

ORDER IN COUNCIL

ENTITLED

The Bankers' Books Evidence (Guernsey) Law, 1954.

(Registered on the Records of the Island of Guernsey
on the 29th day of May, 1954.)



1954.

IV
1954

ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 29th day of May, 1954, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present :—Arthur Falla, Walter John Sarre, William Robert Freake Clark, Ernest Francis Lainé, Bertram Bartlett, Esquires, Donald Carey Brock, Esquire, C.B.E., Osmond Priaulx, Stephen James Falla and Wilfred John Corbet, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 13th day of April, 1954, ratifying a *Projet de Loi* entitled "The Bankers' Books Evidence (Guernsey) Law, 1954",—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 for registration on the records of that Island, of which Order in Council the tenor followeth :—

At the Court of Saint James

The 13th day of April, 1954.

PRESENT,

Her Majesty Queen Elizabeth the Queen Mother
Her Royal Highness the Princess Margaret

LORD PRESIDENT
 MARQUESS OF READING
 EARL DE LA WARR
 MR. SECRETARY LYTTELTON
 MAJOR LLOYD-GEORGE
 MR. PEAKE

WHEREAS Her Majesty, in pursuance of the Regency Acts, 1937 to 1953, was pleased, by Letters Patent dated the twentieth day of November, 1953, to delegate to Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, His Royal Highness The Duke of Gloucester, Her Royal Highness The Princess Royal and the Earl of Harewood, or any two or more of them, as Counsellors of State, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval of anything for which Her Majesty's approval in Council is required:

AND 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 6th day of April, 1954, 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 20th day of May, 1953, the States of Deliberation at a meeting held on the 9th day of December, 1953, approved a Bill or “Projet de Loi” entitled “The Bankers’ Books Evidence (Guernsey) Law, 1954”, which Bill was designed to apply to the Bailiwick of Guernsey, when a resolution was passed approving the same and authorising 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 6th day of January, 1954, 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 20th day of January, 1954, considered the said Bill or “Projet de Loi”, when it was resolved that the same should not apply to Sark. 4. That the States of Deliberation at a meeting held on the 17th day of February, 1954, approved a Bill or “Projet de Loi” similarly entitled, which Bill is designed to apply only to the Islands of Guernsey, Alderney, Herm and Jethou. 5. 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 Bankers’ Books Evidence (Guernsey) Law, 1954” and to order that the same shall have the force of Law in the Islands of Guernsey, Alderney, Herm and Jethou.’

"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."

NOW, THEREFORE, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, being authorized thereto by the said Letters Patent, have taken the said Report into consideration, and do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf approve of and ratify the said Projet de Loi, and order, as it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey, Alderney, Herm and Jethou.

AND do 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.

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

PROJET DE LOI

ENTITLED

The Bankers' Books Evidence (Guernsey) Law, 1954.

THE STATES, in pursuance of their Resolution of the twentieth day of May, nineteen hundred and fifty-three, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Alderney, Herm and Jethou.

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— Interpreta-
tion.

“the Acts relating to savings banks” means the Trustee Savings Banks Acts, 1863 to 1949;

“bank” and “banker” have the meaning assigned to them by section two of this Law;

“banker's books” includes ledgers, day books, cash books, account books and all other books used in the ordinary business of the bank;

“any court” means any court, arbitrator or person or persons before whom a legal proceeding is held or taken;

“the appropriate court” means—

(a) as respects any legal proceeding before the Channel Islands Court of Appeal, that Court;

(b) as respects any legal proceeding before the Royal Court sitting as a Full Court, that Court; and

- (c) as respects any other legal proceeding, the Royal Court sitting as an Ordinary Court;

“the appropriate judicial officer” means—

- (a) in relation to any legal proceeding in the Channel Islands Court of Appeal, a judge of that Court;
- (b) in relation to any other legal proceeding—
 - (i) in Guernsey, Herm and Jethou, the Bailiff; and
 - (ii) in Alderney, the Chairman of the Court of Alderney;

“legal proceeding” means any civil or criminal proceeding or inquiry, or an arbitration, in which evidence on oath may be given.

