

*Report of the Lords of the Judicial Committee
of the Privy Council in the matter of a Special
Reference relating to the validity of unmixed
and mixed marriages in Malta, dated the 18th
July 1895.*

Present :

THE LORD CHANCELLOR (LORD HERSCHELL).
LORD WATSON.
LORD HALSBURY.
LORD MACNAGHTEN.
LORD MORRIS.
SIR RICHARD COUCH.

The Lords of the Committee having, in obedience to Your Majesty's Special Order of Reference of the 28th of June 1892, taken into consideration the Cases and relative Appendices on behalf of the Crown Advocate of Malta, and the Protestant Communities of Malta, and having heard the Crown Advocate, and also Counsel instructed by the Protestant Communities, do agree humbly to report to Your Majesty as follows :—

The questions raised by these cases, to which the arguments of Counsel were directed, are three in number :—

- I. Whether the unmixed marriages which have been celebrated in Malta (*a*) by English clergy, (*b*) by Presbyterian ministers, and (*c*) by Wesleyan ministers, are valid ?
- II. Whether the mixed marriages which have been celebrated in Malta, by ministers

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other than those of the Roman Catholic Church, are valid ?

- III. Whether it is expedient that there should be legislation, validating retrospectively all marriages hitherto celebrated in Malta by non-Catholic ministers, and also regulating the mode in which marriages, whether unmixed or mixed, are to be contracted or celebrated in future ; and, if so, whether such legislation ought to be by the Imperial Parliament, or by the Government Council of Malta ?

Upon the information and arguments submitted to them, their Lordships answer the first and second of these questions in the affirmative.

Their Lordships think it right to add, with reference to the first question, that, whilst unmixed marriages by the clergy of the English Church appear to them to be fully sanctioned by inveterate usage, the grounds upon which the validity of unmixed marriages by Presbyterian and Wesleyan ministers was maintained, though not so clear, were in their Lordships' opinion sufficient.

The second question involves many considerations attended with great difficulty. Their Lordships are conscious that, notwithstanding the elaborate character of the argument addressed to them, it is possible that, in the event of the question coming before them judicially, additional information and authorities might be produced, tending to shake the conclusion which they have derived from the materials before them.

In reply to the third question, their Lordships have only to observe that, in their opinion, where persons have contracted marriage in good faith, and in a mode sanctioned by a British

Governor, but under such circumstances that the validity of the ceremony may be open to question, it is expedient that the matter should be set at rest by legislative declaration. Their Lordships are not in a position to make any suggestion with respect to the legislature by which that object ought to be accomplished.

