

IS MARRIAGE TO A DECEASED SPOUSE'S BROTHER OR SISTER FORBIDDEN?

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What is offered under this caption, is part of an essay by the undersigned entitled "Fundamentals, Non-fundamentals, Theological Problems, and Adiophora." The controversial questions mentioned by Dr. Reu on page 31 of his "In the Interest of Lutheran Unity", were separately treated in the latter part of this paper. The treatise on one of the questions there mentioned, the "Schwagerahe", follows:

-----That brings us to the question: Is marriage to a deceased spouse's brother or sister forbidden? That it is is claimed on the basis of the following passages: A) Lev. 18,6: None of you shall approach to any that is near of kin to him, to uncover their nakedness; B) Lev. 18,16: Thou shalt not uncover the nakedness of thy brother's wife; it is thy brother's nakedness; C) Lev. 20, 21: And if a man shall take his brother's wife, it is an unclean thing: he hath uncovered his brother's nakedness; they shall die childless; D) Lev. 18,18: Neither shalt thou take a wife to her sister, to vex her to uncover her nakedness beside the other in her lifetime.

The book of Leviticus, from which these passages are taken, contains the laws relating to the ritual, the services, and sacrifices of the O.T., superintended by the levitical priesthood, and much of it is devoted to describing the duties of the priests, the "sons of Aaron." It is evident from the very nature of this book, that it contains many commandments and prohibitions, which can and must be disregarded by the N. T. Church e. g. in Lev. 19,26 where we read: "Ye shall not round the corners of your heads, neither shalt thou mar the corners of thy beard"; and in 20, 25 which says: "Ye shall therefore put difference between clean beasts and unclean, and between unclean fowls and clean." Because of these ceremonial regulations in the 19th chapter, some claim that not all of the preceding chapter (the 18th), from which three of these passages are taken, need be taken as moral law. The same is said of the 20th chapter (the following one) from which one of these passages is taken. There may be room for argument on this point.

But the result will leave the contention, that these passages are not applicable today as moral law, in doubt, to say the least, and convictions cannot be based on doubtful premises. For that moral questions are involved, is evident not only from the general contents of the chapter but also from the introductory verses (2-3) where we read: "I am the Lord, your God. After the doings of the land of Egypt wherein ye dwelt shall ye not do; and after the doings of the land of Canaan whither I bring you shall ye not do; neither shall ye walk in their ordinances." According to these words the Israelites were to avoid the sins of paganism, some of which are then enumerated. One of them (that one should have his father's wife) is branded as fornication in the N.T. and is condemned also by the natural law (see I Cor. 5,1). Therefore the passages taken from Lev. 18 shall be considered as moral law, in order to establish a basis for sound argument; although 20, 21 must be somewhat differently appraised, as will be seen later.

A study of the passages mentioned follows:

A) Lev. 18,6: None of you shall approach to any that is near of kin to him, to uncover their nakedness. --- This passage has been used to contend for the rule, that all marriages within two degrees of consanguinity or affinity are forbidden. In setting up this rule the term "sch'ei b'saro" (translated "near of kin" in the King James Version) is rendered "flesh of flesh" and Gen. 2, 24 ("They shall be one flesh." K.J.V.) is used to show that consanguinity is established between husband and wife (cf. Baieri Compendium ed. Walther III, 767 under Brochmandus). According to this rule a spouse would be considered your flesh (first degree consanguinity) and a spouse's brother or sister would be flesh of your flesh (second degree consanguinity). With these interpretations the verse would prohibit marriage to a deceased spouse's brother or sister, since it would mean marrying your flesh's flesh.

In regard to this verse the thought might occur, that it does not speak of marriage. The verb "lakach" (to take), found in 18,18 and 20,21 is not found here. It is the

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Hebrew verb used to designate marriage. This passage, however, speaks only of approaching and uncovering. Approaching and uncovering can take place without marriage. Could not this verse be interpreted as referring only to carnal intercourse, since "lakach" is not used in it?

There also may be doubts as to whether the term "sch'er b'saro" sets up a general rule for the chapter, designating marriage to be forbidden within the limits of a definite degree of consanguinity; for an interpretation of any one degree of consanguinity does not apply in the cases mentioned in Lev. 18. Some of them are in the first, and others in the second degree of consanguinity; 18,14 forbidding the uncovering of the nakedness of the father's brother's wife, and 18,17 forbidding the taking and uncovering the nakedness of a wife's son's daughter or daughter's daughter, go beyond the second degree; and 18,18 does not even mention relationship as a reason for the prohibition. For this reason we may feel inclined to reject using the term "sch'er b'saro" mathematically and in a mechanical way as a measuring stick to determine a definite degree of consanguinity, and accept it as designating any close relative or member of the immediate family or household, regardless of the exact degree of either consanguinity or affinity. The translation "near of kin", K.J.V., would permit this understanding of the term.

