

ORDER IN COUNCIL

I

Ratifying a Projet de Loi entitled

1951

The Alderney Electricity Concession etc. Transfer Law, 1950.

(Registered on the Records of the Island of Guernsey on
the 6th day of January, 1951.)



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1951.

ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY.

*The 6th day of January, 1951, before Quertier Le Pelley, Esquire, Lieutenant-Bailiff; present :—
Osmond Priaulx Gallienne, Esquire, Ernest de Garis, Esquire, O.B.E., Sir John Leale, Richard Henry Johns, Esquire, O.B.E., William Robert Freake Clark, Walter John Gavey, Ernest Francis Lainé, Bertram Bartlett, Esquires, and Donald Carey Brock, Esquire, C.B.E., Jurats.*

The Lieutenant-Bailiff having this day placed before the Court an Order of His Majesty in Council dated the 8th day of December, 1950, ratifying a *Projet de Loi* of the States of Alderney entitled "The Alderney Electricity Concession, etc. Transfer Law, 1950",—the Court, after the reading of the said Order in Council and after having heard His 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 His Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island of which *Projet de Loi* the tenor followeth :—

At the Court at Buckingham Palace,

The 8th day of December, 1950.

Present,

The King's Most Excellent Majesty.

LORD PRESIDENT.

LORD PAKENHAM.

MR. SECRETARY GORDON-WALKER.

MR. DUGDALE.

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 29th day of November, 1950, 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 a humble Petition of Sidney Peck Herivel, Esquire, President of the States of the Island of Alderney, setting forth :

‘That at a meeting of the States of Alderney holden before Your Petitioner on the twelfth day of October, 1950, the States considered and adopted a Projet de Loi entitled “The Alderney Electricity Concession etc. Transfer Law, 1950” and Your Petitioner was authorised to present in the name of the States a most humble Petition to Your Most Gracious Majesty in Council praying Your Majesty to be graciously pleased to grant Your Royal Sanction thereto ; That the reasons for the adoption by the States of the said Projet de Loi are set forth in several paragraphs of the Preamble thereto ; And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the said Projet de

Loi (a copy whereof is hereunto annexed) and order the same to have the force of law within Your Majesty's Island of Alderney.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition, and the Projet de Loi annexed thereto, 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 Alderney.

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 and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other His Majesty's Officers for the time being, of the said Island of Guernsey, and also the Jurats of the said Island of Alderney, 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

The Alderney Electricity Concession etc. Transfer Law, 1950.

WHEREAS the Company known as "Alderney Light and Power Company Limited", a Company registered in the Island of Alderney and hereinafter referred to as "the Company", has, by virtue of the Law styled "Projet de Loi relatif à la Fourniture de la Lumière Electrique" sanctioned by Order of His Majesty in Council dated the 24th day of March, 1936, and of the Electricity Concession Law, 1948, sanctioned by Order of His Majesty in Council dated the 22nd day of June, 1948, which Laws were duly registered on the Records of the Islands of Guernsey and Alderney and are hereinafter referred to as the Electricity Concession Laws, 1936 and 1948, the exclusive right to supply electric light and power for use in the said Island of Alderney:

AND WHEREAS the Company is the owner of land, buildings, plant, machinery and equipment in the said Island of Alderney used for the purpose of the generation and distribution of electricity in the said Island and hereinafter referred to as "the physical assets of the Company's undertaking":

AND WHEREAS the Company has not, since the 24th day of September, 1949, been in a financial position to continue the generation and distribution of electricity in the said Island, which generation and distribution by means of the physical assets of the Company's undertaking has, since the 4th day of

October, 1949, been carried on under the control of an authorised controller appointed in that behalf under the provisions of Regulation 55 of the Defence (General) (Guernsey) Regulations, 1945:

AND WHEREAS there appears to be no reasonable prospect of the Company being able to resume such generation and distribution:

AND WHEREAS on or about the 19th day of May, 1950, proposals were made to the Company by letter addressed to Mr. Leslie M. Froude, the Director thereof who had at all times represented the Company in its dealings and negotiations with representatives of the States of Guernsey and of Alderney, intimating that if the Company were prepared to relinquish its rights under the Electricity Concession Laws, 1936 and 1948, and to transfer to the States of Alderney or their nominees the whole of the physical assets of the Company's undertaking, free of all incumbrances, for

(a) the sum of £4,500; or

(b) such sum as might be determined as the fair value thereof, so soon as may be after the said transfer, by an independent arbitrator, appointed by, say, the President of the Institution of Electrical Engineers:

and would so inform the insular authorities by the 30th day of June, 1950, the insular authorities would recommend to the States of Guernsey and of Alderney that such transfer be proceeded with upon the basis of (a) or (b) as the Company might elect:

AND WHEREAS the Company has not accepted either of the said proposals:

AND WHEREAS it appears from all the information available to the States of Alderney that the exclusive right of the Company to supply electric light and power in the said Island of Alderney under the Elec-

tricity Concession Laws, 1936 and 1948, and all other, the Company's rights thereunder are unmarketable:

AND WHEREAS it is expedient for the continuance of a supply of electric light and power to the inhabitants of the Island of Alderney that the said rights of the Company and the physical assets of the Company's undertaking be vested forthwith in the States of Alderney:

AND WHEREAS it may be necessary from time to time for ensuring the continuance of such supply as aforesaid that new plant and machinery be installed at the expense of the States of Guernsey in the said Island of Alderney on land belonging to the Company:

THE STATES OF ALDERNEY have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

(1) All rights vesting in the Company by virtue of the Electricity Concession Laws, 1936 and 1948, are hereby transferred from the Company to and vested in the States of Alderney with effect as on and from the date of the registration of the Order of His Majesty in Council sanctioning this Law on the Records of the Island of Alderney.

