

ORDER IN COUNCIL

XV
1950

ratifying a Projet de Loi

ENTITLED

The Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950

**(Registered on the Records of the Island of Guernsey
on the 12th day of August, 1950.)**



ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 12th day of August, 1950, before Quartier Le Pelley, Esquire, Lieutenant-Bailiff; present :—Osmond Priaulx Gallienne, Esquire, Ernest de Garis, Esquire, O.B.E., Sir John Leale, James Frederick Carey, Arthur Falla, Walter John Sarre, Esquires, Richard Henry Johns, Esquire, O.B.E., William Robert Freaake Clark, Walter John Gavey and Ernest Francis Lainé, Esquires, Jurats.

The Lieutenant-Bailiff having this day placed before the Court an Order of His Majesty in Council dated the 21st day of July, 1950, ratifying a *Projet de Loi* entitled "The Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950",—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, of which Order in Council the tenor followeth :—

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At the Court at Buckingham Palace,

The 21st day of July, 1950.

**Present,
The King's Most Excellent Majesty.**

LORD PRESIDENT
LORD HENDERSON
LORD MORRISON
MAJOR MILNER
MR. WILSON.

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 18th day of July, 1950, 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 by an Order of Your Majesty in Council dated the 4th day of June, 1946, Your Majesty appointed a Committee of Your Majesty's Privy Council to inquire (*inter alia*) into the proposals in relation to Judicial Reform which had been under review by the Royal Court of the Island of Guernsey : 2. That the States of Deliberation, by Resolution dated the 26th day of June, 1946, approved, subject to certain modifications, the suggestions and recommendations contained in the Report of the Royal Court dated the 29th day of May, 1946 : 3. That the above mentioned Committee of Your Majesty's Privy Council visited Guernsey

from the 21st day of September, 1946, to the 29th day of September, 1946, and reported to Your Majesty in March, 1947: 4. That the States of Deliberation, at meetings held on the 30th day of November, 1949, and the 2nd day of December, 1949, respectively, adopted certain resolutions regarding the qualifications of Jurats and procedure before the Royal Court: 5. That, in pursuance of the above Resolutions, the States of Deliberation, at a meeting held on the 28th day of June, 1950, adopted a Bill or "Projet de Loi" entitled "The Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950," and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto: 6. 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 Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950," and to order that the same shall have force of Law in 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 Island 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.

E. C. E. Leadbitter.

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

PROJET DE LOI

ENTITLED

The Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950.

THE STATES have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

1. Subject to the provisions of this Law, the Jurats of the Royal Court (Jurés Justiciers de la Cour Royale) who are in office on the coming into force of this Law, shall continue in their judicial office. The present
Jurats.

2. Subject to the provisions of this Law and of any other enactment for the time being in force, Jurats of the Royal Court shall be elected, as hitherto, by the States of Election of the Island of Guernsey as constituted from time to time. The future
Jurats.

3. (1) A person who is an alien shall not be qualified to be elected to or to discharge the office of Jurat of the Royal Court. Qualification
for office of
Jurat.

(2) It is hereby declared that—

(a) a person, by reason of that person's religious belief or absence of religious belief;

(b) a woman, by reason of her sex or marriage; and

(c) a person, by reason of that person's trade or profession;

shall not be disqualified from being elected to or from discharging the office of Jurat of the Royal Court.

Oath and
Affirmation.

4. (1) Such variations shall be made in every customary form of oath of office taken before the Royal Court as may be necessary to enable a person of the Roman Catholic faith conscientiously to subscribe thereto.

(2) A person, if he declare that he is precluded by reason of religious scruples from subscribing to an oath or that he possesses no religious belief, may, instead of taking a customary form of oath of office, affirm, in so near a form to that of the oath as is possible, that he will well and faithfully perform the duties of the office.

Retirement
of Jurats.

5. (1) A Jurat of the Royal Court in office when this Law comes into force and who has then attained the age of seventy years or who attains that age during the thirty days next succeeding the date on which this Law comes into force shall cease to hold office on the expiration of the thirty days next succeeding the date of the coming into force of this Law and any other Jurat of the Royal Court in office when this Law comes into force or entering office thereafter shall cease to hold office after the date upon which he attains the age of seventy years:

PROVIDED that a majority of the Bailiff and Jurats of the Royal Court, sitting in chambers, if they consider it desirable in the public interest that a Jurat who, not having attained the age of seventy-five years, would cease to hold office under the provisions of this Section should continue to hold office by virtue of this proviso, may extend the period of office of that Jurat by one or more periods so however that any such period shall not extend beyond the date on which that Jurat attains the age of seventy-five years:

PROVIDED FURTHER that a Jurat of the Royal Court who, for a continuous period of twelve months fails, without good reason, to

discharge the duties of his office or who, in the opinion of a majority of the Bailiff and Jurats of the Royal Court, sitting in chambers, is permanently unable, through physical or mental incapacity or for any other reason, efficiently to carry out the duties of his office, may be called upon by the Bailiff to resign and unless he, within a reasonable time, presents to the Royal Court, for transmission to His Majesty in Council, a petition praying that His Majesty in Council may be pleased to permit him to resign that office, he shall be removable by Order of His Majesty in Council on the petition of the Bailiff and Jurats of the Royal Court in that behalf.

