

EAST AFRICA PROTECTORATE.

Minutes of the Proceedings
of the Legislative Council
of East Africa.

Second Session.

1916.

June 5th, 8th and 9th, 1916.

Nairobi,

PRINTED BY THE GOVERNMENT PRINTER,

British East Africa.

Minutes of the Proceedings of the Second Session of the Legislative Council, 1916.

Held at Nairobi on the 5th, 8th and 9th June, 1916.

The Council assembled on the 5th June, at 10 a.m. HIS EXCELLENCY THE GOVERNOR (SIR H. CONWAY BELFIELD, K.C.M.G.) presiding.

Present:—

THE HON. THE CHIEF SECRETARY (C. C. BOWRING, C.M.G.).
THE HON. THE ATTORNEY GENERAL (J. W. BARTH).
THE HON. THE ACTING TREASURER (W. A. KEMPE).
THE HON. THE MANAGER OF THE UGANDA RAILWAY (B. EASTWOOD).
THE HON. F. W. MAJOR, I.S.O.
THE HON. A. C. MACDONALD.
THE HON. C. W. HOBLEY, C.M.G.
THE HON. R. BARTON WRIGHT.
THE HON. J. AINSWORTH, C.M.G.

Absent:—

THE HON. W. A. M. SIM.

OATH OF ALLEGIANCE.

THE PRESIDENT administered the Oath of Allegiance to THE HON. ACTING TREASURER W. A. KEMPE).

MINUTES OF MEETING.

THE HON. THE CHIEF SECRETARY moved that the Minutes of the Meeting of the Council held on the 25th January, 1916, which had been circulated amongst Hon. Members, be taken as read, and be confirmed.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

Question and Answer.

THE HON. ATTORNEY GENERAL, on behalf of the HON. W. A. M. SIM (absent), asked (1) if the HON. THE CHIEF SECRETARY could inform him why the new Isolation Hospital at Mombasa was not used when vessels arrived recently with Small-pox and were sent to Zanzibar to undergo quarantine there; and (2) what procedure would be adopted in future with regard to infected vessels arriving at the port of Mombasa.

THE HON. THE CHIEF SECRETARY, in reply, said:—

"(1). The new Isolation Hospital is not yet fully equipped for the reception of cases and contacts suffering from sea borne infectious diseases; neither are the means at present available for the disinfection and fumigation of vessels cargo and baggage.

(2). Until such time as the Station is fully equipped it is proposed to send infected vessels arriving at East African Ports to the Quarantine Station at Zanzibar as has been the practice hitherto".

QUARTERLY RETURNS OF UNFORESEEN EXPENDITURE, 1915-16.

THE HON. THE ACTING TREASURER proposed the following Motion:—

"Whereas it was found necessary to incur expenditure amounting to £14,751-15-5 during the period from the 1st of April to the 30th of June, 1915, for which no provision was made in the approved Estimates for the year 1915-16, as more particularly set forth in the Statement laid on the table, it is hereby resolved that this Council do approve such expenditure".

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. THE ACTING TREASURER proposed the following Motion:—

"Whereas it was found necessary to incur expenditure amounting to £10,371-13-8 during the period from the 1st of July to the 30th of September, 1915, for which no provision was made in the approved Estimates for the year 1915-16, as more particularly set forth in the Statement laid on the table, it is hereby resolved that this Council do approve such expenditure".

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

SUPPLEMENTARY ESTIMATE, 1915-16.

THE HON. THE ACTING TREASURER proposed the following Motion:—
 "That a Supplementary Estimate of £56,697 for the service of the year 1915-16 be approved".

THE HON. THE CHIEF SECRETARY seconded.
 The question was put and carried.

THE LIQUOR AMENDMENT ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Liquor Ordinance, 1909". He said that the object of the Bill was primarily to provide machinery for the introduction and control in the Protectorate of the business of distilling alcohol for commercial and scientific purposes as opposed to its distillation for drink. Distillation for the latter purpose was prohibited by international agreement in the interest of the African native, and under the law as it now existed distillation for any purpose was prohibited. There appeared to be no objection, legal or otherwise, to distillation for the purposes of trade and science, and in view of the growing uses to which alcohol might be put commercially, including its use as a motive power, it was believed that the facilities given by the Bill, if enacted, would be the means of establishing a new and flourishing industry.

THE HON. THE CHIEF SECRETARY seconded, and the Bill was read a first time.

THE HON. THE ATTORNEY GENERAL gave notice that he would move the second reading of the Bill at a later stage of the Session.

