C. **Relationship as an Obstacle to Marriage**

Obstacles to marriage involve a number of conditions relating to the absence of a lawful **relationship** between those being married.

See below for the kinds of relationship and ways of calculation of its degrees.

The **blood relationship according to straight lines** (ascending and descending) of marriage is unconditionally forbidden by church and civil laws in all degrees[1]. The blood relationship **according to lateral lines** and in all kinds **of status of cousins** in marriage is unconditionally forbidden to 4 degrees inclusive (VI, 54; Ukase [Decree] of the Holy Synod, Jan. 19, 1810; see also Uk. Sv. Syn. [Decrees of the Holy Synod], Nov. 7. 1868, № 8625). **The blood relationship in the status of a second cousin** marriage is unconditionally forbidden only in the first degree (Uk. Sv. Syn. [Decrees of the Holy Synod], Apr. 25, 1841; Mar. 28, 1859).

Relative to the **nearest forbidden** relationship of blood **degrees** in lateral lines and properties of second cousins, the decree [ukase] of the Holy Synod of January 19, 1810, says that if it appears in the "rules for degrees in announcing the desire to marry, then the Most Reverend will directly give them that permission, either through the dean or directly to the parish priests". As to the following (after the first, unconditionally forbidden) degrees of **second cousin status**, then according to the Holy Synod circular decrees [ukases] (of Apr. 25, 1841 and of Mar. 28, 1859) diocesan Hierarchs in any case are instructed not to forbid the marriage of persons consisting between the fourth degree of second cousin status and, at the discretion of need, a combination of the marriage of those persons, who are found between itself in the second and in the third degree of second cousin status.

According to the known "S. Grigorovsky, Collection of Church and Civil Laws on Marriage"[2], in order to do the marriage of someone in the fifth degree of blood relationship on lateral lines, it is first necessary to ask the **permission of the Hierarch.** Rather in the marriages of cousins it is necessary have in view that if through marriage and in the permitted degrees of cousin status occurs a mixture of related names, then permission should be asked of the diocesan authority to do

such a marriage (see pp. 19, 27-28 of the "Collection"). Precisely as well, the "Tserkovniia Vedomosti [Church News]" explains that in the fifth degree of blood relationship to lateral lines and in the fifth and sixth degrees, the marriage of first cousin status is permissible, but in the first case only with the permission of the Hierarch, and in the last it is necessary to ask the permission of the Hierarch only when a mixture of related names within the marriage happens[3] (Tserkovniia Vedomosti [Church News] 1898, 17; see also 1896, 28; 1898, 42).

The administration of this last explanation should have in view that the mixture of relationship can happen sooner in status marriages of cousins is also why the canons concerning such mixture mainly concerns this status (Pravoslavnyi Sobesednik (Orthodox Companion) 1889, part 3, p. 22). Nevertheless it sometimes happens that they will express a desire to marry but standing between them is a 6th degree of blood relationship, (being of the age, of course, legalized for marriage), the marriage of such relatives attracts to itself a mixture of related names and relations. But if, as specified above, the marriage of those in the 6th degree of first cousin status, with a mixture of related names, requires the permission of the Hierarch, then, of course, this permission is required, with the specified mixture of names, and for marriages in the 6th degree of blood relationship on lateral lines. Thus it leaves that, in order that it agree to the above-stated explanations, generally, it is necessary to always ask the permission of the Hierarch for marriages in the 5th degree of blood relationship, in the 6th degree of the same relationship, but Archpastoral permission should be only asked in 5th and 6th degrees of first cousin status only in those cases when within the marriage a mixture of related names and relations occur. As to those dioceses where with respect to the request for Archpastoral permission for marriages in which the degrees of closeness are forbidden, there exist special orders of the local diocesan authorities[4], then, obviously, the clergy necessarily should be also guided by these orders on marriages in the specified cases[5].

For marriage in the second, third and fourth degrees of second cousin status, the clergy should have the permission of the Hierarch[6] (S. Grigorovsky, "Sborn. tser. i gr. zak. o brake [Collection of Church and Civil Laws on Marriage and Divorce]", p. 31; P. P. Zabelin, "Prava i Obiazan. Presvit. [Rights and Obligations of the Presbyter]", p. 222; N. Smirnov, "Iz'iasn. tser.-grazhd. postan. otnos. Brakov [Explanation of the Church-Civil Rules relating to Marriage]", p. 38).

The decision of the Holy Synod of October 30, 1898 explained that the wrong request was presented, so that in the **petitions for permission to marry** in the degrees of relationship allowed by the church canons or status that the local clergy presented were reasons, raising the need in a similar marriage and that the presentation of petitions for the permission of marriages by relationship or status, for the discovery of this relationship or status the metrical records have an entry remaining as Consistory office-work, should not be subject to payment by the stamp duty.

In view of this, that the clergy of the Stavropol diocese quite often were limited to one short authentication on submitted petitions of their parishioners to the Hierarch for the permission to marry in the relationship[7], that relationship is rightfully indicated in the petition, meanwhile how in the petition the relationship was extremely confusedly stated, not clearly and only after a long analysis was it possible to guess, thus indecisively about the degrees of relationship, but the tables of relationship were not enclosed by the clergy, then the Stavropol Hierarch really confirmed to the clergy of the diocese:

1) in their authentication to definitively and precisely specify in what degree of relationship does the groom and the bride consist;

2) as proof of this, to there and then write the evident table of relationship[8].

Besides this, under the order of the same Hierarch, the priests, permitted to direct parishioners with petitions to the Hierarch in the degrees of relationship permitted by the law and by that finding out ignorance of laws, should be subjected to strict liability with entering their names into the official record and publication of them in the local diocesan sheets (see Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1889, 20).

Generally **concerning marriages of persons between them consisting of relationship or status, should have in view** that in any case it is not necessary to address the diocesan authority with the petition for the permission of marriages as in the degrees of relationship or status it is unconditionally forbidden by law, and in those cases, far from being unconditionally forbidden, of degrees, in marriages in which under the common law the permission of the local Hierarch[9] is not required. As to such marriages (in the degrees next to those unconditionally

forbidden), concerning which practice there is no unanimity in the different dioceses (see note 2 on p. 1089), then, of course, it is also necessary to be guided concerning such marriages by decisions existing in the given diocese of the diocesan authorities. It is necessary to be also guided by the same decisions and concerning that data, which should be recorded in the same petitions or are enclosed with these petitions concerning the relationship of those wishing to marry and anyway should have in view that these given cases should be certain, clear, exact[10] and fully verified.

Some place the separate degree between the husband and the wife (see below) in relation to relatives from this and the other side. But such a way of notation has no logical bases and justifies neither the canonical decisions nor the practical application at all in the rights of the Byzantine and Russian Church and in our operating civil legislation. According to the meaning of the church canons and our civil legislation, **the husband and the wife consists of one degree** both for their posterity after them and in relation to their relatives on ascending and lateral lines.

St. Basil the Great in his 87th canon completely identifies the relatives of the husband with the corresponding relatives of the wife, so, e. g., the sister of my wife should be considered in the same related affinity to me as a blood sister. The mother of my wife is as close to me as my birth mother: "The rights of relationship are common for both" i. e. both for the husband and for the wife.

Precisely likewise the Rudder (see chapter 50), accepts the husband and the wife in all cases as one degree, decreeing that general canon, that "the husband and the wife are not of different degrees, but are always of the one and same degree, inasmuch as one does not give birth to the other nor are they born from one father", it is possible to see the observance of such canons, e. g., from following schemes: "none can take to himself a wife of two strains (i. e. first cousin) sisters, inasmuch as they of the fourth degree". "The father and the son cannot marry the simple (birth) aunt and the grandson cannot marry her niece: because they are of the fourth degree".

Our civil laws consider the father-in-law or the mother-in-law, the son-in-law (husband of the daughter) or the daughter-in-law (wife of the son) in the first

degree of status, the brother-in-law (brother of the husband) or the daughter-in-law (wife of the brother, brother-in-law (husband of the sister) or the sister-in-law (sister of the wife) in the second degree and so forth. But the father-in-law and mother-in-law, the son-in-law (husband of the daughter) and the daughter-in-law will go into the first degree of status, but the brother-in-law and the daughter-in-law (sister-in-law; daughter-in-law), the son-in-law (husband of the sister) and the sister-in-law are only in the second in that case that the husband and the wife at the notation of the degrees always are taken for one person[11].

