

Schwagerehe.¹

Paul E. Kretzmann

1.

Scheer besaro, “flesh of his flesh.” is a Biblical expression denoting physical relationship.

It is necessary, first of all, for the purpose of this paper, to determine the meaning of the expression **Scheer besaro**, as it is found in Lev. 18:6 and elsewhere, since our discussion largely hinges upon this term.

That **Scheer**, in this connection, cannot imply have the connotation “meet for food” as in Ex. 21:10; Ps. 78:20, 27, or “the fleshy part of the human body,” as in Micah 3:2; Ps. 73:26, seems evident from the context. And that the word **Basar**, which likewise may denote “meat, the flesh of the body with the skin, the entire body,” is not used in that sense in our passage is also reasonably clear from the outset. The dictionaries therefore render the word **Scheer**, in this passage as “blood relative,” *Blutsverwandter*, *propinqua carnis suae*; and **Basar** likewise, blood relative, *Blutsverwandter*, *cognatus, affinis, propinquus*.

A study of some of the passages which come into consideration substantiates this meaning of the two words here concerned. In Lev. 18:12 the father’s sister is called the flesh of the father, **Scheer abicha**. In Lev. 16:13 the mother’s sister is called the mother’s flesh, **Scheer imcha**. In Lev. 18:17 granddaughters are called a woman’s flesh, **Scheerah henah**. In Lev. 20:19 the mother’s sister or the father’s sister are called a man’s flesh, “his flesh has he uncovered,” **et scheerah heerah**, the aunt thus being the nephew’s flesh. In Lev. 21:2 the word flesh is clearly defined as denoting relationship: “But for his flesh, 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...,”² **im lischero hakorob**. See also Num. 27:10-11, **lischaro hakarob**.

In the same way the meaning of the word **Basar** in our passage may be determined from passages of a similar nature. In Gen. 37:27 the brothers say of Joseph: “He is our brother and our flesh,” **achinu besarenu**. Also the stronger expression “our bone and our flesh” is found to denote physical relationship, near and far. In Gen. 29:14 Laban says of Jacob: “My bone and my flesh,” **Azmi ubesari**. In Judg. 9:2; 2 Sam. 5:1 (1 Chron. 11:1); 2 Sam. 19:12-13, the same expression is used to denote membership in the same tribe and thus common descent from a more remote ancestor.

Thus we are enabled to determine the meaning of the expression **Scheer besaro**. In Lev. 25:49 we read: “Either his uncle, or his uncle’s son, may redeem him, or any that is nigh of kin unto him of his family,” literally: of the flesh of his flesh out of his family, **mi scheer besaro**. And in the passage with which we are chiefly concerned the expression is to be translated, literally: A man, a man to every flesh of his flesh not shall he draw near, to uncover their nakedness, **el kol scheer besaro**.

The expression **Scheer besaro**, flesh of his flesh, according to these passages, does not designate a mere social relationship, a mere propinquity as the result of custom or legal enactment, but it denotes a kinship, a physical relationship, it means that people are related to one another.

2.

This relationship may be that of consanguinity or that of affinity, or both.

¹ [This article was scanned and reformatted from a carbon copy in the files at the Martin Luther Institute of Sacred Studies, the seminary of the Lutheran Churches of the Reformation (LCR) located in Decatur, Indiana. The text has been preserved as it is found in the original, except for the following changes. The transliterated Hebrew expressions have been put into bold type to set them apart from the other text. German portions have been given in Arial font. Latin words and phrases have been put in italics. Transliterated Greek words have also been rendered in italics. The Scripture references have been rendered in the current style (e. g. 18:6 instead of 18,6). A few typographical errors have been corrected. Furthermore, where Kretzmann quoted only the German from authors such as Luther or Stoeckhardt, I have given a translation from an available source, or, where no translation could be found, I have supplied my own translation. In addition, where possible I have supplied references to source that were lacking in the original. Most of these additions have been set off within brackets or placed in footnotes. It is hoped that these minor changes and additions will make this article more profitable for today’s Christian. – Pastor Jonathan M. Neipp]

² [As he often did, Kretzmann is here giving his own translation of the verse based on the original language. In Lev. 21:2, KJV has “kin” instead of “flesh,” but “flesh” is more in line with the original Hebrew.]

