

SUPPLEMENT TO THE THIRD PART, QUESTION 54

Of the Impediment of Consanguinity (In Four Articles)

We must next consider the impediment of consanguinity. Under this head there are four points of inquiry:

- (1) Whether consanguinity is rightly defined by some?
- (2) Whether it is fittingly distinguished by degrees and lines?
- (3) Whether certain degrees are by natural law an impediment to marriage?
- (4) Whether the impediment degrees can be fixed by the ordinance of the Church?

Whether consanguinity is rightly defined?

Suppl. q. 54 a. 1

Objection 1. It would seem that consanguinity is unsuitably defined by some as follows: “Consanguinity is the tie contracted between persons descending from the same common ancestor by carnal procreation.” For all men descend from the same common ancestor, namely Adam, by carnal procreation. Therefore if the above definition of consanguinity is right, all men would be related by consanguinity: which is false.

Objection 2. Further, a tie is only between things in accord with one another, since a tie unites. Now there is not greater accordance between persons descended from a common ancestor than there is between other men, since they accord in species but differ in number, just as other men do. Therefore consanguinity is not a tie.

Objection 3. Further, carnal procreation, according to the Philosopher (*De Gener. Anim.* ii, 19), is effected from the surplus food*. Now this surplus has more in common with that which is eaten, since it agrees with it in substance, than with him who eats. Since then no tie of consanguinity arises between the person born of semen and that which he eats, neither will there be any tie of kindred between him and the person of whom he is born by carnal procreation.

Objection 4. Further, Laban said to Jacob (*Gn.* 29:14): “Thou art my bone and my flesh,” on account of the relationship between them. Therefore such a kinship should be called flesh-relationship rather than blood-relationship [consanguinitas].

Objection 5. Further, carnal procreation is common to men and animals. But no tie of consanguinity is contracted among animals from carnal procreation. Therefore neither is there among men.

I answer that, According to the Philosopher (*Ethic.* iii, 11, 12) “all friendship is based on some kind of fellowship.” And since friendship is a knot or union, it follows that the fellowship which is the cause of friendship is called “a tie.” Wherefore in respect of any kind of a fellowship certain persons are denominated as though they were tied together: thus we speak of fellow-citizens who are connected by a common political life, of fellow-soldiers who are connected by the common business of soldiering, and in the same way

those who are connected by the fellowship of nature are said to be tied by blood [consanguinei]. Hence in the above definition “tie” is included as being the genus of consanguinity; the “persons descending from the same common ancestor,” who are thus tied together are the subject of this tie. while “carnal procreation” is mentioned as being its origin.

Reply to Objection 1. An active force is not received into an instrument in the same degree of perfection as it has in the principal agent. And since every moved mover is an instrument, it follows that the power of the first mover in a particular genus when drawn out through many mediate movers fails at length, and reaches something that is moved and not a mover. But the power of a begetter moves not only as to that which belongs to the species, but also as to that which belongs to the individual, by reason of which the child is like the parent even in accidentals and not only in the specific nature. And yet this individual power of the father is not so perfect in the son as it was in the father, and still less so in the grandson, and thus it goes on failing: so that at length it ceases and can go no further. Since then consanguinity results from this power being communicated to many through being conveyed to them from one person by procreation, it destroys itself by little and little, as Isidore says (*Etym.* ix). Consequently in defining consanguinity we must not take a remote common ancestor but the nearest, whose power still remains in those who are descended from him.

Reply to Objection 2. It is clear from what has been said that blood relations agree not only in the specific nature but also in that power peculiar to the individual which is conveyed from one to many: the result being that sometimes the child is not only like his father, but also his grandfather or his remote ancestors (*De Gener. Anim.* iv, 3).

Reply to Objection 3. Likeness depends more on form whereby a thing is actually, than on matter whereby a thing is potentially: for instance, charcoal has more in common with fire than with the tree from which the wood was cut. In like manner food already transformed by the nutritive power into the substance of the person fed has more in common with the subject

* Cf. Ia, q. 119, a. 2

nourished than with that from which the nourishment was taken. The argument however would hold according to the opinion of those who asserted that the whole nature of a thing is from its matter and that all forms are accidents: which is false.

Reply to Objection 4. It is the blood that is proximately changed into the semen, as proved in *De Gener. Anim.* i, 18. Hence the tie contracted by carnal procreation is more fittingly called blood-relationship than flesh-relationship. That sometimes one relation is called the flesh of another, is because the blood which is transformed into the man's seed or into the menstrual fluid is potentially flesh and bone.

