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ARTICLE I.

THE ARTICLE ENTITLED "A THOROUGHLY EDUCATED MINISTRY" EXAMINED BY THE AUTHOR OF "AN INQUIRY INTO THE AGGRESSIVENESS OF PRESBYTERIANISM."[1]

In essaying an answer to the criticism of our views contained in the April number of this REVIEW, we are aware that we undertake no light task. There are in the criticism elements of extraordinary strength. Judging from the admiration it extorts from a mind already satisfied to the contrary, it must have proven irresistible to others. As *a priori* reasoning, the argument amounts to a demonstration, but the strongest presumptive demonstration must yield to obstinate fact; and here, we think, lies the weakness of this otherwise strong paper. Its author has ignored some of the most conspicuous developments of the last half century; he has hung his votive tablet in the shrine of Logic, and right royally has the divinity responded to her devotee. We invoke the aid of her less brilliant sister, History.

Conviction is always strong; that of our author is so absolute

[1] It is due to the writer of this article to say that it was received in time for publication in the July number of the REVIEW, but our space was already fully occupied with previously accepted articles.—EDITORS SOUTHERN PRESBYTERIAN REVIEW.

ARTICLE III.

MARRIAGE WITH A DECEASED WIFE'S SISTER.[1]

We cannot hope to exhibit any remarkably original or novel views in elucidation of the question before us—the marriage of a man with the sister of his deceased wife. The subject has been so long before the Church, and has been so thoroughly looked into, that we can hope to present no view of it that may not, in some form, be found in the essay of some one or other of the numerous writers upon it. The most we can do is to present that course of argument that has determined our own conclusions, and which, we may trust, will affect the judgment of others.

The word of God is the only authoritative rule with us for the determining of moral questions. The passages of Scripture mainly relied on by those who think such marriages as we have under consideration to be sinful, are in the book of Leviticus, xviii. 16, 18, and xx. 21.

On the citation of passages from Leviticus, the first inquiry that arises is, Are the teachings and directions of that book binding upon the Christian Church? They certainly were obligatory upon the Israelites; but do they continue of authority?

The institutes of Moses consisted of three classes of law—the ceremonial, the civil, and the moral law.

The moral law, as contained in the tables of the Ten Commandments, or in any precept elsewhere found that necessarily flows from the Decalogue, or that fully comports with any of its behests, is unquestionably of universal and perpetual obligation.

[1] This article was presented to Charleston Presbytery in April last, in the form of a report from a Committee previously appointed to consider the subject. It was unanimously resolved by the Presbytery that the Editors of the Southern Presbyterian Review be requested to publish it in the Review. Although at the meeting of the late General Assembly it appears that the question discussed is virtually settled in our Church, it is nevertheless deemed desirable by members of the Presbytery that the article be published, inasmuch as it may help to bring some who are opposed to the expunging of the law, to acquiesce in the present state of the matter in our Church.

Moral principle is unchangeable. It is based in the nature and will of God; and to it, our nature, with all the relations he created and established for us, is adapted. The same cannot be said of the two other departments of law. They were enacted for temporary purposes. When the occasion for their application ceased to exist, they, in consequence, ceased to be obligatory.

The ceremonial law, in all its aspects and bearings, was designed for the single purpose of prefiguring the Christ, the Redeemer that was to come. All other aims that were to be effected by it, were but subsidiary to that one great result. It fully accomplished its purpose, and ceased to be of significance when Jesus, suspended on the cross in the agony of death, said, "It is finished! and bowed his head and gave up the ghost."

The civil law was for the regulation of the affairs of the Israelites constituted as a state. It consisted of laws adapted to their peculiar condition and needs; and except when they involve some essential and moral precept, are in no respect obligatory on other peoples. They ceased to be of force on the dissolution of the municipal organisation of the Jews, which occurred at the coming of Shiloh. Many of them, indeed, are worthy to be re-adopted by peoples; but the obligation ensuing would result from their re-enactment, not from their being embraced in the Hebrew civil code. Any moral precept found amongst these laws is binding upon us, not because it is a part of that law, but because it flows out of that other great department of law, the moral.

Now, the passages in Leviticus which are assumed to be the law regulating marriage are a section of the civil law, and whatever be their import, except so far as they involve moral purity, are no more binding on Christians than is the law forbidding the eating of swine's flesh, the laws in regard to the division of lands, the sowing of mixed seeds, the law requiring a Sabbath year's rest to be given to the land, the law in regard to the cities of refuge, the law of divorcé, and many other laws. These views, it is presumed, will be controverted by none.