THE KING'S AFRICAN RIFLES AMENDMENT ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Law relating to the King's African Rifles". He said that the object of the Bill was to enable a commanding officer to inflict a combination of the punishments provided by Section 40 of the King's African Rifles Ordinance, 1912. It would appear from Section 41, which dealt with the punishments which an officer commanding a detachment might inflict, that the intention of the Ordinance was to grant the commanding officer the powers which the Bill provided, but the intention had not been carried into effect, and the commanding officer was limited to giving one of the punishments provided. It seemed unreasonable that the officer commanding a detachment might inflict a combination of punishments, while a commanding officer was confined to alternative punishments.

THE HON. THE CHIEF SECRETARY seconded, and the Bill was read a first time.

THE HON. THE ATTORNEY GENERAL gave notice that he would move the second reading of the Bill at a later stage of the session.

THE TRADING WITH THE ENEMY (EXTENSION OF POWERS)
ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to provide for the extension of the restrictions relating to Trading with the Enemy to persons to whom though not resident or carrying on business in Enemy territory, it is, by reason of their Enemy nationality or Enemy associations expedient to extend such restrictions". He said that the propose of the Bill was apply to the Protectorate the provisions of "The Trading with the Enemy (Extension of Powers) Act, 1915", of the Imperial Parliament. The object was to prohibit trading with enemy firms and firms of enemy association carrying on business elsewhere than in enemy territories or in territory in the occupation of the enemy. The procedure provided by the Bill was that of giving power to the Governor to proclaim lists of firms trading with whom would be an offence.

THE HON. THE CHIEF SECRETARY seconded, and the Bill was read a first time.

THE HON. THE ATTORNEY GENERAL gave notice that he would move the second reading of the Bill at a later stage of the Session.

THE ABUSE OF OPIATES PREVENTION AMENDMENT ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Abuse of Opiates Prevention Ordinance, 1913". He said that the chief object of the Bill was to give Veterinary Surgeons the right to import, buy, possess, sell, prescribe, and supply opiates within the meaning of the Ordinance for the purposes of their profession. The opportunity had been taken at the same time to define the term "duly qualified analytical chemist" as used in the Principal Ordinance and to amend the provisions of the Principal Ordinance dealing with the use of premises for opium or bang smoking. The Ordinance made the "keeping" of premises for such smoking an offence. It was proposed to substitute the phrase "permit or suffer any premises to be used" for the present somewhat unsatisfactory wording of the Section. Another small amendment was the extension of the powers of search, under Section 14, to an Assistant Inspector of Police.

THE HON. A. C. MACDONALD seconded, and the Bill was read a first time.

THE HON. THE ATTORNEY GENERAL gave notice that he would move the second reading of the Bill at a later stage of the Session.

THE PRESERVATION OF NATIVE PROPERTY ORDINANCE, 1916.

THE HON. C. W. HOBLEY in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to provide for the preservation of fruit bearing trees and other property owned by Natives residing in a Native Reserve". He said that the reasons which had induced the Government to bring forward the Bill were as follows. In the Coastal area certain bodies known as Arbitration Boards were demarcating the privately owned lands for which applications had been lodged, and the Recorder of Titles then granted certificates of title to the applicants who proved their claim. There were, however, considerable areas which had been in the effective occupation of sections of the Wa-Nyika people for a long period, and the land in those areas was communally held. Government was taking steps to demarcate those areas and dedicate them to the use of the people concerned. It was, however, considered advisable to prevent any member of the tribe from selling, leasing, or mortgaging the permanent crops or long-lived trees, such as coconuts, in those areas, for, although the land in such an area could not be alienated the alienation of a tree which had a life of up to 70 or 80 years to a person other than a member of the tribe resident in such area had been already proved to be productive of an undesirable state of affairs. The provisions of the Bill were designed to protect the interests of the native community in that respect.

THE HON. THE ATTORNEY GENERAL seconded, and the Bill was read a first time.

THE HON. C. W. HOBLEY gave notice that he would move the second reading of the Bill at a later stage of the Session.

THE APPROPRIATION ORDINANCE, 1916.

The Council resolved itself into a Committee of the whole Council, HIS EXCELLENCY THE GOVERNOR presiding, to consider the provisions of the Bill intituled "An Ordinance to apply a sum of money for the service of the year ending the 31st day of March, 1917", which had been left in Committee at the last Session of Council.

In Committee.

The Bill was read clause by clause, and was adopted with the following amendments:—
In the Schedule,

Item 2	Pensions and Gratuities, altered to	£ 7,097
" 9	Port and Marine Departments	"	...	, 5,688
" 12	Police	"	...	,68,606
" 13	Prisons	"	...	,19,843
" 16	Education	"	...	, 8,852
" 18	Military	"	...	,73,475
" 22	Agricultural	"	...	,37,606

The final total of the Schedule was altered to £1,250,337.