Reply to Objection 5. Some say that the reason why the tie of consanguinity is contracted among men through carnal procreation, and not among other animals, is because whatever belongs to the truth of human nature in all men was in our first parent: which does not apply to other animals. But according to this, matrimonial consanguinity would never come to an end. However the above theory was disproved in the Second Book (*Sent.* ii, D, 30: Ia, q. 119, a. 1). Wherefore we must reply that the reason for this is that animals are not united together in the union of friendship through the begetting of many from one proximate parent, as is the case with men, as stated above.

Whether consanguinity is fittingly distinguished by degrees and lines?

Suppl. q. 54 a. 2

Objection 1. It would seem that consanguinity is unfittingly distinguished by degrees and lines. For a line of consanguinity is described as "the ordered series of persons related by blood, and descending from a common ancestor in various degrees." Now consanguinity is nothing else but a series of such persons. Therefore a line of consanguinity is the same as consanguinity. Now a thing ought not to be distinguished by itself. Therefore consanguinity is not fittingly distinguished into lines.

Objection 2. Further, that by which a common thing is divided should not be placed in the definition of that common thing. Now descent is placed in the above definition of consanguinity. Therefore consanguinity cannot be divided into ascending, descending and collateral lines.

Objection 3. Further, a line is defined as being between two points. But two points make but one degree. Therefore one line has but one degree, and for this reason it would seem that consanguinity should not be divided into lines and degrees.

Objection 4. Further, a degree is defined as "the relation between distant persons, whereby is known the distance between them." Now since consanguinity is a kind of propinquity, distance between persons is opposed to consanguinity rather than a part thereof.

Objection 5. Further, if consanguinity is distinguished and known by its degrees, those who are in the same degree ought to be equally related. But this is false since a man's great-uncle and great-nephew are in the same degree, and yet they are not equally related according to a Decretal (*cap. Porro; cap. Parenteloe*, 35, qu. v). Therefore consanguinity is not rightly divided into degrees.

Objection 6. Further, in ordinary things a different degree results from the addition of one thing to another, even as every additional unity makes a different species of number. Yet the addition of one person to another does not always make a different degree of consanguinity, since father and uncle are in the same degree of consanguinity, for they are side by side. Therefore consanguinity is not rightly divided into degrees.

Objection 7. Further, if two persons be akin to one another there is always the same measure of kinship between them, since the distance from one extreme to the other is the same either way. Yet the degrees of consanguinity are not always the same on either side, since sometimes one relative is in the third and the other in the fourth degree. Therefore the measure of consanguinity cannot be sufficiently known by its degrees.

I answer that, Consanguinity as stated (a. 1) is a certain propinquity based on the natural communication by the act of procreation whereby nature is propagated. Wherefore according to the Philosopher (*Ethic.* viii, 12) this communication is threefold. one corresponds to the relationship between cause and effect, and this is the consanguinity of father to son, wherefore he says that "parents love their children as being a part of themselves." Another corresponds to the relation of effect to cause, and this is the consanguinity of son to father, wherefore he says that "children love their parents as being themselves something which owes its existence to them." The third corresponds to the mutual relation between things that come from the same cause, as brothers, "who are born of the same parents," as he again says (*Ethic.* viii, 12). And since the movement of a point makes a line, and since a father by procreation may be said to descend to his son, hence it is that corresponding to these three relationships there are three lines of consanguinity, namely the "descending" line corresponding to the first relationship, the "ascending" line corresponding to the second, and the "collateral" line corresponding to the third. Since however the movement of propagation does not rest in one term but continues beyond, the result is that one can point to the father's father and to the son's son, and so on, and according to the various steps we take we find various degrees in one line. And seeing that the degrees of a thing are parts of that thing, there cannot be degrees of propinquity where there is no propinquity. Consequently identity and too great a distance do away with degrees of consanguinity; since no man is kin to himself any more than he is like himself: for which reason there is no degree of consan-

guinity where there is but one person, but only when one person is compared to another.