In order to be clear in the matter, let us look at the definitions which the teachers of our Church have given for consanguinity and affinity. By lineal consanguinity we understand that kinship of persons by which there is a line between ancestor and descendant, as between father and son, mother and daughter, grandfather and grandson or granddaughter, grandmother and grandson or granddaughter. By collateral consanguinity we understand the relationship of persons descended from a common ancestor, but not from one another, as brothers and sisters, uncle and niece, aunt and nephew, cousin and cousin. By affinity we understand the kinship arising from the carnal knowledge of a man and a woman whereby they become one flesh, either in or out of wedlock. Collateral consanguinity involves affinity, because it presupposes the relationship of marriage.

That not only consanguinity, but also affinity is included in the expression **Scheer besaro**, is evident from the passage Lev. 25:49, where it is applied even to cousins and beyond. The same conclusion moreover, must be drawn from Lev. 18:6ff., where affinity is spoken of in the same way as consanguinity, as in verses 8 and 11. In fact, cases of affinity and cases of consanguinity are listed promiscuously, so that no distinction is made between kinship of blood and relationship of marriage.

The relationship of marriage, or affinity, clearly establishes man and wife as one flesh. The words of Adam, Gen. 2:22-24: “This is now bone of my bones and flesh of my flesh...Therefore shall a man leave his father and his mother, and shall cleave unto his wife, and they shall be one flesh,” is clearly applied by Jesus to marriage in general. In Matt. 19:5-6 (cp. Mark 10:8) we read: “For this cause shall a man leave father and mother, and shall cleave to his wife, and they twain shall be one flesh? wherefore they are no more twain, but one flesh.” (*Eis sarka mian; sarx mia.*[εἰς σάρκα μίαν; σάρξ μία])

A passage which is overwhelming in its force, in this connection, is Eph. 5:28-31, 33: “So ought men to love their wives as their own bodies. He that loveth his wife loveth himself, for no man ever yet hated his own flesh, but nourisheth and cherisheth it... they two shall be one flesh...love his wife even as himself.” Concerning these words we have the following testimony from commentators. Luther: “Leiblich ein Fleisch und Blut.”³ *Lutheran Commentary*⁴: “As their own bodies... An additional argument why they should love their wives: they are their own bodies.” Dummelow⁵: “Even so ought husbands... Not ‘as much as’ or ‘as if they were,’ – their wives are their own bodies.” *Expositor’s Bible*: “If the man loves himself, if he values his own limbs and guards from injury his bodily frame, he must do the same equally by his wife; for her life and limbs are a part of his own.” Clarke⁶: “As their own bodies. For the woman is, properly speaking, a part of the man, for God made man male and female, and the woman was taken out of his side; therefore is she flesh of his flesh, and bone of his bone; and therefore he that loveth his wife loveth himself, for they two are one flesh.” Jamieson-Fausset-Brown⁷: “They shall be one flesh. In natural marriage husband and wife combine the elements of one perfect human being.” Stoeckhardt [*Commentary on Ephesians*, p. 245; *Ephesierbrief*, p. 244]: “Die Manner sollen ihre Weiber lieben nicht ‘wie’ sondern ‘als’ ihre eigenen Leiber. Das Weib ist des Mannes Leib; Mann und Weib sind ein Leib.”⁸ *Expositor’s Greek Testament*⁹: “As their own bodies... This is not to be reduced to ‘like themselves’; nor does ὡς here mean simply ‘like,’ as if all that is meant is that the husband’s love for his wife is to be similar to his love for his own body. The ὡς has its qualitative force, ‘as it were,’ ‘as being.’ *Christ and husband* are each *head*, as Paul has already put it, as the Church is the body in relation to the former, so is the wife in relation to the latter. The husband, the head, therefore, is to love the wife as being his body... The relation of *head* and *body* means that the wife is part of the husband’s *self*... The *thought* is the oneness of husband and wife, the position of the wife as part of the husband’s self.”

Note: That this holds also of carnal knowledge outside of wedlock is stated by Paul 1 Cor. 6:16: “Know ye not that he which is joined to a harlot is one body? For two, saith He, shall be one flesh.”

It follows, therefore, that my wife is not merely one flesh with me: she is my flesh. This is the conclusion of Scripture also elsewhere, for in Lev. 18:8 the father’s wife is called the father’s nakedness, and in

³[“Bodily a flesh and blood.” (Luther on Gen. 2:24, Weimar Ausgabe, vol. 24, p. 80)]

⁴[vol. IX, p. 102]

⁵[John R. Dummelow, *The One Volume Bible Commentary*]

⁶[Adam Clarke, *Clarke’s Commentary*]

⁷[Robert Jamieson, A.R. Fausset, and David Brown, *Commentary Practical and Explanatory on the Whole Bible*, 1871]

⁸[“Men are to love their wives not ‘like,’ but ‘as’ their own bodies. The wife is the man’s body, husband and wife are one body.” (translation by Martin Sommer, from Stoeckhardt, *Ephesians*, CPH, 1952, p. 245)]

⁹[*The Expositor’s Greek Testament*, ed. by W. Robertson Nicoll, Vol. III, p. 371]

Lev. 20:20 the uncle's wife is called the uncle's nakedness. Lev. 18:13: "Thou shalt not uncover the nakedness of thy mother's sister: for she is thy mother's flesh,"¹⁰ shows that uncovering the **Ervah** of the aunt and approaching the **Scheer** of the mother, in the aunt, are synonymous.

