

Die Schwagerehe

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The question whether Leviticus 13 forbids the *Schwagerehe* has always received an affirmative answer from our Synodical fathers in their writings. Both Walther and Hoenecke have argued that the marriage to a deceased spouse's brother or sister is forbidden in Leviticus 18. Nevertheless, the question has again been raised by our brethren in Michigan and their essayist, Pastor O.J. Eckert, argues that "there is nothing to adduce to prove that marriage to a deceased spouse's brother or sister is forbidden."

Which of these two interpretations is correct, the one that tells us that Leviticus 18 forbids the *Schwagerehe* or the other one that finds no prohibition of the *Schwagerehe* in Leviticus 18. This question would indeed demand an answer at once, if the premise of both sides were correct, the premise that Leviticus 18 is still binding on the New Testament Christians. Your essayist questions this premise and therefore regards the question whether Leviticus 18 prohibits the *Schwagerehe* or not as secondary. Our chief concern must be whether Leviticus 18 and 20 and for that matter all the laws of Moses still concern us Christians under the New Testament dispensation. And if so, why.

Now our answer to this question has always been: All ceremonial and civic laws are no longer binding on us, but all the moral laws of Moses are. Is this an adequate answer? Can we create such a division between the laws of Moses when asking ourselves whether the laws of Moses still concern us Christians? Did not the laws of Moses represent one undivided Corpus of laws, all of them given in the Lord God without exception? Was it, therefore, not a moral duty on the part of all Israelites to keep these laws, because all of these laws were binding on them, whether they were so called moral laws or ceremonial laws or civic laws. Outwardly there were no divisions between these various laws, even the Ten Commandments containing ceremonial and civic laws, and the Levitical laws containing moral precepts. Inwardly they all had the same binding force in that they were given to Israel by God who declared Himself to be holy and wanted His people to be holy. The question is, therefore, not at all whether the laws of Moses contain moral laws. They do, not only the Decalogue, but also the ceremonial and civic laws. No, our question is whether the laws of Moses, whether moral or civic or ceremonial, are still obligatory to us as Christians.

It is Luther who has answered this question for us. Luther had to defend himself against the enthusiasts who wanted Christians to keep every law of the Old Testament. To actually overcome his opponents it did not suffice that he only spoke of the ceremonial and civic law as not binding on us. There were too many laws in Moses which the enthusiasts did not regard as such. Therefore he at once tackles the Ten Commandments and has this to say: "We are to realize first of all that the Ten Commandments do not concern heathen and Christians; they only pertain to the Jews. The text (namely that of the I Commandment) testifies to that and constrains us in that it says: I am the Lord thy God which have brought thee out of the land of Egypt, out of the house of bondage (Ex. 20, 2)... This proves, Luther continues, "That Moses is applying the Ten Commandments to the people which has been led out of Egypt by God. The fact that we also know the God whom the Jews worship who has led them out of Egypt, that we worship and honor him, is not due to Moses or to the written law, but to other scriptures and to the law of Nature. We want to read Moses as another teacher, freely and unconstrained, but we do not want to have him as our law-giver. We have the New Testament, therefore we do not want him in our

conscience. All that we want is that we keep Christ pure and unalloyed. Therefore it is evident that the Ten Commandments are only given to the Jews and not to us despite all enthusiasts (Rottengeister)". Cf. St.L.XX 147, 1853; III 1031.

Now Luther is very well aware of the reply that the enthusiasts had in store for him. They said: You certainly do not want to say that the First Commandment has been annulled (*aufgehoben*). We must have a God. Again, we must not commit adultery, murder, theft. How did Luther meet this reply? He answered: "I have spoken of the law of Moses as Moses' law. For to have a God is not only the law of Moses but also a natural law as St. Paul says in Romans 1. Consequently the prohibition to kill, to commit adultery, to steal is not only the law of Moses, but also the natural law in everybody's heart as Paul also teaches in Romans 2. Wherever the law of Moses and the law of nature are one and the same, there the law remains and is not outwardly annulled except by faith spiritually which is nothing less than fulfilling the law. Romans 3" (XX 151f).

