

ORDER IN COUNCIL

XI

1957

ratifying a *Projet de Loi*

ENTITLED

The Service of Process and Taking of Evidence (Guernsey) Law, 1957

(Registered on the Records of the Island of Guernsey
on the 15th day of June, 1957.)



1957.

ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 15th day of June, 1957, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present :— Sir John Leale, Arthur Falla, William Robert Freake Clark, Ernest Francis Lainé, Bertram Bartlett, Osmond Priaulx, Théophile Le Messurier Allez, Bertram Guy Blampied, Esquires, Richard Edward Gibson, Esquire, O.B.E., and Claude Fortescue Nason, Esquire, Jurats.

The Bailiff having this day placed before the Court an order of Her Majesty in Council dated the 17th day of May, 1957, ratifying a *Projet de Loi* entitled "The Service of Process and Taking of Evidence (Guernsey) Law, 1957",—the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth :—

At the Court at Buckingham Palace,

The 17th day of May, 1957.

PRESENT,

The Queen's Most Excellent Majesty.

LORD PRESIDENT

VISCOUNT HAILSHAM

SIR REGINALD MANNINGHAM-BULLER

MR. MARPLES

SIR EDWARD PEARCE

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 2nd day of May, 1957, 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 Resolution of the 21st day of November, 1956, the States of Deliberation at a meeting held on the 23rd day of January, 1957, approved a Bill or "Projet de Loi," entitled "The Service of Process and Taking of Evidence (Guernsey) Law, 1957," which Bill is designed to apply to the Bailiwick of Guernsey, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto.
2. That the States of the Island of Alderney at a meeting held on the 19th day of March, 1957, considered the said Bill or "Projet de Loi,"

when a resolution was passed agreeing to the application of the same to Alderney. 3. That the Chief Pleas of the Island of Sark at a meeting held on the 19th March, 1957, considered the said Bill or "Projet de Loi," when a resolution was passed agreeing to the application of the same to Sark. 4. 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 Service of Process and Taking of Evidence (Guernsey) Law, 1957," and to order that the same shall have the force of Law in the Bailiwick 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."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her 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 Bailiwick of Guernsey.

AND HER 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 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.

LAW NOT YET IN FORCE

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

PROJET DE LOI

ENTITLED

The Service of Process and Taking of Evidence (Guernsey) Law, 1957.

WHEREAS it is desirable to make provision for the service in any one of the Islands of the Bailiwick of Guernsey of process of courts outside that Island, without prejudice to those privileges and immunities conferred by the Charter of Her late Majesty Queen Elizabeth I recited in the preamble to the Judgments (Reciprocal Enforcement) (Guernsey) Law, 1956, and for the service outside that Island of process of courts of that Island:

AND WHEREAS it is desirable to make provision for the taking of evidence in civil and commercial matters pending before courts and tribunals outside any one of the said Islands:

AND WHEREAS it is desirable to make provision for the implementation of any agreement entered into between the United Kingdom and any foreign country which extends to the said Islands or to any of them in connection with the matters aforesaid:

THE STATES, in pursuance of their Resolution of the twenty-first day of November, nineteen hundred and fifty-six, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

PART I

Interpretation

Interpreta-
tion.

1. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the appropriate court” means—

- (a) as respects the Island of Guernsey, the Royal Court;
- (b) as respects the Island of Alderney, the Court of Alderney;
- (c) as respects the Island of Sark, the Court of the Seneschal of Sark;

“country” includes any Island;

“Island” means the Island of Guernsey, the Island of Alderney or the Island of Sark, and includes any dependency of an Island;

“the Royal Court” means the Royal Court sitting as an Ordinary Court.

(2) Except in so far as the context otherwise requires, any reference in this Law to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Law.

PART II

Service of process

Service in an
Island of
process of
courts out-
side that
Island.

2. (1) It shall be lawful for any person to serve on any other person within an Island any process or citation in any civil or commercial matter summoning or citing that other person to appear before a court or tribunal of any country outside that Island, whether within or without Her Majesty's dominions.