In clause 2 and clause 4 of the Bill the words "one million, two hundred and fifty thousand, three hundred and thirty seven pounds" were inserted.

The Council resumed its Sitting.

THE HON. THE ACTING TREASURER moved that the Bill as amended be reported to Council.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. THE ACTING TREASURER gave notice that he would move the third reading of the Bill at a later stage of the Session.

THE LANDS TITLES AMENDMENT ORDINANCE, 1916.

THE HON. R. BARTON WRIGHT submitted and read the report of the Special Committee appointed to enquire into and report on the provisions of the Bill intituled "An Ordinance to amend the Law relating to Land Titles and to remove doubts that have arisen in regard to the effect of the Crown Lands Ordinance, 1915, Section 141, on Certificates of Title issued by the Recorder of Titles", as follows:—

The Committee appointed consisted of the Land Officer (Chairman) the Attorney General and the Honourable W. A. M. Sim.

The Committee met at Mombasa on the 7th January, 1916, and on the 21st January, 1916 at Nairobi. The Committee had the opportunity of hearing the views of the Recorder of Titles and Mr. Allan who acts as Registrar both under the Land Titles Amendment Ordinance, 1910, and the Crown Lands Ordinance 1915. The Committee is of opinion that the provisions of Clause 2 of the Bill are sufficient to remove any fear that may be entertained of the possibility of the Crown attempting under the provisions of Sections 141 or 142 of the Crown Lands Ordinance, 1915, to set up a title to land in respect of which the Land Registration Court has already issued a Certificate of Title. The result of the Clause will in the opinion of the Committee be to restore the security of title given by Section 21 of the Land Titles Ordinance, 1908. In view of the fears expressed of the power apparently given to the Crown by the Crown Lands Ordinance, 1915, the Committee is of opinion the Clause should be enacted as drafted.

2. There has, the Committee is informed, been considerable divergence of practice in the case of persons holding land under a title from the Crown in districts to which the Land Titles Ordinance, 1908, has been applied. Some have filed a claim under the Ordinance and some have not done so. The Committee is of opinion that it should not be necessary for persons who already possess a title from the Crown to lodge a claim with the Land Registration Court. The Committee is, therefore, of opinion that Clause 3 of the Bill should stand as drafted.

3. The next question considered by the Committee was the position of the Crown titles which have been dealt with by the Land Registration Court and in respect of which certificates of title have or will be issued. The Committee is of opinion that registration of such certificates should be made in the the Register of Crown Lands and that Part XI of the Crown Lands Ordinance, 1915, should apply as if the land dealt with were land registered under that part of the Ordinance. The draft Clause 4 submitted with the report is designed to effect this purpose and to make it clear that although a Certificate of Title has been substituted for a conveyance lease or licence from the Crown yet the provisions of the Crown Lands Ordinance, 1915, in respect of registration will still apply. The Committee is informed that in some cases persons have interests in land the subject of a conveyance, lease or licence from the Crown other than that conferred by such conveyance, lease or licence as the case may be. These interests are generally either coconut trees or houses. It is in the opinion of the Committee desirable that if the owners of such interests claim before the Land Registration Court and are awarded Certificates of Title in respect of them that such certificates should appear on the Register of Crown Lands. Sub-clause 2 of Clause 4 provides for such registration. Sub-clause 3 of Clause 4 in the opinion of the Committee is necessary to provide that all future dealings with any interest in Crown land the subject of a Certificate of Title should appear on the Crown Lands Register.

4. Draft Clause 5 is necessary to avoid the double registration of documents dealing with land in respect of which a certificate of ownership has been given by the Land Registration Court.

5. Owing to the amendment of Section 50 of the Land Titles Ordinance, 1908, by the Land Titles Amendment Ordinance (No. 2), 1910, Section 2, there is no specific provision for the recovery of costs and fees under a judgment of the Land Registration Court. The Committee is of opinion that such provision should be made and submits draft clause 6 for the consideration of the Council.

6. The short title should be amended to "The Land Titles Amendment Ordinance, 1916". In Clause 3 the word "interests" should be amended to "interest".

7. The proposed new clauses are annexed hereto.

R. B. WRIGHT, *Chairman.*

The 5th day of June, 1916.