With this understanding of "approaching and uncovering" and of "near of kin", the verse would prohibit promiscuity between all near of kin, who because of familiarity and frequent contact and especially because of the lax morals of Egypt, their past home, and of Canaan, their destination, might be tempted to this revolting sin. Sex perversions of all kinds such as homosexuality and bestiality are mentioned in Lev. 18, and it would be natural to assume that 18,6 refers to incestuous promiscuity, another such perversion.

Josephus indicates that the Jews understood Lev. 18 and 20 in that way. In Book III, Chapter 12 of the "Antiquities" he says: "Moses esteemed that it was profitable both to cities and to families that children should be known to be genuine. He also abhorred men's lying with their mothers, as one of the greatest crimes; and the like for lying with the father's wife, and with aunts and sisters, and son's wives, as all instances of abominable wickedness. He also forbade a man to lie with his wife when she was defiled with her natural purgation; and not to come near to brute beasts; nor to approve of lying with a male, which was to hunt after unlawful pleasures on account of beauty. To those who were guilty of such insolent behaviour, he ordained death."

But we cannot say that Josephus had only incestuous promiscuity in mind, and the position that 18,6 refers only to incestuous promiscuity cannot be maintained. The same must be said about the claim that "sch'er b'saro" does not define a degree of consanguinity.

It would seem strange indeed, if the marriage laws of Israel were limited to the few verses containing the word "lakach" in Lev. 18 and 20; but the absence of "lakach" does not necessarily compel us to restrict the meaning to promiscuity. The terms "approach" and "uncover" can be extended to include marriage, since marriage would involve approaching and uncovering. Therefore it is logical to consider the three terms "approaching, uncovering, and taking" as synonyms referring to marriage, unless we are forced to accept the other interpretation, as is the case in 18,16.

From an analysis of the term itself we also see, that "sch'er b'saro" designates a definite degree of consanguinity. The word "sch'er" (literally flesh) is frequently used in a poetical sense. An example of this use is found in Ps. 73,26: "My heart and my flesh (sch'er) faileth." Here both heart and flesh are so used. Otherwise it is used

in the meaning of "relative by blood". So in Lev. 21, 2-3: "But for his kin (sch'er) that is near unto him, that is for his mother, and for his father, and for his son, and for his daughter, and for his brother, and for his sister, etc."; and Numbers 27, 11: "And if his father have no brethren, then shall ye give his inheritance to his kinsman (sch'er) that is next to him in his family." In no case do we find the word "sch'er" or one related to it, used to designate an in-law in Lev. 18. Following the sixth verse it is always applied to a relative by blood. Cf. Lev. 18, 12; 18, 13; 18, 17. Compare also 20, 19 the only place in Lev. 20 using the word. Note that in 18, 17 the "scha'rah" or relationship is not between the man and the women mentioned, but between the women themselves, as correctly brought out by the King James Version with "they are her near kinswomen."

Combined in the construct state with "basar" which is more frequently used in the literal sense of flesh or body, "sch'er" means exactly translated a blood-relative of one's body or next to one's body, and applies only to the closest degree of blood-relationship, father, mother; son, daughter, brother, sister. Compare 20, 19 where only "sch'er" not "sch'er b'saro" is used for second degree consanguinity. The addition of "b'saro" to "sch'er" strictly limits the latter term to include only consanguinity of the first degree. No other interpretation is permissible. The Septuagint with "panta oikeian sarkos", the Vulgate with "proximam sanguinis sui", and Luther with "nächstste Blutsfreundin", all support the strict literal meaning of the term, indicated by the original. In view of Lev. 21, 2-3, also the "near of kin" of the King James Version, restricts to that sense. Thus 18, 6 speaks only of first degree consanguinity, and can in no event be applied to a spouse's brother or sister.

But also the restrictive power of the term "sch'er" in this construction, eliminates any application of 18, 6 to the "Schwagerehe". It strictly confines the meaning of this phrase to apply only to consanguinity, and it cannot be proved from scriptures, that consanguinity is established in marriage.

But what about Gen. 2, 24b ("They shall be one flesh", K.J.V.)? The claim is made that flesh is here used in the same sense in which it is used in Lev. 18, that of consanguinity. Accordingly, a permanent condition of the closest blood-relationship is wrought between husband and wife in marriage. This state or condition continues beyond the death of either spouse. Consequently, it would be wrong according to Lev. 18, 6 to take a deceased spouse's brother or sister, since it would involve marrying a blood-relative (sch'er) of one's own flesh or body (basar). For the sake of the argument we shall let this claim stand at this point, even though, as has been demonstrated, the term sch'er is never used of a relative by affinity in Lev. 18 or 20, and in spite of the fact that it presents a strange contradiction, which consists in this, that even though Lev. 18, 6 forbids sexual congress between close blood-relatives, Gen. 2, 24 sanctions it between the closest blood-relatives, husband and wife.

