

Act No. 38 of 1961**BAHAMAS ELECTRICITY CORPORATION LOAN**

38 of 1961
46 of 1963

An Act to provide for the raising of a loan by The Bahamas Electricity Corporation by the issue of Debenture Stock, and to provide for payments of interest and principal secured by such stock to be guaranteed by the Government of The Bahama Islands, and to declare certain terms and conditions applicable to the issue of such stock.

[Commencement 31st July, 1961]

WHEREAS by section 14 of the Electricity Act it is provided that the Bahamas Electricity Corporation may, with the consent of the Legislature, borrow money by the issue of debentures or debenture stock for certain purposes; and

WHEREAS by section 15 of the said Act it is provided that the Government may guarantee the payment of the interest and principal of any loan secured by such debentures or debenture stock in such manner and upon such terms as the Government may think fit; and

WHEREAS by section 17 of the said Act it is provided that the revenue of the Bahamas Electricity Corporation shall be applied in manner therein set out; and

WHEREAS it is now deemed expedient that the Bahamas Electricity Corporation should raise a loan in accordance with the provisions of the Electricity Act; and

WHEREAS Corbin International Trading Company Limited, a company incorporated under the laws of the Bahama Islands, has agreed to purchase debenture stock of the Bahamas Electricity Corporation; and

WHEREAS the agreement of Corbin International Trading Company Limited to purchase the said debenture stock of the Bahamas Electricity Corporation is conditional, *inter alia*, upon the Government guaranteeing the payment by the Bahamas Electricity Corporation of the interest and aggregate principal sum secured by the said debenture stock:

1. This Act may be cited as the Bahamas Electricity Corporation Loan Act. Short title.

2. In this Act, unless the context otherwise requires — Interpretation.
 - “the Act” means the Electricity Act; Ch. 194.
 - “the Board” means the Public Board of Works for New Providence, constituted under the Boards of Works Act; 15 of 1913.
 - “the Company” means Corbin International Trading Company Limited;
 - “the Corporation” means the Bahamas Electricity Corporation constituted under the Act;
 - “debenture stock” means the debenture stock to be issued by the Corporation pursuant to the provisions of this Act and to be secured by the mortgage and trust deed hereinafter mentioned in this Act; and
 - “dollars” means dollars in the currency of the United States of America.

3. It shall be lawful for the Corporation to issue debenture stock the terms of issue of which shall provide, *inter alia*, the following: Corporation may issue debenture stock.
 - (a) The debenture stock shall be in the principal sum of eleven million dollars and shall constitute a registered security freely assignable and transferable from time to time and at all times by the respective holders thereof.
 - (b) The debenture stock shall be dated the first day of June 1961, and shall be payable on the first day of August 1981, or on such earlier date as may be thought fit by the Corporation and in accordance with the provisions for earlier redemption as this Act provides. In the event of any default in the payment of the interest to become due on the debenture stock or on any breach or non-observance by the Corporation of any of the covenants on the part of the Corporation to be contained in the mortgage and trust deed hereinafter referred to the principal moneys secured by the said mortgage and trust deed and the debenture stock and all interest due thereon shall become payable:

Provided, however, that the same shall only become payable in the event of default in the payment of interest if such default shall continue for twenty-one days after such interest shall become due and at least ten days' notice shall have been given to the Corporation and to the Government requiring the Corporation to pay the interest in arrears or in the event of a breach or non-observance of covenant if the same shall not be remedied within thirty days after notice shall have been given to the Corporation and to the Government requiring the Corporation to remedy the breach or non-observance of such covenant.

46 of 1963, s. 2.

- (c) The debenture stock may be issued either in fully registered form in denominations of one thousand dollars, or in multiples thereof, or in registered form with coupons attached in denominations of one thousand dollars, five thousand dollars, ten thousand dollars, fifty thousand dollars and one hundred thousand dollars or in multiples thereof.
- (d) The debenture stock shall secure the right to interest at the rate of five and one-half per centum per annum on the principal sum secured by the debenture stock from the first day of June 1961 until redemption.
- (e) The debenture stock after issue shall be sold by the Corporation to the Company in the City of Montreal in the Province of Quebec in Canada or at such other place as may be mutually agreed by the Corporation and the Company on the first day of November 1961, or as near to that date as may be mutually agreed by the Corporation and the Company at a purchase price equivalent to ninety-one and one-half per centum of the principal amount secured by the debenture stock together with the total accrued interest from the first day of June 1961 down to and including the actual date of the sale of the debenture stock.
- (f) Each certificate issued in respect of debenture stock shall have annexed thereto detachable coupons in respect of the interest payable on the debenture stock represented by such certificate.