Finally, it also agrees with the circulation of the decree [ukase] of the Holy Synod of Aug. 9, 1885, № 8, the husband and wife should be accepted as one degree (see about this decree [ukase] of the Holy Synod, as well as about the bases of the indicated way of notating degrees, Sobranie Mnenie (Collection of Opinions and excerpts), vol. V., part 2, pp. 510-519; for more details see A. Pavlov, "The Rudder", chapter 50 pp. 202-216; N. Smirnov: "Explanation of the Church-State Decisions Concerning Marriages", pp. 17-25, On the question and definition of relationships, pp. 45-57; V. Sakharov, "About the Prohibition of Marriages in Relationships", pp. 103-125).

According to the opinion of some, marriages **between children of stepsisters**[12] is possible and only the permission Most Reverend for such marriage is necessary, after the latter discusses this with the Holy Synod (see Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1887, 45).

But neither the Holy Synod nor the diocesan Bishop can allow the marriage between children of stepsisters, and, of course, it is necessary to understand those stepsisters, who are considered between them in two degrees of first cousin status. In that case between children of stepsisters there will be four degrees of indicated status, i. e. as many degrees, as many statuses, for example between me and

a) The first cousin sister of my wife,

b) My wife's first cousin brother,

c) The niece of my stepfather or stepmother,

d) My sister's son-in-law (husband of the sister),

e) The sister's wife of my brother and so forth.

Marriage of the brother with the sister of the wife is definitely prohibited by the 54th canon of the VI Ecumenical Council. On this basis such birth relations, as,

at the present time the Holy Synod does not allow marriages between all persons, standing in degrees of status, in whom they have approaching the given person of the sister of the wife, or the sister-in-law of his brother[13].

As soon as famous persons enter a legal marriage between them, then there is also a first cousin status between their blood relatives. First cousin status between blood relatives are those persons, who having entered a legal marriage, is not destroyed in that case **when** the legal **marriage union** between spouses **is terminated** for whatever good reason (for example, for the exile of one of the spouses to Siberia with deprivation of all rights of standing, or by the unknown absence of more than five years, or by marital infidelity and so forth) similarly as first cousin status between blood relatives of those spouses does not stop, the legal marriage union which stops at the death of one or both spouses (Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1888, 23). Therefore, for example, the marriage of a divorced husband to the sister of his former wife is not possible, and generally after the divorce the birth relations between the parties continue to exist, and consequently, in known cases (see p. 1088) continue to also serve as an obstacle to marriage[14] (Tserkovnyi Viestnik [Church Messenger] 1891, 11, 1895. 39; see also the Tserkovniia Vedomosti [Church News] 1897, 45, 1898, 34).

Under article 211 of the Ustav [Typikon] of the Spiritual Consistory, the conclusions about the illegality of marriages **in relationship to the sponsorship** at the baptismal font[15] the diocesan authority should find "on the consideration of the degrees of this with the canons, explained in the decisions of the Holy Synod"; and under this article are links to the decrees [ukases] of the Holy Synod of Jan. 19, 1810 and Dec. 31, 1837[16].

By the decree [ukase] of the Holy Synod of Jan. 19, 1810, the diocesan Hierarchs should be guided "in the supervision of the **spiritual relationship** by Canon 53 of the Sixth Ecumenical Council, printed in Part 2 of the Rudder". "From this canon it is evident that this comprises the prohibition of entry into marriage only of sponsors of children at holy baptism with their mothers, and concerning sponsors of children with sponsors nothing is said[17]. In the second part of the Rudder it is seen that after this canon, it has also been reasoned about this circumstance: the Holy Synod, thinking about a commentary for subsequent times, rules that if any sponsor at holy baptism, cannot after this take to himself a wife,

inasmuch she is to him a daughter, lower than her mother. What concerns the male and female sponsor of children from holy baptism, then is to understand them in such sense, as shown in the Great Book of Needs under the canons about holy baptism" (see pp. 898-899 about this above,). In the decree [ukase] of the Holy Synod of Dec. 31, 1837, in the case of marriage between the male and female sponsor, it was ruled for them to abandon the marriage without divorce, but in the ruling to the diocesan Hierarch in the future it is explained that spiritually the relationship between the male and female sponsor does not exist ([17]), and it was so decided, that the diocesan Hierarch, "while the supervision and the allowance of requests from those interested persons to enter marriages, in which there are obstacles by their spiritual relationship, but also while the supervision and the allowance of the matter of the standing of similar marriages, ruled by the literal meaning of the decree [ukase] of 1810, without extending to previous marriages, were not placed under that decree [ukase]".

The 1810 decree [ukase] of the Holy Synod, "agreeing with the canon of the 6th Ecumenical Council, limited marriages of spiritual relationship merely to two degrees, that is, they prohibited marriages between the sponsors at the baptismal font and their parents[18]. The male and female sponsor (godfather and godmother) does not carry in relation to itself: Inasmuch... during holy baptism only one person is necessary and valid: the male for baptizing a male, and a female for baptizing those of the female gender" (Instruction for the Priest, how to conduct a search, p. 26 and on the other side). Thus, the decree [ukase] of the Holy Synod of 1810 recognizes the spiritual relationship for an obstacle to entry into marriage only between the sponsors on the one hand and with those at the baptismal font and the parents of the last with the other[19] (matter of the Archive of the Holy Synod of 1854, № 122, see in the supplementary vol. of the Sobranie Mnenie (Collection of Opinions and excerpts), pp. 391-392; S. Grigorovsky, "Sborn. tser. i gr. zak. o brake [Collection of Church and Civil Laws on Marriage and Divorce]", p. 19; see also P. P. Zabelin, "Prava i Obiazan. Presvit. [Rights and Obligations of the Presbyter]", p. 224; Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1892, 52; Refer to Pravoslavnyi Sobesednik (Orthodox Companion), 1892, № 3-4, p. 370).

In subsequent times in a variety of separate decisions on the matter of the permission to marry in spiritual relationship, the Holy Synod explained that the

spiritual relationship "should be recognized only between parents of the baptized child and the sponsors of this person of the same gender with him" in as much as the Great Book of Needs, in the explanation before the Office of Baptism, says that at baptism "only one sponsor prevails". At the baptism of a male person it is the male sponsor; at the baptism of a female person it is the female sponsor (see Ukase [Decree] of the Holy Synod of Oct. 31, 1875 addressed to the Archbishop of Yaroslavl on the matter of the peasant Benedict Ivanov). Therefore "it is not seen as the basis to carry relationship to the other ceremonial persons, when they are at the baptism and wish, according to the pattern of the metrical books", "to participate, in the record of the event, as witnesses" (see Ukase of the Holy Synod of Apr. 19, 1873 addressed to the Archbishop of Podolsk on the matter of the widow Anna Guldynsky). On this basis the Holy Synod permitted the marriage of the widowed mother with the sponsor for her daughter (see the same Ukase [decree] of the Holy Synod) and to the widowed father with the female sponsor for his son (See the Ukase [decree] of the Holy Synod of Oct. 31, 1875 addressed to the Archbishop of Yaroslavl).

From here it appears that the spiritual relationship marriage is also recognized in those prohibited only between the following persons: a) between the male sponsor and the sponsor of the mother, and b) between the female sponsor and the sponsor of her father[20] (S. Grigorovsky, "Collection of church and civil laws on marriage and divorce", p. 20).

In the 3rd book (of Moses), Leviticus, we read: "The nakedness of your sister, the daughter of your father or the daughter of your mother, whether born at home or elsewhere, you shall not uncover her nakedness" (Lev. 18:9).

In chapter 50 of the Rudder, marriage is forbidden to the father with his illegitimate daughter and to the brother with his illegitimate sister.

But all the canonical legislation on the blood relationship forbidden for marriage is motivated by the fact that, as expressed in the 54th canon of the Trullo Council, "nature itself did not mix marriages" through the marriage between close human blood relatives. This motive, of course, keeps all its power also in relation to the **physical relationship**; for the natural blood rights, natural communication of parents and children, in that and other relationships, are equally strong.

Two authoritative Greek canonists, Zonaras and Blastares, having, of course, in view not the letter but the spirit of church and civil legislation on consanguinity as an obstacle to marriage, attribute to the canons and laws the prohibition of marriages in unlawful relationship to the same degree as in the lawful. The same also repeats the Pedalion of the Constantinople Church in the introduction of the treatise about marriages (περὶ συνοικεσίον).

Our operating Code of Civil Laws does not recognize any legal connection of illegitimate children with their natural parents and with the birth father or mother. But it does not mean that the Lawgiver denies every meaning of illegitimate relationship and right in marriage. He holds back on this because it does not also define the degrees of legitimate relationship forbidden for marriage[21] (Prof. A. S. Pavlov, "The Rudder", chapter 50, pp. 183-185, 225-226).

