TRINIDAD AND TOBAGO.

No. 19.—1916.

I ASSENT,

[L.S.]

S. W. KNAGGS,
Acting Governor.

31st May, 1916.

AN ORDINANCE to amend the Trading with the Enemy (Consolidation) Ordinance, 1915 (No. 3.)

[*31st May, 1916.*]

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

Short Title. **1.** This Ordinance may be cited as the Trading with the Enemy (Consolidation) (Amendment) Ordinance, 1916.

Interpretation. **2.** In this Ordinance the expression:—

"The Principal Ordinance" means the Trading with the Enemy (Consolidation) Ordinance, 1915.

"Prescribed" means prescribed by Regulations made by the Governor in Executive Council under this Ordinance.

"Dividends, interest or share of profits" means any dividends, bonus or interest in respect of any shares, stock, debenture stock, or other obligations of any company, any interest in respect of any loan to a firm or person carrying on business for the purposes of that business, and any profit or share of profits of such a business; and, where a person is carrying on any business on behalf of an enemy, any sum which, had a state of war not existed, would have been transmissible by a person to the enemy by way of profits from that business, shall be deemed to be a sum which would have been payable and paid to that enemy.

3.—(1) The Governor shall appoint a person to act as Custodian of enemy property (hereinafter referred to as "the Custodian") for this Colony, for the purpose of receiving, holding, preserving and dealing with such property as may be paid to or vested in him in pursuance of this Ordinance.

Constitution of office of Custodian of enemy property.

(2) The Custodian shall have such powers and duties with respect to the property aforesaid as may be prescribed.

(3) The Custodian may place on deposit with any bank, or invest in any securities, approved by the Governor in Executive Council, any moneys paid to him under this Ordinance or received by him from property vested in him under this Ordinance, and any interest or dividends received on account of such deposits or investments shall be dealt with in such manner as the Governor in Executive Council may direct.

4.—(1.) Any sum which, had a state of war not existed, would have been payable and paid to or for the benefit of an enemy;—

Payment of dividends, etc. payable to enemy.

(*a.*) By way of dividends, interest or share of profits; or

(*b.*) In respect of interest on securities issued by or on behalf of the Government of the Colony, or of the Government of the United Kingdom, or of any of His Majesty's Dominions Colonies or Protectorates or of any foreign Government, or by or on behalf of any Corporation or any municipal or other authority whether within or without the Colony; or (c.) By way of payment off of any securities which have become repayable on maturity or by being drawn for payment or otherwise, being such securities as aforesaid, or securities issued by any Company;

shall (except in the case of sums in respect of the payment off of securities issued by a company) be paid by the person by whom it would have been payable or through whom payments in the Colony are made to the Custodian to hold subject to the provisions of this Ordinance and any regulations made thereunder, and the payment shall be accompanied by such particulars as may be prescribed.

Any payment required to be made under this Subsection to the Custodian shall be made:—

(i.) Within fourteen days after the commencement of this Ordinance, if the sum, had a state of war not existed, would have been paid before the commencement of this Ordinance; and

(ii.) In any other case within fourteen days after it would have been paid.

(2.) Where before the commencement of this Ordinance any such sum has been paid into any account with a bank, or has been paid to any other person in trust for an enemy, the person by whom the payment was made shall within fourteen days after the commencement of this Ordinance, by notice in writing, require the bank or person to pay the sum over to the Custodian to hold as aforesaid, and shall furnish the Custodian with such particulars as aforesaid. The bank or other person shall, within one week after the receipt of the notice, comply with the requirement and shall be exempt from all liability for having done so.

(3.) Where the Custodian is satisfied by returns made to him under Section 5 of this Ordinance that any such securities as aforesaid (including securities issued by a company) are held by any person on behalf of an enemy, the Custodian may give notice thereof to the person by or through whom any dividends, interest or bonus in respect of the securities or any sums by way of payment off of the securities are payable, and upon the receipt of such notice any dividends, interest or bonus payable in respect of, and any sums by way of payment off of, the securities to which the notice relates shall be paid to the Custodian in like manner as if the securities were held by an enemy.

(4.) If any person fails to make or require the making of any payment or to furnish the prescribed particulars within the time mentioned in this section, he shall on conviction before a Magistrate be liable to a fine not exceeding one hundred pounds or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such fine and imprisonment, and in addition to a further fine not exceeding fifty pounds for every day during which the default continues, and every Director, Manager, Secretary or officer of a company or any other person who is knowingly a party to the default shall, on the like conviction, be liable to the like penalty.

(5.) If, in the case of any person, firm or company, whose books and documents are liable to inspection under Section 4 (3) of the principal Ordinance, any question arises as to the amount which would have been so payable and paid as aforesaid, the question shall be determined by the person who may have been or who may be appointed to inspect the books and documents of the person, firm or company, or on appeal, by the Governor in Executive Council, and if, in the course of determining the question, it appears to the Inspector or the Governor in Executive Council that the person, firm or company has not distributed as dividends, interest or profits the whole of the amount properly available for that purpose, the Inspector or Governor in Executive Council may ascertain what amount was so available and require the whole of such amount to be so distributed, and, in the case of a company, if such dividends have not been declared, the Inspector or the Governor in Executive Council may declare the appropriate dividends, and every such declaration shall be as effective as a declaration to the like effect duly made in accordance with the constitution of the company.

