

ORDER IN COUNCIL

XV

1949

Ratifying a Projet de Loi entitled

"Alderney Land and Property, &c. Law, 1949".

(Registered on the Records of the Island of Guernsey
on the 28th day of May, 1949.)



PRINTED BY THE
GUERNSEY STAR AND GAZETTE LTD.,
BORDAGE STREET.

1949.

ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 28th day of May, 1949, before Ambrose James Sherwill, Esquire, C.B.E., M.C., Bailiff ; present : Osmond Priaulx Gallienne, Esquire, Ernest de Garis, Esquire, O.B.E., Sir John Leale, Knight, James Frederick Carey, Arthur Falla, Quartier Le Pelley, Walter John Sarre, Esquires, Richard Henry Johns, Esquire, O.B.E., William Robert Freake Clark and Ernest Francis Lainé, Esquires, Jurats.

THE BAILIFF having this day placed before the Court an Order of His Majesty in Council dated the 29th day of April, 1949, ratifying a *Projet de Loi* of the States of the Island of Alderney entitled "*Alderney Land and Property, &c. Law, 1949*",—

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 the said Order in Council together with a copy of this present Act, 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 Order-in Council the tenor followeth:—

At the Court at Buckingham Palace,

The 29th day of April, 1949.

Present,

The King's Most Excellent Majesty.

LORD PRESIDENT
LORD CITRINE
MR. BEVAN
MR. SILKIN.

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 25th day of April, 1949, 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 Sydney Peck Herivel, 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 13th day of April, 1949, the States considered and adopted a *Projet de Loi* intituled “Alderney Land and Property, etc. Law, 1949,” 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 thereto Your Royal Sanction. And most humbly praying that Your Majesty would be graciously pleased to grant Your Royal Sanction to the said *Projet de Loi* (a copy whereof is hereunto annexed), and to order the same to have the force of Law in Your Majesty’s said 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 foregoing
Order in Council.**

PART I.

ARRANGEMENT, INTERPRETATION AND CITATION.

Arrangement
of Parts.

1. This law is divided into Parts as follows :—
 - I. Interpretation, &c.
 - II. Rebouncing of Land.
 - III. The Alderney Land Register.
 - IV. Rehabilitation of Damaged Property.
 - V. Compulsory Purchase : Damaged Buildings.
 - VI. Compensation for Airfield Land.
 - VII. Provisions Supplementary to Parts II to VI.
 - VIII. Rights of Access to the States.
 - IX. Law Reform : Married Women, Wills, and Intestate Succession.
 - X. Compulsory Purchase : General.

Interpreta-
tion.

2.—(1) In this law unless the context otherwise requires words and expressions which are defined in section two of the Government of Alderney Law, 1948, or in this section have the meanings respectively assigned to them by that section or this section as the case may be, and in particular

“charge” means an *obligation, rente*, or other charge issuing out of or affecting or intended to issue out of or affect land ;

“ Commissioner ” means a Land Commissioner appointed under Part II or a Commissioner appointed under Part VI of this law ;

“ the Register ” means the Alderney Land Register established under Part III of this law, and “ the Registrar ” means the Land Registrar acting thereunder ;

“ registered interest ” means an interest of which the ownership is vested in accordance with section fourteen or shown in the Register in accordance with section sixteen of this law, and “ registered charge ” means a charge so vested or a charge registered in accordance with section eighteen of this law ;

“ vested ” and “ contingent ” when used in relation to a right of dower or of *franc veuillage* denote respectively the position after the death and during the lifetime of the spouse upon whose death the right becomes exercisable ; and

words importing the masculine gender include the feminine.

(2) For the purposes of Parts II and III of this law a reference to a person as “ owner ” of an interest in land shall be deemed to include a person who holds land in freehold tenure, or holds a lease of land granted for a period not less than twenty-one years, or for a period renewable at his option so as to extend to a period not less than twenty-one years, or is entitled to a *rente* issuing out of land, or is entitled to a charge enforceable against land, whether or not it secures a *rente*, and the expression “ ownership ” shall be construed accordingly.

(3) For the purposes of Parts IV and V of this law a person shall be deemed owner of a building if he holds the land comprising the building in freehold tenure, or if he holds a lease of that land granted for a period not less than twenty-one years or for a

period renewable at his option so as to extend to a period not less than twenty-one years, of either of which periods of not less than twenty-one years there were on the first day of January one thousand nine hundred and forty-nine not less than seven years unexpired, or if he holds a lease of that land granted on or after the said first day of January for a period not less than twenty-one years or for a period renewable at his option so as to extend to a period not less than twenty-one years, and the expression "ownership" shall be construed accordingly.

(4) If rules of court provide for the Register to be kept upon the loose-leaf system, consisting of a sheet or sheets for each separate property, references to the Register shall where the context so requires include the sheet or sheets for a particular property.

(5) References to the Register or to entries in the Register include where the context so requires plans annexed to the Register or to the sheet or sheets for a particular property.

(6) References in connexion with the Register to a change of ownership include where the context so requires the coming into existence of an interest which by virtue of subsection (2) of this section is deemed ownership, notwithstanding the existence of another ownership or other ownerships in the same land.

Citation.

3. This law may be cited as the Alderney Land and Property, &c., Law, 1949.

PART II

REBOUNDING OF LAND.

Appointment
and sittings
of Commis-
sioner.

4.—(1) It shall be lawful for the Secretary of State to appoint a person as Land Commissioner for the purpose of delimiting the boundaries of land in Alderney.

(2) The Commissioner shall as soon as may be after his appointment give publicly in Alderney, and

publish in at least one London daily newspaper and in a newspaper published in Jersey and in a newspaper published in Guernsey which circulates in Alderney, notice of the date when he will begin his sittings, and on and from that date shall sit publicly in Alderney as often as is necessary for the purpose of receiving claims and taking evidence until he has completed awards in respect of all the land in Alderney.

5. Claims may be made to the Commissioner in pursuance of this Part of this law :— Claims to land, etc.

- (a) by a person in respect of ownership or in respect of the boundaries of land as existing at the time when the claim is made, and
- (b) by a person claiming under heading (a) who for the purpose of ensuring the more effective use of land by the consolidation of scattered holdings or otherwise desires that the boundaries of land shall be re-arranged or altered, or that by agreement between himself and other owners there may be an exchange of lands.

6.—(1) The evidence which the Commissioner receives may be documentary or oral and no rules concerning the admissibility of evidence shall oblige him to exclude evidence which he considers material but, upon the written request of a person who declares himself aggrieved by the admission of or refusal to admit any evidence tendered to the Commissioner, the Commissioner shall state a case for decision by the Court upon the admissibility of such evidence and the decision of the Court upon a case so stated shall be final. Evidence.

(2) The Commissioner shall have power to administer an oath, and to require a person claiming to be an owner to take an oath in support of the matters in his claim, and in particular to state his identity on oath or to prove his identity by the oaths

of witnesses or by documentary evidence, and to state on oath whether to his knowledge the land is subject to any charge, and whether there is in existence any person who has a vested or contingent right to dower or a vested right to *franc veu* out of the land or any tenancy of the land or any part thereof, and the name of every person known to the person claiming to be entitled to a charge or tenancy and the date when the charge was effected or the marriage took place or the tenancy began.

Scope of
awards.

7.—(1) The Commissioner shall upon every claim submitted to him under heading (a) in section five of this law make an award :—

- (i) naming the person whom he finds to be the owner of the subject matter of the claim, and
- (2) in case of a claim to a freehold or leasehold describing the boundaries of the land affected,

and shall annex to the award a plan delimiting the land to which the award relates.