If anyone now asks: Why at all teach and keep the Ten Commandments, Luther's answer reads: "Because the Natural Law is nowhere drawn up so well and orderly as in Moses. Therefore we have reason to borrow from Moses" (*Drum nimmt man billig das Exempel von Mose.*) Again if someone asks the question: Why read and study not only the Decalogue, but all of Moses, Luther gives three answers: First, because the emperor and the government can learn much from these laws, even as the Romans had fine laws. Now Moses is the "*Sachsenspiegel*" of the Jews and contains many a fine example of good laws. Secondly, I find in Moses what the natural law cannot give me, many promises and predictions. Therefore I am not to let Moses fall under the table, but to accept him. Thirdly, Moses gives me many fine examples of faith and love and of the cross, so that we may learn to trust in God and to love him. Moses also gives us many examples of unbelief on the part of the ungodly and of God's wrath. There is no place where one finds such excellent examples of faith and unbelief as in Moses. Therefore we are not to let Moses fall under the table. But thus we understand the Old Testament correctly in that we use the fine promises and examples and in that we use the law according to our pleasure (*nach unserm Wohlgefallen*), and thus let it benefit us (XX 153; III 8).

Let us not overlook that Luther often speaks thus of Moses, all of his words and instructions culminating in this: The law of Moses—and he means the whole law—concerns the Jews alone. Moses has not been given to us as a teacher, but alone to the Jews. He has taught the Jews, Luther reiterates, how to govern, that they should eat this and drink that. Again he has told them what dresses to wear, *whom they should marry*. But all this does not concern me. Therefore the sinful teachers and Mosaic prophets should not entangle us with Moses (*sollen uns unverworren lassen mit Mose*). We do not want to see and hear Moses—how do you like that you enthusiasts." (XX 146; III 834).

We ask: was Luther right in thus speaking of the Law of Moses. We do not hesitate to say with all orthodox Lutheran theologians that he was right, that he did the very thing that the Apostles did when certain of the sect of the Pharisees believed it needful to circumcise the Gentile Christians and to command them to keep the Law of Moses (Acts 15,5). The Apostles answered the Judaizers by saying: "Now therefore why tempt ye God, to put a yoke upon the neck of the disciples, which neither our fathers nor we were able to bear?" (Acts 15, 10). Again they informed the Gentile Christians in a letter that they, the apostles, had not given the Judaizers who had said to the Gentile Christians: "Ye must be circumcised, and keep the law," any such commandment (15,24). Indeed, *no Mosaic law* was to be imposed upon the Gentile Christians, no one was to trouble them (15,19). James' advice that the apostles and elders and brethren write

the Gentile Christians that they abstain from pollutions of idols, and from fornication, and from things strangled, and from blood was not the laying down of some law of Moses, but an advice to use the adiaphora in love and to avoid those things whereby they could offend the weak. Lenski is undoubtedly right in saying: “Now indeed, as far as Levitical regulations are concerned, these are abrogated, and certainly James is not trying to revive at least a few of them. They are gone forever. But love demands of the Gentile Christians that, apart from any danger to themselves as to idol feasts and fornication, they ought to be considerate of their fellow Christians who had been reared as Jews, and who, though now freed from the old Jewish legalism, still shrank from the things once so strictly forbidden them by the Levitical laws of Moses” (p. 612). Here “is not law and legislation, but fraternal appeal to Christian love” (ibid). And Luther says in regard to Acts 15,10: “By means of this verse St. Peter (as also St. Paul by means of his verses) annuls all of Moses with all his laws for the Christians” (XX 147). Our Synodical theologians taught likewise. Zorn says in his tract: *Darf ein Witmann die Schwester seiner verstorbenen Frau heiraten*: “Freilich sind wir Christen nicht an das Jüdische Gesetz des Alten Testaments gebunden; das wissen wir wohl” (*Lehre und Wehre* 52 p. 73f). And Dr. Pieper teaches in Volume I of his Christian Dogmatics: “Der Wille Gottes an alle Menschen ist nur das, was in der Heiligen Schrift als alle Menschen verbindend gelehrt ist. Das sind auch nicht die zehn Gebote in der Fassung wie sie den Juden gegeben wurden (2. Mose 20), sondern die zehn Gebote nach der Erklärung des Neuen Testaments, wie wir sie z. B. in Luthers Katechismus haben” (pp. 636f).