As to the practice of the Holy Synod, then here we meet a variety of separate decisions in which the Holy Synod recognizes physical relationship as quite equivalent to blood relationship, considers it as much an obstacle to marriage as blood relationship. So, for example, in the decision of March 27, 1877, № 488, the Holy Synod explains that illegitimately begotten children in relationship and status are placed on a level with legitimate children. Hence even marriages in physical relationship should be prohibited to the same limits, to the same degrees, in which they are forbidden by blood relationship or to status. Having in view the leading insight of the Holy Synod on physical relationship, the priest, if that relationship between persons wishing to contract marriage opens, should not begin the fulfillment for this at all, without having asked preliminary questions on this occasion, given explanations and instructions of the diocesan Hierarch[22] (S. Grigorovsky, "Collection of Church and Civil Laws on Marriage and Divorce", p. 23).

The so-called **adoption**[23] (Svod Zakonov [Code of Laws], vol. X, part 1, articles 145-163) under our operating laws does not serve as an obstacle to marriage[24].

It is self-understood that in all **doubtful cases** concerning these or those birth relations between those being married, the clergy should enter with

representatives for the diocesan authority and await its instructions (see Ukase [decree] of the Holy Synod, Mar. 28, 1859).

At any decision **of the closeness of relationship, for the proof** which is deposited in the parish (metrical) books, and looking for only the name of the persons, whose relationship is found, are noble genealogical books, urban residential books, censuses of population, and other certificates of the condition[25] (Svod Zakonov [Code of Laws], vol. X, part 1, article 209).

For the crowning of persons in close, i. e. in degrees forbidden by the church canons, through blood or spiritual relationship or status, clerics and clergymen, if they have done this by non-observance of precautions, which could open up the illegality of marriage, **are punished** by being confined to a monastery for about three to six months[26]. But if it can be proved that they have crowned not without permission about the obstacle, then the clergy lose their office, with pardon in the spiritual department to the lowest duties, but clergymen are punished by confinement in monasteries for an obedience up to six months, or those excluded from a spiritual calling, depending on their behavior in other respects[27] (Ustav Dukhovnikh Konsistorii [Ustav of the Theological Consistory] 189, 190, 205, 211).

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[1] Neither physically nor morally is it possible that ascending relatives marry with descending, e. g., the father with his daughter, grandfather with his niece, the great-grandfather with a great granddaughter and so forth, and there were never any doubts about rectilinear relationships in relation to marriage (Pravoslavnyi Sobesednik (Orthodox Companion), 1859, part 3, p. 15). It is necessary to notice that generally the **closeness of family relations** consists of a natural obstacle to marriage. The family by itself represents the moral union in which all members stand one with another in known moral relations. Out of these relations arises that delicate feeling in relation to relatives which constrains sexual instincts during mutual short dealings with them, is the feature distinguishing the human from all living beings. Besides this normal reason there is also the physiological basis, by which a close relationship serves as an obstacle to marriage. With close relatives there is the instinctive physiological dislike for carnal co-habitation (*horror naturalis*). This instinct of nature warns the person against the conclusion of the marriage unions with relatives, as the unions are not expedient. On supervision of one scholar, out of 95 children born from marriages between close relatives were: 44 idiots, 12 scrofulous, 1 deaf-mute, 1 dwarf and only 37 of a tolerable constitution (For more details, see Vladimirskiia Eparkhial'niia Vedomosti [Vladimir Diocesan News] 1872, 17). According to Elliotson, prosperous Jews of England are accustomed to marry cousins and sisters, and he did not anywhere see so much cross-eyed ones, stutterers, idiots, mad and those generally suffering various deformities as in these families. Generally, according to the opinion of many authors, marriage between close relatives is rather frequently either accompanied by barrenness or attracts the occurrence of various deformities and idiocy. Many writers of that persuasion write that namely deaf-mutes and those born blind come from such unions. (V. N. Zhuk, "The Mother and the Child", p. 22).

[2] This "Sbornik [Collection]" was now published in the 3rd edition and consists of "fully competent persons, obligated by their office (the Ober-secretary of the Holy Synod) to know the operating marriage rights and practices of the Holy Synod on this point in question (Tserkovnyi Viestnik [Church Messenger] 1893, 20).

[3] One may see the m**ixture of related names and relations** from following an example.

During a marriage of an uncle and the nephew with two sisters, the first, remained in blood relationship between themselves, as the uncle and nephew, pass, at the same time, also into a cousin relationship, as brothers-in-law. Their wives, being sisters between themselves, become at the same time - one an aunt and the other a niece, by their husbands. Children of the uncle also become nephews to his nephew by his wife, and cousins by their father and his uncle. But children of the nephew also become nephews to his uncle by the mother, and cousins to the grandsons by the father. Thus there is both a mixture and as if the relationship is transformed (see Archim. John, "Kur. Tser. Zakon. [Course in Church Law]; extract 2, p. 442). The canon on relationships in marriages requires that through such marriages, also in the legal degrees of relationship, related names and relations are not mixed, not to reduce the relationship of the higher. Seniors, on the degree of the lowest, and the lowest not to be elevated in the right, not belonging to them by relationship, i. e. not to put in the place of the higher, was the general rule of all ancient legislation. The church also from the very beginning protected such relationships and condemned those who married, without looking into, as was said in canon 87 of St. Basil the Great, "On the nature, which since ancient times, has differentiated the naming of the relationship" (Pravoslavnyi Sobesednik (Orthodox Companion), 1859, part 3, pp. 21-22). Thus our existing requirement is also clear, in order that at marriages in the specified related degrees, in cases of the mixture of related names, "so that conscience was quietly peaceful also at the performing of this mystery, and at the marriage itself, it is necessary to ask for the hierarchical blessing for this marriage" (see the "Instructions for the priest, how to conduct a search of the church and civil laws", publ. the Kiev Monastery of the Caves, 1866, p. 20 on the other side).

[4] The following o**rders of diocesan authorities** concerning marriages in relationship and status are known, e. g.:

The local Consistory let it be known to the clergy of the Penzen Diocese that they send their parishioners with requests for the permission of marriages to the diocesan Hierarch: 1) only for first cousins in the fifth degree of blood relationship; 2) in those closest to the forbidden degrees of relationship in which through the interface of persons a mixture of related names and relations may occur, even though the relationship was in the sixth degree, and 3) in the relationship of second cousins in the third and even in the second degrees only if there appears to be a special, reputable need for such a marriage.

Samara Spiritual Consistory decided, in order that priests send parishioners to the diocesan Hierarch with petitions for permission only for such marriages which they are forbidden to crown directly: a) The grandfather and grandson to cousin sisters in six degrees; b) The great-grandfather and great-grandson to cousin sisters in six degrees; c) Two brothers to the aunt and her sister born to the grandson in six degrees; d) The father and the son to second cousin sisters in seven degrees, and, on the other hand, from the female side in the same degrees. In as much as in the mentioned cases there will be a mixture of related names and relations through the married combination of persons. Where such mixtures do not occur, there the marriages in six and seven degrees are not forbidden, for example, the grandfather and the grandson can be married to the aunt and her sister from the grandson, in six degrees. The uncle and nephew to the aunt and the niece, in six degrees; moreover it is not forbidden for priests to crown marriages of parishioners of six, seven and further degrees in blood and cousin relationships, of four in second cousin (Tserkovno-Obshchestvennyi Viestnik [Church-Society Messenger], 1877; for more see the Svod Uk. i Zam. [Code of Ukases and Remarks]; see also the Samarskiia Eparkhial'nyiia Vedomosti [Samara Diocesan News] 1898, 1).

The Tobolsk diocesan authorities (in view of this, that clergy do not unconditionally crown marriages in 6 and 7 degrees of status and also refuse to marry such grooms and brides, which consist between them in the 8th degree of relationship and status and even in the 9th and 10th degrees) in addition to the circulars on marriage matters, printed in "Tobol'skiia Eparkhial'niia Vedomosti [Tobolsk Diocesan News]" in № 4 for the year 1886 and in № 5 and № 6 for the year 1888, was, by the way, confirmed for the clergy of the diocese, so that grooms and brides, consisting between them the fifth degree of second cousin relationship, in 8 degrees of blood relationship blood and in 6 and 7 degrees of status, i. e. of the first cousin relationship, in the specified cases in the circular printed in № 5 and in № 6 edition of "Tobol'skiia Eparkhial'niia Vedomosti [Tobolsk Diocesan News]" for the year 1888, crowned, without asking for the permission of the Diocesan Hierarch, and under the fear for opposition to legal accountability

and payments of money to the applicants for all the losses incurred by them by the presentation of their requests (Tobol'skiia Eparkhial'niia Vedomosti [Tobolsk Diocesan News] 1894, 6).