(2) Rules of court may be made for regulating the service in an Island of any process or citation in any civil or commercial matter pending before a court or tribunal of a foreign country—

- (a) upon a letter of request from such court or tribunal transmitted by the Secretary of State with an intimation that it is desirable that effect be given to the same; and
- (b) for giving effect to any agreement made before, on or after the commencement of this Law between the United Kingdom and that foreign country in the matter of service of any such process or citation as aforesaid.

(3) Nothing in this section shall be deemed to confer jurisdiction on a court outside the Bailiwick of Guernsey in any thing, suit, cause or matter whatsoever arising within the Bailiwick.

3. Any process in any civil or commercial matter summoning or citing a person outside an Island to appear before a court of that Island may be served on that person in such manner as may be prescribed by rules of court.

Service outside an Island of process of courts of that Island.

PART III

Taking of evidence in relation to civil and commercial matters pending before courts and tribunals outside an Island

4. (1) Where, upon an application for that purpose, it appears to the appropriate court of an Island that any court or tribunal of competent jurisdiction in a country outside that Island, whether within or without Her Majesty's dominions, is desirous of obtaining the testimony of any witness within that Island in relation to any civil or commercial matter pending before such court or tribunal, the appropriate court

Order for the examination of witnesses in relation to matters pending before a court or tribunal outside an Island.

may order the examination upon oath, upon interrogatories or otherwise, before any person named in the order, of such witness accordingly; and may, by the same order or by any subsequent order, command the attendance of any person named in such order, for the purpose of being examined, or the production of any writing or other document mentioned in such order, and may give all such directions as to the time, place and manner of such examination, and all other matters connected therewith, as may appear reasonable and just.

(2) An order under this section may be enforced in like manner as an order made by the appropriate court in a cause pending in that court.

Certificate of ambassador, etc., sufficient evidence in support of foreign application.

5. Where an application is made under this Part of this Law in relation to a civil or commercial matter pending before a court or tribunal in a foreign country, a certificate under the hand of the ambassador, minister or other diplomatic agent of that country, received as such by Her Majesty, or where there is no such diplomatic agent, then of the consul-general or consul of that country at London, received and admitted as such by Her Majesty, that the matter is so pending, and that such court or tribunal is desirous of obtaining the testimony of the witness to whom the application relates, shall be evidence of the matters so certified; but where no such certificate is produced, other evidence to that effect shall be admissible.

Examination of witnesses to be taken upon oath.

6. (1) Every person authorised to take the examination of witnesses by any order made in pursuance of this Part of this Law may take all such examinations upon the oath of the witness, and, for that purpose, shall have power to administer an oath.

(2) The provisions relating to affirmation of witnesses of the Law entitled "Loi relative aux

Preuves" registered on the eighth day of July, eighteen hundred and sixty-five, shall apply to the examination of witnesses under this Part of this Law.

7. Every person whose attendance is required in pursuance of any order made under this Part of this Law shall be entitled to the like payment as upon attendance as a witness in civil proceedings before the appropriate court. Expenses of witnesses.

8. (1) Every person examined under any order made under this Part of this Law shall have the like right to refuse to answer any question tending to criminate himself and any other question which a witness in civil proceedings before the appropriate court would be entitled to refuse to answer. Extent of right of refusal to answer questions and to produce documents.

(2) A person shall not be compelled to produce under any order as aforesaid any writing or other document which he would not be compellable to produce in any proceedings aforesaid.

PART IV

General

9. The power of the Royal Court, sitting as a Full Court, to make rules of court under Article sixty-four of the Reform (Guernsey) Law, 1948, and section twelve of the Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950, shall include a power to make rules of court from time to time— Rules of court.

- (a) for any purpose for which rules of court may be made under Part II of this Law; and
- (b) for the purposes of giving effect to Part III of this Law and regulating the procedure thereunder.

Citation and
commence-
ment.

10. (1) This Law may be cited as the Service of Process and Taking of Evidence (Guernsey) Law, 1957.

(2) This Law shall come into force on such day as shall be appointed by Ordinance of the States of Guernsey.

JAMES E. LE PAGE,

Her Majesty's Greffier.