

effect that it was repealed by 1 Mary St. 2, c. 1, which is clearly erroneous.

The result of the weight of the authorities which have been referred to would appear to lead irresistibly to the conclusion that by 32 Hen. 8, c. 38, marriages contrary to God's law are prohibited and 28 Hen. 8, c. 7, s. 7, contains a binding legislative declaration of what are the prohibited degrees according to "God's law." See, however, the English Enc. of Law under title "Nullity of Marriage," Vol. IX., p. 240, which apparently assumes that *Wing v. Taylor* is to be preferred to *Regina v. Chadwick*, and *Brook v. Brook*.

In Ontario very few cases are to be found. The principle one is *Hodgins v. McNeil*, 9 Gr. 305 already referred to, which was afterwards followed by *Boyd, C.*, in *Re Murray Canal*, 6 Ont. R. 685. In both of these cases a marriage with a deceased wife's sister was in question. In the first case Esten, V.-C., said: "No doubt the Act of the 32nd of the late King (i.e., 32 Geo. 3, c. 1) introduced all the law of marriage as it existed in England at that date except, perhaps, some clauses of the 26 Geo. 2, c. 33. It introduced the Acts 25 Hen. 8, c. 22; 28 Hen. 8, c. 7; 28 Hen. 8, c. 16, and 32 Hen. 8, c. 38, as far as they remained in force, and so much of the canon law as had been adopted by the law of England." At p. 310 he says: "It cannot be doubted that the marriage in this case was unlawful and void at the time of celebration, and could have been annulled by the sentence of the ecclesiastical court at any time during the lifetime of both parties." But one of the parties being dead he held the marriage no longer impeachable. Of course, if there were no prohibited degrees in Ontario the reasons given for the judgment are wholly wrong, and a needless slur was cast by the learned judge upon the marriage in question.

It may be therefore concluded that so far as we have any judicial authority to go by, the law of Ontario agrees to this extent with the law of England, viz.: that marriages within prohibited degrees are forbidden by 32 Hen. 8, c. 38, and that 28 Hen. 8, c. 7, s. 7, defines what the prohibited degrees are. But whereas in England marriages within those degrees are null and void under 5 & 6 W. 4, c. 54, in Ontario they are still only voidable in the lifetime of the parties.