In considering this passage the variant addition of "sch'nehem" should not be overlooked. It is incorporated in the Septuagint which is quoted by Christ and Paul in the N. T. and will therefore be considered authoritative. With that addition Gen. 2, 24 reads as follows in the original: "V'hayu (sch'nehem) l'basar echad." Literally translated this is: "They two shall be to one flesh." The translations of the Septuagint and the Vulgate are respectively: "Esontai hoi dyo eis sarka mian," and "Erunt duo in carne una". We are here dealing not with a predicate noun but with a prepositional phrase variously rendered, "two to one- two into one- two in one". The simple future of the verbs combined with the prepositional phrase implies sanction and purpose. That two should be in one flesh, is sanctioned by God in marriage and in marriage only. Not the man and other women or the woman and other men, but only they two who have been joined according to God's holy ordinance, shall be to one flesh. The one flesh here spoken of, is primarily and basically a union or joining of flesh in the sexual act for the purpose of reproduction by which one new flesh, or body, or life is brought forth, so that parents become one flesh in their children but not in themselves.

This fleshly union is also to form the basis for and to result in a most intimate union in all things pertaining to this flesh and life in sickness and in health -- a union which according to God's holy ordinance is to continue even then when sex relationships are temporarily or even permanently suspended by mutual consent or due to illness, and which can be disrupted only by grievously sinning against God's holy ordinance and with deep and dire effects upon the whole life of those concerned. There ought be no dispute about the "two to one" implying a union, and a union is not in itself a physiological change and, therefore, not consanguinity but only the joining together of two distinct entities in a purpose. That a union and not a change is meant is indicated also by the first part of Gen.2,24: "Therefore, shall a man leave his father and his mother and shall cleave (dabak) unto his wife." "Dabak" means to cleave to, cling to, hold on to, adhere to, and signifies a continued activity of life and being, and not a passive condition of permanent consanguinity which has been suffered or brought about as a lasting effect of sexual intercourse. This is apparent also in Christ's use of the passage.

Gen.2,24 is quoted by Him according to the Septuagint in Matth.19,5. In v.6 He adds: "Höste euketel eisl dyo, alla sark mia. Ho ouh ho Theos syneseuxen, anthropos nē chrisetō." (Wherefore they are no more twain but one flesh. What therefore God hath joined together let not man put asunder. K.J.V.) Höste with the indicative states a fact. The fact is, that there are no more two, who may put their union asunder and again go their separate ways, but one flesh. This unity does not consist in consanguinity but in this that God has joined them together (syneseuxen) for life according to His holy ordinance laid down in Gen.2,24, to which the höste and ouh have reference.

Further light is shed on the "syneseuxen" and the "sark mia" by I Cor.7,4: "The wife hath not power of her own body, but the husband: and likewise also the husband hath not power of his own body, but the wife." Before marriage the two were independent of each other, but in marriage they are joined together in a union in which they exercise control over each other's bodies so that two bodies become common property and are "sark mia". 19,6 basically implies this, but also much more.

The Expositor's Greek Testament remarks to this passage(Matth.19,5-6): "The reference is primarily to the physical, fleshly unity. But flesh in Hebrew thought represents the entire man, and the ideal unity of marriage covers the whole nature. It is a unity of soul as well as of body: of sympathy, interest, purpose. v.6 höste with indicative expressing actual result as Christ views the matter. They are no longer two, but one flesh, one spirit, one person. -- ho ouh: inference from God's will to man's duty. The creation of sex and the high doctrine as to the cohesion it produces between man and woman, laid down in Gen., interdict separation. Let the Divine Syzygy be held sacred!". So also Luther to Gen.2,24: "So soll es zu gehn, dass es alles beider zugleich sei, und sich alles zugleich annehmen, und eins dem andern bringe Leib, Gut, Ehr, Schande, Armut, Krankheit und was mehr ist. Das ist ein solch Leben das im Fleische gehet, das ist, in fleischlichen Wesen, und was dazu gehoeret, soll alles gemeine sein;" and, "Als der Text spricht I Mose 2,24: Ein Mann wird Vater und Mutter verlassen und an seinem Weibe hangen etc. Aus solcher Liebe und Gemeinschaft folget nun auch die Gemeinschaft alles des, so sie beide miteinander haben, oder ihnen beiden widerfaehret, Gutes und Boeses; dass sich ein jedes muss annehmen als seines eigenen, und dem anderen mit seinem Gute helfen, zusetzen und mitteilen und eines samt dem anderen, beide mitleiden oder mitgeniessen, sich freuen und betruaben, darnach an ihrer eimen wohl oder uebel gehet."-Erl.33,82; Geist aus Luthers Schriften, I, 653, 2335.

