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*THE LEVITICAL CODE AND THE TABLE OF
KINDRED AND AFFINITY.*

THE Table of prohibited degrees printed at the end of the Book of Common Prayer, within which members of the Anglican Church are forbidden by Church Law to marry is as follows :—

A TABLE OF KINDRED AND AFFINITY, WHEREIN WHOSEVER
ARE RELATED ARE FORBIDDEN IN SCRIPTURE AND OUR LAWS
TO MARRY TOGETHER.

A Man may not marry his

- 1 **G**RANDMOTHER.
- 2 Grandfather's Wife.
- 3 Wife's Grandmother.
- 4 Father's Sister [Lev. xviii. 12, xx. 19].
- 5 Mother's Sister [Lev. xviii. 13, xx. 19].
- 6 Father's Brother's Wife [Lev. xviii. 14].
- 7 Mother's Brother's Wife,
- 8 Wife's Father's Sister.
- 9 Wife's Mother's Sister.
- 10 Mother [Lev. xviii. 7].
- 11 Step-Mother [Lev. xviii. 8, xx. 11; Deut. xxii. 30, xxvii. 20].
- 12 Wife's Mother [Lev. xviii. 17, xx. 14; Deut. xxvii. 23].
- 13 Daughter,
- 14 Wife's Daughter [Lev. xviii. 17].
- 15 Son's Wife [Lev. xviii. 15, xx. 12].

*A Woman may not marry with
her*

- 1 **G**RANDFATHER [Lev. xviii. 10].
- 2 Grandmother's Husband [Lev. xviii. 17].
- 3 Husband's Grandfather.
- 4 Father's Brother.
- 5 Mother's Brother.
- 6 Father's Sister's Husband.
- 7 Mother's Sister's Husband.
- 8 Husband's Father's Brother.
- 9 Husband's Mother's Brother.
- 10 Father.
- 11 Step-Father.
- 12 Husband's Father.
- 13 Son [Lev. xviii. 7].
- 14 Husband's Son.
- 15 Daughter's Husband.

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16 Sister [Lev. xviii. 9, 11, xx. 17; Deut. xxvii. 22].	16 Brother.
17. Wife's Sister.	17 Husband's Brother [Lev. xviii. 16].
18 Brother's Wife [Lev. xviii. 16, xx. 21].	18 Sister's Husband.
19 Son's Daughter [Lev. xviii. 10].	19 Son's Son.
20 Daughter's Daughter [Lev. xviii. 10].	20 Daughter's Son.
21 Son's Son's Wife.	21 Son's Daughter's Husband.
22 Daughter's Son's Wife.	22 Daughter's Daughter's Husband.
23 Wife's Son's Daughter [Lev. xviii. 17].	23 Husband's Son's Son.
24 Wife's Daughter's Daughter [Lev. xviii. 17].	24 Husband's Daughter's Son.
25 Brother's Daughter.	25 Brother's Son [Lev. xviii. 12].
26 Sister's Daughter.	26 Sister's Son [Lev. xviii. 13].
27. Brother's Son's Wife.	27 Brother's Daughter's Husband.
28 Sister's Son's Wife.	28 Sister's Daughter's Husband.
29 Wife's Brother's Daughter.	29 Husband's Brother's Son [Lev. xviii. 14].
30 Wife's Sister's Daughter.	30 Husband's Sister's Son.

The basis of this Table is the Levitical Law, as set forth in Leviticus xviii., with certain additions and amplifications. It will be seen that of the thirty prohibited unions, ten are unions of persons related by kindred or consanguinity, while twenty relate to persons only connected by affinity, who have no common ancestor.