To summarise, then, the expression **Scheer besaro** indicates the relationship of consanguinity, or affinity, or both. Or as Doctor Graebner has it (*Theol. Quart.*, VII, 88f.): "Thus, then, **Scheer** or **Basar** is consanguinity of the first degree, as all lineal consanguinity of the nearest collateral consanguinity, as it exists between brother and sister, or sister and sister; or the nearest affinity, as between husband and wife. Accordingly, **Scheer besaro** describes kinship of the next, the second degree, the collateral consanguinity existing between a son and his father's sister, a son and his mother's sister, or affinity of the second degree, as between a man and his stepmother, a father and his daughter-in-law, a brother and his brother's wife, a widower and his wife's daughter or granddaughter. All these are not his flesh, akin in the first degree, but the flesh of his flesh' related in the second degree."

3.

Lev. 18:6 ff. forbids marriage and intercourse within the degrees listed

The paragraph with which we are here concerned is Lev. 18:6-18, which commonly receives the heading: unlawful marriages, or: *Unrechtmaszige Heiraten, wegen allzunaher Verwandtschaft*;¹¹ while the next paragraph, beginning with v.19, bears the correct heading: Unlawful lusts, or: *Andere Sünden wider das sechste Gebot*.¹²

It is evident that the expressions "Not approach to the flesh of his flesh" and "Uncover nakedness" do not merely refer to indecent exposure or uncovering, in what has been called the sin of Ham. The entire context, especially verses 18-24, shows that more is meant. Compare Ezek. 16:36: "Thy nakedness discovered through thy whoredoms with thy lovers," and Ezek. 23:18: 'So she discovered her whoredoms, and discovered her nakedness.'" Similar euphemisms occur in other parts of Scriptures, as the expression: "Discover his father's skirt." Deut. 22:30¹³; 27:20, indicating carnal intercourse. For that reason Gesenius-Buhl, with reference to Lev. 18:6-19 and Lev. 20:11, 17-21, offers the translation: "Die Scham eines Weibes aufdecken (und mittelbar ihres Mannes) **gilah**, sich fleischlich mit ihr vermischen."¹⁴

In translating the passage, Lev. 18:6, the commentators clearly bring out this meaning. Starke: "Niemand soll sich zu seiner nächsten Blutsfreundin, zu dem Fleisch seines Fleisches, d.i. zu einem ihm nahen anverwandten, welcher mit ihm bereits als ein Fleisch anzusehen ist, tun, [hinzunahen] ihre Scham zu blößen, ihre Blöße zu entdecken, sie zu ehelichen, noch viel weniger auszer der Ehe sich fleischlich mit derselben zu vermischen."¹⁵ Dächsel: "Niemand soll sich zu seiner nächsten Blutsfreundin (su einer Person, die schon Fleisch von seinem Fleisch ist) tun, ihre Scham su blößen (mit ihr ein Fleisch su werden, 1 Mose 2:24); denn ich bin der HErr."¹⁶ Lange-Schaff: "'The case of adultery is not considered, since the reference is to widows when connections with those who have been married before are considered.... The determining principle is that of community of blood (**Scheer**).'" Keil:

¹⁰ [Again, Kretzmann is here translating the verse according to the Hebrew original. Instead of "flesh" KJV has "near kinswoman."]

¹¹ ["unlawful marriages, on account of too close relationship"]

¹² ["other sins against the Sixth Commandment"]

¹³ [Kretzmann's article gives "Deut. 22:20," but that is apparently a misprint.]

¹⁴ ["To uncover (Hebrew = "**gilah**") the nakedness of a wife (and indirectly her husband), to have carnal intercourse with her."]