(2) If an award for the purpose of ensuring the more effective use of land re-arranges or alters a boundary or consolidates holdings the Commissioner shall annex to the award a statement of the compensation, if any, to be paid and the persons to whom and by whom it is to be paid and within what period :

Provided that no such statement shall require payment of compensation at the cost of the revenue of Alderney unless the award so far as concerns that part of it which gives rise to compensation is, in pursuance of this law, made in favour of the States.

(3) A plan annexed to an award in pursuance of sub-section (1) of this section shall be deemed to be, and a statement annexed to an award in pursuance of sub-section (2) of this section shall not be deemed to be, part of the award for the purposes of so much of this law as requires registration of awards.

(4) A charge not amounting to ownership of land, an easement over land and a profit arising out of land, and a tenancy not amounting to ownership of land, shall not be impliedly extinguished by an award made under this law but unless expressly extinguished by an award as a consequence of other provisions thereof shall continue to apply to the same land, and in case of appendant or appurtenant rights shall remain appendant or appurtenant to the same land, notwithstanding the effect of an award upon ownership, and a personal right collateral to a right mentioned in this sub-section shall continue as if this law had not been made.

(5) All public rights in or over land shall continue to apply to the same land, notwithstanding the effect of an award upon ownership.

(6) In this section the expression "compensation" includes both pecuniary compensation and compensation by awarding the ownership of an interest in land or a charge and where pecuniary compensation is awarded the Commissioner may provide in his award for the payment of such compensation in a lump sum or by instalments and for payments to be secured by a charge enforceable against land to which the award applies without the necessity of a conveyance or other document apart from the award.

8. In respect of any freehold interest in land to which— Awards to
the States.

- (a) no claim is made within a period determined by the Secretary of State and embodied in the notice published by the Commissioner ; or
- (b) no claim is established to the satisfaction of the Commissioner or of the Court upon appeal,

the Commissioner shall make an award with a plan annexed in accordance with section seven of this law, based upon such evidence as he can secure of the boundaries of and title to the land, and if he is

not satisfied in regard to the title to the said interest shall award the ownership thereof to the States.

Objections
to awards.

9.—(1) When the Commissioner has completed awards in respect of so much land as in his opinion may conveniently be dealt with under this section, and so on from time to time until he has dealt with all land in Alderney, he shall cause public notice to be given of the place in Alderney where the awards and plans and statements annexed thereto may be inspected, and any person aggrieved by an award may lodge an objection with the Court within such period as the Secretary of State shall fix, and shall at the same time give written notice of his objection to the Commissioner.

(2) The Commissioner shall thereupon give written notice to every other person whose title to ownership may in his opinion be affected by the objection or who may in his opinion become liable to pay or entitled to receive compensation under an award relating to ownership which is the subject of the objection.

(3) On the lodging with the Court of an objection the Court shall give to the objector and to the Commissioner notice of the date upon which it will proceed to determine the objection, and the objector and the Commissioner and every person to whom notice is by this section required to be given by the Commissioner shall be entitled to be heard by the Court in accordance with rules of court.

(4) If the Court considers that an objection is well founded it may amend the award or the plan annexed thereto or may substitute a new award or plan.

Deposit
of awards
with Court.

10. As soon as possible after the expiry of the period appointed for the lodging of objections or after the decision of the Court on an objection as the case may be, awards to which no objection has been made and awards upon which an objection has been determined by the Court together with the plans annexed thereto shall be lodged by the Commissioner with the Clerk of the Court.

11.—(1) If upon an application made within two years from the date of the award a person satisfies the Court— Late claims.

- (a) that an interest in land or in a charge which has been awarded to another person or to the States under this law was on the day before the date of the award vested in him for an interest or charge equal to or greater than the interest or charge so awarded, and
- (b) that—

- (i) because he was absent from Alderney when the notice first mentioned in this law was published by the Commissioner, and did not become aware of the publication of that notice until after the expiry of the period fixed by the Secretary of State for lodging objections ; or
- (ii) for some other reason approved by the Court,

he was unable to submit a claim to the Commissioner or to lodge an objection, the Court after giving the other person or the States as the case may be an opportunity to be heard in accordance with rules of court may order that the ownership be divested from the States or other person and vested in the person first mentioned in this section. Any such order shall take effect as a disposition of the ownership without the necessity of a conveyance, and shall be dealt with by the Registrar accordingly.

(2) The validity of an award shall not after the award is made be questioned in any legal proceedings upon the ground that the Commissioner has omitted to give any notice which by this law he is required to give, or has not received evidence from or on behalf of any person.

12.—(1) The expenses other than those defrayed by His Majesty's Government which are incurred by the Commissioner in preparing his awards and in Costs of awards.

appearing or being represented in accordance with this law before the Court or before the Royal Court shall be taxed and defrayed from the revenue of Alderney in such manner as the said Court directs, and no fee shall be required from claimants in respect of their having made a claim, or charged by the Registrar in respect of registering an award.

(2) Costs incurred by a person other than the Commissioner in any proceedings before the Court or the Royal Court arising out of an award shall be defrayed as directed by the said Court, but if no direction is given shall be defrayed in accordance with sub-section (1) of this section.

PART III.

THE ALDERNEY LAND REGISTER.

Formation
of Register.

13.—(1) The Clerk shall compile a register of awards lodged with him in pursuance of section ten of this law, as they are so lodged, and shall thereafter maintain it, with such new entries as are necessary to constitute a permanent register of ownership.

(2) The said register shall be styled the Alderney Land Register, and in relation thereto the Clerk of the Court shall be styled Land Registrar.

(3) The Register shall be in such form as the Court by rules directs :

Provided that the rules shall ensure :—

- (i) that ownership is distinguished from interests less than ownership ; and
- (ii) that there is a nominal index of owners, and an index to properties by reference to a map.

(4) The Registrar shall comply with any directions of the Court in regard to employing a surveyor or a competent draftsman in the compilation and maintenance of the Register, and providing a strong room or otherwise ensuring the safety of the register.

(5) The necessary expenses of compiling and maintaining the Register shall be part of the expenses of the Court and section twenty-six of the Government of Alderney Law, 1948, shall apply to those expenses as it applies to the expenses of administering justice.

14.—(1) An interest or charge awarded to a person other than the States in pursuance of this law shall vest in that person as soon as the award is registered, without the necessity of a conveyance. Vesting upon first registration.

(2) An interest awarded to the States in pursuance of this law :—

(a) shall vest in the States as soon as the award is registered without the necessity of a conveyance, but until the expiry of two years from the date of the award shall be registered in a section of the Register separate from the land of other owners ;

(b) shall not before the expiry of the said period be alienable by the States, but this enactment shall not preclude the States from letting land for a term not extending beyond that date, and an agreement for a letting in accordance with this paragraph shall not be invalidated by proceedings successfully taken against the States under section eleven of this law.

15.—(1) The Register shall be open to inspection by any person upon his paying an inspection fee determined by rules made by the Court. Inspection of Register.

(2) The right of inspection does not include a right of copying or taking extracts.

(3) A person inspecting the Register shall be entitled upon his paying a fee determined by rules made by the Court to receive an extract from the Register, certified by the Registrar as correct.

16.—(1) When the Clerk has in accordance with subsection (1) of section thirteen of this law compiled so much of the Register as relates to an owner's Changes in Register.

interest, no change of ownership shall be effective until the Register has been altered to show the effect of the change.