The Hierarch of the Mogilev diocese in 1898 issued this order: "I suggest the Spiritual Consistory to announce to the clergy of the diocese that I bless marriages of those in the sixth and seventh degrees of the first cousin status in need of marriage, for parish priests to do without asking my permission for that. About the remaining, not permitted by the law without Hierarchical permission, to present petitions for those marriages, paid with two 80 kopeck stamps, clearly certified by the parish priests, with the indication of relationship indication in clear tables. For default of this, I will be compelled to subject those guilty for punishment, but having caused losses to the applicants, except for this, and for their compensation "(Mogilevskiia Eparkhial'niia Vedomosti [Mogilev Diocesan News] 1898, 5).

The Simbirsk diocesan authorities in 1898 confirmed to the clergy of the diocese that, agreeing with the order of the same authority in 1884 (see Simbirskiia Eparkhial'niia Vedomosti [Simbirsk Diocesan News] 1884, 21), at the fulfillment of marriages in the 6th degree of relationship, special Hierarchical permission is not required (Simbirskiia Eparkhial'niia Vedomosti [Simbirsk Diocesan News] 1898, 1).

The Vologda diocesan authorities decided that priests of the diocese are permitted to crown, without asking permission of the Hierarch for marriages in first cousin relationship, beginning with the fifth degree if there will be no mixtures and degradation of related names and relations in them, except for cases doubtful for parish priests, who also should ask for explanations for their doubts, if it is necessary (Vologodskiia Eparkhial'niia Vedomosti [Vologda Diocesan News]; 1884, 15).

[5] Our canonists unanimously admit that the decree [ukase] of the Holy Synod of the year 1810 the **permission of the Hierarch for the marriage is required** in those cases not prohibited by this decree [ukase] of relationship and status, in which marriage was prohibited in the Rudder where it says: "it is forbidden of the blood (relationship) even to the 7th degree and is authorized in the 8th. When from cousins, some are forbidden in seventh and authorized in the sixth, some are authorized in the seventh and forbidden in the sixth" (i. e. depending on, whether there is within a marriage in the 6th and 7th degrees of first cousin status the mixture of related names and relations, or does not occur: in the first case the marriage "will not happen", in the second it "will happen"). Thus, it goes that in marriage in the 5th, 6th and 7th degrees of blood relationship and in the 5th degree of first cousin status, but also in the 6 and 7th degrees of the same status, if it occurs at marriages in these degrees of mixture of related names, then the permission of the Hierarch should be asked (see Prof. J. S. Berdnikov, "Lectures on Church Rights", p. 85; Prof. A. Pavlov, "The Rudder" Ch. 50, p. 161; Prof. N. Suvorov, "Lectures on Church Rights", vol. 2, pp. 301-302, 311). The decree [ukase] of the Holy Synod of 1810 is understood in such a sense by our canonists. One should notice, that in the enclosed Svod Zakonov [Code of Laws] for article 211, part 1, vol. X "the tables showing of the degrees of relationship", the calculation of blood relationship in lateral lines reaches to the 7th degree inclusively. However, having in view the existing practice of the latest epoch, our tserkovno-practical literature does not indicate the 7th degree of blood relationship among such, for the marriage which would require the decision of the Hierarch. As to the 5th and 6th degrees of blood relationship and first cousin status, then concerning the crowning of marriages in these degrees are available in the practical church literature given as such.

Under the indication of one, the clergy on marriages in the degrees closest to those forbidden, especially in 5th degree when, e. g., an uncle and a nephew wish to marry two sisters or, on the other hand, two birth brothers wish to marry, one the aunt, another her niece, should ask the permission of the diocesan authorities. Similar permission, for a calm conscience of both crowning and getting married, may sometimes appear necessary even in the sixth degree, if within the marriage combinations of given persons there is a large mixture of related names and relations, as, e. g., if the grandfather and a grandson would think to enter marriages with two cousin sisters, then the grandfather and the grandson would already become brothers-in-law in this case (Prakticheskoie izlozhenie tserkovno-grazhdanzki postanovlenij [Practical declarations of church-civil rulings], pp. 129-130; see also Obozrenie uzakonenie [Law Review], p. 226; Tserkovnyi Viestnik [Church Messenger] 1892, 46-47). Another says, in an offered opinion, on marriage in 5th and 6th degrees of first cousin status (but consequently also on marriage in

the same degrees of blood relationship along lateral lines) the permission of the Hierarch is required only in those cases, when the marriages in the specified degrees have a mixture of related names and relations.

As specified by others, marriages in the 5th and 6th degrees of blood relationship on lateral lines and in 5th degree of first cousin status, always require the permission of the Hierarch even though it is within the marriage interface in the specified degrees and that there also did not occur the mixture of related names and relations (N. Smirnov, "Iz'iasn. tser.-grazhd. postan. Otnos. Brakov [Explanation of the Church-Civil Regulations relating to Marriage]", pp. 12, 16; Po voprosu o znach. i opred. pri soversh. br. rodstva [The Question of the meaning and definitions during the completion of the marriage relationship] p. 16; see also P. P. Zabelin, "Prava i Obiazan. Presvit. [Rights and Obligations of the Presbyter]", pp. 221-222).

Thus, the question on the crowning of marriages in the 5th and 6th degrees blood relationship on lateral lines and in the same degrees of first cousin status in the specific practical church literature is unequally decided. This is explained by those detailed and precise instructions for those degrees of blood relationship and first cousin status, for which the permission of the Hierarch should be asked for marriage in which, there is no general working law available, and the crowning in the specified degrees of marriages with or without Archpastoral permission depends, by the power of the decree [ukase] of the Holy Synod of January, 19, 1810 at the personal the discretion of the diocesan Hierarch. Besides this, when in one diocese on marriage, e. g., in the 6th degree of first cousin status, in the case of a mixture of related names, the permission of the Hierarch is required; in other dioceses that permission is not required (see note 2 on p. 1089). Thus it is clear that, in resolving the question of the necessity of asking for an archpastoral permission for marriages in the related degrees closest to those forbidden, leaning against the existing practice concerning this is in this or those dioceses where one narrows and the other expands the circle of those marriages in the specified degrees, on the crowning of which permission of the Hierarch is required. It is more expedient to hold to the middle in the presented given case, as then they are also specified in the mentioned "Collection" of S. Grigorovsky and edition of the "Tserkovniia Vedomosti [Church News]" responds, more or less, that to this middle one should also not lean to the authoritativeness of the specified editions. However, the guidance of these editions also may be recommended only for those dioceses where the related examined subject does not have special instructions of the local diocesan authorities. Where these instructions exist, the clergy certainly, as noticed by us, should come to some agreement with these penalties.

[6] According to the ukase of the Holy Synod of March 28, 1859, "the clergy without precise permission of the diocesan authorities should not approach the crowning of persons, consisting between themselves in the second, third and fourth degrees of second cousin relationship, under fear of severe penalties for not adhering to this". Having this in view, as some think, at marriages **in the fourth degree of second cousin status**, it is better to adhere to the letter of the law, i. e. on crowning such marriages to ask the diocesan authority each time for permission (Kishinevskiia Eparkhial'niia Vedomosti [Kishinev Diocesan News] 1896, 20).

But, according to the opinion of others, the asking of permission this time would be only a formality, in as much as in the same decree [ukase] of the Holy Synod of 1859 clearly that the Hierarch should not in any case forbid the crowning between persons consisting in the 4th degree of the second cousin status.

In view of this, in some dioceses (e. g., Samara), the order made once forever, so that priests do not address the Bishop for the permission of similar marriages, but would undoubtedly accomplish this (Prakticheskoie Rukovodstvo dlia Sviashchenno Sluzhitelei [Practical Manual for Church Servers], p. 226; see also note 2 on p. 1089 above). From all that was said above it follows that, with the absence in the given diocese of special decisions giving to priests the right to crown those in the 4th degree of second cousin status without asking for permission of the local Bishop, priests, as this is prescribed in the above-stated decree [ukase] of the Holy Synod of 1859, "without the precise permission of the diocesan authorities, should not begin to crown" the above-stated persons.

[7] The Minsk Spiritual Consistory ordered that on petitions for permission of marriages the legal degrees of relationship or status should be documented **on the copy of the metric records**:

1) the birth and baptism of persons, the permission of the marriage which goes with the matter.

2) the birth and wedding of their parents and all those persons, through whom the given persons consist in relationship and status.

