

VIII
1946

ORDRE EN CONSEIL

Ratifiant un Projet de Loi intitulé

**"Law giving the Court increased power
to stay execution in actions for eviction."**

(Enregistré sur les Records de l'Ile de Guernesey le
31 août 1946.)



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1946

ORDRE EN CONSEIL.



A LA COUR ROYALE DE L'ÎLE DE GUERNESEY.

Le trente-et-un août mil neuf cent quarante-six, par devant Messire Abraham James Lainé, K.C.I.E., Lieutenant-Baillif ; présents : Jean Allès Simon, Osmond Priaulx Gallienne, écuyers, Ernest de Garis, écuyer, O.B.E., Messire John Leale, Chevalier, Arthur Falla, Pierre de Putron, Quartier Le Pelley, Walter John Sarre, écuyers, et Richard Henry Johns, écuyer, O.B.E., Jurés.

Monsieur le Lieutenant-Baillif ayant ce jour communiqué à la Cour un Ordre de Sa Majesté en Conseil en date du 2 août 1946 ratifiant un Projet de Loi intitulé " Law giving the Court increased power to stay execution in actions for eviction ",—la Cour, après avoir eu lecture du dit Ordre en Conseil, ouïes les conclusions du Contrôle du Roi, a ordonné que le dit Ordre en Conseil sera enregistré sur les records de cette Ile, duquel Ordre en Conseil la teneur suit :—

At the Court at Buckingham Palace

The 2nd day of August, 1946.

Present,

The King's Most Excellent Majesty

LORD PRESIDENT.

LORD MACMILLAN.

MR. SECRETARY EDE.

MR. BARNES.

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of

LE 31 AOUT 1946.

the Committee of Council for the Affairs of Guernsey and Jersey, dated the 31st day of July, 1946, 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 on the 30th day of March, 1946, the Royal Court adopted a Bill or “ *Projet de Loi* ” entitled “ Law giving the Court increased power to stay execution in Actions for Eviction,” and requested the Bailiff to submit the same to the States of Deliberation for approval. 2. That on the 17th day of April, 1946, the said Bill or “ *Projet de Loi* ” was duly considered by the States when a resolution was passed approving the same and authorizing the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 3. 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 would be graciously pleased to grant Your Royal Sanction to the Bill or “ *Projet de Loi* ” of the States of Guernsey entitled “ Law giving the Court increased power to stay execution in Actions for Eviction,” and to order and direct 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 or 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

**“Law giving the Court increased power to
stay execution in actions for eviction.”**

1. The “Loi ayant rapport aux pouvoirs de la Cour de remettre dans certain cas l'exécution d'un Acte de Cour” which was registered on the records on the fourth day of May in the year One thousand Nine Hundred and Eighteen is hereby repealed.

2. When the tenant or sub-tenant of a dwelling house or other premises is proceeded against for eviction from any dwelling house or premises, the Court may, having taken into consideration the position of the parties and all the circumstances of the case, make an order that execution of any order for eviction from the said premises be suspended during such time and upon such conditions as the Court may consider reasonable.

3. In considering the position of the parties and the circumstances of the case, with a view to deciding whether the Court should suspend execution of an eviction order, and if so, during what times and upon what terms such execution should be delayed, the Court shall take into account the following matters, *inter alia* :—

- (a) Whether any rent lawfully due from the tenant or sub-tenant has not been paid, or any other obligation of the tenancy has been broken or not performed.

- (b) Whether there is suitable alternative accommodation available for the tenant or sub-tenant, or whether such accommodation be available when the judgment or order takes effect.
- (c) Whether the tenant or sub-tenant or any person residing or lodging with him, or being his sub-tenant, has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers.
- (d) Whether the condition of the premises has in the opinion of the Court deteriorated owing to the act, neglect or default of the tenant or sub-tenant or of any such person, and where such person is himself a lodger or sub-tenant of such tenant or sub-tenant, whether the Court is satisfied that such tenant or sub-tenant has not, before the making or giving of the order or judgment, taken such steps as he ought reasonably to take for the removal of such person.
- (e) Whether the tenant or sub-tenant has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose.
- (f) Whether the tenant or sub-tenant has given notice to quit, and in consequence the landlord has contracted to sell or let the house, or has taken other steps as a result of which he would, in the opinion of the Court, be seriously prejudiced if he could not obtain possession.
- (g) Whether the premises consist of or include premises licensed for the sale of intoxicating liquor and the tenant or sub-tenant has

committed an offence as holder of the licence, or has not conducted the premises to the satisfaction of the Court.

- (h) Whether the dwelling-house is so overcrowded as to be dangerous or injurious to the health of the inmates, and the Court is satisfied that the overcrowding could have been abated by the removal of any lodger or sub-tenant whom it would in all the circumstances of the case, including the question whether alternative accommodation is available for him, have been reasonable to remove, and the tenant or sub-tenant has not taken such steps as he ought reasonably to have taken for his removal.

4. When the Court shall have made an order for delay of execution by virtue of the provisions of section 2 of this law, any person in respect of which the order was made, shall be at liberty to apply to the Court, on showing a change of circumstances arising since the making of such order, to vary such order, and thereupon the Court may vary such order as to the Court may seem reasonable.

JAMES E. LE PAGE,
Député Greffier du Roi.