Provided that where a controller has been appointed under Section 6 of the principal Ordinance, this Sub-section shall apply as if for references to the Inspector there were substituted references to the Controller.

(6.) For the purposes of this Section "securities" includes stock, shares, annuities, bonds, debentures or debenture stock or other obligations.

Duty of Trustees, Banks and debtors to make returns to Custodian.

5.—(1)—(*a.*) Any person who holds or manages for or on behalf of an enemy any property, real or personal (including any rights, whether legal or equitable, in or arising out of property, real or personal); and

(*b.*) Any person who, as a banker, has or holds any balances or deposits standing to the credit of an enemy; and

(*c.*) Any person who is indebted, or who would, if the state of war had not existed, have been indebted to any enemy to an amount of £50 or upwards;

shall within one month after the commencement of this Ordinance, or if the property comes into his possession or under his control after the commencement of this Ordinance, then within one month after the time when it comes into his possession or under his control, by notice in writing communicate the fact to the Custodian, and shall furnish the Custodian with such particulars in relation thereto as the Custodian may require, and if any person fails to do so, he shall on conviction before a Magistrate be liable to a fine not exceeding £100 or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such fine and imprisonment, and in addition to a further fine not exceeding £50 for every day during which the default continues, and every Director, Manager, Secretary or Officer of a company or any other person who is knowingly a party to the default shall, on the like conviction, be liable to the like penalty.

(2.) Every company incorporated in this Colony and every company which, though not incorporated in this Colony, has a share transfer or share registration office in this Colony shall, within one month after the commencement of this Ordinance, by notice in writing communicate to the Custodian full particulars of all shares, stock, debentures, and debenture stock and other obligations of the company which are held by or for the benefit of any enemy; and every partner of every firm, one or more partners of which on the commencement of the war became enemies or to which money had been lent for the purpose of the business of the firm by a person who so became an enemy, shall, within one month after the commencement of this Ordinance, by notice in writing communicate to the Custodian full particulars as to any share of profits and interest due to such enemies or enemy, and, if any company or partner fails to comply with the provisions of this subsection, the company shall, on conviction before a Magistrate, be liable to a fine not exceeding one hundred pounds, and in addition to a further fine not exceeding fifty pounds for every day during which the default continues, and the partner and every Director, Manager, Secretary or 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, or to both such imprisonment and fine.

(3.) The Custodian shall keep a register of all property returns whereof have been made to him under this section, and such register may be inspected by any person who appears to the Custodian to be interested as a creditor or otherwise.

Power to vest enemy property in Custodian.

6. (1)—The Supreme Court or a Judge thereof may, on the application of any person who appears to the Court to be a creditor of an enemy or entitled to recover damages against an enemy, or to be interested in any property, real or personal (including any rights, whether legal or equitable, in or arising out of property real or personal) belonging to or held or managed for or on behalf of an enemy, or on the application of the Custodian or any Government

Department, by order vest in the Custodian any such real or personal property as aforesaid, if the Court or the Judge is satisfied that such vesting is expedient for the purposes of this Ordinance, and may by the order confer on the Custodian such powers of selling, managing and otherwise dealing with the property as to the Court or Judge may seem proper.

(2.) The Court or Judge before making any order under this section may direct that such notices (if any) whether by way of advertisement or otherwise, shall be given as the Court or Judge may think fit.

(3.) A vesting order under this section as respects property of any description shall be of the like purport and effect as a vesting order as respects property of the same description made under the Trustee Ordinance (No. 91.)

Holding and dealing with property by Custodian.

7. (1)—The Custodian shall, except so far as the Governor in Executive Council or the Supreme Court or a Judge thereof may otherwise direct, and subject to the provisions of the next succeeding sub-section, hold any money paid to and any property vested in him under this Ordinance until the termination of the present war, and shall thereafter deal with the same in such manner as the Governor in Executive Council may direct.

(2.) The property held by the Custodian under this Ordinance shall not be liable to be attached or otherwise taken in execution, but the Custodian may, if so authorised by an order of the Supreme Court or a Judge by whose order any property belonging to an enemy was vested in the Custodian under this Ordinance, or of any Court in which judgment has been recovered against an enemy, pay out of the property paid to him in respect of that enemy the whole or any part of any debts due by that enemy and specified in the order:

Provided that before paying any such debt the Custodian shall take into consideration the sufficiency of the property paid to or vested in him in respect of the enemy in question to satisfy that debt and any other claims against that enemy of which notice verified by statutory declaration may have been served upon him:

Provided also that, except with the leave of the Governor, no payment of any debt shall be made under the provisions of this section to any enemy subjects residing or carrying on business outside His Majesty's Dominions, or to any persons or bodies of persons, incorporated or unincorporated, included, from time to time, in any Proclamation made by the Governor in Executive Council under the provisions of the Trading with the Enemy (Extension of Powers) Ordinance, 1916.