The corollary from these propositions is this: Admitting that these laws in Leviticus, to which we have referred, relate to marriage; admitting that on this hypothesis they can properly

be construed into a prohibition to the Israelite to marry his deceased wife's sister; still such prohibition is not of force now, unless it can also be shown that such marriages are essentially immoral. This, we apprehend, cannot be done. There is no use in appealing to the sentiments of men in regard to the matter; they are as discordant as are the northwest and southeast winds; they vary accordantly with the variant circumstances under which the men have been reared. One will declaim, as with holy horror, against them, as though they were a violation of all the finer feelings of humanity as well as of pure morality; another will approve of them as connexions eminently proper and becoming. Our only sure appeal is to the Scriptures. "To the law, and to the testimony; if they speak not according to this word, there is no light in them." What, then, say the Scriptures? Their teaching on the question can perhaps be more readily ascertained by prosecuting the broader, the more comprehensive inquiry, Is there any moral force whatever in these injunctions in Leviticus? and if there is, What is it? There is, indeed, great moral force in these prohibitions, when rightly interpreted, as we shall see, but in no degree has it the relation to marriage that is assumed.

The first of the passages preconceived to forbid the marriage of a man to his deceased wife's sister is this, "Thou shalt not uncover the nakedness of thy brother's wife; it is thy brother's nakedness." If this passage be understood as relating to marriage, it must, in order to prove by it that marriage with a deceased wife's sister is sinful, be shown 1st, that the brother's wife spoken of is his widow; 2d, that marriage with a brother's widow is incestuous, and therefore under any circumstances immoral; 3d, that marriage with a brother's widow is equivalent to marriage with a deceased wife's sister. Neither of which positions, we apprehend, can be established. These positions we will consider in inverse order.

First. Is marriage with a brother's widow equivalent to marriage with a deceased wife's sister? It is asserted that by parity of reason it is; for that a wife's sister is of the same degree of affinity to a man as is a brother's wife. This statement, with the

Hebrew law before us, does not seem to us valid; but from that law we infer rather that a brother's wife stands to us in a very different category from that of a wife's sister. The connecting link of affinity between a man and his wife's sister, is a woman, his wife; the connecting link between a man and his brother's wife, is a man, his brother. Now, under the Hebrew law, the status, the rights, relations, and influence of the man were very different from those of the woman. Consequently, that which may be true of connexions formed through the one, may not with equal certainty be affirmed of connexions formed through the other. If we keep not this difference in mind, we may in our deductions be led into error. For instance, under the law, a man was allowed to have, at the same time, several wives; by parity of reason, if such reasoning were valid, a woman should be allowed to have, at the same time, several husbands; but that was not the case. Again, because the law requires that if a man die without an heir, his brother shall marry his widow and raise up a family for his deceased brother, therefore, by parity of reason, if a woman die without an heir, her sister must be married to her husband to raise up a family for her deceased sister; but that was not the case. It may be said, however, that in this case there was a special reason for the difference; that heirship came through the husband, not through the wife. Exactly so; and that, in this case, destroys the parity of reasoning, as in all other cases, for special and obvious reasons in each case, such reasoning does not obtain. This failure of parity of reason in any one case, precludes our acceptance of the statement that the prohibition to marry a brother's widow with equal force, on this ground, forbids one to marry his deceased wife's sister. If it be so, *i. e.*, if it be wrong to marry the sister of a deceased wife, it is not sustained by this so-called parity of reasoning.

Secondly. We cannot admit that this passage forbids a man to marry his brother's widow, because by the law of Moses, Deut. xxv. 5, a man, in certain conditions, already incidentally adverted to, is required to marry his brother's widow, under the penalty, if he refused to do so, of being subjected to humiliating indignities—that is, "his brother's wife shall come unto him in

the presence of the elders, and loose his shoe from off his foot, and spit in his face," and stigmatise him as having failed to meet the obligations of one in his relation. Now, we cannot believe that God would, in view of any conditions, or for any reason, specially for the merely secular object of retaining the inheritance in the family, ordain a law that involved an essential immorality, as this manifestly would if it be in itself morally wrong to form such a connexion. Evil might be tolerated, but never commanded.

Thirdly. We must believe that the word wife in the prohibition means wife, not widow. Yet it must mean widow if the subject of the prohibition be marriage; and for the same reason it must mean widow in every case in this category. For it can hardly be supposed that there could have been gravely embodied in the code a series of laws forbidding a man to marry certain female relatives while their husbands were still living. Indeed, the force of the deduction from this passage that it is wrong to marry a deceased wife's sister, depends wholly on the assumption that the brother's wife spoken of is his widow. Further; if the word wife, in the passage before us, means widow, and a man is forbidden to marry his brother's widow, it follows that a neighbor's wife that is spoken of in one of these laws must mean his widow, and consequently a man is forbidden to marry any widow. That would be simply preposterous, and directly contrary to what every where in the Bible is admitted as right and proper.

