IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 21st day of November, in the year of our Lord nineteen hundred and sixty-two and of the Independence of the United States of America the one hundred and eighty-seventh.

[SEAL]

JOHN F. KENNEDY

MIDDLE EAST STABILIZATION

Pub. L. 85-7, §§ 1—6, Mar. 9, 1957, 71 Stat. 5, set out as chapter 24A of Title 22, Foreign Relations and Intercourse, authorizes the President to provide economic and military assistance, and, if he determines it necessary, to use armed forces under certain circumstances to maintenance of national independence in the Middle East.

PROTECTION OF SECURITY OF FORMOSA

Joint Res. Jan. 29, 1955, ch. 4, 8:42 A. M., 69 Stat. 7, provided that:

"Whereas the primary purpose of the United States, in its relations with all other nations, is to develop and sustain a just and enduring peace for all; and

"Whereas certain territories in the West Pacific under the jurisdiction of the Republic of China are now under armed attack, and threats and declarations have been and are being made by the Chinese Communists that such armed attack is in aid of and in preparation for armed attack on Formosa and the Pescadores,

"Whereas such armed attack if continued would gravely endanger the peace and security of the West Pacific Area and particularly of Formosa and the Pescadores; and

"Whereas the secure possession by friendly governments of the Western Pacific Island chain, of which Formosa is a part, is essential to the vital interests of the United States and all friendly nations in or bordering upon the Pacific Ocean; and

"Whereas the President of the United States on January 6, 1955, submitted to the Senate for its advise and consent to ratification a Mutual Defense Treaty between the United States of America and the Republic of China, which recognizes that an armed attack in the West Pacific area directed against territories, therein described, in the region of Formosa and the Pescadores, would be dangerous to the peace and safety of the parties to the treaty: Therefore be it

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be and he hereby is authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores.

"This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, and shall so report to the Congress."

TRADING WITH THE ENEMY ACT OF 1917

ACT OCT. 6, 1917, CH. 106, 40 STAT. 411

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TERMINATION OF WORLD WAR AND EMERGENCY

This act was expressly excepted from the operation and effect of Joint Res. Mar. 3, 1921, ch. 136, 41 Stat. 1359, declaring that certain Acts of Congress, joint resolutions, and proclamations should be construed as though the World War had ended and the then present or existing emergency expired.

CROSS REFERENCES

Confirmation of certain acts, etc., made under provisions of section 1—6, 7—39 and 41—44 of this Appendix, see section 617 of this Appendix.

ACT REFERRED TO IN OTHER SECTIONS

This Act is referred to in title 22 sections 1382, 1384; title 28 section 2680.

§ 1. Designation of Act.

This Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] shall be known as the "Trading with the Enemy Act." (Oct. 6, 1917, ch. 106, § 1, 40 Stat. 411.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2 to 6, 7 to 39, 41 to 44, 1982 of this Appendix.

§ 2. Definitions.

The word "enemy," as used herein, shall be deemed to mean, for the purposes of such trading and of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation with which the United States is at war, or any political or municipal subdivision thereof. or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy."

The words "ally of enemy," as used herein, shall be deemed to mean—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation which is an ally of a nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of such ally nation, or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation which is an ally of a nation with which the United States is at war, or any political or municipal subdivision of such ally nation, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation which is an ally of a nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "ally of enemy."

The word "person," as used herein, shall be deemed to mean an individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic.

The words "United States," as used herein, shall be deemed to mean all land and water, continental or insular, in any way within the jurisdiction of the United States or occupied by the military or naval forces thereof.

The words "the beginning of the war," as used herein, shall be deemed to mean midnight ending the day on which Congress has declared or shall declare war or the existence of a state of war.

The words "end of the war," as used herein, shall be deemed to mean the date of proclamation of exchange of ratifications of the treaty of peace, unless the President shall, by proclamation, declare a prior date, in which case the date so proclaimed shall be deemed to be the "end of the war" within the meaning of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix].

The words "bank or banks," as used herein, shall be deemed to mean and include national banks, State banks, trust companies, or other banks or banking associations doing business under the laws of the United States, or of any State of the United States.

The words "to trade," as used herein, shall be deemed to mean—

(a) Pay, satisfy, compromise, or give security for the payment or satisfaction of any debt or obligation.

(b) Draw, accept, pay, present for acceptance or payment, or indorse any negotiable instrument or chose in action.

(c) Enter into, carry on, complete, or perform any contract, agreement, or obligation.

(d) Buy or sell, loan or extend credit, trade in, deal with, exchange, transmit, transfer, assign, or otherwise dispose of, or receive any form of property.

(e) To have any form of business or commercial communication or intercourse with. (Oct. 6, 1917, ch. 106, § 2, 40 Stat. 411.)

WORLD WAR I PROCLAMATIONS ENUMERATING ENEMIES

The following Presidential Proclamations issued during World War I declared the partnerships and persons enumerated therein to be "enemies":

Proc. Feb. 5, 1918, 40 Stat. 1745.
Proc. May 31, 1918, 40 Stat. 1786.
Proc. Aug. 10, 1918, 40 Stat. 1833.
Proc. Aug. 14, 1918, 40 Stat. 1837.
Proc. Nov. 29, 1918, 40 Stat. 1899.

CROSS REFERENCES

Alien enemies within United States, see section 21 of this title.

Beginning of war, see Const. Art. 1, § 8, cl. 11.

Commercial intercourse with the enemy, generally, see section 7 of this Appendix.

"Member of former ruling family" defined, see section 31 of this Appendix.

"Unallocated interest fund" defined, see section 28 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to sections 1, 3 to 6, 4 to 39, and 41 to 44 of this Appendix.

§ 3. Acts prohibited.

It shall be unlawful—

(a) For any person in the United States, except with the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

(b) For any person, except with the license of the President, to transport or attempt to transport into or from the United States, or for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place, any subject or citizen of an enemy or ally of enemy nation, with knowledge or reasonable cause to believe that the person transported or attempted to be transported is such subject or citizen.

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, or bring into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit out of the United States, any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy: *Provided, however,* That any person may send, take, or transmit out of the United States anything herein forbidden if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

(d) Whenever, during the present war, the President shall deem that the public safety demands it, he may cause to be censored under such rules and regulations as he may from time to time establish, communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall be punished as provided in section sixteen of this Act [section 16 of this Appendix]. (Oct. 6, 1917, ch. 106, § 3, 40 Stat. 412.)

TRANSFER OF FUNCTIONS

Termination of Office of Alien Property Custodian and transfer of functions, etc., to Attorney General, see Ex. Ord. No. 9788, set out in note under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World II, see notes under section 6 of this Appendix.

PRESIDENTIAL POWERS TRANSFERRED

All powers conferred upon the President by subsec. (a) of this section were delegated to the Secretary of the Treasury by Memorandum of the President dated Feb. 12, 1942, 7 F. R. 1409.

Transfer of President's powers under subsec. (a) to Alien Property Custodian, see Ex. Ord. No. 9095 and Ex. Ord. No. 10348, set out as notes under section 6 of this Appendix.

CROSS REFERENCES

Carriage of matter out of mail on vessels, see section 1695 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 2, 4 to 6, 7 to 39 and 41 to 44 of this Appendix.

§ 4. Licenses to enemy or ally of enemy insurance or reinsurance companies; change of name; doing business in United States.

(a) Every enemy or ally of enemy insurance or reinsurance company, and every enemy or ally of enemy, doing business within the United States through an agency or branch office, or otherwise, may within thirty days after the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], apply to the President for a license to continue to do business; and, within thirty days after such application, the President may enter an order either granting or refusing to grant such license. The license, if granted, may be temporary or otherwise, and for such period of time, and may contain such provisions and conditions regulating the business, agencies, managers and trustees and the control and disposition of the funds of the company, or of such enemy or ally of enemy, as the President shall deem necessary for the safety of the United States; and any license granted hereunder may be revoked or regranted or renewed in such manner and at such times as the President shall determine: *Provided, however,* That reasonable notice of his intent to refuse to grant a license or to revoke a license granted to any reinsurance company shall be given by him to all insurance companies incorporated within the United States and known to the President to be doing business with such reinsurance company: *Provided further,* That no insurance company, organized within the United States, shall be obligated to continue any existing contract, entered into prior to the beginning of the war, with any enemy or ally of enemy insurance or reinsurance company, but any such company may abrogate and cancel any such contract by serving thirty days' notice in writing upon the President of its election to abrogate such contract.

For a period of thirty days after the passage of this Act [said sections], and further pending the entry of such order by the President, after application made by any enemy or ally of enemy insurance or reinsurance company, within such thirty days as above provided, the provisions of the President's proclamation of April sixth, nineteen hundred and seventeen, relative to agencies in the United States of certain insurance companies, as modified by the provisions of the President's proclamation of July thirteenth, nineteen hundred and seventeen, relative to marine and war-risk insurance, shall remain in full force and effect so far as it applies to such German insurance companies, and the conditions of said proclamation of April sixth, nineteen hundred and seventeen, as modified by said proclamation of July thirteenth, nineteen hundred and seventeen, shall also during said period of thirty days after the passage of this Act [said sections], and pending the order of the President as herein provided, apply to any enemy or ally of enemy insurance or reinsurance company, anything in this Act [said sections] to the contrary notwithstanding. It shall be unlawful for any enemy or ally of enemy insurance or reinsurance company, to whom license is granted, to transmit out of the United States any funds belonging to or held for the benefit of such company or to use any such funds as the basis for the establishment directly or indirectly of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

For a period of thirty days after the passage of this Act [said sections], and further pending the entry of such order by the President, after application made within such thirty days by any enemy or ally of enemy, other than an insurance or reinsurance company as above provided, it shall be lawful for such enemy or ally of enemy to continue to do business in this country and for any person to trade with, to, from, for, on account of, on behalf of or for the benefit of such enemy or ally of enemy, anything in this Act [said sections] to the contrary notwithstanding: *Provided, however,* That the provisions of sections three and sixteen hereof [sections 3 and 16 of this Appendix] shall apply to any act or attempted act of transmission or transfer of money or other property out of the United States and to the use or attempted use of such money or property as the basis for the establishment of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

If no license is applied for within thirty days after the passage of this Act [said sections], or if a license shall be refused to any enemy or ally of enemy, whether insurance or reinsurance company, or other person, making application, or if any license granted shall be revoked by the President, the provisions of sections three and sixteen hereof [sections 3 and 16 of this Appendix] shall forthwith apply to all trade or to any attempt to trade with, to, from, for, buy, on account of, or on behalf of, or for the benefit of such company or other person: *Provided, however,* That after such refusal or revocation, anything in this Act [said sections] to the contrary notwithstanding, it shall be lawful for a policyholder or for an insurance company, not an enemy or ally of enemy, holding insurance or having effected reinsurance in or with such enemy or ally of enemy insurance or reinsurance company, to receive payment of, and for such enemy or ally of enemy insurance or reinsurance company to pay any premium, return premium, claim, money, security, or other property due or which may become due on or in respect to such insurance or reinsurance in force at the date of such refusal or revocation of license; and nothing in this Act [said sections] shall vitiate or nullify then existing policies or contracts of insurance or reinsurance, or the conditions thereof; and any such policyholder or insurance company, not an enemy or ally of enemy,

having any claim to or upon money or other property of the enemy or ally of enemy insurance or re-insurance company in the custody or control of the alien property custodian, hereinafter provided for, or of the Treasurer of the United States, may make application for the payment thereof and may institute suit as provided in section nine hereof [section 9 of this Appendix].

(b) During the present war, no enemy, or ally of enemy, and no partnership of which he is a member or was a member at the beginning of the war, shall for any purpose assume or use any name other than that by which such enemy or partnership was ordinarily known at the beginning of the war, except under license from the President.

Whenever, during the present war, in the opinion of the President the public safety or public interest requires, the President may prohibit any or all foreign insurance companies from doing business in the United States, or the President may license such company or companies to do business upon such terms as he may deem proper. (Oct. 6, 1917, ch. 106, § 4, 40 Stat. 413.)

REFERENCES IN TEXT

Proclamation of April 6, 1917, 40 Stat. 1654, and Proclamation of July 13, 1917, 40 Stat. 1684, referred to in the text, are set out as notes under this section.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

PROCLAMATION OF APRIL 6, 1917

40 STAT. 1654

Whereas, certain insurance companies, incorporated under the laws of the German Empire, have been admitted to transact the business of insurance in various States of the United States, by means of separate United States branches established pursuant to the laws of such States, and are now engaged in business under the supervision of the Insurance Departments thereof, with assets in the United States deposited with Insurance Departments or in the hands of resident trustees, citizens of the United States, for the protection of all policyholders in the United States;

And whereas, the interests of the citizens of the United States in the protection afforded by such insurance are of great magnitude, so that it is deemed to be important that the agencies of such companies in the United States be permitted to continue in business;

Now, therefore, I, Woodrow Wilson, President of the United States of America, by virtue of the powers vested in me as such, hereby declare and proclaim that such branch establishments of German insurance companies now engaged in the transaction of business in the United States pursuant to the laws of the several States are hereby authorized and permitted to continue the transaction of their business in accordance with the laws of such States in the same manner and to the same extent as though a state of war did not now exist; provided, however, that all funds of such establishments now in the possession of their managers or agents, or which shall hereafter come into their possession, shall be subject to such rules and regulations concerning the payment and disposition thereof as shall be prescribed by the insurance supervising officials of the State in which the principal office of such establishment in the United States is located, but in no event shall any funds belonging to or held for the benefit of such companies be transmitted outside of the United States nor be used as the basis for the establishment directly or indirectly of any credit within or outside of the United States to or for the benefit or use of the enemy or any of his allies without the permission of this Government.

PROCLAMATION OF JULY 13, 1917

40 STAT. 1684

Whereas, certain insurance companies, incorporated under the laws of the German Empire, have been admitted to transact the business of marine and war risk insurance in various States of the United States, by means of separate United States branches established pursuant to the laws of such States, and are now engaged in such business under the supervision of the Insurance Departments thereof, with assets in the United States deposited with Insurance Departments or in the hands of resident trustees, citizens of the United States, for the protection of all policyholders in the United States;

And whereas, the nature of marine and war risk insurance is such that those conducting it must of necessity be in touch with the movements of ships and cargoes, and it has been considered by the Government of great importance that this information should not be obtained by alien enemies;

Now, therefore, I, Woodrow Wilson, President of the United States of America, by virtue of the powers vested in me as such, hereby declare and proclaim that such branch establishments of German insurance companies now engaged in the transaction of business in the United States pursuant to the laws of the several States are hereby prohibited from continuing the transaction of the business of marine and war risk insurance either as direct insurers or re-insurers; and all individuals, firms, and insurance companies incorporated under the laws of any of the States or Territories of the United States, or of any foreign country, and established pursuant to the laws of such States and now engaged in the United States in the business of marine and war risk insurance either as direct insurers or re-insurers are hereby prohibited from re-insuring with companies incorporated under the laws of the German Empire, no matter where located; and all persons in the United States are prohibited from insuring against marine or war risks with insurance companies incorporated under the laws of the German Empire or with individuals, firms, and insurance companies incorporated under the laws of any of the States or Territories of the United States or of any foreign country and now engaged in the business of marine or war risk insurance in the United States, which re-insure business originating in the United States with companies incorporated under the laws of the German Empire, no matter where located.

The foregoing prohibitions shall extend and operate as to all existing contracts for insurance and re-insurance which are hereby suspended for the period of the war, except that they shall not operate to vitiate or prevent the insurance or re-insurance of, and the payment or receipt of, premiums on insurance or re-insurance under existing contracts on vessels or interest at risk on the date of this proclamation, and such insurance or re-insurance, if for a voyage, shall continue in force until arrival at destination, and if for time, until thirty days from the date of this proclamation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 3, 5, 6, 7 to 39, and 41 to 44 of this Appendix.

§ 5. Suspension of provisions relating to ally of enemy; regulation of transactions in foreign exchange of gold or silver, property transfers, vested interests, enforcement and penalties.

(a) The President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section four hereof [section 4(a) of this Appendix], and to

perform any act made unlawful without such license in section three hereof [section 3 of this Appendix], and to file and prosecute applications under subsection (b) of section ten hereof [section 10 (b) of this Appendix]; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; and the President may exercise any power or authority conferred by this Act [said sections] through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section three hereof [section 3 of this Appendix] he shall have authority to order the postponement of the performance of such act for a period not exceeding ninety days, pending investigation of the facts by him.

(b) (1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof: *Provided, however,* That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term "person" means an individual, partnership, association, or corporation. (Oct. 6, 1917, ch. 106, § 5, 40 Stat. 415; Sept. 24, 1918, ch. 176, § 5, 40 Stat. 966; Mar. 9, 1933, ch. 1, § 2, 48 Stat. 1; May 7, 1940, ch. 185, § 1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, § 301, 55 Stat. 839; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

CODIFICATION

Words "including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States on all cases, civil or criminal, arising upon the high seas" immediately preceding the proviso in subsection (b) (3) of this section, have been omitted on the authority of 1946 Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, and in which the President proclaimed the independence of the Philippines.

Subsec. (b) is also set out as section 95a of Title 12, Banks and Banking.

AMENDMENTS

1941—Subsec. (b). Act Dec. 18, 1941, considerably broadened the powers of the President to take, administer, control, use and liquidate foreign-owned property and added a flexibility of control which enabled the President and the agencies designated by him to cope

with the problems surrounding alien property, its ownership or control, on the basis of the particular facts in each case.

1940—Subsec. (b). Act May 7, 1940, included dealings in evidences of indebtedness or ownership of property in which foreign states, nationals or political subdivisions thereof have an interest.

1933—Subsec. (b). Act Mar. 9, 1933, among other things, extended the President's power to any time of war national emergency, permitted regulations to be issued by any agency designated by the President, provided for the furnishing under oath of complete information relative to transactions under the subsection and placed sanctions on violations to the extent of a $10,000 fine or ten years imprisonment.

1918—Subsec. (b). Act Sept. 24, 1918, added provisions relating to the hoarding or melting of gold or silver coin or bullion or currency and to the regulation of transactions in bonds or certificates of indebtedness.

DELEGATION OF POWERS

All powers conferred upon the President by subsec. (b) of this section were delegated to the Secretary of the Treasury by Memorandum of the President dated Feb. 12, 1942, 7 F. R. 1409.

Delegation of President's powers under subsec. (b) of this section to the Secretary of the Treasury and the Alien Property Custodian; and transfer of Alien Property Custodian's powers to the Attorney General, see Ex. Ord. Nos. 9095 and 9788, set out in notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

APPROVAL OF REGULATIONS

Act Mar. 9, 1933, ch. 1, title I, § 1, 48 Stat. 1, provided that: "The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the act of October 6, 1917, as amended [section 5 (b) of this Appendix], are hereby approved and confirmed."

CROSS REFERENCES

Jurisdiction of courts of Philippine Islands continued, see section 1382 of Title 22, Foreign Relations and Intercourse.

Right to amend, separability of provisions, and ratification of acts done under act Mar. 9, 1933, see sections 212 and 213 of Title 12, Banks and Banking.

EXECUTIVE ORDERS

Ex. Ord. No. 6260, as amended, respecting hoarding, export, and earmarking of gold coin, bullion, or currency and transactions in foreign exchange; Ex. Ord. No. 6560, as amended, respecting transactions in foreign exchange, transfers of credit, and export of coin and currency; Ex. Ord. No. 8389, as amended, regulating transactions in foreign exchange and foreign-owned property and providing for the reporting of all foreign-owned property; Ex. Ord. No. 9747, respecting continuance of functions of Alien Property Custodian and Treasury Department in Philippines; Ex. Ord. No. 9760, respecting diplomatic property of Germany and Japan; and Ex. Ord. No. 10348, continuing in force orders and regulations relating to blocked property, are set out as notes under section 95a of Title 12, Banks and Banking, and Section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 4, 6, 7 to 39, 41 to 44 of this Appendix; title 12 sections 51b—1, 212, 213.

§ 6. Alien Property Custodian; general powers and duties.

The President is authorized to appoint and prescribe the duties of an official to be known as the alien property custodian, who shall be empowered to receive all money and property in the United States due or belonging to an enemy, or ally of enemy, which may be paid, conveyed, transferred, assigned, or delivered to said custodian under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; and to hold, administer, and account for the same under the general direction of the President and as provided in this Act [said sections]. The alien property custodian shall give such bond or bonds, and in such form and amount, and with such security as the President shall prescribe. The President may further employ in the District of Columbia and elsewhere and fix the compensation of such clerks, attorneys, investigators, accountants, and other employees as he may find necessary for the due administration of the provisions of this Act [said sections]; *Provided*, That such clerks, investigators, accountants, and other employees shall be appointed from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil-service law: *Provided further*, That the President shall cause a detailed report to be made to Congress on the first day of January of each year of all proceedings had under this Act [said sections] during the year preceding. Such report shall contain a list of all persons appointed or employed, with the salary or compensation paid to each, and a statement of the different kinds of property taken into custody and the disposition made thereof. (Oct. 6, 1917, ch. 106, § 6, 40 Stat. 415.)

REFERENCES IN TEXT

The civil-service laws, referred to in the text, are classified generally to Title 5, Government Organization and Employees.

CODIFICATION

Provisions which limited the salary of the alien property custodian to not more than $5,000 per annum were omitted as superseded.

The authority for covering excepted positions into the classified civil service was given the President by section 2102 of Title 5, Government Organization and Employees.

For positions now covered by the Classification Act of 1949, and for the power of the Civil Service Commission to determine the applicability of those sections to specific positions, see sections 5102, 5103, and 5341 of Title 5.

FUNCTIONS TRANSFERRED TO PRESIDENT AND ATTORNEY GENERAL

1947 Reorg. Plan No. 1, § 101, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951, transferred all functions vested by law in the Alien Property Custodian or the Office of the Alien Property Custodian to the Attorney General, except that those relating to property or interests in the Philippines were transferred to the President. For text of this plan and provisions relating to transfer of records, property, personnel, and funds, see the text of the plan, set out in the Appendix to Title 5, Government Organization and Employees.

PREVIOUS OFFICE ABOLISHED

The previous office of Alien Property Custodian was abolished and its functions and personnel transferred to the Department of Justice by Ex. Ord. No. 6694, July 1, 1934.

EXPENSES AND COMPENSATION OF ALIEN PROPERTY CUSTODIAN

Act May 16, 1928, ch. 580, § 1, 45 Stat. 574, contained the following provision: "All expenses of the office of the Alien Property Custodian authorized by * * * [the Trading With the Enemy Act,] including compensation of the Alien Property Custodian at not to exceed $10,000 per annum; shall be paid from interest and collections on trust funds and other properties under the control of such Custodian."

REPORT TO CONGRESS; INCLUSION OF CLAIMS FILED UNDER SECTION 32 (a) (2) (D) OF THIS APPENDIX

Section 2 of act Sept. 29, 1950, ch. 1108, 64 Stat. 1080, provided that: "There shall be included in the report made to Congress pursuant to section 6 of the Trading With the Enemy Act, as amended [this section], a statement of (1) the names and nationalities of persons who have filed notice of claim for the return of any property or interest under section 1 of this Act [section 32 (a) (2) (D) of this Appendix], the date of the filing of such notice of claim, and the estimated value of the property or interest, and (2) the names and nationalities of persons to whom returns have been made of any property or interest under section 1 of this Act [section 32 (a) (2) (D) of this Appendix] and the value of such property or interest."