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- (g) The first payment of interest in respect of the debenture stock shall be made on the first day of February 1962 and thereafter interest payments shall be made semi-annually on the first day of August and the first day of February in each year, in each case upon presentation of the relevant coupons.
 - (h) The Corporation shall be entitled at its option on the first day of August in each year commencing in the year 1972 by one year's notice given in respect of each such redemption to redeem debenture stock in the principal sum not exceeding five hundred and fifty thousand dollars at par and this right in the Corporation shall be a cumulative right so that if not exercised in any one year it may be exercisable in any later year provided that the Corporation shall not be entitled in any one year to redeem in accordance with the provisions of this subsection debenture stock exceeding the principal sum of one million one hundred thousand dollars.
 - (i) In addition to the foregoing, the Corporation shall be entitled on or after the first day of August 1971 to redeem all outstanding debenture stock upon ninety days' notice at a redemption price being the principal sum secured by the debenture stock to be redeemed together with a premium thereon calculated as hereinafter provided. If the date of redemption specified in the notice of the Corporation shall be on or after the first day of August 1971 and on or before the thirty-first day of July 1972 then the premium for redemption shall be six per centum, and if the date of redemption so notified shall fall within the next succeeding twelve months thereafter the premium for redemption shall be five and three-quarters per centum, and the premium shall reduce accordingly by one-quarter of one per centum for each period of twelve months thereafter which shall elapse without the Corporation electing to redeem in accordance with the provisions of this subsection.

46 of 1963, s. 3.
Ch. 194.

- (j) Notwithstanding the provisions of section 4 of The Electricity Act, for the purposes of this Act any documents required to be executed by the Corporation or any officer thereof in pursuance of the provisions of this Act shall be deemed to be sufficiently executed if such documents bear a facsimile of the signature of the proper officer or officers which such facsimile may be affixed, imprinted or otherwise reproduced, and if such documents bear a facsimile of the seal of the Corporation impressed, affixed, imprinted or otherwise reproduced. Such facsimiles may be affixed, imprinted, impressed or otherwise reproduced by any person authorised so to do by the mortgage and trust deed made under the provisions of section 4 of this Act.
- (k) The Corporation may make provision for a sinking fund for the retirement of the debenture stock and for optional redemption in accordance with the terms of the said mortgage and trust deed made under the provisions of section 4 of this Act.

Debenture stock
to be secured by
a mortgage and
trust deed.

4. (1) The debenture stock (and the principal moneys thereby represented and the interest to become due thereon) shall be secured by a mortgage and trust deed to be dated the first day of June 1961 and to be made between the Corporation of the first part, one or more corporations or persons who by agreement between the Corporation and the Company shall be appointed trustee or trustees for the holders of the debenture stock of the second part, and the Government acting by the Treasurer of the third part.

(2) The deed referred to in the immediately preceding subsection shall contain the terms, provisions and covenants hereinafter in this subsection mentioned, and in addition may contain such other terms, conditions, provisions, agreements and covenants as may be agreed between the Corporation and the Company and as shall not be inconsistent with anything contained in this Act, namely:

- (a) a first legal mortgage upon and over all fixed assets of the Corporation existing at the date of the debenture stock and a floating or other

