

3.8.17

TRINIDAD AND TOBAGO.

No. 16.—1917.

I ASSENT,

[L.S.]



J. R. CHANCELLOR,
Governor.

2nd June, 1917.

AN ORDINANCE to amend the Alien Enemies Ordinances.

[2nd June, 1917.]

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 Alien Enemies Short Title. (Amendment) Ordinance, 1917.
2. In this Ordinance, unless the context otherwise requires Interpretation.
—“ Firm ” means any person, company or association or body of persons corporate or unincorporate, the business or property of whom or which has been or shall on or after the commencement of this Ordinance be the subject of a direction by the Governor under the provisions of Section 6 of the Alien Enemies Ordinance, 1914 ;

“ Land ” includes any right whether legal or equitable in or arising out of land ;



“The Committee” means the Liquidating Committee appointed for the purposes mentioned in the Alien Enemies Ordinance, 1914;

“Corporation under enemy control” includes:—

- (a.) A corporation of which any of the Directors or persons occupying the position of Directors by whatever name called is an enemy or enemy subject;
- (b.) A corporation shareholders in which holding ten per centum or more of the issued capital or voting rights of the corporation are enemies or enemy subjects or persons who hold such shares or stock directly or indirectly for or at the disposal of enemies or enemy subjects;
- (c.) A corporation which is by any other means whether of a like or a different character in fact under the control directly or indirectly of enemies or enemy subjects or corporations under enemy control;
- (d.) A corporation the executive whereof is a corporation within (a) (b) or (c).

“Enemy” means any person who is or is treated as an enemy under any Ordinance, Order in Council or Proclamation for the time being in force;

“Enemy subject” means a subject of a State for the time being at war with His Majesty;

“Court” means the Supreme Court of Trinidad and Tobago or any Judge thereof.

Lands to vest
in Committee.

3.—(1.) The Governor in Executive Council may by Proclamation in the *Royal Gazette* from time to time direct any lands, being assets of any firm as in this Ordinance defined, to vest in the Committee for such estate and interest as shall be mentioned in such Proclamation, subject, nevertheless, to any subsisting rights of way or apparent easements affecting the same, but otherwise free from encumbrances.

(2.) The Governor in Executive Council may from time to time revoke, vary or amend any such Proclamation.

(3.) Every right title or interest of any person other than the Crown or the public and other than subsisting rights of way or apparent easements to and in any such lands

which is derogatory or counter to the estate and interest vested in the Committee by any such Proclamation aforesaid and the benefit of any covenant agreement or reservation in support of such right title or interest shall be absolutely extinguished, and no action or other proceeding other than a claim for compensation as hereinafter mentioned shall be capable of being taken or proceeded with to enforce the same.

4. The Committee shall as soon as conveniently may be after the commencement of this Ordinance offer for sale by public auction or private treaty all lands vested in them as aforesaid and shall complete the sale of any such lands previously contracted to be sold by them, and the receipt of the Chairman of the Committee for the purchase money in respect of any such sale shall be a good discharge to the purchaser of the said property.

Committee to
sell lands.

5. On the sale by the Committee either before or after the commencement of this Ordinance of any lands vested in them as aforesaid, the proceeds of sale thereof, after deducting the costs charges and expenses of and in connexion with the sale, shall be paid into Court by the Committee to the account of the Committee to be dealt with as hereinafter provided.

Payment into
Court of
proceeds of
sale of lands.

6.—(1.) After the completion of the sale of any lands vested in the Committee as aforesaid, notice of the sale with a description of the property sold shall be inserted in the *London Times* newspaper and in one or more newspapers published in the Colony, and any person claiming to be entitled to any right title interest or benefit which is declared to be absolutely extinguished under Sub-section (3) of Section 3 of this Ordinance shall within six months after the date of such notice or within such extended time as the Governor may either generally or in any special case allow send to the Registrar of the Court and to the Committee a statement of his claim specifying the right title interest or benefit which he alleges he had in the property sold or in relation thereto and the amount he claims as compensation for the extinguishment thereof, and if the claimant is not resident in the Colony he shall appoint some person resident in the Colony as his attorney to represent him in respect of his claim and shall give particulars along with notice of his claim of such person's name and address.