(2) Where after so much of the Register as relates to an owner's interest has been compiled as aforesaid a person desires in pursuance of an agreement made on or after the day on which this law is registered on the records of the Island of Alderney, or in consequence of the death of an owner, to give effect upon the Register to a change of ownership the Registrar upon payment to him of the proper fee shall so alter the Register as to show the change :—

- (a) in any case if so directed by the Court or on appeal by the Royal Court ; or
- (b) in case of an agreement, upon written application made by one of the parties to the agreement, or upon written or oral application made jointly by those parties, and upon the production if he so requires of evidence of the agreement ; or
- (c) in case of death where the owner has made a will which deals with the said interest, upon application made either by the legal personal representative or by the person to whom the interest to which the application relates has passed under the will and upon the production of the will duly proved, or upon application made in virtue of a right of dower or *franc veuvinge* ; or
- (d) in case of intestacy, upon application made to him by the person in whom has beneficially vested the interest in respect of which the application is made, not being an interest which by any provision of this law has vested in the Clerk of the Court, and production to him of evidence which he considers satisfactory of that person's right to have a change made in the Register.

(3) Where by virtue of any provision of this law, a registered interest has vested in the Clerk of the Court, effect shall be given upon the Register to such vesting as a change of ownership, without the necessity of an application by any other person.

(4) Rules may be made by the Court fixing the manner in which alterations shall be made in pursuance of this section, the nature of the evidence which the Registrar may accept as *prima facie* satisfactory in any class of case, the form of certificate to be given by the Registrar showing that such an alteration has been made, and the fees to be charged for the alteration and certificate.

(5) In this section the expression "the proper fee" means the fee fixed by rules under the next foregoing subsection, together with :—

(a) an amount determined by ordinance of the States, in substitution for and not less than the *congé* fee hitherto payable to the Crown Receiver, and

(b) any further sum by way of fee or duty upon changes of ownership which may from time to time be lawfully chargeable.

17. After the date upon which an award is in pursuance of section ten of this law lodged with the Clerk of the Court no evidence of ownership or of boundaries other than the Register shall be of any legal effect in relation to the interest to which the award relates :

Register to be exclusive title.

Provided that this section shall not extend to proceedings under section eleven of this law.

18.—(1) After so much of the Register as relates to an owner's interest has been compiled in accordance with section thirteen of this law, a person may apply to the Registrar :—

Entry of charges and minor interests subsequently created.

(a) to be registered in respect of a *rente* issuing out of land or of an *obligation* enforceable against land or of a judgment for an amount certain, which *rente* or *obligation*

has been created or which judgment has been obtained since the award relating to the first named interest was made in pursuance of this law, or

- (b) to have a note of an interest in land which is less than ownership made against an entry in the Register, which note shall constitute notice of the interest so noted to all persons deriving title under the owner of the interest to which the said entry refers.

(2) If every person registered as owner of an interest which will be affected by an application made by virtue of the foregoing subsection concurs in writing in the application, or if a direction in that behalf is given by the Court by virtue of the next following subsection, the Registrar shall as the case may be register the interest or make the note to which the application relates.

(3) If the person registered as owner does not concur in writing in such an application the difference between him and the applicant shall be determined by the Court, and the Court or upon appeal the Royal Court may direct the form of entry, if any, to be made in the Register for the purpose of giving effect to the application.

(4) Rules made by the Court for the purposes of this section may make the same provisions as under subsection (4) of section sixteen of this law.

Period for
retrait.

19.—(1) The date of the registration of the conveyance of realty mentioned in Article II and Article III of the law entitled *Loi relative au retrait lignager, aux appropriements, et a la lecture de contrats aux Plaids d'Heritage (Auregny)* which was sanctioned and ratified by an Order of His Majesty in Council on the twenty-second day of December one thousand nine hundred and forty-eight shall for the purpose of calculating the period during which the right of *retrait* is exercisable in accordance with those Articles

be the date of registration in the Register of the change of ownership in relation to which the right of *retrait* is exercisable.

(2) Every registration of a change of ownership of a freehold interest or of a *rente* shall be provisional until the expiry of the period within which the right of *retrait* is exercisable in relation to that interest or that *rente*.

20.—(1) When application is made to the Registrar to register a change of ownership of freehold land or of a *rente* it shall be his duty to inform the parties of the existence in the law of Alderney of the right of *retrait*, and of the purport of sub-section (2) of the foregoing section, and if to his knowledge the purchaser is not resident in Alderney to inform the purchaser of the nature of the right.

Parties to
be informed
of retrait.

(2) If the Registrar is made aware that a person has instituted proceedings for exercise of the right of *retrait*, he shall make a note of the fact upon the Register.

(3) If the person who has instituted proceedings for exercise of the right of *retrait* succeeds in those proceedings, the Registrar shall upon application by that person cancel the provisional registration previously made, and substitute an entry in which the person who has exercised the right is shown as entitled to the interest in respect of which the right has been exercised.

(4) If the aforesaid proceedings are abandoned or are unsuccessful the Registrar shall on becoming aware of the fact cancel the note made under sub-section (2) of this section.

(5) No action shall lie against the Registrar in respect of failure or omission by him to comply with subsection (1) of this section, and it shall not be a defence to any proceedings arising out of an agreement for the sale of an interest that there was such failure or omission by the Registrar.

Powers and
duties of
Registrar.

21.—(1) The Registrar shall for the purpose of his functions as Registrar have power to administer an oath, and in particular to call upon a person whose identity is material for any purpose of this law to state his identity on oath or to prove his identity by the oaths of witnesses or by documentary evidence, and to call upon a person who desires registration of a change of ownership of realty to state on oath whether to his knowledge there exists a person who has a vested or contingent right to dower or a vested right to *franc veuvage* out of that realty.

(2) The duties of the Clerk of the Court as Registrar shall be taken into account in the fixing of his salary, and fees paid to him in pursuance of the provisions of this Part of this law shall be accounted for by him in like manner as the fees mentioned in section twenty-five of the Government of Alderney Law, 1948.

Directions by
Court and
rules of
court.

22.—(1) Where doubt, dispute, or difficulty arises upon any matter affecting the Register, the Registrar or any other person interested in that matter may apply for directions to the Court, and the Registrar shall comply with directions given by the Court or on appeal by the Royal Court upon such an application.

(2) Rules of court shall provide for the manner of applying for a direction or order of the Court for any purpose of this law and for the procedure on appeal to the Royal Court, and may in particular provide for *ex parte* applications to the Court and that fees incurred in or in consequence of applications to the Court shall be added to any costs recoverable by an applicant for such a direction or order.

Insurance
and
indemnity.

23. The Court shall subject to the approval of the States obtain a policy or policies of insurance against loss to any person resulting from errors or omissions in the Register or in a certified extract from the Register, the premiums upon which policy or policies shall be paid as part of the expenses of

compiling and maintaining the Register, and to the extent that a loss is proved to the satisfaction of the Court to have resulted from an error or omission in the Register and to be covered by such a policy the person who has suffered loss shall be indemnified.

24.—(1) The Court shall provide for performance of the functions of the Registrar during any period when the office is vacant or when the Registrar by reason of illness or absence is unable to perform those functions. Acting Registrar.

(2) A person acting in pursuance of this section as temporary Registrar shall have all powers conferred by law upon the Registrar, and this Part of this law and section twenty-six of the Government of Alderney Law, 1948, shall apply as if he were the Registrar.

25.—(1) The Register may be rectified in pursuance of an order of the Court, or by the Registrar subject to an appeal to the Court, where Rectification.

- (a) as a consequence of a decision of the Court the Court is of opinion that rectification is required, and makes an order to that effect ; or
- (b) the Court on the application of any person who is aggrieved by an entry in or by the omission of an entry from the Register, or by a default or delay in the making of an entry in the Register, makes an order for rectification ; or
- (c) all persons interested consent to the rectification ; or
- (d) the Court or the Registrar is satisfied that an entry in the Register has been obtained by fraud ; or
- (e) two or more persons are by mistake registered as owners of the same registered interest or as entitled to the same charge ; or

(f) the Registrar is made aware of a clerical error in the Register which can in his opinion be corrected without detriment to any person's interest ; or

(g) in any other case, by reason of an error or omission in the Register, or by reason of an entry made under a mistake, it is deemed by the Court to be just to rectify the Register.

