

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 consanguinity, 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 father'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 together. 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.