EX. ORD. NO. 9095. WORLD WAR II ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 9095, Mar. 11, 1942, 7 F. R. 1971, as amended Ex. Ord. No. 9193, July 6, 1942, 7 F. R. 5205; Ex. Ord. No. 9567, June 8, 1945, 10 F. R. 6917, provided:

1. There is hereby established in the Office for Emergency Management of the Executive Office of the President the Office of Alien Property Custodian, at the head of which shall be an Alien Property Custodian appointed by the President. The Alien Property Custodian shall receive compensation at such rate as the President shall approve and in addition shall be entitled to actual and necessary transportation, subsistence, and other expenses incidental to the performance of his duties. Within the limitation of such funds as may be made available for that purpose, the Alien Property Custodian may appoint assistants and other personnel and delegate to them such functions as he may deem necessary to carry out the provisions of this Executive Order.

2. The Alien Property Custodian is authorized and empowered to take such action as he deems necessary in the national interest, including, but not limited to, the power to direct, manage, supervise, control or vest, with respect to:

(a) any business enterprise within the United States which is a national of a designated enemy country and any property of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to or which is evidence of ownership or control of any such business enterprise, and any interest of any nature whatsoever in such business enterprise held by an enemy country or national thereof;

(b) any other business enterprise within the United States which is a national of a foreign country and any property of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to or which is evidence of ownership or control of any such business enterprise, and any interest of any nature whatsoever in such business enterprise held by a foreign country or national thereof, when it is determined by the Custodian and he has certified to the Secretary of the Treasury that it is necessary in the national interest, with respect to such business enterprise, either (i) to provide for the protection of the property, (ii) to change personnel or supervise the employment policies, (iii) to liquidate, reorganize, or sell, (iv) to direct the management in respect to operations, or (v) to vest;

(c) any other property or interest within the United States of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, a designated enemy country or national thereof: *Provided, however,* That with respect to any such country or national other than Germany or Japan or any national thereof, such property or interest shall not include cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange, and securities except to the extent that the Alien Property Custodian determines that such cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange, and securities are necessary for the maintenance or safeguarding of other property belonging to the same designated enemy country or the same national thereof and subject to vesting pursuant to section 2 hereof;

(d) any patent, patent application, design patent, design patent application, copyright, copyright application, trade-mark or trade-mark application or right related thereto in which any foreign country or national thereof has any interest and any property of any nature whatsoever (including, without limitation, royalties and license fees) payable or held with respect thereto, and any interest of any nature whatsoever held therein by any foreign country or national thereof;

(e) any ship or vessel or interest therein, in which any foreign country or national thereof has an interest; and

(f) any property of any nature whatsoever which is in the process of administration by any person acting under judicial supervision or which is in partition, libel, condemnation or other similar proceedings and which is payable or deliverable to, or claimed by, a designated enemy country or national thereof. When the Alien Property Custodian determines to exercise any power and authority conferred upon him by this section with respect to any of the foregoing property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of such property, except as authorized or directed by the Alien Property Custodian.

3. Subject to the provisions of this Executive Order, all powers and authority conferred upon me by sections 3 (a) and 5 (b) of the Trading With the Enemy Act, as amended [sections 3 (a) and 5 (a) of this Appendix], are hereby delegated to the Secretary of the Treasury or any person, agency, or instrumentality designated by him: *Provided, however,* That when any property or interest, not belonging to a foreign government or central bank, shall be vested by the Secretary of the Treasury, such property or interest shall be vested in, and dealt with by, the Alien Property Custodian upon the terms directed by the Secretary of the Treasury. Except as otherwise provided herein, this Executive Order shall not be deemed to modify or amend Executive Order No. 8389, as amended, or the President's Proclamation of July 17, 1941, or Executive Order No. 8839, as amended, or the regulations, rulings, licenses and other action taken thereunder, or in connection therewith.

4. Without limitation as to any other powers or authority of the Secretary of the Treasury or the Alien Property Custodian under any other provision of this Executive Order, the Secretary of the Treasury and the Alien Property Custodian are authorized and empowered, either jointly or severally, to prescribe from time to time, regulations, rulings, and instructions to carry out the purposes of this Executive Order. The Secretary of the Treasury and the Alien Property Custodian each shall make available to the other all information in his files to enable the other to discharge his functions, and shall keep each other currently informed as to investigations being conducted with respect to enemy ownership or control of business enterprises within the United States.

5. The Alien Property Custodian is authorized to issue appropriate regulations governing the service of process or notice upon any person within any designated enemy country or any enemy-occupied territory in connection with any court or administrative action or proceeding within the United States. The Alien Property Custodian also is authorized to take such other and further measures in connection with representing any such person in any such action or proceeding as in his judgment and discretion is or may be in the interest of the United States. If, as a result of any such action or proceeding, any such person obtains, or is determined to have, an interest in any property (including money judgments), such property, less an amount equal to the costs and expenses incurred by the Alien Property Custodian in such action or proceeding, shall be subject to the provisions of Executive Order No. 8389, as amended: *Provided, however,* That this shall not be deemed to limit the powers of the Alien Property Custodian under section 2 of this Order; *And provided further,* That the Alien Property Custodian may vest an amount of such property equal to the costs and expenses incurred by the Alien Property Custodian in such action or proceeding.

6. To enable the Alien Property Custodian to carry out his functions under this Executive Order, there are hereby delegated to the Alien Property Custodian or any person,

agency, or instrumentality designated by him all powers and authority conferred upon me by section 5 (b) of the Trading With the Enemy Act, as amended [section 5 (b) of this Appendix], including, but not limited to, the power to make such investigations and require such reports as he deems necessary or appropriate to determine whether any enterprise or property should be subject to his jurisdiction and control under this Executive Order. The powers and authority conferred upon the Alien Property Custodian by Executive Order No. 9142 shall be administered by him in conformity with the provisions of this Executive Order.

7. In the exercise of the authority herein delegated, the Alien Property Custodian shall be subject to the provisions of Executive Order No. 8839 of July 30, 1941, and shall designate a representative to the Board of Economic Warfare in accordance with section 6 thereof.

8. All records and other property (including office equipment) of the Treasury Department which are used primarily in the administration of powers and duties to be exercised by the Alien Property Custodian, and such personnel as is used primarily in the administration of such powers and duties and which was hired by the Treasury Department after September 1, 1941 (including officers whose chief duties relate to the administration of such powers and duties), as the Secretary of the Treasury and the Alien Property Custodian shall jointly certify for transfer, shall be transferred to the Office of the Alien Property Custodian. In the event of disagreement concerning the transfer of any personnel, records, or property, the determination shall be made by the Director of the Bureau of the Budget, pursuant to the formula here prescribed. Any personnel transferred pursuant to this Executive Order shall be transferred without loss of such Civil Service status or eligibility therefor as they may have.

9. This Executive Order shall not be deemed to modify or amend Executive Order No. 8843 of August 9, 1941, and the regulations, rulings, licenses and other action taken thereunder. Any and all action heretofore taken by the Secretary of the Treasury or the Alien Property Custodian, or by any person, agency, or instrumentality designated by either of them, pursuant to sections 3 (a) and 5 (b) of the Trading With the Enemy Act, as amended [sections 3 (a) and 5 (b) of this Appendix], or pursuant to prior Executive Orders, and any and all action heretofore taken by the Board of Governors of the Federal Reserve System pursuant to Executive Order No. 8843 of August 9, 1941, are hereby confirmed and ratified.

10. For the purpose of this Executive Order:

(a) The term "designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country with which the United States is at war in the future. The term "national" shall have the meaning prescribed in section 5 of Executive Order No. 8389, as amended: *Provided, however,* That persons not within designated enemy countries (even though they may be within enemy-occupied countries or areas) shall not be deemed to be nationals of a designated enemy country unless the Alien Property Custodian determines: (i) that such person is controlled by or acting for or on behalf of (including cloaks for) a designated enemy country or a person within such country; or (ii) that such person is a citizen or subject of a designated enemy country and within an enemy-occupied country or area; or (iii) that the national interest of the United States requires that such person be treated as a national of a designated enemy country. For the purpose of this Executive Order any determination by the Alien Property Custodian that any property or interest of any foreign country or national thereof is the property or interest of a designated enemy country or national thereof shall be final and conclusive as to the power of the Alien Property Custodian to exercise any of the power or authority conferred upon me by section 5 (b) of the Trading With the Enemy Act, as amended [section 5 (b) of this Appendix].

(b) The term "business enterprise within the United States" shall mean any individual proprietorship, partnership, corporation or other organization primarily engaged in the conduct of a business within the United States, and any other individual proprietorship, partnership, corporation or other organization to the extent that it has an established office within the United States engaged in the conduct of business within the United States.

11. The Secretary of the Treasury or the Alien Property Custodian, as the case may be, shall, except as otherwise agreed to by the Secretary of State, consult with the Secretary of State before vesting any property or interest pursuant to this Executive Order, and the Secretary of the Treasury shall consult with the Secretary of State before issuing any Order adding any additional foreign countries to section 3 of Executive Order No. 8389, as amended.

12. Any orders, regulations, rulings, instructions, licenses or other actions issued or taken by any person, agency or instrumentality referred to in this Executive Order, shall be final and conclusive as to the power of such person, agency or instrumentality to exercise any of the power or authority conferred upon me by sections 3 (a) and 5 (b) of the Trading With the Enemy Act, as amended [sections 3 (a) and 5 (b) of this Appendix]; and to the extent necessary and appropriate to enable them to perform their duties and functions hereunder, the Secretary of the Treasury and the Alien Property Custodian shall be deemed to be authorized to exercise severally any and all authority, rights, privileges and powers conferred on the President by sections 3 (a) and 5 (b) of the Trading With the Enemy Act of October 6, 1917, as amended, [sections 3 (a) and 5 (b) of this Appendix] and by sections 301 and 302 of Title III of the First War Powers Act, 1941, approved December 18, 1941 (sections 616 and 617 of this Appendix). No person affected by any order, regulation, ruling, instruction, license or other action issued or taken by either the Secretary of the Treasury or the Alien Property Custodian shall be entitled to challenge the validity thereof or otherwise excuse his actions, or failure to act, on the ground that pursuant to the provisions of this Executive Order, such order, regulation, ruling, instruction, license or other action was within the jurisdiction of the Alien Property Custodian rather than the Secretary of the Treasury or vice versa.

13. Any regulations, rulings, instructions, licenses, determinations or other actions issued, made or taken by any agency or person referred to in this Executive Order, purporting to be under the provisions of this Executive Order or any other proclamation, order or regulation, issued under sections 3 (a) or 5 (b) of the Trading With the Enemy Act, as amended [sections 3 (a) and 5 (b) of this Appendix], shall be conclusively presumed to have been issued, made or taken after appropriate consultation as herein required and after appropriate certification in any case in which a certification is required pursuant to the provisions of this Executive Order.

Ex. Ord. No. 9142. Transfer of Certain Functions, Property and Personnel from Department of Justice to Alien Property Custodian

Ex. Ord. No. 9142, Apr. 21, 1942, 7 F. R. 2985, provided:

1. All authority, rights, privileges, powers, duties, and functions transferred or delegated to the Department of Justice, to be administered under the supervision of the Attorney General, by Executive Order No. 6694 of May 1, 1934, or vested in, transferred or delegated to, the Attorney General or the Assistant Attorney General in charge of the Claims Division of the Department of Justice, by Executive Order No. 8136 of May 15, 1939, are hereby transferred to the Alien Property Custodian provided for by Executive Order No. 9095, dated March 11, 1942.

2. Subject to the provisions of paragraph 5 hereof, all property of the Alien Property Division of the Department of Justice, including records, files, supplies, furniture, and equipment, and all funds, securities, choses in action, real estate, patents, trade-marks, copyrights, and all other property of whatsoever kind, held or administered by the Attorney General under and pursuant to the Trading With the Enemy Act, as amended, are hereby transferred to the Alien Property Custodian, to be administered and disposed of under his supervision and direction.

3. All administrative or general or other expenses of the Office of the Alien Property Custodian in the administration of the Trading With the Enemy Act, as amended, including the administration of Executive Order No. 9095, may be paid out of any funds or other property transferred to the Alien Property Custodian hereunder, whether

or not such expenses relate to the property transferred hereunder, or were incurred before or after March 11, 1942.

4. The personnel of the Alien Property Division of the Department of Justice is hereby transferred to the Office of the Alien Property Custodian without loss of such civil service status or eligibility therefor as they may have.

5. All litigation in which the Alien Property Custodian or the Office of the Alien Property Custodian is interested shall be conducted under the supervision of the Attorney General. The Department of Justice and the Attorney General shall from time to time render such advice on legal matters to the Alien Property Custodian and the Office of the Alien Property Custodian as the Attorney General and the Alien Property Custodian may from time to time agree upon. For the purpose of defraying such expenses as may be incurred by the Department of Justice or the Attorney General in the rendering of advice as aforesaid or in the conduct of litigation in which the Alien Property Custodian or the Office of Alien Property Custodian is interested, including expenses for salaries of personnel and all other charges, the Alien Property Custodian may from time to time make available out of the funds or other property in his possession or control such funds as the Attorney General and the Alien Property Custodian may from time to time agree to be necessary therefor. Nothing in this order shall be construed to require the Department of Justice to surrender possession of any files and records relating to any litigation heretofore or hereafter conducted by it.

6. This order shall not be construed as modifying or limiting in any way the authority heretofore granted to the Federal Bureau of Investigation.

7. This order shall remain in force during the continuance of the present war and for six months after the termination thereof.

8. All prior Executive orders insofar as they are in conflict herewith are hereby superseded.

Ex. Ord. No. 9325. Payment of Expenses of the Office of Alien Property Custodian

Ex. Ord. No. 9325, Apr. 7, 1943, 8 F. R. 1682, provided:

1. Until it is otherwise provided, the Alien Property Custodian is authorized and empowered to pay out of any funds lawfully in his custody or under his control all necessary expenses incurred by the Office of Alien Property Custodian in carrying out the powers and duties vested in him pursuant to Title III of the First War Powers Act, 1941 [sections 616—618 of this Appendix], and the applicable orders issued thereunder. Such expenses shall be allocated and recovered as provided in section 2 hereof.

2. The Alien Property Custodian is authorized to retain, allocate and recover, as a charge against any specific property or any other property of which the former owner of the specific property was divested, expenses attributable to such specific property with respect to which he has exercised or may hereafter exercise any power heretofore or hereafter conferred upon him. In addition to such expenses, the Alien Property Custodian is authorized to retain, allocate and recover at such time or times as he may deem practicable, as a charge against money or property in his custody or under his control, such amounts as may be necessary in connection with the general administrative expenses of the Office of Alien Property Custodian which have been or may be paid and which are not practicably allocable to a specific property.

3. The power and authority herein granted shall not be limited by the filing of a claim or the institution of a suit relating to any property subject to the authority of the Alien Property Custodian.

4. This order shall not be construed as a limitation upon or in derogation of any powers heretofore granted.

5. The Office of Alien Property Custodian shall submit to the Bureau of the Budget (a) prior to April 30, 1943, an estimate of general administrative expenses for the remainder of the current fiscal year, (b) prior to the end of the current and of each subsequent fiscal year, at such time as may be specified by the Director of the Bureau of the Budget, an estimate of such expenses for the succeeding fiscal year, and (c) any supplemental estimates of such expenses if and as the need arises. After April 30, 1943, no general administrative expenses authorized to be paid pursuant to this order shall be incurred or paid by the Office of Alien Property Custodian beyond the amounts approved by the Director of the Bureau of the Budget upon submissions as above set forth.

Ex. Ord. No. 9747, Functions of Alein Property Custodian and Treasury Department Continued in Philippines

Ex. Ord. No. 9747, July 8, 1946, 11 F. R. 7518, provided that the powers of the Alien Property Custodian under Ex. Ord. No. 9095, set out in note to this section, should continue to be exercised in the Philippines after July 4, 1946. It also provided that the Secretary of the Treasury should continue to exercise his powers in the Philippines under Ex. Ord. No. 8389, Apr. 10, 1940, set out as a note under section 95a of Title 12, Banks and Banking.

Ex. Ord. No. 9760. Authority of Secretary of State Regarding Diplomatic Property of Germany and Japan

1. The Secretary of State is authorized and empowered as he deems necessary in the national interest to direct, manage, supervise, or control diplomatic and consular property within the United States owned or controlled by Germany or Japan, including all assets on the premises of such property.

2. The Alien Property Custodian shall not exercise any power and authority conferred upon him by any other Executive order with respect to diplomatic and consular property within the United States owned or controlled by Germany or Japan except so far as the Secretary of State releases his authority over such diplomatic and consular property under this order and so notifies the Alien Property Custodian in writing.

3. When the Secretary of State determines to exercise any power and authority conferred upon him by this order with respect to any property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of such property, except as authorized or directed by the Secretary of State.

4. This order supersedes all conflicting provisions of prior Executive orders, including Executive Orders Nos. 8389, as amended [note following section 95a of Title 12], and 9095, as amended [note following this section].

5. The Secretary of State is authorized to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this order.

Ex. Ord. No. 9788. Termination of Office of World War II Alien Property Custodian and Transference of Its Functions to the Attorney General

Ex. Ord. No. 9788, Oct. 14, 1946, 11 F. R. 11981, provided:

1. The Office of Alien Property Custodian in the Office for Emergency Management of the Executive Office of the President, established by Executive Order No. 9095 of March 11, 1942 [set out as a note under this section], is hereby terminated; and all authority, rights, privileges, powers, duties, and functions vested in such Office or in the Alien Property Custodian or transferred or delegated thereto are hereby vested in or transferred or delegated to the Attorney General, as the case may be, and shall be administered by him or under his direction and control by such officers and agencies of the Department of Justice as he may designate.

2. All property or interests vested in or transferred to the Alien Property Custodian or seized by him, and all proceeds thereof, which are held or administered by him on the effective date of this order are hereby transferred to the Attorney General.

3. All personnel, property, records, and funds of the Office of Alien Property Custodian are hereby transferred to the Department of Justice.

4. This order supersedes all prior Executive orders to the extent that they are in conflict with this order.

5. This order shall become effective on October 15, 1946.

Philippine Alien Property Administration

Ex. Ord. No. 9818, Jan. 8, 1947, 12 F. R. 133, set out as a note under section 1382 of Title 22, Foreign Relations and Intercourse, established the Philippine Alien Property Administration.

Executive Order No. 9989

Ex. Ord. No. 9989, Aug. 20, 1948, 13 F.R. 4891, which was formerly set out as a note under this section and

which transferred jurisdiction over blocked assets to the Attorney General, was superseded by Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, set out below.

EXECUTIVE No. 10348

Ex. Ord. No. 10348, Apr. 28, 1952, 17 F.R. 3769, which was formerly set out as a note under this section and which continued in force Ex. Ord. No. 9989, was superseded by Ex' Ord. No. 11281, May 13, 1966, 31 F.R. 7215, set out below.

EX. ORD. NO. 11281. TRANSFERRING JURISDICTION OVER BLOCKED ASSETS FROM ATTORNEY GENERAL TO SECRETARY OF TREASURY

Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, provided:

WHEREAS before October 1, 1948, the Secretary of the Treasury administered the blocking controls and other restrictions over property and interests of certain foreign countries or their nationals that had been imposed, under the authority of section 5(b) of the Trading with the Enemy Act, as amended (50 U.S.C. App. 5(b)), by means of and under Executive Order No. 8389 of April 10, 1940, as amended [set out as a note preceding section 95a of Title 12]; and

WHEREAS by Executive Order No. 9989 of August 20, 1948, jurisdiction over the property and interests which remained blocked or restricted under Executive Order No. 8389 on September 30, 1948, was transferred, effective October 1, 1948, to the Attorney General to aid him in carrying out his functions as successor to the Alien Property Custodian, including, among others, the function of vesting property pursuant to the provisions of the Trading with the Enemy Act, as amended [section 1 et seq. of this Appendix]; and

WHEREAS by Executive Order No. 10644 of November 7, 1955 [set out as a note under section 1631a of Title 22], the Attorney General was designated to carry out the functions of the President under Title II of the International Claims Settlement Act of 1949 (as added by the Act of August 9, 1955, Public Law 285, 84th Congress, 69 Stat. 562) [sections 1631-1631n of Title 22], including certain vesting and blocking functions required by section 202 of that Act 22(U.S.C. 1631a), and the Attorney General, as designee of the President, exercises controls under Executive Order No. 8389 with respect to the net proceeds of certain property that are carried, pursuant to section 202, in blocked accounts with the Treasury; and

WHEREAS the functions of vesting property under the Trading with the Enemy Act and under section 202 of the International Claims Settlement Act of 1949 have been terminated; and

WHEREAS the blocking controls not exercised by the Attorney General under Executive Order No. 8389 are limited in application to property of Hungary or its nationals acquired on or before January 1, 1945; property of Czechoslovakia, Estonia, Latvia, Lithuania or nationals of those countries acquired on or before December 7, 1945; property of East Germany or its nationals acquired on or before December 31, 1946, and certain securities scheduled in General Rulings No. 5 and No. 5B, as amended (8 CFR 511.205 and 511.205b); and

WHEREAS the Office of Alien Property, through which the Attorney General carries out or has carried out the various responsibilities described above, will be abolished on or before June 30, 1966, and the Attorney General thereafter will not be in a position to administer blocking controls under Executive Order No. 8389 efficiently; and

WHEREAS in the interest of efficiency it is desirable to return to the Secretary of the Treasury jurisdiction over the property and interests remaining subject to such blocking controls:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and the laws of the United States, including the Trading with the Enemy Act, as amended, Title II of the International Claims Settlement Act of 1949 and section 301 of Title 3 of the United States Code. and as President of the United States, it is hereby ordered as follows:

SECTION 1. The authority granted to the Attorney General by Executive Order No. 9989 with respect to property and interests blocked or otherwise subject to restriction under Executive Order No. 8389 is hereby terminated and Executive Order No. 9989 is hereby superseded.

SEC. 2. The Secretary of the Treasury shall hereafter be responsible for the administration of the controls exercisable under Executive Order No. 8389, and he is authorized and directed to take such action as he may deem necessary with respect to any property or interest that remains blocked or restricted under Executive Order No. 8389 on the effective date of this order. In the performance of the functions and duties hereby reassigned to him, the Secretary of the Treasury may act personally or through any officer, person, agency or instrumentality designated by him.

SEC. 3. All orders, regulations, rulings, instructions or licenses issued prior to the effective date of this order by the Attorney General or the Secretary of the Treasury with respect to any of the property or interests referred to in Section 2 shall continue in full force and effect except as hereafter amended, modified or revoked by the Secretary of the Treasury.

SEC. 4. No person affected by any order, regulation, ruling, instruction, license or other action issued or taken by either the Attorney General or the Secretary of the Treasury in the administration of Executive Order No. 8389 may challenge the validity thereof or otherwise excuse any action, or failure to act, on the ground that it was within the jurisdiction of the Secretary of the Treasury rather than the Attorney General or *vice versa*.

SEC. 5. Section 1 of Executive Order No. 10644 of November 7, 1955, is hereby amended to read as follows:

"SECTION 1. (a) With the exception of the functions referred to in subsection (b) of this section, the Attorney General, and, as designated by the Attorney General for this purpose, any Assistant Attorney General are hereby designated and empowered to perform the functions conferred by Title II of the International Claims Settlement Act of 1949 upon the President, and the functions conferred by that title upon any designee of the President.

"(b) The Secretary of the Treasury, and any officer, person, agency or instrumentality designated by the Secretary of the Treasury for this purpose, as hereby designated and empowered to perform the functions conferred upon the President by section 202 of Title II with respect to the release of blocked property and of the net proceeds of property that are carried in blocked accounts with the Treasury."

SEC. 6. Executive Order No. 8389, this order and all delegations, designations, regulations, rulings, instructions and licenses issued or to be issued under Executive Order No. 8389 or this order are hereby continued in force according to their terms for the duration of the period of the national emergency proclaimed by Proclamation No 2914 of December 16, 1950 [set out as a note preceding section 1 of this Appendix]. Executive Order No. 10348 of April 26, 1952 is hereby superseded.

