

statute 25 Hen. 8, c. 22, s. 3, was unquestionably voidable during the lifetime of both, and might have been annulled by criminal proceedings or civil suit." It will be seen that he refers to 25 Hen. 8, c. 22, s. 3, although 28 Hen. 8, c. 7, s. 7, which repealed that Act, is the one referred to in the revived statute of 28 Hen. 8, c. 16. He also refers to the canon law as assisting the interpretation. And as to that it may be well to say here that the table of prohibited degrees, which is usually included in the Book of Common Prayer, is no part of the Sealed Book, and therefore strictly no part of the Prayer Book. The table was drawn up by Archbishop Parker, by whose name it is known, and was published by the authority of Queen Elizabeth, it is entitled "A Table of Kindred and Affinity, wherein whosoever are related are forbidden in Scripture and our laws to marry together."

By the 99th canon of 1603 of the Church of England it is provided that "no persons shall marry within the degrees prohibited by the laws of God, and expressed in a table set forth by authority A.D. 1563; and all marriages so made and contracted shall be adjudged incestuous and unlawful and consequently shall be dissolved as void from the beginning; and the parties so married shall be by course of law separated; and the aforesaid table shall be in every church publicly set up and affixed at the charge of the parish." But in an elaborate judgment Lord Harwicke declared the opinion of the judges to be that this canon, not having been confirmed by Parliament did not proprio vigore bind the laity: *Middleton v. Crofts*, 2 Atk. 650; so that it would seem that no reliance can well be placed on that canon, or the table of prohibited degrees therein referred to, as being of any coercive force or operation in this province.

This, then, was the state of the statute law and authorities when the *Queen v. Chadwick*, 2 Cox Cr. Cases 381, was decided in 1847. In this case a man had gone through the form of marriage with a deceased wife's sister. He had subsequently left her and married another woman. He was indicted for bigamy, and the question therefore arose whether the marriage to the deceased wife's sister was or was not within "the prohibited degrees," referred to in 5 & 6 W. 4, c. 54, and 32 Hen. 8, c. 38. Sir Fitzroy Kelly, who argued the case for the Crown, contended that 28 Hen. 8, c. 7, s. 7, had been wholly repealed, and that under 32 Hen. 8, c. 38, resort must be had to the scriptures in order to determine what marriages are