In other words, we must ask the New Testament and not the Old Testament whether the *Schwagerehe* is forbidden. Moses is not our teacher, but Christ our Lord. He told the rich young man what commandments to keep. He even said to him, “Thou knowest the commandments. Do not commit adultery, do not kill, do not steal, do not bear false witness, defraud not, honor thy father and thy mother” (Mark 10,19; Luke 18,20). Jesus told the scribe which is the first of all commandments and which is the second like unto the first, to love God with all thy heart and thy neighbor as thyself (Mark 12,3; Matt. 22,38). In Matthew He adds: “On these two commandments hang all the law and the prophets” (22,40). And the Apostle Paul says Romans 13,8: “Owe no man anything but to love one another: for he that loveth another hath fulfilled the law. For this, thou shalt not commit adultery, thou shalt not kill, thou shalt not steal, thou shalt not bear false witness, thou shalt not covet; and if there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbor as thyself.” These are the commandments given to us by our Lord and His Apostles.

But are these the only commandments that have been given us in the New Testament. Does not the New Testament—we ask this in view of Lev. 18—give us marriage laws? If the New Testament had given us a code of laws, we could expect it to contain laws concerning marriage and any other kind of commerce. But the New Testament has not given us such a code of laws and therefore it is not at all surprising that it does not give us marriage laws which tell us, as Moses had told his people, whom to marry and whom not to marry. It does, however, tell us what marriage is and when and how we make ourselves guilty of adultery and fornication. Take Mark 10 where Jesus tells his disciples: “What therefore God hath joined together let no man put asunder” and where he goes back to creation to tell us what marriage is: “From the beginning of creation God made them male and female. For this cause shall a man leave his father and mother, and cleave to his wife; and they twain shall be one flesh: so then they are no more twain, but one flesh.” (6-9). Thus Jesus answered the question of the Pharisees, “Is it lawful for a man to put away his wife?” by telling them what marriage and what adultery is. Or note Mark 6,18 where John tells Herod: “It is not lawful for thee to have thy brother’s wife” (Mt. 14,4), while the

brother was still living and while Herod already had a legal wife. Or take 1 Cor. 5,1, where Paul speaks of one who had his father's wife, most likely his stepmother (Cf. 2 Cor. 7,12). In all these cases we have a word of the New Testament. Yet not once is the Mosaic law quoted as binding. John the Baptist simply states "It is not lawful", and Paul speaks of "fornication as is not so much as named among the Gentiles", while Jesus answers the question as to lawfulness of putting away one's wife by the Natural Law embedded in creation. By doing so the sin—in all three cases the sin of adultery—is uncovered and laid bare. But nowhere does the New Testament give us a code of laws or forbidden degrees of consanguinity. Nowhere does it prohibit or permit the *Schwagerehe*. The New Testament is silent on this question. Circumcision, for instance, was a question under constant discussion, the Sabbath Law likewise, but not the *Schwagerehe*. Yet in regard to circumcision the Apostle tells us in 1 Corinthians 7 that circumcision is nothing and uncircumcision is nothing, but the keeping of the commandments of God (v.19). What commandments, we ask. Certainly only those commandments which have been given to us Christians, certainly not those commandments which have been given to the Jews by Moses. Luther in arguing against the enthusiasts says: "Everything in the Scriptures is God's Word, that is true. But God's Word here and there, I must know and be careful, to whom the Word of God is spoken... You must not only ask whether it is God's Word, but still more, to whom it is spoken, if it pertains to you or to someone else... You must look at the word which concerns you, which speaks to you, and not at the word that concerns someone else" (III, 12ff). But which word concerns us, we ask and will again let Luther answer: "Let Moses be a master and a doctor of the Jews. We have our Master, Christ, who has submitted to us what we are to know, keep, do, and not do" (ibid.16).

But what about the Natural Law? Should it not also be our guide in determining the lawfulness and unlawfulness of individual cases? Did not Luther remind us of the Natural Law? Did he not say: "If Moses agrees with the Natural Law then indeed that law holds outwardly. But not because Moses says so, but because God says so". Why then do we not simply follow the Natural Law, where the New Testament does not answer our question pertaining to an individual case? Because we, even as Christians—and it is necessary that we are always again being reminded of it—are not always able to decide what the Natural Law has to tell us. We may be very much in doubt concerning individual cases or may be of a different opinion, to wit the *Schwagerehe*. We do not even always know what in Moses is and what is not natural law. And when thus in doubt or of a different opinion we must be very careful in regard to the practice which we follow in our congregations, lest we put a yoke upon the necks of the disciples (Acts 15, 10).