An inspection of the Table shows that the two columns are identical in the rules laid down, i.e., every case in either column is identical with some other case in the other column, as will be seen by setting out the equivalents, thus :

No. 1	in Column I	=	Nos. 19 and 20	in Column II.
" 2	" " "	=	" 23 and 24	" " "
" 3	" " "	=	" 21 and 22	" " "
" 4	" " "	=	" 25	" " "
" 5	" " "	=	" 26	" " "
" 6	" " "	=	" 29	" " "
" 7	" " "	=	" 30	" " "
" 8	" " "	=	" 27	" " "
" 9	" " "	=	" 28	" " "
" 10	" " "	=	" 13	" " "
" 11	" " "	=	" 14	" " "
" 12	" " "	=	" 15	" " "
" 13	" " "	=	" 10	" " "
" 14	" " "	=	" 11	" " "
" 15	" " "	=	" 12	" " "
" 16 ¹	" " "	=	" 16	" " "
" 17	" " "	=	" 18	" " "
" 18	" " "	=	" 17	" " "
" 19	" " "	=	" 1	" " "
" 20	" " "	=	" 1	" " "
" 21	" " "	=	" 3	" " "
" 22	" " "	=	" 3	" " "
" 23	" " "	=	" 2	" " "
" 24	" " "	=	" 2	" " "
" 25	" " "	=	" 4	" " "
" 26	" " "	=	" 5	" " "
" 27	" " "	=	" 8	" " "
" 28	" " "	=	" 9	" " "
" 29	" " "	=	" 6	" " "
" 30	" " "	=	" 7	" " "

We need, therefore, attend only to column I. for the sake of clearness.

Of these thirty prohibited unions, fourteen are explicitly set out in Leviticus xviii. as forbidden, namely :

Nos. 4, 5, 10, 16, 19, 20, being marriages of *kindred*; and Nos. 6, 11, 12, 14, 15, 18, 23, 24, being marriages of *affinity*.²

¹ The table does not expressly mention a half-sister, although such a union is forbidden in Lev. xviii. 9, xx. 17. But the civil and canon law interprets the relationship of the *half blood* to be of the same effect as the relationship of the *whole blood*. Note too that the table applies to illegitimate as well as to legitimate relations.

² No. 17 (the wife's sister) is not reckoned here, as it is counted on both sides; it is discussed at the end of this paper.

(Some references to Leviticus and Deuteronomy are marked in the Table.)

It is plain that Leviticus xviii. is not meant to give, in terms, a complete and exhaustive list, for explicitly it does not forbid a man to marry his grandmother (No. 1), his daughter (No. 13), or his niece (Nos. 25 and 26). But it cannot be doubted that, at least, the legislation meant to prohibit Nos. 1 and 13.

However, we may reasonably assume that if a particular marriage of *kindred* is forbidden to a woman, the *corresponding* union of kindred is forbidden to a man. Hence the Levitical code may be taken to forbid Nos. 1, 13, 25, 26, for the corresponding unions are forbidden to women (Lev. xviii. 10, 7, 12, 13).

We have, then, to consider only the following marriages of *affinity* which are forbidden in the Table, although not forbidden explicitly in the Levitical Code, viz., Nos. 2, 3, 7, 8, 9, 17, 21, 22, 27, 28, 29, 30; and we ask, Is there any difference between *these* marriages of affinity and *those* which are forbidden in the Code, viz., Nos. 6, 11, 12, 14, 15, 18, 23, 24?

No assumption of any kind has yet been made about marriages of affinity. If we could assume that affinity is a bar exactly as kindred is, i.e. that a man and his wife are to be regarded as "one flesh" for the purpose of this legislation, so that his relations are her relations in the same degree, and without any difference, then *all* the marriages in the Table are forbidden, for

No.	2	is ruled by	No.	1.
"	3	"	"	1.
"	6	"	"	4.
"	7	"	"	5.
"	8	"	"	4.
"	9	"	"	5.
"	11	"	"	10.

No. 12	is ruled by	No. 10.
, 14	”	” 13.
” 15	”	” 13.
” 17	”	” 16.
” 18	”	” 16.
” 21	”	” 19.
” 22	”	” 20.
” 23	”	” 19.
” 24	”	” 20.
” 27	”	” 25.
” 28	”	” 26.
” 29	”	” 25.
” 30	”	” 26.

And this is really the principle on which the Table was based when it was first promulgated by Archbishop Parker in 1563, as it had for many centuries been the principle recognised by the Church's Canon Law. But it remains a question whether such a principle lies behind the Levitical Code, and this is not to be assumed without investigation. We ask, then, again, can we find any distinction between (A) the marriages of affinity excluded in terms in Leviticus xviii., and (B) those included in the Table but not mentioned in Leviticus ?

