

be not prohibited by God's law, *limited and declared in the Act made in this present Parliament.*" In order to construe this revived Act, therefore, it is absolutely necessary to refer to "the Act made in this present Parliament," and that Act was 28 Hen. 8, c. 7, s. 7. It is proper here to say that 1 Eliz., c. 1, s. 4, expressly declares that "all other laws and statutes, and the branches and clauses of any Act or statute, etc., repealed and made void by the said Act, etc. (1 & 2 P. & M. c. 8), and not in this present Act specially mentioned and revived, shall stand, remain, and be repealed and void, etc.," and 28 Hen. 8, c. 7, s. 7, was not specially mentioned therein.

In 1792, therefore, the statute law of England stood thus. 28 Hen. 8, c. 7, s. 7. was repealed by 1 & 2 P. & M. c. 28, so far as it "concerneth a prohibition to marry within the degrees expressed in the said Act," and except so far as thus repealed it remained in force; whether any part of it remained unrepealed being a matter of controversy. 28 Hen. 8, c. 16, which expressly referred to 28 Hen. 8, c. 7, s. 7, and could only be construed by reference thereto, was revived by 1 Eliz., c. 1, s. 2, and was in force in 1792, and still is in force. 32 Hen. 8, c. 38 (as amended by 2 & 3 Ed. 6, c. 23), which prohibits marriages contrary "to God's law," for the words "God's law except," is held to constitute a legislative prohibition of marriages prohibited by "God's law," was also in force in 1792, and still is in force.

This being the state of the statute law, let us now glance at some of the leading cases on the subject, and before doing so it may be remarked that most of them are cases in which the marriage was called in question on the ground that the man had married his deceased wife's sister. This is one of the degrees which was expressly declared to be within the prohibition of "God's law" by 28 Hen. 8, c. 7, s. 7; but it has always been a controverted question whether it is within the degrees prohibited by the 18th chapter of Leviticus.

It was at first apparently considered that the prohibition contained in 32 Hen. 8, c. 38, must be construed by reference to the book of Leviticus and any other passage in the Scriptures bearing on the question. Hence in *Mann's Case*, Moore 907, it was held that marriage with a deceased wife's niece was not prohibited by the Levitical law, and a prohibition to the Ecclesiastical Court was awarded. But in the report of the same case, Cro. Eliz. 228