The prohibition in the passage before us in regard to a brother's wife, and in regard to the wife of any one of the kindred specified, whatever it be, is a prohibition of such connexion with her while the husband is still living.

We do not, therefore, understand this passage, or any part of the paragraph in which it is contained, except in one case only in which the phraseology employed is wholly different, as speaking even in the remotest degree of marriage. The paragraph or section of laws, is a series of special prohibitions of illicit sexual intercourse. This is illustrated by the case just mentioned, and fully explains the seeming anomaly of that case, in which, while at one time marriage with a brother's widow is supposed to be forbidden, at another time such marriage is enjoined. The seem-

ingly contradictory laws are rendered harmonious when we regard illicit intercourse as the thing prohibited in the one case, while marriage in the other case is enjoined.

But it may be asked, If these laws relate to illicit intercourse, why such special prohibitions when there was before the people one of the Ten Commandments that covered every case, *i, e.*, "Thou shalt not commit adultery"? It is not for us to explain the repetition of laws. There is in the second chapter following the one before us, an almost identical repetition of the laws we are now considering. There was, no doubt, sufficient reason for such repetition. But we may remark, that for the special expression of the laws before us, there was a special and obvious reason to be found in this: the sanctity of domestic intercourse is specially to be guarded. The violation, in this way, of the confidence engendered in it is a crime far more heinous than simple adultery, and is worthy to be branded as it here is (and as we shall presently more specially note) with a special term of infamy. It is a crime here put in the same category with sodomy and bestiality. We may add, as some judicious writers have suggested, that by the manner in which the Hebrews were at this time living, temptations to evil in this direction were specially imminent. They were in the wilderness, dwelling in tents, in closer and more familiar intercourse than they would be were they in settled homes, dwelling in houses more commodious. This unavoidable familiar intercourse needed to have special guards thrown around it, that that confidence amongst members of the same family, which is so necessary to domestic happiness, might be in no danger of being violated. Still further; violations of chastity in these relations, as (on our interpretation of the passage) it is expressly stated, were prevalent vices amongst the peoples with whom they were about to come in contact, and for which those peoples were to be expelled from the land, yet by coming in contact with whom the Israelites might be contaminated.

This view of the character of the forbidden acts is beyond question established, as appears to us, by the signification of the Hebrew word עֶרְוָה, which is the emphatic word in these sentences. It is the word in our version translated *nakedness*. It imports

lewdness, not marriage. The equivalent word in the Septuagint, in every instance of its occurrence in these passages, is ἀσχημοσύνη, which signifies that which is unseemly, discreditable, base, disgraceful. The signification given by Bretschneider is 1, dishonor; 2, a base action, specially in illicit love; 3, pudenda (or that which one should be ashamed of).

That the word עֶרְוָה, when it is employed as the subject of the verb *to uncover*, as it is here employed, signifies illicit intercourse, appears in its use universally in the Scriptures. It is needless to multiply quotations. Take a passage from Ezekiel xvi. 36, "Thou hast discovered thy nakedness through thy whoredoms." The same reappears in ch. xviii. 18. Here the phrase, to uncover, or to discover nakedness, is employed as equivalent to whoredom. Indeed, it is confidently asserted by proficient scholars that there is not a single example in the Scriptures in which the phrase has the sense of marriage, unless it can be shown to have that signification in the passages we are considering, which, in view of the argument before us, it would, if we are not greatly mistaken, be difficult to do. Moreover, if marriage had been intended in these passages, there is a word in the Hebrew expressing that relation clearly, and an equally unambiguous equivalent phrase, both devoid of any imputation of impurity, and both in common use. Why, instead of these expressions, should a phrase signifying only crime and disgrace have been employed? It is wholly incredible that Moses would have employed such terms to designate that relation which on divine authority is pronounced to be "honorable in all."

