

ORDER IN COUNCIL

IX
1972

ratifying a Projet de Loi

ENTITLED

The Criminal Justice (Power to Suspend Sentence) (Bailiwick of Guernsey) Law, 1972

(Registered on the Records of the Island of Guernsey
on the 27th day of June, 1972.)



1972.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 27th day of June, 1972, before John Henry Loveridge, Esquire, C.B.E., Deputy Bailiff; present:—Bertram Guy Blampied, Esquire, O.B.E., Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., William Burton Fox, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley, Walter Francis Robin, Richard Alan Kinnersly, Esquires and Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 24th day of May, 1972, ratifying a *Projet de Loi* entitled "The Criminal Justice (Power to Suspend Sentence) (Bailiwick of Guernsey) Law, 1972", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller 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 24th day of May 1972

PRESENT,

The Queen's Most Excellent Majesty

LORD PRESIDENT

LORD BALNIEL

MR. WOOD

MR. WYLIE

LORD EMSLIE

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 17th day of May 1972, 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 15th day of December 1971 the States of Deliberation at a meeting held on the 26th day of January 1972 approved a Bill or “Projet de Loi” entitled “The Criminal Justice (Power to Suspend Sentence) (Bailiwick of Guernsey) Law, 1972” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. 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 Criminal Justice (Power to Suspend Sentence) (Bailiwick of Guernsey) Law, 1972" and to order that the same shall have 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

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

PROJET DE LOI

ENTITLED

The Criminal Justice (Power to Suspend Sentence) (Bailiwick of Guernsey) Law, 1972

THE STATES, in pursuance of their Resolution of the fifteenth day of December, nineteen hundred and seventy-one, 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.

Suspended
sentences of
imprison-
ment.

1. (1) Any Court which passes a sentence of imprisonment for a term not exceeding two years for an offence may, at the time of passing such sentence, order that the sentence shall not take effect unless, during the period of three years from the date of the order or such lesser period as may be specified in the order, the offender commits another offence punishable with imprisonment and thereafter the Court by which the offender is convicted of that subsequent offence orders, under the provisions of the next succeeding section, that the original sentence shall take effect.

(2) The Court shall, on passing a suspended sentence, explain to the offender in ordinary language his liability if during the period of suspension he commits an offence punishable with imprisonment.

(3) Where a Court has passed a suspended sentence on any person and that person is subsequently sentenced to borstal training or is made

subject to a special care order, he shall cease to be liable to be dealt with in respect of the suspended sentence unless the subsequent sentence or any conviction or finding on which it was passed is quashed on appeal.

2. (1) Where an offender is convicted of an offence punishable with imprisonment committed during the period of suspension of a suspended sentence, then, unless the sentence has already taken effect, the Court which so convicts the offender shall consider his case and deal with him by one of the following methods:—

Power of Court on conviction of further offence to deal with suspended sentence.

- (a) the Court may order that the suspended sentence shall take effect with the original term unaltered; or
- (b) the Court may order that the suspended sentence shall take effect with the substitution of a lesser term for the original term; or
- (c) the Court may by order vary the original order made under subsection (1) of section one of this Law by substituting for any period of suspension specified therein any other period expiring not later than three years from the date of the original order; or
- (d) the Court may make no order with respect to the suspended sentence;

and a Court shall make an order under the provisions of paragraph (a) of this subsection unless the Court is of opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent offence:

Provided that if the suspended sentence was passed by the Court of Appeal or the Royal Court and the

Court which convicts the offender of the subsequent offence is a Court other than the Court of Appeal or the Royal Court, the Court shall not consider his case in relation to the suspended sentence but after passing sentence in respect of the subsequent offence shall commit the offender to the Royal Court to be dealt with in respect of the suspended sentence and the Royal Court shall deal with the offender under the provisions of this section in respect of the suspended sentence.

(2) Where a Court orders that a suspended sentence shall take effect, with or without any variation of the original term, the Court may order that such sentence shall take effect immediately or that the term thereof shall commence so as to run consecutively to or concurrently with any term of imprisonment passed on the offender in respect of the subsequent offence of which he has been convicted and if the offender has been in custody awaiting trial for that subsequent offence the Court may order that the suspended sentence or any term of imprisonment passed in respect of that subsequent offence shall commence from the date the offender was taken into custody.

(3) Where a Court deals with an offender under the provisions of this section in respect of a suspended sentence the Clerk of the Court shall notify the Clerk of the Court which passed the sentence of the method adopted.

(4) Where on consideration of the case of an offender a Court makes no order with respect to a suspended sentence, the Clerk of the Court shall record that fact.

3. If the Royal Court sitting as an Ordinary Court is satisfied that an offender has been convicted of an offence punishable with imprisonment committed during the period of suspension of a suspended sentence and that he has not been dealt with in respect of the suspended sentence, the Court may order that he be apprehended or be warned to appear before the Court and the Court shall consider his case and shall have in relation thereto all the powers vested in the Court which convicted the offender of the subsequent offence under the provisions of section two of this Law:

Discovery
of
subsequent
offences.

Provided that if the suspended sentence was passed by the Court of Appeal or the Royal Court sitting as a Full Court the powers under section two of this Law shall be exercised by the Royal Court.

4. For the purposes of any enactment conferring rights of appeal any order made by a Court under the provisions of subsection (1) of section one or subsection (1) of section two of this Law shall be treated as a sentence passed on the offender by that Court for the offence for which the suspended sentence was passed.

Rights of
Appeal.

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

Interpreta-
tion.

“the Clerk of the Court” means—

- (a) in relation to a Court in the Island of Guernsey, Her Majesty's Greffier;
- (b) in relation to the Court of Alderney, the Clerk of the Court of Alderney;
- (c) in relation to the Court of the Seneschal, the Greffier of Sark;

“Royal Court” means the Royal Court sitting as a Full Court except in the case where a suspended sentence has been passed by the Royal Court sitting as an Ordinary Court in which case it shall mean the Royal Court sitting as an Ordinary Court;

“suspended sentence” means a sentence to which an order under subsection (1) of section one of this Law relates and “the period of suspension”, in relation thereto, means the period of three years from the date of the order or such lesser period as may be specified in the order.

(2) Any reference in this Law to any enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including this Law.

Citation.

6. This Law may be cited as the Criminal Justice (Power to Suspend Sentence) (Bailiwick of Guernsey) Law, 1972.

R. H. VIDELO,
Her Majesty's Greffier.