

1935

1935

38227

KENYA

38227

CO 533/461

Arms Traffic with Abyssinia -
Legislation.

Previous

See 46030/35 (Sheet)

303

2/11

299

3/2

R. 297

4/2

Liberty (Legal)

5/2

R. 297

Subsequent

1939.

R 297

15/11

R. 309

19/11

Mr. Freestone

18

Mr. ...

18

Mr. ...

18

Mr. ...

—

R 297

20/11

R 303

21/11

R 308

26/11

296

27/11

297

27/11

R 309

21/11

R 297

29/11

309

30/11

Mr. ...

30

C. Arms Traffic. 1

Govr. Byrne - No.138 Conf. - 7.11.35.

(Trs. amending Bill in connexion with the Arms (Traffic with Abyssinia) Ordnce. 1931 (No.29) together with Legal Report. States that it is considered essential to introduce the Bill at the forthcoming Session of the Legislative Council and requests telegraphic reply if any objections are seen.)

The next Session of the Legislative Council opens on the 20th November C.M.

Copy herewith.

Kenya Ordinance No.29 of 1931 (Arms (Traffic with Abyssinia) Ordinance, 1931) which was introduced solely to give effect to the provisions of the Abyssinian Arms Traffic Treaty 1930, contains no penalty sections. The Ordinance is modelled on Somaliland Ordinance No. 3 of 1931 (Arms Traffic Ordinance, 1931), the draft of which was prepared at the C.O. in consultation with the Foreign Office.

Recd
Copy at No.19
On 38614/32.

See No.72 on
38212/A/30 and
No. 5 on
38510/B/31.

The Attorney General, Kenya, says that hitherto it has been considered that no offences were likely to be committed against the Ordinance which were not also offences against the "Arms and Ammunition Ordinance, 1925", and therefore adequately punishable under the provisions of that Ordinance.

I think that the consideration is the same in the case of British Somaliland, where punishments could have been inflicted under the Firearms Ordinance.

In the case of the Sudan, legislation to give effect to the provisions of the Abyssinian Arms Traffic Treaty was introduced in early 1932, entitled "The Arms, Ammunition and Explosives Ordinance, 1932" and was based on the existing Sudan Regulations of 1924. Sudan Ordinance

(Sudan Ordce.
No.1 of 1932)

No.1

C.) Arms Traffic. 1 Govr. Byrne - No.138 Conf. - 7.11.35.

(Trs. amending Bill in connexion with the Arms (Traffic with Abyssinia) Ordnce. 1931 (No.29) together with Legal Report. States that it is considered essential to introduce the Bill at the forthcoming Session of the Legislative Council and requests telegraphic reply if any objections are seen.)

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No.1

See No.72 on 38212/A/30 and No. 5 on 38510/B/31.

Copy at No.19 on 38614/32.

The next Session of the Leg. Council opens on the 20th November 1935.

(Sudan Ordce. No.1 of 1932)

No.1 of 1934 therefore contains penalty sections, a list of which is enclosed in the Governor's despatch.

The new Kenya Bill provides for a fine not exceeding £50 or imprisonment for 6 months or to both fine and imprisonment, for every offence against the Ordinance where a penalty is not specially provided for, and for specified penalties for offences under Sections 2,5,12, 13,14 and 19. I have marked on a print of the Somaliland Ordinance (no spare print of the Kenya Ordinance available at the moment) the various specified penalties.

It is clear, I think that in the present position effective penalties are necessary to prevent gun-running, and ? subject to legal observations we should send a copy of the desp. to F.O. saying that subject to any observations the Secretary of State for Foreign Affairs may have to offer, the S. of S. proposes to inform the Governor by telegraph that no objection is seen to the provisions of the draft Bill.

Copies of the correspondence should be sent to Gov. Somaliland with a suggestion that he should consider whether similar legislation is desirable in British Somaliland.

C.H.G. with 18/11/35

Kenya Leg. Co meets on Wednesday (20th).