There are some who lay considerable stress on the fact that in Leviticus xx. 21, "If a man shall take his brother's wife, it is an unclean thing: he hath uncovered his brother's nakedness," the term *take*, a part of the phrase equivalent to marriage, is used. But besides that this passage is only a repetition of the law given in ch. xviii. 16, and therefore must have the same signification with that, the term take does not when alone, as it is in this passage, necessarily mean marriage. Its meaning is dependent on its connexions. "The word never imports marriage of its own force: never without being connected with the word wife as its subject, ex-

pressed or necessarily implied; and that, not as in this case, the wife of another." Thus, to "take to wife," or "to take a wife," unmistakably means marriage; but other connexions make it signify uncleanness. As in Ezek. xvi. 32, by its connexions it is used to express adultery—"the wife that committeth adultery, that taketh strangers instead of her husband." The use of the word take, as signifying marriage, appears in the 18th verse of ch. xviii. of Leviticus: "Thou shalt not take a wife unto her sister," etc., a passage which we shall presently have under consideration.

It is an effectual way to test the import of a sentence, to substitute in it for a questionable word or phrase, a word or phrase unequivocally expressive of the meaning it is supposed to convey. If the substitution make not sound sense, it becomes manifest that we have mistaken the meaning of the sentence. If, therefore, "to uncover nakedness" signifies "to marry," let us make the corresponding substitution. Take this sentence, "Thou shalt not uncover the nakedness of thy father's brother; thou shalt not approach to his wife." For this read, "Thou shalt not marry thy father's brother; for this thou wouldst do in approaching to his wife." Or take this: "Thou shalt not uncover the nakedness of thy father's wife; it is thy father's nakedness." For this read: "Thou shalt not marry thy father's wife; for that would be marrying thy father." Or this: "The nakedness of thy father, or the nakedness of thy mother, thou shalt not uncover." For this read: "Thou shalt not marry thy father; thou shalt not marry thy mother." You see the effect of the substitution is preposterous.

But if the substituted word gives the true meaning of the original word, it will make sound sense in all its applications. Now, according to the lexicons, "to uncover the nakedness" of one, signifies "to dishonor" that one. Let us try this substitute thus: "Thou shalt not dishonor thy father's brother; for this thou wouldst do in approaching to his wife." "Thou shalt not dishonor thy father's wife; for that would be to dishonor thy father." "Thou shalt not dishonor thy father; thou shalt not dishonor thy mother." Here is good sense; lucid, forcible. The crime forbidden is of the deepest dishonor, the deepest disgrace

to all concerned. In dishonoring the wife, the husband is dishonored.

As, therefore, the terms so freely employed in these statutes are such as convey only the idea of a disgracefully criminal connexion, we infer that they are not such terms as would have been used if the design had been simply to point out that degree of relationship within which marriage might not be contracted. We hence conclude that this passage has no bearing upon the question before us.

Let us endeavor to ascertain the meaning of the other passage that is regarded as forbidding the marriage of a man with his deceased wife's sister. That passage is this: Lev. xviii. 18. "Neither shalt thou take a wife to her sister, to vex her, to uncover her nakedness beside the other, in her life-time." This passage is the one to which we have referred as unmistakably signifying marriage. "Take a wife," as we have noted, has no other meaning. Yet this marriage, though real marriage, is impure. Therefore, the other phrase, "to uncover nakedness," which is used to characterise criminal intercourse, is appended to indicate that such marriage is no better than the grossest incest. Notice that this phrase is here only appended to characterise such a marriage. It is not, as in the other passages, the leading, and, indeed, the only term employed to designate the relation.

The special inquiry that arises is, What kind of marriage is that, or between what parties formed, that is designated by the phrase "take a wife to her sister"? There are those who tell us that the term "sister," as here employed, signifies only "one who is an equal, or one who is in the same relation; they are sisters by position." This gloss is put upon the passage to make it signify this: "Whilst having one wife, thou shalt not take another." They regard the statute, therefore, as designed only to prohibit polygamy.

But this certainly cannot be its purpose, because, in another portion of these same statutes, polygamy is recognised as existing, as being a thing common. And without rebuke, without any intimation of disapproval, a law is given simply to regulate polygamy, as in Deut. xxi. 15: "If a man have two wives, one beloved

and another hated; and they have borne him children, both the beloved and the hated; and if the first born son be hers that was hated, then it shall be, when he maketh his sons to inherit that which he hath, that he may not make the son of the beloved first born before the son of the hated, which is indeed the first born; but he shall acknowledge the hated for the first born, by giving him a double portion of all that he hath; for he is the beginning of his strength; the right of the first born is his."