SEC. 7. Nothing in this order shall be deemed to revoke or limit any powers heretofore conferred on the Secretary of the Treasury by or under any statute or Executive order, or to revoke or limit any powers heretofore conferred upon the Attorney General by or under any statute or Executive order other than Executive Order No. 9989 or No. 10644.

SEC. 8. This order shall become effective at midnight, May 15, 1966.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 5, 7 to 39, and 41 to 44 of this Appendix.

§ 6a. Incurment of expenses by Office of Alien Property Custodian.

After June 30, 1945, the Office of Alien Property Custodian shall not incur any obligations for the expenses of said Office except pursuant to a further annual authorization by the Congress specifically therefor. (Dec. 22, 1944, ch. 660, title I, § 101, 58 Stat. 855.)

CODIFICATION

Section was not enacted as a part of the Trading With the Enemy Act of 1917, which comprises seetions 1—6, 7—39, 41—44 of this Appendix.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

REPORT TO CONGRESS ON EXPENSES

Act Dec. 22, 1944, ch. 660, title I, § 101, provided in part: "On or before April 1, 1945, the Alien Property Custodian shall make a report to the Appropriations Committees of the Senate and the House of Representatives giving detailed information on all administrative and nonadministrative expenses incurred in connection with the activities of the Office of Alien Property Custodian."

§ 6b. Payment of expenses by the Attorney General.

The Attorney General, or such officer as he may designate, is authorized to pay out of any funds or other property or interest vested in him or transferred to him pursuant to or with respect to the Trading With the Enemy Act of October 6, 1917, as amended [sections 1 to 6, 7 to 39, 41 to 44 of this Appendix] and the International Claims Settlement Act as amended [sections 1621 to 1627, 1631 to 1631n, and 1641 to 1641q of Title 22], necessary expenses incurred in carrying out the powers and duties conferred on the Attorney General pursuant to said Acts. (Pub. L. 90–470, title II, § 201, Aug. 9, 1968, 82 Stat. 673.)

CODIFICATION

Section was not enacted as a part of the Trading With the Enemy Act of 1917, which comprises sections 1—6, 7—39 and 41—44 of this Appendix.

SIMILAR PROVISIONS

Similar provisions were carried in prior appropriation acts:

1967—Nov. 9, 1967, Pub. L. 90–133, title II, § 201, 81 Stat. 416.
1966—Nov. 8, 1966, Pub. L. 89–797, title II, § 201, 80 Stat. 1484.
1965—Sept. 2, 1965, Pub. L. 89–164, title II, § 201, 79 Stat. 625.
1964—Aug. 31, 1964, Pub. L. 38–527, title II, § 201, 78 Stat. 716.
1963—Dec. 30, 1963, Pub. L. 88–245, title II, § 201, 77 Stat. 781.
1962—Oct. 18, 1962, Pub. L. 87–843, title II, § 201, 76 Stat. 1085.
1961—Sept. 21, 1961, Pub. L. 87-264, title II, § 201, 75 Stat. 550.
1960—Aug. 31, 1960, Pub. L. 86–678, title II, § 201, 74 Stat. 564.
1959—July 13, 1959, Pub. L. 86–84, title II, § 201, 73 Stat. 189.
1958—June 30, 1958, Pub. L. 85–474, title II § 201, 72 Stat. 252.
1957—June 11, 1957, Pub. L. 85–49, title II, § 201, 71 Stat. 63.
1956—June 20, 1956, ch. 414, title II, § 201, 70 Stat. 308.
1955—July 7, 1955, ch. 279, title II, § 201, 69 Stat. 273.
1954—July 2, 1954, ch. 456, title II, § 201, 68 Stat. 421.
1953—Aug. 5, 1953, ch. 328, title II, § 201, 67 Stat. 375.
1952—July 10, 1952, ch. 651, title II, § 201, 66 Stat. 559.
1951—Oct. 22, 1951, ch. 533, title II, § 201, 65 Stat. 585.
1950—Sept. 6, 1950, ch. 896, ch. III, title II, § 201, 64 Stat. 619.
1949—July 20, 1949, ch. 354, title II, § 201, 63 Stat. 461.

§ 7. Lists of enemy or ally of enemy officers, directors or stockholders of corporations in United States; acts constituting trade with enemy prior to passage of Act; conveyance of property to custodian; voluntary payment to custodian by holder; acts under order, rule, or regulation.

(a) Every corporation incorporated within the United States, and every unincorporated association, or company, or trustee, or trustees within the United States, issuing shares or certificates representing beneficial interests, shall, under such rules and regulations as the President may prescribe and, within sixty days after the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and at such other times thereafter as the President may require, transmit to the alien property custodian a full list, duly sworn to, of every officer, director, or stockholder known to be, or whom the representative of such corporation, association, company, or trustee has reasonable cause to believe to be an enemy or ally of enemy resident within the territory, or a subject or citizen residing outside of the United States, of any nation with which the United States is at war, or resident within the territory, or a subject or citizen residing outside of the United States, of any ally of any nation with which the United States is at war, together with the amount of stock or shares owned by each such officer, director, or stockholder, or in which he has any interest.

The President may also require a similar list to be transmitted of all stock or shares owned on February third, nineteen hundred and seventeen, by any person now defined as an enemy or ally of enemy, or in which any such person had any interest; and he may also require a list to be transmitted of all cases in which said corporation, association, company, or trustee has reasonable cause to believe that the stock or shares on February third, nineteen hundred and seventeen, were owned or are owned by such enemy or ally of enemy, though standing on the books in the name of another: *Provided, however,* That the name of any such officer, director, or stockholder, shall be stricken permanently or temporarily from such list by the alien property custodian when he shall be satisfied that he is not such enemy or ally of enemy.

Any person in the United States who holds or has or shall hold or have custody or control of any property beneficial or otherwise, alone or jointly with others, of, for, or on behalf of an enemy or ally of enemy, or of any person whom he may have reasonable cause to believe to be an enemy or ally of enemy and any person in the United States who is or shall be indebted in any way to an enemy or ally of enemy, or to any person whom he may have reasonable cause to believe to be an enemy or ally of enemy, shall, with such exceptions and under such rules and regulations as the President shall prescribe, and within thirty days after the passage of this Act [said sections], or within thirty days after such property shall come within his custody or control, or after such debt shall become due, report the fact to the alien-property custodian by written statement under oath containing such particulars as said custodian shall require. The President may also require a similar report of all property so held, of, for, or on behalf of, and of all debts so owed to, any person now

defined as an enemy or ally of enemy, on February third, nineteen hundred and seventeen: *Provided*, That the name of any person shall be stricken from the said report by the alien property custodian, either temporarily or permanently, when he shall be satisfied that such person is not an enemy or ally of enemy. The President may extend the time for filing the lists or reports required by this section for an additional period not exceeding ninety days.

(b) Nothing in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] contained shall render valid or legal, or be construed to recognize as valid or legal, any act or transaction constituting trade with, to, from, for or on account of, or on behalf or for the benefit of an enemy performed or engaged in since the beginning of the war and prior to the passage of this Act [said sections] or any such act or transaction hereafter performed or engaged in except as authorized hereunder, which would otherwise have been or be void, illegal, or invalid at law. No conveyance, transfer, delivery, payment, or loan of money or other property, in violation of section three hereof [section 3 of this Appendix], made after the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and not under license as herein provided shall confer or create any right or remedy in respect thereof; and no person shall by virtue of any assignment, indorsement, or delivery to him of any debt, bill, note, or other obligation or chose in action by, from, or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy have any right or remedy against the debtor, obligor, or other person liable to pay, fulfill, or perform the same unless said assignment, indorsement, or delivery was made prior to the beginning of the war or shall be made under license as herein provided, or unless, if made after the beginning of the war and prior to the date of passage of this Act [said sections], the person to whom the same was made shall prove lack of knowledge and of reasonable cause to believe on his part that the same was made by, from or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy; and any person who knowingly pays, discharges, or satisfies any such debt, note, bill, or other obligation or chose in action shall, on conviction thereof, be deemed to violate section three hereof [section 3 of this Appendix]: *Provided*, That nothing in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] contained shall prevent the carrying out, completion, or performance of any contract, agreement, or obligation originally made with or entered into by an enemy or ally of enemy where, prior to the beginning of the war and not in contemplation thereof, the interest of such enemy or ally of enemy devolved by assignment or otherwise upon a person not an enemy or ally of enemy, and no enemy or ally of enemy will be benefited by such carrying out completion, or performance otherwise than by release from obligation thereunder.

Nothing in this Act [said sections] shall be deemed to prevent payment of money belonging or owing to an enemy or ally of enemy to a person within the United States not an enemy or ally of enemy, for the benefit of such person or of any other person within the United States, not an enemy or ally of enemy, if the funds so paid shall have been received prior to the beginning of the war and such payments arise out of transactions entered into prior to the beginning of the war, and not in contemplation thereof: *Provided*, That such payment shall not be made without the license of the President, general or special, as provided in this Act [said sections].

Nothing in this Act [said sections] shall be deemed to authorize the prosecution of any suit or action at law or in equity in any court within the United States by an enemy or ally of enemy prior to the end of the war, except as provided in section ten hereof [section 10 of this Appendix]: *Provided, however*, That an enemy or ally of enemy licensed to do business under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] may prosecute and maintain any such suit or action so far as the same arises solely out of the business transacted within the United States under such license and so long as such license remains in full force and effect: *And provided further*, That an enemy or ally of enemy may defend by counsel any suit in equity or action at law which may be brought against him.

Receipt of notice from the President to the effect that he has reasonable ground to believe that any person is an enemy or ally of enemy shall be prima facie defense to any one receiving the same, in any suit or action at law or in equity brought or maintained, or to any right or set-off or recoupment asserted by, such person and based on failure to complete or perform since the beginning of the war any contract or other obligation. In any prosecution under section sixteen hereof [section 16 of this Appendix] proof of receipt of notice from the President to the effect that he has reasonable cause to believe that any person is an enemy or ally of enemy shall be prima facie evidence that the person receiving such notice has reasonable cause to believe such other person to be an enemy or ally of enemy within the meaning of section three hereof [section 3 of this Appendix].

(c) If the President shall so require any money or other property including (but not thereby limiting the generality of the above) patents, copyrights, applications therefor, and rights to apply for the same, trade marks, choses in action, and rights and claims of every character and description owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian, or the same may be seized by the Alien Property Custodian; and all property thus acquired shall be held, administered and disposed of as elsewhere provided in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix].

Any requirement made pursuant to this Act [said sections], or a duly certified copy thereof, may be filed, registered, or recorded in any office for the filing, registering, or recording of conveyances, transfers, or assignments of any such property or rights as may be covered by such requirement (including the proper office for filing, registering, or

recording conveyances, transfers, or assignments of patents, copyrights, trade-marks, or any rights therein or any other rights); and if so filed, registered, or recorded shall impart the same notice and have the same force and effect as a duly executed conveyance, transfer, or assignment to the Alien Property Custodian so filed, registered, or recorded.

Whenever any such property shall consist of shares of stock or other beneficial interest in any corporation, association, or company or trust, it shall be the duty of the corporation, association, or company or trustee or trustees issuing such shares or any certificates or other instruments representing the same or any other beneficial interest to cancel upon its, his, or their books all shares of stock or other beneficial interest standing upon its, his, or their books in the name of any person or persons, or held for, on account of, or on behalf of, or for the benefit of any person or persons who shall have been determined by the President, after investigation, to be an enemy or ally of enemy, and which shall have been required to be conveyed, transferred, assigned, or delivered to the Alien Property Custodian or seized by him, and in lieu thereof to issue certificates or other instruments for such shares or other beneficial interest to the Alien Property Custodian or otherwise, as the Alien Property Custodian shall require.

The sole relief and remedy of any person having any claim to any money or other property heretofore or hereafter conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian, or required so to be, or seized by him shall be that provided by the terms of this Act [said sections], and in the event of sale or other disposition of such property by the Alien Property Custodian, shall be limited to and enforced against the net proceeds received therefrom and held by the Alien Property Custodian or by the Treasurer of the United States.

(d) If not required to pay, convey, transfer, assign, or deliver under the provisions of subsection (c) of this section, any person not an enemy or ally of enemy who owes to, or holds for, or on account of, or on behalf of, or for the benefit of an enemy or of an ally of enemy not holding a license granted by the President hereunder, any money or other property, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for payment, may, at his option, with the consent of the President, pay, convey, transfer, assign, or deliver to the alien property custodian said money or other property under such rules and regulations as the President shall prescribe.

(e) No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix].

Any payment, conveyance, transfer, assignment, or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owed to an enemy or ally of enemy, deliver up any notes, bonds, or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee. The President shall issue to every person so appointed a certificate of the appointment and authority of such person, and such certificate shall be received in evidence in all courts within the United States. Whenever any such certificate of authority shall be offered to any registrar, clerk, or other recording officer, Federal or otherwise, within the United States, such officer shall record the same in like manner as a power of attorney, and such record or a duly certified copy thereof shall be received in evidence in all courts of the United States or other courts within the United States. (Oct. 6, 1917, ch. 106, § 7, 40 Stat. 416; Nov. 4, 1918, ch. 201, § 1, 40 Stat. 1020.)

AMENDMENTS

1918—Subsec. (c). Act Nov. 4, 1918, added provisions on the recording of property transfers, the cancellation of enemy owned stock by corporations, and the restriction of claims to relief provided by the terms of sections 1—6, 7—39 and 41—44 of this Appendix.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

CROSS REFERENCES

Actions by and against Custodian, see sections 9, 10, 12 and 17 of this Appendix.

Claims to property transferred to Custodian, see section 9 of this Appendix.

Corporations, voting of stock and dividends after seizure, see section 12 of this Appendix.

Enforcement of seizures, see section 17 of this Appendix.

Nature of Custodian's right or title after seizure, see section 12 of this Appendix.

Recovery of property erroneously seized, see section 9 of this Appendix.

Waiver of demand and compromise settlement, see section 29 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 8 to 39, 41 to 44 of this Appendix.

§ 8. Contracts, mortgages, or pledges against or with enemy or ally of enemy; abrogation of contracts; suspension of limitations.

(a) Any person not an enemy or ally of enemy holding a lawful mortgage, pledge, or lien, or other right in the nature of security in property of an enemy or ally of enemy which, by law or by the terms of the instrument creating such mortgage, pledge, or lien, or right, may be disposed of on notice or presentation or demand, and any person not an enemy or ally of enemy who is a party to any lawful contract with an enemy or ally of enemy, the terms of which provide for a termination thereof

upon notice or for acceleration of maturity on presentation or demand, may continue to hold said property, and, after default, may dispose of the property in accordance with law or may terminate or mature such contract by notice or presentation or demand served or made on the alien property custodian in accordance with the law and the terms of such instrument or contract and under such rules and regulations as the President shall prescribe; and such notice and such presentation and demand shall have, in all respects, the same force and effect as if duly served or made upon the enemy or ally of enemy personally: *Provided,* That no such rule or regulation shall require that notice or presentation or demand shall be served or made in any case in which, by law or by the terms of said instrument or contract, no notice, presentation, or demand was, prior to the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], required; and that in case were, by law or by the terms of such instrument or contract, notice is required, no longer period of notice shall be required: *Provided further,* That if, on any such disposition of property, a surplus shall remain after the satisfaction of the mortgage, pledge, lien, or other right in the nature of security, notice of that fact shall be given to the President pursuant to such rules and regulations as he may prescribe, and such surplus shall be held subject to his further order.

(b) Any contract entered into prior to the beginning of the war between any citizen of the United States or any corporation organized within the United States, and an enemy or ally of an enemy, the terms of which provide for the delivery, during or after any war in which a present enemy or ally of enemy nation has been or is now engaged, of anything produced, mined, or manufactured in the United States, may be abrogated by such citizen or corporation by serving thirty days' notice in writing upon the alien property custodian of his or its election to abrogate such contract.

(c) The running of any statute of limitations shall be suspended with reference to the rights or remedies on any contract or obligation entered into prior to the beginning of the war between parties neither of whom is an enemy or ally of enemy, and containing any promise to pay or liability for payment which is evidenced by drafts or other commercial paper drawn against or secured by funds or other property situated in an enemy or ally of enemy country, and no suit shall be maintained on any such contract or obligation in any court within the United States until after the end of the war, or until the said funds or property shall be released for the payment or satisfaction of such contract or obligation: *Provided, however,* That nothing herein contained shall be construed to prevent the suspension of the running of the statute of limitations in all other cases where such suspension would occur under existing law. (Oct. 6, 1917, ch. 106, § 8, 40 Stat. 418.)

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7, 9 to 39, 41 to 44 of this Appendix.

§ 9. Claims to property transferred to custodian; notice of claim; filing; return of property; suits to recover; sale of claimed property in time of war or during national emerency.

(a) Any person not an enemy or ally of enemy claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, or to whom any debt may be owing from an enemy or ally of enemy whose property or any part thereof shall have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States may file with the said custodian a notice of his claim under oath and in such form and containing such particulars as the said custodian shall require; and the President, if application is made therefor by the claimant, may order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to which the President shall determine said claimant is entitled: *Provided,* That no such order by the President shall bar any person from the prosecution of any suit at law or in equity against the claimant to establish any right, title, or interest which he may have in such money or other property. If the President shall not so order within sixty days after the filing of such application or if the claimant shall have filed the notice as above required and shall have made no application to the President, said claimant may institute a suit in equity in the United States District Court for the District of Columbia or in the district court of the United States for the district in which such claimant resides, or, if a corporation, where it has its principal place of business (to which suit the Alien Property Custodian or the Treasurer of the United States, as the case may be, shall be made a party defendant), to establish the interest, right, title, or debt so claimed, and if so established the court shall order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States or the interest therein to which the court shall determine said claimant is entitled. If suit shall be so instituted, then such money or property shall be retained in the custody of the Alien Property Custodian, or in the Treasury of the United States, as provided in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], and until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignment, or delivery by the defendant, or by the Alien Property Custodian,

or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated: *Provided further,* That upon a determination made by the President, in time of war or during any national emergency declared by the President, that the interest and welfare of the United States require the sale of any property or interest or any part thereof claimed in any suit filed under this subsection and pending on or after the date of enactment [Oct. 22, 1962] of this proviso the Alien Property Custodian or any successor officer, or agency may sell such property or interest or part thereof, in conformity with law applicable to sales of property by him, at any time prior to the entry of final judgment in such suit. No such sale shall be made until thirty days have passed after the publication of notice in the Federal Register of the intention to sell. The net proceeds of any such sale shall be deposited in a special account established in the Treasury, and shall be held in trust by the Secretary of the Treasury pending the entry of final judgment in such suit. Any recovery of any claimant in any such suit in respect of the property or interest or part thereof so sold shall be satisfied from the net proceeds of such sale unless such claimant, within sixty days after receipt of notice of the amount of net proceeds of sale serves upon the Alien Property Custodian, or any successor officer or agency, and files with the court an election to waive all claims to the net proceeds, or any part thereof, and to claim just compensation instead. If the court finds that the claimant has established an interest, right, or title in any property in respect of which such an election has been served and filed, it shall proceed to determine the amount which will constitute just compensation for such interest, right, or title, and shall order payment to the claimant of the amount so determined. An order for the payment of just compensation hereunder shall be a judgment against the United States and shall be payable first from the net proceeds of the sale in an amount not to exceed the amount the claimant would have received had he elected to accept his proportionate part of the net proceeds of the sale, and the balance, if any, shall be payable in the same manner as are judgments in cases arising under section 1346 of Title 28. The Alien Property Custodian or any successor officer or agency shall, immediately upon the entry of final judgment, notify the Secretary of the Treasury of the determination by final judgment of the claimant's interest and right to the proportionate part of the net proceeds from the sale, and the final determination by judgment of the amount of just compensation in the event the claimant has elected to recover just compensation for the interest in the property he claimed.

(b) In respect of all money or other property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, if the President shall determine that the owner thereof at the time such money or other property was required to be so conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or at the time when it was voluntarily delivered to him or was seized by him was—

(1) A citizen or subject of any nation or State or free city other than Germany or Austria or Hungary or Austria-Hungary, and is at the time of the return of such money or other property hereunder a citizen or subject of any such nation or State or free city; or

(2) A woman who, at the time of her marriage, was a subject or citizen of a nation which has remained neutral in the war, or of a nation which was associated with the United States in the prosecution of said war, and who, prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary and that the money or other property concerned was not acquired by such woman, either directly or indirectly from any subject or citizen of Germany or Austria-Hungary subsequent to January 1, 1917; or

(3) A woman who at the time of her marriage was a citizen of the United States, and who prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary, and that the money or other property concerned, was not acquired by such woman, either directly or indirectly, from any subject or citizen of Germany or Austria-Hungary subsequent to January 1, 1917; or who was a daughter of a resident citizen of the United States and herself a resident or former resident thereof, or the minor daughter or daughters of such woman, she being deceased; or

(3A) An individual who was at such time a citizen or subject of Germany, Austria, Hungary, or Austria-Hungary, or not a citizen or subject of any nation, state or free city, and that the money or other property concerned was acquired by such individual while a bona fide resident of the United States, and that such individual, on January 1, 1926, and at the time of the return of the money or other property, shall be a bona fide resident of the United States; or

(3B) Any individual who at such time was not a subject or citizen of Germany, Austria, Hungary, or Austria-Hungary, and who is now a citizen or subject of a neutral or allied country: *Provided, however,* That nothing contained herein shall be construed as limiting or abrogating any existing rights of an individual under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; or

(4) A citizen or subject of Germany or Austria or Hungary or Austria-Hungary and was at the time of the severance of diplomatic relations between the United States and such nations, respectively, accredited to the United States as a diplomatic or consular officer of any such nation, or the wife or minor child of such officer, and that the money or other property concerned was within the territory of the United States by reason of the service of such officer in such capacity; or

(5) A citizen or subject of Germany or Austria-Hungary, who by virtue of the provisions of sections 4067, 4068, 4069, and 4070 of the Revised Statutes [sections 21 to 24 of this title] and of the proclamations and regulations thereunder, was transferred, after arrest, into the custody of the

War Department of the United States for detention during the war and is at the time of the return of his money or other property hereunder living within the United States; or

(6) A partnership, association, or other unincorporated body of individuals outside the United States, or a corporation incorporated within any country other than the United States, and was entirely owned at such time by subjects or citizens of nations, States, or free cities other than Germany or Austria or Hungary or Austria-Hungary and is so owned at the time of the return of its money or other property hereunder; or

(7) The Government of Bulgaria or Turkey, or any political or municipal subdivision thereef; or

(8) The Government of Germany or Austria or Hungary or Austria-Hungary, and that the money or other property concerned was the diplomatic or consular property of such Government; or

(9) An individual who was at such time a citizen or subject of Germany, Austria, Hungary, or Austria-Hungary, or who is not a citizen or subject of any nation, State or free city, and that such money or other property, or the proceeds thereof, if the same has been converted, does not exceed in value the sum of $10,000, or although exceeding in value the sum of $10,000 is nevertheless susceptible of division, and the part thereof to be returned hereunder does not exceed in value the sum of $10,000: *Provided*, That an individual shall not be entitled, under this paragraph, to the return of any money or other property owned by a partnership, association, unincorporated body of individuals, or corporation at the time it was conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or seized by him hereunder; or

(10) A partnership, association, other unincorporated body of individuals, or corporation, and that it is not otherwise entitled to the return of its money or other property, or any part thereof. under this section, and that such money or other property, or the proceeds thereof, if the same has been converted, does not exceed in value the sum of $10,000, or although exceeding in value the sum of $10,000, is nevertheless susceptible of division, and the part thereof to be returned hereunder does not exceed in value the sum of $10,000; or

(11) A partnership, association, or other unincorporated body of individuals, having its principal place of business within any country other than Germany, Austria, Hungary, or Austria-Hungary, or a corporation, organized or incorporated within any country other than Germany, Austria, Hungary, or Austria-Hungary, and that the control of, or more than 50 per centum of the interests or voting power in, any such partnership, association, other unincorporated body of individuals, or corporation, was at such time, and is at the time of the return of any money or other property, vested in citizens or subjects of nations, States, or free cities other than Germany, Austria, Hungary, or Austria-Hungary: *Provided, however*, That this subsection shall not affect any rights which any citizen or subject may have under paragraph (1) of this subsection; or

(12) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by subjects or citizens of nations, States, or free cities other than Austria or Hungary or Austria-Hungary and is so owned at the time of the return of its money or other property, and has filed the written consent provided for in subsection (m) of this section; or

(13) A partnership, association or other unincorporated body of individuals, having its principal place of business at such time within any country other than Austria, Hungary, or Austria-Hungary, or a corporation organized or incorporated within any country other than Austria, Hungary, or Austria-Hungary, and that the written consent provided for in subsection (m) of this section has been filed; or

(14) An individual who at such time was a citizen or subject of Germany or who, at the time of the return of any money or other property, is a citizen or subject of Germany or is not a citizen or subject of any nation, State, or free city, and that the written consent provided for in subsection (m) of this section has been filed; or

(15) Repealed. Aug. 6, 1956, ch. 1016, § 3, 70 Stat. 1073.