Nevertheless there are different ways of counting the degrees in various lines. For the degree of consanguinity in the ascending and descending line is contracted from the fact that one of the parties whose consanguinity is in question, is descended from the other. Wherefore according to the canonical as well as the legal reckoning, the person who occupies the first place, whether in the ascending or in the descending line, is distant from a certain one, say Peter, in the first degree—for instance father and son; while the one who occupies the second place in either direction is distant in the second degree, for instance grandfather, grandson and so on. But the consanguinity that exists between persons who are in collateral lines is contracted not through one being descended from the other, but through both being descended from one: wherefore the degrees of consanguinity in this line must be reckoned in relation to the one principle whence it arises. Here, however, the canonical and legal reckonings differ: for the legal reckoning takes into account the descent from the common stock on both sides, whereas the canonical reckoning takes into account only one, that namely on which the greater number of degrees are found. Hence according to the legal reckoning brother and sister, or two brothers, are related in the second degree, because each is separated from the common stock by one degree; and in like manner the children of two brothers are distant from one another in the fourth degree. But according to the canonical reckoning, two brothers are related in the first degree, since neither is distant more than one degree from the common stock: but the children of one brother are distant in the second degree from the other brother, because they are at that distance from the common stock. Hence, according to the canonical reckoning, by whatever degree a person is distant from some higher degree, by so much and never by less is he distant from each person descending from that degree, because “the cause of a thing being so is yet more so.” Wherefore although the other descendants from the common stock be related to some person on account of his being descended from the common stock, these descendants of the other branch cannot be more nearly related to him than he is to the common stock. Sometimes, however, a person is more distantly related to a descendant from the common stock, than he himself is to the common stock, because this other person may be more distantly related to the common stock than he is: and consanguinity must be reckoned according to the more distant degree.

Reply to Objection 1. This objection is based on a false premise: for consanguinity is not the series but a mutual relationship existing between certain persons, the series of whom forms a line of consanguinity.

Reply to Objection 2. Descent taken in a general sense attaches to every line of consanguinity, because carnal procreation whence the tie of consanguinity arises is a kind of descent: but it is a particular kind

of descent, namely from the person whose consanguinity is in question, that makes the descending line.

Reply to Objection 3. A line may be taken in two ways. Sometimes it is taken properly for the dimension itself that is the first species of continuous quantity: and thus a straight line contains actually but two points which terminate it, but infinite points potentially, any one of which being actually designated, the line is divided, and becomes two lines. But sometimes a line designates things which are arranged in a line, and thus we have line and figure in numbers, in so far as unity added to unity involves number. Thus every unity added makes a degree in a particular line: and it is the same with the line of consanguinity: wherefore one line contains several degrees.

Reply to Objection 4. Even as there cannot be likeness without a difference, so there is no propinquity without distance. Hence not every distance is opposed to consanguinity, but such as excludes the propinquity of blood-relationship.

Reply to Objection 5. Even as whiteness is said to be greater in two ways, in one way through intensity of the quality itself, in another way through the quantity of the surface, so consanguinity is said to be greater or lesser in two ways. First, intensively by reason of the very nature of consanguinity: secondly, extensively as it were, and thus the degree of consanguinity is measured by the persons between whom there is the propagation of a common blood, and in this way the degrees of consanguinity are distinguished. Wherefore it happens that of two persons related to one person in the same degree of consanguinity, one is more akin to him than the other, if we consider the quantity of consanguinity in the first way: thus a man’s father and brother are related to him in the first degree of consanguinity, because in neither case does any person come in between; and yet from the point of view of intensity a man’s father is more closely related to him than his brother, since his brother is related to him only because he is of the same father. Hence the nearer a person is to the common ancestor from whom the consanguinity descends, the greater is his consanguinity although he be not in a nearer degree. In this way a man’s great-uncle is more closely related to him than his great-nephew, although they are in the same degree.

Reply to Objection 6. Although a man’s father and uncle are in the same degree in respect of the root of consanguinity, since both are separated by one degree from the grandfather, nevertheless in respect of the person whose consanguinity is in question, they are not in the same degree, since the father is in the first degree, whereas the uncle cannot be nearer than the second degree, wherein the grandfather stands.

Reply to Objection 7. Two persons are always related in the same degree to one another, although they are not always distant in the same number of degrees from the common ancestor, as explained above.

Objection 1. It would seem that consanguinity is not by natural law an impediment to marriage. For no woman can be more akin to a man than Eve was to Adam, since of her did he say (Gn. 2:23): “This now is bone of my bones and flesh of my flesh.” Yet Eve was joined in marriage to Adam. Therefore as regards the natural law no consanguinity is an impediment to marriage.

Objection 2. Further, the natural law is the same for all. Now among the uncivilized nations no person is debarred from marriage by reason of consanguinity. Therefore, as regards the law of nature, consanguinity is no impediment to marriage.

Objection 3. Further, the natural law is what “nature has taught all animals,” as stated at the beginning of the Digests (i, ff. De just. et jure). Now brute animals copulate even with their mother. Therefore it is not of natural law that certain persons are debarred from marriage on account of consanguinity.