This unity is the highest type of unity in the things of this life, different from and stronger than consanguinity, since a man leaves father and mother for it. It is a unity which should not be broken, but not a unity which cannot be broken, as is taught by the Roman Catholic Church. If permanent consanguinity were meant, the unity would be absolute and lasting. That this is not the case, follows from the fact, that Christ's words imply that this union can be put asunder by man, and that He later states (v.9) that it is put asunder by the sinful act of fornication which conflicts with its basis,

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essence, and purpose, so as to nullify the union and leave the innocent party free to marry another.

Gen.2,24 is also quoted by Paul in I Cor.6,16 and Eph.5,31. In considering the first of these passages special note should be taken of the preceding verse, and so both verses are quoted here: "15. Know ye not that your bodies are the members of Christ? Shall I then take the members of Christ and make them the members of an harlot? God forbid. v.16. What? know ye not that he which is joined to an harlot is one body? for two, saith he, shall be one flesh." It is clear that the "one body" and the "one flesh" refer to sexual union and not consanguinity, since the condition described by them consists in making one's members the members of an harlot by being joined to her (kollōmenos from kollaō, to cleave to, to join one's self to, hold to, adhere, like the Hebrew dabak) in one body.

The apostle's purpose in quoting Gen. 2,24 here is to make the union of body stand out and to emphasize it, so that the nature of the sin he is warning against may be fully recognized, since its wrongfulness consists essentially in making the body, which is the temple of the Holy Ghost v.19, and a member of the body of Christ v.15, a member of the harlot and one body with her, by being physically joined to her in the act of fornication.

The use of Gen.2,24 here also calls attention to the fact, that only they two (husband and wife) who have consented together to do so in accord with God's sacred and inviolable ordinance laid down in this passage, have the sanction to such a union. Thus fornication has a deeply degrading and soul destroying spiritual effect upon the whole life and being of the fornicator, in setting him at variance with an ordinance of God, in whose service his body is to be placed. He who is one spirit with Christ v.17, cannot be intimately bound up with the power of darkness in being one body with a harlot.

Therefore, he should cease making his body the member of an harlot, he should no longer be joined to her in one body, but should disrupt this physical union to glorify his Savior, who has so dearly bought him, in his body (v.20). This is to be done in accord with the holy ordinance (Gen.2,24) mentioned in v.16 either by continence in the single state or in the honorable state of matrimony. There is nothing in the context to indicate that Gen.2,24 has reference to consanguinity and that, therefore, the fornicator is permanently the close blood-relative of all the harlots he has consorted with.

The same holds true of the context of Eph.5,31 where Gen.2,24 is quoted. The apostle begins his discourse on marriage in Eph.5 with v.22. Wives should submit themselves to their husbands, since the husband is the head of the wife v.23, even as Christ is the head of the Church, His body of which He is the Savior. As the body of Christ (the Church) is subject to Christ, its head, so the wife, whose relationship to her husband is that of body to head, should be subject to her head, the husband. On the other hand, the husband should not exercise his authority as head arbitrarily and in an uncharitable manner. Christ, the head of the Church, loved the Church and gave Himself for it v.25, sanctified it with His Spirit, and will raise even our flesh and bones, dearly bought and highly cherished by Him, from dust to glory. So ought men also love their wives v.28, who are their bodies and whose heads they are, because of the intimate union ordained by God in Gen.2,24, which is quoted in v.31. An exhaustive study of this context is neither necessary nor desirable for the argument, since these salient points sufficiently show, that nothing is here added to indicate a physiological consanguinity. To take this thought out of the text it must first be carried in, and that is not a proper method of exegetical procedure. Even the words: "He that loveth his wife loveth himself etc.", do not suggest consanguinity. Pursued ad absurdum they would finally yield the meaning that the self or identity of the wife has ceased to exist and she has become her husband; whereas the obvious meaning is, that the lives of husbands and wives are so intertwined and so interdependent, that a husband in loving his wife and providing for her happiness, is automatically providing for his own happiness and wellbeing. Here the Scripture is giving sound advice to the married and not a description of consanguinity by affinity.