We write them down accordingly. Class A includes :

- No. 6. Father's brother's wife.
- No. 11. Stepmother.
- No. 12. Mother-in-law.
- No. 14. Stepdaughter.
- No. 15. Daughter-in-law.
- No. 18. Brother's wife.
- No. 23. Stepson's daughter.
- No. 24. Stepdaughter's daughter.

Class B includes :

- No. 2. Grandfather's wife.
- No. 3. Wife's grandmother.
- No. 7. Mother's brother's wife.
- No. 8. Wife's father's sister.
- No. 9. Wife's mother's sister.
- No. 17. Wife's sister (?)

- No. 21. Son's son's wife.
- No. 22. Daughter's son's wife.
- No. 27. Brother's son's wife.
- No. 28. Sister's son's wife.
- No. 29. Wife's brother's daughter.
- No. 30. Wife's sister's daughter.

Now it will be observed that four out of the eight prohibited unions in Class A are unions with persons who would normally or frequently be members of the household of the man whose marriage is in question, viz., his step-mother, mother-in-law, stepdaughter, and daughter-in-law. On the other hand, eight of the twelve unions in Class B, i.e. those forbidden in the Table but unnoticed in Leviticus, are unions with persons who would normally be members of *another* household, viz., mother's brother's wife, wife's aunt (2 cases), wife's sister (?), nephew's wife (2 cases), and wife's niece (2 cases). Why the grandson's wife (21 and 22) should not be excluded, while the stepson's daughter and step-daughter's daughter are excluded, is a problem; but probably the Code is not drawn very strictly for these remote contingencies. But, on the whole, there seems to be a distinction between Class A and Class B, which is of real significance. There is a danger of proximity in the case of persons coming under Class A, while no such danger normally exists in Class B, and therefore prohibition was not equally necessary.

As to the other two exceptional cases in Class A (Nos. 6 and 18), the father's brother's wife and the brother's wife, it is to be observed that such unions are not forbidden by the earlier Deuteronomic legislation; and the law of the Levirate Marriage set down in Deuteronomy xxv. 5 f. commanded, in certain circumstances, marriages coming under No. 18. This custom of the Levirate marriage, the Levitical Code attempted to proscribe; but despite the prohibition it continued throughout Jewish history (Matt.

xxii. 24). The reason for such marriages was that the "name" of the brother might be preserved, and it may be that a similar desire to perpetuate the memory of an uncle accounts for the absence of any prohibition of No. 6 in Deuteronomy. It would seem, then, that the inclusion of Nos. 6 and 18 among excluded marriages in Leviticus xviii. and xx. was due to a desire to introduce greater strictness; it was a new marriage law, which was not observed. Hence these prohibitions stand in a different category from the others in Class A.

We cannot assert, therefore, that marriages of affinity of the B class were unlawful under the Levitical legislation or under the Deuteronomic, or that the Divine Law forbids them. We are not entitled to assume the principle that the bar of affinity is exactly parallel to the bar of kindred; no such principle lies behind any ancient code, and the particular marriages of affinity which are excluded in Leviticus are excluded because they are such as society specially needed to protect itself against. Such unions would have led to disorder in a household, and it is precisely on this ground that they were forbidden.

The case of the wife's sister (No. 17) is now explicable. It is not forbidden in the code, for normally a wife's sister would not be an inmate of the husband's home; and if a man's wife died it would be lawful for him to marry her sister, despite the relationship by affinity. But so long as the wife lived the man is expressly forbidden to unite himself with her sister (Lev. xviii. 18): for this would introduce that disorder into a household which the legislation is careful to guard against. The words are plain: "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," the limiting words at the end showing that it is not the "affinity" that is the difficulty, and constitutes

the bar, but the confusion and rivalry which such a union would provoke.¹

It is further to be noticed that Leviticus xviii. 18, the clause which forbids union with two sisters who are both living, is the first of six supplementary prohibitions appended to the list of forbidden unions. It does not belong to the list, but stands in a different category, as the Hebrew shows. *All* the clauses of the code about prohibited marriages, eleven in number (Lev. xviii. 7-17 incl.) begin with the word עֲרוֹת "nakedness of . . .": they are similar in structure, and form a uniformly worded table. But *vv.* 18-23 begin with different words, and in no case with עֲרוֹת. This comes out clearly in the Latin version, which preserves the Hebrew structure here better than the English does. The Vulgate has, beginning at *v.* 7 :

