

to have been lawfully married and rendering the issue of such marriages liable to be bastardized upon an objection which at the time of marriage might be wholly unknown to either of the parents."

This appears to afford the real key to the judgment. The policy of 28 Hen. 8, c. 7, in declaring illicit intercourse sufficient to create an affinity within the prohibited degrees was regarded as bad, and so the statute for that particular case was judicially repealed in spite of the decisions of the Queen's Bench and the House of Lords declaring it to be operative.

Notwithstanding this decision, however, must we not in Ontario be clearly bound by *Regina v. Chadwick*; *St. Giles v. St. Mary's*, and *Brook v. Brook*, as declaring the law of England, and therefore for us the law of Ontario?

It cannot be denied that both the cases and the statutes are indeed in a "confused state." Even the Imperial Statute Law Revision Committee seems unable to agree with itself on this point. In the Chronological Table and Index of the Statutes (1896), under 28 Hen. 8, c. 7, p. 49, they thus refer to s. 7. "S. 7 r., 1-2 P. & M. c. 8, s. 4 (ss. 17-20 Ruff.); r. conf., 1 Eliz., c. 1, s. 4 (s. 13 Ruff.)." From which it would appear that s. 7 was repealed and is not in force; but in the Index of the Statutes in force (1896), under the title "Marriage," p. 840, 28 Hen. 8, c. 7, s. 7, is referred to as being in force, and a note is appended referring to vol. 1, p. 37c, 2nd Revised Edition of the Statutes, and in that volume in a note to 32 Hen. 8, c. 38, there are these words: "The following sections (s. 7 of 28 Hen. 8, c. 7, and s. 2 of 28 Hen. 8, c. 16), so far as they declare what marriages are prohibited by God's law, affect the construction of this Act: see *Reg. v. Chadwick*, 11 Q.B., 173; *Brook v. Brook*, 9 H.L.C. 193; but contra *Wing v. Taylor*, 30 L.J. Matt. Cases 258." 28 Hen. 8, c. 7, s. 7, is then set out in the note as far as it relates to prohibited degrees, and forbids marriages within them. On the whole, the Imperial Statute Law Revision Committee may be said to be of the opinion that s. 7 is operative for the purpose they mention, viz., to govern the construction of 32 Hen. 8, c. 38, notwithstanding the statement in the chronological table that it is repealed. In Ruffhead's edition of the Imperial Statutes, 28 Hen. 8, c. 7, is not printed, but against the title of the Act is set out in the margin a note to the