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These views concerning the "oneness" of marriage are also expressed by our old dogmatists, and have for centuries otherwise governed our practice in dealing with the manifold and intricate problems of sex, marriage, divorce, and remarriage of divorced persons. Chemnitz (*Handbuechlein*) says: "Die Ehe ist ein guter heiliger Stand, von Gott selbst im Paradies erstlich eingesetzt, --- dass ein Mann und ein Weib zu ehelicher Beiwohnung ordentlich nach Gottes Ordnung unzertrennlich zusammengesueget werden, --- alle andere Vermischung Mannes und Weibes ausserhalb des Ehestandes hat Gott hart und ernstlich verboten und sind Sunden, die Gott in diesem Leben und in Ewigkeit strafen will. Gal. 5; Ebr. 13." Hollar (*H. Schmid 7. Aufl. p. 458*) says: "Ex natura conjugii adulterium per se et directe repugnat unitati carnis adeoque etiam substantiae conjugii, per quod duo in unam carnem fiunt, Gen. II, 24. Qui enim adhaeret sororto, etiam cum sororto una caro fit, I Kor. VI, 16. adeoque non amplius est una caro cum conjugio." (Because of the nature of marriage adultery is in itself in direct conflict with the unity of the flesh and, therefore, also with the substance of marriage, through which two come to be to one flesh Gen. 2, 24. For he who adheres to a harlot, also becomes one flesh with the harlot I Cor. 6, 16 and, therefore, is no longer one flesh with his wife.) Underlinings and translation mine.

If the "oneness" of Gen. 2, 24 were permanent consanguinity, it would continue even after the act of adultery. Since such an interpretation of Gen. 2, 24 cannot be established, Lev. 18, 6 must also for this reason be ruled out as having no bearing on the question under consideration. The prohibition contained in this passage does not lay down a general rule, but is a separate provision. It is first in order, because it forbids the most disgusting of the transgressions mentioned in Lev. 18, carnal intercourse or marriage between father and daughter, mother and son, brother and sister. Its importance is emphasized by the additional naming of the various cases in which it applies in the following verses. Other prohibitions for individual instances are added. Some of them extend the degree of consanguinity (18, 12 and 18, 13). In others, for instance in 18, 17 where the "sacharah" is in direct line of ascent or descent, and in 18, 14 involving the father's brother's wife, the prohibition can well be understood to be based on parental respect, so further in Geist aus Luthers Schriften, I, 658, 1938. In that circumstance affinity is a factor, and that ad infinitum. But in all these cases no practical difficulty is encountered since our state laws cover them (those of Michigan, for instance, coincide with the marriage laws of Lev. 18 except where they go beyond them\*), and since it is not the purpose of this essay to determine the full scope and intent of the marriage laws of Lev. 18, we go on to consider 18, 16.

B) Lev. 18, 16; Thou shalt not uncover the nakedness of thy brother's wife; it is thy brother's nakedness. --- As was stated before, the terms "approach" and "uncover" and "take", are best understood if considered to be synonyms referring to marriage. This meaning for "uncover" must be rejected in 18, 16, since a comparison of 18, 16 with 20, 21 demands it. The reason why the interpretation "marriage" for "uncovering the nakedness" is in this instance rejected lies in the difference between the penalty prescribed for the violation of 18, 16 and the penalty prescribed for the violation of 20, 21.

The penalty for uncovering the nakedness of the brother's wife (18, 16) is found in 18, 29 which designates the penalty for the violation of any prohibition included between the solemn beginning and the solemn conclusion of Lev. 18. This penalty is named with the words, "They shall be cut off from among their people." It may be claimed that this means being disinherited, or being banished and considered dead; but the term "michr' thu hann'phanchoth" is a standard expression used to designate the death penalty. That death was the penalty for violations of Lev. 18, is clear from Lev. 20, 10-16. Josephus also states that the penalty for violations of Lev. 18 was death. This shows how the Jews understood the words of 18, 29. Accordingly any one approaching and uncovering the nakedness of his brother's wife was to be punished by death.

Lev. 20, 21, however, which definitely speaks of taking a brother's wife in marriage,

\* Marriage Laws 1942, page 15, 12692 and 12693.



permits the marriage to continue and imposes the penalty of childlessness. It is impossible that 18,29 should impose the death penalty for the violation of 18,16, and 20,21 only a chapter and a half farther on should impose only childlessness for the same offense. Therefore the "approaching and uncovering" of 18,16 and the "taking" of 20,21 must be two different things. The first passage refers to adultery with a brother's (living or deceased) wife, which was punishable by death, the second to taking a brother's wife in marriage, which was punishable by childlessness.