4. (1). In any case in which a person claiming under a conveyance lease or licence issued under the East Africa Land Regulations, 1897, the Crown Lands Ordinance, 1902, or the Crown Lands Ordinance, 1915, to be a proprietor of or to have any interest in immovable property has applied to the Land Registration Court for a certificate of title and the Land Registration Court has granted a certificate of title in respect of such claim such certificate of title shall be registered without further fee in the Register of Crown Lands.
 - (2). In any case in which the Land Registration Court grants a certificate of interest in respect of land held under conveyance, lease or licence from the Crown other than a certificate of title in respect of such conveyance, lease or licence such certificate of interest shall be registered without further fee in the Register of Crown Lands.
 - (3). Part XI of the Crown Lands Ordinance, 1915, shall apply as if the expression "Land registered under this part" used therein included Crown Land in respect of which the Land Registration Court had granted any certificate of title.
5. The Land Titles Amendment Ordinance, 1910, Part II, shall not apply to certificates of ownership registered under this Ordinance in the Register of Crown Lands.
6. (1). The Recorder of Titles may issue a decree for any fees or costs due in respect of any adjudication or order on any claim or application made under the provisions of the Principal Ordinance or any Ordinance amending the Principal Ordinance and shall have all the powers relating to the execution of decrees of a civil court under the Indian Code of Civil Procedure as applied to the Protectorate in respect of decrees issued by him.
 - (2). The Attorney General for and on behalf of the Government may apply for the issue of a decree and execution thereof in respect of any costs or fees due to the Government under an adjudication or order of the Recorder of Titles.
 - (3). The provisions of this section shall apply to any adjudication or order of the Recorder of Titles whether made before or after the enactment of this Ordinance.

The Council resolved itself into a Committee of the whole Council, HIS EXCELLENCY THE GOVERNOR presiding.

In Committee.

The Bill was read clause by clause and was adopted with the amendments proposed by the Special Committee.

The Council resumed its Sitting.

THE HON. R. BARTON WRIGHT moved that the Bill as amended be reported to Council.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

THE HON. R. BARTON WRIGHT gave notice that he would move the third reading of the Bill at a later stage of the Session.

THE LIQUOR AMENDMENT ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL moved that the Bill intituled "An Ordinance to amend the Liquor Ordinance, 1909", be read a second time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

The following Special Committee was appointed to enquire into and report on the provisions of the Bill:—

THE HON. THE ATTORNEY GENERAL, (Chairman).

THE HON. THE CHIEF SECRETARY.

THE HON. C. W. HOBLEY, C.M.G.

THE HON. J. AINSWORTH, C.M.G.

THE KING'S AFRICAN RIFLES AMENDMENT ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL moved that the Bill intituled "An Ordinance to amend the Law relating to the King's African Rifles" be read a second time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

The Council resolved itself into a Committee of the whole Council, HIS EXCELLENCY THE GOVERNOR presiding.

In Committee.

The Bill was read clause by clause and was adopted without amendment.

The Council resumed its Sitting.

THE HON. THE ATTORNEY GENERAL moved that the Bill without amendment be reported to Council.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL gave notice that he would move the third reading of the Bill at a later stage of the Session.

THE TRADING WITH THE ENEMY (EXTENSION OF POWERS)
ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL moved that the Bill intituled "An Ordinance to provide for the extension of the restrictions relating to trading with the Enemy to persons to whom, though not resident or carrying on business in Enemy territory, it is, by reason of their Enemy nationality or Enemy associations, expedient to extend such restrictions" be read a second time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

The following Special Committee was appointed to enquire into and report on the provisions of the Bill:—

THE HON. THE ATTORNEY GENERAL, (Chairman).

THE HON. THE CHIEF SECRETARY.

THE HON. THE ACTING TREASURER.

THE HON. F. W. MAJOR, I.S.O.

THE ABUSE OF OPIATES PREVENTION AMENDMENT ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL moved that Bill intituled "An Ordinance to amend the Abuse of Opiates Prevention Ordinance, 1913", be read a second time.

THE HON. A. C. MACDONALD seconded.

The question was put and carried.

The Council resolved itself into a Committee of the whole Council, HIS EXCELLENCY THE GOVERNOR presiding.

In Committee.

The Bill was read clause by clause and was adopted with the following amendments:—
Section 3 (a) the word "sub-section" was inserted before the figure (1).
Section 4, line 1, the word 'clause' was substituted for "sub-section".
Section 4, line 2, the word "words" was altered to "word".

The Council resumed its Sitting.

THE HON. THE ATTORNEY GENERAL moved that the Bill as amended be reported to Council.

THE HON. A. C. MACDONALD seconded.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL gave notice that he would move the third reading of the Bill at a later stage of the Session.

THE PRESERVATION OF NATIVE PROPERTY ORDINANCE, 1916.

THE HON. C. W. HOBLEY moved that the Bill intituled "An Ordinance to provide for the preservation of fruit bearing trees and other property owned by Natives residing in a Native Reserve" be read a second time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

The Council resolved itself into a Committee of the whole Council, HIS EXCELLENCY THE GOVERNOR presiding.