¹⁵ [Kretzmann's article had the name "Stock" here, but the reference is from Christoph Starke, *Synopsis Bibliothecae Exegeticae in Vetus Testamentum. Kurzgefasster Auszug der gründlichsten und nutzbarsten Auslegung über all Bücher Alttest Testaments*, Leipzig, 1745, vol. 1, p. 1521. The quote says: "No one should approach to his near kinsman/blood-relative, to the flesh of his flesh, that is, to one who is closely related to him, who already is to be regarded as being one flesh, in order to uncover her privy parts, to expose her nakedness, to marry her, nor much less to have carnal intercourse with her outside of marriage." Following this note, Starke has a lengthy remark dealing with the question of whether the Lord directs these words only to the Israelites or whether they belong to natural law and apply to all mankind.]

¹⁶ [Dächsel: "No one should do this to his near blood relative (to a person who already is flesh of his flesh), to uncover her nakedness (to become one flesh with her, Gen. 2:24); for I am the Lord."]

“Aufzudecken Scham heiszt: sich fleischlich mit den andern vermischen, Ez. 16:36; 23:18. Das Verbot begreift die eheliche und auszereheliche Geschlechtsvermischung in sich, obgleich die erste hauptsächlich ins Auge gefaszt ist, siehe V. 18; 20:14, 17, 21.”¹⁷

Marriage and intercourse (chiefly with a view of marriage) is forbidden within the degrees listed. In this connection we are obliged to regard verse 6 as a general rule or a thesis, and that chiefly for three reasons. First, the statement is held in a general tone, over against the following section, which mentions specific cases; second, if it is not a general rule which is further elucidated and modified by the examples listed, the relationship of **Scheer besaro** would have to be widened considerably, as we have seen above; third, because the verse, regarded as one case, could be understood of incest only and would then be thoroughly out of harmony with the context. We read, in Jamieson-Fausset-Brown: “This verse contains a general summary of all the particular prohibitions; and the forbidden intercourse is pointed out by the phrase ‘to approach to.’”

The following cases are specifically mentioned as indicating the scope of verse 6 and showing how far the boundary of prohibited degrees must be drawn. The degrees specified are those of a man and his mother (c) v. 7, it being self-evident in this case, as Ehrlich notes, that the mother is a widow or is divorced from the father, for otherwise she would be married and her union with the son would, regardless of the kinship, be forbidden according to v. 20; a man and his stepmother (a), v. 8, his sister (c) or half sister (a), v. 9 (a sister in whatever way she may be a sister, whether of the same or of different parents, whether legitimately, or illegitimately born); his son’s daughter (c), v. 9, his daughter’s daughter (c), v. 10, his step-mother’s daughter, v. 11 (begotten of thy father, said of a half-sister (c)), his father’s sister (c), v. 12, his mother’s sister (c), v. 13, his uncle’s wife (a), v. 14, his daughter-in-law (a), v. 15, his brother’s wife (a) v. 16, his wife’s daughter or granddaughter (a), v. 17.¹⁸ “That the specification is not intended to be exhaustive, and that the omission of a case is not a license, appears from the fact that the marriage with one’s mother-in-law, which is not specified as incestuous in Leviticus, is proscribed with other incestuous unions in Deut. and in view of the silence of all Scripture concerning the prohibition of a father’s marriage with his daughter, which no sane man will consider exempt from the law of prohibited degrees. On the contrary, we know that such marriage is forbidden inasmuch as it comes under the general rule Lev. 18:6 and the same degree is covered by specific statutes, as vv. 7 and 10, stating the nearness of kinship as the reason for the prohibition.” (Graebner, *loc. cit.*, 90.) In all these cases the assumption that we are dealing with adulterous intercourse is out of keeping with the context, especially since v. 20 takes care of that situation.

4.

Lev. 18: 6, 16; 20:21 forbid the marriage of a man with his sister-in-law or of a woman with her brother-in-law.

Lev. 18:18 may well be omitted in this discussion, since the expression “a wife to her sister” applies, according to the majority of the commentators, to bigamy. (Cp. *Lehre und Wehre*, 1906, 62 ff.)¹⁹ Cp. Ex. 16:15; Num. 14:4; Jer. 23:35; Ex. 26:3, 5, 6; Ezek. 1:9, 23; Mal. 2:10. Dächsel: “Du sollst auch deines Weibes Schwester nicht nehmen (als zweites Weib) neben ihr (wie euer Vater Jakob tat auf Anstiften Labans) ihre Scham zu blößen, ihr zuwider (so dasz du sie durch dich, den gemeinschaftlichen Ehemann, in Fleischesgemeinschaft mit der eigenen Schwester bringst und ihr so das geschwisterliche Verhältnis trübst.)”²⁰ Jamieson-Fausset-Brown: “The original is rendered in the margin, ‘neither shalt thou take one wife to another to vex her...’ The marginal construction involves an express prohibition of polygamy.”