So, for example: if it is required to verify the relationship of the persons between them consisting of the sixth degree of blood relationship, second cousin brother and sister, then on the petition for the permission of their marriage copies of the metric records should be registered:

a) the birth and baptism of these persons;

b) the wedding of their parents;

c) the birth of their parents (first cousins);

d) the wedding of their grandfathers or grandmothers;

e) the birth of their grandfathers or grandmothers (native), but if these persons are not children of the same fathers and mothers,

f) the wedding of these latte;

Or, for example, if the matter concerns the permission for marriage with nephew or niece wives of the uncle or the aunt of the groom or the bride on the petition for permission of this marriage copies of the metric records should be registered:

a) the birth of the groom and the bride,

b) the marriage of their parents,

c) the birth of the father or mother of the groom or the bride (looking for what goes for the status [property] of the groom and the bride),

d) the birth of their uncle or aunt,

e) the wedding of the uncle of the groom with the aunt of the bride or the uncle of the bride with the aunt of the groom.

If in the metrical books there is no record of the specified events, then it is necessary to make inquiries on the confession sheets for several years and from other documents, by which the person, omitted from the metrical records, were considered as children either of other parents or parents of those other children (see Voronezhskiia Eparkhial'niia Vedomosti [Voronezh Diocesan News] 1892, 7).

But in other dioceses only one authentication is required from the church clergy of the verification of the indicated relationship in the petition (refer to the following note), and although that authentication, of course, should be done by the clergy on the basis of exact and detailed inquiries into the church documents, however it is not required, so that also on the same petitions are extracted corresponding extracts from these documents.

[8] The Don diocesan authority has made it a duty for local priests that they in the petitions of the parishioners, submitted to the diocesan authority for permission of marriages in relationship between the groom and the bride, this relationship besides the writing of it in its being inscribed on the petitions, clearly meant circles or small squares and that during the authentication of the fidelity of such **table of relationship** in its inscription directly and clearly stated, in which degree and in which relationship the groom and the bride consist. Together with this it was prescribed for the clergy to announce to parishioners so that they, with their requests for permission of marriages by relationship, turned to Hierarch not before as after the presentation of those requests to parish priests and after they did on them their authentication according to the content of the above-declared orders (Donskiia Eparkhial'niia Vedomosti [Don Diocesan News] 1889, 21; see also the orders of the diocesan authorities going with them: Kievan, in the Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1889, 35; Volynian, in Volynskiia Eparkhial’niia Vedomosti [Volynsk Diocesan News] 1890, 6, 1892, 4; Ufimian, in the Ufimskiia Eparkhial'niia Vedomosti [Ufim Diocesan News] 1890, 11; Mogilevian, in the Mogilevskiia Eparkhial'niia Vedomosti [Mogilev Diocesan News] 1892, 34; Tobolsk, in the Tobol'skiia Eparkhial'niia Vedomosti [Tobolsk Diocesan News] 1894, 6; Vologda, in the Vologodskiia Eparkhial’niia Vedomosti [Vologda Diocesan News] 1884, 3, 1895, 7-8; Omsk, in the Omskiia Eparkhial'niia Vedomosti [Omsk Diocesan News] 1899, 5).

Under the order of the Penza Spiritual Consistory (See Penzenskiia Eparkhial'niia Vedomosti [Penzen Diocesan News] 1891, 1), petitions for the permission of marriages in the 5th and 6th degrees of relationship should be laid out clearly and precisely, in certain forms, tables of degrees of relationship, verified by the signatures of

members of the clergy and with the church seal. Without these tables, the petition will not be accepted or will be left without consequences.

The Minsk Spiritual Consistory in 1890, by the way, issued the order that priests on marriage petitions stated precisely a time-table of names in the table of the persons who are pulling together the relationship of the groom and the bride. Thus if any of those being married (the groom or the bride) or both are widowed, then they should, on the basis of church documents, show in the authentication when the former wife died, and after what marriage the groom or the bride are widowed. Marriage petitions by spiritual relationship should exactly and by inquiry register with the church documents of what this spiritual relationship consists (Minskiia Eparkhial'niia Vedomosti [Minsk Diocesan News] 1890, 4-5).

Under the order of the Chernigov Spiritual Consistory, parish priests are obligated to carefully observe, so that in the petitions for permission of marriages of persons, consisting in known degrees of relationship, names and surnames of parents and relatives of the groom and bride have been registered, through which they consist between themselves in relationship, and to inspire their parishioners that they do not address petitions for permission of marriages did not address the diocesan authority by telegrams, those not having legal bases, will be dropped without consequences (Chernigovskiia Eparkhial'niia Vedomosti [Chernigov Diocesan News] 1889, 11; see also the Tobol'skiia Eparkhial'niia Vedomosti [Tobolsk Diocesan News] 1894, 6; Kurskiia Eparkhial'niia Vedomosti [Kursk Diocesan News] 1898, 48, 49). - Refer to pp. 1080-1084.

[9] In view of the connection of the persons standing in relationship between them designated by lines, should always mean that the given persons, **consisting in a blood relationship between them, can marry** only in that case if one of them is found in a direct line, the other (kept away from him not less than four degrees) in any kind of lateral, beginning above of the first given person. Two related persons, wishing to marry each other, there may not be either both in one ascending nor in one descending, nor generally in a direct line (see p. 1088). The groom and bride cannot be found in any one lateral line or in it and continuation of it in ascending to the top ancestors in as much as in itself and in connection with the immediate ancestors on ascending is the same direct line and therefore, concerning that such marriages is subject to the same restrictions (Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1895, 3).

As to the definition of the same relationship, then it is necessary to have in view that sometimes **one generation incorrectly divides into two generations** and, thus, the homogeneous relationship turns into the status of first cousin, but this latter is second cousin in status. The mixture of a direct relationship with a first cousin, though of course, also should not be allowed, but yet it does not attract to itself the essentially important consequences as both these kinds of relationship constitute an obstacle to marriage in one and the same degree (see p. 1088). To mix first cousin with second cousin status, i. e. to accept the first for the last, means to enter into obvious danger to recognize marriage forbidden for the legal, for in the second cousin status marriages are unconditionally forbidden only in the first degree. The specified mixing of the relationship will inevitably happen when the distinctions of surnames, carried by members of the same generation, transfer to the same generation (A. Pavlov, "The Rudder" ch. 50, pp. 217-218). Meanwhile it often occurs that persons of the one and same generation carry different surnames. So, e. g., the daughter of the given person, after her entering marriage, as is known, changes the surname of her father to the surname of her husband, and her children also carry this last surname. But as they, so also their mother, remain in one generation with her father, brother, nephew and so forth, i. e. should be considered in blood relationship between them instead of first cousin status. Similarly the same children, e. g., in the relation to the blood related wife of the brother of their mother should be considered in first cousin instead of second cousin status. Generally, in the definition of kinds of carnal relationship, in order to avoid the mixture of these kinds, it is necessary to firmly remember that various surnames do not always indicate special ancestors.

[10] All the more often, relationship tables suffer from that lack that in them in line with the mothers stand their husbands, who do not have the values for defining the relationship between the groom and bride, and only complicate this definition. For example, if the grandfather and grandson enter into the relationship circle by his daughter, then at their designation in the table, next to the daughter more often but absolutely in vain stands her husband, although the relationship was found neither with him nor with his relatives.

In the avoidance of inaccuracy in the relationship tables, it is necessary to observe, **during the tracing** of these **tables**, the following rules:

1) One begins with the table for the groom and end with the table for the bride.

2) For the greatest clarity, persons of the male gender are designated in circles, and persons of the female gender are in squares.

3) Do not omit anybody from the persons, who are necessary for the account of the degrees of relationship or status between the groom and the bride; e. g., do not to place in line brothers or sisters without naming their father or mother.

4) Ties of parents with children and children with parents or so called degree, certainly to designate lines.

5) In the view that spouses in relation to posterity proceeding from them consists of one, i. e. one degree and one generation to observe, so that over the son and the daughter there never were both their parents, but either one father or one mother. The father stands if someone of his parents or other children further has to be placed. The mother stands when she is followed by her father, her mother or her son, her daughter from another marriage.

6) To only place the other next to one spouse in that case when in the circle of chosen relationship the generation of blood relatives stops and the status relationship already begins.