(16) An individual, partnership, association, or other unincorporated body of individuals, or a corporation, and that the written consent provided for in subsection (m) of this section has been filed, and that no suit or proceeding against the United States or any agency thereof is pending in respect of such return, and that such individual has filed a written waiver renouncing on behalf of himself, his heirs, successors, and assigns any claim based upon the fact that at the time of such return he was in fact entitled to such return under any other provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; or

(17) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by citizens of Austria and is so owned at the time of the return of its money or other property; or

(18) A partnership, association, or other unincorporated body of individuals, having its principal place of business at such time within Austria, or a corporation organized or incorporated within Austria; or

(19) An individual who at such time was a citizen of Austria or who, at the time of the return of any money or other property, is a citizen of Austria; or

(20) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by citizens of Hungary and is so owned at the time of the return of its money or other property; or

(21) A partnership, association, or other unincorporated body of individuals, having its principal place of business at such time within Hungary, or a corporation organized or incorporated within Hungary; or

(22) An individual who at such time was a citizen of Hungary or who, at the time of the

return of any money or other property, is a citizen of Hungary;

Then the President, without any application being made therefor, may order the payment, conveyance, transfer, assignment, or delivery of such money or other property held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to which the President shall determine such person entitled, either to the said owner or to the person by whom said property was conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian: *Provided,* That no person shall be deemed or held to be a citizen or subject of Germany or Austria or Hungary or Austria-Hungary for the purposes of this section, even though he was such citizen or subject at the time first specified in this subsection, if he has become or shall become, ipso facto or through exercise of option, a citizen or subject of any nation or State or free city other than Germany, Austria, or Hungary, (first) under the terms of such treaties of peace as have been or may be concluded subsequent to November 11, 1918, between Germany or Austria or Hungary (of the one part) and the United States and/or three or more of the following-named powers: The British Empire, France, Italy, and Japan (of the other part), or (second) under the terms of such treaties as have been or may be concluded in pursuance of the treaties of peace aforesaid between any nation, State, or free city (of the one part) whose territories, in whole or in part, on August 4, 1914, formed a portion of the territory of Germany or Austria-Hungary and the United States and/or three or more of the following-named powers: The British Empire, France, Italy, and Japan (of the other part). For the purposes of this section any citizen or subject of a State or free city which at the time of the proposed return of money or other property of such citizen or subject hereunder forms a part of the territory of any one of the following nations: Germany, Austria, or Hungary, shall be deemed to be a citizen or subject of such nation. And the receipt of the said owner or of the person by whom said money or other property was conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian shall be a full acquittance and discharge of the Alien Property Custodian or the Treasurer of the United States, as the case may be, and of the United States in respect to all claims of all persons heretofore or hereafter claiming any right, title, or interest in said money or other property, or compensation or damages arising from the capture of such money or other property by the President or the Alien Property Custodian: *Provided further, however,* That except as herein provided no such action by the President shall bar any person from the prosecution of any suit at law or in equity to establish any right, title, or interest which he may have therein.

(c) Any person whose money or other property the President is authorized to return under the provisions of subsection (b) of this section may file notice of claim for the return of such money or other property, as provided in subsection (a) of this section, and thereafter may make application to the President for allowance of such claim and/or may institute suit in equity to recover such money or other property, as provided in said subsection, and with like effect. The President or the court, as the case may be, may make the same determinations with respect to citizenship and other relevant facts that the President is authorized to make under the provisions of subsection (b) of this section.

(d) Whenever an individual, deceased, would have been entitled, if living, to the return of any money or other property without filing the written consent provided for in subsection (m) of this section, then his legal representative may proceed for the return of such money or other property in the same manner as such individual might proceed if living, and such money or other property may be returned to such legal representative without requiring the appointment of an administrator, or an ancillary administrator, by a court in the United States, or to any such ancillary administrator, for distribution directly to the persons entitled thereto. Return in accordance with the provisions of this subsection may be made in any case where an application or court proceeding by any legal representative, under the provisions of this subsection before its amendment by the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167] is pending and undetermined at the time of the enactment of such Act. All bonds or other security given under the provisions of this subsection before such amendment shall be canceled or released and all sureties thereon discharged.

(e) No money or other property shall be returned nor any debt allowed under this section to any person who is a citizen or subject of any nation which was associated with the United States in the prosecution of the war, unless such nation in like case extends reciprocal rights to citizens of the United States: *Provided,* That any arrangement made by a foreign nation for the release of money and other property of American citizens and certified by the Secretary of State to the Attorney General as fair and the most advantageous arrangement obtainable shall be regarded as meeting this requirement; nor in any event shall a debt be allowed under this section unless it was owing to and owned by the claimant prior to October 6, 1917, and as to claimants other than citizens of the United States unless it arose with reference to the money or other property held by the Alien Property Custodian or Treasurer of the United States hereunder; nor shall a debt be allowed under this section unless notice of the claim has been filed, or application therefor has been made, prior to the date of the enactment of the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167].

(f) Except as herein provided, the money or other property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, shall not be liable to lien, attachment, garnishment, trustee process, or execution, or subject to any order or decree of any court.

(g) Whenever an individual, deceased, would have been entitled, if living, to the return of any money or other property upon filing the written consent provided for in subsection (m) of this section, then his legal representative may proceed for the return of such money or other property in the same manner as such individual might proceed if living, and such

money or other property may be returned, upon filing the written consent provided for in subsection (m) of this section, to such legal representative without requiring the appointment of an administrator, or an ancillary administrator, by a court in the United States, or to any such ancillary administrator, for distribution to the persons entitled thereto. This subsection shall not be construed as extinguishing or diminishing any right which any citizen of the United States may have had under this subsection prior to its amendment by the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167] to receive in full his interest in the property of any individual dying before such amendment.

(h) The aggregate value of the money or other property returned under paragraphs (9) and (10) of subsection (b) of this section to any one person, irrespective of the number of trusts involved, shall in no case exceed $10,000.

(i) For the purposes of paragraphs (9) and (10) of subsection (b) of this section accumulated net income, dividends, interest, annuities, and other earnings, shall be considered as part of the principal.

(j) The Alien Property Custodian is authorized and directed to return to the person entitled thereto, whether or not an enemy or ally of enemy and regardless of the value, any patent, trade-mark, print, label, copyright, or right therein or claim thereto, which was conveyed, transferred, assigned, or delivered to the Alien Property Custodian, or seized by him, and which has not been sold, licensed, or otherwise disposed of under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], and to return any such patent, trade-mark, print, label, copyright, or right therein or claim thereto, which has been licensed, except that any patent, trade-mark, print, label, copyright, or right therein or claim thereto, which is returned by the Alien Property Custodian and which has been licensed, or in respect of which any contract has been entered into, or which is subject to any lien or encumbrance, shall be returned subject to the license, contract, lien, or encumbrance.

(k) Except as provided in section 27 [section 27 of this Appendix], paragraphs (12) to (22), both inclusive, of subsection (b) of this section shall apply to the proceeds received from the sale, license, or other disposition of any patent, trade-mark, print, label, copyright, or right therein or claim thereto, conveyed, transferred, assigned, or delivered to the Alien Property Custodian, or seized by him.

(*l*) This section shall apply to royalties paid to the Alien Property Custodian, in accordance with a judgment or decree in a suit brought under subsection (f) of section 10 [section 10 (f) of this Appendix]; but shall not apply to any other money paid to the Alien Property Custodian under section 10 [section 10 of this Appendix].

(m) No money or other property shall be returned under paragraphs (12), (13), (14), or (16) of subsection (b) of this section or under subsection (g) or (n) of this section or (to the extent therein provided) under subsection (p) of this section, unless the person entitled thereto files a written consent to a postponement of the return of an amount equal to 20 per centum of the aggregate value of such money or other property (at the time, as nearly as may be, of the return), as determined by the Alien Property Custodian, and the investment of such amount in accordance with the provisions of section 25 [section 25 of this Appendix]. Such amount shall be deducted from the money to be returned to such person, so far as possible, and the balance shall be deducted from the proceeds of the sale of so much of the property as may be necessary, unless such person pays the balance to the Alien Property Custodian, except that no property shall be so sold prior to the expiration of six years from the date of the enactment of the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167] without the consent of the person entitled thereto. The amounts so deducted shall be returned to the persons entitled thereto as provided in subsection (f) of section 25 [section 25 (f) of this Appendix]. The sale of any such property shall be made in accordance with the provisions of section 12 [section 12 of this Appendix], except that the provisions of such section relating to sales or resales to, or for the benefit of, citizens of the United States shall not be applicable. If such aggregate value of the money or other property to be returned under paragraphs (12), (13), (14), or (16) of subsection (b) of this section or under subsection (g) of this section is less than $2,000, then the written consent shall not be required and the money or other property shall be returned in full without the temporary retention and investment of 20 per centum thereof.

(n) In the case of property consisting of stock or other interest in any corporation, association, company, or trust, or of bonded or other indebtedness thereof, evidenced by certificates of stock or by bonds or by other certificates of interest therein or indebtedness thereof, or consisting of dividends or interest or other accruals thereon, where the right, title, and interest in the property (but not the actual certificate or bond or other certificate of interest or indebtedness) was conveyed, transferred assigned, delivered, or paid to the Alien Property Custodian, or seized by him, if the President determines that the owner thereof or of any interest therein has acquired such ownership by assignment, transfer, or sale of such certificate or bond or other certificate of interest or indebtedness, (it being the intent of this subsection that such assignment, transfer, or sale shall not be deemed invalid hereunder by reason of such conveyance, transfer, assignment, delivery, or payment to the Alien Property Custodian or seizure by him) and that the written consent provided for in subsection (m) of this section has been filed, then the President may make in respect of such property an order of the same character, upon the same conditions, and with the same effect, as in cases provided for in subsection (b) of this section, including the benefits of subsection (c) of this section.

(*o*) The provisions of paragraph (12) to (14), (17) to (21), or (22) of subsection (b) of this section, or of subsection (m) or (n) of this section, and (except to the extent therein provided) the provisions of paragraph (16) of subsection (b) of this section, shall not be construed as diminishing or extinguishing any right under any other provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this

Appendix] in force immediately prior to the enactment of the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167].

(p) The Alien Property Custodian shall transfer the money or other property in the trust of any partnership, association, or other unincorporated body of individuals, or corporation, the existence of which has terminated, to trusts in the names of the persons (including the German Government and members of the former ruling family) who have succeeded to its claim or interest; and the provisions of subsection (a) of this section relating to the collection of a debt (by order of the President or of a court) out of money or other property held by the Alien Property Custodian or the Treasurer of the United States shall be applicable to the debts of such successor and any such debt may be collected out of the money or other property in any of such trusts if not returnable under subsection (a) of this section. Subject to the above provisions as to the collection of debts, each such successor (except the German Government and members of the former ruling family) may proceed for the return of the amount so transferred to his trust, in the same manner as such partnership, association, or other unincorporated body of individuals, or corporation might proceed if still in existence. If such partnership, association, or other unincorporated body of individuals, or corporation, would have been entitled to the return of its money or other property only upon filing the written consent provided for in subsection (m) of this section, then the successor shall be entitled to the return under this subsection only upon filing such written consent.

(q) The return of money or other property under paragraphs (15), (17), (18), (19), (20), (21), or (22) of subsection (b) of this section (relating to the return of Austrian and Hungarian nationals) shall be subject to the limitations imposed by subsections (d) and (e) of section 7 of the Settlement of War Claims Act of 1928 [Act Mar. 10, 1928, ch. 167, 45 Stat. 265, 266]. (Oct. 6, 1917, ch. 106, § 9, 40 Stat. 419; July 11, 1919, ch. 6, § 1, 41 Stat. 35; June 5, 1920, ch. 241, 41 Stat. 977; Feb. 27, 1921, ch. 76, 41 Stat. 1147; Dec. 21, 1921, ch. 13, 42 Stat. 351; Dec. 27, 1922, ch. 13, 42 Stat. 1065; Mar. 4, 1923, ch. 285, § 1, 42 Stat. 1511; May 7, 1926, ch. 252, 44 Stat. 406; Mar. 10, 1928, ch. 167, §§ 11—14, 20, 45 Stat. 270—273, 277; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 745, 50 Stat. 748; June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 6, 1956, ch. 1016, § 3, 70 Stat. 1073; Oct. 22, 1962, Pub. L. 87-846, title II, § 203, 76 Stat. 1113.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-846 added provisions for sale of claimed property in time of war or during national emergency, publication of notice in Federal Register of intention to sell, deposit of net proceeds of sale in a special account in the Treasury, satisfaction of the claim from such net proceeds, election to waive claims to net proceeds and to claim just compensation, judicial determination of amount of compensation, order for payment, judgment against United States and notification of Secretary of the Treasury respecting the determination of election made.

1956—Subsec. (b)(15). Act Aug. 6, 1956, repealed subsec. (b)(15) which related to property of the Austro-Hungarian Bank.

1937—Subsec. (e). Act Aug. 24, 1937, added the proviso that arrangements by foreign nations certified by the Secretary of State would be regarded as meeting the reciprocity requirement for return of property.

1926—Subsection (b) (12)—(22). Act Mar. 10, 1928, ch. 167, § 11, added subsecs. (b) (12)—(22).

Subsections (*l*)—(q). Act Mar. 10, 1928, ch. 167, §§ 13 and 14, added subsecs. (*l*)—(q).

1926—Subsec. (b) (3a) and (3b). Act May 7, 1926, added subsec. (b) (3a) and (3b).

1923—Subsec. (b) (9)—(11). Act Mar. 4, 1923, added pars. (9)—(11) of subsec. (b), and subsecs. (g)—(j) and redesignated former subsec. (g) as subsec. (k).

1922—Subsec. (a). Act Dec. 27, 1922, increased the time limit for instituting a suit from eighteen to thirty months.

1921—Subsec. (a). Act Dec. 21, 1921 increased the time limit for instituting a suit from six to eighteen months.

Subsec. (b). Act Feb. 27, 1921, added to pars. (2) and (3) the requirement that money or property be acquired subsequent to Jan. 1, 1917, and eliminated from par. (3) the requirement that citizenship be by birth in the United States.

1920—Act June 5, 1920, added pars. (1) to (8) of subsec. (b) and added subsecs. (c)—(g), the latter two subsecs. having formerly been the last two paragraphs, respectively, of subsec. (b).

1919—Act July 11, 1919, eliminated the requirement of owner's assent to the transfer of property to the Custodian, gave the Supreme Court of the District of Columbia co-extensive jurisdiction with the District Courts over suits, and added a proviso permitting the Custodian to acquit his responsibility by transferring the property of persons, who were enemies by reason of residence in enemy occupied countries, to those persons or their designated representatives.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia" in subsec. (a).

Act June 25, 1936, substituted "district court of the United States for the District of Columbia" for "Supreme Court of the District of Columbia" in subsec. (a).

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

Act Mar. 10, 1928, popularly known as the Settlement of War Claims Act of 1928 provided for the settlement of certain claims of American nationals against Germany, Austria, and Hungary, and the nationals of Germany, Austria, and Hungary against the United States, and for the ultimate return of all property held by the Alien Property Custodian.

Sections 9 (c)—19 of the act were classified to sections 9, 10, 20, and 22—31 of this Appendix. Sections 1—9 (b) of the act were never classified.

The act has been amended to extend the time of presenting claims under it several times as follows: Acts Mar. 10, 1930, ch. 175, 46 Stat. 84; June 14, 1932, ch. 259, 47 Stat. 318; Mar. 3, 1933, ch. 210, 47 Stat. 1488; June 12, 1933, ch. 60, 48 Stat. 125; June 18, 1934, ch. 608, 48 Stat. 1019; June 27, 1934, ch. 851, 48 Stat. 1267; June 26, 1938, ch. 852, 49 Stat. 1984; May 23, 1938, ch. 263, 52 Stat. 437. The act of May 23, 1938, was the final extension and it allowed the presentation of claims up to 12 years after Mar. 10, 1938.

Act Aug. 6, 1947, ch. 506, 61 Stat. 789, amended section 4 (b), (c) of act Mar. 10, 1928, to change the order of priority for payment of claims out of the German special deposit account.

EFFECT OF TERMINATION OF STATE OF WAR BETWEEN UNITED STATES AND GERMANY

Termination of war by Joint Res. Oct. 19, 1951, ch. 519, 65 Stat. 451, as not affecting property already vested, see said Joint Res. Oct. 19, 1951, set out as a note preceding section 1 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

CROSS REFERENCES

Conspiracy to defraud United States, see section 371 of Title 18, Crimes and Criminal Procedure.

Payment of taxes and expenses by Alien Property Custodian, see section 23 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 8, 10 to 39, 41 to 44 of this Appendix.

§ 10. Acts permitted; applications for patents, or registration of trade-marks or copyrights; payment of tax in relation thereto; licenses under enemy owned patent or copyright; statements by licensees; term and cancellation; suits against licensees; restraining infringements; powers of attorney; keeping secret inventions.

Nothing contained in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] shall be held to make unlawful any of the following acts:

(a) Repealed. Aug. 8, 1946, ch. 910, § 13, 60 Stat. 944.

(b) Any citizen of the United States, or any corporation organized within the United States, may, when duly authorized by the President, pay to an enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally of enemy nation in relation to patents and trade-marks, prints, labels, and copyrights; and any such citizen or corporation may file and prosecute an application for letters patent or for registration of trade-mark, print, label, or copyright in the country of an enemy, or of an ally of enemy after first submitting such application to the President and receiving license so to file and prosecute, and to pay the fees required by law and customary agents' fees, the maximum amount of which in each case shall be subject to the control of the President.

(c) Any citizen of the United States or any corporation organized within the United States desiring to manufacture, or cause to be manufactured, a machine, manufacture, composition of matter, or design, or to carry on, or to use any trade-mark, print, label or cause to be carried on, a process under any patent or copyrighted matter owned or controlled by an enemy or ally of enemy at any time during the existence of a state of war may apply to the President for a license; and the President is authorized to grant such a license, nonexclusive or exclusive as he shall deem best, provided he shall be of the opinion that such grant is for the public welfare, and that the applicant is able and intends in good faith to manufacture, or cause to be manufactured, the machine, manufacture, composition of matter, or design, or to carry on, or cause to be carried on, the process or to use the trade-mark, print, label or copyrighted matter. The President may prescribe the conditions of this license, including the fixing of prices of articles and products necessary to the health of the military and naval forces of the United States or the successful prosecution of the war, and the rules and regulations under which such license may be granted and the fee which shall be charged therefor, not exceeding $100, and not exceeding one per centum of the fund deposited as hereinafter provided. Such license shall be a complete defense to any suit at law or in equity instituted by the enemy or ally of enemy owners of the letters patent, trade-mark, print, label or copyright, or otherwise, against the licensee for infringement or for damages, royalty, or other money award on account of anything done by the licensee under such license, except as provided in subsection (f) of this section.

(d) The licensee shall file with the President a full statement of the extent of the use and enjoyment of the license, and of the prices received in such form and at such stated periods (at least annually) as the President may prescribe; and the licensee shall pay at such times as may be required to the alien property custodian not to exceed five per centum of the gross sums received by the licensee from the sale of said inventions or use of the trade-mark, print, label or copyrighted matter, or, if the President shall so order, five per centum of the value of the use of such inventions, trade-marks, prints, labels or copyrighted matter to the licensee as established by the President; and sums so paid shall be deposited by said alien property custodian forthwith in the Treasury of the United States as a trust fund for the said licensee and for the owner of the said patent, trade-mark, print, label or copyright registration as hereinafter provided, to be paid from the Treasury upon order of the court, as provided in subsection (f) of this section, or upon the direction of the alien property custodian.

(e) Unless surrendered or terminated as provided in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], any license granted hereunder shall continue during the term fixed in the license or in the absence of any such limitation during the term of the patent, trade-mark, print, label, or copyright registration under which is it granted. Upon violation by the licensee of any of the provisions of this Act [said sections], or of the conditions of the license, the President may, after due notice and hearing, cancel any license granted by him.

(f) The owner of any patent, trade-mark, print, label, or copyright under which a license is granted hereunder may, after the end of the war and until the expiration of one year thereafter, file a bill in equity against the licensee in the district court of the United States for the district in which the said licensee resides, or, if a corporation, in which it has its principal place of business (to which suit the Treasurer of the United States shall be made a party), for recovery from the said licensee for all use and enjoyment of the said patented invention, trade-mark, print, label, or copyrighted matter: *Provided, however,* That whenever suit is brought, as above, notice shall be filed with the alien property custodian within thirty days after date of entry of suit: *Provided further,* That the licensee may make

any and all defenses which would be available were no license granted. The court on due proceedings had may adjudge and decree to the said owner payment of a reasonable royalty. The amount of said judgment and decree, when final, shall be paid on order of the court to the owner of the patent from the fund deposited by the licensee, so far as such deposit will satisfy said judgment and decree; and the said payment shall be in full or partial satisfaction of said judgment and decree, as the facts may appear; and if, after payment of all such judgments and decrees, there shall remain any balance of said deposit, such balance shall be repaid to the licensee on order of the alien property custodian. If no suit is brought within one year after the end of the war, or no notice is filed as above required, then the licensee shall not be liable to make any further deposits, and all funds deposited by him shall be repaid to him on order of the alien property custodian. Upon entry of suit and notice filed as above required, or upon repayment of funds as above provided, the liability of the licensee to make further reports to the President shall cease.

If suit is brought as above provided, the court may, at any time, terminate the license, and may, in such event, issue an injunction to restrain the licensee from infringement thereafter, or the court, in case the licensee, prior to suit, shall have made investment of capital based on possession of the license, may continue the license for such period and upon such terms and with such royalties as it shall find to be just and reasonable.

In the case of any such patent, trade-mark, print, label, or copyright, conveyed, assigned, transferred, or delivered to the Alien Property Custodian or seized by him, any suit brought under this subsection, within the time limited therein, shall be considered as having been brought by the owner within the meaning of this subsection, in so far as such suit relates to royalties for the period prior to the sale by the Alien Property Custodian of such patent, trade-mark, print, label, or copyright, if brought either by the Alien Property Custodian or by the person who was the owner thereof immediately prior to the date such patent, trade-mark, print, label, or copyright was seized or otherwise acquired by the Alien Property Custodian.