Notice of the
sale of lands
to be given
and provisions
as to proceeds
of sale.

Subject to the leave of the Governor, an enemy may be permitted to send in any such claim and be represented before the Court under the provisions of the next sub-section.

(2.) After the expiration of the six months from the date of such notice or within such extended time as aforesaid the Court shall if any claim has been sent in under the preceding sub-section issue a summons to the Committee and to the claimant or his attorney (but in the case of an enemy claimant only with the leave of the Governor) calling upon them to appear at a time and place named when the claim will be heard and determined. No appeal shall lie from the decision of the Court upon any claim. The Committee shall be entitled to be paid their costs charges and expenses of and in connexion with the said notice and claim (if any) and summons (if any) but the costs of any claimant in connexion with any claim and summons shall be in the discretion of the Court and the Court if it thinks fit may order the claimant to pay all the costs of the summons.

(3.)—(a.) After the expiration of the said six months or such extended time as aforesaid or after the determination by the Court of the claim (if any) of which notice has been sent in as aforesaid, the proceeds of sale paid into Court or the balance (if any) thereof after deducting the costs charges and expenses of the Committee and any sums directed by the Court to be paid or retained thereout in respect of claims (if any) allowed thereon and any claimant's costs allowed by the Court shall be paid to the Committee and may be dealt with by them in like manner as the other assets of the firm, and no person who has not given notice of a claim within the said six months or such extended time as aforesaid shall thereafter without the leave of the Governor be entitled to make or enforce any claim upon the said proceeds of sale or the other assets of the firm in respect of any right title interest or benefit declared to be extinguished as aforesaid.

(b.) If an enemy establishes a claim to compensation out of the purchase money or any part thereof, neither the amount of his claim nor any part thereof shall be paid out to him but shall be retained and remain in Court and shall

be dealt with after the termination of the present War in such manner as the Governor may by order under his hand direct.

(c.) If an enemy subject (not being an enemy) or a corporation under enemy control establishes a claim to compensation out of the purchase money or any part thereof, neither the amount of such claim nor any part thereof shall without the consent of the Governor be paid to him, and if the Governor does not so consent or to the extent to which he does not so consent the amount shall be retained and remain in Court and shall be dealt with after the termination of the present War in such manner as the Governor may by order under his hand direct.

(d.) If the Court in considering the claim of any person for compensation out of any purchase money as aforesaid under Section 6 (1) of this Ordinance is of opinion that such person should be allowed to rank as an ordinary creditor on the other assets of the firm for any amount or balance of any amount allowed him by way of compensation which the purchase money in Court is not sufficient to provide, the Court may with the approval of the Governor order that such person shall rank as an ordinary creditor on such other assets of the firm as were not distributed by the Committee at the time when the Committee received notice of such claim for such amount or balance, but the amount payable to any such claimant by the Committee shall if the amount (if any) allowed him by way of compensation out of the purchase money would have been retained in Court be paid into Court by the Committee in manner aforesaid and be dealt with under the provisions of paragraphs (b) and (c) of this sub-section.

(e.) Any costs charges and expenses of any abortive sale by the Committee of lands may be paid by or retained by the Committee out of any other assets of the firm that may come to their hands as a first charge thereon.

7.—(1.) Except where the Crown is the lessor, the Committee may sell or assign any leasehold interest in land without the consent of the lessor, any covenant or condition in the lease to the contrary notwithstanding, and such sale or assignment shall not constitute a breach of any covenant or condition.

Committee
may assign
Leases without
consent of the
Lessor.

Committee may assign notwithstanding breaches of covenant or condition.

(2.) In the case of any lease specified in any such Proclamation as aforesaid the lessor or other the person in whom the reversion expectant on the termination thereof shall for the time being be vested shall not be entitled to exercise or enforce any power of re-entry under or right of forfeiture of such lease by reason of any breach of any covenant or condition prior to the date of completion of the sale thereof by the Committee.