¹⁷ [Carl Friedrich Keil, *Commentary on the Holy Scripture*, on Leviticus, p. 142 -- “Uncovering nakedness means to have sexual intercourse with another. Ezek. 16:36; 23:18. The prohibition relates to both married and unmarried intercourse, though the reference is chiefly to the former, see v. 18; 20:14, 17, 21”]

¹⁸ (c) = consanguinity; (a) = affinity

¹⁹ [“Referat über die ‘Schwagerehe’” presented by Pastor O. L. Hohenstein to the Central-Illinois pastoral conference. This article, which is a two-part series beginning in the previous issue (January, 1906) of *Lehre und Wehre*, is a very thorough article on the subject, and, among other things, includes a rather detailed chart depicting the forbidden degrees of marriage, p. 14]

²⁰ [“You should also not take your wife’s sister (as a second wife) in addition to her (as your father Jacob did on the instigation of Laban) to uncover her nakedness, to vex her (so that through yourself, the common husband, you bring her into carnal communion [[Fleischesgemeinschaft]] with her own sister so that the sisterly relationship is disturbed)”]

Lev. 18:16 reads: “Thou shalt not uncover the nakedness of thy brother’s wife: it is thy brother’s nakedness.” And the parallel passage, 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.”²¹ These two passages, especially when taken together with Lev. 18:6 clearly prohibit the marriage of a man with his sister-in-law, and conversely, of a woman with her brother-in-law. Jamieson-Fausset-Brown: “The phrase in this 6th verse, therefore, has the same identical meaning with each of the other three (uncover the nakedness, take, lie with), and the marriages in reference to which it is used are those of consanguinity or too close affinity, amounting to incestuous connections.” Lev. 20:21 shows that adultery cannot enter into consideration, but a forbidden marriage after the brother’s death. Cp. Lev. 20:17-21. Lev. 20:21 and Lev. 18:16 are evidently parallels. Nor it is clear that Lev. 20: 21 speaks of a marriage after the spouse’s death, not of an adulterous union, which would have received the penalty of death. Therefore Lev. 18:16 must also be understood of a deceased person’s spouse. Abigail is called Nabal’s wife long after David had married her. 1 Sam. 27:3. If Lev. 18:16 is to be understood of an adulterous union, then the entire list becomes absurd; and if affinity ceases with the death of the spouse, then a man would be permitted to marry his mother-in-law, his step-mother, his half-sister, or his daughter-in-law.

We add here three testimonies from widely divergent sources. Basil the Great, the renowned Cappadocian, in his letter CLX quotes Lev. 18:6: “None of you shall approach to any one that is near of kin to him, to uncover their nakedness,” and argues that the relation of sister-in-law is equivalent to a blood-relationship. (Leigh-Bennett, *Early Christian Fathers*, 211.) Doctor Hoenecke writes: “Ein viel verhandeltes Fall ist die Ehe mit der Schwester der verstorbenen Frau. Der allgemeine Grundsatz 3 Mose 18:6 verbietet sie, denn die verstorbene Frau war des Gatten Fleisch, die Schwester also des Fleisches Fleisch. Aber man hält die Ehe gestattet durch 3 Mose 18:18. Mit Unrecht, denn dieser Vers enthält einfach das Verbot der Polygamie.” (Dogmatik, IV, 218.)²² Doctor Graebner: “In like manner a man’s marriage with his deceased wife’s sister comes under the general rule, v.6, she being the flesh of his flesh, and a parallel kinship, that of a man and his brother’s wife, also made up of one degree of consanguinity and one of affinity, is specified in v. 16.” (*loc. cit.*, 90.)

5.

Leviticus 18 is a part of the Moral law.

The test which is applied in Bible interpretation to find whether a passage has binding power under New Testament conditions is twofold, namely whether there is a repetition of the precepts concerned in the New Testament in the same or in a similar form, and whether the precepts in question are applied to heathen nations as well as to Israel. Thus we find that Jesus quotes the Seventh, the Sixth, the Fifth, the Eighth, and the Fourth Commandment, Luke 18:20, the summary of both tables of the Law in Luke 10:27 and parallel passages. St. Paul quotes the Sixth, the Fifth, the Seventh, the Eighth, and the Ninth Commandment, Rom. 13: 9-10, the Ninth Commandment, Rom. 7:7, the Fourth Commandment, Eph. 6:2-3, and the summary of the Second Table, Gal. 5:14. – In 1 Cor. 5:1 an incestuous marriage (or plain incest) is severely rebuked. In the chapter from which our passages are chiefly taken, verse 3 in the introduction, and verses 24-30 after the final summary, clearly show that the substance of the chapter is intended for all men, is a part of the Moral Law. Note particularly the expressions “for all these abominations” in verse 27.