(g) Any enemy, or ally of enemy, may institute and prosecute suits in equity against any person other than a licensee under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] to enjoin infringement of letters patent, trade-mark, print, label, and copyrights in the United States owned or controlled by said enemy or ally of enemy, in the same manner and to the extent that he would be entitled so to do if the United States was not at war: *Provided,* That no final judgment or decree shall be entered in favor of such enemy or ally of enemy by any court except after thirty days' notice to the alien property custodian. Such notice shall be in writing and shall be served in the same manner as civil process of Federal courts.

(h) All powers of attorney heretofore or hereafter granted by an enemy or ally of enemy to any person within the United States, in so far as they may be requisite to the performance of acts authorized in subsections (a) and (g) of this section, shall be valid.

(i) Whenever the publication of an invention by the granting of a patent may, in the opinion of the President, be detrimental to the public safety or defense, or may assist the enemy or endanger the successful prosecution of the war, he may order that the invention be kept secret and withhold the grant of a patent until the end of the war: *Provided,* That the invention disclosed in the application for said patent may be held abandoned upon it being established before or by the Commissioner of Patents that, in violation of said order, said invention has been published or that an application for a patent therefor has been filed in any other country, by the inventor or his assigns or legal representatives, without the consent or approval of the commissioner or under a license of the President.

When an applicant whose patent is withheld as herein provided and who faithfully obeys the order of the President above referred to shall tender his invention to the Government of the United States for its use, he shall, if he ultimately receives a patent, have the right to sue for compensation in the Court of Claims, such right to compensation to begin from the date of the use of the invention by the Government. (Oct. 6, 1917, ch. 106, § 10, 40 Stat. 420; Mar. 10, 1928, ch. 167, § 19, 45 Stat. 277; Aug. 8, 1946, ch. 910, § 13, 60 Stat. 944.)

AMENDMENTS

1946—Subsec. (a). Act Aug. 8, 1946, repealed subsec. (a).

1928—Subsec. (f). Act Mar. 10, 1928, added last par. of subsec. (f).

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SIMILAR PROVISIONS

The provisions of subsection (i) of this section are similar to the provisions of act Oct. 6, 1917, ch. 95, 40 Stat. 394 (formerly set out as section 42 of Title 35, Patents), which was repealed and superseded by act Feb. 1, 1952, ch. 4, 66 Stat. 3. Act Feb. 1, 1952 (also formerly set out as chapter 3 of Title 35) was also repealed by act July 19, 1952, ch. 950, § 5, 66 Stat. 815, and is now covered by chapter 17 of Title 35, Patents.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

PRESIDENT'S PROCLAMATION

Proclamation of May 24, 1917, 40 Stat. 1669, authorized citizens owning letters patent issued by the German Empire to pay any tax, annuity or fee required by the laws of the German Empire for preservation of their rights in the letters patent.

CROSS REFERENCES

Return by Custodian to United States of payments under licenses, assignments, or sales of patents, see section 27 of this Appendix.

Secrecy of certain inventions and filing applications in foreign country, see chapter 17 of Title 35, Patents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 9, 11 to 39, 41 to 44 of this Appendix.

§ 11. Importations prohibited.

Whenever during the present war the President shall find that the public safety so requires and shall make proclamation thereof it shall be unlawful to import into the United States from any country named in such proclamation any article or articles mentioned in such proclamation except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: *Provided, however,* That no preference shall be given to the ports of one State over those of another. (Oct. 6, 1917, ch. 106, § 11, 40 Stat. 422.)

EXTENSION OF IMPORT LIMITATIONS

Joint Res. Nov. 19, 1919, ch. 121, 41 Stat. 361, continued provisions of section 1 et seq. of this Appendix and proclamations limiting imports to Jan. 15, 1920.

PRESIDENT'S PROCLAMATIONS

Proclamation of Nov. 28, 1917, 40 Stat. 1722, forbade the importation of various articles except under license granted by the War Trade Board.

Proclamation of Feb. 14, 1918, 40 Stat. 1748, added other articles to the list of articles upon which import limitations were placed.

CROSS REFERENCES

Power of Congress to regulate commerce, see Const. Art. 1, § 8, cl. 3.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 10, 12 to 39, 41 to 44 of this Appendix.

§ 12. Property transferred to Alien Property Custodian.

All moneys (including checks and drafts payable on demand) paid to or received by the alien property custodian pursuant to this Act [section 1 to 6, 7 to 39 and 41 to 44 of this Appendix] shall be deposited forthwith in the Treasury of the United States, and may be invested and reinvested by the Secretary of the Treasury in United States bonds or United States certificates of indebtedness, under such rules and regulations as the President shall prescribe for such deposit, investment, and sale of securities; and as soon after the end of the war as the President shall deem practicable, such securities shall be sold and the proceeds deposited in the Treasury.

All other property of an enemy, or ally of enemy, conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder shall be safely held and administered by him except as hereinafter provided; and the President is authorized to designate as a depositary, or depositaries, of property of an enemy or ally of enemy, any bank, or banks, or trust company, or trust companies, or other suitable depositary or depositaries, located and doing business in the United States. The alien property custodian may deposit with such designated depositary or depositaries, or with the Secretary of the Treasury, any stocks, bonds, notes, time drafts, time bills of exchange, or other securities, or property (except money or checks or drafts payable on demand which are required to be deposited with the Secretary of the Treasury) and such depositary or depositaries shall be authorized and empowered to collect any dividends or interest or income that may become due and any maturing obligations held for the account of such custodian. Any moneys collected on said account shall be paid and deposited forthwith by said depositary or by the alien property custodian into the Treasury of the United States as hereinbefore provided.

The President shall require all such designated depositaries to execute and file bonds sufficient in his judgment to protect property on deposit, such bonds to be conditioned as he may direct.

The alien property custodian shall be vested with all of the powers of a common-law trustee in respect of all property, other than money, which has been or shall be, or which has been or shall be required to be, conveyed, transferred, assigned, delivered, or paid over to him in pursuance of the provisions of this Act [said sections], and, in addition thereto, acting under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe, shall have power to manage such property and do any act or things in respect thereof or make any disposition thereof or of any part thereof, by sale or otherwise, and exercise any rights or powers which may be or become appurtenant thereto or to the ownership thereof in like manner as though he were the absolute owner thereof: *Provided,* That any property sold under this Act [said sections] except when sold to the United States, shall be sold only to American citizens, at public sale to the highest bidder, after public advertisement of time and place of sale which shall be where the property or a major portion thereof is situated, unless the President stating the reasons therefor, in the public interest shall otherwise determine: *Provided further,* That when sold at public sale, the alien property custodian upon the order of the President stating the reasons therefor, shall have the right to reject all bids and resell such property at public sale or otherwise as the President may direct. Any person purchasing property from the alien property custodian for an undisclosed principal, or for re-sale to a person not a citizen of the United States, or for the benefit of a person not a citizen of the United States, shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of not more than $10,000, or imprisonment for not more than ten years, or both, and the property shall be forfeited to the United States. It shall be the duty of every corporation incorporated within the United States and every unincorporated association, or company, or trustee, or trustees within the United States issuing shares or certificates representing beneficial interests to transfer such shares or certificates upon its, his, or their books into the name of the alien property custodian upon demand, accompanied by the presentation of the certificates which represent such shares or beneficial interests. The alien property custodian shall forthwith deposit in the Treasury of the United States, as hereinbefore provided, the proceeds of any such property or rights so sold by him.

Any money or property required or authorized by the provisions of this Act [said sections] to be paid, conveyed, transferred, assigned, or delivered to the alien property custodian shall, if said custodian shall so direct by written order, be paid, conveyed, transferred, assigned, or delivered to the

Treasurer of the United States with the same effect as if to the alien property custodian.

After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the alien property custodian or deposited in the United States Treasury, shall be settled as Congress shall direct: *Provided, however,* That on order of the President as set forth in section nine hereof [section 9 of this Appendix], or of the court, as set forth in sections nine and ten hereof [sections 9 and 10 of this Appendix], the alien property custodian or the Treasurer of the United States, as the case may be, shall forthwith convey, transfer, assign, and pay to the person to whom the President shall so order, or in whose behalf the court shall enter final judgment or decree, any property of an enemy or ally of enemy held by said custodian or by said Treasurer, so far as may be necessary to comply with said order of the President or said final judgment or decree of the court: *And provided further,* That the Treasurer of the United States, on order of the alien property custodian shall, as provided in section ten hereof [section 10 of this Appendix], repay to the licensee any funds deposited by said licensee. (Oct. 6, 1917, ch. 106, § 12, 40 Stat. 423; Mar. 28, 1918, ch. 28, § 1, 40 Stat. 460.)

AMENDMENTS

1918—Act Mar. 28, 1918, required that property sold be sold at public sale to American citizens, gave the Custodian the right to reject bids, and made violations of sale regulations subject to fine or imprisonment as misdemeanors.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

TRANSFER OF PRESIDENT'S AUTHORITY

Ex. Ord. No. 6237—A, July 30, 1933, provided:

"I hereby vest in the Alien Property Custodian, and in the event of his death, resignation, absence, or disability, in the General Counsel, and in the event of his death, resignation, absence, or disability during his period of authority, then in the Director of Finance and Accounts of the Office of the Alien Property Custodian, all power and authority conferred upon me by the provisions of the act approved October 6, 1917, known as the "Trading With the Enemy Act," as amended [sections 1—6, 7—39 and 41—44 of this Appendix] pertaining to the deposit, transfer, and payment of moneys, and interest which may have accrued thereon, which may be or have been deposited with the Treasurer of the United States, and to release and deliver property held under and by virtue of said acts: *Provided, however,* That all claims which are required to be submitted to the Attorney General and to the President, as provided in Executive Order No. 4862 of April 23, 1928, shall continue to be submitted to the Attorney General and to the President. Any order of payment of money, and interest, which may be executed by said officials shall constitute a ratification of all previous orders or acts, by virtue of which the funds in the possession of the Treasurer of the United States have been placed to the credit of the particular trusts on which such orders are drawn. I hereby revoke all former orders in conflict herewith."

Ex. Ord. No. 7894, 3 F.R. 998, May 23, 1938, authorized and directed "the Attorney General of the United States to exercise all power and authority conferred upon the President by section 12 of the said [Trading with the Enemy] act, as amended [section 12 of this Appendix[."

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

CROSS REFERENCES

Accumulated interest and profits; "unallocated interest fund", see section 28 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 11, 13 to 39, 41 to 44 of this Appendix.

§ 13. Statements by masters of vessels and owners of cargoes before granting clearances.

During the present war, in addition to the facts required by sections forty-one hundred and ninety-seven, forty-one hundred and ninety-eight, and forty-two hundred of the Revised Statutes, as amended by the Act of June fifteenth, nineteen hundred and seventeen [sections 71 and 94 of Title 46] to be set out in the master's and shipper's manifests before clearance will be issued to vessels bound to foreign ports, the master or person in charge of any vessel, before departure of such vessel from port, shall deliver to the collector of customs of the district wherein such vessel is located a statement duly verified by oath that the cargo is not shipped or to be delivered in violation of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], and the owners, shippers, or consignors of the cargo of such vessels shall in like manner deliver to the collector like statement under oath as to the cargo or the parts thereof laden or shipped by them, respectively, which statement shall contain also the names and addresses of the actual consignees of the cargo, or if the shipment is made to a bank or other broker, factor, or agent, the names and addresses of the persons who are the actual consignees on whose account the shipment is made. The master or person in control of the vessel shall, on reaching port of destination of any of the cargo, deliver a copy of the manifest and of the said master's, owner's, shipper's, or consignor's statement to the American consular officer of the district in which the cargo is unladen. (Oct. 6, 1917, ch. 106, § 13, 40 Stat. 424.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The collector of customs, referred to in this section, is an official of the Treasury Department.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 12, 14 to 39, 41 to 44 of this Appendix.

§ 14. Same; refusal of clearance; reports of gold or silver coin in cargoes for export.

During the present war, whenever there is reasonable cause to believe that the manifest or the additional statements under oath required by the preceding section [section 13 of this Appendix] are false or that any vessel, domestic or foreign, is about to carry out of the United States any property to or for the account or benefit of an enemy, or ally of enemy, or any property or person whose export, taking out, or transport will be in violation of law, the collector of customs for the district in which such vessel is located is authorized and empowered subject to review by the President to refuse clearance to any such vessel, domestic or foreign, for which clearance is required by law, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, to forbid the departure of such vessel from the port, and it shall thereupon be unlawful for such vessel to depart.

The collector of customs shall, during the present war, in each case report to the President the amount of gold or silver coin or bullion or other moneys of the United States contained in any cargo intended for export. Such report shall include the names and addresses of the consignors and consignees, together with any facts known to the collector with reference to such shipment and particularly those which may indicate that such gold or silver coin or bullion or moneys of the United States may be intended for delivery or may be delivered, directly or indirectly, to an enemy or an ally of enemy. (Oct. 6, 1917, ch. 106, § 14, 40 Stat. 424.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31. 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The collector of customs, referred to in this section, is an official of the Treasury Department.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 13, 15 to 39, 41 to 44 of this Appendix.

§ 15. Appropriation.

CODIFICATION

Section, act Oct. 6, 1917, ch. 106, § 15, 40 Stat. 425, made an appropriation of $450,000 for the purpose of carrying out the Act during the fiscal year ending June 30, 1918. and is omitted as executed.

§ 16. Offenses; punishment; forfeitures of property.

Whoever shall willfully violate any of the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] or of any license, rule or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this Act [said sections] shall, upon conviction, be fined not more than $10,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States. (Oct. 6, 1917, ch. 106, § 16, 40 Stat. 425.)

EMERGENCY PLANS FOR ALIEN PROPERTY

Attorney General to develop emergency plans for seizure and administration of alien property, see section 2(f) of Ex. Ord. No. 11310, Oct. 11, 1966, 31 F.R. 13199, set out as a note under section 509 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 15, 17 to 39, 41 to 44 of this Appendix.

§ 17. Rules by district courts; appeals.

The district courts of the United States are given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], with a right of appeal from the final order or decree of such court as provided in sections one hundred and twenty-eight and two hundred and thirty-eight of the Act of March third, nineteen hundred and eleven, entitled "An Act to codify, revise, and amend the laws relating to the judiciary." (Oct. 6, 1917, ch. 106, § 17, 40 Stat. 425.)

REFERENCES IN TEXT

Act Mar. 3, 1911, ch. 231, §§ 128, 238, referred to in the text, was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948. Section 128 of the act is now covered by sections 1291, 1292 and 1293 of Title 23, Judiciary and Judicial Procedure and section 238 is now covered by sections 1252 and 1253 of Title 28.

CROSS REFERENCES

Waiver of demand or enforcement thereof and acceptance of compromise settlement, see section 29 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 16, 18 to 39, 41 to 44 of this Appendix.

§ 18. Jurisdiction of courts of Philippines and Canal Zone of offenses.

The several courts of first instance in the Philippine Islands and the district court of the Canal Zone shall have jurisdiction of offenses under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] committed within their respective districts, and concurrent jurisdiction with the district courts of the United States of offenses under this Act [said sections] committed upon the high seas and of conspiracies to commit such offenses as defined by

section thirty-seven of the Act entitled "An Act to codify, revise, and amend the penal laws of the United States," approved March fourth, nineteen hundred and nine, and the provisions of such section for the purpose of this Act [said sections] are extended to the Philippine Islands and to the Canal Zone. (Oct. 6, 1917, ch. 106, § 18, 40 Stat. 425.)

REFERENCES IN TEXT

Act Mar. 4, 1909, ch. 321, § 37, 35 Stat. 1096, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 371 of Title 18, Crimes and Criminal Procedure.

PHILIPPINE INDEPENDENCE

Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7517, 60 Stat. 1352, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, recognized the independence of the Philippine Islands as of July 4, 1946, and is set out as a note under that section.

CROSS REFERENCES

Jurisdiction of courts of Philippine Islands continued, see section 1382 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 17, 19 to 39, 41 to 44 of this Appendix.

§ 19. Print, newspaper or publication in foreign languages.

Ten days after the approval of this act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and until the end of the war, it shall be unlawful for any person, firm, corporation, or association, to print, publish, or circulate, or cause to be printed, published, or circulated in any foreign language, any news item, editorial or other printed matter, respecting the Government of the United States, or of any nation engaged in the present war, its policies, international relations, the state or conduct of the war, or any matter relating thereto: *Provided*, That this section shall not apply to any print, newspaper, or publication where the publisher or distributor thereof, on or before offering the same for mailing, or in any manner distributing it to the public, has filed with the postmaster at the place of publication, in the form of an affidavit, a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper, or publication, and has caused to be printed, in plain type in the English language, at the head of each such item, editorial, or other matter, on each copy of such print, newspaper, or publication, the words "True translation filed with the postmaster at ——— on ——— (naming the post office where the translation was filed, and the date of filing thereof), as required by the Act of ——— (here giving the date of this Act [said sections])."

Any print, newspaper, or publication in any foreign language which does not conform to the provisions of this section is declared to be nonmailable, and it shall be unlawful for any person, firm, corporation, or association, to transport, carry, or otherwise publish or distribute the same, or to transport, carry or otherwise publish or distribute any matter which is made nonmailable by the provisions of the Act relating to espionage, approved June fifteenth, nineteen hundred and seventeen: *Provided, further*, That upon evidence satisfactory to him that any print, newspaper, or publication, printed in a foreign language may be printed, published, and distributed free from the foregoing restrictions and conditions without detriment to the United States in the conduct of the present war, the President may cause to be issued to the printers or publishers of such print, newspaper, or publication, a permit to print, publish, and circulate the issue or issues of their print, newspaper, or publication, free from such restrictions and requirements, such permits to be subject to revocation at his discretion. And the Postmaster General shall cause copies of all such permits and revocations of permits to be furnished to the postmaster of the post office serving the place from which the print, newspaper, or publication, granted the permit is to emanate. All matter printed, published and distributed under permits shall bear at the head thereof in plain type in the English language, the words, "Published and distributed under permit authorized by the Act of ——— (here giving date of this Act [said sections]), on file at the post office of ——— (giving name of office)."

Any person who shall make an affidavit containing any false statement in connection with the translation provided for in this section shall be guilty of the crime of perjury and subject to the punishment provided therefor by section one hundred and twenty-five of the Act of March fourth, nineteen hundred and nine, entitled "An Act to codify, revise, and amend the penal laws of the United States," and any person, firm, corporation, or association, violating any other requirement of this section shall, on conviction thereof, be punished by a fine of not more than $500, or by imprisonment of not more than one year, or, in the discretion of the court, may be both fined and imprisoned. (Oct. 6, 1917, ch. 106, § 19, 40 Stat. 425.)

REFERENCES IN TEXT

Act June 15, 1917, ch. 30, §§ 1—8, 40 Stat. 217, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and these provisions relating to espionage are now covered by sections 792—794 and 2388 of Title 18, Crimes and Criminal Procedure.

Act Mar. 4, 1909, ch. 321, § 125, 35 Stat. 1111, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 1621 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 18, 20 to 39, 41 to 44 of this Appendix.

§ 20. Fees of agents, attorneys, or representatives.

No property or interest or proceeds shall be returned under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], nor shall any payment be made or judgment awarded in respect of any property or interest vested in or transferred to any officer or agency of the United States under this Act [said sections] unless satisfactory evidence is furnished to the President or such officer or agency as he may designate, or the court, as the case may be, that the aggregate of the fees to be paid to all agents, attorneys at law or in fact, or representatives, for services rendered in connection with such return or payment or judgment does not exceed 10 per centum of the value of such property or interest or proceeds or of such payment. Any agent, attorney at law or in fact, or representative, believing that the aggregate of the fees should be in excess of such 10 per

centum may in the case of any return of, or the making of any payment in respect of, such property or interest or proceeds by the President or such officer or agency as he may designate, petition the district court of the United States for the district in which he resides for an order authorizing fees in excess of 10 per centum and shall name such officer or agency as respondent. The court hearing such petition, or a court awarding any judgment in respect of any such property or interest or proceeds, as the case may be, shall approve an aggregate of fees in excess of 10 per centum of the value of such property or interest or proceeds only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess. Any person accepting any fee in excess of an amount approved hereunder, or retaining for more than thirty days any portion of a fee, accepted prior to approval hereunder, in excess of the fee as approved, shall be guilty of a violation of this Act [said sections]. (Oct. 6, 1917, ch. 106, § 20, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1515, and amended Mar. 10, 1928, ch. 67, § 9(c), 45 Stat. 267; Mar. 8, 1946, ch. 83, § 2, 60 Stat. 54; June 25, 1956, ch. 436, 70 Stat. 331.)

AMENDMENTS

1956—Act June 25, 1956, eliminated provisions which required a schedule of fees to be furnished to, and approved by, the President or such officer or agency as he designated, and which permitted approval of such schedule of fees only upon a determination that the individual fees did not exceed fair compensation for services rendered.

1946—Act Mar. 8, 1946, raised the limitation of fees from 3 per centum of amount involved to 10 per centum.

1928—Act Mar. 10, 1928 added the words, "at law or in fact" following the word, "attorney" wherever it appears in this section.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

CROSS REFERENCES

Docket fees and costs of briefs, see section 1923 of Title 28, Judiciary and Judicial Procedure.

EX. ORD. NO. 9725. ADMINISTRATION OF POWERS AND AUTHORITY OF PRESIDENT BY ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 9725, May 16, 1946, 11 F. R. 5381, provided:

The Alien Property Custodian is designated as the officer to administer the powers and authority conferred upon the President by section 20 of the Trading with the Enemy Act, as amended by Public Law 322, 79th Congress, approved March 8, 1946 [this section], and by section 32 of the said act, as added by the said Public Law 322 [section 32 of this Appendix].

The Alien Property Custodian may delegate to officers and employees of the Office of Alien Property Custodian such functions as he may deem necessary to carry out the provisions of this order.

This order shall not be construed as revoking or limiting any power or authority heretofore delegated to the Alien Property Custodian.

HARRY S. TRUMAN

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 19, 21 to 39, 41 to 44 of this Appendix.

§ 21. Claims of naturalized citizens as affected by expatriation.

The claim of any naturalized American citizen under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] shall not be denied on the ground of any presumption of expatriation which has arisen against him, under the second sentence of section 2 of the Act entitled "An Act in reference to the expatriation of citizens and their protection abroad," approved March 2, 1907, if he shall give satisfactory evidence to the President, or the court, as the case may be, of his uninterrupted loyalty to the United States during his absence, and that he has returned to the United States, or that he, although desiring to return, has been prevented from so returning by circumstances beyond his control. (Oct. 6, 1917, ch. 106, § 21, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516.)

REFERENCES IN TEXT

"Second sentence of section 2 of the Act entitled 'An Act in reference to the expatriation of citizens and their protection abroad,' approved March 2, 1907," referred to in the text (and formerly classified to sections 16 and 17 of Title 8, Aliens and Nationality), was repealed and superseded by act Oct. 14, 1940, ch. 876, title I, subchap. IV, §§ 401, 402, 404, subchap. V, § 504, 54 Stat. 1168—1170, 1172. Sections 401, 402 and 404 of act Oct. 14, 1940 as amended (also formerly classified to sections 801, 802 and 804 of said Title 8), were repealed by act June 27, 1952, ch. 477, title IV, § 403 (a) (42), 66 Stat. 280, and are now covered by subchapter III of chapter 12 of Title 8.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 20, 22 to 39, 41 to 44 of this Appendix.

§ 22. Fugitives from justice barred from recovery.