(2) The Registrar shall forthwith give notice in writing to every person whose name appears in the Register in connexion with an entry which has been rectified.

PART IV.

REHABILITATION OF DAMAGED PROPERTY.

Scope of
liability
to repay.

26.—(1) This Part of this law shall have effect where by reason of damage to a building occurring on or after the twenty-third day of June one thousand nine hundred and forty His Majesty's Government undertake the work of reconstructing or repairing that building and either :—

- (i) the States have agreed to repay the cost, or
- (ii) a person other than the States has accepted liability in accordance with this Part of this law for repayment of the whole or part of the said cost.

(2) This Part of this law shall not apply in respect of a building owned by a person other than the States unless he has before the first day of June one thousand nine hundred and forty-nine given written notice to the States of his wish that this Part of this law shall apply, and signed an undertaking by which he accepts liability for repayment.

(3) The cost of reconstructing or repairing a building, and the date on which the work of so doing is completed, shall be certified by a person nominated for the purpose by the Secretary of State and a certificate by that person shall be conclusive for the purposes of this Part of this law.

(4) In this Part of this law a condition of a person's ownership of a building or residence in a specified place at a specified time shall be satisfied by ownership of that building or by residence in that place as the case may be at that time by a person from whom the first mentioned person has derived title to the ownership by will or by intestate succession or by way of dower or *franc vevage*.

27. Where no person other than the States has accepted liability the States shall be deemed to have agreed that they will repay the said cost not later than the thirty-first day of March, one thousand nine hundred and fifty-three.

Liability
of States.

28. Where a person other than the States has accepted liability for any repayment of the said cost, his liability shall be determined by the following rules :—

Liability
of private
persons.

- (a) where the said person was owner of the building on the twenty-third day of June one thousand nine hundred and forty and had his ordinary place of residence in Alderney on the twenty-fifth day of September, one thousand nine hundred and forty-eight, the part for which he is liable shall be fifteen per cent. to be paid within six months of the date on which the work of reconstructing or repairing the building is completed ;
- (b) where the foregoing rule does not apply, but the said person was owner of the building on the twenty-third day of June one thousand nine hundred and forty and gives notice to the States before the first day of June one thousand nine hundred and forty-nine that he intends to reside in the building as soon as the work of reconstructing or repairing the building is completed, the part for which he is liable shall be fifteen per cent., to be paid within six

months of the date on which the work is completed, and eighty-five per cent. to be paid within a further twelve months :

Provided that there shall be no liability for payment of the last mentioned eighty-five per cent. if throughout the said period of twelve months, except for an interval which in case of death may have been necessary to establishing ownership and taking up residence, the building has been the ordinary place of residence of the said person or of the said person and a person deriving title from him by will or by intestate succession or by way of dower or *franc veuvage*.

- (c) In any other case, he shall be liable to repay the whole cost within six months of the date on which the work of reconstruction or repair is completed.

Enforcement
of
undertaking.

29.—(1) Where in accordance with the foregoing provisions of this Part of this law a sum of money is due to His Majesty by reason of the re-creation or repair of a building not owned by the States, the undertaking signed in accordance with subsection (2) of section twenty-six of this law shall without the necessity of any further contract constitute an agreement by the person who has signed it, and :—

- (i) without the necessity of any further agreement and without prejudice to any other method of recovering the money there shall be an *obligation* enforceable against the land comprising the building ;
- (ii) the States shall be deemed to have undertaken to collect the money as agent for His Majesty and shall for the purpose of so doing have all the powers of a creditor under the aforesaid *obligation* ;
- (iii) the owner for the time being of the land comprising the building shall be deemed the person liable to pay the said money ; and

- (iv) the Treasurer shall procure the registering of the *obligation* in the Register ; and
- (v) the Treasurer shall for the purpose of enforcing the said *obligation* have power to sell the land as if he held an irrevocable power of attorney granted to him by the person liable to pay the said money.

(2) An *obligation* deemed by reason of this section to have come into existence shall as soon as it is registered have priority over all other charges on the same land, and if as provided by this section the land is sold for the purpose of enforcing such an *obligation* the title acquired by the purchaser shall be free of such other charges.

(3) The States shall have power on behalf of His Majesty to agree to vary the period of repayment fixed by an agreement which is deemed to have taken effect by virtue of subsection (1) of this section.

30.—(1) It shall be the duty of the States to provide for the payment to His Majesty of all sums due to be collected by them as agents by virtue of this Part of this law, not later than three months from the end of the year in which those sums are so due, or would have been so due if the period of repayment under an agreement had not been prolonged by virtue of subsection (3) of the next foregoing section.

Money
collected by
States.

(2) If upon a sale of land under the next foregoing section the purchase price received by the Treasurer exceeds what is due from the States to His Majesty under subsection (1) of this section, the balance after recoupment to the States of any expenses incurred by them in acting as agent under the next foregoing section shall :—

- (a) be applied by the States in discharge according to their priorities of registered charges from which by subsection (2) of the next foregoing section the sale has freed the land, and

(b) if the said balance is not thereby exhausted be paid to the person deemed to have granted the power of attorney under which the sale took place.

(3) Any question of the priority of charges arising in connexion with a payment or as to the person entitled to a payment under the next foregoing subsection shall on application by the States be decided by the Court, whose decision thereon shall be conclusive.

PART V.

COMPULSORY PURCHASE : DAMAGED BUILDINGS

Definitions
for Part V.

31. In this Part of this law :—

the expression “building” when used in relation to purchase includes part of a building and the site and curtilage of a building ;

the expression “costs of the award” ; includes the remuneration of the arbitrator ;

the expression “land” includes all interests in or over or appendant or appurtenant to land ;

the expression “serve” in relation to a notice or order means that the notice or order is served by hand upon the person to whom it is addressed, or sent to him by post by registered letter, and a notice or order served by registered letter shall for the purpose of computing time be deemed to have reached the addressee of the letter in due course of post.

Purposes of
purchase.

32.—(1) Where the States pass a resolution that reconstruction or repair of a building to which this section applies is desirable for the purpose of improving the accommodation available for housing, the building may be acquired by the States for the said purpose in accordance with the provisions of this part of this law, unless :—

- (i) the owner of the building is occupying it as a residence, at the date on which the States pass the resolution, or
- (ii) reconstruction or repair of the building has been begun before that date, or
- (iii) before that date the owner has given notice to the States that he desires the building to be reconstructed or repaired in accordance with this law.

(2) This section applies to every building which has suffered destruction or damage since the twenty-third day of June, one thousand nine hundred and forty.

33.—(1) In a case to which the next foregoing section applies, the States may serve upon the owner of the building a notice informing him that they desire to purchase the building, and requiring him to state in writing within fourteen days the price at which he will sell the building.

Notice of
intended
purchase.

(2) Where there are more owners than one of a building, notice under this section shall be served upon each owner and the following sections of this Part of this law shall apply in respect of the interest of each owner.

34.—(1) If the owner in compliance with the notice under the next foregoing section states a price in writing his statement shall be deemed an irrevocable offer to sell at that price to the States.

Valuation
and
purchase by
agreement.

(2) Upon receipt of such a statement, or upon the expiry of fourteen days from service of a notice under the foregoing section with which the owner has not complied, the Treasurer shall obtain from a qualified person a valuation of the owner's interest in the building in its existing condition, based on the assumption that the cost of reconstruction or repair will fall upon the owner.

