

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Law of Inheritance, 1954

(Registered on the Records of the Island of Guernsey
on the 8th day of May, 1954.)



1954

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ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY.

The 8th day of May, 1954, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present :—Sir John Leale, Arthur Falla, Walter John Sarre, William Robert Freake Clark, Ernest Francis Lainé, Bertram Bartlett, Esquires, Donald Carey Brock, Esquire, C.B.E., Osmond Priaulx, Stephen James Falla, Wilfred John Corbet, Théophile Le Messurier Allez and Bertram Guy Blampied, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 13th day of April, 1954, ratifying a *Projet de Loi* entitled “The Law of Inheritance, 1954”,—the Court, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth :—

At the Court of Saint James

The 13th day of April, 1954.

PRESENT,

Her Majesty Queen Elizabeth the Queen Mother

Her Royal Highness the Princess Margaret

LORD PRESIDENT

MARQUESS OF READING

EARL DE LA WARR

MR. SECRETARY LYTTELTON

MAJOR LLOYD-GEORGE

MR. PEAKE

WHEREAS Her Majesty, in pursuance of the Regency Acts, 1937 to 1953, was pleased, by Letters Patent dated the twentieth day of November, 1953, to delegate to Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, His Royal Highness The Duke of Gloucester, Her Royal Highness The Princess Royal and the Earl of Harewood, or any two or more of them, as Counsellors of State, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval of anything for which Her Majesty's approval in Council is required:

AND 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 31st day of March, 1954, 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 the humble Petition of the States of the Island of Guernsey, setting forth:—

'1. That, in pursuance of their Resolutions of the 10th day of January, 1940, the 22nd day of February, 1949, the 14th day of February, 1951, and the 6th day of November, 1953, the States of Deliberation at a meeting held on the 20th day of January, 1954, approved a Bill or "Projet de Loi" entitled "The Law of Inheritance, 1954" and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. 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 "The Law of Inheritance, 1954" and to order that the same shall have the force of Law in the Islands of Guernsey, Herm and Jethou.'

"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."

NOW, THEREFORE, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, being authorized thereto by the said Letters Patent, have taken the said Report

into consideration, and do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf approve of and ratify the said Projet de Loi, and order, as it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey, Herm and Jethou.

AND do 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, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. AGNEW.

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

PROJET DE LOI

ENTITLED

The Law of Inheritance, 1954.

THE STATES, in pursuance of their Resolutions of the 10th day of January, 1940, the 22nd day of February, 1949, the 14th day of February, 1951, and the 6th day of November, 1953, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

1. There are hereby abolished—

- (a) the right known as “droit de préciput”;
- (b) the right known as “droit de douaire”;
- (c) the right known as “droit de franc veuvage”; and
- (d) the right known as “droit d’aînesse”.

2. In Article II of the Law known as “Loi sur les Successions” registered on the third day of August, 1840 (hereafter in this Law referred to as “the principal Law”) the words from and including the words “après le préciput” to and including the words “les filles partageront” are hereby repealed.

3. (1) A surviving spouse shall be entitled to the enjoyment until re-marriage of one half of the real estate of his deceased spouse which remains after payment of the debts and funeral and testamentary expenses which have not been satisfied out of the personal estate of such deceased spouse:

PROVIDED that if the annual value of that real estate after payment as aforesaid is less than two hundred pounds the surviving spouse shall be entitled to the enjoyment as aforesaid of so much thereof as does not exceed an annual value of one hundred pounds.

(2) The right conferred by this section on a surviving spouse shall be exercisable on such part or parts of that real estate as the surviving spouse may reasonably select.

4. (1) Subject to the provisions of the last preceding section of this Law, it shall be lawful for every person to dispose testamentarily of any interest in real estate to which he shall be entitled at the time of his death:

PROVIDED that a person leaving descendants shall be able to exercise such right only in favour of any one or more or all of the following, that is to say:—

- (a) his surviving spouse;
- (b) his descendants;
- (c) his illegitimate children and their descendants;
- (d) his step-children and their descendants.

(2) Where any person, being a descendant, an illegitimate child or a descendant of an illegitimate child of the testator, to whom any real estate shall be devised for any estate or interest not determinable at or before the death of such person shall die in the lifetime of the testator leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

5. Where real or personal estate devolves in direct succession, lots shall be chosen according to seniority first by sons and then by daughters and the lots shall be made by the heir last entitled to take.

6. Where any real estate devolves in direct or collateral succession, any adjustment between heirs arising out of the value of the lots selected shall be payable in money.

7. Articles one, three to nine inclusive, twenty-eight and thirty of the principal Law and the Law known as "Testaments d'Immeubles" registered on the thirty-first day of July, 1847, are hereby repealed.

8. The provisions of this Law shall not apply in the case of the real and personal estate of any person dying before the commencement of this Law.

R. A. MALLETT,

Her Majesty's Deputy Greffier.