This passage (18,16), therefore, also has no bearing whatsoever on the question before us. It merely required the same consideration for the brother's wife, that was to be accorded any other woman in Israel, especially since her nakedness belonged to a brother and should not be violated also out of brotherly consideration for him. Although that does not seem to be its primary intent, it would also apply to the wife of a deceased brother, where it would require an honorable taking in marriage before approaching and uncovering (cf. Dt. 25, 5). Even if this passage did speak of marriage, it still could not be applied in the question, if the scriptures make an exception in the case of a deceased brother's wife. And that they do. That will be seen in considering the next passage, Lev. 20, 21.

C) Lev. 20, 21: And if a man shall take his brother's wife; it is an unclean thing; he hath uncovered his brother's nakedness; they shall die childless.--- Here it is evident that marriage is spoken of. But this passage admittedly does not contain an unqualified prohibition against marrying a brother's wife. This is evident from Dt. 25, 5, which not only permitted but even commanded a man to take his deceased brother's wife in marriage, in case she was childless. It would have been wrong to marry a living brother's wife (as did Herod when he took his living brother, Philip's wife) even if she were childless, but the death of the brother changed that to such an extent, that what was wrong before, was now enjoined.

Was the situation also changed in the case of a deceased brother's wife with children? In Rom. 7, 2 we read: "A woman is bound by the law to her husband as long as he liveth but if the husband be dead she is loosed from the law of her husband"; and I Cor. 7, 39 say "The wife is bound by the law as long as her husband liveth; but if her husband be dead; she is at liberty to be married to whom she will". Those passages leave her as free to marry her deceased husband's brother as any other man, since no impediment of consanguinity by affinity can be established, as was seen from Lev. 18, 6 and Gen. 2, 24. If it could be, we would be placed before the perplexing question of why it should exist in the case of a woman with children, and not in the case of a childless woman.

That brings us to one of the greatest of the difficulties confronting those who contend that the "Schwagerehe" is forbidden--the "Leviratsche". Is it possible that God should forbid a thing and also command it? One of His essential attributes is His immutability. He cannot contradict Himself in His decrees. With Him there is no change of light and darkness. Over against this it has been said, "We cannot always understand God's ways. He can make what appear to us to be exceptions to His law. But they are not really exceptions or contradictions, since God does not abrogate His immutability. They only seem to be such to us because of our limited understanding. Sin-blinded reason is offended at many things in God's dealings with men. Some day we shall understand, but for the present we must accept in faith what reason stumbles at." That argument has its merit in any case where a problem exists, and the facts needed for its solution are withheld from us by God, as is the case in the question "our alii prae aliis." But God wants us to evaluate correctly all the facts he has revealed to us in connection with any question and not accept a problem where one does not exist. And in this case there is no contradiction, and there is no problem. Therefore, there is no need whatsoever for labeling the "Leviratsche" as an "exception which we accept in faith even though we cannot understand it." It would seem passing strange if God should have made such an exception. Perhaps it will suffice to say that in the light of what has been said concerning 18, 6; 18, 16; 20, 21; and Gen. 2, 24, the "Leviratsche" is a most powerful argument against the contention that the "Schwagerehe" is forbidden, since it throws its full weight in favor of the interpretations and explanations thus far given and is in full harmony with them.

To return to the passage (Lev.20,21): It was stated before, that this passage could not be considered as containing only moral law. That it has moral implications is evident from the words "it is an unclean thing". But otherwise its provisions place it among the civil laws of the theocracy of Israel. If a man uncovered the nakedness of his brother's wife (one with whom the brother was still living in marriage), the penalty was death. This was the civil punitive provision for all violations of Lev. 18, and it was separately stated in 18,29. In 20,21 the civil provision, penalizing and regulating the violation, is joined to the prohibition. According to this provision the marriage (which could take place only after a legal divorce had declared the woman no longer to be the brother's wife in the eyes of the civil law) was permitted by the civil law, but the penalty of childlessness was imposed upon such a union. The penalty of childlessness according to some (Aug. Pieper; Jamieson, Fensbet, and Brown) consisted in this, that even if there were children they would have no inheritance in Israel. We can easily understand this provision in this light, since any confusion in the matter of inheritances, was carefully guarded against in Israel. It is obvious why Moses allowed a marriage of this kind to stand, if we consider that he also permitted the writings of a bill of divorcement in cases where there was no moral justification for it. He was not only the spiritual leader but also the civil ruler of his people. He had to make provisions for the hardness of heart of many, who were not Israelites indeed in whom no guilt was, in the civil laws of the nation he ruled, as Christ tells us. This is the answer to the question why an unclean thing (*ziddah*) was permitted to continue according to the provision of Lev.20,21. It also explains why this passage cannot be put into the same class with the other three. We now turn to the last of these to be considered, Lev.18,18.