The Committee not to sell land to an enemy or enemy subject or a corporation under enemy control.

8.—(1.) The Committee shall not sell any land to an enemy or enemy subject or corporation under enemy control or to any person acting for an enemy or enemy subject or corporation under enemy control, and further shall not complete any sale of land unless and until the purchaser being an individual or corporation shall have made a statutory declaration in the appropriate form set out in the schedule hereto.

(2.) Such declaration in the case of a corporation being a purchaser shall be made by some official of the corporation duly authorized thereto by the corporation.

Enemy, etc., not to acquire any interest in land sold by the Committee.

9.—(1.) No person in whom any land sold by the Committee or any part thereof or any right title or interest therein shall have become or shall become vested shall except with the authority of the Governor given with the consent of the Secretary of State in any particular case or in general and in the latter case by proclamation in the *Royal Gazette* sell transfer lease mortgage devise or bequeath such land or any part thereof or any right title or interest therein to or in any way deal therewith so that the same shall be acquired or owned by or for or be held on behalf of or in trust for or for the benefit of or so as in any way to come under the control of (1) an enemy or enemy subject or corporation under enemy control or (2) any person who but for the conclusion of any peace made in relation to the present War would be an enemy or enemy subject or corporation under enemy control and in either case either alone or jointly with another or others.

(2.) If any person contravenes the provisions of this section such person or in the case of a deceased person his estate shall forfeit to His Majesty a sum of five thousand pounds to be sued for and recovered in the manner set forth in the Crown Suits Ordinance, 1913.

10. If any enemy or an enemy subject or a corporation under enemy control purchases from the Committee any land contrary to the provisions of Section 8 of this Ordinance, or if any person in whom any land sold by the Committee or any part thereof or any right title or interest therein shall have become or shall become vested shall become either (1) an enemy or enemy subject or corporation under enemy control, or (2) a person who but for the conclusion of any peace in connexion with the present War would be an enemy or enemy subject or corporation under enemy control, or if any transfer lease mortgage devise or bequest of or other dealing with such land takes place in contravention of the provisions of Section 9 of this Ordinance, then and in the latter case without prejudice to the recovery of the penalty under Section 9, the Attorney-General may apply to the Court for a declaration that (a) any right title and interest acquired or purported to be acquired in contravention of the provisions of either of the said sections or held by any person who has become (1) an enemy or enemy subject or a corporation under enemy control or (2) a person who but for the conclusion of any peace in connexion with the present War would be an enemy or enemy subject or corporation under enemy control, and (b) in the case of a contravention of Section 9, any right title or interest in the land concerned which may be vested in the person guilty of such contravention is forfeited to the Crown; and the Court, subject to the proviso following, shall forfeit such right title or interest to the Crown accordingly; provided always that in dealing with the application the Court may take into consideration the position of persons who not being themselves prohibited persons under Section 9 have *bonâ fide* for value and without actual notice of or knowledge of the circumstances occasioning the liability to such forfeiture acquired any such right title or interest in such land or who have acquired any right title or interest in such land under the will or otherwise through or under any such persons and may make such order as it thinks fit wholly or partially relieving any such persons from forfeiture of such right title and interest so acquired by them or otherwise may make such order as it may under the circumstances deem equitable.

Forfeiture of
interest
acquired by an
enemy, etc.

Forfeiture of
interest vested
in enemy, &c.
by intestacy.

11. If under the intestacy of any person in whom any land sold by the Committee or any part thereof or any right title or interest therein shall have become or shall become vested, any person being a prohibited person under Section 9 of this Ordinance acquires any right title or interest in such land, such right title or interest shall also be subject to forfeiture under the provisions of Section 10 of this Ordinance, and the Court shall have the like powers of relieving against forfeiture as are in the said section mentioned.

Power to
Governor to
require any
owner etc., of
property to
furnish
particulars as
to nationality
etc.