- charge upon and over all other assets of the Corporation existing at the said date as well as a charge on all assets acquired by the Corporation thereafter (other than fixed assets which the Corporation agreed to purchase before the first day of June 1961 and on which the Corporation agreed to create a first charge by way of mortgage to secure part of the purchase price thereof);
- (b) a first charge on all revenue of the Corporation remaining after payment of the current operating expenses as defined by paragraphs (a) and (b) of subsection (1) of section 17 of The Electricity Act provided that such first charge on such revenue shall not attach except in the case of default in payment of the principal moneys represented by the debenture stock or default in payment of the interest due thereon;
 - (c) a covenant by the Government unconditionally guaranteeing the payment of all principal moneys represented by the debenture stock and of all interest to become due thereon;
 - (d) a covenant by the Government that so long as any debenture stock remains unredeemed no taxes, duties, financial assessments or impositions of any kind (whether by way of income or withholding taxes or stamp or probate duties or otherwise howsoever) shall be created, charged, levied or collected by the Government upon, against or in respect of the debenture stock and the principal moneys thereby represented or against the interest payable thereon or upon any assignment, transfer or transmittal of the same;
 - (e) a covenant by the Government that notwithstanding the provisions of The Exchange Control Regulations Act and any Finance Regulations made thereunder, or any other Act whatsoever, so long as any debenture stock remains unredeemed the same and every part thereof shall be freely assignable and transferable from time to time and at all times by the respective holders thereof, and the principal moneys represented by the debenture stock and the interest payable

Ch. 360.

thereon shall be payable in dollars and shall be freely transmittable to every person entitled thereto who is a resident of the United States of America or Canada or who is a resident of any other part of the world not comprised within the Scheduled Territories;

- (f) a covenant by the Government that so long as any debenture stock remains unredeemed all ordinary stock issued to the Government pursuant to the provisions of paragraph (6) of section 28 of the Act shall remain vested in the Government and shall not be transferred, charged or otherwise disposed of;
- (g) a covenant by the Government that so long as any debenture stock remains unredeemed the provisions of section 19 of the Act shall remain in full force and effect and that all payments made by the Corporation in respect of the principal moneys represented by the debenture stock and in respect of the interest to become due thereon shall be payments of outgoings by the Corporation properly chargeable to income in all respects within the meaning of section 19 of the Act;
- (h) a covenant by the Corporation not to create any charge whatsoever on its assets or revenue ranking prior to or *pari passu* with the charges to be created by the said deed hereinbefore referred to and the debenture stock excepting and reserving to the Corporation the right to create charges ranking prior to or *pari passu* with the said deed and the debenture stock on any real or personal property acquired by the Corporation after the issue of the debenture stock in favour of the vendor thereof but to the extent of one half of the purchase price thereof only.

(3) Nothing shall be included in the said deed hereinbefore in this section referred to as to prevent or in anywise restrict the statutory right of the trustees named therein to appoint a receiver or receivers of the mortgaged property.

(4) The Treasurer on behalf of the Government shall execute and deliver the said deed hereinbefore in this section referred to and affix his seal of office thereto.

(5) The deed referred to in this section shall when executed and delivered be the validly existing and enforceable obligation of the Corporation.

5. Upon the coming into operation of this Act the Board shall enter into an Agreement with the Corporation whereby the Board will undertake to purchase all fresh water produced from time to time by the Corporation and available for sale and to pay the Corporation for the same at a rate sufficient to defray all costs, present and future, connected with the distillation and delivery thereof, including capital and interest charges on any plant or equipment used by the Corporation for the production of such water.

Public Board of Works for New Providence to purchase water.

6. The Corporation shall pay —

- (a) all reasonable expenses incurred or to be incurred in respect of the issue of the debenture stock including all printing and engraving expenses; and
- (b) all legal fees and costs incurred or to be incurred by the Company in connection with the negotiation of the loan and the preparation and completion of the issue of the debenture stock and the preparation and execution of the said mortgage and trust deed, including all reasonable travelling expenses incurred by or on behalf of the Company provided always that the Corporation shall not be obligated to pay more than forty-two thousand five hundred dollars in respect of such legal fees incurred by the Company; and
- (c) a finder's fee of the sterling equivalent of one hundred thousand dollars to E. D. Sassoon Banking Company, Limited, a Company also incorporated in The Bahamas, in connection with issue and sale of the debenture stock; and
- (d) all trustee's, co-trustee's and paying agent's fees in connection with the issue and redemption of the debenture stock and the payment of the interest payable thereon.

Payment of expenses.