In Committee.

The Bill was read clause by clause and was adopted with the following amendments:—
Clause 3, line 1, was altered so as to read "no building, standing coconut palm, standing fruit tree or other standing tree".

Clause 3, line 2, the word "crop" was deleted.

Clause 3, sub-clause 2, in the last line the word "deemed" was deleted and the words "and of no effect" were added after the word "void".

The Council resumed its Sitting.

THE HON. C. W. HOBLEY moved that the Bill as amended be reported to Council.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. C. W. HOBLEY gave notice that he would move the third reading of the Bill at a later stage of the Session.

THE APPROPRIATION ORDINANCE, 1916.

THE HON. THE ACTING TREASURER moved that the Bill intituled "An Ordinance to apply a sum of money for the service of the year ending the 31st day of March, 1917", be read a third time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried, and the Bill was read a third time and passed.

THE LAND TITLES AMENDMENT ORDINANCE, 1916.

THE HON. R. BARTON WRIGHT moved that the Bill intituled "An Ordinance to amend the Law relating to Land Titles and to remove doubts that have arisen in regard to the effect of the Crown Lands Ordinance, 1915, Section 141, on Certificates of Title issued by the Recorder of Titles", be read a third time.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried, and the Bill was read a third time and passed.

THE KING'S AFRICAN RIFLES AMENDMENT ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL moved that the Bill intituled "An Ordinance to amend the Law relating to the King's African Rifles" be read a third time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried, and the Bill was read a third time and passed.

**THE ABUSE OF OPIATES PREVENTION AMENDMENT
ORDINANCE, 1916.**

THE HON. THE ATTORNEY GENERAL moved that the Bill intituled "An Ordinance to amend the Abuse of Opiates Prevention Ordinance, 1913", be read a third time.

THE HON. A. C. MACDONALD seconded.

The question was put and carried, and the Bill was read a third time and passed.

THE PRESERVATION OF NATIVE PROPERTY ORDINANCE, 1916.

THE HON. C. W. HOBLEY moved that the Bill intituled "An Ordinance to provide for the preservation of fruit bearing trees and other property owned by Natives residing in a Native Reserve" be read a third time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried, and the Bill was read a third time and passed.

The Council adjourned till 10 a.m. on the 8th of June, 1916.

SECOND DAY.

The Council assembled on the 8th day of June, at 10 a.m., HIS EXCELLENCY THE GOVERNOR (SIR H. CONWAY BELFIELD, K.C.M.G.) presiding.

Present:—

THE HON. THE CHIEF SECRETARY (C. C. BOWRING, C.M.G.).
 THE HON. THE ATTORNEY GENERAL (J. W. BARTH).
 THE HON. THE ACTING TREASURER (W. A. KEMPE).
 THE HON. THE MANAGER OF THE UGANDA RAILWAY (B. EASTWOOD).
 THE HON. F. W. MAJOR, I.S.O.
 THE HON. A. C. MACDONALD.
 THE HON. C. W. HOBLEY, C. M. G.
 THE HON. R. BARTON WRIGHT.
 THE HON. J. AINSWORTH, C.M.G.

Absent:—

THE HON. W. A. M. SIM.

THE PRESIDENT said that Hon. Members would have learned that further information received from home left them unfortunately in little doubt of the loss of Lord Kitchener on H.M.S. Hampshire, and he wished to inform Council that he proposed to send the following telegram to the Secretary of State for the Colonies:—

June 8th. East Africa deeply deplores loss of Lord Kitchener and offers respectful condolences to His Majesty's Government and to relatives".

He added that Hon. Members would agree with him that it was right and proper that some acknowledgement should be made to the Imperial Government of the intimation received.

THE LIQUOR AMENDMENT ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL said that the Special Committee appointed to enquire into and report on the provisions of the Bill intituled "An Ordinance to amend the Liquor Ordinance, 1909", had had one meeting, and, in consequence of facts which had been reported at that meeting the Special Committee was of opinion that, if Council agreed, the Report should be deferred until the next Session of Council. The Hon. Members of the Special Committee required to go into the question of legislation for the manufacture of liquor for industrial purposes more fully and with much greater detail than the time at their disposal would allow.

Further discussion of the Bill was therefore postponed.