If, e. g., my father is followed not by my grandfather or grandmother, but my stepmother with her father or mother, with the son or the daughter (from another marriage), then it is necessary to put my stepmother next to my father as his wife, after that is her father or mother, son or daughter, and the connecting line leads from the stepmother, instead of from the line separating the stepmother from my father, but her husband. When there is no son or daughter from my brother or sister, and my daughter-in-law (the wife of the brother) or my son-in-law (the husband of the sister) with their relatives, then it is also necessary to place their spouses next to my brother or sister. On this basis, if the widower wishes to marry with those born by his deceased wife, it is necessary to put the last next to the groom and then from there to lead to the drawing up to the bride. In every table of the lines connecting parents with children and the reverse, there should be so much, so many degrees between the groom and the bride. Therefore in the table representing blood relationships, there cannot be spouses placed near one another at all. In the table of first cousin statuses, there should merely be one pair of those spouses (pulling together two generations); of second cousin statuses are two pairs. One should always have in view, that the effectiveness in the table of one pair of spouses (placed nearby) points out, as is known, to two generations, two pairs of spouses are in three generations. Hence, in a correctly made table there cannot be more than two married couples. For the relationship is limited merely to three generations. The effectiveness of the greatest number of married couples points to, either the absence of relationship between those being married or to the wrong construction of the table. But at the second cousin status between the groom and bride there are such combinations in which two pairs of the spouses who are pulling together three generations, it is necessary to not put them in different places, but in the one and to designate their three circles, placed nearby. This happens, when, for example, the groom of the widow, having in matrimony the widow, enters the new marriage with the relatives of the first husband of the deceased wife or when whoever marries in similar status one of their blood relatives of the father, the brother and so forth. (N. Smirnov, "Po voprosu o znachenii i opredelenii pri sovershenii brakov rodstva [On the meaning and definition of relationships at the fulfillment of marriages]", pp. 41-44).

[11] The Ruling Senate explained that under church law **the husband and the wife are considered one person**, hence, husbands married to two sisters; consist of the same degree of status between them, in which each of them stands for the sister of his wife or the sister-in-law (resh. Kassats. Dep. [Decisions of Annulment Depositions], 1869, № 815).

[12] **Stepbrothers and stepsisters** each have different names of the fathers, come together in the marriage of the father of one and the mother of other such children. So, if the widower having children marries the widow who also has children from a previous marriage, these children of the specified persons are called in the relation to each other as stepbrothers and stepsisters. Each of such stepchildren in relation to the new father (stepfather) or mother (stepmother) stands in the first degree of first cousin status (S. Grigorovsky, "Sbornik tser. i grazhd. o brake [Collection of Church and Civil Laws on Marriage]", p. 24).

Between such stepbrothers and stepsisters are two degrees of first cousin status. But as stepbrothers and stepsisters are also called

l) born children of one of the given married couple in relation to stepsons or stepdaughters of the other spouse of the same couple, consisting with them in first cousin status (when, for example, the widower, having in first cousin status of stepsons and stepdaughters from a previous marriage enters a new marriage with a widow, having children from the previous marriage, then in relation to these children of the widow are indicated stepsons and stepdaughters of the widower will be stepbrothers and stepsisters). Similarly

2) stepsons and stepdaughters from a previous marriage of one of the married couple, consisting with him in first cousin status, in the relation to such (i. e. also from a previous marriage and consisting in first cousin status) stepsons and stepdaughters of the other spouse of this couple (when, for example, the widower having first cousin status stepsons and stepdaughters from a previous marriage, marries a widow also having first cousin status stepsons and stepdaughters from a previous marriage) are also named in the relation to each other as stepbrothers and stepsisters.

Between such stepbrothers and stepsisters in the first case there will be second cousin status and in the second, third cousin (and in this last case not only children of stepbrothers and stepsisters, but also the stepbrother and stepsister can be unimpededly married between themselves).

They also call stepbrothers and stepsisters of children from one father but different mothers, but also equally children from one mother, but different fathers. But it is necessary to name children coming from one father but different mothers, **half brothers** and sisters, but children of one mother coming from different fathers, are called **stepbrothers** and stepsisters. As birth brothers and sisters between themselves, but also equally those born of the same mother between themselves consist in a blood relationship (in the 2nd degree). In blood, of course, is the relationship (in the 1st degree) all children of one blood stand in the relation to their birth father and each of them in relation to their birth mother, in relation to the stepmother each of children of one blood stands in second cousin status (in the first degree). Precisely as well all uterine children stand in relation to their own mother and each of them in relation to their birth father and in relation to their stepfather (see below, for definitions of birth relations between those being married).

[13] So, by communication of the "Podol'skiia Eparkhial'niia Vedomosti [Podolsk Diocesan News] for 1885, by the decrees [ukases] of the Holy Synod occurring at different times, the Podolsk Hierarch notified that the **petitions are dropped without consequences for** the permission to marry the following persons:

a) Retired Corporal Abraham Rezuntsov with first cousin sister of his deceased wife,

b) Peasant Gabriel Korotan with the widow of his first cousin brother,

c) Peasant Jacob Ignatiev with the niece of his stepmother,

d) Retired Soldier Ivan Kostenko with the niece of his stepfather.

In 1886 the Holy Synod, having considered the matter presented by Bishop of Ufa about the entry into marriage of the Belebeevsky merchant son, N. Belov with the maiden-sister of his son-in-law (husband of the sister) (i. e. in 4th degree of first cousin status) E. Vochinska, decided to recognize the designated marriage as illegal and void.

[14] The question **on the relationship at marriages recognized as illegal and void** in the practice of the Holy Synod was not raised, and the exact laws for deciding this question are not present (Tserkovnyi Viestnik [Church Messenger] 1895, 39).

Some, in view of this, that persons, who entered into the indicated marriage, are not admitted as lawful spouses, solve the question on the relationship from such a marriage in the sense that between the blood relatives of the specified persons of any relationship cannot be recognized, just as between blood relatives of those persons, who have entered into illegal carnal intercourse and live in a so-called common law marriage, does not recognize the first cousin relationship or status (see Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1888, 23). But indicated in this opinion of the basis for deciding the given a question cannot be recognized as firm.

The physical relationship occurring from unlawful carnal co-habitation is necessary to consider as an obstacle to marriage (about this see below, pp. 1099-1100). It is necessary to also take into consideration, at the decision of the given question, and that in article 133, part 1, vol. X of the Svod Zakonov [Code of Laws] children from a marriage, recognized as illegal and void, may with the pleasure of His Imperial Majesty to also hold the

rights of lawful children (see p. 1085). However, the priest, inclined to whatever would be the resolution to the given question, in a corresponding case of his pastoral activity has no right to approach this independently without appropriate instructions of the diocesan authority.

[15] In the decision of the Holy Synod of Oct. 6, 1824, № 28, it is explained, that the meaning of sponsors at holy baptism cannot be that **the sponsor at the holy anointing (Unction) is** uniting the heterodox to Orthodoxy, in as much as the way of life of the sponsors at the holy anointing is also not underlined Church laws (See S. Grigorovsky, "Sbornik tser. i grazhd. zak. o brake [Collection of Church and Civil Laws concerning Marriage]", p. 20; refer to p. 950 above).

[16] Both these **decrees [ukases] of the Holy Synod** in the designated link to their being called in brackets His Imperial Majesty. Other decrees[ukases] have two dates: the first, January 19, 1810 and Feb. 17, 1810; the second, Dec. 31, 1837 and January 31, 1838 (refer to note 1 on p. 1098); the first dates of the designated decrees [ukases] relate to the Synodal decisions announced in these decrees [ukases]; the second date concerns the decrees[ukases] (for details see A. Pavlov, "The Rudder", ch. 50, pp. 157, 158, 175; Nomocanon in the Great Book of Needs, p. 397; Chteniia v obshchestve liubitelei dukhovnago prosveshchtniia [Proceedings of the Society of Lovers of Spiritual Enlightenment], 1893, № 4, pp. 508, 512; refer to the Pravoslavnyi Sobesednik (Orthodox Companion), 1892, №. 3-4, p. 378, 1893, № 9, pp. 50 and 72).

[17] As is known, Metropolitan Philaret recognized the male **sponsor and female sponsor as one and the** same person of the spiritual relationship, becoming an obstacle to marriage (see the Chtenia v Obshchestvie istorii i drevnostiei Rossiiskikh [Proceedings of the Society of Ancient Russian History], 1874, IV, sec. 5, pp. 155-156; Dushepoleznoe Chtenie [Edifying Reading], 1889, part 3, pp. 495-496).

But, according to another, in the church canons there is a marriage prohibition between the male and female sponsors (Pravoslavnyi sobesednik [Orthodox Interlocutor], 1892, № 3-4, p. 380; see also Prof. A. Pavlov, "The Rudder" ch. 50, pp. 177-179; refer to the Pravoslavnyi Sobesednik [Orthodox Companion], 1891, № 2-3, pp. 391-392).