I see no reason for referring this to F.O., a would be. no objection forthcoming

I agree with N. Foster
Thurs 18

Yes.
Thurs

No legal obs

18/11/35

18

800! but not unprecedented I think.

Tel Kenia 18-11

18-11

2 Tel No 328 to Gov Kenya (Lima) 18 Nov 35

Min. of
P. & I.

To Somal. Conf - cons 215 155
(w/ps 1 + 2)
DESTROYED UNDER STATUTE

To F.O. (w/ps 1 + 2) 18/11 22/11/35

ML

Somaliland - Conf - 19.12.35

DESTROYED UNDER STATUTE Reports that with refer to (3) his desp. No. 396 of 19.12.35 (No. 37 on 4/6/30/35) refers.

This has been
with
bundle

Similar legislation to that proposed by Kenya in No 1 has been enacted in B. Somaliland
See 46020/26, Somaliland,

(A copy of the Somaliland Ord. has been sent to F.O.)

Put by
C.H.G. with 21.11.35
at once

ML

Spares to Libby.

6 Gov. Byrne - No. 3. Conf. — 7.1.36

Docs. 2 amendments & 12 printed copies of the
Amos (Traffic with Abyssinia) (Amend) Order 1935
(No. 43 of 1935), together with 12.5's Report.

Also that the Order passed its 3rd reading
in the Leg. C. on 19.12.35 & that he intends to do
on 31.12.35.

as passed,

The Minister / does not differ
from the draft Bill enclosed
in No 1, & so

Sanctioned G.S.

A. G. Rossie
30/1/36

J. J. P. P. P.
30/1
at all

7014
Gill
to Libby
5/2/36

7 To Kenya, Conf (6 amended) 6/3

3 FEB 1936

Libby (Kenya) G. P. Rossie

CONFIDENTIAL.
KENYA.
No. 3



38227/55
6
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
27 JAN 1936
C. O. REGY

7 January, 1936.

Sir,

I have the honour to refer to your telegram

- (2) No. 528 of the 18th November, 1935, and to forward two authenticated and twelve printed copies of Ordinance No. XLIII of 1935 entitled "An Ordinance to Amend the Arms (Traffic with Abyssinia) Ordinance, 1931," together with a legal report thereon by the Attorney General.

57/38510/P/1
Hand

A copy of the relevant sections of the Sudan Ordinance from which the Ordinance is taken, and of the corresponding clauses of the Ordinance in Bill form on which are marked in red ink such portions of the Sudan sections as have not been reproduced or which appeared in the Bill in an amended form, were enclosed in my Confidential despatch No. 138 of the 7th November, 1935.

Answered (7)

2. This Ordinance passed its third reading in the Legislative Council on the 19th December, 1935, and I assented to it in His Majesty's name on the 31st December, 1935.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Brigadier-General,
GOVERNMENT HOUSE.

THE RIGHT HONOURABLE
J. H. THOMAS, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1

CONFIDENTIAL
KENYA.
No. 3



38227/5

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
27 JAN 1936
C. O. HEGY

7 January, 1936.

Sir,

I have the honour to refer to your telegram

(2) No. 528 of the 18th November, 1935, and to forward two authenticated and twelve printed copies of Ordinance No. XLIII of 1935 entitled "An Ordinance to Amend the Arms (Traffic with Abyssinia) Ordinance, 1931," together with a legal report thereon by the Attorney General.

38510/10/1
Hand

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2. This Ordinance passed its third reading in the Legislative Council on the 19th December, 1935, and I assented to it in His Majesty's name on the 31st December, 1935.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Brigadier-General,
GOVERNOR.

THE RIGHT HONOURABLE
J. H. THOMAS, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,

LEGAL REPORT

THE ARMS (TRAFFIC WITH ABYSSINIA) (AMENDMENT)
BILL, 1935

1935 10/30
This Bill has been prepared to make provision for the inclusion of penalty sections in the Arms (Traffic with Abyssinia) Ordinance, 1931.

