

***Juristische Wochenschrift*, 16 September 1933: article on legal possibilities
for the annulment of mixed marriages¹**

[Probationary Judge Wöhrmann, Münder am Deister]

The dissolution of marriages between Jews and Aryans.

As a result of the national revolution and the legislation of Hitler's cabinet, the race problem has been brought directly to the public. Aryan men with Jewish wives [and] Aryan women with Jewish husbands recognize the grave error they made in their marriage and are now seeking dissolution of the marriage. The question whether the established law affords the possibility of annulling such racially mixed marriages is to be answered in the affirmative.

Nowadays there can no longer be any doubt that our new national state has an interest in the annulment of such marriages. Reference may be made here to a few passages from Alfred Rosenberg's *Myth of the Twentieth Century*.² He says on p. 545 (1st printing, Part 3, IV, 3): 'Marriages between Germans and Jews must be forbidden, sexual intercourse between Germans and Jews must be punished, according to the gravity of the case, by confiscation of property, expulsion, jail, and death' p. 558 (Part 3, IV, 5): 'If a German woman voluntarily miscegenates with Negroes or Jews, then she is in no case entitled to legal protection, not even for her illegitimate and legitimate children who, in turn, shall not be entitled to the rights of German citizenship.'³ What these words imply today is immediately clear to anyone who knows the paramount scientific importance of Rosenberg in National Socialism. Moreover, on 13 March 1930 the National Socialist parliamentary group in the Reichstag introduced the draft of a Law for the Protection of the German Nation (see Reichstag IV 1928, Printed Paper no. 1741; see also *Nationalsozialistische Monatshefte* 7, vol. 1, 1930, p. 310). In this draft law it is stated in § 5: 'Whoever contributes or threatens to contribute to the racial degradation and disintegration of the German people by mingling with members of the Jewish blood community will be sentenced to penal servitude for race defilement.' In the explanatory remarks pertaining to this draft law, the idea was expressed that defensive action against further mingling of Germans with members of the Jewish blood community must be pursued with all possible means in order to save our people from extinction.⁴

The established law alone affords the possibility of dissolving such marriages.

1 'Die Auflösung der Ehe zwischen Juden und Ariern', *Juristische Wochenschrift*, no. 37, 16 Sept. 1933, p. 2041. This document has been translated from German. The *Juristische Wochenschrift* was launched in 1872 as the organ of the German Bar Association in Leipzig. From 1933 to 1939 it was the journal of the German Bar Association in the League of National Socialist German Lawyers (BNSDJ), during which time it was edited by Reich justice commissioner, state minister, and head of the BNSDJ Hans Frank. Since 1947 it has been known as the *Neue Juristische Wochenschrift*, and is published in association with the German Bar Association and the Federal Chamber of Lawyers in Munich and Frankfurt am Main.

2 Alfred Rosenberg, *Der Mythos des 20. Jahrhunderts. Eine Wertung der seelisch-geistigen Gestaltungskämpfe unserer Zeit* [The Myth of the Twentieth Century: an Evaluation of the Spiritual-Intellectual Confrontations of our Age] (1930). On the debate surrounding the book, see Doc. 182, 28 July 1935.

3 These are abridged versions of the passages in question. The page numbers cited are from the first German edition, published in 1930.

4 See § 15 on the prohibition of mixed marriages in the draft law of 6 April 1933, Doc. 27.

Admittedly, divorce on the grounds that one spouse is a Jew will not be possible, as divorce under § 1568 of the Civil Code requires fault, and this fault must have been committed during the marriage. The fact that one spouse is a Jew, however, never constitutes a fault. For the Jews are placed under the law of aliens in Germany not for reasons of morality but rather for reasons of racial hygiene.

On the other hand, the marriage can be challenged on the basis of § 1333 of the Civil Code. Whether the marriage is to be annulled because that person is a Jew depends on the personal attributes of the other spouse. These attributes are also such that would have prevented the Aryan spouse from entering into marriage, given knowledge of the situation with a sensible appraisal of the nature of the marriage. To be sure, it will be objected that the Aryan spouse did indeed know before the marriage that the other spouse was a Jew. This argument is not decisive, because until quite recently the general view among the people was that the Jew differs from the Aryan only in his religion, and only a very few Volksgenossen understood the interrelatedness of the race question and had knowledge of the significance of so-called race defilement. Only now, through the new government, through the new laws for the restoration of the professional civil service, through the laws on revoking the admission of Jews to the legal profession and the accreditation of Jews by health insurance companies, through the recent awareness of the militant agitation by Jews against emergent Germany, has every German become aware of the necessity of his own racial purity. If the Aryan spouse had recognized the significance of being Jewish, if he had known that in the Third Reich the children produced by him with the Jewish spouse would be subject to the law of aliens and would not enjoy the full rights of citizenship, then he would never have entered into the marriage.

The German spouse must be able to correct this error, of which he has only now become aware, for his own sake and that of his children, but also for the sake of the German people and its racial advancement.