Besides this, we know, from the history of this people, that polygamy was common amongst them. To say nothing of the practice as it prevailed before the promulgation of this law, Gideon, so highly esteemed of his people, and so manifestly favored of God, had, as the record states, "threescore and ten sons, of his own body begotten, for he had many wives." Elkanah, the father of Samuel, pious and devoted to the service of God as he was, "had two wives; the name of the one was Hannah; the name of the other, Penninah." David had many wives. Indeed, the limit to the number of wives a man might have seems to have been determined only by his ability to support them. We cannot suppose that David knew of any law forbidding the having of more than one wife at the same time. Had he known of such a law, he certainly would have obeyed it. He was a man "after God's own heart;" and the law of his God was his "meditation day and night." To know of such a law, yet to violate it, would have been iniquity of heart and life. But, said he, "If I regard iniquity in my heart, the Lord will not hear me; yet verily he hath heard me." We find David lamenting many sins; some of them heinous sins; yet never does he give any intimation that he regarded this habit of his life as a sin. It was not till the time of Christ that the original law of creation was revived, and polygamy authoritatively pronounced a sin.

What, then, is the meaning of the prohibition before us, "Neither shalt thou take a wife to her sister, in her life-time"? It is this: that a man having a wife shall not, while she is living, marry her sister. The burden of the prohibition lies on these two clauses, which, by leaving out all adjuncts we have quoted in juxtaposition, viz., "wife to her sister, in her life-time." "Wife to

her sister"—as it means not the having of more than one wife, must mean, and mean only, the taking of a woman for your wife, whose sister is already your wife. The clause, "to vex her," implies the evil that would result from such a marriage. The clause, "in her life-time," is full of meaning, as bearing on the subject under consideration. Does not the prohibition to marry a wife's sister in the wife's life-time imply that after her death such a marriage is admissible? It is a prohibition under certain definite conditions. If the conditions do not exist, the prohibition has no force. This passage, then, so far from forbidding one to marry his deceased wife's sister, by the strongest possible implication authorises such a marriage.

There is, then, according to the Scriptures, no impurity in the marrying of a deceased wife's sister. If this is not a fair and just interpretation of the passage, we know not where the unfairness is.

Why is it that the marrying of two sisters at the same time is characterised, as in this passage it is, by the term of infamy? We will not specifically assign a reason; that is needless. But, whatever be the reason, it ceases to be of force on the death of the first sister. "A woman which hath a husband is bound by the law of her husband as long as he liveth; but if her husband be dead, she is loosed from the law of her husband. So, then, 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." We conclude, therefore, that the law which forbids the marriage at the same time of two sisters, ceases to be of force on the death of the first sister.

It may be said that, in the former part of this dissertation we objected to parity of reasoning from husband to wife, and that the same objection will apply to reasoning thus from wife to husband. But not so. For that was reasoning from the greater privileged person to the less, while this is reasoning from the less privileged person to the greater. Examples of this greater privilege in the husband were cited; as that while the husband, under the Hebrew law, was allowed to have more than one wife, the wife was

restricted to the having of one husband. We may, therefore, with perfect propriety, say, "If the wife be loosed from the law of her husband by his death, at least as fully is the husband loosed from the law of his wife by her death."

We conclude, in view of the whole argument, that even if the Hebrew polity were to its full import binding on us, there was in it no statute forbidding the marriage of a man with his deceased wife's sister.

But the gospel is more stringent as to the law of marriage than was the Mosaic law, as evinced in this, that monogamy, a marriage between one man and one woman, the original law, was restored; and divorcement was allowed only in a single class of unfaithfulness. It might, therefore, with great propriety, be inferred that like stringency would prevail in regard to the question before us—the marriage of a man with the sister of his deceased wife, if there be any impurity in such a marriage. But on this subject not a word is to be found in the gospel. The gospel, on its promulgation, went forth to nations and peoples amongst whom such marriages were admissible, were common. Yet there is, in the whole teaching of the New Testament, not one word of disapproval.

It might be said in reply, that amongst the nations this custom, by its universal prevalence, had grown to be a politico-social custom; that, therefore, interference with it would array against the gospel all the power and hostility of the state, as well as the opposition of the people. Consequently, that the gospel "winked at" the matter. But the gospel is not a time-serving scheme. It does not blink at crime because it is afraid to rebuke it. It unhesitatingly levelled its shafts at "wickedness in high places," as well as at prevalent wickedness amongst the people, such as drunkenness, debauchery, adultery, dishonesty, violence, murder; and against every one that "maketh or loveth a lie." Idolatry, characteristically, was so interwoven with the authority of the state, that to attack idolatry was to arouse the vengeful power of the state. Yet the gospel did not hesitate to denounce idolatry in unmeasured terms. No; the fact that neither our Lord nor his apostles ever uttered a word against such marriages, and

specially so when at least one proper occasion for the utterance of such a rebuke occurred, when the Jews propounded to our Lord the question touching the marriage of a man with his brother's wife, evinces that in such marriages there is nothing to reprove. It may be said that the rebuke of John the Baptist to Herod, for having his brother Philip's wife, is such direct denunciation. But, for the moment, admitting that a brother's wife is equivalent to a wife's sister, no such denunciation of the case in hand can be affirmed in face of the fact that, as Josephus, Book 18, chap. 5, informs us, he took her from his brother by treachery and stratagem, and had her for his wife while her husband was still living. His own wife, also, though repudiated, was living.

