

7. Nothing in this proclamation shall be taken to prohibit anything which shall be expressly permitted by our licence, or by the licence given on our behalf by a Secretary of State, or the Board of Trade, whether such licences be especially granted to individuals or be announced as applying to classes of persons.
8. This proclamation shall be called "The Trading with the Enemy Proclamation No. 2".

CLAUD SEVERN,
Colonial Secretary.

6th October, 1914.

LEGISLATIVE COUNCIL.

No. 381.—His Excellency the Governor has given his assent, in the name and on behalf of His Majesty the King, to the following Ordinance passed by the Legislative Council:—

Ordinance No. 25 of 1914.—An Ordinance for the more effectual preventing and further punishment of the offence of trading with the enemy.

HONGKONG.

No. 25 OF 1914.

An Ordinance for the more effectual preventing and further punishment of the offence of trading with the enemy.

I assent to this Ordinance.

LS

F. H. MAY,
Governor.

[6th October, 1914.]

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

1. This Ordinance may be cited as the Trading with the Enemy Ordinance, 1914. Short title.

2.—(1.) Every person who during the continuance of the present war between His Majesty and Germany or during the continuance of the present war between His Majesty and Austria-Hungary trades with the enemy, and every person who since the fourth day of August, 1914, has traded with the enemy, shall be deemed to be guilty of a misdemeanour, and shall be liable upon summary conviction to imprisonment for any term not exceeding twelve months and to a fine not exceeding five thousand dollars, or upon conviction on indictment to imprisonment for any term not exceeding seven years and to a fine not exceeding five thousand dollars. Penalty of imprisonment and fine for trading with the enemy.

Penalty of forfeiture.

(2.) In addition to the penalties hereinbefore provided it shall be lawful for the court or a magistrate upon the conviction of any person of any offence under this Ordinance to order the forfeiture of any property of any nature whatsoever, or the proceeds thereof, in respect of which or in connection wherewith or by means of which the offence may have been committed, and the said property, or the proceeds thereof as the case may be, shall thereupon be deemed to be the property of the Crown or as the case may be to be a sum of money due to the Crown, free from all rights of any kind whatsoever within the Colony of any person whomsoever :

Provided that it shall be lawful for the Governor-in-Council to entertain any moral claim to or in respect of any such property or proceeds and upon such claim it shall be lawful for the Governor-in-Council in his absolute discretion to make such order, whether as to payment out of the general revenue of the Colony or otherwise, as he may think fit.

Definition of trading with the enemy.

(3.) For the purposes of this Ordinance, trading with the enemy means taking any part in any act or transaction prohibited under any proclamation issued by His Majesty dealing with the subject of trading with the enemy or any act or transaction constituting the offence of trading with the enemy by common law or under any Ordinance or under any Statute applicable to the Colony.

Person to include body corporate and firm.

(4.) For the purposes of this Ordinance, except so far as relates to the imposition of the penalty of imprisonment, the expression "person" shall include a body corporate and a firm.

Officer of firm or body corporate liable.

(5.) Every officer or employee of any firm or of any company or other body corporate, whether incorporated within or without the Colony, who knowingly is a party to any act or transaction which would be an offence under this Ordinance shall be deemed to be guilty of the misdemeanour of trading with the enemy and shall be liable to the penalties provided in sub-section (1) of this section and may be proceeded against whether any other person be proceeded against for the said offence or not, and on the conviction of any such officer or employee it shall be lawful for the court or a magistrate to make any order of forfeiture which might have been made on the conviction of any firm or body corporate of which such person was an officer or employee or of any person who shall actually have taken part in the act or transaction in respect of which such officer or employee shall be convicted.

Consent of Attorney General.

(6.) No prosecution shall be instituted under this Ordinance without the consent of the Attorney General.

No person to be punished twice for same offence.

(7.) No person shall be punished more than once for the same offence under this Ordinance.

Inspection, obtaining of information, and search.

3.—(1.) In any case in which it is suspected that any offence under this Ordinance has been committed by any person and in any case in which it is anticipated that any such offence is about to be committed by any person, a magistrate may on oath being made before him to that effect authorise by warrant under his hand and seal, which may be in the form set forth in Form No. 1 in the Schedule hereto, any person or persons named in the said warrant :—

(a.) To inspect all books and documents belonging to or under the control of any person by whom it is suspected or anticipated that such offence has been or is about to be committed :

(b.) To require any person whom he may consider able to give any information respecting the business or trade of any person by whom it is suspected or anticipated that such an offence has been or is about to be committed to give such information :

- (c.) If accompanied by a police officer, or if himself a police officer, to search any premises specified in the said information as having been or being used in connection with such business or trade :
- (d.) To seize and take possession of all books documents and things discovered in the course of any such inspection or search which may appear to furnish any evidence that any offence under this Ordinance has been or was about to be committed :
- (e.) To do all such acts and things as may be reasonably necessary for the purpose of effecting such search.

(2.) In any case in which by reason of the apparent urgency of the occasion it shall appear to be impracticable to obtain such warrant from a magistrate in time, it shall be lawful for the Captain Superintendent of Police, or the Deputy Superintendent of Police, or any Assistant Superintendent of Police, by order in writing under his hand, which may be in the form set forth in Form No. 2 in the Schedule hereto, on such grounds as he may think fit and without any information being laid or sworn, to authorise any person or persons named in such order to do all such acts and things as he or they might have been authorised to do by a warrant issued by a magistrate under sub-section (1) of this section.