Objection 4. Further, nothing that is not contrary to one of the goods of matrimony is an impediment to marriage. But consanguinity is not contrary to any of the goods of marriage. Therefore it is not an impediment thereto.

Objection 5. Further, things which are more akin and more similar to one another are better and more firmly united together. Now matrimony is a kind of union. Since then consanguinity is a kind of kinship, it does not hinder marriage but rather strengthens the union.

On the contrary, According to the natural law whatever is an obstacle to the good of the offspring is an impediment to marriage. Now consanguinity hinders the good of the offspring, because in the words of Gregory (Regist., epis. xxxi) quoted in the text (Sent. iv, D, 40): “We have learnt by experience that the children of such a union cannot thrive.” Therefore according to the law of nature consanguinity is an impediment to matrimony.

Further, that which belongs to human nature when it was first created is of natural law. Now it belonged to human nature from when it was first created that one should be debarred from marrying one’s father or mother: in proof of which it was said (Gn. 2:24): “Wherefore a man shall leave father and mother”: which cannot be understood of cohabitation, and consequently must refer to the union of marriage. Therefore consanguinity is an impediment to marriage according to the natural law.

I answer that, In relation to marriage a thing is said to be contrary to the natural law if it prevents marriage from reaching the end for which it was instituted. Now the essential and primary end of marriage is the good of the offspring, and this is hindered by a certain consanguinity, namely that which is between father and daughter, or son and mother. It is not that the good of the off-

spring is utterly destroyed, since a daughter can have a child of her father’s semen and with the father rear and teach that child in which things the good of the offspring consists, but that it is not effected in a becoming way. For it is out of order that a daughter be mated to her father in marriage for the purpose of begetting and rearing children, since in all things she ought to be subject to her father as proceeding from him. Hence by natural law a father and mother are debarred from marrying their children; and the mother still more than the father, since it is more derogatory to the reverence due to parents if the son marry his mother than if the father marry his daughter; since the wife should be to a certain extent subject to her husband. The secondary essential end of marriage is the curbing of concupiscence; and this end would be forfeit if a man could marry any blood-relation, since a wide scope would be afforded to concupiscence if those who have to live together in the same house were not forbidden to be mated in the flesh. Wherefore the Divine law debars from marriage not only father and mother, but also other kinsfolk who have to live in close intimacy with one another and ought to safeguard one another’s modesty. The Divine law assigns this reason (Lev. 18:10): “Thou shalt not uncover the nakedness” of such and such a one, “because it is thy own nakedness.”

But the accidental end of marriage is the binding together of mankind and the extension of friendship: for a husband regards his wife’s kindred as his own. Hence it would be prejudicial to this extension of friendship if a man could take a woman of his kindred to wife since no new friendship would accrue to anyone from such a marriage. Wherefore, according to human law and the ordinances of the Church, several degrees of consanguinity are debarred from marriage.

Accordingly it is clear from what has been said that consanguinity is by natural law an impediment to marriage in regard to certain persons, by Divine law in respect of some, and by human law in respect of others.

Reply to Objection 1. Although Eve was formed from Adam she was not Adam’s daughter, because she was not formed from him after the manner in which it is natural for a man to beget his like in species, but by the Divine operation, since from Adam’s rib a horse might have been formed in the same way as Eve was. Hence the natural connection between Eve and Adam was not so great as between daughter and father, nor was Adam the natural principle of Eve as a father is of his daughter.

Reply to Objection 2. That certain barbarians are united carnally to their parents does not come from the natural law but from the passion of concupiscence which has clouded the natural law in them.

Reply to Objection 3. Union of male and female is said to be of natural law, because nature has taught this to animals: yet she has taught this union to various animals in various ways according to their various con-

ditions. But carnal copulation with parents is derogatory to the reverence due to them. For just as nature has instilled into parents solicitude in providing for their offspring, so has it instilled into the offspring reverence towards their parents: yet to no kind of animal save man has she instilled a lasting solicitude for his children or reverence for parents; but to other animals more or less, according as the offspring is more or less necessary to its parents, or the parents to their offspring. Hence as the Philosopher attests (*De Animal.* ix, 47) concerning the camel and the horse, among certain animals the son abhors copulation with its mother as long as he retains knowledge of her and a certain reverence for her. And since all honest customs of animals are united together in man naturally, and more perfectly than in other ani-

mals, it follows that man naturally abhors carnal knowledge not only of his mother, but also of his daughter, which is, however, less against nature, as stated above.

