

ORDER IN COUNCIL

XIV

Ratifying a *Projet de Loi* entitled

1950

“The Tomato Export (Settlement of Dispute) Law, 1950.”

(Registered on the Records of the Island of Guernsey on
the 8th day of July, 1950.)



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1950.

ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 8th day of July 1950, before Sir Ambrose James Sherwill, C.B.E., M.C. Bailiff; present:—
Osmond Priaulx Gallienne, Esquire, Ernest de Garis, Esquire, O.B.E., Sir John Leale, James Frederick Carey, Arthur Falla, Quartier Le Pelley, Walter John Sarre, Esquires, Richard Henry Johns, Esquire, O.B.E., William Robert Freake Clark, Walter John Gavey and Ernest Francis Lainé, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of His Majesty in Council dated the 26th day of June, 1950, ratifying a *Projet de Loi* entitled "The Tomato Export (Settlement of Dispute) 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, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace.

The 26th day of June, 1950.

Present,

The King's Most Excellent Majesty.

LORD PRESIDENT

MR. SECRETARY GRIFFITHS

MR. GAITSKELL

SIR RONALD IAN CAMPBELL

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 8th day of June, 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 the humble Petition of the States of the Island of Guernsey, setting forth :—

‘ 1.—That, in pursuance of their Resolution of the 8th day of March, 1950, the States of Deliberation at a meeting held on the 17th day of May, 1950, approved a Bill or “ *Projet de Loi* ” entitled “ The Tomato Export (Settlement of Dispute) Law, 1950”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto; 2. That the said Bill or “ *Projet de Loi* ” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “ *Projet de Loi* ” of the States of Guernsey entitled “ The Tomato Export (Settlement of Dispute) Law, 1950,” and to order that the same shall have force of Law in the Island of Guernsey.’

“ THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said *Projet de Loi* into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said *Projet de Loi*.”

HIS MAJESTY having taken the said Report into consideration is pleased, by and with the advice of His Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HIS MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other His Majesty's Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

E. C. E. Leadbitter.

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

PROJET DE LOI

ENTITLED

“ The Tomato Export (Settlement of Dispute) Law, 1950. ”

WHEREAS—

1. The President of the States Committee for Horticulture as a Competent Authority under Regulation 55 of the Defence (General) (Guernsey) Regulations, 1945, for one of the purposes specified in subsection (1) of section one of the Supplies and Services (Transitional Powers) Act, 1945, (which said Act was, with certain exceptions, adaptations and modifications, extended to Guernsey by virtue of the Supplies and Services (Transitional Powers) (Guernsey) Order in Council, 1946), made a Scheme on the 13th day of April, 1948, entitled “ Provisions of Scheme to Govern Exports of Guernsey Tomatoes, 1948 ”, which said Scheme he subsequently amended from time to time.

2. It was provided by the said Scheme as so amended that all tomatoes should be exported in 1948 only under the direction of a body of persons acting under the style and title of “ The Guernsey Tomato Shipping Board ” (hereinafter referred to as “ the Tomato Board ”).

3. Tomatoes were exported in 1948 under the direction of the Tomato Board who collected the proceeds of sale thereof.

4. The Tomato Board has distributed amongst the exporters of such tomatoes the proportion of the said proceeds of sale which the Tomato Board considers the proper proportion attributable to such exporters.

5. A dispute has arisen as to the disposal of the balance of the said proceeds of sale remaining after such distribution (which said balance is hereinafter referred to as "the monies in dispute").

6. Proceedings have been instituted before the Royal Court for the settlement of the dispute, but the Royal Court is, owing to the fact that a number of Jurats are not acceptable to certain parties to the dispute as judges thereof on the grounds that such Jurats are financially interested in the dispute, unable to determine the dispute.

7. Expenses have been incurred in the institution of those proceedings.

THE STATES, in pursuance of their resolution of the 8th day of March, 1950, have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in this Island:—

1. (1) The Bailiff shall by writing appoint an experienced lawyer as arbitrator for the purposes of this Law.

(2) It shall be the duty of the arbitrator to decide to whom and in what manner the monies in dispute shall be distributed, and to record his decision in writing.

(3) In the event of the arbitrator becoming unable to act, the Bailiff shall appoint another arbitrator in his place, and so on in the event of any arbitrator becoming unable to act. Any arbitrator appointed under the provisions of this subsection shall carry out the duties of arbitrator ab initio.

2. In arriving at his decision the arbitrator shall not be bound by any rule or principle binding upon any court in Guernsey, but shall make such decision as shall seem to him to be fair.

3. The decision of the arbitrator shall be final and it shall be the duty of every person having the control of the monies in dispute to distribute them according to the said decision. Such distribution shall constitute a complete discharge of the duties of any such person in respect of the monies in dispute.

4. The arbitrator shall hold an enquiry in public for the purpose of arriving at his decision and may, save as is otherwise by this Law provided, follow such procedure as seems to him proper.

5. Subject to the provisions of the next succeeding section, any person shall be entitled to address the arbitrator, either personally or through an advocate or through such other representative as the arbitrator may allow, in support of any claim to the monies in dispute or any part thereof.

6. The arbitrator may refuse to allow any person to address him unless that person shall have furnished him, in such time and manner as the arbitrator shall by notice in the Gazette Officielle require, with the name and address of that person and a statement whether that person intends to address the arbitrator on his own behalf or on behalf of any, and if so what, person or class of persons.

7. Where at any time it shall appear to the arbitrator that the interests of or represented by any persons addressing or wishing to address him can be classified, he may require the interests constituting each or any class to be represented by the same advocate.

8. The arbitrator may in his decision provide for the payment of the following expenses or any part thereof, in such amount as he shall think fit, out of the monies in dispute :—

- (1) The expense of and incidental to the arbitration, including the expenses of any witness.
- (2) The expense incurred by any person of and incidental to his addressing the arbitrator.
- (3) The expense incurred by any person of and incidental to the proceedings before the Royal Court referred to in the sixth recital in the preamble to this Law.

9. (1) The arbitrator shall have all such powers, rights and privileges as are vested in the Royal Court, on the occasion of an action in respect of the following matters :—

- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise ;
- (b) compelling the production of documents ;
- (c) issuing a commission or request to examine witnesses out of Guernsey ;

and a summons signed by the arbitrator and delivered to any person may be substituted for and shall be equivalent to any formal process capable of being issued in any action for enforcing the attendance of witnesses and compelling the production of documents.

- (2) If any person—
 - (a) on being duly summoned as a witness before the arbitrator makes default in attending ; or

- (b) being in attendance as a witness refuses to take an oath or to make an affirmation legally required by the arbitrator, or to produce any document in his power or control which the arbitrator shall legally require him to produce, or to answer any question which the arbitrator shall legally require him to answer ;
or
- (c) does any other thing which would, if the arbitrator had constituted a court of law having power to commit for contempt, have been contempt of that court,

the arbitrator may certify the offence of that person under his hand to the Royal Court, and the Royal Court may thereupon inquire into the alleged offence, and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement which may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the Royal Court.

(3) A witness before the arbitrator shall be entitled to the same immunities and privileges as if he were a witness before the Royal Court.

JAMES E. LE PAGE,

H.M. Greffier.