

institutions." Lord Wensleydale, in giving judgment, said: "The statute law of this country, which is binding on all its subjects, must be considered as pronouncing that this marriage is a violation of the divine law, and therefore that it is void. . . . If our laws are binding, or oblige us, as I think they do, to treat this marriage as a violation of the commands of God in Holy Scripture, we must consider it in a court of justice as prejudicial to our social interest and of hateful example."

Various grounds were taken by the law lords who took part in this judgment, but on one, and only one, they all agreed, namely, that the statute of William IV. made all future marriages of this kind between English subjects, having their domicile in England, absolutely void, because declared by Act of Parliament to be contrary to the law of God, and must therefore be deemed to include such marriages, although solemnized out of the British dominions.

It is impossible not to sympathize somewhat with the caustic comments of Chief Justice Gray of the Supreme Court of Massachusetts upon the legislation in question. His view of the decision of the judges in *Brook v. Brook* is not, however, quite fair to them. They did but declare the law: *Boni judicis is jus dicere non jus dare*. The learned Chief Justice says: "The law of England, as thus declared by its highest legislative and judicial authorities, is certainly presented in a remarkable aspect. (1) Before the statute of William IV., marriages within the prohibited degrees of affinity, if not avoided by a direct suit for the purpose during the lifetime of both parties, had the same effect in England, in every respect, as if wholly valid. (2) This statute itself made such marriages, already solemnized in England, irrevocably valid there, if no suit to annul them was already pending. (3) It left such marriages in England, even before the statute, to be declared illegal in the Scotch courts, at least so far as rights in real estate in Scotland were concerned. (4) According to the opinion of the majority of the law lords, it did not invalidate marriages of English subjects in English colonies, in which a different law of marriage prevailed. (5) But it did make future marriages of this kind, contracted either in England or in a foreign country, by English subjects domiciled in England, abso-