D) Lev.18,18: Neither shalt thou take a wife (*ischah*, woman) to her sister (*el achothah*), to vex her to uncover her nakedness beside the other in her lifetime.--The use which has been made of this passage by those who claim that the "Schwagerewe" is forbidden, is chiefly a negative one. They offer a translation which would eliminate this passage from the argument. Such a translation would be welcome, since 18,6; 18,16; and 20,21, as considered, offer enough material to lead to a conclusion. But will that translation stand? It is as follows: "Neither shalt thou take one (woman) to another to vex her, to uncover her nakedness beside the other in her lifetime." In this translation woman (*ischah* in the original) is taken to mean any woman, and sister (*achoth* in the original) is taken to designate any other woman. The meaning of the passage would then be: "No man shall take one woman to another", and it would prohibit polygamy as such. However the Septuagint with its "*gynaika ep' adelaphē*", and the Vulgate with "*uxoris suae*", indicate that no such use of the term "*ischah el achothah*" was understood to exist in this place, and there are other considerations that show that such a use of the phrase must be rejected.

Passages such as Ex.26,3,5,6, and Ezek.1,9 and 3,13 have been referred to, to show that "*ischah el achothah*" should be translated with "one to another". Cf. Baederi Compendium, ed. Walther, III 769 under "Theologi Lipsienses". But what is lost sight of here is, that in these passages where the same term ("*ischah el achothah*") is used, the term is used pronominally and can be translated only with "one to another", because of a clearly recognizable pronominal reference to a preceding or following noun, and also because of the context. To what noun or nouns would "*ischah el achothah*" refer, if we were to insist on such a pronominal use of the term in 18,18? The context would compel us to assume a reference to the nouns of the preceding verses which are: "Wife and wife's daughter, wife and son's daughter, wife and daughter's daughter"; and the translation would be as follows: "Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter or daughter's daughter, to uncover her nakedness; for they are her near kinswoman. It is wickedness, since (the *vav* would extend its simple copulative meaning and become explicative in expressing a casual relationship) you shall not take one to another to vex her, to uncover her nakedness beside the other in her lifetime." Thus forcing the pronominal use into this passage, leads to a translation which is not acceptable. Or can we by a wide stretch of a very elastic imagination make the well nigh impossible jump from the women specifically mentioned in verse 17 to women



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in general in verse 18, and on that basis insist on a pronominal use of the term? He who succeeds in this, is capable of anything. Why go through such neckbreaking mental acrobatics?

If we wish to experiment in departing from the literal sense of 18,18, it would be much more acceptable to assume that "achoth" is used indefinitely in designating any other woman. The Hebrew uses the word "sister" in that sense, and it would not be wrong in itself to translate that way. But the literal sense of sister by blood is suggested by the context which speaks of relatives. If the realm of relatives were to be left behind at this point, "r'uth" instead of "achoth" would have been used. But let us for the sake of the argument admit this use of the word "achoth". The translation would then be: "Thou shalt not take a woman to a sister (any other woman)". This would also render a meaning forbidding polygamy as such.

However, by accepting this interpretation we place ourselves in an untenable position. Polygamists were not executed in Israel; but if polygamy is meant in 18,18, it belongs to those things called abominations defiling the land in 18,27. Such abominations were punishable by death according to 18,29, as has been seen.

In view of this how are we to account for the fact that polygamy was recognized by the Mosaic Law in its making provision for the rights of children of plural marriages (see Dt.21,15-17); and for the polygamous marriages of a Gideon, of a David, and of other leaders in Israel? And what about II Sam.12,7-9, if polygamists were to be destroyed? Here David is reproved not for taking another wife but for killing another man and taking his wife. The chastisement is, not putting Bathsheba away, but the death of his child. Regarding his wives David is told: "Thus saith the Lord God of Israel --- I gave thee thy master's wives in thy bosom". How could God have given (even if only by toleration) David wives, if polygamy had been forbidden by Him in Lev.18 and there designated as punishable by death? And how about I Kings 15,5, where we read: "David did that which was right in the eyes of the Lord, and turned not aside from anything that He commanded him all the days of his life, save only in the matter of Uriah, the Hittite". All this must lead to the conclusion, that polygamy was at least tolerated in the O. T., which would never have been the case, if 18,18 forbade it under pain of death. Therefore 18,18 cannot be interpreted as forbidding polygamy as such, and we must let the literal translation stand also for that reason.

Thus the commonly accepted rendering of "a woman to her sister (in the literal sense)", is vindicated, and the passage has a bearing on the question of whether or not the marriage to a deceased spouse's brother or sister is permissible. Its meaning is obvious. It restricted the prevalent practice of polygamy in Israel by forbidding marriage to a sister of any wife one had, as long as that wife was living. The reason stated for such a prohibition was, that such a marriage would lead to vexing one sister beside the other. With the death of the wife this reason no longer existed, since the dead cannot be vexed, and the living cannot be placed beside the dead. The words "in her lifetime" lend their weight to this interpretation of the passage by expressly restricting the prohibition to the lifetime of the wife. Thus it cannot be said that Lev.18,18 forbids marriage to a deceased spouse's sister. It rather indicates its permissibility.

