

ORDER IN COUNCIL

ratifying a *Projet de Loi*

ENTITLED

Consular Conventions (Bailiwick of Guernsey) Law, 1951.

(Registered on the Records of the Island of Guernsey
on the 1st day of September, 1951.)



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XV
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ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 1st day of September, 1951, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present :— Ernest de Garis, Esquire, O.B.E., Sir John Leale, Arthur Falla, Walter John Sarre, Esquires, 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., and Osmond Priaulx, Esquire, Jurats.

The Bailiff having this day placed before the Court an Order of His Majesty in Council dated the 1st day of August, 1951, ratifying a *Projet de Loi* entitled "Consular Conventions (Bailiwick of Guernsey) Law, 1951",—the Court, after the reading of the said Order in Council and after having heard His Majesty's Comptroller 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 His Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace.

The 1st day of August, 1951.

Present,

The King's Most Excellent Majesty

LORD PRESIDENT.

LORD OGMORE.

MR. SECRETARY GRIFFITHS.

MR. MARQUAND.

DR. EDITH SUMMERSKILL.

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 19th day of July, 1951, in the words following, viz. :—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 18th day of December, 1936, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth :—

‘ 1. That, in pursuance of their Resolution of the 17th day of May, 1950, the States of Deliberation at a meeting held on the 23rd day of May, 1951, approved a Bill or “Projet de Loi” entitled “Consular Conventions (Bailiwick of Guernsey) Law, 1951” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto : 2. That the States of Alderney at a meeting held on the 21st day of June, 1951, approved the said Bill or “Projet de Loi” : 3. That the Chief Pleas of Sark at a meeting held on the 29th day of June, 1951, approved the said Bill or “Projet de Loi” : 4. That the said Bill or “Projet de Loi” is in the words

and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "Consular Conventions (Bailiwick of Guernsey) Law, 1951," and to order that the same shall have the force of Law in the Bailiwick of Guernsey.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi 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."

HIS MAJESTY having taken the said Report into consideration is pleased, by and with the advice of His 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 Bailiwick of Guernsey.

AND HIS 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 His Majesty's Officers, for the time being, in the said Island and all other persons whom it may concern, are to take notice and govern themselves accordingly,

F. J. FERNAU.

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

PROJET DE LOI

ENTITLED

Consular Conventions (Bailiwick of Guernsey) Law, 1951.

THE STATES, in pursuance of their Resolution of the 17th day of May, 1950, have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of Law in the Bailiwick of Guernsey.

Powers of
consular
officers in
relation to
property in
the Bailiwick
of deceased
persons.

1.—(1) Where any person who is a national of a State to which this section applies is named as executor in the Will of a deceased person disposing of property in the Bailiwick, or is otherwise a person to whom a grant of representation to the estate in the Bailiwick of a deceased person may be made, then if the Ecclesiastical Court of the Bailiwick (hereinafter referred to as "the court") is satisfied, on the application of a consular officer of the said State, that the said national is not resident in the Bailiwick, and if no application for a grant of such representation is made by a person duly authorised by power of attorney to act for him in that behalf, the court shall make to that officer any such grant of representation to the estate of the deceased as would be made to him if he were so authorised as aforesaid :

PROVIDED that the court may, if it thinks fit, postpone the making of a grant by virtue of this section during such period as the court considers appropriate having regard to the circumstances of the case.

(2) Where any person who is a national of a State to which this section applies—

- (a) is entitled to payment or delivery of any money or property in respect of any interest in the estate of a deceased person, or vesting in possession on the death of any person, or is entitled to payment of any money becoming due on the death of any person; or
- (b) is a person to whom any money or property comprised in the estate of a deceased person may be paid or delivered in pursuance of any enactment, whether passed before or after the commencement of this Law, authorising the payment or delivery of such money or property without representation to the estate of the deceased being granted,

then if the said national is not resident in the Bailiwick, a consular officer of that State shall have the like right and power to receive and give a valid discharge for any such money or property in the Bailiwick as if he were duly authorised by power of attorney to act for him in that behalf :

PROVIDED that no person shall be authorised or required by this subsection to pay or deliver any money or property to a consular officer if it is within his knowledge that any other person in the Bailiwick has been expressly authorised to receive that money or property on behalf of the said national.