12.—(1.) The Governor may at any time require any person claiming to be the owner lessee or mortgagee of any land sold by the Committee or of any part thereof or of any right title or interest therein to furnish him in writing with such particulars as appear to the Governor to be necessary to enable him to ascertain whether or not the person is or holds the property or any part thereof or any right title or interest therein for or on behalf of or in trust for or for the benefit of or in any way so as to come under the control of an enemy or enemy subject or corporation under enemy control or of a person who but for the conclusion of any peace in connexion with the present War would be an enemy or enemy subject or corporation under enemy control, and in the case of a corporation may also require any Director of the corporation or person occupying the position of Director by whatever name called or the Secretary or any other officer of the corporation performing the duties of Secretary or any person acting as manager or agent for the corporation in connexion with the property to furnish the required particulars.

(2.) If any person fails when required to furnish such particulars as it is in his power to give or ascertain or furnishes particulars which are false in any material particular, he shall be liable on summary conviction before a Magistrate to a penalty of £100 or to six months' imprisonment or to both.

(3.) Where any particulars have been furnished in accordance with this section, such particulars may be used in evidence against the person or corporation by whom they are furnished in any proceedings under Section 9 or

Section 10 of this Ordinance, and the fact that any person who has been required to furnish particulars in accordance with this section refuses or neglects to furnish such particulars as it is in his power to give or ascertain or furnishes particulars which are false in any material particular shall be *prima facie* evidence in the case of proceedings under Section 9 or Section 10 of this Ordinance that the person regarding whom the particulars were required is an enemy or enemy subject or corporation under enemy control or a person who but for the conclusion of any peace in connexion with the present War would be an enemy or enemy subject or corporation under enemy control.

13. The Committee or any member thereof shall not be personally liable in respect of any lands vested in the Committee as aforesaid and this Ordinance shall be a complete indemnity to the Committee or any member thereof for any acts done pursuant thereto. Indemnity to Committee.

Passed in Council this Twenty-fifth day of May, in the year of Our Lord one thousand nine hundred and seventeen.

J. M. FARFAN,
Acting Clerk of the Council.

SCHEDULE.

Declaration by an Individual Buyer.

I _____ of _____
do solemnly and sincerely declare as follows:—

I am a _____ subject and reside and carry on business at _____ and I am not an enemy or enemy subject as those terms are respectively defined in the Alien Enemies (Amendment) Ordinance, 1917.

I further solemnly and sincerely declare that there is no arrangement under which I am to hold the property which I am purchasing from the Liquidating Committee or any right title or interest therein for or on behalf or in trust for or for the benefit of or so that it shall in any way come under the control of any enemy or enemy subject or corporation under enemy control as these terms are respectively defined in the Alien Enemies (Amendment) Ordinance 1917 either alone or jointly with another or others.

And I make this declaration conscientiously believing the same to be true and according to the Statutory Declarations Ordinance, 1908, and I am aware that if there is any statement in this declaration which is false in fact, which I know or believe to be false or do not believe to be true, I am liable to fine and imprisonment.

Declared at

this

day of

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Before me

Declaration on behalf of a Corporation.

I _____ of _____
the* _____ of†
(hereinafter called "the corporation") the buyer of‡
being duly authorized by the corporation to make this declaration do
solemnly and sincerely declare as follows:—

The corporation is not an enemy or enemy subject or a corporation under enemy control as these terms are respectively defined in the Alien Enemies (Amendment) Ordinance 1917 and to the best of my knowledge there is no arrangement under which the corporation is to hold the said property or any right title or interest therein for or on behalf of or in trust for or for the benefit of or so that it shall in any way come under the control of any enemy or enemy subject or corporation under enemy control as these terms are respectively defined in the aforesaid Ordinance either alone or jointly with another or others.

And I make this declaration conscientiously believing the same to be true and according to the Statutory Declarations Ordinance, 1908, and I am aware that if there is any statement in this declaration which is false in fact, which I know or believe to be false or do not believe to be true, I am liable to fine and imprisonment.

* Here insert the office of the person making the declaration (Secretary or otherwise).

† Here insert the name of the corporation.

‡ Insert a description of the property purchased.