No person shall be entitled to the return of any property or money under any provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], or any amendment of this Act [said sections], who is a fugitive from justice of the United States or any State or Territory thereof, or the District of Columbia. (Oct. 6, 1917, ch. 106, § 22, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516, and amended Mar. 10, 1928, ch. 167, § 16, 45 Stat. 275.)

AMENDMENTS

1928—Act Mar. 10, 1928, amended the section by adding the words "or any amendment of this Act" following the words "any provision of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 21, 23 to 39, 41 to 44 of this Appendix.

§ 23. Payment of income, etc., by Alien Property Custodian.

The Alien Property Custodian is directed to pay to the person entitled thereto, from and after March 4, 1923, the net income (including dividends, interest, annuities, and other earnings), accruing and collected thereafter, in respect of any money or property held in trust for such person by the Alien Property Custodian or by the Treasurer of the United States for the account of the Alien Property Custodian, under such rules and regulations as the President may prescribe. (Oct. 6, 1917, ch. 106, § 23, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516, and amended Mar. 10, 1928, ch. 167, § 17, 45 Stat. 275.)

AMENDMENTS

1928—Act Mar. 10, 1928, eliminated the restriction that no person be paid any amount over $10,000 per annum.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested

in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 22, 24 to 39, 41 to 44 of this Appendix.

§ 24. Payment of taxes and expenses by Alien Property Custodian.

(a) The Alien Property Custodian is authorized to pay all taxes (including special assessments), heretofore or hereafter lawfully assessed by any body politic against any money or other property held by him or by the Treasurer of the United States under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], and to pay the necessary expenses incurred by him or by any depositary for him in securing the possession, collection, or control of any such money or other property, or in protecting or administering the same. Such taxes and expenses shall be paid out of the money or other property against which such taxes are assessed or in respect of which such expenses are incurred, or (if such money or other property is insufficient) out of any other money or property held for the same person, notwithstanding the fact that a claim may have been filed or suit instituted under this Act [said sections]. No claim shall be filed with the Alien Property Custodian or allowed by him or by the President of the United States, nor shall any suit be instituted or maintained against the Alien Property Custodian or the Treasurer of the United States, or the United States, under any provisions of law, by any person who was an enemy or ally of enemy as defined in the Trading with the Enemy Act, as amended [said sections], and no allowance of any such claim now pending shall be made, nor judgment entered in any such suit heretofore or hereafter instituted, for the recovery of any deduction or deductions, heretofore or hereafter made by the Alien Property Custodian from money or properties, or income therefrom, held by him or by the Treasurer of the United States hereunder, for the general or administrative expenses of the office of the Alien Property Custodian, which deduction or deductions on the collection of any income do not exceed the sum of two per centum of such income or which on the return of any moneys or properties or income therefrom, do not exceed the sum of two per centum of the aggregate value thereof at the time or times as nearly as may be, of such deduction or deductions, or, for the recovery of any deduction or deductions heretofore or hereafter made by the Alien Property Custodian from money or properties or income therefrom held by him or by the Treasurer of the United States hereunder, for any and all necessary expenses incurred and actually disbursed by the Alien Property Custodian or by any depositary for him in securing the possession, collection or control of any such money or properties or income therefrom, or in protecting or administering the same, as said general or administrative and other expenses and said aggregate value of returned money or properties or income therefrom have been heretofore or shall be hereafter determined by said Alien Property Custodian.

(b) In the case of income, war-profits, excess-profits, or estate taxes imposed by any Act of Congress, the amount thereof shall, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, be computed in the same manner (except as hereinafter in this section provided) as though the money or other property had not been seized by or paid to the Alien Property Custodian, and shall be paid, as far as practicable, in accordance with subsection (a) of this section. Pending final determination of the tax liability the Alien Property Custodian is authorized to return, in accordance with the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], money or other property in any trust in such amounts as may be determined, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, to be consistent with the prompt payment of the full amount of the internal-revenue taxes. Notwithstanding the expiration of any period of limitation provided by law, credit or refund of any income, war-profits, or excess-profits tax erroneously or illegally assessed or collected may be made or allowed if claim therefor was filed with the Commissioner of Internal Revenue by the Alien Property Custodian on or before February 15, 1933.

(c) So much of the net income of a taxpayer for the taxable year 1917, or any succeeding taxable year, as represents the gain derived from the sale or exchange by the Alien Property Custodian of any property conveyed, transferred, assigned, delivered, or paid to him, or seized by him, may at the option of the taxpayer be segregated from the net income and separately taxed at the rate of 30 per centum. This subsection shall be applied and the amount of net income to be so segregated shall be determined, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, as nearly as may be in the same manner as provided in section 208 of the Revenue Act of 1926 (relating to capital net gains), but without regard to the period for which the property was held by the Alien Property Custodian before its sale or exchange, and whether or not the taxpayer is an individual.

(d) Any property sold or exchanged by the Alien Property Custodian (whether before or after the date of the enactment of the Settlement of War Claims Act of 1928) shall be considered as having been compulsorily or involuntarily converted, within the meaning of the income, excess-profits, and war-profits tax laws and regulations; and the provisions of such laws and regulations relating to such a conversion shall (under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury) apply in the case of the proceeds of such sale or exchange. For the purpose of determining whether the proceeds of such conversion have been expended within such time as will entitle the taxpayer to the benefits of such laws and regulations relating to such a conversion, the date of the return of the proceeds to the person entitled thereto shall be considered as the date of the conversion.

(e) In case of any internal-revenue tax imposed in respect of property conveyed, transferred, as-

signed, delivered, or paid to the Alien Property Custodian, or seized by him, and imposed in respect of any period (in the taxable year 1917 or any succeeding taxable year) during which such property was held by him or by the Treasurer of the United States, no interest or civil penalty shall be assessed upon, collected from, or paid by or on behalf of, the taxpayer; nor shall any interest be credited or paid to the taxpayer in respect of any credit or refund allowed or made in respect of such tax.

(f) The benefits of subsections (c)—(e) of this section shall be extended to the taxpayer if claim therefor is filed before the expiration of the period of limitations properly applicable thereto, or before the expiration of six months after the date of the enactment of the Settlement of War Claims Act of 1928, whichever date is the later. The benefits of subsection (d) of this section shall also be extended to the taxpayer if claim therefor is filed before the expiration of six months after the return of the proceeds. (Oct. 6, 1917, ch. 106, § 24, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516, and amended Mar. 10, 1928, ch. 167, § 18, 45 Stat. 276, 277; Mar. 28, 1934, ch. 102, title I, § 1, 48 Stat. 510; June 18, 1934, ch. 567, 48 Stat. 978.)

REFERENCES IN TEXT

Revenue Act Feb. 26, 1926, ch. 27, § 208, referred to in subsection (c), has been substantially reenacted as section 117 of Title 26, Internal Revenue Code 1939 and subchapter P of chapter 1 of Title 26, Internal Revenue Code 1954.

AMENDMENTS

1934—Subsec. (a). Act Mar. 28, 1934, added the provisions relating to recovery by enemies of deductions made by the Alien Property Custodian for administrative expenses.

Subsec. (b). Act June 18, 1934, provided that credit or refund of income or war profits erroneously collected might be allowed if the claim was filed on or before Feb. 15, 1933.

1928—subsecs. (b)—(f). Act Mar. 10, 1928, added subsecs. (b)—(f).

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SIMILAR PROVISIONS

A provision similar to subdivision (a) of this section was contained in the sundry civil appropriation act for the fiscal year 1919, act July 1, 1918, ch. 113, § 1, 40 Stat. 646.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

For act Mar. 10, 1928, referred to in the text, providing for the settlement of certain claims, see note under section 9 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment of Office of Alien Property Custodian during World War II, see note under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 23, 25 to 39, 41 to 44 of this Appendix.

§ 25. Investments by Custodian in participating certificates issued by Secretary of Treasury; transfers to and payments from German, Austrian or Hungarian special deposit accounts; allocation of payments.

(a) (1) The Alien Property Custodian is authorized and directed to invest, from time to time upon the request of the Secretary of the Treasury, out of the funds held by the Alien Property Custodian or by the Treasurer of the United States for the Alien Property Custodian, an amount not to exceed $40,000,000 in the aggregate, in one or more participating certificates issued by the Secretary of the Treasury in accordance with the provisions of this section.

(2) When in the case of any trust written consent under subsection (m) of section 9 [section 9 (m) of this Appendix] has been filed, an amount equal to the portion of such trust the return of which is temporarily postponed under such subsection shall be credited against the investment made under paragraph (1) of this subsection. If the total amount so credited is in excess of the amount invested under paragraph (1) of this subsection, the excess shall be invested by the Alien Property Custodian in accordance with the provisions of this subsection, without regard to the $40,000,000 limitation in paragraph (1) of this subsection. If the amount invested under paragraph (1) of this subsection is in excess of the total amount so credited, such excess shall, from time to time on request of the Alien Property Custodian, be paid to him out of the funds in the German special deposit account created by section 4 of the Settlement of War Claims Act of 1928, and such payments shall have priority over any payments therefrom other than the payments under paragraph (1) of subsection (c) of such section (relating to expenses of administration).

(b) The Alien Property Custodian is authorized and directed to invest, in one or more participating certificates issued by the Secretary of the Treasury, out of the unallocated interest fund, as defined in section 28 [section 28 of this Appendix]—

(1) The sum of $25,000,000. If, after the allocation under section 26 [section 26 of this Appendix] has been made, the amount of the unallocated interest fund allocated to the trust described in subsection (c) of such section is found to be in excess of $25,000,000, such excess shall be invested by the Alien Property Custodian in accordance with the provisions of this subsection. If the amount so allocated is found to be less than $25,000,000 any participating certificate or certificates that have been issued shall be corrected accordingly; and

(2) The balance of such unallocated interest fund remaining after the investment provided for in paragraph (1) [of this subsection] and the payment of allocated earnings in accordance with the provisions of subsection (b) of section 26 [section 26 (b) of this Appendix] have been made.

(c) If the amount of such unallocated interest fund, remaining after the investment required by paragraph (1) of subsection (b) of this section has been made, is insufficient to pay the allocated earnings in accordance with subsection (b) of section 26 [section 26 (b) of this Appendix], then the amount necessary to make up the deficiency shall be paid out of the funds in the German special deposit account created by section 4 of the Settlement of War Claims Act of 1928, and such payment shall have priority over any payments therefrom other than the payments under paragraph (1) of subsection

(c) of such section (relating to expenses of administration) and the payments under paragraph (2) of subsection (a) of this section.

(d) The Alien Property Custodian is authorized and directed (after the payment of debts under section 9 [section 9 of this Appendix]) to transfer to the Secretary of the Treasury, for deposit in such special deposit account, all money and the proceeds of all property, including all income, dividends, interest, annuities, and earnings accumulated in respect thereof, owned by the German Government or any member of the former ruling family. All money and other property shall be held to be owned by the German Government (1) if no claim thereto has been filed with the Alien Property Custodian prior to the expiration of three years from the date of the enactment of the Settlement of War Claims Act of 1928, or (2) if any claim has been filed before the expiration of such period (whether before or after the enactment of such Act), then if the ownership thereof under any such claim is not established by a decision of the Alien Property Custodian or by suit in court instituted, under section 9 [section 9 of this Appendix], within one year after the decision of the Alien Property Custodian, or after the date of the enactment of the Settlement of War Claims Act of 1928, whichever date is later. The amounts so transferred under this subsection shall be credited upon the final payment due the United States from the German Government on account of the awards of the Mixed Claims Commission.

(e) The Secretary of the Treasury is authorized and directed to issue to the Alien Property Custodian, upon such terms and conditions and under such regulations as the Secretary of the Treasury may prescribe, one or more participating certificates, bearing interest payable annually (as nearly as may be) at the rate of 5 per centum per annum, as evidence of the investment by the Alien Property Custodian under subsection (a) of this section, and one or more non-interest bearing participating certificates, as evidence of the investment by the Alien Property Custodian under subsection (b) of this section. All such certificates shall evidence a participating interest, in accordance with, and subject to the priorities of, the provisions of section 4 of the Settlement of War Claims Act of 1928, in the funds in the German special deposit account created by such section, except that—

(1) The United States shall assume no liability, directly or indirectly, for the payment of any such certificates, or of the interest thereon, except out of funds in such special deposit account available therefor, and all such certificates shall so state on their face; and

(2) Such certificates shall not be transferable, except that the Alien Property Custodian may transfer any such participating certificate evidencing the interest of a substantial number of the owners of the money invested, to a trustee duly appointed by such owners.

(f) Any amount of principal or interest paid to the Alien Property Custodian in accordance with the provisions of subsection (c) of section 4 of the Settlement of War Claims Act of 1928 shall be allocated pro rata among the persons filing written consents under subsection (m) of section 9 of this Act [section 9 (m) of this Appendix], and the amounts so allocated shall be paid to such persons. If any person to whom any amount is payable under this subsection has died (or if, in the case of a partnership, association, or other unincorporated body of individuals, or a corporation, its existence has terminated), payment shall be made to the persons determined by the Alien Property Custodian to be entitled thereto.

(g) The Alien Property Custodian is authorized and directed (after the payment of debts under section 9 [section 9 of this Appendix]) to transfer to the Secretary of the Treasury, for deposit in the special deposit account (Austrian or Hungarian, as the case may be), created by section 7 of the Settlement of War Claims Act of 1928, all money and the proceeds of all property, including all income, dividends, interest, annuities, and earnings accumulated in respect thereof, owned by the Austrian Government or any corporation all the stock of which was owned by or on behalf of the Austrian Government (including the property of the Imperial Royal Tobacco Monopoly, also known under the name of K. K. Oesterreichische Tabak Regie), or owned by the Hungarian Government or by any corporation all the stock of which was owned by or on behalf of the Hungarian Government. (Oct. 6, 1917, ch. 106, § 25, as added Mar. 10, 1928, ch. 167, § 10, 45 Stat. 268, and amended Feb. 21, 1929, ch. 291, 45 Stat. 1255; Mar. 10, 1930, ch. 75, § 2, 46 Stat. 84.)

AMENDMENTS

1930—Subsec. (d)(1). Joint Res. Mar. 10, 1930, substituted "three years" for "two years."

1929—Subsec. (d)(1). Act Feb. 21, 1929, substituted "two years" for "one year".

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

For act Mar. 10, 1928, referred to in the text, providing for the settlement of certain claims, see note under section 9 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment of Office of Alien Property Custodian during World War II, see note under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 24, 26 to 39, 41 to 44 of this Appendix.

§ 26. Allocation of "unallocated interest fund."

(a) The Alien Property Custodian shall allocate among the various trusts the funds in the "unallocated interest fund" (as defined in section 28 [section 28 of this Appendix]). Such allocation shall be based upon the earnings (determined by the Secretary of the Treasury) on the total amounts deposited under section 12 [section 12 of this Appendix].

(b) The Alien Property Custodian, when the allocation has been made, is authorized and directed to pay to each person entitled, in accordance with

a final decision of a court of the United States or of the District of Columbia, or of an opinion of the Attorney General, to the distribution of any portion of such unallocated interest fund, the amount allocated to his trust, except as provided in subsection (c) of this section.

(c) In the case of persons entitled, under paragraphs (12) to (14), or (16) of subsection (b) of section 9 [section 9(b) (12 to 14), or (16) of this Appendix], to such return, and in the case of persons who would be entitled to such return thereunder if all such money or property had not been returned under paragraph (9) or (10) of such subsection [section 9 (b) (9) or (10) of this Appendix], and in the case of persons entitled to such return under subsection (n) of section 9 [section 9 (n) of this Appendix], an amount equal to the aggregate amount allocated to their trusts shall be credited against the sum of $25,000,000 invested in participating certificates under paragraph (1) of subsection (b) of section 25 [section 25 (b) (1) of this Appendix]. If the aggregate amount so allocated is in excess of $25,000,000, an amount equal to the excess shall be invested in the same manner. Upon the repayment of any of the amounts so invested, under the provisions of section 4 of the Settlement of War Claims Act of 1928, the amount so repaid shall be distributed pro rata among such persons, notwithstanding any receipts or releases given by them.

(d) The unallocated interest fund shall be available for carrying out the provisions of this section, including the expenses of making the allocation. (Oct. 6, 1917, ch. 106, § 26, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 273, and amended June 11, 1929, ch. 14, 46 Stat. 6.)

AMENDMENTS

1929—Subsec. (a). Act June 11, 1929, struck out the words "average rate of" in the second sentence preceding the word "earnings."

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

For act Mar. 10, 1928, referred to in the text, providing for settlement of certain claims, see note under section 9 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 25, 27 to 39, 41 to 44 of this Appendix.

§ 27. Return by Custodian, to United States, of payments under licenses, assignments or sales of patents.

The Alien Property Custodian is authorized and directed to return to the United States any consideration paid to him by the United States under any license, assignment, or sale by the Alien Property Custodian to the United States of any patent (or any right therein or claim thereto, and including an application therefor and any patent issued pursuant to any such application). (Oct. 6, 1917, ch. 106, § 27, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 274.)

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

CROSS REFERENCES

Enemy's rights under patents, see section 10 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 26, 28 to 39, 41 to 44 of this Appendix.

§ 28. "Unallocated interest fund," defined.

As used in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], the term "unallocated interest fund" means the sum of (1) the earnings and profits accumulated prior to March 4, 1923, and attributable to investments and reinvestments under section 12 [section 12 of this Appendix] by the Secretary of the Treasury, plus (2) the earnings and profits accumulated on or after March 4, 1923, in respect of the earnings and profits referred to in clause (1) of this section. (Oct. 6, 1917, ch. 106, § 28, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 274.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 27, 29 to 39, 41 to 44 of this Appendix.

§ 29. Waiver by Custodian of demand for property: acceptance of less amount; approval of Attorney General.

(a) Where the Alien Property Custodian has made demand or requirement for the conveyance, transfer, assignment, delivery, or payment to him of any money or other property of any enemy or ally of enemy (whether or not suit or proceeding for the enforcement thereof has been begun and whether or not any judgment or decree in respect thereof has been made or entered) and where the whole or any part of such money or other property would, if conveyed, transferred, assigned, delivered, or paid to him, be returnable under any provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], the Alien Property Custodian may, in his discretion, and on such terms and conditions as he may prescribe, waive such demand or requirement, or accept in full satisfaction of such demand, requirement, judgment, or decree, a less amount than that demanded or required by him.

(b) The Alien Property Custodian shall not make any such waiver or compromise except with the approval of the Attorney General; nor (if any part of such money or property would be returnable only upon the filing of the written consent required by subsection (m) of section 9 [section 9 (m) of this Appendix]) unless, after compliance with the terms and conditions of such waiver or compromise, the Alien Property Custodian or the Treasurer of the

United States will hold (in respect of such enemy or ally of enemy) for investment as provided in section 25 [section 25 of this Appendix], an amount equal to 20 per centum of the sum of (1) the value of the money or other property held by the Alien Property Custodian or the Treasurer of the United States at the time of such waiver or compromise, plus (2) the value of the money or other property to which the Alien Property Custodian would be entitled under such demand or requirement if the waiver or compromise had not been made.

(c) Where the Alien Property Custodian has made demand or requirement for the conveyance, transfer, assignment, delivery, or payment to him of any money or other property of any enemy or ally of enemy (whether or not suit or proceeding for the enforcement thereof has been begun and whether or not any judgment or decree in respect thereof has been made or entered) and where the interest or right of such enemy or ally of enemy in such money or property has not, prior to the enactment of the Settlement of War Claims Act of 1928, vested in enjoyment, the Alien Property Custodian may, in his discretion, and on such terms and conditions as he may prescribe, waive such demand and requirement, without compliance with the requirements of subsection (b) of this section, but only with the approval of the Attorney General.

(d) Nothing in this section shall be construed as requiring the Alien Property Custodian to make any waiver or compromise authorized by this section, and the Alien Property Custodian may proceed in respect of any demand or requirement referred to in subsection (a) or (c) of this section as if this section had not been enacted.

(e) All money or other property received by the Alien Property Custodian as a result of any action or proceeding (whether begun before or after the enactment of the Settlement of War Claims Act of 1928, and whether or not for the enforcement of a demand or requirement as above specified) shall for the purposes of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] be considered as forming a part of the trust in respect of which such action or proceeding was brought, and shall be subject to return in the same manner and upon the same conditions as any other money or property in such trust, except as otherwise provided in subsection (b) of this section. (Oct. 6, 1917, ch. 106, § 29, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 274.)

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

For act Mar. 10, 1928, referred to in the text, providing for the settlement of certain claims, see note under section 9 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 28, 30 to 39, 41 to 44 of this Appendix.

§ 30. Attachment or garnishment of funds or property held by Custodian.

Any money or other property returnable under subsection (b) or (n) of section 9 [section 9 (b) or (n) of this Appendix] shall, at any time prior to such return, be subject to attachment in accordance with the provisions of the code of law for the District of Columbia, as amended, relating to attachments in suits at law and to attachments for the enforcement of judgments at law and decrees in equity, but any writ of attachment or garnishment issuing in any such suit, or for the enforcement of any judgment or decree, shall be served only upon the Alien Property Custodian, who shall for the purposes of this section be considered as holding credits in favor of the person entitled to such return to the extent of the value of the money or other property so returnable. Nothing in this section shall be construed as authorizing the taking of actual possession, by any officer of any court, of any money or other property held by the Alien Property Custodian or by the Treasurer of the United States. (Oct. 6, 1917, ch. 106, § 30, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 275.)

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 29, 31 to 39, 41 to 44 of this Appendix.

§ 31. "Member of former ruling family," defined.

As used in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], the term "member of the former ruling family" means (1) any person who was at any time between April 6, 1917, and July 2, 1921, the German Emperor or the ruler of any constituent kingdom of the German Empire, or (2) the wife or any child of such person. (Oct. 6, 1917, ch. 106, § 31, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 275.)

CROSS REFERENCES

Definitions generally, see section 2 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 30, 32 to 39, 41 to 44 of this Appendix.

§ 32. Return of property.

(a) Conditions precedent.

