

But the same objections which existed in 1835 to the then state of the law in England, exist in Canada to-day. For instance, if a man marries his brother's or his nephew's widow, the marriage is voidable, and in the Provinces where there are Courts having jurisdiction in matrimonial causes, such a marriage will be set aside, and the children of the union thereby made illegitimate. The same will be true of the marriage of a woman with her deceased husband's brother, or deceased husband's nephew. Furthermore, there appears to be nothing in the law of Canada to render void even a marriage within the prohibitive degrees of consanguinity, except that no Christian country would recognize an incestuous marriage, that is to say, a marriage in the direct line of descent, or a marriage between brother and sister. In other words, the marriage of a man with his aunt or his niece is, under the laws of Canada, not like a bigamous marriage, void, but only voidable, and the status of the children of such a union or of any other union forbidden by the rule with reference to prohibited degrees, will remain "unsettled" so long as both parents live or until the judgment of a competent legal tribunal.

One scarcely knows whether to approve less of Lord Lyndhurst's Act, which, with the late modification in favour of a deceased wife's sister, is still the law of England; or the statute of Henry, which, with the modifications imposed by the Parliament of Canada in favour of a deceased wife's sister and a deceased wife's niece, is still the law of Canada. Under the law as it is in England the marriage of a man with his brother's or his nephew's widow would be equally void with his marriage with his aunt or his niece, and in either case the children of the union would be illegitimate. Under the law as it is in Canada a man's marriage with his brother's or nephew's widow would also be on the same footing precisely as his marriage with his aunt or his niece, but here either would also be equally good or equally bad at the option of either party to the marriage contract during the life of both, and in either case the children of the union would be legitimate or illegitimate at the like option.

Regarded historically, it is not altogether easy to determine which statute has the more reputable parentage. Indeed, both