The male and female sponsors are not considered related between themselves in the sense of the decree [ukase] of the Holy Synod of 1810 (S. Grigorovsky, "Sborn. Tser. i gr. zak. o brake [Collection of Church and Civil Laws on Marriage and Divorce]", pp. 19 - 20).

The decree [ukase] of the Holy Synod of 1837 definitely does not admit any spiritual relationship preventing their marriage between the male and female sponsors, (Pravoslavnyi Sobesednik (Orthodox Companion), 1893, № 9, p. 72). Thus, marriage between the male and female sponsor, one and the same person may be married as persons unimpeded.

By the "Instruction for the priest, how to conduct a search" in as much as the "relationship" between the godfather and godmother "is accepted everywhere as not prohibited", "Therefore, in order that the ailing conscience be not sullied, the clergy cannot complete marriages between the male and female sponsor, without having the blessing of the diocesan Bishop for this" (p. 26 on the other side; see also the Prakticheskoie izlozhenie tserkovno-grazhdanzki postanovlenij [Practical declarations of church-civil rulings], 133 p.; Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1887, 15; P. P. Zabelin, "Prava i Obiazan. Presvit. [Rights and Obligations of the Presbyter]", p. 225; N. Smirnov, "On the question of the meaning and decisions of relationships during the fulfillment of marriage", p. 61).

But when with the given marriage of the male sponsor with the female sponsor "no conscience is sullied", then there is not present any basis to trouble the diocesan authority with a petition for the permission for such a marriage if, of course, in the given diocese there is no such order of the local diocesan authority, which would require so that that the marriages of the male sponsor with the female sponsor in all cases have been crowned not differently as with the permission of local Hierarch, which order has been published, for example in the Samara diocese (see Samarskiia Eparkhial'nyiia Vedomosti [Samara Diocesan News] 1898, 1).

[18] The legitimate birth or **illegitimate birth of the sponsors** does not influence the closeness of their spiritual relationship, but is why it has no value in the decision of the question on spiritual relationship as an obstacle to marriage (Tserkovnyi Viestnik [Church Messenger] 1888, 5; below on pp. 1099-1100).

[19] Nevertheless, Metropolitan Philaret did not give permission for the petition given to the Holy Synod by one person for this person to marry the **sponsored daughter of his mother,** on which marriage to the designated person, the Holy Synod (matter of the Archive of the Holy Synod, 1854, № 122), "having thought the request of the designated person with the existing decisions and the permissions which were already made in special cases, has found" that, behind the power of the decrees [ukases] of the Holy Synod, "of Feb. 17, 1810" and "of January 31, 1838", the "Holy Synod at the permission coming in this petition, did not find an obstacle to the entry into matrimony to the children of sponsors with their sponsoring parents at the holy baptism of the children, but is why now both places gives to the Moscow diocesan the authority to decide the matrimony" of the designated persons with the goddaughter of his mother (for more details, see Sobranie Mnenie (Collection of Opinions and excerpts), supplement Vol., pp. 390-392; see also the Prib. k tvor. sv. otts. [Supplement to the Works of the Holy Fathers], 1883, part 31, pp. 483-484).

Under article 212 of the Nomocanon, **those having the same sponsor** "do not come into marital participation to the eighth degree". But this article (entered into the Nomocanon not from a canonical source, but from a civil source, and besides not from an official one, but from private source) full of action, most likely, we never had; with the publication of the decree [ukase] of the Holy Synod of Dec. 31, 1837, the canon lost every sense of power, which stands as an obstacle to marriage (for more details, see Nomocanon in the Great Book of Needs of A. Pavlov, pp. 401-406).

Thus, as carnal children of sponsors of their sponsors with the same sponsors, and so having the same sponsors (whoever the latter were), do not have a relationship between them and consequently can marry (Tserkovnyi Viestnik [Church Messenger] 1888, 5; Tserkovniia Vedomosti [Church News] 1897, 45; refer to p. 905 above).

Marriage of the widower **with the sponsored daughter of his deceased wife**, by an explanation of the "Tserkovnyi Viestnik [Church Messenger] is unconditionally possible (Tserkovnyi Viestnik [Church Messenger] 1896, 49).

[20] This is admitted as a general operating **canon about marriages forbidden due to a spiritual relationship**. The canon is formulated under "separate" decrees [ukases] of the Holy Synod, but in one of these decrees [ukases], for example, it is directly said that the Holy Synod itself, after a consultation with the church canons and on the basis of the circulation of decree [ukase] of 1810 (refer to article 211 of the Ustav Dukhovnikh Konsistorii [Ustav of the Spiritual Consistory]), "it repeatedly is recognized that the spiritual relationship (sponsorship) should only be recognized between the parents of the baptized child and the only with the sponsor of this person of the same gender with them, and that by this decision, contained in canon 53 of the Sixth Ecumenical Council the prohibition of marriages between widowed parents and sponsors of their children should be carried only to the male sponsors of their sons and to the female sponsors of their daughters" (Uk. Sv. Syn. [Decrees of the Holy Synod] addressed to the Archbishop of Yaroslavl of Oct. 31, 1875, № 2861). The above-stated essentially well-founded decision of the Holy Synod may grant the right to consider that the "Holy Synod repeatedly recognized" the spiritual relationship as having a general meaning.

Nevertheless it is no less likely possible to agree that the above-stated separate decrees [ukases] may have specified general meaning, during the examination search and permission of marriages between the sponsors and the parents of the baptized, only for the diocesan hierarch, who on the basis of these decrees [ukases], also can allow the marriages of the designated persons above. Thus, having recognized the afore-cited datum as having a general meaning in the specified relation, it is possible to consider marriage between the sponsor and mother of the one baptized, but also between the female sponsor and the father of the one baptized as allowed (see Tserkovnyi Viestnik [Church Messenger] 1894, 32; Tserkovniia Vedomosti [Church News] 1897, 38), but for the marriage it is

necessary to ask the permission of the local bishop for such a marriage. It is especially necessary to turn to the local bishop for governing instructions concerning marriages between sponsors and parents of those baptized in such sometimes, contrary to a known canon of the Great Book of Needs (see pp. 898-899 above), able to meet in practical cases, when at the baptism of a girl there was only one male sponsor or at the baptism of a boy there was only one female sponsor.

According to the opinion of some, in the specified cases of a marriage between the male sponsor and the mother of the baptized, but also between the female sponsor and the father of the baptized, it is necessary to consider the marriage directly not allowable (see P. P. Zabelin, "Prava i Obiazan. Presvit. [Rights and Obligations of the Presbyter]", p. 225).

Relating to this opinion it is necessary to notice that it is based on the 53rd canon of the 6th Ecumenical Council. The above-stated decrees [ukases] of the Holy Synod, recognizing the allowed marriage between the male sponsor and the mother of the baptized, but also between the female sponsor and the father of the baptized, have in view those cases when at the baptism they were as the male sponsor and as the female sponsor.

Only what is said also has concern for the spiritual relationship between the male sponsors and those baptized in that case, when the sponsor would wish to marry with the baptized (with the goddaughter), at which baptism he was merely one (and female sponsor was not), or the female sponsor with (with her godson), at a baptism at which she merely also was merely one (but was not the male sponsor): according to Canon 53 of the 6th Ecumenical Council, as it is placed in the Rudder and in the ukase of the Holy Synod of 1810 (see also Archim. John, "Lectures on Church Rulings" 2nd ed., pp. 432-435). "A male sponsor at a holy baptism cannot take to himself the one he sponsored as a wife, for she is already his daughter". The above-stated separate decree [ukase] of the Holy Synod there is talk merely about the spiritual relationship when there were two sponsors at the baptism.

Besides: even having in view such cases, these decrees [ukases] speak only about marriages between parents of the child and its sponsors; not any of these ukases directly speak about marriages between sponsors and those they sponsored.

However, paying attention that at a baptism "one sponsor prevails" and that when there are two sponsors only "one person (same gender as the one being baptized) is involved in the spiritual relationship with the one baptized" (see the separate Ukase [Decree] of the Holy Synod of January 19, 1873), necessarily it would be considered an allowable marriage between the male sponsor and the baptized, and also between the female sponsor and the child she sponsored. However such conclusion from the specified data and conformable to this conclusion in corresponding cases of pastoral practice of a paradigm of action is beyond the authority of the priest. But if it so, especially, of course, not in rights the priest independently to do so anyhow and concerning marriages of the above-stated persons (male sponsors so with the baptized, as also with their parents) when at the recognition from the holy baptism was either only one male sponsor or only one female sponsor (see Prof. A. C. Pavlov, "The Rudder", ch. 50, pp. 168-169; the Nomocanon in the Great Book of Needs, p. 399; Prof. J. S. Berdnikov, "Lectures on Church Rights, p. 79; Pravoslavnyi sobesednik [Orthodox Companion], 1891, № 2-3, pp. 294-295).