**THE TRADING WITH THE ENEMY (EXTENSION OF POWERS)
ORDINANCE, 1916.**

THE HON. THE ATTORNEY GENERAL, submitted and read the Report of the Special Committee appointed to enquire into and report on the provisions of the Bill intituled "An Ordinance to provide for the extension of the restrictions relating to trading with the Enemy to persons to whom, though not resident or carrying on business in Enemy territory, it is, by reason of their Enemy nationality or Enemy associations, expedient to extend such restrictions", as follows:—

REPORT of the Special Committee of the Legislative Council appointed for the purpose of Examining into and Reporting on the Clauses of the Bill intituled an Ordinance to Provide for the Extension of the Restrictions relating to Trading with the Enemy to Persons to whom though not resident or carrying on business in Enemy territory it is by reason of their Enemy Nationality or Enemy Associations expedient to extend such Restrictions.

The Committee met on the 7th instant and is of opinion that Clause 2 of the Bill should be enacted as drafted.

2. The Committee has had under consideration the provisions of the Trading with the Enemy Amendment Act, 1916.

3. The Committee is of opinion that provisions should be made for the winding up of businesses which though not legally the property of enemy subjects are carried on for the benefit of enemy subjects. A draft clause is annexed to effect this object.

4. It is considered that power should be provided for vesting in the Custodian property which belongs to or is held for enemy subjects although such subjects are not resident in enemy territory. At present Section 8 of the Trading with the Enemy Ordinance, 1915, deals only with property of or held for an "enemy" i.e. a person resident or carrying on business in enemy territory. Such provision, if made, would render it necessary that notice of such property should be given to the Custodian.

5. In accordance with the policy which it is desired to adopt in the British Dominions and Protectorates provision should be made for notice to be given to the Custodian of Debts due to persons in enemy territory or territory in the occupation of the enemy.

6. The Committee recommends that provision should be made for withholding from enemy subjects not resident or carrying on business in the United Kingdom or in a British Possession or Protectorate claims made on funds in the hands of the Custodian or the Liquidator of Enemy firms.

7. The Committee is of opinion that the provisions of the Trading with the Enemy Amendment Act, 1916, Sections 7-10 inclusive should be adopted in the Protectorate. Section 7 deals with the duration of the restrictions on dealings with the enemy property and provides that they shall continue after the war until removed by an Order in Council. The Committee suggests that in the Protectorate the removal shall be by order of the Governor-in-Council. Section 8 provides the necessary machinery for the registration of the transfer of securities vested in the Custodian which he is empowered to transfer by the vesting order.

Section 9 secures the validity of vesting orders when the person in respect of whom it is made dies or ceases to be an enemy or an enemy subject or if it be ascertained he was not an enemy or enemy subject.

Section 10 gives the Registrar of Joint Stock Companies power to refuse registration if a subscriber to the memorandum of association or a proposed director is an enemy subject and makes other provision for the suppression of enemy interests in Companies.

8. It is suggested that the short title of the Bill should be amended in view of the further matter the Committee suggests should be included in it.

9. Draft clauses are annexed embodying the Committee's proposals.

Nairobi,

The 8th day of June, 1916.

(Sd.) J. W. BARTH,

Chairman.

Short title.

1. This Ordinance may be cited as "The Trading with the Enemy Amendment Ordinance, 1916" and shall be construed as one with the Trading with the Enemy Ordinance, 1915, hereafter referred to as the Principal Ordinance and the Trading with the Enemy Amendment Ordinance, 1915, and those Ordinances and this Ordinance may be cited as the Trading with the Enemy Ordinances, 1915 and 1916.

Liquidation of businesses.

3. (1) Where it appears to the Governor that the business carried on in the Protectorate by any person, firm or company is carried on wholly or mainly for the benefit of Enemy subjects the Governor may order the liquidation of such business and may appoint a Liquidator to conduct such liquidation.

(2) The Governor may by rules prescribe the procedure to be adopted in any liquidation ordered under this Section and the powers to be exercised by any liquidator appointed by him and generally for the better carrying out the objects purposes of this Section.

4. (1) The High Court or a Judge thereof may on the application of the Custodian of Enemy Property appointed under the Principal Ordinance by order vest in such Custodian any property moveable or immoveable (including any rights whether legal or equitable in or arising out of property moveable or immoveable) belonging to or held or managed for or on behalf of an Enemy subject or the right to transfer such property if the Court or Judge is satisfied that such vesting is expedient for the purpose of the Principal Ordinance or otherwise and may by the order or by any subsequent order confer on the Custodian such powers of selling, managing or otherwise dealing with the property as the Court or Judge may direct.
- (2) The Court or Judge before making any order under this Section may direct that 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 like purport and effect as a vesting order as respects property of the same description under the Trustee Act, 1893, and shall be sufficient to vest in the Custodian any property or the right to transfer any property as provided by the order without the necessity of any further conveyance assurance or document.
- (4) The transfer or sale by the Custodian of any property shall be conclusive evidence in favour of the purchaser and of the Custodian that the requirements of this Section have been complied with.
- (5) All property vested in the Custodian under this Section and the proceeds of the sale of or money arising from any such property shall be dealt with by him in like manner as money paid to and property vested in him under the Principal Ordinance and Section 9 of that Ordinance shall apply accordingly.