What has been said concerning polygamy in this connection, raises the question: "Why should God permit polygamy in the O.T. and prohibit it in the N.T. by the example of 'a bishop, the husband of one wife'"? That is God's business. He does all things well. What we see as inconsistencies, are not inconsistencies, but only appear as such to our limited understanding. We do see that monogamy is the ideal suggested by creation, that polygamous marriages were often the source of unhappiness and moral danger, that the picture of the Lord having chosen as His bride His one people Israel to go forth among the heathen for her beauty (Ezek.16,8-14), and the description of the virtuous woman (Prov.31,10-13) can be best understood, if we assume monogamy to be the ideal. We also see, that the restrictive prohibition of 18,18 is based on an undesirable feature that is likely to be present in any polygamous marriage.

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But all this does not alter the fact that Lev. 18, 18 did not prohibit polygamy as such in Israel. It only restricted it in the case of sisters during the lifetime of the wife for reasons there stated. Thus it did not forbid marrying a deceased spouse's sister. Since polygamy is ordinarily not involved in any of the marriage problems we have to deal with in the N.T., it is even debatable whether this passage forbids a man's marrying the sister of a living wife, who has been divorced by him for the scriptural reason of fornication; since she would no longer be his wife, and Lev. 18, 18 being a restriction of polygamy, would not apply. Although such a union might be frowned upon as a possible source of bitter strife.

Says S.H. Kellogg in his treatment of Lev. 18, 18: "The prohibition of marriage with a sister-in-law is well known, has been and still is the occasion for much controversy which it is not necessary to enter at length. But whatever may be thought for other reasons as to the lawfulness of such a union, it truly seems quite singular, that the verse should ever have been cited as prohibiting such an alliance. No words could be more explicit, than those which we have here, in limiting the application of the prohibition to the lifetime of the wife: 'Thou shalt not take a woman to her sister, to be a rival to her, to uncover her nakedness beside the other in her lifetime.' R.V. The law therefore doesn't touch the question for which it is so often cited, but was evidently intended as a restriction on prevalent polygamy. Polygamy is ever likely to produce jealousies and heart burnings; but it is plain that this phase of the evil would reach its most extreme and odious expression when the new and rival wife was a sister to the one already married, when it would annul sisterly love, and give rise to such painful and peculiarly humiliating dissension as we read of between the sisters, Leah and Rachel. The sense of this passage is so plain that we are told that this interpretation 'stood its ground unchallenged from the third century B.C. to the middle of the 16th century A.D.' Whatever opinion any may hold, therefore, as to the expediency on other grounds, of this much debated alliance, this passage certainly cannot be fairly cited as forbidding it, but is far more naturally understood as by natural implication permitting the union, after the death of the first wife."

That this understanding of 18, 18 also existed among the Jews is indicated under Brochmandus page 767, Paleari Compendium ed. Walther III where we read: "Rabbinorum non pauci et hoc secuti pontificii servide urgent, nihil obstat, quominus quis defunctae uxoris sororem ducat." However, we should not place too much stress on this, since in itself it cannot decide the issue, for convictions must be based on an analysis of the scripture passages that pertain to any question and not merely on human opinion. Can we on the basis of such an analysis maintain that the "Schwagereweib" is forbidden? The position indicated by preceding explanations is that we cannot.

With these explanations all the passages adduced (18, 6; 18, 16; 20, 21; 18, 18; and Dt. 25, 5), are in harmony with each other. There are no Gordian knots to untie. There is no labyrinth of discrepancies and contradictions in which to lose one's self. But as soon as we take the position that 18, 6; 18, 16; and 20, 21 forbid marriage to a deceased spouse's brother or sister, Lev. 18, 18 and Dt. 25, 5 rise in opposition to the position we have taken, and we are compelled to resort to unnatural interpretation and forced explanation to maintain our stand. For that reason the position has been the source of much controversy. We can maintain it only if we can come with a "Thus saith the Lord." This cannot be done on the basis of the passages mentioned. Whatever interpretations we place on them, can never be to the effect that taking a deceased spouse's brother or sister in marriage is forbidden. Scripture must be interpreted by Scripture.

What is here offered, is offered in the interest of coming to a better understanding of this question in the Synodical Conference, in which there have always been many who have had their sincere doubts as to the correctness of the position we still officially occupy.

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