- V. 7. Turpitudinem patris tui et turpitudinem matris tuæ non discooperies . . .
- V. 8. Turpitudinem uxoris patris tui . . .
- V. 9. Turpitudinem sororis tuæ . . .
- V. 10. Turpitudinem filiae filii tui . . .
- V. 11. Turpitudinem filiae uxoris patris tui . . .
- V. 12. Turpitudinem sororis patris tui . . .
- V. 13. Turpitudinem sororis matris tuæ . . .
- V. 14. Turpitudinem patrui tui . . .
- V. 15. Turpitudinem nurus tuæ . . .
- V. 16. Turpitudinem uxoris fratris tui
- V. 17. Turpitudinem uxoris tuæ et filiae eius . . .

This is the Code of forbidden degrees, and then follow a quite differently phrased set of injunctions, the first of which is

- V. 18. Sororem uxoris tuæ in pellicatum illius non accipies, nec revelabis turpitudinem eius adhuc illa vivente.

It is quite plain that *vv.* 18-23 are supplementary, and

¹ This is the interpretation of Lev. xviii. 18 favoured by Philo (*de special. legibus* iii. 5); the Talmudists took the same line, no difference of opinion emerging among Jews until the eighth century, when the Karaites put forward the view that marriage with a deceased wife's sister is wholly unlawful.

this is suggested (though not fully exhibited) even in the English versions which begin each of them with "and," following the Hebrew. Thus while the unions forbidden in *vv.* 7-17 (incl.) are always unlawful, the Code places union with a wife's sister in a different category; it is not unlawful, as the other unions in the Code are, but it is specially forbidden while the wife is living, that the peace of a household may not be disturbed. So, too, other shameful things are forbidden; but none of these six supplementary prohibitions belongs to the Levitical list of "prohibited degrees."

There is nothing about the wife's sister in the earlier and laxer Deuteronomic laws; and the story of Jacob's union with Leah and Rachel shows that in primitive times a marriage with a wife's sister while the wife was living was not looked on with any disfavour. But the Levitical Law, as has been said already, aimed at a greater strictness than had hitherto prevailed. Thus a marriage with an aunt is not forbidden in Deuteronomy; Moses and Aaron are said to have been the sons of such a marriage, for Amram, their father, married his father's sister, Jochebed (*Exod.* vi. 20). The story of Tamar and Amnon (*2 Sam.* xiii.) shows that to marry a half-sister was not reckoned unlawful in the Davidic period, although forbidden in *Deut.* xxvii. 22), for Tamar says, "Speak unto the king; he will not withhold me from thee."¹ The Levirate marriages, already mentioned, are illustrated by *Genesis* xxxviii. 8. That is to say, unions which come under Nos. 4, 16, 17, 18 are mentioned without blame in the earlier history of Israel, while such as violate Nos. 10 and 11 of the Table were always matter of reproach (*cf.* *Gen.* xix. 36, xlix. 4 and *1 Cor.* v. 1).

It is interesting to notice the scale of penalties laid down

¹ *Cp.* also *Gen.* xx. 2.

in Leviticus for union within the prohibited degrees. *Death* is prescribed in four cases, viz., that of union with a step-mother (11), a mother-in-law (12), a step-daughter (14) and a daughter-in-law (15), in Leviticus xx. 11, 12, 14; union with a sister or a half-sister (16) is to be punished with *excommunication* (Lev. xx. 17). Of these, 11, 12 and 16 are pronounced "cursed" in Deuteronomy xxvii. 20, 22, 23 although no definite penalty is attached to them. Union with a father's brother's wife (6) or a brother's wife (18) is to be *childless* (Lev. xx. 20, 21); it will be seen that these are unions, as remarked before, which are not forbidden by the older law, and of which No. 6 was practised, under the Levirate regulations, all through Hebrew history. If the Levitical penalty had been realised in fact, and no children had been born from such unions, the purpose of Levirate marriages would have been entirely frustrated. And, finally, union with an aunt (4 and 5), such as the marriage of Amram with Jochebed, is assigned no definite punishment; *they shall bear their iniquity* is the only judgment of the Priestly Code (Lev. xx. 19).