Vesting orders.

5. Any restrictions imposed by any Ordinance or Proclamation on dealings with Enemy property shall continue to apply to property particulars whereof are or are liable to be notified to the Custodian in pursuance of Section 7 of the Principal Ordinance as extended by any subsequent enactment not only during the continuance of the present war but thereafter until such time as they may be removed by order of the Governor-in-Council and such orders may be made removing all or any of the restrictions either simultaneously as respects all such or at different times as respects different classes of property.

Duration of restrictions on dealing with enemy property.

6. (1) Where the Custodian executes a transfer of any shares, stock, or securities which he is empowered to transfer by a vesting order made under Section 8 of the Principal Ordinance or under this Ordinance, the Company or other body in whose books the share, stock or securities are registered shall upon the receipt of the transfer so executed by the Custodian and upon being required by him so to do, register the shares, stock, or securities in the name of the Custodian or other transferee, notwithstanding any regulation or stipulation of the Company or other body, and notwithstanding that the Custodian is not in possession of the certificate, script, or other document of title relating to the shares, stock, or securities transferred, but such registration shall be without prejudice to any lien or charge in favour of the Company or other body or to any other lien or charge of which the Custodian has notice.
- (2) If any question arises as to the existence or amount of any lien or charge the question may, on application being made for the purpose, be determined by the High Court or a Judge thereof.

Registration of transfer without production of certificates, &c.

7. Where a vesting order has been made under Section 8 of the Principal Ordinance, 1915, or under this Ordinance as respects any property belonging to or held or managed for or on behalf of a person who appeared to the Court making the order to be an enemy or enemy subject, the order shall not nor shall any proceedings thereunder or in consequence thereof be invalidated or affected by reason only of such person, having, prior to the date of the order, died or ceased to be an enemy or enemy subject or subsequently dying or ceasing to be an enemy or enemy subject, or by reason of its being subsequently ascertained that he was not an enemy or an enemy subject, as the case may be.

Validity of vesting orders.

8. (1) Where on an application for the registration of a company it appears to the Registrar of Joint Stock Companies that any subscriber of the memorandum of association or any proposed director of the Company is an enemy subject, he may refuse to register the company.
- (2) No allotment or transfer of any share, stock, debenture or other security issued by a company made after the passing of this Ordinance to or for the benefit of an enemy subject, shall, unless made with the consent of the Governor-in-Council confer on the allottee or transferee any rights or remedies in respect thereof, and the company by whom the security was issued shall not take any cognisance of or otherwise act upon any notice of any such transfer except by leave of a court of competent jurisdiction or of the Governor-in-Council.

Power to refuse registration of companies in certain cases, &c.

If any company contravenes the provisions of this Section the company shall be liable on conviction by a Magistrate holding a subordinate Court of the first class to a fine not exceeding Rs. 1,500/- and every director, manager, secretary, or other officer of the company who is knowingly a party to the default shall be liable on conviction to a fine for a like amount or to imprisonment of either description for a term not exceeding six months.

- (3) Where the right of nominating or appointing a director of a company is vested in any enemy or enemy subject, the right shall not be exercisable except by leave of the Governor-in-Council and any director nominated or appointed in exercise of such right shall, except as aforesaid, cease to hold office as director.

Notice to be given of property belonging to or held for Enemy subjects.

9. (1) Any person who being an enemy subject owns any property whatsoever whether moveable or immoveable (including any rights whether legal or equitable in or arising out of property moveable or immoveable) situated in the Protectorate and any person who holds or manages for or on behalf of any enemy subject any property whatsoever moveable or immoveable (including any rights legal or equitable in or arising out of property moveable or immoveable) situated in the Protectorate shall within 30 days after the enactment of this Ordinance or if such property comes into his possession or under his control after the enactment of this Ordinance then within 30 days after the date on which 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.

Notice to be given of debts due to persons in Enemy Territory.

- (2) Any British Subject or British Protected Person resident in the Protectorate owing any sum whatsoever to any person resident in enemy territory or in territory in the occupation of the enemy shall within 30 days after the enactment of this Ordinance by notice in writing communicate the fact to the Custodian and shall furnish the Custodian with such particulars in relation thereto as he may require.

Penalty.