(3.) Every person who refuses or neglects to produce any books or documents belonging to or under his control or in his possession or physical custody, or to give any information within his knowledge, on demand, to any person or persons authorised by any such warrant or order in writing aforesaid to inspect such books or documents or to require such information, and every person who obstructs any inspection search or seizure authorised by any such warrant or order in writing aforesaid, shall be liable on summary conviction to imprisonment for any term not exceeding six months and to a fine of five hundred dollars.

4. Where it appears to the Colonial Secretary in reference to any firm or company ;— Power to appoint controller.

- (a) that an offence under this Ordinance has been or is likely to be committed in connection with the trade or business thereof ; or,
- (b) that the control or management thereof has been or is likely to be so affected by the state of war as to prejudice the effective continuance of its trade or business and that it is in the public interest that the trade or business should continue to be carried on ;

the Colonial Secretary may apply to the Supreme Court for the appointment of a controller of the 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 to the Court for this purpose to create charges on the property of the firm or company in priority to existing charges. The Court shall have power to direct how and by whom the costs of any 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 charges and expenses on the property of the firm or company in such order of priority in relation to any existing charges thereto as it thinks fit.

5. Notwithstanding anything contained in this Ordinance or in the Trading with the Enemy Proclamation No. 2 issued by His Majesty on the ninth day of September, 1914, it shall not be lawful for any bank, the constitution of which at the commencement of the war between His Majesty and Germany or at the commencement of the war Exception in the case of certain banks.

between His Majesty and Austria-Hungary provided that any of the officers or directors thereof should be resident in German or Austro-Hungarian territory, to carry on its business in any way whatsoever except for the purpose of completing transactions entered into before the outbreak of war between His Majesty and the State in whose territory such officers or directors are required to reside, and it shall be lawful for the Governor to impose such restrictions in the case of any such bank and to require any such bank to submit to such supervision as he may think fit.

Power to impose restrictions on business of enemy subjects and of local branches of enemy firms.

6. Notwithstanding anything contained in this Ordinance or in the Trading with the Enemy Proclamation No. 2 issued by His Majesty on the ninth day of September, 1914, if any enemy, as defined in Article 2 of the said Proclamation has a branch locally situated in the Colony, or if any firm carrying on business in the Colony had at the commencement of the war between His Majesty and Germany or at the commencement of the war between His Majesty and Austria-Hungary any partner who at any time after the commencement of either of the said wars is or becomes an enemy within the meaning of the said Proclamation, or if any German subject or any Austro-Hungarian subject carries on business in the Colony it shall be lawful for the Governor to impose such restrictions on the business of any such branch, firm or enemy subject as he may think fit.

Passed the Legislative Council of Hongkong, this 6th day of October, 1914.

M. J. BREEN,
Clerk of Councils.

Assented to by His Excellency the Governor, the 6th day of October, 1914.

CLAUD SEVERN,
Colonial Secretary.

SCHEDULE.

FORM No. 1.

WARRANT.

The Trading with the Enemy Ordinance, 1914, s. 2.
Hongkong.

To each and all of the Officers of the Police Force of the Colony of Hongkong and to

Oath having been made before the undersigned a Magistrate of the said Colony that an offence under the Trading with the Enemy Ordinance, 1914, has been committed (or, that it is anticipated that an offence under the Trading with the Enemy Ordinance, 1914, is about to be committed) by
of
Victoria in the said Colony namely that the said
unlawfully did on or about the.....day of
1914
and that the said
uses (or has used) the premises
in connection with his (or their) business or trade :

These are therefore to authorise you in His Majesty's name :—

- (a.) To inspect all books and documents belonging to or under the control of the said.....
- (b.) To require any person whom you may consider able to give any information respecting the business or trade of the said..... to give such information :
- (c.) If accompanied by a police officer or if yourself a police officer to search the premises.....
- (d.) To seize and take possession of all books documents and things discovered in the course of such inspection or search which may appear to furnish any evidence that any offence under the said Ordinance has been or was about to be committed :
- (e.) To do all such acts and things as may be reasonably necessary for the purpose of effecting such inspection search or seizure.

Dated this.....day of.....19.....

[L.S.]

Magistrate.

FORM NO. 2.

ORDER.

The Trading with the Enemy Ordinance, 1914, s. 2.

Hongkong.

To each and all of the Officers of the Police Force of the Colony of Hongkong and to.....

Whereas it has been made to appear to the undersigned that an offence under the Trading with the Enemy Ordinance, 1914, has been committed (or, that it is anticipated that an offence under the Trading with the Enemy Ordinance, 1914, is about to be committed) by of..... Victoria in the said Colony namely that the said unlawfully did on or about the.....day of.....1914 and that the said uses (or has used) the premises in connection with his (or their) business or trade :

These are therefore to authorise you in His Majesty's name :—

- (a.) To inspect all books and documents belonging to or under the control of the said

- (b.) To require any person whom you may consider able to give any information respecting the business or trade of the said.....
.....
to give such information :
- (c.) If accompanied by a police officer or if yourself a police officer to search the premises.....
.....
..... :
- (d.) To seize and take possession of all books documents and things discovered in the course of such inspection or search which may appear to furnish any evidence that any offence under the said Ordinance has been or was about to be committed :
- (e.) To do all such acts and things as may be reasonably necessary for the purpose of effecting such inspection search or seizure.

Dated this.....day of.....19.....

[L.S.]

.....
Captain Superintendent of Police.
Deputy Superintendent of Police.
Assistant Superintendent of Police.