

vide 19 of 1916
No. 8

TRINIDAD AND TOBAGO.

No. 3.—1915.

19th February.

AN ORDINANCE, to consolidate and amend the Trading with the Enemy Ordinances.

[L.S.]

GEORGE R. LE HUNTE,

GOVERNOR.

11th March, 1915.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Trading with the Enemy (Consolidation) Ordinance, 1915.

2. In this Ordinance—

Interpretation.

The expression "Trading with the Enemy," and cognate expressions, mean any transaction or act which at the time such transaction was entered into or act done was prohibited by or under any proclamation issued by His Majesty or by the Governor in Executive Council dealing with trading with the enemy for the time being in force, or which at common law or by Ordinance or by any statute of the Imperial Parliament in operation in the Colony constitutes an offence of trading with the enemy: provided that any transaction or act permitted by or under any such proclamation shall not be deemed to be Trading with the enemy.

The expression "Company" means an incorporated company.

Penalty for trading with the enemy.

3.—(1.) Any person who :—

(a.) During the present war trades or attempts or directly or indirectly offers or proposes or agrees to trade ; or

(b.) Has since the 4th day of August, 1914, traded or attempted or directly or indirectly offered or proposed or agreed to trade ;

with the enemy, is guilty of a misdemeanour and is liable upon summary conviction to imprisonment, with or without hard labour, for any period not exceeding twelve months, or to a fine of £500 or to both, and upon conviction on indictment to imprisonment, with or without hard labour, for any period not less than three years and not more than seven years or to a fine at the discretion of the Court, or to both.

(2.) In the case of a conviction, either summary or upon indictment, the goods or money in respect of which the offence is committed shall be ordered by the Court to be forfeited to His Majesty.

(3.) Where a company has entered into a transaction or has done any act which is an offence under this section, every director, manager, secretary or other officer of the company who is knowingly a party to the transaction or act shall also be deemed guilty of the offence.

(4.) If any person without lawful authority deals, or attempts, or offers, proposes or agrees, whether directly or indirectly, to deal with any money or security for money or other property which is in his hands or over which he has any claim or control for the purpose of enabling an enemy to obtain money or credit thereon or thereby, he shall be deemed to be guilty of the offence of trading with the enemy.

(5.) If any person, being within the Colony, without lawful authority in anywise aids or abets any other person, whether or not such other person is in the Colony, to enter into, negotiate or complete any transaction or do any act

As exceeding
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which, if effected or done in the Colony by such other person, would constitute an offence of trading with the enemy, he shall be deemed to be guilty of such an offence.

(6.) No prosecution under this section shall be initiated without the consent in writing of the Attorney-General first had and obtained; Provided that the person charged with such an offence may be arrested and a warrant for his arrest may be issued and executed, and such person may be remanded in custody or on bail notwithstanding that the consent of the Attorney-General to the institution of the prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

Consent of
Attorney-
General to
prosecution.

(7.) Notwithstanding anything in this section contained, no person shall be liable to be punished twice in respect of the same offence.

Offenders not
to be punished
twice in respect
of same
offence.

4.—(1.) In case of a suspected or anticipated offence under this Ordinance by a person, firm or company, a Magistrate may, on information on oath laid on behalf of the Governor, authorise by warrant a person named in such warrant:—

Suspected or
anticipated
offence.

- (a.) To inspect books or documents belonging to or under the control of such person, firm or company;
- (b.) To require any person able to give information respecting the business or trade of such person, firm or company to give such information;
- (c.) If accompanied by a member of the Constabulary Force, to search any premises used in connection with such business or trade, and to seize any such books or documents as aforesaid.

(2.) In case of emergency, of which he shall be the sole judge, the Governor may by writing under his hand give like authority to that mentioned in the preceding sub-section, and the person named in such writing shall have all the like powers, privileges, exemptions and protection as a person named in and acting under a warrant issued by a Magistrate as in the said sub-section set forth.

(3.) Where it appears to the Governor—

- (a.) In the case of a firm, that one of the partners in the firm was immediately before or at any time since the commencement of the present war a subject of, or resident or carrying on business in a state for the time being at war with His Majesty; or
- (b.) in the case of a company, that one-third or more of the issued share capital or of the directorate of the company immediately before or at any time since the commencement of the present war was held by or on behalf of or consisted of persons who were subjects of or resident or carrying on business in a state for the time being at war with His Majesty; or
- (c.) in the case of a person, firm or company, that the person was or is, or the firm or company were or are, acting as agent for any person, firm or company residing or carrying on business in a state for the time being at war with His Majesty;

the Governor may, if he think it expedient for the purpose of satisfying himself that the person, firm or company is or are not trading with the enemy, by written order, give to a person appointed by him, authority to inspect all books and documents belonging to or under the control of the person, firm or company, and to require any person able to give information with respect to the business or trade of that person, firm or company, to give that information.

For the purposes of this Sub-section, any person authorised in that behalf by the Governor may inspect the register of members of a company at any time, and any shares in a company for which share warrants to bearer have been issued shall not be reckoned as part of the issued share capital of the company.