Moreover consanguinity does not result from carnal procreation in other animals as in man, as stated above (a. 1, ad 5). Hence the comparison fails.

Reply to Objection 4. It has been shown how consanguinity between married persons is contrary to the goods of marriage. Hence the Objection proceeds from false premises.

Reply to Objection 5. It is not unreasonable for one of two unions to be hindered by the other, even as where there is identity there is not likeness. In like manner the tie of consanguinity may hinder the union of marriage.

Whether the degrees of consanguinity that are an impediment to marriage could be fixed by the Church?

Suppl. q. 54 a. 4

Objection 1. It would seem that the degrees of consanguinity that are an impediment to marriage could not be fixed by the Church so as to reach to the fourth degree. For it is written (*Mat.* 19:6): “What God hath joined together let no man put asunder.” But God joined those together who are married within the fourth degree of consanguinity, since their union is not forbidden by the Divine law. Therefore they should not be put asunder by a human law.

Objection 2. Further, matrimony is a sacrament as also is baptism. Now no ordinance of the Church could prevent one who is baptized from receiving the baptismal character, if he be capable of receiving it according to the Divine law. Therefore neither can an ordinance of the Church forbid marriage between those who are not forbidden to marry by the Divine law.

Objection 3. Further, positive law can neither void nor extend those things which are natural. Now consanguinity is a natural tie which is in itself of a nature to impede marriage. Therefore the Church cannot by its ordinance permit or forbid certain people to marry, any more than she can make them to be kin or not kin.

Objection 4. Further, an ordinance of positive law should have some reasonable cause, since it is for this reasonable cause that it proceeds from the natural law. But the causes that are assigned for the number of degrees seem altogether unreasonable, since they bear no relation to their effect; for instance, that consanguinity be an impediment as far as the fourth degree on account of the four elements as far as the sixth degree on account of the six ages of the world, as far as the seventh degree on account of the seven days of which all time is comprised. Therefore seemingly this prohibition is of no force.

Objection 5. Further, where the cause is the same there should be the same effect. Now the causes for which consanguinity is an impediment to marriage are the good of the offspring, the curbing of concupiscence, and the extension of friendship, as stated above (a. 3),

which are equally necessary for all time. Therefore the degrees of consanguinity should have equally impeded marriage at all times: yet this is not true since consanguinity is now an impediment to marriage as far as the fourth degree, whereas formerly it was an impediment as far as the seventh.

Objection 6. Further, one and the same union cannot be a kind of sacrament and a kind of incest. But this would be the case if the Church had the power of fixing a different number in the degrees which are an impediment to marriage. Thus if certain parties related in the fifth degree were married when that degree was an impediment, their union would be incestuous, and yet this same union would be a marriage afterwards when the Church withdrew her prohibition. And the reverse might happen if certain degrees which were not an impediment were subsequently to be forbidden by the Church. Therefore seemingly the power of the Church does not extend to this.

Objection 7. Further, human law should copy the Divine law. Now according to the Divine law which is contained in the Old Law, the prohibition of degrees does not apply equally in the ascending and descending lines: since in the Old Law a man was forbidden to marry his father’s sister but not his brother’s daughter. Therefore neither should there remain now a prohibition in respect of nephews and uncles.

On the contrary, Our Lord said to His disciples (*Lk.* 10:16): “He that heareth you heareth Me.” Therefore a commandment of the Church has the same force as a commandment of God. Now the Church sometimes has forbidden and sometimes allowed certain degrees which the Old Law did not forbid. Therefore those degrees are an impediment to marriage.

Further, even as of old the marriages of pagans were controlled by the civil law, so now is marriage controlled by the laws of the Church. Now formerly the civil law decided which degrees of consanguinity impede marriage, and which do not. Therefore this can be

done now by a commandment of the Church.