(3) If the owner in compliance with the aforesaid notice has stated a price and that price is not higher than the amount of the valuation obtained under this

section the States shall serve upon the owner a notice that they accept his offer, whereupon an agreement binding on the States and on the owner shall be deemed to have been made.

Compulsory
purchase
order.

35.—(1) If the price stated by the owner is higher than the amount of the valuation, or if within fourteen days of service upon him of notice under section thirty-three of this law the owner has not stated a price in writing, the States may serve upon the owner an order for compulsory purchase, and the said order shall forthwith be communicated to the Registrar and by him be noted in the Register against the entry of the land comprising the building as if it were a charge upon the land to which it relates.

(2) If the aforesaid order is withdrawn, the Registrar shall cancel the note made under the foregoing subsection.

(3) If within one month alter service upon him of an order for compulsory purchase the owner intimates to the States in writing that he is prepared to sell the building to which the order relates for the amount of the aforesaid valuation, such intimation together with the order shall be deemed to constitute an agreement for the sale of the building at that amount, with immediate possession of the owner's interest in the building, upon the footing that the vendor and the purchaser pay their own costs.

Notice of
arbitration.

36. If within one month after the service upon him of an order for compulsory purchase the owner does not give the intimation mentioned in the next foregoing section the States may on the expiry of the said month serve upon him a notice to go to arbitration and thereupon :—

(a) the States shall on the day on which the last mentioned notice is served be deemed to have purchased the owner's interest in the building to which the order for compulsory purchase relates ;

- (b) a person authorized by the States may enter on the land comprising the building and may subject to the following paragraph do all such things as are necessary for the purpose mentioned in section thirty-two of this law ;
- (c) where a person other than the vendor is occupying a part of the land any agreement between such persons and the vendor which is in force on the said day shall as from the said day have effect with the substitution of the States for the vendor, so however that no liability shall attach to the States in respect of a breach of covenant by the vendor before that day ; and
- (d) the Registrar upon receiving a certificate from the Treasurer that the building has been purchased as aforesaid shall cancel the note made in the Register against the entry of the land comprising the building in pursuance of subsection (1) of the next foregoing section, and shall register the States as transferee of the vendor's interest in the building :

Provided that if the owner within fourteen days of service upon him of notice under section thirty-three of this law gives notice to the States in writing that he intends to reconstruct or repair the building, the order for compulsory purchase shall not be followed by the notice mentioned in this section until the expiry of six months from the date of the notice under section thirty-three of this law, and if within the said six months the reconstruction or repair of the building has been begun, and they are satisfied that the work will be completed within a reasonable time, the States shall withdraw their first mentioned notice.

Appointment
of arbitrator.

37. Arbitration under this Part of this law shall be by a single arbitrator, not being a member of the States or the person or a partner of the person who has made the valuation under section thirty-four of this law, and the arbitrator shall be selected by agreement or in default of agreement shall be selected by the President of the Guernsey States Board of Administration.

Basis of
value.

38.—(1) The value determined by the arbitrator shall be upon the footing of a sale by agreement between a willing vendor and a willing purchaser, on the assumption stated in section thirty-four of this law, and if the order for compulsory purchase relates to less than the whole of the land in which the owner has an interest no allowance for severance of his interest shall be made.

(2) The arbitrator when he draws up his award shall add the costs of the award to the value determined by him, or deduct those costs from the said value, according as the value determined by him does or does not exceed by more than ten per cent. the amount of the valuation obtained under section thirty-four of this law. The value determined by the arbitrator, with the addition or after the deduction required by this subsection to be made, is hereinafter called the awarded price.

Rules of
court.

39. Rules of court may determine the procedure at an arbitration under this Part of this law and the circumstances in which a case for the opinion of the Court shall or may be stated by the arbitrator, so however that no such case shall be stated except upon a point of law.

Award
conclusive.

40. An award of an arbitrator under this Part of this law shall be conclusive as regards all questions of value and amount.

Consequences
of vesting.

41.—(1) When an agreement is deemed to have come into existence under section thirty-four or section thirty-five, or an awarded price is fixed under section thirty-eight, of this law :—

(a) the price under the agreement or the awarded price shall be a debt due from the States to the vendor or to the person entitled to receive it in accordance with the following paragraph, lettered (c) in this subsection, and when due to the vendor shall carry interest at the rate of four per cent., from the date when the said agreement is deemed to have come into existence, or from the date when notice to go to arbitration was served, as the case may be, and

(b) the right of *retrait lignager* shall not be exercisable in respect of the purchase by the States in pursuance of this Part of this law of the owner's interest in the land to which the agreement relates or for which the awarded price has been fixed, and

(c) the States shall acquire a title free of any charges which attached to the land in the hands of the vendor, but they shall apply the purchase money due from them under paragraph (a) of this subsection first in discharge according to priority of registered charges from which the land has been freed by this paragraph and secondly in payment to the vendor.

(2) Any question of the priority of charges arising in connexion with a payment or as to the person entitled to a payment under paragraph (c) of the next foregoing subsection shall on application by the States be decided by the Court, whose decision thereon shall be conclusive.

(3) If an order is under section eleven of this law made vesting in a person who makes an application under that section land which under Part II of this law had vested in a person other than the States and under this Part of this law becomes vested in the States, the Court shall as a condition of the said order

require the first mentioned person to repay to the States, either in a lump sum or by such instalments (with such interest on and such security for unpaid instalments) as the Court thinks reasonable, the amount of all expenditure upon the land incurred by the States after the land vested in them under this Part of this law and of any moneys applied in pursuance of paragraph (c) of subsection (1) of this section in discharge of registered charges for which such first mentioned person was responsible.

(4) Upon the making of such an order as is mentioned in the next foregoing subsection :—

- (a) the States shall be entitled to recover from the persons to whom the same were paid any sums paid to or for the account of the vendor in pursuance of paragraph (c) of subsection (1) of this section :—
- (b) any agreement deemed to have come into existence under section thirty-four or section thirty-five of this law shall cease to have effect ; and
- (c) paragraph (a) of subsection (1) of this section shall cease to have effect.

PART VI.

COMPENSATION FOR AIRFIELD LAND.

Scope of
Part VI.

42.—(1) The money which on the first day of January one thousand nine hundred and forty-nine was held for the purpose of compensating persons whose land was acquired for the construction of the Airfield shall be distributed in accordance with the provisions of this Part of this law.

(2) The provisions of this Part of this law shall take effect in substitution for any provisions relating to the distribution of the said money among claimants thereto, which are contained in the Acquisition of Improved Properties Law (Alderney), 1947.

Appointment
of
Commis-
sioner.

43. It shall be lawful for the Secretary of State to appoint a Commissioner, who shall for the purposes of this Part of this law have the same powers of receiving evidence and administering an oath as

are by Part II of this law conferred upon the Commissioner appointed thereunder, and sections six and fifty-one of this law shall apply accordingly.

44.—(1) The provisions of section four of this law with regard to notices and sittings shall apply to claims under this Part of this law. Sittings by Commissioner.

(2) The notices published in pursuance of the foregoing subsection shall include a statement that the Commissioner will in addition to claims arising under this Part of this law be prepared to adjudicate where any person alleges that he is entitled to a claim, hypothecary right, or encumbrance, enforceable against a *rente* by virtue of article three of and the second Schedule to the Acquisition of Improved Properties Law (Alderney), 1947.

45. As soon as practicable after completing the hearing of all claims which are lodged with him within the time fixed in pursuance of the next foregoing section, or of so many of such claims as from time to time can in his opinion conveniently be dealt with under this section, the Commissioner shall :— Awards.