2. Hitherto it has been considered that no offences were likely to be committed against the Arms (Traffic with Abyssinia) Ordinance which were not also offences against the Arms and Ammunition Ordinance, 1925 (No. VIII of 1925) and therefore adequately punishable under the provisions of that Ordinance.

3. In view, however, of the present international situation it is considered that the Arms (Traffic with Abyssinia) Ordinance should now provide for penalties applicable to the various offences which could be committed against its provisions.

4. The Bill therefore adds to the Ordinance four new sections, numbered as 23, 24, 25 and 26. These sections are taken respectively from sections 46, 47, 48 and 49 of Sudan Ordinance No. 1 of 1932 (the Arms, Ammunition and Explosives Ordinance) subject to certain modifications, which, save in the case of the Sudan section 49, are of a minor character. Section 26 of the Bill departs considerably from the Sudan section 49 inasmuch as it has been thought necessary to include a general penalty provision, and also by reason of the fact that a number of the offences in the Sudan Table of Offences are found only in the Kenya Arms and Ammunition Ordinance, 1925, and would not therefore be within the scope of the present Bill.

5. The Bill was submitted to the Secretary of State prior to its passage through the Legislative Council, and it has been ascertained that he has no objection to its provisions.

12(2)

6. In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,

19th December, 1935.

W. H. ...

ATTORNEY GENERAL



Colony and Protectorate of Kenya.

IN THE TWENTY-SIXTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
name this 5th day of December,
1935.

J. BYRNE

Governor.

AN ORDINANCE TO AMEND THE ARMS
(TRAFFIC WITH ABYSSINIA) ORDINANCE, 1931.

ORDINANCE No. XLIII of 1935

An Ordinance to Amend the Arms (Traffic with Abyssinia) Ordinance, 1931.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Arms (Traffic with Abyssinia) (Amendment) Ordinance, 1935, and shall be read as one with the Arms (Traffic with Abyssinia) Ordinance, 1931, hereinafter referred to as the Principal Ordinance. Short title.
No. 29 of 1931.

2. The Principal Ordinance is hereby amended by the addition thereto of the following sections as sections 23, 24, 25 and 26 respectively:— Amendment of the Principal Ordinance.

23. Evidence of the failure of any person to produce an authorization, or a permit or licence in any case where an authorization or a permit or licence is required by the provisions of this Ordinance shall be prima facie evidence of the commission of an offence by such person, and in any proceedings in any court relating to any charge under this Ordinance the burden of proving that an authorization or a permit or licence has been issued to the person charged shall lie on such person. Failure to produce permit, etc.

24. Any magistrate, police officer, game warden or officer of Customs may seize any arms or ammunition in respect of which any offence against this Ordinance has been committed, or in respect of which he suspects an Seizure of arms and ammunition.

offence to have been committed and shall, save when he is himself a magistrate, immediately report such seizure to a magistrate.

Cancellation of permit, etc.
Confiscation of arms.

25. Where any person is convicted of an offence against this Ordinance the court may—

- (i) recommend that any authorization, permit or licence which has been issued to such person under the provisions of this Ordinance be cancelled by the authority by whom it was issued; and
- (ii) order that any arms or ammunition in respect of which any such offence was committed be confiscated and forfeited to His Majesty.

Penalties.

26. (1) Any person who contravenes or fails to comply with any of the provisions of this Ordinance or who fails to observe any of the conditions or restrictions subject to or upon which any authorization, licence or permit has been issued under this Ordinance shall be guilty of an offence against this Ordinance.

(2) For every such offence against this Ordinance for which no penalty is specially provided in the Table in sub-section (3) of this section the offender shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(3) Offences against the respective sections of this Ordinance set out in the first column of the following Table shall render the offender liable, on conviction, to the penalty or penalties respectively specified for such offences in the second column of the Table :—

THE TABLE.