I answer that, The degrees within which consanguinity has been an impediment to marriage have varied according to various times. For at the beginning of the human race father and mother alone were debarred from marrying their children, because then mankind were few in number, and then it was necessary for the propagation of the human race to be ensured with very great care, and consequently only such persons were to be debarred as were unfitted for marriage even in respect of its principal end which is the good of the offspring, as stated above (a. 3). Afterwards however, the human race having multiplied, more persons were excluded by the law of Moses, for they already began to curb concupiscence. Wherefore as Rabbi Moses says (Doc. Perp. iii, 49) all those persons were debarred from marrying one another who are wont to live together in one household, because if a lawful carnal intercourse were possible between them, this would prove a very great incentive to lust. Yet the Old Law permitted other degrees of consanguinity, in fact to a certain extent it commanded them; to wit that each man should take a wife from his kindred, in order to avoid confusion of inheritances: because at that time the Divine worship was handed down as the inheritance of the race. But afterwards more degrees were forbidden by the New Law which is the law of the spirit and of love, because the worship of God is no longer handed down and spread abroad by a carnal birth but by a spiritual grace: wherefore it was necessary that men should be yet more withdrawn from carnal things by devoting themselves to things spiritual, and that love should have a yet wider play. Hence in olden times marriage was forbidden even within the more remote degrees of consanguinity, in order that consanguinity and affinity might be the sources of a wider natural friendship; and this was reasonably extended to the seventh degree, both because beyond this it was difficult to have any recollection of the common stock, and because this was in keeping with the sevenfold grace of the Holy Ghost. Afterwards, however, towards these latter times the prohibition of the Church has been restricted to the fourth degree, because it became useless and dangerous to extend the prohibition to more remote degrees of consanguinity. Useless, because charity waxed cold in many hearts so that they had scarcely a greater bond of friendship with their more remote kindred than with strangers: and it was dangerous because through the prevalence of concupiscence and neglect men took no account of so numerous a kindred, and thus the prohibition of the more remote degrees became for many a snare leading to damnation. Moreover there is a certain fittingness in the restriction of the above prohibition to the fourth degree. First because men are wont to live until the fourth generation, so that consanguinity cannot lapse into oblivion, wherefore God threatened (Ex. 20:5) to visit the parent's sins on their children to the third and fourth generation. Secondly, because in each generation the blood, the identity of which causes con-

sanguinity, receives a further addition of new blood, and the more another blood is added the less there is of the old. And because there are four elements, each of which is the more easily mixed with another, according as it is more rarefied it follows that at the first admixture the identity of blood disappears as regards the first element which is most subtle; at the second admixture, as regards the second element; at the third, as to the third element; at the fourth, as to the fourth element. Thus after the fourth generation it is fitting for the carnal union to be repeated.

Reply to Objection 1. Even as God does not join together those who are joined together against the Divine command, so does He not join together those who are joined together against the commandment of the Church, which has the same binding force as a commandment of God.

Reply to Objection 2. Matrimony is not only a sacrament but also fulfills an office; wherefore it is more subject to the control of the Church's ministers than baptism which is a sacrament only: because just as human contracts and offices are controlled by human laws, so are spiritual contracts and offices controlled by the law of the Church.

Reply to Objection 3. Although the tie of consanguinity is natural, it is not natural that consanguinity forbid carnal intercourse, except as regards certain degrees, as stated above (a. 3). Wherefore the Church's commandment does not cause certain people to be kin or not kin, because they remain equally kin at all times: but it makes carnal intercourse to be lawful or unlawful at different times for different degrees of consanguinity.

Reply to Objection 4. The reasons assigned are given as indicating aptness and congruousness rather than causality and necessity.

Reply to Objection 5. The reason for the impediment of consanguinity is not the same at different times: wherefore that which it was useful to allow at one time, it was beneficial to forbid at another.

Reply to Objection 6. A commandment does not affect the past but the future. Wherefore if the fifth degree which is now allowed were to be forbidden at any time, those in the fifth degree who are married would not have to separate, because no impediment supervening to marriage can annul it; and consequently a union which was a marriage from the first would not be made incestuous by a commandment of the Church. In like manner, if a degree which is now forbidden were to be allowed, such a union would not become a marriage on account of the Church's commandment by reason of the former contract, because they could separate if they wished. Nevertheless, they could contract anew, and this would be a new union.

Reply to Objection 7. In prohibiting the degrees of consanguinity the Church considers chiefly the point of view of affection. And since the reason for affection towards one's brother's son is not less but even greater than the reasons for affection towards one's fa-

ther's brother, inasmuch as the son is more akin to the father than the father to the son (Ethic. viii, 12), therefore did the Church equally prohibit the degrees of consanguinity in uncles and nephews. On the other hand the Old Law in debarring certain persons looked chiefly to the danger of concupiscence arising from cohabitation; and debarred those persons who were in closer intimacy with one another on account of their living to-

gether. Now it is more usual for a niece to live with her uncle than an aunt with her nephew: because a daughter is more identified with her father, being part of him, whereas a sister is not in this way identified with her brother, for she is not part of him but is born of the same parent. Hence there was not the same reason for debarring a niece and an aunt.