

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Child Protection (Alderney) Law, 1953.

(Registered on the Records of the Island of Guernsey
on the 25th day of April, 1953.)



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ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 25th day of April, 1953, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present:—Ernest de Garis, Esquire, O.B.E., Sir John Leale, Walter John Sarre, Esquire, Richard Henry Johns, Esquire, O.B.E., William Robert Freake Clark, Walter John Gavey, Ernest Francis Lainé, Bertram Bartlett, Esquires, Donald Carey Brock, Esquire, C.B.E., Osmond Priaulx and Stephen James Falla, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 1st day of April, 1953, ratifying a *Projet de Loi* of the States of Alderney entitled "The Child Protection (Alderney) Law, 1953",—the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island.

At the Court at Windsor Castle,

The 1st day of April, 1953.

PRESENT,

The Queen's Most Excellent Majesty

LORD PRESIDENT

CAPTAIN THORNEYCROFT

MR. LENNOX-BOYD.

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 12th day of March, 1953, in the words following viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February, 1952, to refer unto this Committee a humble Petition of Sidney Peck Herivel, Esquire, President of the States of the Island of Alderney, setting forth:

‘That at a meeting of the States of Alderney held on the nineteenth day of November, 1952, the States adopted a Resolution that a Projet de Loi entitled “The Child Protection (Alderney) Law, 1953” be approved: That at the meeting of the States aforesaid, Your Humble Petitioner was authorised to present to Your Majesty in Council a Petition that the said Projet de Loi be sanctioned: And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Projet de Loi entitled “The Child Protection (Alderney) Law, 1953,” (a

copy whereof is hereunto annexed,) and to order the same to have the force of law within Your Majesty's Island of Alderney.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition, and the Projet de Loi annexed thereto, into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Alderney.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers, for the time being, of the said Island of Guernsey, and also the Jurats of the said Island of Alderney, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. ACNEW.

**Projet de Loi referred to in the foregoing
Order in Council.**

PROJET DE LOI

ENTITLED

The Child Protection (Alderney) Law, 1953.

THE STATES in pursuance of their Resolution of the nineteenth day of November, 1952, have approved the following provisions which, subject to the Sanction of Her Majesty in Council, shall have force of law in the Island of Alderney.

1. For the purposes of this Law the following expressions shall, unless the context otherwise requires, have the meanings hereby respectively assigned to them:—

“child” means a person under the age of sixteen years;

“Court” means the Court of Alderney, or the Royal Court of Guernsey, as the case may require;

“Committee” means the Committee of the States appointed to administer Public Assistance.

2. (1) If any person, who has attained the age of sixteen years and has the custody, charge or care of any child, wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, hearing, limb, or organ of the body or any mental derangement) that person shall be guilty of an offence

and liable, on conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

(2) For the purposes of this section, a parent or other person legally liable to maintain a child shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him, or if, having been unable otherwise to provide such food, clothing, medical aid or lodging, he has failed to take steps to procure it to be provided by the Committee.

(3) A person may be convicted of an offence under this section—

(a) notwithstanding the actual suffering or injury to health or the likelihood of actual suffering or injury to health, was obviated by the action of another person;

(b) notwithstanding the death of the child in question.

(4) Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to him.

3. For the purpose of this Law—

(a) any person who is the parent or guardian of a child or is legally liable to maintain him shall be presumed to have the custody of him, and as between father and mother the father shall not be deemed to have ceased to have the custody of him by reason only that he has deserted, or otherwise does not reside with, the mother of the child;

(b) any person to whose charge a child is committed by any person who has the custody of

him shall be presumed to have charge of the child;

- (c) any other person having actual possession or control of a child shall be presumed to have the care of him.

4. Where in any proceedings under this Law the Court is satisfied that the attendance before the Court of any child in respect of whom an offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child.

5. Upon the trial of any person over the age of sixteen years for the manslaughter of a child of whom he had custody, charge or control, the Court may, if it is satisfied that the accused is guilty of an offence under this Law in respect of such child, find him guilty of such offence.

6. Where a person having the custody, charge or care of a child has been—

- (a) convicted of an offence under this Law in respect of such child; or
- (b) committed for trial for any such offence; or
- (c) bound over to keep the peace towards such child;

the Court, either at the time of such conviction, committal or binding over, and without requiring new proceedings to be instituted for the purpose, or at any other time, may, if satisfied that it is in the interest of the child, order that the child be taken out of the custody, charge or care of that person and be committed to the care of a relative of the child or some other fit person or institution, named by the Court (such relative, person or institution being willing to undertake the care) until the child attains the age of sixteen years, or for any shorter period, and the Court

may of its own motion or on the application of any person, from time to time renew, vary or revoke any such order.

7. (1) A person or institution to whose care a child has been committed by an order made under section six of this Law shall, whilst that order is in force, have the like control over the child as if that person or institution were his father or his mother and shall be responsible for his maintenance and the child shall continue in the care of such a person or institution whilst that order is in force notwithstanding that control over the child is claimed by his father, his mother or any other person.

(2) A person who—

- (a) knowingly assists or induces, directly or indirectly, a child to escape from the person or institution to whose care he has been committed under the provisions of the said section six;
- (b) knowingly harbours or conceals or prevents from returning to the person or institution to whose care he has been committed under the provisions of the said section six, a child who has escaped, or knowingly assists in so doing,

shall be liable to a fine not exceeding twenty pounds or to imprisonment with or without hard labour for a term not exceeding two months.

(3) The Court shall have power to make an order requiring the father, the mother, or any other person liable to maintain the child to contribute to his maintenance, whilst any order made under the said section six is in force, such weekly sum as the Court may deem proper.

(4) An order may be made under the provisions of the last preceding subsection on the application

of the person or of the committee in control of the institution to whose care the child has for the time being been committed and any such order may be made when an order under the said section six is made, or subsequently.

(5) The father, the mother, or any other person responsible for the maintenance and care of a child, who fails or neglects to make the payments specified in an order under subsection (3) of this section shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding eight days, with or without hard labour, for each weekly sum which he shall have failed to pay.

(6) Where an order under the said section six to commit a child to the care of some person is made in respect of a person who has been committed for trial for an offence, the Court shall not have power to make an order on the father, the mother or any other person liable to maintain the child prior to the trial of the person so committed.

(7) The Court making an order under subsection (3) of this section may, in any case where the father, the mother or other person receives a pension or income capable of being attached, or any insurance benefit in respect of such child, after giving the person by whom the pension or income or insurance benefit is payable an opportunity of being heard, further order that such part as the Court may see fit of the pension, income or insurance benefit be paid to the person named by the Court. Such order shall be an authority to the person by whom such pension, income or insurance benefit is payable to make the payment so ordered, and the receipt of the person to whom the payment is ordered to be made shall be a good and valid discharge.

(8) An order under subsection (3) of this section may be made by the Court at a trial of a person for an offence under this Law.

8. The Royal Court may, in lieu of making an order under section six or under subsection (3) of section seven of this Law, remit the matter to the Court of Alderney, who may then make such an order under the said section six or subsection (3) as might have been made by the Royal Court.

JAMES E. LE PAGE,

Her Majesty's Greffier.