* affinity is not in any case a bar to marriage. How so? Is not this to give up the assumption?

is no question of blood. It is not said, 'a man shall not marry two sisters,' but only that *certain* kinswomen of his own and certain kinswomen of his wife are prohibited; but the sister is not mentioned, in verse 17, among those prohibited kinswomen of his wife. *All* near kinswomen are not prohibited, only the near kinswoman of a mother in the collateral line: verse 13; and of the wife in the direct line: verse 17.

The fallacy is that of an Undistributed Middle.

Some near kinswomen of the wife are prohibited.

A sister is a near kinswoman.

Therefore, a wife's sister is prohibited.

But nothing can be proved from two particular premises. Near kinswoman has not been distributed, either by being the subject of a universal, or the predicate of a negative proposition. Hence, it is not proved that a wife's sister is prohibited. Let us apply the same argument to verse 13th.

Some near kinswomen of an aunt are prohibited (v. 13).

A grand-daughter is a near kinswoman (v. 17).

Therefore an aunt's grand-daughter, or a second cousin, is prohibited.

Is that conclusion accepted?

To establish the argument under notice, we would require a statement to the effect, that being the sister of a man's wife is a bar to marriage, on the principle that "Two sisters are one flesh." Now this is nowhere said—but the contrary is implied. The wife becomes one with her husband and forms a new family; so that supposing two sisters married to two strange men, they would be one flesh respectively with their husbands, but would not be one flesh with one another *in the same sense*,—and this is the only sense in which the expression has any weight in a question of marriage. But it is said

impatently, What nonsense ! are not a sister and sister as much one flesh as a brother and sister ? We answer no, not in the only sense affecting the argument. A man is forbidden to marry his sister. By doing this there would take place confusion of blood. The thing is not possible in the case of sisters, therefore it needs no prohibition. Just so a man might marry his brother's wife, which would produce confusion of blood, therefore it is forbidden ; but though a man should marry his wife's sister, there is no confusion of blood, therefore it is not prohibited for that reason, but for a special one, " to vex her." Strange as it may seem, in the two cases the man and woman are not brother-in-law and sister-in-law, in the same sense. This will be apparent from the simple statement that the children of the one sister-in-law are heirs-at-law of the man ; the children of the other are not in the line of succession at all. As, therefore, it is nowhere said by Moses that sisters are one,* all deductions from that principle have no warrant from the Levitical law.

V. SUM OF ARGUMENT.

Having thus set aside the objections urged against the interpretation which we have given of Leviticus xviii. 6 to 18, we sum up the result as bearing on the marriage in question. The law of Moses does prohibit the marriage during the life of the first wife, but not after that event. Taking into account, also, the circumstances of the Jews when the law was given, we understand verse 18 as teaching: (1) That if a man marry two

* In Lev. xviii., 13.—Though an aunt is said to be flesh of the man's mother, or one with her, the ground of the prohibition is not her oneness with her sister, but her *blood* relation to the *man* ; as is evident (1) from the place which the verse has among blood relatives, and (2) from Lev. xx., 19, where it is expressly said, "He uncovereth his near kin."

wives the second must not be sister to the first; (2) That though the first be divorced, he cannot marry the sister; (3) That should the first wife die, the man is loosed from the law of his wife, so far as to be permitted to marry her sister.

We are strongly confirmed in this view by the following consideration: Had Moses intended to prohibit marriage with the relatives of the wife in the collateral line—judging from the context, we should have expected verse 18 to read, “And thou shalt not uncover the nakedness of a woman and her sister, for she is her flesh.” Now instead of this we have a statement which, in its obvious and confessedly easy sense, implies that a man may marry his wife’s sister when the wife is dead. Not only so, but there is a departure most marked from the ordinary form of expression (1) in assigning a reason, “to vex her;” (2) in setting a limit, “during her life,” which in effect says, as when the wife is dead the reason no longer exists, so the limit then expires. If we are right in this construction of the passage, not only is the marriage in question not prohibited, but it is implicitly sanctioned.

In view of the whole preceding argument, we feel convinced that, though the standards of the Church prohibit marriage with a deceased wife’s sister, the ground on which this prohibition rests is not established either by the proof adduced in the Confession, or by the Law of Incest as laid down in Lev. 18. We think, therefore, that we are justified in asking the Church to reconsider its position, and take steps to justify its practice, or alter it.

VI. GENERAL CONSIDERATIONS.

Our main object having been accomplished, we might leave the subject here. To do so, however, would leave a very false impression on the reader of our opinion on

the General Question. While we are convinced that the Law of God does not prohibit the marriage in question, we are far from thinking that it is a proper one. We plead for liberty of conscience, and shrink from saying anything in God's name, and by his authority, which we are not sure is in accordance with his revealed will. Still, we think that very much may be said against such marriages. Perhaps they can even be shown to be wrong in a lower sense of that word. Though they are not wrong, as being condemned by God, they may be wrong, far wrong, as being most inexpedient—"lawful, but not expedient."

1. Such marriages are undoubtedly opposed to the general sentiment of Christian Society. It matters not to what that sentiment may be owing; it is the *fact* that has weight. It is most inexpedient to do violence to the general sentiment of any community on a moral question, and therefore such marriages should be avoided. There may be cases in which a man should brave public opinion. This, however, is not a case in which any principle has to be maintained amid dishonour and disapprobation.