Thus, while the priestly legislation of Leviticus goes far beyond anything recognised before, it does not suggest that affinity of *itself* is a bar to marriage, as near kinship or consanguinity is.¹

The tradition of the Koran as to prohibited degrees is noteworthy, as it follows closely the Levitical Code, with certain interesting exceptions. Of marriages of kindred it prohibits (c. 4) Nos. 4, 5, 10, 13, 16, 25, 26 and of marriages of affinity 11, 12, 14, 15. It also prohibits 17 the marriage with a wife's sister, but quite clearly the reference is to the case of a man being married to two sisters *at the same time*, as in Leviticus xviii. 18. All these marriages are

¹ The provisions of Lev. xxi. 1-3 indicate a clear difference between the ties of kindred and those of affinity.

prohibited in Leviticus xviii. The Koran does not forbid, of marriages of kindred, 1, 19, 20, i.e., marriage with a granddaughter or a grandmother, probably because it was deemed unnecessary. Of marriages of affinity, it does not forbid 2, 3, 6, 7, 8, 9, 18, 21, 22, 23, 24, 27, 28, 29, 30. Now of these only four are forbidden in Leviticus, viz., 6 and 18 (which, as we have seen, were allowed by the older legislation and by the later practice), and 23 and 24, the wife's grandchildren, who may have been omitted by Mohammed as too distant to be worth noticing. The omissions of the Koran agreeing in the main, as they do, with the omissions in Leviticus, confirm the conclusion that no such principle as that *affinity = consanguinity* lies behind the legislation.

This principle, on the other hand, was avowed by the Christian Church, at any rate from the fourth century onward, and it lies behind the Canon Law. An early indication of the growing feeling that marriage with a deceased wife's sister is blameworthy is to be found in a reading (perhaps as old as the third century) in some LXX MSS. of Deuteronomy xxvii. 23, viz., *ἐπικατάρατος ὁ κοιμώμενος μετὰ ἀδελφῆς γυναικὸς αὐτοῦ*. This is not the true text of the LXX, but the existence of such a variant shows the direction which opinion was taking. And there is no doubt this prohibition was based, for Christians, on the principle that affinity operates as consanguinity does, and in the same degree, when the validity of the marriage tie is in question.

No attempt has been made here to discuss the question of social ethics, viz., whether marriage with a deceased wife's sister is desirable in the interests of public morals, or whether the state is wise in regarding it as legitimate. I have been engaged with a less complex question, namely, that of the interpretation of the Levitical Code. But I may be allowed to add that, although the argument against such marriages which has in the past been based on that

Code may be invalid (as I believe it to be), it does not follow that the Christian Church is not justified in declining to bless such unions. The Levitical law was stricter than the laws which preceded it ; but in its turn the Levitical law was surpassed by the law of Christ. Christian legislation has annulled none of the prohibitions of Judaism in the matter of marriage ; it has added to them. Polygamy was lawful for a Jew ; it is not lawful for a Christian. Marriage with a deceased brother's wife (in certain cases) and with a deceased wife's sister was lawful for a Jew ; it does not follow that either is lawful for a Christian. From the beginning Christian teachers have proclaimed that marriage has assumed a new sanctity, since Christ reiterated with emphasis the old saying that man and wife are one flesh. And the Christian Church has always taken the line that since this is so, affinity must be regarded as a bar to marriage just as consanguinity is. This view may have been (and in fact was) supported from time to time by a faulty exegesis of Leviticus xviii. ; but it does not rest on the Old Testament. It is derived from the application of our Lord's teaching about wedlock to the circumstances of modern society, and it is best that its true source should be frankly recognised. But the EXPOSITOR is the place for exposition of Scripture, and not for the elaboration or defence of the Church's law, so that more on this head would be here out of place.

JOHN OSSORY.