

VI.
1936

ORDRE EN CONSEIL

Ratifiant un Projet de Loi intitulé

**Loi sur les Empêchements au Mariage à
cause de Parenté et sur l'Etablissement
de la Juridiction Civile dans les Causes
Matrimoniales, 1936.**

(Enregistré sur les Records de l'Ile de Guernesey le
21 mars 1936.)



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1936.

ORDRE EN CONSEIL.

A LA COUR ROYALE DE L'ILE DE GUERNESSEY

Le vingt et un mars mil neuf cent trente six, par-devant Victor Gosselin Carey, écuyer, Baillif; présents: William de Prélaz Crousaz, Jean Allés Simon, John Roussel, Osmond Priaulx Gallienne, Arthur Dorey, Geoffrey Alfred Carey, Ernest de Garis, Jean Nicolas Robin, Cyril de Putron, Aylmer Mackworth Drake, John Leale et James Frederick Carey, écuyers, Jurés.

Monsieur le Baillif ayant ce jour communiqué à la Cour un Ordre de Sa Majesté en Conseil en date du trois mars mil neuf cent trente six ratifiant un Projet de Loi intitulé " Loi sur les Empêchements au Mariage à cause de Parenté et sur l'Etablissement de la Juridiction Civile dans les Causes Matrimoniales, 1936." La Cour, après avoir eu lecture du dit Ordre, ouïes les conclusions des Officiers du Roi, a ordonné: —

1. Que le dit Ordre sera enregistré sur les Records de cette Ile.
2. Qu'un extrait des Registres de ce présent Acte avec un exemplaire du dit Ordre en Conseil sera expédié par le Greffier du Roi à Monsieur le Juge d'Auregny et à Monsieur le Sénéchal de Sercq, afin d'être enregistrés sur les Records des dites Iles, duquel Ordre la teneur suit: —

LE 21 MARS 1936.

At the Court at Buckingham Palace

The 3rd day of March 1936.

Present,

The King's Most Excellent Majesty

LORD PRESIDENT,

MARQUESS OF ZETLAND.

MASTER OF THE HORSE.

MR. CHANCELLOR OF THE DUCHY OF LANCASTER.

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 27th day of February, 1936, in the words following, viz.:—

“**Your Majesty** having been pleased by Your General Order of Reference of the 31st day of January, 1936, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘1. That for the reasons set forth in the preamble thereof, the Royal Court on the 12th day of October, 1935, adopted a Bill or *Projet de Loi*, prepared by the Law Officers of the Crown, intituled, “*Loi sur les Empêchements au Mariage à cause de Parenté, et sur l’Etablissement de la Jurisdiction Civile dans les Causes Matrimoniales, 1936*,” and requested the Bailiff to submit the same to the States of Deliberation for approval. 2. That on the 29th day of November, 1935, the said Bill or *Projet de Loi* was duly considered by the States, when a resolution was passed approving the same and authorizing the President to present a most humble Petition to His late Majesty King George the Fifth in Council praying for His Royal Sanction thereto. 3. That at an adjourned sitting of the States of Deliberation held on the 5th day of February, 1936, an

amendment to Article 11 of the said Bill or Projet de Loi was duly considered and approved. 4. That the States of the Island of Alderney have duly approved of the terms of the aforesaid Projet de Loi being made applicable to that Island. 5. 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 would be graciously pleased to grant Your Royal Sanction to the Bill or Projet de Loi of the States of Guernsey intituled "Loi sur les Empêchements au Mariage à cause de Parenté, et sur l'Etablissement de la Jurisdiction Civile dans les Causes Matrimoniales, 1936," and to order and direct that the same shall have the force of Law within the Bailiwick of the Island 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 or 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.

M. P. A. Hankey.

LOI referred to in the foregoing Order.

PROJET DE LOI

INTITULÉ

LOI SUR LES EMPÊCHEMENTS AU MARIAGE À CAUSE DE PARENTÉ, ET SUR L'ÉTABLISSEMENT DE LA JURIDICTION CIVILE DANS LES CAUSES MATRIMONIALES, 1936.

ATTENDU qu'il est expédient de statuer par législation civile (1) sur les cas où la parenté par sang ou par affinité entre des personnes constitue empêchement à leur mariage, et (2) sur la validité sous le droit civil de certains mariages ci-devant empêchés sous le droit canon à cause d'affinité, et (3) sur le transfert de la Cour Ecclésiastique à la Cour Royale de la juridiction dans les causes matrimoniales.

ATTENDU que les dispositions de la Loi relative au Mariage avec la Soeur d'une femme décédée sanctionnée par l'Ordre de Sa Majesté en Conseil enregistré le 3 août 1909 sont en effet comprises dans cette présente Loi.

LES ETATS ont approuvé les dispositions suivantes rédigées en anglais lesquelles, moyennant la Sanction de Sa Très Excellente Majesté en Conseil, auront force de Loi dans le Bailliage de l'Île de Guernesey.

1.—The law relating to marriage with a deceased wife's sister ratified by an Order of His Majesty in Council registered on the 3rd day of August, 1909, is by this present Law repealed, provided that, in so far as this present law relates to marriage between a man and his deceased wife's sister, it shall be deemed to have commenced at the date of the commencement of the said Law hereby repealed.