(3.) The receipt of the Custodian or any person duly authorised to sign receipts on his behalf for any sum paid to him under this Ordinance, shall be a good discharge to the person paying the same as against the person or body of persons in respect of whom the sum was paid to the Custodian.

(4.) The Custodian shall keep a register of all property held by him under this Ordinance, which register shall be open to public inspection at all reasonable times free of charge.

(5.) The Chief Justice, with the concurrence of a Puisne Judge, may make provision for the practice and procedure to be adopted for the purposes of this and the last preceding section.

Definition of "Enemy" in Sections 9 10 and 11 of his Ordinance.

8. In Sections 9, 10 and 11 of this Ordinance, the expression "enemy" where used in those sections, includes any person who is an enemy or treated as an enemy under any proclamation relating to trading with the enemy for the time being in force, except in cases where a licence has been duly granted exempting any particular transaction from the provisions of any of the said sections.

Invalidity of assignment of debts, etc. by enemies.

9. (1.)—No person shall by virtue of any assignment of any debt or other chose in action, or delivery of any coupon or other security transferable by delivery, or transfer of any other obligation, made or to be made in his favour by or on behalf of an enemy, whether for valuable consideration or otherwise, have any rights or remedies against the person liable to pay, discharge or satisfy the debt, chose in action, security or obligation, unless he proves that the

assignment, delivery or transfer was made by leave of the Governor in Executive Council or was made before the commencement of the present war, and any person who knowingly pays, discharges or satisfies any debt, or chose in action, to which this sub-section applies, shall be deemed to be guilty of the offence of trading with the enemy within the meaning of the Principal Ordinance.

Provided that this sub-section shall not apply where the person to whom the assignment, delivery or transfer was made, or some person deriving title under him, proves that the transfer, delivery or assignment or some subsequent transfer delivery or assignment was made before the commencement of this Ordinance, in good faith and for valuable consideration, nor shall this Sub-section apply to any bill of exchange or promissory note.

(2.) No person shall by virtue of any transfer of a bill of exchange or promissory note made or to be made in his favour by or on behalf of an enemy, whether for valuable consideration or otherwise, have any rights or remedies against any party to the instrument unless be proves that the transfer was made before the commencement of the present war, and any party to the instrument who knowingly discharges the instrument shall be deemed to be guilty of trading with the Enemy within the meaning of the Principal Ordinance.

Provided that this Sub-section shall not apply where the transferee, or some subsequent holder of the instrument proves that the transfer, or some subsequent transfer, of the instrument was made before the commencement of this Ordinance , in good faith and for valuable consideration.

(3.) Nothing in this section shall be construed as validating any assignment, delivery or transfer which would be invalid apart from this section or as applying to securities within the meaning of Section 11 of this Ordinance.

Right to pay into Court sums due on coupons suspected of being enemy property

10. Where during the continuance of the present war any coupon or other security transferable by delivery is presented for payment to any person and such person has reasons to suspect that it is so presented on behalf or for the benefit of an enemy, or that since the commencement of the present war it has been held by or for the benefit of an enemy, such person may pay the sum due in respect thereof into the Supreme Court, and the same shall, subject to rules of Court, be dealt with according to the orders of the Court, and such a payment shall for all purposes be a good discharge to him.

Invalidity of transfer of shares in company, etc.

11.—(1) No transfer made after the commencement of this Ordinance by or on behalf of any enemy of any securities shall confer on the transferee any rights or remedies in respect thereof, and no company or municipal authority or other body by whom the securities were issued or are managed shall, except as hereinafter appears, take any cognizance of or otherwise act upon any notice of such a transfer.

(2.) No entry shall hereafter, during the continuance of the present war, be made in any register or branch register or other book kept in this Colony of any transfer of any securities therein registered, inscribed or standing in the name of an enemy, except by leave of the Supreme Court or a Judge thereof or of the Governor in Executive Council.

(3.) No share warrants payable to bearer shall be issued during the continuance of the present war in respect of any shares or stock registered in the name of any enemy.

(4.) If any company or any body contravenes the provisions of this section, the company or body shall be liable on conviction before a Magistrate to a fine not exceeding one hundred pounds, and every Director, Manager, Secretary or other Officer of the company or body who is knowingly a party to the default, shall be liable on the like conviction to a like fine or to imprisonment with or without hard labour, for a term not exceeding six months.

(5.) For the purposes of this section the expression "securities" means any annuities, stock, shares, debentures, or debenture stock issued by or on behalf of the Government of this Colony or by any municipal or other authority, or by any company or by any other body, which are registered or inscribed in any register, branch register, or other book kept in this Colony.

Limitation of powers of certain companies to commence proceedings.

12. No action shall be brought or other proceedings commenced by a company the books and documents of which are liable to inspection under Section 4 (2) of the Principal Ordinance, unless notice in writing has previously been given by the Company to the Custodian of their intention.

Saving as to the Alien Enemies Ordinances.

13. Nothing herein contained shall be deemed to extend to or affect any business or property or the proceeds of any business or property dealt with under the provisions of the Alien Enemies Ordinances.

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

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