The President, or such officer or agency as he may designate, may return any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, whenever the President or such officer or agency shall determine—

(1) That the person who has filed a notice of claim for return, in such form as the President or such officer or agency may prescribe, was the owner of such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian, or is the legal representative

(whether or not appointed by a court in the United States), or successor in interest by inheritance, devise, bequest, or operation of law, of such owner; and

(2) That such owner, and legal representative or successor in interest, if any, are not—

(A) the Government of Germany, Japan, Bulgaria, Hungary, or Rumania; or

(B) a corporation or association organized under the laws of such nation: *Provided,* That any property or interest or proceeds which, but for the provisions of this subdivision, might be returned under this section to any such corporation or association, may be returned to the owner or owners of all the stock of such corporation or of all the proprietary and beneficial interest in such association, if their ownership of such stock or proprietary and beneficial interest existed immediately prior to vesting in or transfer to the Alien Property Custodian and continuously thereafter to the date of such return (without regard to purported divestments or limitations of such ownership by any government referred to in subdivision (A) of this subsection) and if such ownership was by one or more citizens of the United States or by one or more corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia: *Provided further,* That such owner or owners shall succeed to those obligations limited in aggregate amount to the value of such property or interest or proceeds, which are lawfully assertible against the corporation or association by persons not ineligible to receive a return under this section; or

(C) an individual voluntarily resident at any time since December 7, 1941, within the territory of such nation, other than a citizen of the United States or a diplomatic or Consular officer of Italy or of any nation with which the United States has not at any time since December 7, 1941, been at war: *Provided,* That an individual who, while in the territory of a nation with which the United States has at any time since December 7, 1941, been at war, was deprived of life or substantially deprived of liberty pursuant to any law, decree, or regulation of such nation discriminating against political, racial, or religious groups, shall not be deemed to have voluntarily resided in such territory; or

(D) an individual who was at any time after December 7, 1941, a citizen or subject of Germany, Japan, Bulgaria, Hungary, or Rumania, and who on or after December 7, 1941, and prior to the date of the enactment of this section [March 8, 1946], was present (other than in the service of the United States) in the territory of such nation or in any territory occupied by the military or naval forces thereof or engaged in any business in any such territory: *Provided,* That notwithstanding the provisions of this subdivision return may be made to an individual who, as a consequence of any law, decree, or regulation of the nation of which he was then a citizen or subject, discriminating against political, racial, or religious groups, has at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated, enjoyed full rights of citizenship under the law of such nation: *And provided further,* That, notwithstanding the provisions of subdivision (C) of this subsection and of this subdivision, return may be made to an individual who at all times since December 7, 1941, was a citizen of the United States, or to an individual who, having lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country, reacquired such citizenship prior to September 29, 1950, if such individual would have been a citizen of the United States at all times since December 7, 1941, but for such marriage: *And provided further,* That the aggregate book value of returns made pursuant to the foregoing proviso shall not exceed $9,000,000; and any return under such proviso may be made if the book value of any such return, taken together with the aggregate book value of returns already made under such proviso does not exceed $9,000,000; and for the purposes of this proviso the term "book value" means the value, as of the time of vesting, entered on the books of the Alien Property Custodian for the purpose of accounting for the property or interest involved; or

(E) a foreign corporation or association which at any time after December 7, 1941, was controlled or 50 per centum or more of the stock of which was owned by any person or persons ineligible to receive a return under subdivisions (A)—(C) or (D) of this subsection: *Provided,* That notwithstanding the provisions of this subdivision, return may be made to a corporation or association so controlled or owned, if such corporation or association was organized under the laws of a nation any of whose territory was occupied by the military or naval forces of any nation with which the United States has at any time since December 7, 1941, been at war, and if such control or ownership arose after March 1, 1938, as an incident to such occupation and was terminated prior to the enactment of this section [March 8, 1946];

and

(3) that the property or interest claimed, or the net proceeds of which are claimed, was not at any time after September 1, 1939, held or used, by or with the assent of the person who was the owner thereof immediately prior to vesting in or transfer to the Alien Property Custodian, pursuant to any arrangement to conceal any property or interest within the United States of any person ineligible to receive a return under subsection (a) (2) of this section;

(4) that the Alien Property Custodian has no actual or potential liability under the Renegotiation Act or the Act of October 31, 1942 (56 Stat. 1013; 35 U.S.C. §§ 89 to 96), in respect of the property or interest or proceeds to be returned and that the claimant and his predecessor in interest, if any, have no actual or potential liability of any kind under the Renegotiation Act or the said Act

of October 31, 1942; or in the alternative that the claimant has provided security or undertakings adequate to assure satisfaction of all such liabilities or that property or interest or proceeds to be retained by the Alien Property Custodian are adequate therefor; and

(5) that such return is in the interest of the United States.

(b) Extension of filing time limitation for redetermination of excessive profits.

Notwithstanding the limitation prescribed in the Renegotiation Act upon the time within which petitions may be filed in The Tax Court of the United States, any person to whom any property or interest or proceeds are returned hereunder shall, for a period of ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) following return, have the right to file such a petition for a redetermination in respect of any final order of the Renegotiation Board determining excessive profits, made against the Alien Property Custodian, or of any determination, not embodied in an agreement, of excessive profits, so made by or on behalf of a Secretary.

(c) Inventions.

Any person to whom any invention, whether patented or unpatented, or any right or interest therein is returned hereunder shall be bound by any notice or order issued or agreement made pursuant to the Act of October 31, 1942 (56 Stat. 1013; 35 U. S. C. §§ 89 to 96), in respect of such invention or right or interest, and such person to whom a licensor's interest is returned shall have all rights assertible by a licensor pursuant to section 2 of the said Act.

(d) Rights and duties.

Except as otherwise provided herein, and except to the extent that the President or such officer or agency as he may designate may otherwise determine, any person to whom return is made hereunder shall have all rights, privileges, and obligations in respect to the property or interest returned or the proceeds of which are returned which would have existed if the property or interest had not vested in the Alien Property Custodian, but no cause of action shall accrue to such person in respect of any deduction or retention of any part of the property or interest or proceeds by the Alien Property Custodian for the purpose of paying taxes, costs, or expenses in connection with such property or interest or proceeds: *Provided,* That except as provided in subsections (b) and (c) of this section no person to whom a return is made pursuant to this section, nor the successor in interest of such person, shall acquire or have any claim or right of action against the United States or any department, establishment or agency thereof, or corporation owned thereby, or against any person authorized or licensed by the United States, founded upon the retention, sale, or other disposition, or use, during the period it was vested in the Alien Property Custodian, of the returned property, interest, or proceeds. Any notice to the Alien Property Custodian in respect of any property or interest or proceeds shall constitute notice to the person to whom such property or interest or proceeds is returned and such person shall succeed to all burdens and obligations in respect of such property or interest or proceeds which accrued during the time of retention by the Alien Property Custodian, but the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations to the assertion of any rights by such person in respect of such property or interest or proceeds.

(e) Legal proceeding unaffected.

No return hereunder shall bar the prosecution of any suit at law or in equity against a person to whom return has been made, to establish any right, title, or interest, which may exist or which may have existed at the time of vesting, in or to the property or interest returned, but no such suit may be prosecuted by any person ineligible to receive a return under subsection (a) (2) of this section. With respect to any such suit, the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations.

(f) Notice of intention.

At least thirty days before making any return to any person other than a resident of the United States or a corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, the President or such officer or agency as he may designate shall publish in the Federal Register a notice of intention to make such return, specifying therein the person to whom return is to be made and the place where the property or interest or proceeds to be returned are located. Publication of a notice of intention to return shall confer no right of action upon any person to compel the return of any such property or interest or proceeds, and such notice of intention to return may be revoked by appropriate notice in the Federal Register. After publication of such notice of intention and prior to revocation thereof, the property or interest or proceeds specified shall be subject to attachment at the suit of any citizen or resident of the United States or any corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, in the same manner as property of the person to whom return is to be made: *Provided,* That notice of any writ of attachment which may issue prior to return shall be served upon the Alien Property Custodian. Any such attachment proceeding shall be subject to the provisions of law relating to limitation of actions applicable to actions at law in the jurisdiction in which such proceeding is brought, but the period during which the property or interest or proceeds were vested in the Alien Property Custodian shall not be included for the purpose of determining the period of limitation. No officer of any court shall take actual possession, without the consent of the Alien Property Custodian, of any property or interest or proceeds so attached, and publication of a notice of revocation of intention to return shall invalidate any attachment with respect to the specified property or interest or proceeds, but if there is no such revocation, the President

or such officer or agency as he may designate shall accord full effect to any such attachment in returning any such property or interest or proceeds.

(g) Payment of expenses of Custodian.

Without limitation by or upon any other existing provision of law with respect to the payment of expenses by the Alien Property Custodian, the Custodian may retain or recover from any property or interest or proceeds returned pursuant to this section or section 9 (a) of this Act [section 9 (a) of this Appendix] an amount not exceeding that expended or incurred by him for the conservation, preservation, or maintenance of such property or interest or proceeds, or other property or interest or proceeds returned to the same person.

(h) Designation of successor organizations to receive heirless property; time for application; payment of funds: time, allocation, claims barred by acceptance and conditions.

The President may designate one or more organizations as successors in interest to deceased persons who, if alive, would be eligible to receive returns under the provisos of subdivision (C) or (D) of subsection (a) (2) thereof. In the case of any organization not so designated before the date of enactment of this amendment, such organization may be so designated only if it applies for such designation within three months after such date of enactment.

The President, or such officer as he may designate, shall, before the expiration of the one-year period which begins on the date of enactment of this amendment, pay out of the War Claims Fund to organizations designated before or after the date of enactment of this amendment pursuant to this subsection the sum of $500,000. If there is more than one such designated organization, such sum shall be allocated among such organizations in the proportions in which the proceeds of heirless property were distributed, pursuant to agreements to which the United States was a party, by the Intergovernmental Committee for Refugees and successor organizations thereto. Acceptance of payment pursuant to this subsection by any such organization shall constitute a full and complete discharge of all claims filed by such organization pursuant to this section, as it existed before the date of enactment of this amendment.

No payment may be made to any organization designated under this section unless it has given firm and responsible assurances approved by the President that (1) the payment will be used on the basis of need in the rehabilitation and settlement of persons in the United States who suffered substantial deprivation of liberty or failed to enjoy the full rights of citizenship within the meaning of subdivisions (C) and (D) of subsection (a) (2) of this section; (2) it will make to the President, with a copy to be furnished to the Congress, such reports (including a detailed annual report on the use of the payment made to it) and permit such examination of its books as the President, or such officer or agency as he may designate, may from time to time require; and (3) it will not use any part of such payment for legal fees, salaries, or other administrative expenses connected with the filing of claims for such payment or for the recovery of any property or interest under this section.

As used in this subsection, "organization" means only a nonprofit charitable corporation incorporated on or before January 1, 1950, under the laws of any State of the United States or of the District of Columbia with the power to sue and be sued. (Oct. 6, 1917, ch. 106, § 32 as added Dec. 18, 1941, ch. 593, title III, § 304, as added Mar. 8, 1946, ch. 83, § 1, 60 Stat. 50 and amended Aug. 8, 1946, ch. 878, § 2, 60 Stat. 930; Aug. 5, 1947, ch. 499, § 2, 61 Stat. 784; Sept. 29, 1950, ch. 1108, § 1, 64 Stat. 1080; Mar. 23, 1951, ch. 15, title II, § 201 (a, b), 65 Stat. 23; June 6, 1952, ch. 372, 66 Stat. 129; Aug. 23, 1954, ch. 830, § 1, 68 Stat. 767; Oct. 22, 1962, Pub. L. 87-846, title II, § 204(a), 76 Stat. 1114.)

REFERENCES IN TEXT

Renegotiation Act, referred to in subsecs. (a) (4) and (b), is classified to section 1191 of this Appendix.

Act of October 31, 1942 (56 Stat. 1013; 35 U. S. C. §§ 89—96) and said act of October 31, 1942, referred to in subsecs. (a) (4) and (c), which related to royalty adjustment during World War II, expired by their own terms.

Section 2 of the said Act, referred to in subsec. (c), has reference to section 2 of Act of October 31, 1942 [former section 90 of Title 35, Patents].

The date of enactment of this amendment, referred to in subsec. (h), refers to Oct. 22, 1962, the date of enactment of Pub. L. 87-846, which amended subsec. (h) of this section.

AMENDMENTS

1962—Subsec. (h). Pub. L. 87-846 permitted application for designation as successor organization to be made within three months after Oct. 22, 1962, required payments in sum of $500,000 to be made from the War Claims Fund before expiration of one year from Oct. 22, 1962, provided for allocation of funds to multiple successor organizations and acceptance of payments as discharge of all claims, and eliminated provisions deeming a successor organization as successor in interest by operation of law, respecting time for making return to such organizations, limiting the return to $3,000,000, requiring filing of notice of claim before expiration of one year from Aug. 23, 1954, for transfer of property to eligible persons, and declaring that filing of notice of claim would not bar payment of debt claims under section 34 of this Appendix.

1954—Subsec. (h). Act Aug. 23, 1954, added subsec. (h).

1952—Subsec. (a) (2) (D). Act June 6, 1952, increased from $5,000,000 to $9,000,000 the limitation on the amount of property which may be returned to nationals.

1950—Subsec. (a) (2) (D). Act Sept. 29, 1950, clarified the authority of the Alien Property Custodian to return vested property to a person who possessed American citizenship at all times since Dec. 7, 1941, despite concurrent enemy citizenship and residence in enemy territory, and authorized the return of vested property to American women who lost their citizenship solely because of marriage, and who have reacquired their citizenship prior to Sept. 29, 1950.

1947—Subsec. (a) (2). Act Aug. 5, 1947, provided that returns shall not be made to any owner, legal representative, or successor in interest, of the Governments of Germany, Japan, Rumania, Bulgaria, or Hungary; or to corporations or associations organized under the laws of such countries; or to an individual voluntarily resident in such countries at any time since Dec. 7, 1941; or to an individual who was at any time after Dec. 7, 1941, a citizen or subject of such country and present in the territory of such nation.

1946—Subsec. (a) (2). Act Aug. 8, 1946, added provisos to subdivs. (C) and (D), respectively.

ABOLISHMENT OF WAR CONTRACTS PRICE ADJUSTMENT BOARD; TRANSFER OF FUNCTIONS

The War Contracts Price Adjustment Board was abolished and all powers, functions, and duties conferred upon

the Board by the Renegotiation Act, section 1191 of this Appendix, except those transferred to the Administrator of General Services, were transferred to the Renegotiation Board by act Mar. 23, 1951, § 201 (a) and (b), set out as section 1231 (a) and (b) of this Appendix.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

PURPOSE OF ACT AUG. 5, 1947

Congress in enacting act Aug. 5, 1947, outlined the purpose of the act as follows:

"Whereas article 79 of the Treaty of Peace with Italy, signed at Paris on February 10, 1947, grants to the Allied and Associated Powers the right to seize and retain 'all property rights and interests which on the coming into force of the present treaty are within its territory and belong to Italy or to Italian nationals, and to apply such property or the proceeds thereof to such purposes as it may desire, within the limits of its claims and those of its nationals against Italy or Italian nationals, including debts, other than claims fully satisfied under other articles of the present treaty' and further provides that 'All Italian property, or the proceeds thereof, in excess of the amount of such claims, shall be returned'; and

"Whereas, pursuant to article 79 of the treaty of peace, negotiations have been entered into between the Governments of the United States and of Italy looking toward an agreement under which, upon the return of property, formerly Italian, in the United States, Italy will place at the disposal of the United States funds to be used in meeting certain claims of nationals of the United States; and

"Whereas, for the purpose of carrying out such agreement, it is desirable to authorize, in accordance with the procedures provided for in section 32 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended [this section], return to Italy or citizens or subjects of Italy, or corporations or associations organized under the laws of Italy, of property vested in or transferred to the United States or its agencies; and

"Whereas, for the purpose of aiding the revival of the Italian economy and establishing it on a self-sustaining basis, it is desirable that there be returned or transferred to Italy those Italian vessels acquired by the United States after December 7, 1941, for use in the war effort and now owned by the United States and vessels of a total tonnage approximately equal to the tonnage of those Italian vessels seized by the United States after September 1, 1939, and lost while being employed in the United States war effort."

RETURN OF ITALIAN PROPERTY

Section 1 of act Aug. 5, 1947, provided: "That the President, or such officer or agency as he may designate, is hereby authorized to return, in accordance with the procedures provided for in section 32 of the Trading With the Enemy Act, as amended [this section], any property or interest, or the net proceeds thereof, which has been, since December 18, 1941, vested in or transferred to any officer or agency of the United States pursuant to the Trading With the Enemy Act, as amended [sections 1—6, 7—39 of this Appendix], and which immediately prior to such vesting or transfer was the property or interest of Italy or a citizen or subject of Italy, or a corporation or association organized under the laws of Italy."

TRANSFER OF VESSELS TO ITALIAN GOVERNMENT

Section 4 of act Aug. 5, 1947, provided: "The President is authorized upon such terms as he deems necessary (a) to transfer to the Government of Italy all vessels which were under Italian registry and flag on September 1, 1939, and were thereafter acquired by the United States and are now owned by the United States; and (b) with respect to any vessel under Italian registry and flag on September 1, 1939, and subsequently seized in United States ports and thereafter lost while being employed in the United States war effort, to transfer to the Government of Italy surplus merchant vessels of the United States of a total tonnage approximately equal to the total tonnage of the Italian vessels lost: *Provided*, That no monetary compensation shall be paid either for the use by the United States or its agencies of former Italian vessels so acquired or seized or for the return or transfer of such vessels or substitute vessels."

CROSS REFERENCES

Administration of President's power and authority by Alien Property Custodian, see note under section 20 of this Appendix.

EX. ORD. NO. 10587. ADMINISTRATION AND DELEGATION OF FUNCTIONS

Ex. Ord. No. 10587, Jan. 13, 1955, 20 F.R. 361, as amended by Ex. Ord. No. 11086, Feb. 26, 1963, 28 F.R. 1833, provided:

SECTION 1. The Jewish Restitution Successor Organization, a charitable membership organization incorporated under the laws of the State of New York, is hereby designated as successor in interest to deceased persons in accordance with and for the purposes of subsection (h) of section 32 of the Trading with the Enemy Act, as added by the Act of August 23, 1954 (68 Stat. 767), and amended by section 204(a) of Public Law 87-846, approved October 22, 1962 (76 Stat. 1114) [subsec. (h) of this section].

SEC. 2. Exclusive of the designation of the Jewish Restitution Successor Organization under section 1 of this Order and the exercise of jurisdiction over the claims referred to in section 3, the Foreign Claims Settlement Commission is hereby delegated and shall carry out the functions provided for in subsection (h) of section 32 of the Trading with the Enemy Act, as amended [subsec. (h) of this section], including the designation or refusal of designation of other organizations under the first sentence of that subsection, the payment of $500,000 out of the War Claims Fund to the designated organization or organizations and all other powers, duties, authority and discretion vested in or conferred upon the President.

SEC. 3. Jurisdiction over the claims filed by the Jewish Restitution Successor Organization with the Attorney General under subsection (h) of section 32 of the Trading with the Enemy Act [subsec. (h) of this section] prior to the amendment thereof by section 204(a) of Public Law 87-846 shall remain with the Attorney General pending the discharge of such claims by that organization's acceptance of payment pursuant to subsection (h), as amended [subsec. (h) of this section] or other discharge of such claims pursuant to law.

JOHN F. KENNEDY

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 31, 33 to 39, 41 to 44 of this Appendix.

§ 33. Same; notice; institution of suits; computation of time.

No return may be made pursuant to section 9 or 32 [section 9 or 32 of this Appendix] unless notice of claim has been filed: (a) in the case of any property or interest acquired by the United States prior to December 18, 1941, by August 9, 1948; or (b) in the case of any property or interest acquired by the United States on or after December 18, 1941, not later than one year from February 9, 1954, or two years from the vesting of the property or interest in respect of which the claim is made, whichever is later. No suit pursuant to section 9 [section 9 of this Appendix] may be instituted after April 30, 1949, or after the expiration of two years from the date of the seizure by or vesting in the Alien Property Custodian, as the case may be, of the property or interest in respect of which relief is sought, whichever is later, but in computing such two years there shall be excluded any period during which there was pending a suit or claim for return pursuant to section 9 or 32(a) hereof [section 9 or 32(a) of this Appendix]. (Oct. 6, 1917, ch. 106, § 33, as added

Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925, and amended Aug. 5, 1947, ch. 499, § 3, 61 Stat. 786; July 1, 1948, ch. 794, 62 Stat. 1218; Feb. 9, 1954, ch. 4, 68 Stat. 7; Aug. 23, 1954, ch. 830, § 2, 68 Stat, 768; Oct. 22, 1962, Pub L. 87-846, title II, § 204(b), 76 Stat. 1115.)

AMENDMENTS

1962—Pub. L. 87-846 eliminated provision for return of property to successor organizations pursuant to section 32(h) of this Appendix if notice of claim was filed before expiration of one year from Aug. 23, 1954.

1954—Act Aug. 23, 1954, inserted, at end of first sentence, the words "except that return may be made to successor organizations designated pursuant to section 32(h) hereof if notice of claim is filed before the expiration of one year from the effective date of this Act."

Act Feb. 9, 1954, substituted "not later than one year from February 9, 1954" for "by April 30, 1949" in first sentence.

1948—Act July 1, 1948, extended the provided time for filing claims under section 9 or 32 of this Appendix.

1947—Act Aug. 5, 1947, provided that notice of certain claims could be filed by Aug. 8, 1948, or that Italian notice of claim could be filed by July 31, 1949.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 32, 34 to 39, 41 to 44 of this Appendix; title 22 section 1631o.

§ 34. Payment of debts.

(a) Claims allowable; defenses.

Any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, shall be equitably applied by the Custodian in accordance with the provisions of this section to the payment of debts owed by the person who owned such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian. No debt claim shall be allowed under this section if it was not due and owing at the time of such vesting or transfer, or if it arose from any action or transactions prohibited by or pursuant to this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and not licensed or otherwise authorized pursuant thereto, or (except in the case of debt claims acquired by the Custodian) if it was at the time of such vesting or transfer due and owing to any person who has since the beginning of the war been convicted of violation of this Act [said sections], as amended, sections 1 to 6 of the Criminal Code, title I of the Act of June 15, 1917 (ch. 30, 40 Stat. 217), as amended; the Act of April 20, 1918 (ch. 59, 40 Stat. 534), as amended; the Act of June 8, 1934 (ch. 327, 52 Stat. 631), as amended; the Act of January 12, 1938 (ch. 2, 52 Stat. 3); title I, Alien Registration Act, 1940 (ch. 439, 54 Stat. 670); the Act of October 17, 1940 ch. 897, 54 Stat. 1201); or the Act of June 25, 1942 (ch. 447, 56 Stat 390. Any defense to the payment of such claims which would have been available to the debtor shall be available to the Custodian, except that the period from and after the beginning of the war shall not be included for the purpose of determining the application of any statute of limitations. Debt claims allowable hereunder shall include only those of citizens of the United States or of the Philippine Islands; those of corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia or the Philippine Islands; those of other natural persons who are and have been since the beginning of the war residents of the United States and who have not during the war been interned or paroled pursuant to the Alien Enemy Act; and those acquired by the Custodian. Legal representatives (whether or not appointed by a court in the United States) or successors in interest by inheritance, devise, bequest, or operation of law or debt claimants, other than persons who would themselves be disqualified hereunder from allowance of a debt claim, shall be eligible for payment to the same extent as their principals or predecessors would have been.

(b) Time limit for filing claims; extension; notice.

The Custodian shall fix a date or dates after which the filing of debt claims in respect of any or all debtors shall be barred, and may extend the time so fixed, and shall give at least sixty days' notice thereof by publication in the Federal Register. In no event shall the time extend beyond the expiration of two years from the date of the last vesting in or transfer to the Custodian of any property or interest of a debtor in respect of whose debts the date is fixed, or from the date of enactment of this section [Aug. 8, 1946], whichever is later. No debt shall be paid prior to the expiration of one hundred and twenty days after publication of the first such notice in respect of the debtor, nor in any event shall any payment of a debt claim be made out of any property or interest or proceeds in respect of which a suit or proceeding pursuant to this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] for return is pending and was instituted prior to the expiration of such one hundred and twenty days.

(c) Examination of claims.

The Custodian shall examine the claims, and such evidence in respect thereof as may be presented to him or as he may introduce into the record, and shall make a determination, with respect to each claim, of allowance or disallowance, in whole or in part.

(d) Funds for debt payments.

Payment of debt claims shall be made only out of such money included in, or received as net proceeds from the sale, use, or other disposition of, any property or interest owned by the debtor immediately prior to its vesting in or transfer to the Alien Property Custodian, as shall remain after deduction of (1) the amount of the expenses of the Office of Alien Property Custodian (including both expenses in connection with such property or interest or proceeds thereof, and such portion as the Custodian shall fix of the other expenses of the Office of Alien Property Custodian), and of taxes, as defined in section 36 hereof [section 36 of this Appendix], paid by the Custodian in respect of such property or interest or proceeds, and (2) such amount, if any, as the Custodian may establish as a cash reserve for the future payment of such expenses and taxes. If the money

available hereunder for the payment of debt claims against the debtor is insufficient for the satisfaction of all claims allowed by the Custodian, ratable payments shall be made in accordance with subsection (g) hereof to the extent permitted by the money available and additional payments shall be made whenever the Custodian shall determine that substantial further money has become available, through liquidation of any such property or interest or otherwise. The Custodian shall not be required through any judgment of any court, levy of execution, or otherwise to sell or liquidate any property or interest vested in or transferred to him, for the purpose of paying or satisfying any debt claim.

