

sexual intercourse without a marriage, and on this point 28 Hen. 8, c. 7, s. 7, seems to shew that it can be. After enumerating the degrees it goes on to say, "and further to dilate and deciare the meaning of the prohibitions. It is to be understande that if it chance any man to know carnally any woman that then all and singular persons being in any degree of consanguinity or affinity (as is above written) to any of the parties so carnally offending shall be deemed and adjudged to be within the cases and limits of the said prohibitions of marriage, all which marriages all be it they be plainly prohibit and detested by the laws of God, etc., etc." The case of the petitioner therefore seemed to be plainly within the prohibition of 28 Hen. 8, c. 7, s. 7, if in force. Cresswell, J., delivered the judgment of the Court, and the conclusion of the Court was that 28 Hen. 8, c. 7, s. 7, had been repealed by 1 & 2 P. & M., c. 8, the Court adopting the opinion in Gibson's Code, 496 in preference to the view of Vaughan, C.J., in *Hill v. Good*, supra. Moreover that it had never been revived, as held in *Regina v. Chadwick*, supra, nor was it in force as held by Creswell, J., himself and the House of Lords, in *Brook v. Brook*, supra. Wightman, J., who concurred in the judgment in *Regina v. Chadwick*, agreed also on the judgment in *Wing v. Taylor*. For this apparent judicial somersault on the part of Cresswell and Wightman, JJ., one would have thought some explanation might have been offered and some attempt made to explain why *Regina v. Chadwick* and *Brook v. Brook* were not followed, but the judgment makes no reference whatever to either of those cases and makes no attempt to distinguish them, and winds up with the following passage: "If the statute, 28 Hen. 8, c. 7, had been considered to be revived, or if the statute 32 Hen. 8, c. 38, had been capable of receiving the construction now contended for, it can hardly be doubted that some suits for nullity of marriage on such a ground would have been instituted long ago. The absence of any such case is in our judgment strong evidence of what has been the general opinion as to the state of the law on that subject, and we think the opinion sound. But even supposing the question to be doubtful, we should not think ourselves justified in putting for the first time upon a statute, passed about three centuries ago, such a construction as would expose marriage to the peril of impeachment upon allegations, the falsehood of which it would be difficult to prove, and so render uncertain the status of many persons supposing themselves