Generally, relating to the crowning of marriages between all of the above designated persons it follows to turn to the local bishop for direction. If in the given diocese there are special orders of the local diocesan authorities concerning such marriages, of course, then the priests of that diocese should be guided by these local orders in needed cases.

[21] Relatively, the non-recognition by law of legal **ties of illegitimate children with their parents** the Ruling Senate explained that from the non-recognition by law of the specified ties it is impossible to infer that the law also rejected everything natural between illegitimate children and their parental ties, when this tie is not subject to doubt or is recognized by the parents of the illegitimate. Opposite to that, the decision about illegitimate children (articles 132-133, vol. X, p.1) are placed among the decisions about the ties of parents and children and related ties. From this it follows that, confirming the definitive relation between parents and their illegitimate children, the law thereby recognizes the natural union not only between the illegitimate and his mother, but also his father in known cases. So, for example criminal laws (article 994 Rules on Punishment) impose on the father of the illegitimate child the obligation to give maintenance support of the mother and the child (decisions of the Civil Appeal Depositions

1872, № 685). As to **relationship from extra-marital illegal co-habitation**, then the Ruling Senate recognized (see decisions of the same Depositions on the Zavadsky affair of 1877, and on the Davidov affair of 1881, № 41) that this relationship serves as an obstacle to marriage to the same limits as blood and status relationships, coming from legal marriages (see Tserkovnyi Viestnik [Church Messenger] 1895, 39).

[22] In some dioceses **orders of diocesan authorities** have been published concerning the given local subject.

So, the Novgorod Spiritual Consistory explained to the clergy of the diocese that marriages of illegitimate maids - daughters of schismatic maids, betrothed in marriage to illegitimate guys - also sons of schismatic maids, should not be crowned in that case when they declare that the father of the bride was father and groom, although this also has not been formally proved, and although mothers of grooms and brides would also wish them to marry (see Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1889, 8).

The Samara diocese, under the order of local diocesan authorities, published for the knowledge of clergy that the physical relationship occurring from unlawful (outside of marriage) co-habitation is recognized as equivalent to blood relationship and on a level with the latter co-habitation is considered an obstacle to marriage (Samarskiia Eparkhial'nyiia Vedomosti [Samara Diocesan News] 1898, 1).

[23] Among all Indo-European people the **custom of adoption as brother**, fraternity or spiritual brotherhoods has been widespread, which consisted in that two persons, not having blood relations between themselves, gave each other a vow of fraternal affection and mutual self-sacrificing help, forging this union with various external ceremonies. Fraternity, as a custom, also exists at the present time among some Slavic people, mainly the Serbs. Originally the Church, recognizing the custom of adoption as brother, in its internal side, responding to the moral spirit of Christianity, allowed this custom and consecrated it with its special office (which was located both in Greek Euchologions and in the Slavic Book of Needs), and fraternity was considered in itself as a spiritual relationship, out of which even various obstacles to marriage began to be deduced.

Subsequently, especially in view that spiritual brotherhood quite often included directly criminal intent or led to crime, "the Office for Adoption as a Spiritual Brother was prohibited and stricken from church and imperial law" (The Great Book of Needs, chapter 101).

In Russia the spiritual brotherhood was known from the most ancient times. In our ancient books of needs was located the "Order of Adoption as Brother", and, according to some information, it is possible to conclude that fraternity in this or that measure also served as an obstacle to marriage.

But in the published Rudder it was prescribed: the priest, performing the "service of adoption as brother" to separate for a while from divine services as "a paradigm or an adoption as brother service is not done in the church" (Rudder, chapter 50; See also the Nomocanon canon 165). Since this time even the custom of adopting as brother began to lose power and meaning even for marital rights. Since Peter the Great this kind of relationship is mentioned neither in civil nor in ecclesiastical law (A. Pavlov, "Rudder" chapter 50, pp. 187 - 190; K. Nevolin, "History of Russian Civil Law", vol. 3, p. 389).

[24] Roman Catholics forbade **marriages between the adopted and those adopting** and their descendants, between those adopting and children born from the marriage of the same person, although, however, the right to allow weddings of persons between them relative to a civil relationship belongs to the spiritual authority (Polozh. Tsar. Polsk., 1836, articles 35 and 36).

The Protestants forbade marriages between the adopted and those adopting, when the adoption is properly not destroyed (Ust. In. Isp. [Ustav for Foreign Confessions], article 208).

The Orthodox, by chapter 50 of the Rudder, "Anyone from the adoption relationship is forbidden (marriage) to the 7th degree, as in baptisms, in descending only".

During the time of the Catherine commissions for the composition of new laws, the Holy Synod designed such a canon concerning relationship by adoption: "whoever receives a child from foreign people instead of the son or the daughter, adoptive parents are not to enter marriage with those adopted and the children born from their marriage, and this relationship is not stretched further" (A. Pavlov, "Rudder" chapter 50, pp. 149, 187, 225). This designed canon was not issued as a law, neither in our operating legislation, nor in the practice of the highest

spiritual authorities the present instructions on that adoption honored as an obstacle to the entry into marriage (S. Grigorovsky, "Sborn. tser. i gr. zak. o brake [Collection of Church and Civil Laws on Marriage and Divorce]", p. 21).

However, according to the opinion some, it would be necessary for a relationship by adoption to attach the same significance in its relation to marriage as to a spiritual relationship, and at the marriage of persons, consisting of a relationship after adoption between them, it is necessary to ask the diocesan hierarch for permission to crown such marriages (see E. Nevolin, "Ist. Росс. гражд. зак. [History of Russian Civil Rights], vol. 1, p. 200; K. P. Pobedonostsev, "Lectures on Civil Rights", part 2, p. 189; J. S. Berdnikov, "Lectures on Ecclesiastical Rights", pp. 78-79; Khristianskoe Chetenie [Christian Reading], 1885, part 2, p. 649; refer to Tserkovniia Vedomosti [Church News] 1896, 1). As to pastoral practice in the relation to marriages of persons, consisting between them in relationship by adoption, then many priests only do not turn to the local diocesan authority concerning the fulfillment of such marriages (see Tserkovnyi Viestnik [Church Messenger] 1898, 4), they crown the majority of those marriages without any obstacles (see Fr. Hojnatsky p.9; refer to N. Suvorov, "Lectures on Ecclesiastical Rights, part 2, p. 299).

[25] The **relationship can be proved** not only by the metrical records and not only by certificates named in article 209, part 1, vol. X, but also by other proofs. Confession lists, extracts from wills and so forth may serve as such proofs. The relationship may be recognized as proved and on the basis of the acknowledgment of an adversary (decisions of the Divorce Court Depositions 1879, № 320; 1878, № 177; and 1875, № 975).

[26] Those obviously married **in such degree of relationship or status contrary to the la**, are subject to imprisonment from 4 months to 1 year and 4 months and to church repentance after the sentence of a spiritual court. Parents or guardians for the assumption of such marriage are subject to arrest from 3 days to 3 months. But those obviously married in the 1st or 2nd degrees of relationship are subject to punishment in articles 1593 and 1584 for incest in these defined degrees. But their parents or guardians, who have obviously allowed such marriage, are subject to punishment, as accomplices in incest, on the basis of Article 119 of the Imposition of Punishments (articles 1559, 1562).

[27] By explanation of the "Tserkovnyi Viestnik [Church Messenger]", the clergy is not guilty if he **married relatives** when all premarital precautions were observed; however, the possibility to find out about the relationship of the ones married was not given to him (Tserkovnyi Viestnik [Church Messenger] 1893, 1; refer to the documents demanded at marriage below).

If the priest crowned a marriage, without knowing, in unlawful degrees of relationship and later received information about it, he should inform immediately in detail the diocesan authority about this (Tserkovnyi Viestnik [Church Messenger] 1897, 36).

In the relation to mitigation of punishment of the clergy, obviously who have crowned marriages in unlawful degrees of relationship, the link of clergy to fear that the groom and the bride will transfer to another sect cannot have any meaning (Tserkovnyi Viestnik [Church Messenger] 1897, 40).

S. V. Bulgakov, "Handbook for Church Servers", 2nd ed., 1274 pp. (Kharkov, 1900) pp. 1088-1102.
Translated by Archpriest Eugene D. Tarris on August 24, 2012