- (a) eliminate claims which are in his opinion not supported by sufficient evidence ;
- (b) publish a list of claimants who have in his opinion supported their claims by sufficient evidence, which claims are hereinafter in this section called “ good claims ” ;
- (c) ascertain what portion if any of the land acquired for the Airfield is not covered by good claims ;
- (d) unless the whole of the land is covered by good claims, divide the amount of the money mentioned in section forty-two of this law into two parts, assigning one part for distribution in respect of good claims and one part as a reserve fund against claims lodged with him but not yet heard and against future claims in respect of land

not covered by good claims, which parts shall as nearly as may be stand in the same proportion as the land covered by good claims and the land not so covered ; and

(e) issue in respect of each good claim an award declaring :—

(i) to what sum the claimant is entitled, on the footing of the area of the land in respect of the acquisition of which the claim is made, and

(ii) to what claims, hypothecary rights, or encumbrances (all of which are hereafter in this law called “encumbrances”) the said sum is subject by virtue of the provisions mentioned in **sub-section (2)** of section forty-four of this law.

Provided that in respect of a good claim upon which the Commissioner considers that further evidence is necessary of the extent of the last-mentioned area, the Commissioner may :—

(i) award a smaller sum than he would have awarded if such further evidence had been adduced, and make a corresponding increase in the amount assigned as a reserve fund in pursuance of this section, and

(ii) award a further sum, and make a corresponding reduction in the amount assigned as a reserve fund as aforesaid, if before all awards have been deposited in accordance with section forty-seven of this law he becomes satisfied that a larger sum than he first awarded may be properly awarded in respect of the said claim.

Objections

46. A person who is aggrieved by the list published in accordance with paragraph (b) or by an award issued under paragraph (e) of the foregoing section shall have the like right of objection and of being heard by the Court as is given by section nine

of this law in respect of an award to which Part II of this law refers, and the provisions of subsections (1), (3), and (4) of that section shall apply accordingly.

47.—(1) As soon as the time within which objections may be made by virtue of the next foregoing section has expired, the Commissioner shall deposit in duplicate with the Clerk of the Court and with the Treasurer all awards against which no objection has been made, and as soon as an objection has been determined shall deposit with the Treasurer a copy of the award as made or as altered on objection as the case may be.

Deposit and
payment of
awards.

(2) The sum named in an award deposited in accordance with this section shall be a debt due from the States.

(3) Money due under the next foregoing subsection shall be applied by the Treasurer for the purpose of satisfying any encumbrances to which under sub-paragraph (ii) of paragraph (e) of section forty-five of this law the sum named in the award has been declared to be subject, and so far as not required for that purpose shall be paid to the claimant.

48.—(1) The amount of the reserve fund if any which is mentioned in paragraph (d) of section forty-five of this law shall be certified by the Commissioner, and shall be held by the Treasurer in a suspense account until the expiry of twelve months from the date fixed in pursuance of section forty-four of this law for the making of claims.

Reserve for
future
claims.

(2) Within the said twelve months a person may make before the Court a claim on the reserve fund :—

- (i) if he satisfies the Court of one of the matters which, in regard to applications with respect to land, are set out in subsection (1) of section eleven of this law, or

- (ii) if in a case to which the proviso to section forty-five of this law applies, he satisfies the Court by evidence which was not adduced to the Commissioner that the area of land in respect of which a claim was made by him was of greater extent than the extent upon the footing of which the award was made,

and upon any such claim the Court, after giving the States an opportunity of being heard in accordance with rules of court, and requiring the claimant to publish an advertisement approved by the Court stating that the Court when adjudicating upon his claim will be prepared to adjudicate also upon such encumbrance upon the sum represented by that claim as is mentioned in subsection (2) of section forty-four of this law, may make an order embodying any award which could have been made by the Commissioner.

- (3) An order so made shall be communicated to the Treasurer, who shall proceed upon it in like manner as by section forty-seven of this law he is required to proceed upon an award made by the Commissioner.

Cost of
awards.

49. Section twelve of this law shall apply in regard to claims under this Part of this law as it applies in regard to applications under Part II of this law.

PART VII.

PROVISIONS SUPPLEMENTARY TO PARTS II TO VI.

Rules of
court and
directions
for Parts II
to VII.

50. Rules of court mentioned in Parts II to VII of this law and directions given by the Court by virtue of the said Parts may be challenged in the Royal Court, but such rules shall not be deemed rules formulated for the purpose of regulating the procedure of the Court within the meaning of section twenty-two of the Government of Alderney Law, 1948.

51. The taking for purposes of this law of an oath which is false in any material particular shall constitute perjury, and the production for purposes of this law of a document which is false in any material particular shall be an offence punishable by imprisonment for a term not exceeding twelve months or by a fine not exceeding one hundred pounds or by both such imprisonment and such fine.

False oath
to be
perjury.

52.—(1) It shall be lawful for the Commissioner or the Registrar or for a surveyor or other person authorized in writing generally or specially by the Commissioner or Registrar to enter with or without assistants upon land and to place thereon boundary marks corresponding to an award or to an entry in the register.

Boundary
marks.

(2) The nature of the boundary marks to be so placed by or under the authority of the Registrar shall be determined by rules of court or by direction of the Court.

(3) Removal or covering over or mutilation of a boundary mark which has been placed on land by or under the authority of the Commissioner or Registrar shall be an offence punishable by imprisonment for a term not exceeding twelve months or by a fine not exceeding one hundred pounds or by both such imprisonment and such fine.

PART VIII.

RIGHT OF ACCESS TO THE STATES.

53.—(1) The States shall at not less than two meetings in each year, which unless the States by ordinance otherwise determine or in a particular year otherwise resolve shall be the meeting next after the Annual Meeting and a meeting in September, so arrange their business that an opportunity is given for any person whose name is included in the register of voters to bring personally before the States any matter of public interest which that person requests

Private
persons may
address two
meetings at
least in
each year.

shall be considered, and to address the States not more than once except by special leave of the States in support of his request.

(2) When the aforesaid opportunity is to be given, the Billet d'Etat shall so state, and the person presiding at the people's meeting called in pursuance of section fifty-one of the Government of Alderney Law, 1948, shall so inform that meeting.

(3) The person who intends to address a meeting of the States in accordance with this section shall three clear days at least before the date of such meeting give to the Clerk of the States written notice of his intention, which notice shall set out the matter of public interest which he requests shall be considered.

(4) The order of speaking among persons who bring matters before a meeting of the States in accordance with this section shall be decided by the President or other person presiding at that meeting.

(5) The matter so brought before the States shall, without discussion, stand referred for consideration at the next following meeting of the States.

PART IX.

LAW REFORM.

Definitions,
etc., for
Part IX.

54.—In this Part of this law :—

the expression “ proceeds ” means net proceeds after deduction of all expenses and outgoings lawfully chargeable thereon or directed or approved by the Court, which expenses shall without prejudice to the generality of this provision include payment of Court fees on a scale fixed by rules of court ;

the expression “ child ” means legitimate child and other expressions indicating relationship shall be construed accordingly ;

references to a child or other descendant include a person *en ventre sa mere* ; and

a direction to pay money to a person imports a direction to pay that money to the legal personal representative of that person, if that person has died after his right to the money has accrued by virtue of this Part of this law.

Married Women.

55. The Married Women's Property Law, 1928, which was registered upon the records of Guernsey on the eighth day of September, one thousand nine hundred and twenty-eight, shall apply in Alderney as if it formed part of this law, with the substitution of references to the Court for references to the Royal Court sitting as the Ordinary Court, and with the substitution of the date whereon the Order of the King's most Excellent Majesty in Council sanctioning this law is registered on the records of Alderney for the date of the commencement of that law.