²¹ [Here in Lev. 20:21, KJV has “they shall *be* childless,” which correctly reflects the Hebrew. It is likely that Kretzmann was thinking of the previous verse, Lev. 20:20 in quoting v. 21. V. 20 does say “they shall *die* childless.”]

²² [“An oft-discussed case is marriage to the sister of a deceased wife. The general principle in Leviticus 18:6 forbids it since the deceased woman was the husband’s flesh, and thus the sister is flesh of his flesh. Some say the marriage is allowed by Leviticus 18:18. But that is not right, since this verse simply forbids polygamy.” – translation from *Evangelical Lutheran Dogmatics*, Northwestern Publishing House, 1999, vol. IV, p. 229, translated by Joel Freidrich, Paul Prange, Bill Tackmeir. It should be noted that in more recent years, the WELS has parted ways with Hoenecke on this point. For example the 1974 WELS pastoral theology manual, *The Shepherd Under Christ*, by Armin W. Schuetze and Irwin J. Habeck, p. 271, teaches that Leviticus 18 does not apply to New Testament Christians and concludes that “the prohibition of marriage with an in-law can hardly be considered part of God’s immutable will for all men.” An accompanying footnote refers to two papers (one by O. Eckert and another by P. Peters) on the subject of *Schwagerehe*, setting forth the view upheld by WELS.]

Doctor Graebner: “That these statutes are precepts of the Moral Law binding upon all man appears from the repeated reference to the Gentiles who had practised and still practise the abominations prohibited in these statutes, and from the reference to the divine punishment inflicted upon such Gentiles for such abominations. The Gentiles are nowhere said to have incurred divine punishment and defiled the land by not observing the Jewish Sabbath, or by eating pork, or by letting their cattle gender with diverse kind. One who is not under a law cannot offend against that law and cannot be punished for that whereby he does not offend.” (*loc. cit.*, 91.)²³

6.

The Levirate marriage is a peculiar exception distinctly made by God.

The basic text which here comes into consideration is Deut. 25:5ff.: “If brethren dwell together, and one of them die, and have no child, the wife of the dead shall not marry without unto a stranger: her husband’s brother shall go in unto her, and take her to him to wife, and perform the duty of a husband’s brother unto her.” This custom, as thus establish for the children of Israel, is referred to in Matt. 22:24ff. and parallel passages, and one form of it is in Ruth 4:3-8.

Now the strange thing about this marriage is that we find it in the family of Jacob long before the Law was proclaimed in formal precepts. Gen. 38:8. One might ask, then, why the Lord should have felt it necessary to lay down a special precept concerning the so-called Levirate marriage. The answer is evidently found in Leviticus 18 and 20. One might well suppose that the ancient duty of the Levirate marriage had been discontinued on account of the prohibited degrees of Lev. 18:6 and 16; 20:21. Therefore the Lord distinctly says: In this particular instance, and for reasons connected with the entire economic system of the land of Israel, I choose to make an exception and emphasize this exception with My command. Cp. *Lehre und Wehre*, 1906, p. 70.²⁴ “The objection that Lev. 18:16 and similar statutes could not be considered precepts of the moral law, inasmuch as the moral law admitted of no exceptions, while God Himself had ordained an exception from Lev. 18:16 in the levirate, Deut. 25:5, is an argument based upon an erroneous view of the moral law. The moral law is not an absolute norm, superior even to the righteous will of God, so that even God must shape His legislative enactments in accordance therewith. God is righteous not inasmuch as He conforms His will and acts to the moral law, but as He is His own moral norm, and the ordinances of His holy will are the norm of right to His subjects. And while there is not in God a change of will, Mal. 3:6; 1 Sam. 15:29; Ps. 110:4; James 1:17, there may be in Him a will to change, Gen. 6:6f. Certain mutual relations of created beings were ordained and established by the Creator from the beginning and for all times, and in establishing these relations God had certain general ends in view. But when for the achievement of these or other general or special ends and purposes He sees fit to ordain ways and means beside or beyond His general ordinances, this does not necessitate or justify the assumption of conflicting wills in God. It is not an inconsistency in God to ordain that brothers and sisters should not intermarry, and that Cain should marry his sister, or to punish a brother and his sister for doing today what Cain did under divine sanction. And likewise, the fact that God ordained that in Israel, for a certain end, ‘If a man died, having no children, his brother should marry his wife, and raise up seed to His brother,’ is by no means incompatible with the prohibition of marriage with a deceased brother’s wife as we find it in Lev. 18:16 for all cases not covered by Deut. 25:2 whether among Jews or among Gentiles. The same God who willed the one also willed the other, though not by the same act of volition. And yet the moral law remains a revelation of the immutable will of God. God never willed otherwise than that, certain cases exempted, persons mutually related within certain degrees should not intermarry. And the same God never willed otherwise than that in those cases by Himself excepted those whom His will concerned should act accordingly; God never willed otherwise than that Cain should marry his sister and that from the days of Moses to those of John the Baptist the law of the levirate should be observed by the people of Israel in all cases to which that law applied. And in each instance the will of God was good and just and holy. To dictate to God that if He willed the one He could not will the other is a species of rationalistic presumption based upon crude,

