

there is an incomprehensible note that a consultation was afterwards granted, but on what ground is not very clear.

In *Parson's Case* a similar conclusion was arrived at. It is thus referred to in Co. Litt. 235a: "And it is further to be understood that many divorces that were of force by the common law, when Littleton wrote, are not at this day in force; for by the statute, 32 Hen. 8, c. 38, it is declared that all persons be lawful (that is, may lawfully marry) that be not prohibited by God's law to marry (that is to say, that be not prohibited by the Levitical degrees). A man married the daughter of the sister of his first wife, and was drawn in question in the Ecclesiastical Court for his marriage, alleging the same to be against the canons, and it was resolved by the Court of Common Pleas, upon consideration had of the said statute, that the marriage could not be impeached for that the same was declared by the said Act of Parliament to be good, inasmuch as it was not prohibited by the Levitical degrees et sic de similibus;" but in this case it is said that a consultation was nevertheless awarded because of some defect in the pleadings (see *Harrison v. Burwell*, Vaugh. 248, 249). A consultation, as is well known, being in the nature of a *procedendo*. Coke, in his 2nd Institute, at p. 683, when discussing 32 Hen. 8, c. 38, refers in the margin both to 25 Hen. 8, c. 22, and 28 Hen. 8, c. 7, as being the statutory declaration of the prohibited degrees.

In *Hill v. Good* (1672) Vaugh. 302, an application was made to the Court of Common Pleas for a prohibition to the Ecclesiastical Court. The marriage called in question was one between a man and his deceased wife's sister. It was again argued that this was not a marriage within the Levitical degrees. Chief Justice Vaughan delivered the judgment of the Court, and entered into an elaborate inquiry, first, whether the judgment was prohibited by the Levitical degrees, and came to the conclusion that it was; but he also, and what is more to our present purpose, entered into an equally elaborate inquiry as to the effect of the statutes 28 Hen. 8, c. 7, s. 7, and 32 Hen. 8, c. 38, and came to the conclusion that the marriage was within the prohibition of those statutes.

As to 28 Hen. 8, c. 7, he says at p. 326, "In the statute of 28 Hen. 8, c. 7, there are two clauses concerning marriages—the first declaring certain marriages there recited to be within the degrees prohibited by God's law. . . . The second clause is in these words: 'Be it therefore enacted that no persons