Married
women's
property.

Wills.

56.—(1) If a person who dies on or after the day on which this law is registered on the records of the Island of Alderney has made a will disposing of real property, that will subject to any right of dower or *franc veuvasse* shall if otherwise valid take effect notwithstanding that the said person is survived by persons to whom the said property would have passed under the law hitherto in force.

Disposition
of land
by will.

(2) The law of dower or *franc veuvasse* does not invalidate a disposition of realty by will in conflict therewith, if either :—

- (a) the widow or widower agrees in writing to surrender the dower or *franc veuvasse*, or
- (b) the Court on the application of a person having a legal interest in the realty directs that the realty be sold, and the proceeds disposed of as the will directed that the realty should be disposed of, subject to provision for the widow or widower which

the Court considers an adequate satisfaction of the right to dower or to *franc veuPAGE*.

Intestate succession.

Vesting and
sale of real
estate upon
intestacy.

57.—(1) When a person owning real estate dies without having disposed or without having wholly disposed by will of that estate, the estate or such part thereof as he has not disposed of (which estate or part is hereafter in this section called "the estate") shall forthwith vest for the purposes of this section in the Clerk of the Court, and be disposed of as provided by this and the next following seven sections.

(2)—(a) If there is not more than one person who under the five next following sections would upon sale of the estate be entitled to the proceeds of the sale, and that person is not less than twenty years of age and applies to the Court to direct the transfer of the estate to him, the Court shall comply with his application.

(b) If there are two or more persons who under the five next following sections would upon sale of the estate be entitled to share in the proceeds of the sale, and those persons concur in applying to the Court to direct the transfer to them of the estate in shares specified in the application, the Court shall comply with the application unless where the estate comprises agricultural land the Court is of opinion that to do so would by creating units too small to be properly worked be against the public interest.

(c) If there are two or more persons who under the five next following sections would upon sale of the estate be entitled to share in the proceeds of the sale, and an application is made to the Court by less than the whole number of the said persons for the transfer of the estate to an applicant or for the transfer to more applicants than one of the estate in shares specified in the application, the Court may comply with the application if:—

- (i) after giving an opportunity to all the said persons to be heard, it is of opinion that the interests of such of them as have not concurred in the application can be safeguarded by a money payment, and
- (ii) where the estate comprises agricultural land, the Court is of opinion that compliance with the application will not by creating units too small to be properly worked be against the public interest.

(3) The power of the Court under paragraphs (b) and (c) of the next foregoing subsection to direct transfer of the estate to an applicant or applicants shall include power to order the applicant or applicants to make such payments in cash or by way of *rente* as to the Court seem just by way of compensation to persons who otherwise would have been entitled under the five next following sections to share in the proceeds of sale of the estate.

(4) The Clerk shall for the purposes and subject to the provisions of this section have all powers of selling, letting, or managing the estate which belonged to the deceased person (hereafter in this section called "the intestate"), which powers he shall exercise under the directions of the Court, and also where the intestate left a widow or a widower having a right of *franc veuvage* a power of applying to the Court to authorize sale free of the right to dower or *franc veuvage*, upon the making of equivalent provision for the widow or widower to the satisfaction of the Court :

Provided that in case of *franc veuvage* the powers of this sub-section shall not be exercised unless the widower informs the Court of his concurrence.

(5)—(a) Subject to the provisions of this section, the Clerk shall sell the estate not later than the expiry of twelve months after the death of the intestate or of such longer period as the Court allows, and pending such sale may, for a term not extending beyond

the expiry of the said twelve months or longer period, let any land which is unlet and shall otherwise manage the estate and pay over all proceeds of letting or management to the Treasurer :

Provided that :—

- (i) the proviso to the next foregoing subsection shall apply to this subsection ; and
- (ii) the Clerk may with the approval of the Court from time to time make advances on account for the benefit of persons who will on distribution in accordance with this Part of this law be entitled to a share of the said proceeds.

(b) A sale under this section shall be by public auction unless the Court otherwise directs.

(6) The Treasurer shall keep an account of all moneys paid to him under the foregoing subsection and shall by reference to the name of the intestate distinguish that account from the accounts of the revenue of Alderney.

(7) The proceeds of sale of the estate and all moneys standing to credit of the account kept under the next foregoing subsection shall as soon as the sale has been completed be aggregated and dealt with in accordance with the following sections of this law, in which the amount so to be dealt with is called “ the aggregate.”

(8) The Clerk shall for the purpose of his duties under this section have power at the cost of the estate, subject to any directions given by the Court, to obtain proper advice and engage proper assistance and in the performance of his said duties he shall not be liable for any loss to the estate unless such loss arises through his improperly failing to take the directions of the Court or otherwise through his own default.

(9) Rules may be made by the Court determining fees to be charged on an estate in respect of the performance of the Clerk's duties under this section,

and subsection (2) of section twenty-one of this law shall apply to the said duties and to the said fees in like manner as to the duties and the fees therein mentioned.

58.—(1) If the intestate left a widow or widower and no person of a class entitled to share in the aggregate by virtue of the four following sections of this law, the aggregate shall subject as hereinafter in this section provided be transferred to the said widow or widower. Surviving spouse.

(2) If the intestate left a widow and also a person of a class entitled to share in the aggregate by virtue of the four following sections of this law :—

- (a) one third of the aggregate shall be invested in the joint names of the Clerk and the Treasurer in securities approved by the Court, and the income therefrom shall be paid to the widow during her life, and
- (b) the remaining two thirds shall be dealt with in accordance with the four following sections of this law.

(3) If the intestate left a widower entitled to *franc veuvage*, and left also a person of a class entitled to share in the aggregate by virtue of the four following sections of this law, then save as provided by the next following subsection the aggregate shall be invested in securities approved by the Court, and the income therefrom shall be paid to the widower during his life or until he remarries.

(4) Where by reason of the proviso to subsections (4) and (5) of the next foregoing section realty affected by *franc veuvage* has been retained unsold, subsection (1) of this section shall be satisfied by transferring that realty instead of the aggregate, and subsection (3) of this section shall be satisfied by the widower's retention of the realty.

(5) Upon the death of a widow to whom income has been paid under subsection (2) of this section or the death or remarriage of a widower to whom

income has been paid under subsection (3) of this section or who has retained realty as therein provided, the securities or realty there mentioned shall be sold under the direction of the Court, and the proceeds shall be divided among the persons who if there had been no widow or widower would in pursuance of the four following sections have received the capital corresponding to those securities.

Descendants. 59. If the intestate left no widow or widower and one descendant only, the aggregate shall be paid to that descendant, and if the intestate left no widow or widower and more than one descendant every child of the intestate and the descendants of a deceased child of the intestate shall within each stock of descent take an equal share, but in each degree below children of the intestate the amount divisible within each stock shall be that which the deceased child or other deceased descendant of the intestate would have taken had he survived the intestate.

Parents. 60. If the intestate left no widow or widower and no descendants, but left a parent or parents, the aggregate shall be paid to the parent or to the parents in equal shares.

Brothers and sisters and their descendants. 61.—(1) If the intestate left no widow or widower and no descendants and no parents, but left a brother or sister or brothers or sisters of the whole blood, or descendants of such brothers or sisters who are deceased, the aggregate shall be paid to the said persons in manner laid down in section fifty-nine of this law.

(2) If the intestate left no widow or widower and no descendants and none of the persons mentioned in the foregoing subsection, but left a brother or sister or brothers or sisters of the half blood or descendants of deceased brothers or sisters of the half blood, the aggregate shall be paid to the said persons in manner laid down in section fifty-nine of this law.