²³ [Furthermore, Stoeckhardt says: “That no Israelite could marry a blood relative according to their marriage law, is inscribed in the very nature of marriage, and in the very nature of man, and is therefore binding on us today.” -- *Wisdom for Today* (the English translation of Stoeckhardt’s *Biblische Geschichte*), OT, p. 119.]

²⁴ [See footnote 19 above]

unscriptural notions of God and His attributes, and construed by faulty processes of reasoning as unlogical as they are untheological.” (*Theol. Quart. IV*, p 346f.)

7.

The objections voiced against the traditional Lutheran position are not sound.

Rom. 7:2-3 and 1 Cor. 7:39 are often quoted in defense of a position which would dispense with the prohibitions of Lev. 18. But a close examination of these two passages shows that they have no bearing upon the question at issue. The former passage reads: “For the woman which hath a husband is bound by the law to her husband so long as he liveth; but if the 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 the law; so that she is no adulteress, though she be married to another man.” Clearly the woman is no longer bound to that particular man and to that particular law, but she is under obligation to observe the other precepts. The second passage reads: “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; only in the Lord.” The last words of the apostle clearly dispose of any false notions which might be entertained with regard to a more liberal practise in the New Testament.

The common objections have been summarized as follows (MS of Prof. Laetsch)²⁵ :

1. God has in a special instance commanded this marriage, therefore it must be permitted to Christians.
— See above, No 6.
2. The deceased wife’s sister is not mentioned. Answer: 1. But she is flesh of his flesh in the same degree as marriages forbidden in verses 16 and 17. 2. Neither is the daughter, etc.
3. Wife’s sister forbidden only during lifetime of wife, v. 16, therefore permitted after death... Prohibition during lifetime is not permission after death. See above, No. 4.
4. Affinity constitutes no prohibitive kinship and, moreover, ceases with death. Why, then, Lev. 18:7, 8, 14, 15, 16, 17?
5. The deceased brother’s wife is forbidden because she is the brother’s nakedness, verse 16. This does not apply to the deceased wife’s sister. — But the chief reason remains: Flesh of his flesh.
6. The deceased wife’s sister will be the best mother to the sister’s children. — Not always. Nor will such considerations permit what God has forbidden.
7. Penalty of barrenness is not always inflicted. — That is God’s business, not ours.

Nor can Luther be quoted in favor of such marriages. He wrote, indeed, in 1522, in his Sermon on the Married Estate: “Daraus folgt, dasz ich meines Weibes oder Braut Schwester nach ihrem Tode ehelichen mag, dazu auch des Bruders Weib, nach seinem Tode, im Gesetz befohlen war zu nehmen.” St. L. X, 629.²⁶ But in 1535, in his *Bedenken, ob die Ehe mit des verstorbenen Weibes Schwester zulässig sei*,²⁷ he wrote: “Nun ist dieser Fall *in primo gradu affinitatis*. Denn so Mann und Weib ein Fleisch sind, wird des Weibes Schwester gleich gehalten als des Mannes Schwester; derhalben auch kaiserliche Rechte in diesem Fall verboten.... Wir achten auch, so diese Personen zusammenkommen, dasz sie doch ihr Lebanlang unfriedliche Gewissen haben würden des Falles halben an ihm selbst, dazu wegen des Aergerisses; und werden ohne Zweifel viel besser or zu friedlichem Gewissen kommen, so sie sich von einander tun.” St. L. X, 704, 705.²⁸ And in 1543 Luther addressed a letter to Johann Hesz in Breslau, in which the passage occurs: “Wie? Sind in eurem Lande

²⁵ This reference is to a mimeographed manuscript of Prof. Theodore Laetsch on Marriage and Divorce which was apparently known and used by Kretzmann and Prof. Wallace McLaughlin, and which is likely in the files of the Martin Luther Institute of Sacred Studies, but which has yet to be found.]