(3) A Grant of Administration made by virtue of this section may be made to the consular officer by his official title, and to his successors in office; and where a grant is so made, the office of

administrator, and all the estate, rights, duties and liabilities of the administrator (including liabilities under the administration bond) shall be vested in and imposed on the person for the time being holding the office, and no fresh grant shall be required by reason only of the death or vacation of office of the person to whom the grant was made or in whom it is vested as aforesaid:

PROVIDED that nothing in this subsection shall affect any limitation contained in the grant, or any power of the court to revoke the grant.

(4) Sureties shall not be required to an administration bond given by a consular officer upon the grant of an administration by virtue of this section.

Supplemen-
tary pro-
vision to
section 1.

2. Notwithstanding any rule of law conferring immunity or privilege in respect of the official acts and documents of consular officers, a consular officer shall not be entitled to any immunity or privilege in respect of any act done by virtue of powers conferred on him by or under the last foregoing section or in respect of any document for the time being in his possession relating thereto.

Restriction
of powers of
entry in
relation to
consular
offices.

3.—(1) Subject to the provisions of this section, a consular office of a State to which this section applies shall not be entered by an officer of police or other person acting in the execution of any warrant or other legal process or in the exercise of powers conferred by or under any enactment (whether passed before or after the commencement of this Law), or otherwise, except with the consent of the consular officer in charge of that office or, if that consent is withheld or cannot be obtained, with the consent of a Secretary of State :

PROVIDED that the foregoing provisions of this subsection shall not apply to any entry effected or act thereafter done :—

- (a) for the purpose of extinguishing or of preventing the spread of a fire, either on consular premises or on premises adjacent thereto, whether a fire has actually broken out or whether there is reasonable ground to apprehend that it has broken out or may break out, or for the purpose of rescuing persons or property from such a fire or apprehended fire, by a member of a fire brigade on duty or an officer of police or a member of the special constabulary, and for any of such purposes aforesaid such member or officer may break into any premises to which this section applies;
- (b) by an officer of police having reasonable cause to believe that a crime involving violence has been or is being or is about to be committed in a consular office;
- (c) by any person entitled to enter by virtue of any easement, contract or other private right.

(2) This section shall not apply to any consular office which for the time being is in charge of a consular officer who is a citizen of the United Kingdom and Colonies or is not a national of the State by which that office is maintained.

(3) For the purposes of this section, the expression "consular office" means any building or part of a building which is exclusively occupied for the purposes of the official business of a consular officer.

Powers of
Consular
Officers in
relation to
wrecks.

4.—(1) Where any foreign ship which has been wrecked on or near the coasts of the Bailiwick or any articles belonging to or forming part thereof, or belonging to or forming part of the cargo thereof, is or are found on or near those coasts or is or are brought into any port in the Bailiwick, any consular officer of the country to which the ship or in the case of cargo to which the owners of the cargo may have belonged authorised in that behalf by any treaty or arrangement with that country, shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the ship and of the articles.

(2) A consular officer of the State in question may, in respect of any property not exceeding in value one hundred pounds of a deceased seaman resident in a foreign State, give to any person a valid receipt for such property, and the person to whom such receipt is given shall thereby be discharged from all further liability in respect of that property.

Application
of sections
1 and 3.

5. Section 1 of this Law shall apply to a foreign state during the period in which by virtue of an Order of His Majesty in Council made under section 6 of the Consular Conventions Act, 1949, of the United Kingdom, section 1 of that Act applies to that foreign state, and section 3 of this Law shall apply as aforesaid during the period in which section 4 of that Act applies as aforesaid.

JAMES E. LE PAGE,

H.M. Greffier.