(2) The whole of the physical assets of the Company's undertaking are hereby transferred, free of all claims and incumbrances, from the Company to and vested in the States of Alderney with effect as on and from the date of such registration as aforesaid.

(3) No consideration shall be payable as respects the rights transferred from the Company to the States of Alderney under the provisions of section 1 of this Law, or as respects any building, generating or other plant or machinery switch or other gear or other equipment constructed or installed by or on

behalf of the States of Guernsey on or after the 1st day of September, 1950, for the purpose of the supply of electric light and power to the inhabitants of Alderney.

(4) As respects the physical assets transferred from the Company to the States of Alderney under the provisions of section 2 of this Law, the value thereof shall be determined as soon as may be by an arbitrator to be appointed by the President of the Institution of Electrical Engineers. The decision of the arbitrator as to the value of the said physical assets and each of them shall be binding on the States of Alderney and the Company and all others whom it may concern. The arbitrator, before determining the amount of his award, shall give reasonable opportunity for representations to be made to him on behalf of the Company and of the States of Alderney touching the subject matter of the arbitration.

(5) The costs of the arbitration shall be in the discretion of the arbitrator, who shall direct to and by whom and in what manner those costs or any part thereof shall be paid and shall settle the amount of costs to be so paid. The amount of any costs awarded against the Company shall be deducted by the States of Alderney from the amount of the value awarded by the arbitrator and applied in the manner directed by him.

(6) Whereas differences of opinion may exist or might arise between the registered and unregistered creditors of the Company as to whether certain of the physical assets of the Company's undertaking rank, under the laws of the Island of Alderney, as realty or as personalty, the arbitrator, without purporting to determine whether any of such physical assets are realty or personalty, shall, in the preparation of his award, indicate therein as clearly as possible the portion of the total amount awarded

which he attributes to the various kinds of those physical assets and, in particular, as respects the valuation of buildings and plant, machinery and effects therein, the arbitrator shall treat each such building and its contents as one lot and (a) the building, (b) each principal piece of plant or machinery with its appurtenances therein and (c) the other effects therein as sub-divisions of that lot and shall attribute a value to each sub-division.

(7) The award of the arbitrator shall on the completion thereof be deposited with the Clerk of the Court of Alderney for registration on the Public Records, and the said Clerk shall thereupon send a copy of the award, addressed to the Company, at the registered office of the Company.

(8) The incumbrances which before the date of the registration of the award attached to such of the physical assets of the Company as are realty shall, as from the date of registration of the award, attach to the same extent and with the like priorities, to the amount of the award in respect of those assets.

(9) As soon as may be after the registration of the award, the amount payable thereunder, subject as provided by section 5 of this Law, shall be paid into a deposit account with a bank in the Island of Guernsey to be opened in the names of the President and Treasurer of the States of Alderney.

(10) Upon the production to the President of the States of Alderney of the certificate of an Accountant (which expression, for the purpose of this section, shall mean a member of the Institute of Chartered Accountants of England and Wales or a member of the Society of Incorporated Accountants and Auditors, or a member of the Association of Certified and Corporate Accountants) that a scheme for the distribution of the amount of the award has been agreed to by registered creditors of the Company representing not less than two-thirds of the

amount of the claims registered against the Alderney realty of the Company, by unregistered creditors of the Company representing not less than two-thirds of the unregistered claims against the Company and by shareholders of the Company representing not less than two-thirds of the issued capital of the Company and that the said Accountant is authorised by such registered and unregistered creditors and by such shareholders to receive and distribute in accordance with such scheme the amount of such award, or upon evidence being produced to the satisfaction of the President of the States of Alderney of the appointment of a Liquidator of the Company, whichever shall first happen, the amount standing to the credit of such deposit account as aforesaid shall be paid to the said Accountant or to the said Liquidator, as the case may be, and the receipt of the said Accountant or Liquidator for the amount aforesaid shall be a complete discharge to the States of Alderney and the President and Treasurer of the States of Alderney for all purposes whatsoever.

(11) The provisions of the Guernsey Companies Law of 1908 with regard to the compulsory liquidation of companies shall have effect in the Island of Alderney as respects the Company as though the Company had been incorporated under that Law and references in such provisions to the Royal Court of Guernsey and to H.M. Sergeant in Guernsey shall be construed as references to the Court of Alderney and to the Clerk of the Court of Alderney and the reference to publication on two consecutive Saturdays in "la Gazette officielle française" shall be construed as a reference to publication in the "Gazette Officielle" of Guernsey on any week-day in each of two consecutive weeks with an interval of not less than six clear days between each such weekday.

(12) The States of Alderney may, by Resolution, vest in any person or body corporate or unincorporate willing to acquire the same the physical assets or any part or parts of the physical assets transferred to the States of Alderney under the provisions of section 2 of this Law and belonging to the said States at the time of the passing of such Resolution and such Resolution (subject, as regards any Alderney realty to which such Resolution relates, to registration in the Public Register of Deeds of the Island of Alderney) shall constitute a sufficient title to the assets vested thereby and as respects such realty as aforesaid effect shall be given to such Resolution by the making in due course of appropriate entries in the Alderney Land Register.

JAMES E. LE PAGE.

H.M. Greffier.