Now, if in the whole of the Scriptures there is no prohibition of such marriages, how is it that such marriages ever came to be prohibited by ecclesiastical law? It is easy enough to give a satisfactory answer to this inquiry.

Says an able writer: "Although in the New Testament we find no prohibition of such marriages by Christ; although we have no evidence that the apostles discountenanced them, or that in the primitive Church they were condemned," it came to pass, in the course of two or three centuries, that "Christians, in the spirit of Oriental enthusiasm, became dissatisfied with Christian principles of ethics, and invented for themselves new rules of continence (and of piety in general), which God never imposed." And, we may add, so far so, indeed, as to brand the second marriage of a widower, no matter how far remote from him might be the woman whom he married, as "legal adultery." They taught, still further, that celibacy and absolute continence was necessary to the attainment of holiness. The Romish Church, through which the error in question became entailed on Protestant Christendom, when it was constituted, finding such notions in vogue, adopted and fostered them; and with a still greater refinement of fanaticism conceived what is called spiritual affinity, which, as they taught, was contracted in the sacraments of baptism and confirmation. According to this chimerical affinity, a man may not marry his god-daughter, nor her mother, nor her sister, nor her cousin. The only difference of opinion amongst

the doctors was, whether the prohibition should extend only to the fourth, or be made to embrace the seventh, degree.

At the Reformation, the law of marriage was in great degree expurgated; but such is the tendency of the human mind to cling to superstitions of long standing, and such was the respect paid to the convenience of Henry the Eighth of England, in the matter of Catherine, the widow of his brother Arthur, that the prohibition was retained by several of the Protestant States and Churches of the period.

The laws of States, and the mind of the Church have, within the last hundred years, undergone a great change, and many Churches and States have repudiated this error of the ages.

In 1851 there was instituted in England a society having for its object the purging of the English municipal law of this error. The society is called "The Marriage Reform Association." It is composed of persons distinguished for their scholarship or their position. By their influence, the matter was in 1858 brought under consideration in Parliament. The lower house voted to rescind the law; the house of Lords, however, dissented. In 1862, the same thing was repeated, the house of Commons voting for repeal, the house of Lords sustaining the law. The members of the Reform Association are concerned in this matter, we have no reason to believe, because of any bearing it has on their personal relations. They profess to regard the law as a grave error, and as injurious in its effects upon the community. Therefore have they continued their efforts to have it repealed. Their number is constantly increasing, and their influence extending. They have caused the question of repeal to be several times, of late years, renewed in Parliament. In the last vote that was taken, besides that the Commons voted strongly for repeal, the Lords, in a house of 260 members, gave a vote of 128 in favor of repeal, 132 in the negative. A change of three votes to the affirmative would have reversed the result, and throughout the British dominions the prohibitory law would have been abolished.

The Provinces of Great Britain by no means follow the leading of the mother country in retaining the law. The Dominion of Canada has lately rescinded it; and the Queen has declined to

disallow the annulling act, or as we say in this county, to veto it. We may here, in passing, remark, that it is affirmed by those who are in a position to know, that her Majesty, Queen Victoria, and also the Prince of Wales, are in favor of full liberty in this matter. The only importance we attach to this fact is, that the opinions of these royal personages are formed, in all probability under the advisement of those who are learned on the subject. Perhaps a more important fact is this, that of the almost nine millions of square miles of her Majesty's dominions, the people of nearly seven millions of square miles have either annulled the prohibitory law, or refused to enact it.

All the Protestant States of continental Europe, we are informed, have annulled the prohibition.

Although, in this country, under the colonial *regime*, the prohibitory statute was universally in force, there is now no such law on the statute books of any one of the States of the American Union.

Of the Churches, the United Presbyterian Church in Scotland has repealed the prohibition; likewise have the Protestant Churches on the Continent.

The Dutch Reformed Church in America, with which our Church enjoys such close fraternal relations, and with which, a few years ago, our Church so cordially agreed to coöperate in Church work, in 1843 repealed the prohibitory law.