Of what purpose and value is it then to ascertain, if possible, whether the *Schwagerehe* is forbidden or not forbidden in Lev. 18? Luther told us of what value it is to study the whole Law of Moses. Our case in point, the *Schwagerehe*, belongs under the first of the three values listed by Luther, namely that the emperor and the government can learn much from these laws, Moses being the "*Sachsenspiegel*" of the Jews. We as Christians have the New Testament to guide us and do not anymore have recourse to Moses. But I hear many voices raised—and Rev. Eckert's is among them—Lev. 18 contains moral laws. The things mentioned in 18 were abominations for which even the heathen nations, who did not have the law of Moses, were punished. Added to this we find that many nations, among them neighboring nations of the Israelites, prohibited incest and placed a heavy penalty, that of death, on the transgression of their laws. Are not these facts inevitable proofs that we are dealing with moral laws and with precepts of the Natural Law in Lev. 18 and 20. This, indeed, is true and remains true. But in view of this self-evident truth we

ask what it means when Luther tells us that the laws of Moses do not concern us as Gentiles and Christians. Certainly his words do not lose their meaning as soon as we run up against moral laws in Moses. When I am told that a certain matter does not concern me, I am being told that I have no responsibility concerning that matter. But when we are told that the Law of Moses does not concern us, we seem to be more concerned about Moses' laws than ever before. To demonstrate this Luther speaks of the head of a family who assigns certain duties to his wife, daughter, son, maid-servant, and man-servant. Each one, however, takes over the duties of the other. What will the head of the house say and do. He will say: "Although it is my commandment, still I did not command *you* to do this and that, but assigned a specific task to each of you, which you should have performed. The same holds true of the Word of God," Luther continues and argues: "If I should take over that which God has said to someone else and say: But you have said it, then the only answer is: I have not said it to *you*. One must discern clearly whether the Word concerns one person or all of them. What God has said through Moses in reference to the commandments concerns the Jews only" (III, 15).

Indeed, what God has said through Moses in reference to the commandments concerns the Jews only. Luther is speaking as clearly and precisely as anyone can speak. Still we do not take him by his word as soon as we encounter moral law in Moses. Luther, however, when the enthusiasts of his time held up the moral laws of Moses to him, did not forget what he had said but answered: I have spoken of the law of Moses as Moses' law. As such, he wants to say, it does not concern us. It also does not concern us when God threatens those of his people with punishments who hate him and do not keep His commandments. Under the caption, "I am a jealous God", Exodus 20,5, Luther says repeatedly that these threatenings and promises do not pertain to Gentiles and Christians, (III,1051.2.4), that in the New Testament these punishments have been abrogated (1054,65), that we have our own threatenings and promises in the New Testament.

When Luther thus speaks of the laws of Moses as Moses' laws, he is speaking of the form and scope and of the relative nature of those laws. The range which these laws have begin and end with Israel. Now Israel was a nation and had very definite social order, especially a very definite family life. Israel's family life was a tribal one and the members of such a tribal family were not only of one blood but of one flesh. According to such a kinship Laban was the brother of Jacob (Gen. 29:15) and could say to Jacob: Surely thou art my bone and my flesh, (v 14). To guard the peace and the purity of such a tribal life, God gave Israel the laws of Lev. 18 and 20. But in the giving of these laws sight was never lost of the whole tribal set-up. The inheritance of heirs, for instance, played a vital role in the history of the Israelitist tribes. Instead of marrying outside of their own tribal family, the five daughters to Zelophehad married their cousins, so that their inheritance might remain in the tribe of the family of their father (Numb. 36,11) and every daughter thereafter who possessed an inheritance was required to abstain from marrying outside of her own tribal family. Although Lev. 18,18 prohibited a man from marrying the wife of his brother, still the Levirate permitted him to do so that he might build up his brother's house (Dt. 25,9). And even if we with Luther find a moral law in the Levirate, still we do not regard it as binding upon us as little as the law of inheritance in Numbers 36. We could also show how the practice of slavery was the soil into which laws concerning betrothal and concubinage (Dt. 22,23; Lev. 19,20; 20,21) were planted. But the foregoing examples will suffice to show us that we must be extremely careful in taking over any law of Moses and declaring it to be binding on us, for in its Mosaic form it may contain much of a relative nature which we dare not regard as something which concerns Gentiles and Christians.