Section of Ordinance to which offence has reference.	Penalties. (Fine and/or imprisonment.)
2	£500 or 3 years or both.
5	£200 or 6 months or both.
12	£500 or 3 years or both.
13	£100 or 12 months or both.
14	£500 or 3 years or both.
19	£500 or 3 years or both.

Passed in the Legislative Council the nineteenth day of December, in the year of our Lord one thousand nine hundred and thirty-five.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

Acting Clerk of the Legislative Council.

C. O.

Mo. *Flint* 18 11

Mr. *alone*

Mr.

Mr. Parbinson.

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Stauchburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

Governor

Nairobi

38227/35

See (6)

Cashed Receipt 7th 18/11/35
G. 2



NO 328

cont/
your/dep. 7 Nov. No 138

aims Amendment Ordinance

no objection

copy to Somal (3)
FO (4)

AIR MAIL

KENYA

No. 138



GOVERNMENT HOUSE

NAIROBI

KENYA

1

CONFIDENTIAL.

RECEIVED
15 NOV 1935
C. O. REG.

November, 1935.

Sir,

With reference to correspondence terminating with Mr. Thomas's Confidential despatch of the 22nd October, 1931, on the subject of the Arms (Traffic with Abyssinia) Ordinance, 1931, I have the honour to transmit herewith an amending Bill, with its statement of objects and reasons, which will be considered at the next meeting of my Executive Council with a view, subject to your approval, to its introduction at the forthcoming session of the Legislative Council.

The Legal Report by the Attorney General, with enclosures, is also transmitted.

2. It will be observed that the object of the Bill is to make provision for penalties in regard to offences against the Principal Ordinance.

The Ordinance in its present form, which was modelled on the draft Somaliland Ordinance enclosed in Lord Passfield's Confidential despatch of the 24th April, 1931, contains, as in the case of the model, no penalty provision, and I am advised that this omission is repeated in the Ordinance finally enacted by the Somaliland Government: though a comprehensive table of offences and penalties is included in the similar Ordinance in force in the Sudan.

3. It has not been possible to ascertain the reason for the omission in the Ordinance enacted by this Government;

THE RIGHT HONOURABLE
MALCOLM MACDONALD, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,

will
57/38510/13/31
Pr II

copy to Somal (3)

26/38510/13/31 (Per)

copy sent to F.O. G.

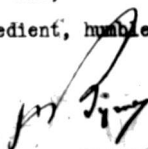
Government; and it can only be assumed to have been an inadvertence resulting from the absence of any such provision in the model on which the Ordinance was drafted.

4. In view of the possibility that, especially in present political circumstances, recourse may at any time be necessary to the Ordinance, which is not fully effective in its present form, I consider it essential that the necessary amendment should be introduced at the forthcoming session of the Legislative Council, and, for this reason time has not permitted your being consulted in the first instance. It will, however, be appreciated if you will inform me by telegram whether any objections are seen to the provisions of the Bill in order that any observations you may desire to offer may be considered before its passage through Legislative Council.

I have the honour to be,

Sir,

Your most obedient, humble servant,



Brigadier-General,
GOVERNOR.

A BILL TO AMEND THE ARMS (TRAFFIC
WITH ABYSSINIA) ORDINANCE, 1931.

BE IT ENACTED by the Governor of the Colony of Kenya,
with the advice and consent of the Legislative Council
thereof, as follows -

Short title. 1. This Ordinance may be cited as the Arms (Traffic with Abyssinia) (Amendment) Ordinance, 1935, and shall be read as one with the Arms (Traffic with Abyssinia) Ordinance, 1931, hereinafter referred to as the Principal Ordinance.

No. 29 of 1931. 2. The Principal Ordinance is hereby amended by the addition thereto of the following sections as sections 25, 24, 25 and 26 respectively -

" Failure to produce permit, etc. 23.- Evidence of the failure of any person to produce an authorization, or a permit or licence in any case where an authorization or a permit or licence is required by the provisions of this Ordinance shall be prima facie evidence of the commission of an offence by such person, and in any proceedings in any court relating to any charge under this Ordinance the burden of proving that an authorization or a permit or licence has been issued to the person charged shall lie on such person.