(2) Any reference in this Law to the Bailiff or to the Chairman of the Court of Alderney shall be construed as including a reference to the person for the time being lawfully acting in the place of the Bailiff or the Chairman of the Court of Alderney, as the case may be.

(3) Any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, extended or applied by any other enactment.

Interpreta-
tion of
“bank” and
“banker”.

2. (1) For the purposes of this Law the expressions “bank” and “banker” mean—

- (a) any person, persons, partnership or company carrying on in the British Islands or the Republic of Ireland the business of bankers;
- (b) any savings bank certified under the Acts relating to savings banks;
- (c) any Post Office savings bank.

(2) The fact that any such savings bank is certified under the Acts relating to savings banks may be proved in any legal proceeding by an office or examined copy of its certificate.

(3) The fact that any such bank is a Post Office savings bank may be proved in any legal proceeding by a certificate purporting to be under the hand of the Controller or a Chief Executive Officer of the Post Office Savings Bank.

3. An affidavit for the purposes of this Law shall— Affidavits.

(a) if made in the Island of Guernsey, be made before the Bailiff, a Jurat, the Police Court Magistrate or a Notary Public;

(b) if made in the Island of Alderney, be made before a Jurat;

(c) if made in the Island of Sark, be made before the Seneschal;

(d) if made elsewhere, be made before any person authorised by law in the place in which it is made to take sworn declarations or administer oaths.

4. (1) In computing any period of time for the purposes of this Law, a Sunday, Christmas Day, Good Friday, bank holiday or day appointed for public thanksgiving or mourning shall be disregarded. Computation of time.

(2) In this section the expression "bank holiday" means a day which is a bank holiday under any Ordinance for the time being in force.

5. Subject to the provisions of this Law, a copy of any entry in a banker's book shall in all legal proceedings be received as *primâ facie* evidence of such entry, and of the matters, transactions and accounts therein recorded. Mode of proof of entries in bankers' books.

Proof that
book is a
banker's
book.

6. (1) A copy of an entry in a banker's book shall not be received in evidence under this Law unless it be first proved that the book was at the time of the making of the entry one of the ordinary books of the bank, and that the entry was made in the usual and ordinary course of business, and that the book is in the custody or control of the bank.

(2) Such proof may be given by a partner or officer of the bank, and may be given orally or by affidavit.

Verification
of copy.

7. (1) A copy of an entry in a banker's book shall not be received in evidence under this Law unless it be further proved that the copy has been examined with the original entry and is correct.

(2) Such proof shall be given by some person who has examined the copy with the original entry, and may be given orally or by affidavit.

Case in
which
banker, etc.,
not compell-
able to pro-
duce book,
etc.

8. A banker or officer of a bank shall not, in any legal proceeding to which the bank is not a party, be compellable to produce any banker's book the contents of which can be proved under this Law, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the appropriate judicial officer made for special cause.

Court may
order inspec-
tion, etc.

9. (1) On the application of any party to a legal proceeding before any court in the Islands of Guernsey and Alderney, the appropriate court may order that for any of the purposes of such proceeding such party be at liberty to inspect and take copies of any entries in a banker's book which is within the said Islands.

(2) An order under this section may be made either with or without summoning the bank or any other party and shall be served on the bank three

clear days before the same is to be obeyed unless the appropriate court otherwise directs.

10. (1) The costs of any application to the appropriate court or the appropriate judicial officer under or for the purposes of this Law, and the costs of anything done or to be done under an order of the appropriate court or the appropriate judicial officer made under or for the purposes of this Law shall be in the discretion of the appropriate court or the appropriate judicial officer, as the case may be, who may order the same or any part thereof to be paid to any party by the bank where the same have been occasioned by any default or delay on the part of the bank. Costs.

(2) An order under this section against a bank may be enforced as if the bank was a party to the proceeding.

JAMES E. LE PAGE,

Her Majesty's Greffier.