2.—Every marriage is forbidden and shall be void and of none effect between a man and any one of the following persons, that is to say :—

His mother or his ancestress,
 The widow or divorced wife of his father or of
 his ancestor,
 The sister of his father, of his mother, or of
 his ancestor or ancestress,
 His sister,
 His daughter or other descendant,
 The daughter or other descendant of his brother
 or of his sister,
 The mother or ancestress of his deceased or
 divorced wife,
 The daughter or other descendant of his de-
 ceased or divorced wife, or
 The widow or divorced wife of his son or of any
 other of his descendants.

3.—Subject to the provisions of Section 4 of this Law, every marriage is forbidden and shall be void and of none effect between a man and any one of the following persons, that is to say :—

His divorced wife's sister,
 His brother's divorced wife,
 His divorced wife's brother's daughter,
 His divorced wife's sister's daughter,
 His father's brother's divorced wife,
 His mother's brother's divorced wife,
 His divorced wife's father's sister,
 His divorced wife's mother's sister,
 His brother's son's divorced wife,
 His sister's son's divorced wife.

4.—No marriage already contracted or hereafter contracted between a man and any one of the following persons, that is to say :—

- (1) His deceased wife's or deceased former wife's sister,
- (2) His deceased brother's widow or former wife,
- (3) His deceased wife's or deceased former wife's brother's daughter,
- (4) His deceased wife's or deceased former wife's sister's daughter,

- (5) His father's deceased brother's widow or former wife,
- (6) His mother's deceased brother's widow or former wife,
- (7) His deceased wife's or deceased former wife's father's sister,
- (8) His deceased wife's or deceased former wife's mother's sister,
- (9) His brother's deceased son's widow or former wife,
- (10) His sister's deceased son's widow or former wife,

whether in the Bailiwick of this Island of Guernsey or elsewhere, shall be deemed to have been or to be void or voidable as a civil contract by reason only of such affinity ;

Provided that in respect of any marriage referred to in this Section or of a marriage for which provision is made in Section 5 of this Law—

- (a) no priest of the Church of England shall be subject to any proceedings, penalty or censure whether civil or ecclesiastical by reason of anything done or omitted to be done by him in the functions and duties of his office to which proceedings, penalty or censure he would not have been subject if this present law had not been enacted ;
- (b) where, before the commencement of this present law, any of such marriages shall have been annulled, or one of the parties to such marriage (after the marriage and during the lifetime of the other party), shall have legally married another person, such marriage shall be deemed to have become void on the day of its annulment, or on the day on which one of the parties legally married another person as aforesaid.

5.—Where a final decree of divorce has been granted by a competent court in the jurisdiction of the domicile of the divorced parties, the pre-existent

marriage between the divorced parties shall henceforth be deemed in the Bailiwick of the Island of Guernsey to have been dissolved upon the grant of such final decree and a marriage contracted by either of such parties after the divorce so decreed, whether before or after the commencement of this law, shall not be deemed to have been or to be void or voidable as a civil contract by reason of the pre-existent marriage so dissolved by such divorce.

6.—This Law shall not have effect to exempt a priest of the Church of England from any ecclesiastical censure to which he may become subject by contracting a marriage which is authorised by this Law.

7.—(1) No right, title, estate or interest, whether in possession or expectancy, and whether vested or contingent at the time of the commencement of this Law, existing in, to, or in respect of, any dignity, title of honour, or property, and no act or thing lawfully done or omitted before the commencement of this Law shall be prejudicially affected nor shall any will be deemed to have been revoked by reason of any marriage heretofore contracted as aforesaid being made valid by this Law.

(2) No claim by the Crown for duties leviable on or with reference to death, and before the commencement of this Law due and payable, and no payment, commutation, composition, discharge or settlement of account in respect of any duties leviable on or with reference to death before the commencement of this Law duly made or given shall be prejudicially affected by anything herein contained.

(3) Nothing in this Law shall affect the devolution or distribution of the real or personal estate of any intestate, not being a party to the marriage, who at the time of the commencement of this Law shall be, and shall until his death continue to be, a lunatic, so found by declaration of the Royal Court.

8.—In this Law the expression “brother” and

“sister” include respectively half-brother and half-sister by the same father or by the same mother.

9.—Upon this Law coming into force by the registration of the Order of His Majesty in Council ratifying the same, all jurisdiction then exercisable by the Ecclesiastical Court in respect of suits for annulment of marriages and other matrimonial causes shall cease excepting only the rights and powers of granting Marriage Licenses which rights and powers shall continue as if this Law had not been enacted, and the said jurisdiction in respect of suits for annulment of marriages and other matrimonial causes excepting the granting of Marriage Licenses, shall be transferred to and thenceforth exercised by the Royal Court sitting as the Full Court and the said Court shall have jurisdiction in respect of such suits and causes and the same shall be deemed to be civil cases and from a judgment rendered therein an appeal shall lie to His Majesty and the Right Honourable the Lords of His Privy Council.

10.—Every matrimonial cause which may be pending before the Ecclesiastical Court at the time of this Law coming into force shall be transferred to the Royal Court and shall be judged by the Royal Court in the same manner as if it had originally been brought before the Royal Court.

11.—The jurisdiction of the Royal Court of first instance, of the Court of Alderney and of the Guernsey Police Court in matters of separation of married persons is not affected by this Law.

QUERTIER LE PELLEY,
Greffier du Roi.