A REPORT OF THE CASE OF HORNER AGAINST LIDDIARD: UPON THE QUESTION OF WHAT CONSENT IS NECESSARY TO THE MARRIAGE OF ILLEGITIMATE MINORS; DETERMINED, ON THE 24TH MAY 1799, IN THE CONSISTORIAL COURT OF LONDON Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649061792

A Report of the Case of Horner Against Liddiard: Upon the Question of What Consent Is Necessary to the Marriage of Illegitimate Minors; Determined, on the 24th May 1799, in the Consistorial Court of London by Sir William Scott & Alexander Croke

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd. Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

SIR WILLIAM SCOTT & ALEXANDER CROKE

A REPORT OF THE CASE OF HORNER AGAINST LIDDIARD: UPON THE QUESTION OF WHAT CONSENT IS NECESSARY TO THE MARRIAGE OF ILLEGITIMATE MINORS; DETERMINED, ON THE 24TH MAY 1799, IN THE CONSISTORIAL COURT OF LONDON

Trieste

)-lorner, Thomas Strangeways

REPORT of the CASE

OF

HORNER against LIDDIARD,

UPON THE QUESTION OF

What Confent is nedeffary to the Marriage of Illegitimate Minors;

DETERMINED,

on the 24th May 1799,

IN THE CONSISTORIAL COURT OF LONDON,

BY THE RIGHT HONOURABLE SIE WILLIAM SCOTT; CHANCELLOR OF THE DIOCESE:

WITH

AN INTRODUCTORY ESSAY

UPON THE THEORY AND THE HISTORY OF LAWS RELATING TO ILLEGITIMATE CHILDREN, AND TO THE ENCOURAGEMENT OF MARRIAGE IN GENERAL.

> BY ALEXANDER CROKE, Efq. LL.D. ADVOCATE IN DOCTORS-COMMONS.

OTE H OTELE EARPHEATO O NOMOE AFNOEL OF MH KATA THN ATTOT TEXOENTAL IIPOAIPELIN. THEOPH.

LONDON:

PRINTED, BY A. STRAHAN, LAW-FRINTER TO THE EING'S MOST EXCELLENT MAJESTY, FOR J. BUTTERWORTH, .FLEET-STREET. 1997 - an - 1

1800.

10.0

- **N** 12 .

5**8**.0 194 N

20 3. (5)

9

To

THE MOST REVEREND FATHER IN GOD,

JOHN,

BY DIVINE PROVIDENCE,

LORD ARCHBISHOP OF CANTERBURY,

PRIMATE OF ALL ENGLAND,

AND

METROPOLITAN,

&c. &c. &c.

THIS REPORT

OF A CASE OF CONSIDERABLE CONSEQUENCE,

DETERMINED IN THE CHIEF CONSISTORIAL COURT

WITHIN HIS GRACE'S PROVINCE,

15

RESPECTFULLY DEDICATED,

BY HIS GRACE'S

MOST HUMBLE

AND OBEDIENT SERVANT,

ALEXANDER CROKE.

11 March 1800.

2 2

· · ·

•

2

CONTENTS.

13

7

141

_e2

323

THE INTRODUCTORY ESSAY,

ገ /	12			1	PAGE
MOTIVES and Plan,		- 	-	()	. I
1. THE THEORY,	. '		 2	25	4
Beneficial effects of the —Propagation of nature—Binds the talents—Occafions	the firm to fo them	ciety	-Mollifie Calls for to the f	es their th their uture—	r' r
True foundation o Only to be obtained by Which is most co Evils of promifcuo	y a peri mfonan	nanent t to the	union, buman	heart-	
offspring,	us love	-raiti	cutatity a	is to the	8
No fecurity for that pe	ermaner	ncy in a	a fate of	nature	. 9
Interference of laws-	-Inftitu	tion of	f marria	ge, -	- 10
Impediments to marr		_	_	· .	- ib.
How to be counterbala			-		- 11
1. By rewarding n					- 12
2. By difcouraging	celiba	Y.	-	-	- 13
3. By difcouraging	other	connex	ions,		- 14
1. A promifcuo	us inter	courfe.	-		- ib.
2. Adultery,		-			- 15
3. Concubinage		-	-	84	- 17
By direct put	nifhmer	ts.	-		- 19
By difavowin	g them	as to an	v legal e	feets	- ib.
					THE

•

CONTENTS.