Seizure of arms and ammunition. 24. Any magistrate, police officer, game warden or officer of customs may seize any arms or ammunition in respect of which any offence against this Ordinance has been committed, or in respect of which he suspects an offence to have been committed and shall, save when he is himself a magistrate, immediately report such seizure to a magistrate.

Cancellation of permit, etc. confiscation of arms. 25. Where any person is convicted of an offence against this Ordinance the court may -

(i) recommend that any authorization, permit or licence which has been issued to such person under the provisions of this Ordinance be cancelled by the authority by whom it was issued; and

(ii) order that any arms or ammunition in respect of which any such offence was committed be confiscated and forfeited to His Majesty.

Penalties. 26. (1) Any person who contravenes or fails to comply with any of the provisions of this Ordinance or who fails to observe any of the conditions or restrictions

restrictions subject to or upon which any authorization, licence or permit has been issued under this Ordinance shall be guilty of an offence against this Ordinance.

(2) For every such offence against this Ordinance for which no penalty is specially provided in the Table in sub-section (3) of this section the offender shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(3) Offences against the respective sections of this Ordinance set out in the first column of the following Table shall render the offender liable, on conviction, to the penalty or penalties respectively specified for such offences in the second column of the Table -

THE TABLE

Section of Ordinance to which offence has reference.	Penalties. (Fine and/or imprisonment)
2	:£500 or 3 years or both
5	:£ 50 or 6 months or both
12	:£500 or 3 years or both
13	:£100 or 12 months or both
14	:£500 or 3 years or both
19	:£500 or 3 years or both.

OBJECTS AND REASONS.

This amending Bill is designed to make provision for penalties in regard to offences against the Arms (Traffic with Abyssinia) Ordinance, 1931.

No expenditure of public moneys will be involved if the provisions of this Bill become law.

restrictions subject to or upon which any authorization, licence or permit has been issued under this Ordinance shall be guilty of an offence against this Ordinance.

(2) For every such offence against this Ordinance for which no penalty is specially provided in the Table in sub-section (3) of this section the offender shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

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13	:£100 or 12 months or both
14	:£500 or 3 years or both
19	:£500 or 3 years or both.

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No expenditure of public moneys will be involved if the provisions of this Bill become law.

LEGAL REPORT

THE ARMS (TRAFFIC WITH ABYSSINIA) AMENDMENT
BILL, 1935

This Bill has been prepared to make provision for the inclusion of penalty sections in the Arms (Traffic with Abyssinia) Ordinance, 1931.

5/38510B/31
5 mtd.

2. Hitherto it has been considered that no offences were likely to be committed against the Arms (Traffic with Abyssinia) Ordinance which were not also offences against the Arms and Ammunition Ordinance, 1925 (No. VIII of 1925) and therefore adequately punishable under the provisions of that Ordinance.

30448/25 Kay

3. In view, however, of the present international situation it is considered that the Arms (Traffic with Abyssinia) Ordinance should now provide for penalties applicable to the various offences which could be committed against its provisions.

4. The Bill therefore adds to the Ordinance four new sections, numbered as 23, 24, 25 and 26. These sections are taken respectively from sections 46, 47, 48 and 49 of Sudan Ordinance No. 1 of 1932 (the Arms, Ammunition and Explosives Ordinance) subject to certain modifications, which, save in the case of the Sudan section 49, are of a minor character. Section 26 of the Bill departs considerably from the Sudan section 49 inasmuch as it has been thought necessary to include a general penalty provision, and also by reason of the fact that a number of the offences in the Sudan Table of Offences are found only in the Kenya Arms and Ammunition Ordinance, 1925, and would not therefore be within the scope of the present Bill.

2 Libman

30448/25
4 mtd.