²⁶ [“From this it follows that with a good conscience before God I may marry the child of my brother or sister, or my step-mother’s sister.” -- translation from *Luther’s Works, American Edition*, vol. 45:p. 7.; see also footnote 1 at that place]

²⁷ [“Thoughts on Whether Marriage with the Deceased Wife’s Sister is Permitted”]

²⁸ [“Now, this case is in the first degree of affinity. For if husband and wife are one flesh, then the wife’s sister must similarly be regarded as the husband’s sister; therefore even imperial law prohibits this case... We also deem that if these persons come together, they will have a troubled conscience for the rest of their life on account of the case and on account of the offense; and they would undoubtedly have a much more peaceful conscience if they stay away from each other.” Translation by Pr. Jonathan Neipp]

night Frauen noch Jungfrauen genug, dasz man so nahe musz freien, im andern und schier noch nähern Grad, als die Schwestertochter oder zwo Schwestern nach einander? Ja, es hat etwa der Luther einen Zettel lassen ausgehen, dasz solche Grade ziemen. Hat man aber nicht dagegen andere folgende Bücher auch mögen ansehen, da solchs korrigiert oder, so man's sagen wollt, revoziert ist." St. L. XXIb, 2926.²⁹ (Cp. end of letter.)

8.

In practice the suggestion of Luther and of other Lutheran theologians may well be heeded.

Luther: "Mag es immerhin sein, dasz er durch die Heirat des Weibes seines verstorbenen Bruders gesündigt hat... so würde es doch eine weit gröszere und erschrecklichere Sünde sein, die Geheiratete zu verstoszen... Wenn er gesündigt hat durch das Heiraten, so ist diese Sünde zu einer vergangenen geworden, und mag, wie alle anderen vergangenen Sünden, durch Reue wieder gut gemacht warden; aber die Ehe soll darum nicht zerrissen warden, und eine so grosze zukünftige Sünde musz nicht zugelassen warden. Denn wie viele Ehen gibt es in der Welt, die durch Sündigen geschlossen worden sind, und doch sollen und können sie nicht zerrissen warden." St. L. XVII, 203.³⁰

Graebner, l. c., 91: "Yet while marriage in all these degrees covered by the formula of Lev. 18:6, **Scheer besaro**, is a moral offense, we must not overlook a distinction made by the Divine lawgiver in dealing with the various carnal unions which come under the rule of prohibited degrees. According to Lev. 20:11, 12, 13, 17 the death penalty was imposed upon the offenders against Lev. 18:7, 8, 9, 15, 17, while of the offenders against Lev. 18:12, 13, 14, 16 the Lord says, they shall bear their iniquity, they shall die childless.³¹ Such marriages, when once contracted and consummated, were not to be dissolved. It is, therefore, consistent with the Divine prohibition as well as with the Divine concession, when we refuse to sanction the act of marrying the deceased wife's sister, but permit the status of marriage to continue undissolved, after the marriage has been consummated, just as God prohibited the parallel act of marrying the deceased brother's wife,³² as yet suffered such marriage, when once brought about and consummated, to continue, not as an incestuous abomination, but as wedlock, though reserving to himself the denial of offspring to those who had entered such status against his will.³³

²⁹ ["What? Are there not in your land enough women or maidens, so that one must court so close, in the second, and even in closer degree, such as a niece or two sisters one after the other? Yes, Luther had nearly issued a note that such degrees were proper. But do we not have other subsequent books to look at to the contrary, where such was corrected, or as we say, revoked? ..."] – Translation by Pr. Jonathan Neipp. This quote also appears on German in Walther's *Pastorale*, p. 213, but was not translated by John Drickamer in his abridged translation of Walther.]

³⁰ ["Be that at it may, that he through marriage of the wife of his deceased brother has sinned, yet it would be a far greater and more horrible sin to repudiate the marriage... If he has sinned through such a marriage, then this sin is a thing of the past, and may, like all other past sins, be set right through repentance; but the marriage should not therefore be torn apart, and such a great future sin must not be permitted. For how many marriages are there in the world which are contracted through sin, and yet should and can not be torn apart." – Translation by Pr. Jonathan Neipp]

³¹ Lev. 20:19-20

³² Lev. 18:16

³³ Lev. 20:21