(4.) If any person having the custody of any book or document which a person is authorised to inspect under this section refuses or wilfully neglects to produce it for inspection, or if any person who is able to give any information which may be required to be given under this

section refuses or wilfully neglects when required to give that information, that person shall on summary conviction be liable to imprisonment with or without hard labour for a term not exceeding six months, or to a fine not exceeding fifty pounds, or to both such imprisonment and fine.

(5.) Where on the report of an Inspector appointed to inspect the books and documents of a person, firm or company under this section it appears to the Governor that it is expedient that the business should be subject to frequent inspection or constant supervision, the Governor may appoint that Inspector or some other person to supervise the business with such powers as the Governor may determine, and any remuneration payable and expenses incurred, whether for the original inspection or the subsequent supervision to such amount as may be fixed by the Governor shall be paid by the said person, firm or company.

(6.) Where a person has given any information to a person appointed to inspect the books and documents of a person, firm or company under this section, the information so given may be used in evidence against him in any proceedings relating to offences of trading with the enemy, notwithstanding that he only gave the information on being required so to do by the Inspector in pursuance of his powers under the said section.

5.—(1.) During the continuance of the present war a certificate of incorporation of a company shall not be given by the Registrar of Companies until there has been filed with him either :—

Condition as to the incorporation of new Companies.

- (a.) a statutory declaration by a Solicitor engaged in the formation of the company that the company is not formed for the purpose or with the intention of acquiring the whole or any part of the undertaking of a person firm or company the books and documents of which are liable to inspection under sub-section (3) of Section 4 of this Ordinance ; or
- (b.) a license from the Governor authorising the acquisition by the company of such an undertaking.

(2.) Where such a statutory declaration has been filed it shall not be lawful for the company, during the continuance of the present war, without the license of the Governor, to acquire the whole or any part of any such undertaking, and if it does so the company shall without prejudice to any other liability, be liable on summary conviction to a fine not exceeding £100, and every director, manager, secretary, or other officer of the company who is knowingly a party to the default shall on the like conviction be liable to the like fine or to imprisonment, with or without hard labour, for a term not exceeding six months.

Appointment
and powers of
Controller;

6.—(1.) Where it appears to the Governor in reference to the trade or business of any person, firm or company:—

- (a.) that an offence under this Ordinance has been or is likely to be committed in connection with such trade or business; or
- (b.) that the control or management of such trade or business has been or is likely to be so affected by the state of war as to prejudice the effective continuance thereof and that it is in the public interest that the trade or business should continue to be carried on; or
- (c.) that it is expedient in the public interest that a controller as hereinafter mentioned should be appointed owing to circumstances or conditions arising out of the present war;

the Attorney-General, acting for and on behalf of the Governor, may apply by summons to the Supreme Court for the appointment of a Controller of the trade or business of the person, firm or company; and the Supreme Court shall have power to appoint such a Controller for such time and subject to such conditions and with such powers as the Court thinks fit, and the powers so conferred shall be either those of a Receiver and Manager or those powers subject to such modifications restrictions or extensions as the Court thinks fit, including, if the Court considers it necessary or expedient for enabling the Controller to borrow money, power after a special application by summons to the Court for this purpose to create charges on the property of the person, firm or company in priority to existing charges.

(2.) The Court shall have power to direct how and by whom the costs of the proceedings under this section and the remuneration charges and expenses of the Controller shall be borne, and shall have power if it thinks fit to charge such costs, remuneration charges and expenses on the property of the person, firm or company in such order of priority in relation to any existing charges thereto as it thinks fit.

7.—(1.) No person or body of persons shall, for the purposes of this Ordinance, be treated as an enemy who would not be so treated for the purpose of any proclamation issued by His Majesty dealing with trading with the enemy for the time being in force. Saving Clause.

(2.) Nothing in this Ordinance shall be construed as limiting the power of His Majesty or the Governor in Executive Council by proclamation to prohibit any transaction which is not prohibited by this Ordinance, or the power of His Majesty or the Governor by license to permit any transaction which is so prohibited.

8. Production of a copy of the *Royal Gazette* containing a copy of a Proclamation purporting to have been made, or to contain the provisions of a Proclamation made, by His Majesty or the Governor in Executive Council shall be sufficient evidence in all Courts and for all purposes whether civil or criminal of the due making publication and contents of such Proclamation. Evidence of Proclamation.

9. Every prosecution in order to a conviction for a summary offence under this Ordinance shall be commenced within twelve months from the commission thereof. Limitation of prosecution.

10. All prosecutions in order to a conviction for a summary offence under this Ordinance shall be conducted before a Magistrate in the manner laid down in the Summary Conviction Offences (Procedure) Ordinance (No. 1). Procedure.

11. The Ordinances Nos. 27 and 36 of 1914 are hereby repealed.

Passed in Council this Nineteenth day of February, in the year of Our Lord one thousand nine hundred and fifteen. Repeal.

HARRY L. KNAGGS,
Clerk of the Council.