5. A copy of the relevant sections of the Sudan Ordinance is attached hereto, together with a copy of the corresponding Clauses in the Bill on which are marked in red ink those portions of the Sudan sections which have not been reproduced or which appear/

appear in the Bill in an amended form. The words underlined in red ink are new, and are not found in the Sudan Ordinance.

6. The Arms (Traffic with Abyssinia) Ordinance was based upon a model supplied by the Secretary of State and the Bill would therefore normally have been submitted to the Secretary of State before it was considered by Executive Council. I am of opinion, however, that in the particular circumstances the Bill may be submitted to Executive Council without prior reference to the Secretary of State but its contents should be communicated to him before the introduction of the Bill into Legislative Council.

Nairobi,

6th November, 1935.

W. Hanley
ATTORNEY GENERAL

10/1/32

LAWS OF SUDAN - THE ARMS, AMMUNITION AND
EXPLOSIVES ORDINANCE, 1932 - No. 1
of 1932

Failure to produce permit or licence to be evidence of offence.

46. A failure to produce a permit or licence in any case where a permit or licence is required by this ordinance, shall be prima facie evidence of the commission of any offence by the person so failing, and in the trial of any charge under this ordinance, the burden of proving that a permit or licence has been issued to the person charged, shall lie on him and not on the prosecution to prove the contrary.

Powers of magistrate, customs official, policeman and Game Warden to seize arms in respect of which offence committed.

47. Any magistrate, customs official or policeman or the Game Warden may seize any arms or ammunition in respect of which any offence against this ordinance has been committed, or in respect of which he reasonably ~~xxx~~ suspects an offence to have been committed, but shall, unless he is a magistrate, report the matter immediately to a magistrate.

Court may order cancellation of permit or licence and confiscation of arms.

48. Where a person is convicted of an offence against this ordinance the court may order that his permit or licence, if he is a holder of a permit or licence, shall be cancelled and that any arms in respect of which the offence was committed shall be confiscated.

Offences and penalties.

49.(1) The offences mentioned in the first column of the following Table shall be punishable with the punishment specified for such offences in the third column of the same Table.

Section 18

THE TABLE

Offences.	Section of ordinance to which offence has reference	Penalties.
1.Import of arms without a permit	7	Fine not exceeding £E.50 and in default imprisonment not exceeding six months.
2.Import of prohibited arms	8	Fine not exceeding £E.500 , or imprisonment not exceeding seven years or both.
3.Import of arms by native vessel	13	Fine not exceeding £E.100 or imprisonment not exceeding two years or both.
4.Disposal of arms contrary to provisions of ordinance	17	Fine not exceeding £E.500 or imprisonment not exceeding seven years or both.
5.Carrying on a trade in arms without licence	18	Fine not exceeding £E.500 or imprisonment not exceeding seven years or both.
6.Keeping a private warehouse without licence	18	Fine not exceeding £E.50 and in default imprisonment not exceeding six months.
7.Excess or deficiency in quantities of arms in a private warehouse	20(2)	Fine not exceeding £E.50 and in default imprisonment not exceeding six months.
8.Manufacture of arms	22	Fine not exceeding £E.500 or imprisonment not exceeding seven years or both.
9.Altering or repairing arms or carrying on trade of gunsmith without a licence	23	Fine not exceeding £E.500 or imprisonment not exceeding seven years or both.
10.Export of arms without a permit	24	Fine not exceeding £E.50 and in default imprisonment not exceeding six months.
11.Export of prohibited arms	25	Fine not exceeding £E.500 or imprisonment not exceeding seven years or both.
12.Import of arms in transit without permit	26	Fine not exceeding £E.100 and in default imprisonment not exceeding one year.
13.Possession of fire-arms without a licence	32(1)	Fine not exceeding £E.100 or imprisonment not exceeding one year or both.
14.Trespassing on a place where explosives are deposited	43	Fine not exceeding £E.50 or imprisonment not exceeding one year or both.
15.Committing dangerous acts in or about place	44	Fine not exceeding £E.50 or imprisonment not exceeding one year or both.