The Protestant Episcopal Church, in which, if in any Church in our land, a law or canon prohibiting such marriages might be expected to be in force, has no statute or article of belief touching the matter. Their house of Bishops did some years ago, *recommend* their clergy to follow the English law in such cases. But we are informed by one of their best informed clergymen, that this is not regarded as of authority in the Church; that it is merely a recommendation, and that some even of the bishops, as well as the body of the clergy, ignore it in their practice, and determine their action by their personal convictions.

There is no law prohibiting such marriages in the Methodist Episcopal Church, nor in the Baptist Church, nor amongst the Congregational churches; nor in the Lutheran Church; nor, we

presume, in any Church in our land except in the Presbyterian Church, North and South, and, it may be, in one or two of its congeners. We stand almost alone in America, and in Protestant Christendom, in upholding this mythical dogma of Rome and of the Dark Ages.

We cannot but regard the action of our Church on this subject, or rather that of the "Presbyterian Church in the United States of America," of which at the time we were a constituent part, and through which we derived our existence, as singularly infelicitous, because so remarkably inconsistent.

The first act that we note was in 1782, by the United Synod of New York and Philadelphia, prior to the formation of the General Assembly, but which, being the act of the whole Church then existing, is an authoritative precedent. In the case of the marriage of a man with his deceased wife's sister, when the question was in regard to the restoration of the parties to the marriage to the privileges of the Church, from which for their marriage they had been debarred, in the language of the record, "After full and deliberate discussion the question was put, 'Shall these parties be capable of Christian privileges, their marriage to the contrary notwithstanding?' the question was answered in the affirmative by a large majority." The Synod adds, "Nevertheless the Synod in consideration that such marriages are of ill report in many parts of the Church, do recommend it to their people to abstain from them, in order to avoid gross offence." They base their advice, and it is mere advice, not on this, that it is contrary to Scripture, nor even on this, that it is contrary to our standards to contract such marriages, but on this, that public opinion is against them!

Again, the United Synod in 1783 "recommended to their members (*i. e.*, to their ministers) to abstain from celebrating such marriages and to discountenance them by all means in their power." Mark, this, as in the former case, was only a recommendation; and that recommendation was based, so far as Scripture is concerned, on what they themselves regarded as doubtful authority, for thus they say, "Although the marriage of a man to two sisters, one after the death of the other, may not be a direct

violation of the express words of the Levitical law, yet as it is contrary to the custom of the Protestant Churches in general, and may through the prejudices or generally received opinion of the members of our Church, be productive of very disagreeable consequences," etc. This certainly plants the standard of Christian morals and practice on a very insecure basis. Nothing is more uncertain, more unreliable, than public prejudice and opinion, whether in the Church or out of it. And, as to "the custom of the Protestant Churches in general," whatever it is worth, it is now, as we have shown (after sober second thought and consideration), wholly on the other side of the question.

The only inquiry with the Church should be, as several times we have said, What says the word of God in the case? If there be clearly ascertainable instruction in the word of God, follow it; if not, take no step, assume no position, maintain no attitude, under the dictation of public prejudice and opinion.

In 1810, "A reference from Bethel church, S. C., was overtured" (we quote from the record), "requesting the decision of the Assembly in regard to a case in which a person had married the sister of a deceased wife. On motion, *Resolved*, That this reference be answered by the decision of the Assembly of 1804." The only case that was before the Assembly in 1804 was that of James Gaston, which, though it appears under a different category, we must suppose to be the case cited. The principle involved in the decision of that case is thus expressed: "The Assembly cannot advise to annul such marriages, or pronounce them to such a degree unlawful as that the parties, if otherwise worthy, should be debarred from the privileges of the Church."

In 1821, the most that the General Assembly was willing to affirm in a case then before it, was this: "In the opinion of this General Assembly, the marriage of a man to his deceased wife's sister is highly inexpedient." Again: "This Assembly is by no means prepared to decide that such marriages are so plainly prohibited in Scripture as necessarily to infer the exclusion of those who contract them from church privileges."

This was reaffirmed in 1822.

Yet in 1842, in the case of Rev. McQueen, and again in 1848,

in the case of Ruling Elder John Cathey, the Assembly sustained the action of the lower courts in their suspending from the privileges of the Church these persons who had contracted such marriages.