- (3) Any person committing a breach of any of the provisions of sub-sections 1 or 2 of this Section shall on conviction by a Magistrate holding a subordinate court of the first class be liable to a fine not exceeding Rs. 1,500/- or to imprisonment of either description for a period not exceeding 6 months or to both and in addition to a further fine not exceeding Rs. 75/- for every day during which the default continues.

Saving.

- (4) The provisions of this Section shall not apply to any property in respect of which notice has been given to the Custodian under the provisions of Section 7 of the Principal Ordinance.

Enemy claims on Funds.

10. Where there are funds in the possession of the Custodian appointed under the provisions of the Principal Ordinance or of a Liquidator appointed under the provisions of the Trading with the Enemy Amendment Ordinance, 1915, to liquidate any business or firm the property of an Enemy subject and a claim is made on any such funds by an Enemy subject resident or carrying on business elsewhere than in the United Kingdom or in a British Possession or Protectorate the payment of any such claim shall be withheld Provided that the Governor may by licence permit the payment of any such claim to any such subject not resident or carrying on business in Enemy territory or in territory in the occupation of the Enemy.

Definition.

11. In this Ordinance the expression "enemy subject" means subject of a State for the time being at war with His Majesty, and included a body corporate constituted according to the laws of such State.

In Committee.

The Bill was read clause by clause and was adopted with the amendments recommended by the Special Committee.

The Council resumed its Sitting.

THE HON. THE ATTORNEY GENERAL moved that the Bill as amended be reported to Council.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL moved that the Bill be read a third time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried, and the Bill was read a third time and passed.

THE PRESIDENT intimated that, at the instance of the Hon. The Chief of Customs, he had been advised by the Hon. The Attorney General that it was desirable that a short Bill should be introduced during the Session in order to vest in the Chief of Customs certain authority to control the export of goods from the country which was not at present in his hands. The Hon. Attorney General had undertaken the preparation of the Bill, which would be ready, supported by a Certificate of Urgency, in the course of the following day.

The Council adjourned till 2-30 p.m. on the 9th June, 1916.

THIRD DAY.

The Council assembled on the 9th June, at 2-30 p.m., HIS EXCELLENCY THE GOVERNOR (SIR H. CONWAY BELFIELD, K.C.M.G.) presiding.

Present:—

THE HON. THE CHIEF SECRETARY (C. C. BOWRING, C.M.G.).
 THE HON. THE ATTORNEY GENERAL (J. W. BARTH).
 THE HON. THE ACTING TREASURER (W. A. KEMPE).
 THE HON. THE MANAGER OF THE UGANDA RAILWAY (B. EASTWOOD).
 THE HON. F. W. MAJOR, I.S.O.
 THE HON. A. C. MACDONALD.
 THE HON. C. W. HOBLEY, C.M.G.
 THE HON. R. BARTON WRIGHT.
 THE HON. J. AINSWORTH, C.M.G.

Absent:—

THE HON. W. A. M. SIM.

THE CUSTOMS (WAR POWERS) ORDINANCE, 1916.

THE HON. THE ATTORNEY GENERAL laid on the Table a Certificate of Urgency in regard to a Bill intituled "An Ordinance to amend the Law relating to Customs during the present War", and moved the Suspension of Standing Orders in order that the Bill might be proceeded with.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. F. W. MAJOR introduced and moved the first reading of the Bill. He said that the President had already explained its object but in further explanation he might say that it had been introduced to prevent goods from getting into enemy hands. The Principal Customs Ordinance provided the necessary machinery for obtaining certificates of origin of goods, but the necessary machinery was not provided for tracing the destination of goods. The bill was based on Imperial Acts which had been transmitted to the Protectorate Government by the Imperial Government. He might mention that most of the procedure provided by the Bill had already been followed by the Customs Department, and provision had been inserted in the Bill providing for the legality of that procedure.

THE HON. THE ATTORNEY GENERAL seconded, and the Bill was read a first time.

THE HON. F. W. MAJOR moved that the Bill be read a second time.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

The Council resolved itself into a Committee of the whole Council, HIS EXCELLENCY THE GOVERNOR presiding.

In Committee.

The Bill was read clause by clause and was adopted with the following amendments:—

Clause 5 (1) the words "or for which" were inserted in line 3 after the words "for whom".

Clause 6 (2) the words "detained or imported into" were deleted and the words "imported into or detained in" substituted.

The Council resumed its Sitting.

THE HON. F. W. MAJOR moved that the Bill as amended be reported to Council.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

THE HON. F. W. MAJOR moved that the Bill be read a third time.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried, and the Bill was read a third time and passed.

Adjournment.

The Council adjourned until the third Monday in July or such other date as might be duly notified.