62. Failing persons to whom the aggregate can be paid by virtue of the four foregoing sections, it shall be paid to the surviving grandparents, if any, of the intestate in equal shares, failing whom to his surviving great-grandparents, if any, in equal shares, failing whom—

Grand-
parents,
etc., uncles
and aunts.

(a) in equal shares to his surviving uncles and aunts of the whole blood and to each stock of descent from a deceased uncle or aunt of the whole blood, persons in the same degree within each stock of descent sharing equally the amount appropriate to that degree within that stock, and failing persons so entitled,

(b) to his surviving uncles and aunts of the half blood and to each stock of descent from a deceased uncle or aunt of the half blood, persons in the same degree within each stock of descent sharing equally the amount appropriate to that degree within that stock.

63. Where a person to whom under the foregoing sections a sum of money would be paid is under the age of twenty, that sum shall for his benefit be paid to such other person and under such conditions or restrictions as the Court directs.

Persons
under age.

64. Failing persons to whom the aggregate mentioned in this Part of this law can be paid in pursuance of the foregoing sections, the said aggregate shall belong to His Majesty, and the Treasurer shall pay it to such person on behalf of His Majesty as the Secretary of State directs.

Ultimate
Right of
His Majesty.

General.

65. Section fifty of this law applies to rules of court mentioned in this Part of this law and to orders made and directions given by the Court for the purpose of this part as it applies to rules made and directions given for the purposes of Parts II to VII of this law.

Rules of
court, etc.,
for Part IX.

PART X.

COMPULSORY PURCHASE : GENERAL.

Scope of
Part X.

66. This Part of this law applies where the States pass a resolution that it is in the public interest to acquire for some specified public purpose land named in the resolution, not being land to which Part V of this law applies.

Definitions
for Part X.

67. In this Part of this law :—

the expression “ costs of the award ” includes the remuneration of the arbitrator ;

the expression “ land ” includes buildings upon land and all interests in or over or appendant or appurtenant to land ;

the expression “ owner ” means a person who holds land in freehold tenure, or holds a lease of land granted for a period not less than twenty-one years or for a period renewable at his option so as to extend to a period not less than twenty-one years, of either of which periods of not less than twenty-one years there were on the first day of January one thousand nine hundred and forty-nine not less than seven years un-expired, or holds a lease of land granted on or after the said first day of January for a period not less than twenty-one years or for a period renewable at his option so as to extend to a period not less than twenty-one years ;

the expression “ serve ” in relation to a notice or order means that the notice or order is served by hand upon the person to whom it is addressed, or sent to him by post by registered letter, and a notice or order served by registered letter shall for the purpose of computing time be deemed to have reached the addressee of the letter in due course of post.

68.—(1) In a case to which section sixty-six of this law applies, the States may serve upon the owner of the land a notice informing him that they desire to purchase the land, and requiring him to state in writing the price at which he will sell the land.

Notice of
intended
purchase.

(2) Where there are more owners than one of the land, notice under this section shall be served upon each owner and the following sections of this Part of this law shall apply in respect of the interest of each owner.

69. If the owner on receipt of the notice mentioned in the foregoing section states a price in writing his statement shall be deemed an irrevocable offer to sell at that price to the States, and the Treasurer shall thereupon obtain from a qualified person, a valuation of the owner's interest in the land in its existing condition, and if the price stated by the owner is not higher than the amount of the valuation so obtained the States shall serve upon the owner a notice that they accept his offer, whereupon an agreement binding on the States and on the owner shall be deemed to have been made.

Offer by
owner to sell.

70.—(1) If the price stated by the owner is higher than the amount of the valuation, or if within fourteen days of service upon him of notice under section sixty-eight of this law the owner does not state a price in writing, the States may serve upon the owner an order for compulsory purchase, and the said order shall forthwith be communicated to the Registrar and by him be noted in the Register against the entry of the land as if it were a charge upon the land to which it relates.

Compulsory
purchase
order.

(2) If the aforesaid order is withdrawn, the Registrar shall cancel the note made under the foregoing subsection.

(3) If within one month after service upon him of an order for compulsory purchase the owner intimates to the States in writing that he is prepared to sell the land to which the order relates for the amount

of the aforesaid valuation, such intimation together with the order shall be deemed to constitute an agreement for the sale of the land at that amount, with immediate possession of the owner's interest in the land, upon the footing that the vendor and the purchaser pay their own costs.

Notice of
arbitration,
and purchase
of
subordinate
interests.

71.—(1) If within one month after the service upon him of an order for compulsory purchase the owner does not give the intimation mentioned in the next foregoing section the States may on the expiry of the said month serve upon him a notice to go to arbitration and thereupon :—

- (a) the States shall on the day on which the last mentioned notice is served be deemed to have purchased the owner's interest in the land to which the order for compulsory purchase relates ;
- (b) a person authorized by the States may enter on the land and may subject to the following paragraph do all such things as are necessary for the purpose specified in the resolution passed under section sixty-six of this law ;
- (c) where a person other than the vendor is occupying the land or a part of the land any agreement between such person and the vendor which is in force on the said day shall as from the said day have effect with the substitution of the States for the vendor, so however that no liability shall attach to the States in respect of a breach of covenant by the vendor before that day ; and
- (d) the Registrar upon receiving a certificate from the Treasurer that the land has been purchased as aforesaid shall cancel the note made in the Register against the entry of the land in pursuance of subsection (1) of the next foregoing section, and shall register the States as transferee of the vendor's interest in the land :

(2) As soon as they are so registered the States if they consider it necessary for the purpose for which they have acquired the land may give notice to a person occupying the land or part thereof to terminate his interest at a specified date, and such notice shall have effect notwithstanding paragraph (c) of the foregoing subsection, but if the said person is thereby required to go out of occupation earlier than could have been required by the vendor the States shall compensate him for so doing and for the purpose of determining the amount of compensation, if not agreed between the said person and the States, the following provisions of this Part of this law in regard to arbitration, except subsection two of section seventy-three, shall apply as if the States were acquiring the interest of an owner.

72. Arbitration under this Part of this law shall be by a single arbitrator, not being a member of the States or the person or a partner of the person who has made the valuation under section sixty-nine of this law, and the arbitrator shall be selected by agreement or in default of agreement shall be selected by the President of the Guernsey States Board of Administration. Appointment of arbitrator.

73.—(1) The value determined by the arbitrator shall be upon the footing of a sale by agreement between a willing vendor and a willing purchaser. Basis of value.

(2) The arbitrator when he draws up his award shall add the costs of the award to the value determined by him, or deduct those costs from the said value, according as the value determined by him does or does not exceed by more than ten per cent. the amount of the valuation obtained under section sixty-nine of this law. The value determined by the arbitrator, with the addition or after the deduction required by this subsection to be made, is hereinafter called the awarded price.

Rules of
court,

74. Rules of court may determine the procedure at an arbitration under this Part of this law and the circumstances in which a case for the opinion of the Court shall or may be stated by the arbitrator, so however that no such case shall be stated except upon a point of law.

Award
conclusive.

75. An award of an arbitrator under this Part of this law shall be conclusive as regards all questions of value and amount.

Consequences
of vesting.

76. When an agreement is deemed to have come into existence under section sixty-nine or section seventy, or an awarded price is fixed under section seventy-three, of this law :—

(a) the price under the agreement or the awarded price shall be a debt due from the States to the vendor and shall carry interest at the rate of four per cent. from the date when the said agreement is deemed to have come into existence, or from the date when notice to go to arbitration was served, as the case may be, and

(b) the right of *retrait lignager* shall not be exercisable in respect of the purchase by the States in pursuance of this Part of this law of the owner's interest in the land to which the agreement relates or for which the awarded price has been fixed.

JAMES E. LE PAGE,
H.M. Greffier.