Enclosure 19

Offences	Section of ordinance to which offence has reference	Penalties.
16. Imports or possession of arms intending or knowing it is intended to transfer them to a native of the Sudan, or import or possession of five or more firearms without a license etc	45	Fine not exceeding £E.500 or imprisonment not exceeding seven years or both.
17. Any offence not specially mentioned in this Table		Fine of £E.10 and in default imprisonment not exceeding three months

(2) The offences specified under headings 2, 3, 4, 5, 8, 9, 11 and 16 of the above Table may be tried by a Court of a magistrate of the second class or any higher Court.

The offences specified under headings 1, 6, 7, 10, 12, 13, 14, 15 and 17 of the above Table may be tried by a Court of a magistrate of the second class or any higher Court summarily or otherwise.

Enclosure 20

A BILL TO AMEND THE ARMS (TRAFFIC WITH ABYSSINIA) ORDINANCE, 1931

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows -

Short title.

1. This Ordinance may be cited as the ARMS (Traffic with Abyssinia) (Amendment) Ordinance, 1935, and shall be read as one with the arms (Traffic with Abyssinia) Ordinance No. 29 of 1931, 1931, hereinafter referred to as the principal Ordinance.

Amendment of the Principal Ordinance.

2. The Principal Ordinance is hereby amended by the addition thereto of the following sections as sections 23, 24, 25 and 26 respectively -

*Failure to produce permit can be witness to be withdrawn by Officer.

23. Evidence of failure of any person to produce an authorization, or a permit or licence in any case where an authorization or a permit or licence is required by the provisions of this Ordinance, shall be prima facie evidence of the commission of ^{any} offence by such ^{the person} persons, and in ^{so far as} ^{the trial of} any proceedings in any court relating to any charge under this Ordinance, the burden of proving that an authorization or a permit or licence has been issued to the person charged shall lie on ^{him} such person, and not on the prosecution to prove the contrary.

Seizure of arms and ammunition.

Power of magistrates, assistant official police and game warden to seize arms in respect of which offence committed.

24. Any magistrate, police officer, game warden or officer of customs may seize any arms or ammunition in respect of which any offence against this Ordinance has been committed, or in respect of which he ^{also or only} suspects an offence to have been committed ^{but} and shall, ^{save when he} is himself a magistrate, immediately report ^{the matter} such seizure to a magistrate.

Court may order cancellation of permit and confiscation of arms.

25. Where ^a person is convicted of an offence against this Ordinance the court may -

- (1) Recommend that any authorization, permit or licence which has been issued to such person

under the provisions of this Ordinance be cancelled by the authority by whom it was issued;

(11) Order that any arms or ammunition in respect of which any such offence was committed be confiscated and forfeited to His Majesty.

Penalties.

26. (1) Any person who contravenes or fails to comply with any of the provisions of this Ordinance or who fails to observe any of the conditions or restrictions subject to which any authorisation, licence or permit has been issued under this Ordinance shall be guilty of an offence against this Ordinance.

(2) For every such offence against this Ordinance for which no penalty is specially provided in the Table in sub-section (3) of this section the offender shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months or both such fine and imprisonment.

(3) Offences against the respective sections of this Ordinance set out in the first column of the following Table shall render the offender liable, on conviction, to the penalty or penalties respectively specified for such offences in the ^{second} third column of the Table -

THE TABLE

Section of Ordinance to which offence has reference	Penalties (Fine and/or imprisonment)
2	£500 or ⁷ 3 years or both.
5	£250 or ¹⁰ 6 months or both.
12	£500 or ⁷ 3 years or both.
13	£100 or 12 months or both.
14.	£500 or 3 years or both.
19	£500 or 3 years or both.

N.B. The above copy means - the last Table is in the

OBJECT AND REASON

This amending Bill is designed to make provision for penalties in regard to offences against the law (Traffic with Abyssinians) Ordinance, 1931.

No expenditure of public money will be involved in the provisions of this Bill become law.