(2) As from the date on which this Law comes into force, the concurrence of the States in the resignation of a Jurat of the Royal Court shall not be necessary and any Jurat desirous of resigning his office shall present to the Royal Court, for transmission, a Petition in that behalf to His Majesty in Council.

(3) A Jurat ceasing to hold office on account of age shall continue to enjoy during the remainder of his life the honours and privileges appertaining to the office of Jurat.

6. (1) Subject to the provisions of this and the next succeeding section, the judicial functions, powers and duties of the Royal Court shall continue to be exercised as hitherto.

**Powers of
Bailiff and
Jurats.**

(2) (a) The Bailiff shall be the sole judge of Law and of questions of procedure in all causes and matters heard in a court over which he presides and shall award the costs, if any, and, for the purposes of the determination of any question of which he is the sole judge, the Royal Court shall be properly constituted if it consists of the Bailiff sitting unaccompanied by the Jurats or any of them.

(b) Paragraph (a) of this subsection shall come into operation when appointed so to do by Order of the Royal Court and different dates may be so appointed for the coming into operation of that paragraph as regards criminal causes and matters and civil causes and matters respectively.

(3) Subject to the provisions of subsection (5) of this Section, any matter which, under the provisions of this Law, is within the competence of the Jurats to decide, shall, if they be not of one opinion, be decided by a majority of the Jurats sitting.

(4) The Jurats of the Royal Court may, and at the request of any one of them shall, retire from the Court for consultation immediately after the summing up. If during such consultation they require direction, advice or information, they shall return to the Court for this purpose and their questions shall be put to the Bailiff, and the answers thereto shall be given, in open Court.

(5) In all causes and matters, the Bailiff shall have a casting vote whenever the Jurats are so divided in opinion that the giving of a casting vote is necessary for the finding of a majority opinion.

(6) The provisions of this Section shall apply whether the Royal Court is exercising original or appellate jurisdiction.

Findings of
Jurats.

7. (1) In a criminal case, after such consultation as aforesaid, the senior Jurat of the Royal Court present shall communicate to the Bailiff in open Court—

(a) that the Jurats, unanimously, or by a majority (in which case he shall announce the number of the majority and minority votes) find the accused guilty, or not guilty or guilty but insane, as the case may be; or

(b) that the Jurats are equally divided as to the guilt of the accused or as to whether the accused is guilty but insane; or

(c) in any other case, the findings of the various groups of Jurats and the numbers of each group.

(2) In a civil case, the Jurats of the Royal Court shall, whether they have retired for consultation or not, give their individual decisions in open Court.

8. (1) Where a verdict of guilty is recorded against any person, the Bailiff and the Jurats of the Royal Court shall, unless the punishment for the offence is fixed by law, confer in private as to the punishment to be imposed and thereafter the Bailiff shall announce the sentence of the Court and shall sentence the accused accordingly.

Retirement for consideration of sentence and abolition of "conclusions".

(2) The Law Officers of the Crown shall not, in future, tender to the Court their "conclusions" as to punishment after a verdict of guilty.

9. Proceedings by way of "causes en adjonction" are hereby abolished.

Abolition of "Causes en adjonction".

10. Notwithstanding any law or custom to the contrary, the presence in court of the Law Officers of the Crown or of either of them shall no longer be necessary to the proper constitution of the Court at any sitting thereof.

Law Officers and Constitution of Courts.

11. (1) For the purposes of this Law, the expression "the Bailiff" shall include any person designated from time to time to perform the judicial functions of the Bailiff, and unless the context otherwise requires, the expression "the Royal Court" shall include a reference to every Division of the Royal Court.

Interpretation.

(2) On the office of Bailiff becoming vacant from time to time, the Jurats of the Royal Court shall, as hitherto, appoint a Juge-Délégué to perform the judicial functions of the Bailiff while such office continues

vacant. The person so appointed need not, as hitherto, be a Jurat of the Royal Court but shall be a person possessing sufficient legal qualifications and experience for the proper performance of those judicial functions.

**Rules of
Procedure.**

12. The power of the Royal Court, in pursuance of the provisions of Article 64 of the Reform (Guernsey) Law, 1948, to make, vary, modify and revoke rules of procedure in the Royal Court and any division thereof, shall include power to make rules of procedure varying, modifying or revoking any rule of procedure operative in pursuance of customary or enacted Law.

**Commence-
ment.**

13. This Law shall come into force on the thirtieth day next succeeding the date of the registration on the Records of the Island of Guernsey of the Order of His Majesty in Council sanctioning this Law.

JAMES E. LE PAGE,

H.M. Greffier.