÷

÷

,

			AGE	
	IL THE PRACTICE,	-	21	100
	1. THE FIRST AGES,	-	ib.	
	2. THE JEWISH LAWS,	-	22	
	Encouragement of marriage-Difcouragen	nent	1000	
	of celibacy-Concubinage allowed-Baf	arda	•	
y.,	inherited-How far the confent of their par	ents		
	was neceffary to marriage.	00000490		
	3. THE GRECIAN LAWS, -	-	26	
	Spartan laws,			
	Athenian laws-Penalties of celibacy and	re-		
9	wards of marriage-Concubines-Who	were		
	baftards-Their incapacities-Could not	10-		
	berit-Not bound to maintain their par	ents		
	-Parents could not bequeath beyond a cer	rain		
	fum-Whether baffards could be adopte Cale of Pericles, &c. &c.			
	Cale of Fencies, occ. occ.			
	4. THE ROMAN LAWS,	1225	-	
	1. Encouragement of marriage, and pena	Ities	39	
	against celibacy, from the foundation of Ro	me	ib.	
	The Romans averfe from marriage-the rea	fon.	42	
	Regulations by Julius Carfar,		45	
	By Augustus,	0.04-25	46	
	Lex Julia and Papia-Poppza, -	-	ib.	
	The hiftory of those laws, -		ib.	
	Lex Papia-Poppæa-its contents, -	-	49	
	Penalties upon celibacy,	-	50	
	Who were liable to them,		SI	1
	Other regulations,	-	ib.	
	Penalties removed in part by marriage, -	4	53	
	Gradually and totally removed by children,	- 1	53	
	Rewards for having children to free-born citiz	ens,	54	
	To libertines, female patrons, flaves, and t	hofe	1.1.1.1	
	. who had the jus latinum, -		55	
	Other fublequent privileges, -	-	56	
	The jus liberorum,	-	57	
	By whom granted,	- 1	58	
	What it was Extended Perfons privileger	I, -	ib.	
	Changes in the laws-Penalties of celibacy a	abo-		
	lifhed by Conftantine, -	-	59	
	Other incapacities removed by Theodofius,	-	60	
		A I.		12.5

•

CONTENTS.

	P	AGE	
2. Laws to difcourage other connexions,	-	61	
Who were baftards, -	-	62	
1. The children of prohibited marriages,	-	ib.	
What marriages were prohibited, -	-	ib.	
Not void till Antoninus,	3)	65	
Changes in the laws of marriage, -	-	66	
2. The children of concubines, -		68	
Concubines permitted by law,	-	ib.	
Laws relating to them,	-	69	
A doubt respecting an opinion of Hein cius.	ec-	(70)) 118567	
Their rights,		70	
Abolifhed by Leo,	-	72	
The children of assemillance and a last	-	74	
3. The children of promifcuous and other in gular connexions.	rre-		
Rights and incapacities of baftards, -		75	
1. Before Conflantine,	-	76	
First principle,	-	ib.	
No connexion with the father, -		ib.	
Second principle,	-	79	
Connexion with the mother perfect,	-	ib.	
As to her condition,	-	ib.	
Her property,	-	80	
In other refpects, -		82	
How far the confent of parents was requ	ifie		
to their marriage,	-	83	
2. Changes introduced by Conftantine, in the	heir	1000	
general condition,	-	91	
3. Subfequent alterations,	-	92	
4. Finally fettled by Justinian, -	-	93	
Legitimation first introduced by Constantine,	-	95	
Six kinds			
1. By marriage,	-	ib.	
2. By the oblatio curia,	-	97	
3. By adoption,	-	99	
4. By the refeript of the prince, -	-	100	
5. By the will of the father -	-	ib.	
6. By nomination,	-	ib.	
The introduction of legitimation oppofed in the p	-lec	90643	
liament of Merton,	-	103	
	5. 7	Гнв	

vil

÷