The specially notable case that engaged the attention of the Church from 1842 to 1845, was one of the instances just adverted to—that of the Rev. Archibald McQueen, of Fayetteville Presbytery, N. C. Mr. McQueen was, as was universally said of him, a minister of otherwise unexceptionable character. Having married the sister of his deceased wife, he was for this deposed from the ministry by his Presbytery, and debarred from church communion. The sentence of the lower court was sustained by the General Assembly. But in 1845, only three years later, the Assembly, on the ground that, by the submission of Mr. McQueen to the decree of deposition, the ends of discipline had been attained, directed the Fayetteville Presbytery to restore him to his former standing. The Presbytery accordingly placed him *rectus in ecclesia.*

Now, the anomaly of the action in this case is twofold: 1st. The deposition of Mr. McQueen, and his suspension from church privileges, is contrary to previous decisions as quoted above. 2d. While the Assembly, in concurrence with the judgment of his Presbytery, degrades Mr. McQueen from the clerical office for what it regards as crime that renders him unworthy of that office, and while he is still unrepentant for that reputed crime, and continues to live in the practice of that so-called crime, it restores him in full to his office! The Constitution of the Church decides that while crime continues, there can be no restoration to Christian privileges or standing. Its language, in Chap. 24, Sec. 4, is emphatically this: "Such incestuous marriages can never be made lawful by any law of man or consent of parties, so that those persons may live together as man and wife."

Dr. Thornwell, Works, Vol. IV., page 493, commenting on the case of Mr. McQueen, says: "According to the Constitution of our Church, the marriage of a man with his deceased wife's sister is null and void, from the simple fact that the parties are incompetent to make the contract. The only satisfactory evi-

dence, therefore, which can be furnished that the parties have repented, consists in separation; they cannot live together as man and wife. It is just as wicked to perpetrate the contract as to make it. Hence, according to our standards, Mr. McQueen has never repented, and the ends of discipline have never been answered in the punishment to which he has submitted. He is as guilty to-day as he was before the Presbytery deposed him." Dr. Thornwell continues: "If the law of our Church is more stringent on this subject than that of the Bible, it ought to be changed; but as long as we profess to believe that our standards faithfully exhibit the mind of the Spirit, our practice and our creed ought to be consistent." If we act otherwise, "we make our Church the jest of the mocker and the scoff of the profane."

This view of Dr. Thornwell is eminently just. We do not understand him as advocating the repeal of the law of our Church as a thing in itself wrong; nor as giving the slightest intimation of his judgment for or against it on its own merits. But he forcibly shows that the restoration of Mr. McQueen was a practical ignoring of the law. In our view, it was a practical annulling of the law.

The highest court of our Church further, by its treatment of and by its direction for the official conduct of ministers in the premises, virtually again makes null and void the law of the Church. We reason thus: If it be a crime for a man to marry his deceased wife's sister, it is also criminal for a minister to "aid and abet" the parties in their doing wrong, by his performing for them the marriage ceremony. Again, as he acts professedly under the authority of God and in the name of God, as well as that of the State, by his act he proclaims the divine sanction to that which the law of our Church asserts to be incestuous. Yet no one of our ministers has ever been arraigned for thus aiding and abetting crime, nor for thus arraying himself against the authority of the Church. Nor does our Assembly forbid ministers to marry such parties, in terms such as should be used to prohibit a criminal act. It recommends our ministers to abstain from celebrating such marriages, and that mainly as a matter of expediency, because public opinion is against them! This is a strange position.

It despoils the law of all right of magistracy; it is a lowering of the high authority on which, as is assumed, the prohibition of our standards is based, to that of the variable and ever varying current of public opinion! This is, indeed, a practical voiding of the law.

The only solution of the inconsistent action of the highest court of our Church that we can conceive of is, that those whose business it was to vote in such cases were perplexed. They were in a dilemma, as will be many others who may be called on to give a verdict on the marriage of some offending brother, if the law remains in our Book. They were not fully convinced—as the Assembly itself frankly says—that there really is divine authority for the prohibition; yet, inasmuch as such marriages in our Book are prohibited, they felt it incumbent on them to maintain the authority of the Church. Still, in respecting the majesty of law, they would so frame their action as to avoid, as far as possible, the doing of that which might be an act of injustice, which might be an act of cruelty.

This certainly was amiable, and challenges our admiration; but still the question recurs, As the law in our Book stands, was it right? What is the law is law; and the administrators of law have no right to go behind the law, and question the principle on which it is based.

In conclusion, we again cite the judgment of Dr. Thornwell. "Our practice and our creed ought to be consistent. If the law of our Church is more stringent on this subject than that of the Bible, it ought to be changed." Our conviction is that the law of our Church on this subject is without support from the Scriptures, and that, therefore, it ought to be expunged from our standards.

FERDINAND JACOBS.