In applying the aforesaid to the marriage laws of Lev 18 and 20 we observe that the law of Moses prohibited a man from marrying his paternal aunt (18,12), but it did not forbid an uncle to marry his niece. Again Moses forbade a man to marry the wife of his brother, but he did not forbid him to marry the sister of his deceased wife. Many rabbis and many Christian theologians felt justified to conclude that since a man was not to marry his aunt, an uncle was also forbidden to marry his niece, and since an Israelite was forbidden to marry the wife of his brother, he was also forbidden to marry the sister of his wife. One need but look at a diagram of the various prohibited degrees of consanguinity and affinity with their many implied cases based on conclusions to see how this was done. Such conclusions ignored the scope of the Mosaic laws, ignored the social order of Israel and the whole background of the Mosaic laws. How much this background was ignored can be gleaned from the interpretation of Lev. 18,18, which passage was interpreted as forbidding polygamy, while the whole background of Lev. 18 and 20 is that of polygamy. In short, when seeking to ascertain the moral nature of these marriage laws we must differentiate between the relative and the absolute nature of these laws and in doing so be guided by the new Testament and the natural law, not by the fact that Moses has said so and that these laws are a part of the Old Testament. For we want to know what laws the Lord our God has given—not to the Jews—but to us Christians.

II

The laws of incest which we find listed in Lev. 18,6-17 begin with the general statement: None of you shall approach to any that is near of kin to him, to uncover their nakedness. “Near of kin” is the King James’ translation of *she’er besaro*. Literally translated it reads: The flesh of his flesh. It occurs once more in Lev. 25,49. There the term is supplemented by *mimmishpachto*, from his tribe, and the whole sentence reads: Either his uncle, or his uncle’s son, may redeem him, or any that is nigh of kin unto him of his family may redeem him. In order words, the *she’er besaro*, the nigh of kin, the flesh of his flesh is a member of one’s tribe or family. In Numbers 27,11 the term *she’ero haggarobh elaiw mimmishpachto* occurs, translated by the Authorized Version: Ye shall give his inheritance unto his kinsman that is next to him of his family. The *haggarobh*, however, is a superlative and must be translated: Nearest relative of his tribe or family. The expression in Lev. 18,6: *she’er besaro*, which consists of two nouns being joined closely together by means of a construct state, also has a superlative meaning and really reads in translation: nearest of kin to him, and as we may now add, within his tribe or family. At all times we must keep in mind that Lev. 18 is dealing with the close relationship of the members of a tribe. To say that 18,6 “speaks only of the first degree of consanguinity and can in no event be applied to a spouse’s brother or sister” is losing sight of the fact that in the following verses 7-17 the members of a family or tribe are being listed as related to each other not only by blood but also by marriage. Therefore three capital offenses in Lev. 18 and 20 are marriage either with a stepmother (18,8) or a daughter-in-law (18,15) or with both a mother and her daughter (18,17; cf. also Lev. 20,11.12.14. In none of these cases is there an alliance with blood-kinsmen and still they are forbidden on the same ground on which the marriage of blood-relatives is prohibited. In other words, the particular prohibitions in 18, 7-17 certainly and necessarily explain and define the force and meaning of 18,6. They make it very clear to us that Moses is speaking both of relatives by consanguinity and affinity and that nevertheless the actual cause for each one of these prohibitions is the tie of blood relationship whether relatives by consanguinity or affinity are contracting marriage. Consequently we find as reason for these prohibitions the mother’s nakedness mentioned directly or indirectly in 7 and 17, the father’s nakedness mentioned directly

