authority of DeThoren v. Attorney-General, 1 App. Cas. 686, which Mr. Townsend accepted as correctly stating the law which obtains in the State of New York, in my opinion that presumption may and should be drawn. It is a presumption in favour of morality, legality, and legitimacy. It involves nothing which is at all irreconcilable with the actual facts in evidence. . . .

[Reference to O'Gara v. Eisenlohr, 38 N. Y. 296; Williamson v. Parisien, 1 Johns. (Ch.) 389; Valleau v. Valleau, 6 Paige (Ch.) 207, 210; Spicer v. Spicer, 16 Abbott P. R. N. S. 112; Taylor v. Taylor, 63 App. Div. 231, 173 N. Y. 266; Tracy v. Frey, 95 App. Div. 579; Schouler on Domestic Relations, sec. 21; Bishop on Marriage and Divorce, sec. 970; Gall v. Gall, 114 N. Y. 110; Griffin v. Banks, 24 How. P. R. 213; Price v. Price, 124 N. Y. 589; Bailey v. Bailey, 45 Hun 278; Circus v. Independent Order of Ahawas, 55 App. Div. 534, 536; Oram v. Oram, 3 Redfield 300.]

I have no hesitation in concluding . . . that Mr. Orcutt's exposition of the effect of the statute of 1830 was sound when he stated that in a case to which it applies, it confers the right to remarry upon the party deserted; that it makes such person competent to marry; that it removes the disability resulting from the former marriage; and that a marriage within the purview of the statute is and remains absolutely valid, and the issue thereof legitimate, unless and until a decree has been pronounced by a competent court declaring it null. Any other conclusion, apart entirely from authority, appears to me to be based upon a fundamental misconception of voidability. But the authorities by which Mr. Orcutt supported his testimony render its acceptance imperative.

Deducing, therefore, from the continued cohabitation of Philinda Ellis and Parley Hunt the elder as man and wife, from 1830 to 1833, a presumption of their marriage by mutual consent upon the passing of the statute of 1830, and it being admitted that the marriage was never annulled, I find that it was and remained a valid marriage.

Though this does not render Parley Hunt the younger, born in November, 1829, legitimate, it paves the way for that result. Parley Hunt the younger . . . died in 1896. On 3rd May, 1895, the legislature of the State of New York passed the following statute, chaptered 531 of the laws of that year:—

"1. All illegitimate children, whose parents have heretofore intermarried, or shall hereafter intermarry, shall thereby become legitimatized and shall be considered legitimate for