

found no difficulty in declaring that the marriage was null and void *ab initio*: whereupon an application appears to have been made to a civil tribunal and the Judge thereof appears to have considered that he was bound by the Judgment of the bishop as to the invalidity of the marriage, and thereupon gave judgment annulling the marriage civilly, and his judgment was affirmed by the Quebec Court of Review; and it was from this latter decision that resort was had to the Judicial Committee of the Privy Council who have allowed the appeal and set aside the judgment appealed from.

We have not at present before us the judgment of their Lordships and are therefore unable to state the precise reasons on which their Lordships have based their decisions. But whether their Lordships have proceeded on the ground that Art. 127, of the Code above referred to, does not in fact give legal sanction to the various kinds of prohibitions to which it refers, we venture to think it is fairly open to that objection, and if it does, then that it is *ultra vires* as being an attempt on the part of a Provincial Legislature to override the express provisions of a statute of the Imperial Parliament, whereby the question of prohibited degrees within the British Dominions is regulated. The statute we refer to is 32 Hen. 8, c. 38, which virtually repealed all prohibitions except those within the Levitical degrees, and declared that those only were to be recognized in all Courts not only in England but in all other lands and dominions of the Crown.

In this connection it may be mentioned that when in 1901 a Committee of Judges was appointed to revise and consolidate the Imperial statutes which by Provincial legislation had been made part of the law of the Province of Ontario, this Act of Henry 8th came necessarily under the consideration of the Committee, and it had to consider whether or not it was a part of the law of the Province, and the Committee evidently came to the conclusion that it was, for they recommended the prohibitions referred to in that Act to be indorsed thereafter on the printed forms of affidavit required to be made by an applicant for a marriage licence in Ontario, and that recommendation was adopted by the Legislature: see now R.S.O. ch. 148, sec. 24, Form 5. Their