or indirectly in verses 8,9,11,12,14, the son's nakedness mentioned indirectly in verse 15, one's own nakedness mentioned in 10, the brother's nakedness mentioned directly in 16, while the nakedness of one's sister, the daughter of one's father and the daughter of one's mother, is not mentioned. To illustrate by means of a few examples, it was forbidden to uncover the nakedness of the father's wife, the father's daughter, the father's wife's daughter, (begotten of the father), the father's sister, and the father's brother in approaching his wife. Again it was forbidden to uncover the nakedness of the mother, the mother's daughter, the mother's sister, and the nakedness of a mother's daughter and granddaughters. In all these instances blood relationship is the cause of the prohibition, whether a man wants to marry his father's or mother's sister, the marriage is forbidden, for the reason that she is the *she'er* the flesh of the father or the flesh of the mother (12-13). And even when a man is forbidden to marry a woman and her daughter and her son's and daughter's daughter, the reason given is that they, the woman and her daughters, are *sha'arah*, members of a blood-relationship. Therefore, whether these prohibitions refer to lineals or collaterals, blood-relationship is mentioned as the reason why the marriage is forbidden. We speak of in-laws. The Israelites did not know this term. Lev. 18 speaks only of the daughter of the father or the daughter of the mother or the son's or daughter's daughter etc. etc., thus calling attention when speaking of marriage to the blood-relationship, although the members of the one large family are relatives not only by consanguinity but also by affinity.

While these prohibitions clearly forbid sexual intercourse between persons of one family or tribe too closely related for legal marriage, they do not as clearly tell us whether these prohibitions apply to marital or extramarital intercourse. *Galloth'erwah*, the uncovering of nakedness, the term used in various forms in every prohibition, can denote marital intercourse (Lev. 18,18; 1 Sam 20,30; Is. 57,8) and extra-marital intercourse (Ezek. 16,36; 23,18). Since, however, *laqach* is used twice in chapter 18 (vss. 17,18) and two times in chapter 20,17,21) as a synonym of *galloth'erwah*, it is safe to say that *galloth'erwah* is also to be understood as meaning marriage. For *laqach* when used together with *isshah*, a woman, always refers to marriage and in all but one instance (Ezek. 16,32) denotes to marry. Consequently it is safe to say that *galloth'erwah* in chapter 18 has one and the same meaning. All commentators are really agreed on this. The only question is whether we have any reason to understand *galloth'erwah* in one or the other of the 12 verses in chapter 18 in the sense of extramarital intercourse. When reading 18,6-17 verse for verse and finding *galloth'erwah* used in all of them, we find no reason for a change of meaning in anyone of these verses. Still 18,16, "Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness", has been interpreted as prohibiting extra-marital intercourse with the brother's wife. Yet there is nothing in the sentence to justify such a change of meaning. The sentence is in no wise different from the preceding and following sentences. Reverend Eckert, who interprets this sentence as referring to adultery, argues from 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 be childless". This sentence speaks of a man taking his brother's wife. It is true, the word *laqach*, taking a wife, does not occur in 18,16. Still we should not overlook that 20,21 also uses the term *galloth'erwah* just as 18,16 does. But since the penalty of the transgression in 20,21 is childlessness, in 18,29 in reference to 16 death, Reverend Eckert draws the conclusion that 20,21 must be speaking of something else than 18,16, namely of marriage over against adultery (in 18,16). Still I do not see why 18,16 and 20,21 should at all differ from one another in their meaning. The fact that 20,21 speaks of childlessness does not change the nature of the offense. Childlessness was the severest temporal punishment that could be inflicted on an Israelite, the purpose of his marriage being to have offspring. But it

is an unclean thing 20,21 says of this marriage and consequently it was forbidden as much as in 18,16, once the penalty of death and then the penalty of childlessness being mentioned. How we are to harmonize these two passages, if at all, with Dt. 25,5, which introduces the levirate, is another question. My aim is to let the passages stand as they read without seeking to bring about a harmonization by setting up all kinds of premises and drawing all kinds of conclusions. We'll come back to this passage in another connection.