2. These marriages seem calculated to have an injurious effect on the harmony and peace of families, and on the confidence which should exist between their various members. The preservation of the purity of domestic life is of chief importance, and it is well that no usage of society should endanger it. We are aware that views are held strongly as against what we now say. Nevertheless, we think that when men and women are constantly meeting on terms of the greatest domestic intimacy, it should be perfectly understood that marriage between them is out of the question. In this light, we think these marriages inexpedient, and thus wrong.

3. These marriages, as the law is now, occasion confusion in Church and State, and therefore are inexpedient. So long as the law does not enjoin sin, it is expedient to conform to it, and thus prevent the evil consequences of illegitimacy, with its civil disabilities and ecclesiastical censures.

4. These marriages are wrong also as being contrary to law. The Christian is bound for conscience sake to obey the law. He is not at liberty to break it. If he is satisfied that the law is not good, he should try to have it repealed; but while it is law, it should be obeyed. As far as we can ascertain, the marriage in question is illegal in the Province of Quebec, and the offspring is illegitimate. In the Province of Ontario, the marriage is contrary to law, and may be voided during the life of the contracting parties. If not then voided, the offspring is legitimate. As there are no Ecclesiastical courts to void such marriages, it has been supposed by many that they cannot be voided. It is, however, by no means certain that in case of application being made, such marriages can not be voided by the Civil Law Courts in the absence of Ecclesiastical Courts. While, then, the law remains as it is, such marriages are highly inexpedient and wrong.

5. If we be further asked our opinion as to whether the law should be repealed which prohibits these marriages, we reply: We have no wish to see it repealed. Though the law of Moses sanctioned the marriage, it seems to us that the Christian religion, in abolishing the Jewish practices of polygamy and divorce, and in making the woman more the equal and companion of man than formerly; also in establishing usages which allow greater intimacy between man and woman in family relations, has weakened that permissive sanction. We favour

greater rather than less stringency in legislation regarding marriage, and have no wish to see the law repealed. We desire to discourage everything which savours of immorality, or tends thereto. Such, without enlarging on these points, are our feelings on the general question.

VII. EXCOMMUNICATION.

We come now to look at the discipline of the Canada Presbyterian Church in connection with such marriages. We believe that discipline should always be administered in strict accordance with the will of Christ as made known in his word. Is it any wonder, then, that fifteen rulers in the Church, not satisfied that the Scripture does forbid these marriages, should come forward respectfully but firmly stating their doubts, and ask the Synod to reconsider the question with the view of affording relief to parties concerned, in such way as the Synod may deem to be conformable to the Word of God? Could we ask less? The Synod refused our prayer, and still insists that we, as office-bearers, shall in the name and by the authority of Christ cut off and cast out of his Church visible, without any hope of future restoration, all persons thus married, even though we cannot find Christ's authority for doing this! In these circumstances, can we do less than appeal to the Church through the press? Can we be blamed for taking the only course left us either to evoke such a vindication of the position and practice of the Church as may give satisfaction to us and others interested, or to bring the majority to think with us and grant the relief we must have.

It is a solemn thing to cut off any poor sinner from the Church of God. It is a serious matter to have families growing up among us, against whom, while children, we must shut the door of the visible Church, and leave

them as heathen, without the covenant of promise. In cases of known presumptuous sin, when men are unrepentant and rebellious, it must be done. Even then we wait long and try much. And must we cast out at once men and women of irreproachable lives, who have heretofore given evidence of an interest in Jesus, and still are living consistently, simply because they cannot see that God has forbidden marriage in this relation, and have contracted such marriages, it may be ignorantly, but still in good conscience? Already some Sessions refuse to carry out, or evade the discipline of the Church. They will (not) restore the penitent fornicator and adulterer, the drunkard and the thief, and yet grant no *locus penitentie* for estimable men and women, to whom it cannot be shown that they have done wrong. It is of the last importance to the Church to carry the conscience of the people with her. That is not done by bearing down sincere doubts by the vote of a majority and a peremptory refusal to reconsider any position assumed by the Church.

We do not even hint at what should be done. We can leave that for the Synod to decide, under the guidance of our Great-Head. The Synod must assume the responsibility in a matter so weighty as the repealing of an ordinance of Excommunication. We shall be satisfied if the Synod calmly consider the subject. It has the example of more than one church and denomination to afford direction. But we put fairly before our readers the alternative; parties so married must either dissolve the connection or submit to excommunication. Allowing that it was wrong to marry, may it not be a greater wrong to dissolve the marriage, seeing that it is not incestuous? Can we then go to respectable men and women, whose lives perhaps condemn our own, surrounded by

hopeful children, dear to them as ours are to us ; and say ' you must dissolve this bond that has united you, and break up this happy home, or you and your house must remain permanently cast out of the pale of the Church of God?' Can we do this, when all our warrant for saying so is a clause in a Confession, framed by fallible men ; which clause is not established by the Scripture passages adduced, and cannot be established by any other word of God's? Give us relief, we implore, from this crushing doom of Excommunication and from the guilt of pronouncing it, if it is not in accordance with the will of Christ. How to mark disapprobation of these marriages and to discourage them by a proper discipline, it may be difficult to determine. Still, the Church should calmly look the matter in the face, and above all things eschew the guilt of casting out any one whom Christ has received, and against whom no moral delinquency can be established.

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