

Ascendants and Descendants including therein the place of the Person who Kindred we inquire into. For at his Side are his Brothers, at his Father's Side are his Uncles, at his Son's Side are his Nephews, and so on with the Others in Several Lines both ascending and descending.

The Civil-Law makes so many Degrees as there are Generations of Persons gotten not reckoning the common Stock from which all descend. For Example, in the Right Line the Grandson is reckoned in the Second Degree from the Grandfather. In the collateral Line one Brother is placed in the Second Degree to another, there being two Persons generated by their Father the nearest common Stock: and Cousin Germans or Brothers Sons are placed in the fourth Degree, for the one's Father begot him, making one Degree and his Grandfather begot the Father which is the Second Degree and also the Uncle, which is the third Degree, and the Uncle begot his Son which is the fourth Degree.

The Canon-Law agrees with the Civil Law in reckoning Degrees in the Right Line; for the Degrees of Ascendants and Descendants are the same in both Laws: but they differ in counting Degrees in the collateral or oblique Line; where those who are equally distant from their common Parent or Ascendant, are in the same Degree of Distance from one another, that each of them is from the common Ascendant v. g. Two Brothers are distant from one Degree, being no further distant from their Father the common Stock; and Cousin Germans are distant but two Degrees from each other, because so far only distant from their Grandfather the common Stock. Those who are at unequal Distances from their common Ascendant, are in the same Degree to each other, that the Person who is most remote from that Ascendant is to him or her, v. g. I and the Grandchild of my Uncle are distant only in the third Degree, because the Grandchild of my Uncle is at the Distance of three Degrees from ^{my} Grandfather the ^{nearest} common Stock. Which canonical Computation seems most absurd: for at that Rate two Brothers Sons are in the same Degree that one is to the other's Father. So that the Popes have no great Reason to ridicule superciliously, as they do, the imperial Computation C. 2. caus. 35. qu. 5.

The Reason of the Difference betwixt the Civil and Canonical Computation is because the former being calculated for regulating the Succession of Kindred from one to another, one Degree is assigned to every Person, whereas the latter being intended for clearing in what Degree Kinfolk may marry, two Persons are ranked in one Degree, for that Marriage requires to be entered ^{into} by two.

The Law of England (Coke i. inst. 2. tit. 2. c. 1. §. 1. and of France, ^{Compulsive} ^{the} ^{degrees} ^{of} ^{kin} ^{are} ^{according} ^{to} ^{the} ^{Canon} ^{Law} ^{as} ^{appears} ^{from} ^{Act} ^{15.} ^{For} ^{i.} ^{§.} ^{6.} where Cousin Germans are called Seconds in Consanguinity.

The Knowledge of Degrees of Proximity, is not only necessary in Marriage = 9es

= 9es, but likewise in other Matters as in Tutorships, Successions, in the Challenges or declining of Judges who are Relations in the Admission of Witnesses in Order to receive or reject the Testimony of those who are related to the Parties.

Marriage between Kindred in the direct Line of Ascendants and Descendants is altogether unlawful. For albeit by Moses Law Levitic. 10. the prohibition in the descending Line goes no further than the Daughter and Granddaughter, it morally extends to all other Descendants never so remote; and the in the ascending Line, the Prohibition is express only as to Marriage with a Mother, all Degrees in that Line upward are equally prohibited l. 53. l. 54. l. 60. ff. de ritu nupt. Whence Accursius Glos. ad §. 3. de nupt. concludes, that if Adam should rise again, he could not marry a Wife, because all Women are descended from him as their common Parent. The Reason of these Extentions, is because of the Confusion of natural Duty, that would issue from Marriage of Persons of any Degree in the right Line, v. g. Prot. de J. D. et. p. lib. 2. c. 5. n. 13. For if those who are superior and inferior by the Law of Nature, should intermarry, the Order of Nature would be taken away by Marriage, which makes an Equality between Husband and Wife. Marriage in the collateral Line, is prohibited between Brothers and Sisters either of the whole Blood, who are born of the same Father and of the same Mother called Brothers German; or of the half Blood, who are either born of one and the same Father, but of different Mothers, called consanguinean Brothers, or Brothers by the Father's Side; or have one and the same Mother but different Fathers, whom we call Brothers by the Mother's Side or uterine Brothers, or Brothers of the same Venter.

There are also Brothers by Marriage. In the Jewish State, if a Man died without Issue, his Brother or next of Kin (if unmarried at the Time) ought to have married the Widow, and raised up Seed to the deceased Deuter. 25. 5: For Reasons which held good only in that Commonwealth and therefore such Practice is not allowed in Christian Countries. Again those who are in the Place of Parents and Children as Uncle and Niece Aunt and Nephew cannot marry. Among whom we distinguish in like Manner between those who are Brothers of the whole Blood to the Father or Mother, and those who are only Brothers by the half Blood either by the Father's Side alone, or by the Mother's Side alone; between those who are Children of Brothers or Sisters of the whole Blood, and those who are Children of Brothers or Sisters by the half Blood. In short, we sustain no Marriage that is contracted within the Levitical Degrees Levitic. 17. 1. 2. 3. 4. 5. 6. Which our Law terms the Degrees Defendant, by Corruption of the French Word defendu forbidden. In the Year 1699. there was a Table of the forbidden Degrees set forth by the Parliament Act 16. Sep. 3. of King Charles the first's second triennial Parliament. And all Persons who are not prohibited in the 10 Chapter of Leviticus, consequently Cousin German, but no near or Relations, may lawfully marry. Which is suitable to the Roman Law §. 4. inst. de nupt. And the Laws of protestant Nations, as England 32 ff. 8. cap. 38. Holland, So. dost. Comm. ad Tit. ff. de ritu nupt. n. 32. By the Canon Law not only Cousin Germans whom it reckons in the second Degree are prohibited to marry, but also those of the fourth Degree c. 1. de