We turn to 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. How are we to understand this verse? Does it forbid polygamy and read: Thou shalt not take one woman to another to vex her, or does it forbid a simultaneous marriage of two sisters? It cannot forbid polygamy, for all of these laws in Leviticus 18 and 20 presuppose polygamy. Again the law of Moses certainly makes provision for plural marriages. Cf. Exodus 21,7-11 and Deuteronomy 21,15-17. There is no reason mentioned in all of the laws of Moses why a man should not take a second wife, but there is a reason given why he should not marry his wife's sister during the former's lifetime, to take her as a rival wife, because there would be rivalry between the two sisters as there had been between Lea and Rachel. Mohammed, who practiced polygamy, and who took over the laws of Leviticus 18 into his Koran writes in Sura 4,20: "And you are also forbidden to take to wife two sisters". By adding "during her lifetime" Moses clearly implies that the man was permitted to marry the sister after the death of his wife. Interpret in this manner our Synodical fathers have always found 18,18 contradicting 18,16. For if a man, they argued, is not permitted to uncover the nakedness of his brother's wife (18,16), he is also not permitted to uncover the nakedness of his wife's sister. This is a faulty conclusion although it has been made by numberless commentators. The main reason why verse 18 is radically different from verse 16 is not to be found so much in the positive reason given and contained in the words "to vex her", but because of the primary reason that 18,6, the law of consanguinity, does not apply to 18,18. While the nakedness of one's father, mother, son, daughter, and brother are mentioned as reasons that a marriage may not be contracted no mention is made of the nakedness of one's wife or even of her sister as a reason for prohibiting a marriage with another woman. It is incest if a man marries a woman and her daughter (18,17) or in other words, if he takes a wife and her mother (20,14) but it is not incest if he marries a woman and her sister. It is, however, forbidden, because a sister of one's wife should not be a *tzarah*, a rival-wife. Was it that a woman did not have the legal status that the man had or whatever the reason may have been, let it suffice that in the laws of Moses we find no reason for drawing the conclusion that because a man is not permitted to marry his brother's wife, he is also not permitted to marry his wife's sister. Only in the diagram of a modern interpreter is it prohibited. In the laws of Moses it is permitted.

To summarize, this essayist finds that in chapter 18 an Israelite was prohibited to marry his brother's wife, while he was permitted to marry his deceased wife's sister. The reason why he is not to marry his brother's wife is clearly stated: The nakedness of his brother's wife is his brother's nakedness. Here consanguinity is the reason for this prohibition. This reason is utterly wanting in 18,18. Consequently a reason is given in verse 18 which only prohibited a man to marry his wife's sister during the former's lifetime, not however thereafter. The marrying of a brother's wife is, however, again forbidden in Lev. 20,21. There it is branded a *niddah*, an unclean thing, incest, while the penalty is childlessness. This penalty is interpreted as meaning that the marriage with a brother's wife was not annulled by the civil law of Israel. Be that as it may, it is not the only instance that we have in the laws of Moses that one and the same offense was punished in two different ways. If a man according to Deuteronomy 22,23, lay with a virgin

betrothed to a husband, both were stoned to death. But if a man lay carnally with a slave-girl who was betrothed to another man, they were not put to death, since the slave girl was not yet free (Lev. 19,20). Here the reason is given for the two different kinds of punishments meted out, while in Leviticus 20,21 the reason is not given. We do not have to create a difference, however, between 18,16 and 20,21 in order to find a reason. Let it suffice that the Levirate in Deuteronomy 25,5 even legalized the marriage of a man with his brother's wife, in order to prevent the extinction of a family. Such variations and differences are of interest to us in the study of the Mosaic laws, but have no practical bearing for us anymore. Whatever the moral content of these laws may have been—and Luther liked to speak of the Levirate as a moral law—they certainly cannot be regarded as binding on us. As laws of Moses they do not concern us. “*Denn kein Pünktlein geht uns an in Mose*”, Luther says. Only if a law of Moses is in accord with the Natural Law, are we to regard it as binding, but then not because Moses says so, but because God says so. Now God has not spoken to us in the New Testament on the *Schwagerehe*. Had He, we would not be in doubt what to teach in our congregations. Since He has not spoken, we have difficulty to ascertain the truth being in disagreement as to the correct interpretation of Leviticus 18. The individual interpreter may be convinced that his interpretation is correct. Granted that it is correct, he will still have to answer the question whether this and that law of Moses is binding on the Christian. He will have to keep in mind that as a law of Moses it is not binding and is not given to the New Testament Christian at all. Therefore, before laying down the law to our people we will have to be convinced that the *Schwagerehe* is unlawful, not because Moses says so, but because God says so.