(e) Amount payable; disallowance; notice; review; additional evidence; judgment.

If the aggregate of debt claims filed as prescribed does not exceed the money from which, in accordance with subsection (d) of this section, payment may be made, the Custodian shall pay each claim to the extent allowed, and shall serve by registered mail, on each claimant whose claim is disallowed in whole or in part, a notice of such disallowance. Within sixty days after the date of mailing of the Custodian's determination, any debt claimant whose claim has been disallowed in whole or in part may file in the United States District Court for the District of Columbia a complaint for review of such disallowance naming the Custodian as defendant. Such complaint shall be served on the Custodian. The Custodian, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings in the Office of Alien Property Custodian with respect to the claim in question. Upon good cause shown such time may be extended by the court. Such record shall include the claim as filed, such evidence with respect thereto as may have been presented to the Custodian or introduced into the record by him, and the determination of the Custodian with respect thereto, including any findings made by him. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the Custodian, or could not reasonably have been adduced before him or was not available to him. The court shall enter judgment affirming, modifying, or reversing the Custodian's determination, and directing payment in the amount, if any, which it finds due.

(f) Pro rate payments; notice; review; additional evidence; intervention; judgment.

If the aggregate of debt claims filed as prescribed exceeds the money from which, in accordance with subsection (d) hereof, payment may be made, the Custodian shall prepare and serve by registered mail on all claimants a schedule of all debt claims allowed and the proposed payment to each claimant. In preparing such schedule, the Custodian shall assign priorities in accordance with the provisions of subsection (g) hereof. Within sixty days after the date of mailing of such schedule, any claimant considering himself aggrieved may file in the United States District Court for the District of Columbia a complaint for review of such schedule, naming the Custodian as defendant. A copy of such complaint shall be served upon the Custodian and on each claimant named in the schedule. The Custodian, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings in the Office of Alien Property Custodian with respect to such schedule. Upon good cause shown such time may be extended by the court. Such record shall include the claims in question as filed, such evidence with respect thereto as may have been presented to the Custodian or introduced into the record by him, any findings or other determinations made by the Custodian with respect thereto, and the schedule prepared by the Custodian. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the Custodian or could not reasonably have been adduced before him or was not available to him. Any interested debt claimant who has filed a claim with the Custodian pursuant to this section, upon timely application to the court, shall be permitted to intervene in such review proceedings. The court shall enter judgment affirming or modifying the schedule as prepared by the Custodian and directing payment, if any be found due, pursuant to the schedule as affirmed or modified and to the extent of the money from which, in accordance with subsection (d) hereof, payment may be made. Pending the decision of the court on such complaint for review, and pending final determination of any appeal from such decision, payment may be made only to an extent, if any, consistent with the contentions of all claimants for review.

(g) Priority of claims.

Debt claims shall be paid in the following order of priority: (1) Wage and salary claims, not to exceed $600; (2) claims entitled to priority under sections 191 and 193 of Title 31, except as provided in subsection (h) hereof, (3) all other claims for services rendered, for expenses incurred in connection with such services, for rent, for goods and materials delivered to the debtor, and for payments made to the debtor for goods or services not received by the claimant; (4) all other debt claims. No payment shall be made to claimants within a subordinate class unless the money from which, in accordance with subsection (d) hereof, payment may be made permits payment in full of all allowed claims in every prior class.

(h) Priority as debt due United States.

No debt of any kind shall be entitled to priority under any law of the United States or any State, Territory, or possession thereof, or the District of Columbia, solely by reason of becoming a debt due or owing to the United States as a result of its acquisition by the Alien Property Custodian.

(i) Exclusiveness of relief.

The sole relief and remedy available to any person seeking satisfaction of a debt claim out of any property or interest which shall have been vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the proceeds thereof, shall be the relief and remedy provided in this section, and suits for the satisfaction of debt claims shall not be instituted, prosecuted, or further

maintained except in conformity with this section: *Provided*, That no person asserting any interest, right, or title in any property or interest or proceeds acquired by the Alien Property Custodian, shall be barred from proceeding pursuant to this Act [sections 1 to 6, and 7 to 39 and 41 to 44 of this Appendix] for the return thereof, by reason of any proceeding which he may have brought pursuant to this section; nor shall any security interest asserted by the creditor in any such property or interest or proceeds be deemed to have been waived solely by reason of such proceeding. The Alien Property Custodian shall treat all debt claims now filed with him as claims filed pursuant to this section. Nothing contained in this section shall bar any person from the prosecution of any suit at law or in equity against the original debtor or against any other person who may be liable for the payment of any debt for which a claim might have been filed hereunder. No purchaser, lessee, licensee, or other transferee of any property or interest from the Alien Property Custodian shall, solely by reason of such purchase, lease, license, or transfer, become liable for the payment of any debt owed by the person who owned such property or interest prior to its vesting in or transfer to the Alien Property Custodian. Payment to the Alien Property Custodian to any debt claimant shall constitute, to the extent of payment, a discharge of the indebtedness represented by the claim. (Oct. 6, 1917, ch. 106, § 34, as added Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925, and amended June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

REFERENCES IN TEXT

Criminal Code, §§ 1—6, former sections 1—6 of Title 18, referred to in subsec. (a), were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and are covered by sections 953 and 2381—2384 of Title 18, Crimes and Criminal Procedure.

Title I of the act of June 15, 1917, ch. 30, 40 Stat. 217, as amended, former sections 31—38 of this title, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948 and is covered by sections 792—794 and 2388 of Title 18, Crimes and Criminal Procedure.

Act of Apr. 20, 1918, ch. 59, 40 Stat. 534, as amended, former sections 101—106 of this title, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by sections 2151 and 2153—2156 of Title 18, Crimes and Criminal Procedure.

Act of June 8, 1934 (ch. 327, 52 Stat. 631), as amended, referred to in subsec. (a), is classified to sections 611—621 of Title 22, Foreign Relations and Intercourse.

Act Jan. 12, 1938, ch. 2, 52 Stat. 3, former sections 45—45d of this title, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by sections 795—797 of Title 18, Crimes and Criminal Procedure.

Title I, Alien Registration Act, 1940, ch. 439, 54 Stat. 670, former sections 9—13 of Title 18, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by section 2385 of Title 18, Crimes and Criminal Procedure and Fed. Rules Cr. Proc. rule 41 (c), Title 18, Appendix, Crimes and Criminal Procedure.

Act Oct. 17, 1940, ch. 897, 54 Stat. 1201, former sections 14—17 of Title 18, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by section 2386 of Title 18, Crimes and Criminal Procedure.

Act of June 25, 1942 (ch. 447, 56 Stat. 390), referred to in subsec. (a), is classified to sections 781—785 of this Appendix.

Alien Enemy Act, referred to in subsec. (a), is classified to section 21 of this title.

CHANGE OF NAME

Subsecs. (e) and (f) amended by act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, which substituted "United States District Court for the District of Columbia" for "District Court of the United States for the District of Columbia".

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 33, 35 to 39, 41 to 44 of this Appendix.

§ 35. Hearings on claims; rules and regulations; delegation of powers.

The officer or agency empowered to entertain claims under sections 9 (a), 32, and 34 hereof [sections 9 (a), 32 and 34 of this Appendix] shall have power to hold such hearings as may be deemed necessary; to prescribe rules and regulations governing the form and contents of claims, the proof thereof, and all other matters related to proceedings on such claims; and in connection with such proceedings to issue subpenas, administer oaths, and examine witnesses. Such powers, and any other powers conferred upon such officer or agency by sections 9 (a) 32, and 34 hereof [said sections] may be exercised through subordinate officers designated by such officer or agency. (Oct. 6, 1917, ch. 106, § 35, as added Dec. 18, 1941, ch. 593, Title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 34, 36 to 39, 41 to 44 of this Appendix.

§ 36. Taxes.

(a) Liability; exemptions.

The vesting in or transfer to the Alien Property Custodian of any property or interest (other than any property or interest acquired by the United States prior to December 18, 1941), or the receipt by him of any earnings, increment, or proceeds thereof shall not render inapplicable any Federal, State, Territorial, or local tax for any period prior or subsequent to the date of such vesting or transfer, nor render applicable the exemptions provided in title II of the Social Security Act with respect to service performed in the employ of the United States Government or of any instrumentality of the United States.

(b) Payment by Custodian; liability of former owner; enforcement of tax liability; transfer of property.

The Alien Property Custodian shall, notwithstanding the filing of any claim or the institution of any suit under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], pay any tax incident to any such property or interest, or the earnings, increment, or proceeds thereof, at the earliest time appearing to him to be not contrary to the interest of the United States. The former owner shall not be liable for

any such tax accruing while such property, interest, earnings, increment, or proceeds are held by the Alien Property Custodian, unless they are returned pursuant to this Act [said sections] without payment of such tax by the Alien Property Custodian. Every such tax shall be paid by the Alien Property Custodian to the same extent, as nearly as may be deemed practicable, as though the property or interest had not been vested in or transferred to the Alien Property Custodian, and shall be paid only out of the property or interest, or earnings, increment, or proceeds thereof, to which they are incident or out of other property or interests acquired from the same former owner, or earnings, increment, or proceeds thereof. No tax liability may be enforced from any property or interest or the earnings, increment or proceeds thereof while held by the Alien Property Custodian except with his consent. Where any property or interest or the earnings, increment, or pursuant to section 9 (a) or 32 hereof [section 9 (a) or 32 (a) of this Appendix], the Alien Property Custodian may transfer the property or interest free and clear of any tax, except to the extent of any lien for a tax existing and perfected at the date of vesting, and the proceeds of such transfer shall, for tax purposes, replace the property or interest in the hands of the Alien Property Custodian.

(c) Computation; suspension of limitations, etc.

Subject to the provisions of subsection (b) of this section, the manner of computing any Federal taxes, including without limitation by reason of this enumeration, the applicability in such computation of credits, deductions, and exemptions to which the former owner is or would be entitled, and the time and manner of any payment of such taxes and the extent of any compliance by the Custodian with provisions of Federal law and regulations applicable with respect to Federal taxes, shall be in accordance with regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury to effectuate this section. Statutes of limitations on assessment, collection, refund, or credit of Federal taxes shall be suspended, with respect to any vested property or interest, or the earnings, increment or proceeds thereof, while vested and for six months thereafter; but no interest shall be paid upon any refund with respect to any period during which the statute of limitations is so suspended.

(d) Definition.

The word "tax" as used in this section shall include, without limitation by reason of this enumeration, any property, income, excess-profits, war-profits, excise, estate and employment tax, import duty, and special assessment; and also any interest, penalty, additional amount, or addition thereto not arising from any act, omission, neglect, failure, or delay on the part of the Custodian.

(e) Exemptions.

Any tax exemption accorded to the Alien Property Custodian by specific provision of existing law shall not be affected by this section. (Oct. 6, 1917, ch. 106, § 36, as added Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925.)

REFERENCES IN TEXT

Title II of the Social Security Act, referred to in subsec. (a), is classified to subchapter II of chapter 7 of Title 42, The Public Health and Welfare.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 35, 37 to 39, 41 to 44 of this Appendix.

§ 37. Insurance of property.

The Alien Property Custodian may procure insurance in such amounts, and from such insurers, as he believes will adequately protect him against loss in connection with property or interest or proceeds held by him. (Oct. 6, 1917, ch. 106, § 37, as added Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925.)

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 36, 38 to 39, 41 to 44 of this Appendix.

§ 38. Shipment of relief supplies; definitions.

(a) Notwithstanding any other provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], it shall be lawful, at any time after the date of cessation of hostilities with any country with which the United States is at war, for any person in the United States to donate, or otherwise dispose of to, and to transport or deliver to, any person in such country and article or articles (including food, clothing, and medicine) intended to be used solely to relieve human suffering.

(b) As used in this section—

(1) the term "person" means any individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic;

(2) with respect to any country with which the United States was at war on January 1, 1946, the term "date of cessation of hostilities" shall mean the date of enactment of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix];

(3) with respect to any other war the term "date of cessation of hostilities" shall mean the date specified by proclamation of the President or by a concurrent resolution of the two Houses of Congress whichever is the earlier.

(Oct. 6, 1917, ch. 106, § 38, formerly § —, as added May 10, 1946, ch. 260, 60 Stat. 182, numbered Aug. 8, 1946, ch. 878, § 3, 60 Stat. 930.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 37, 39, 41 to 44 of this Appendix.

§ 39. Retention of properties or interests of Germany and Japan and their nationals; compensation; proceeds covered into Treasury; transfer to War Claims Fund; limitation; payments to successor organizations receiving heirless property; reimbursement of Attorney General; deductions for certain administrative expenses; transfer to Federal Republic of Germany.

(a) No property or interest therein of Germany, Japan, or any national of either such country vested in or transferred to any officer or agency of the Government at any time after December 17, 1941, pursuant to the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], shall be returned to former owners thereof or their successors in interest, and the United States shall not pay compensation for any such property or interest therein. The net proceeds remaining upon the completion of administration, liquidation, and disposition pursuant to the provisions of this Act [said sections] of any such property or interest therein shall be covered into the Treasury at the earliest practicable date. Nothing in this section shall be construed to repeal or otherwise affect the operation of the provisions of section 32, 40, 41, 42 or 43 of this Act [section 32, 40, 41, 42 or 43 of this Appendix] or of the Philippine Property Act of 1946.

(b) The Attorney General is authorized and directed, immediately upon the enactment of this subsection, to cover into the Treasury of the United States, for deposit into the War Claims Fund, from property vested in or transferred to him under this Act [sections 1to 6, 7 to 39 and 41 to 44 of this Appendix], such sums, not to exceed $75,000,000 in the aggregate, as may be necessary to satisfy unpaid awards heretofore or hereafter made under the War Claims Act of 1948 [sections 2001—2016 of this Appendix]. There is authorized to be appropriated to the Attorney General such sums as may be necessary to replace the sums deposited by him pursuant to the foregoing sentence. Immediately upon the enactment of this sentence [Oct. 22, 1962], the Attorney General shall cover into the Treasury of the United States, for deposit into the War Claims Fund, from property vested in or transferred to him under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], the sum of $500,000 to make payments authorized under section 32(h) of this Act [section 32(h) of this Appendix].

(c) The Attorney General is authorized and directed, immediately upon the enactment of this subsection, to cover into the Treasury of the United States, for deposit into the War Claims Fund, from property vested in or transferred to him under this Act [sections 2001 to 2016 of this Appendix], such sums, not to exceed $3,750,000 in the aggregate, as may be necessary to satisfy unpaid awards heretofore or hereafter made under the War Claims Act of 1948, as amended [sections 2001 to 2016 of this Appendix]. There is authorized to be appropriated to the Attorney General such sums as may be necessary to replace the sums deposited by him pursuant to this subsection.

(d) The Attorney General is authorized and directed to cover into the Treasury from time to time for deposit in the War Claims Fund such sums from property vested in him or transferred to him under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] as he shall determine in his discretion not to be required to fulfill obligations imposed under this Act [said sections] or any other provision of law, and not to be the subject matter of any judicial action or proceeding. There shall be deducted from each such deposit 5 per centum thereof for expenses incurred by the Foreign Claims Settlement Commission and by the Treasury Department in the administration of title II of the War Claims Act of 1948 [sections 2017 to 2017p of this Appendix]. Such deductions shall be made before any payment is made pursuant to such title [said sections]. All amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(e) Notwithstanding any of the provisions of subsections (a) through (d) of this section, the Attorney General is hereby authorized to transfer the three paintings vested under Vesting Order Numbered 8107, dated January 28, 1947, to the Federal Republic of Germany, to be held in trust for eventual transfer to the Weimar Museum, Weimar, State of Thuringia, Germany, in accord with the terms of an agreement to be made between the United States and the Federal Republic of Germany. (Oct. 6, 1917, ch. 106, § 39, as added July 3, 1948, ch. 826 § 12, 62 Stat. 1246, and amended Aug. 7, 1953, ch. 344, 67 Stat. 461; Sept. 2, 1958, Pub. L. 85-884, 72 Stat. 1708; Oct. 22, 1962, Pub. L. 87-846, title II, §§ 202, 204(c), 76 Stat. 1113, 1115; Oct. 23, 1962, Pub. L. 87-861, § 1, 76 Stat. 1139; Oct. 4, 1966, Pub. L. 89-619, 80 Stat. 871.)

REFERENCES IN TEXT

Philippine Property Act of 1946, referred to in subsec. (a), is classified to subchapter V of chapter 15 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1966—Subsec. (e). Pub. L. 89-619 added subsec. (e).

1962—Subsec. (a). Pub. L. 87-861 provided that nothing in this section shall be construed to repeal or otherwise affect the operation of section 40, 41, 42, or 43 of this Appendix.

Subsec. (b). Pub. L. 87-846, § 204(c), required the Attorney General to cover $500,000 into the Treasury for deposit into the War Claims Fund for payments to successor organizations receiving heirless property.

Subsec. (d). Pub. L. 87-846, § 202, added subsec. (d).

1958—Subsec. (c). Pub. L. 85-884 added subsec. (c).

1953—Act Aug. 7, 1953, designated existing provisions as subsec. (a), and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 38, 41 to 44, 2012, 2012a, 2017p of this Appendix.

§ 40. Intercustodial conflicts involving enemy property; authority of President to conclude; delegation of authority.

The President, or such officer or agency as he may designate, is authorized to conclude and give effect to agreements to further the amicable and expeditious settlement of intercustodial conflicts involving enemy property, subject to the following:

(1) The authority granted in this section shall extend only to agreements with governments with which the United States was not at war in World War II.

(2) Such agreements shall be in accordance with the policy of protecting and making available

for utilization the American and nonenemy interests in such property and further the elimination of enemy interests in such property and the efficient administration and liquidation of enemy property in the United States.

(3) For the purposes of this section, the United States as to any intergovernmental agreements hereafter negotiated shall seek treatment equal to that accorded United States nationals for persons who, although citizens or residents of an enemy country before or during World War II, were deprived of full rights of citizenship or substantially deprived of liberty by laws, decrees, or regulations of such enemy country discriminating against racial, religious, or political groups: *Provided*, That on September 28, 1950, such persons were (1) permanent residents of the United States and (2) had declared their intention to become citizens of the United States in conformity with the provisions of the Nationality Act of 1940, as amended; and that such persons shall have acquired citizenship of the United States prior to the effective date of any intergovernmental agreement hereafter negotiated.

(4) Reimbursement to the United States by other governments pursuant to such agreements shall be administered as vested property: *Provided*, That nothing contained in this section shall hinder, restrict or limit the payment of claims from the War Claims Fund established by section 2012 of this Appendix.

(Sept. 28, 1950, ch. 1094, 64 Stat. 1079.)

REFERENCES IN TEXT

The Nationality Act of 1940, as amended, referred to in subd. (3), (formerly classified to chapter 11 of Title 8, Aliens and Nationality), was repealed by act June 27, 1952, ch. 477, § 403 (a) (42), and is covered by chapter 12 of Title 8.

CODIFICATION

Section was not enacted as part of the Trading With the Enemy Act of 1917, which comprises sections 1—6, 7—39 and 41—44 of this Appendix.

EX. ORD. NO. 10244. AUTHORIZATION OF SECRETARY OF STATE AND ATTORNEY GENERAL TO PERFORM CERTAIN FUNCTIONS

Ex. Ord. No. 10244, May 17, 1951, 16 F. R. 4639, provided:

1. The Secretary of State and the Attorney General are hereby jointly designated as the officers authorized to conclude and give effect to agreements relating to the settlement of intercustodial conflicts involving enemy property made pursuant to the said act of September 28, 1950 [this section], and to exercise all powers incident thereto which are conferred by such act, including, without limitation, the powers to receive, transfer, release or return property, interests therein, or proceeds thereof.

2. It is the policy of this order that the Secretary of State, with the concurrence of the Attorney General, shall perform all functions necessary or appropriate to give effect to any agreement made pursuant to the said act of September 28, 1950 [this section], with relation to the protection of American interests in property outside the United States, and that the Attorney General, with the concurrence of the Secretary of State, shall perform all functions necessary or appropriate to give effect to any such agreement with relation to property subject to the jurisdiction of the United States, and that all other functions relating to the effectuation of any such agreement shall be performed as may be agreed by the Secretary of State and the Attorney General. However, no action taken hereunder by either the Secretary of State or the Attorney General shall be considered to be invalid on the ground that under the provisions of this order such action was within the jurisdiction of the Secretary of State rather than the Attorney General, or vice versa, or that concurrence was not obtained, or that such action was not joint.

3. The Secretary of State and the Attorney General may each delegate to the other or to any other officer, person, or agency within his respective department such of his functions under this order as he may deem necessary.

4. Any money, property, or interest received as reimbursement by the United States by virtue of any agreement made pursuant to the said act of September 28, 1950 [this section], shall be administered and disposed of by the Attorney General as vested property pursuant to the said Trading With the Enemy Act, as amended [sections 1—6, 7—39, and 41—44 of this Appendix]. Any other money, property, or interest received by the Secretary of State or the Attorney General pursuant to any such agreement shall be administered and disposed of pursuant to the provisions of such agreement.

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§ 41. Divestment of estates, trusts, insurance policies, annuities, remainders, pensions, workmen's compensation and veterans' benefits; exceptions; notice of divestment.

(a) Subject to the provisions of subsection (b) hereof [of this section], all rights and interests of individuals in estates, trusts, insurance policies, annuities, remainders, pensions, workmen's compensation and veterans' benefits vested under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] after December 17, 1941, which have not become payable or deliverable to or have not vested in possession in the Attorney General prior to December 31, 1961, are divested: *Provided*, That the provisions of this section shall not affect the right of the Attorney General to retain all such property rights and interests and to collect all income which is payable to or vested in possession in him prior to December 31, 1961.

(b) Nothing contained in this section shall divest or require the divestment of any portion of any such interest the beneficial owner of which is a natural person who has been convicted personally and by name by a court of competent jurisdiction of murder, ill treatment, or deportation for slave labor of prisoners of war, political opponents, hostages, or civilian population in occupied territories, or of murder or ill treatment of military or naval persons, or of plunder or wanton destruction without justified military necessity.

(c) At the earliest practicable time after the effective date of this Act, the Attorney General shall transmit to the lawful owner or custodian of any interest divested by this section written notice of such divestment. (Oct. 6, 1917, ch. 106, § 40, as added Oct. 22, 1962, Pub. L. 87-846, title II, § 205, 76 Stat. 1115.)

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (c), probably means the effective date of Pub. L. 87-846, which was approved Oct. 22, 1962.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 39, 42 to 44 of this Appendix.

§ 42. Claims for proceeds from sale of certain certificates: jurisdiction, limitations; divestment of copyrights: definition of "copyrights," rights of licensees and assignees, reproduction rights of United States, transfer of interests, payment of royalties to Attorney General, suits for infringement.

(a) Notwithstanding any statute of limitation, lapse of time, any prior decision by any court of the United States, or any compromise, release or assign-

ment to the Alien Property Custodian, jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment upon the claims against the United States for the proceeds received by the United States from the sale of the property vested under the provisions of the Trading With the Enemy Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] by vesting order numbered 33 relating to certificate numbers 104 to 121, inclusive, 125, 126, 128 to 134, inclusive, and 137 to 139, inclusive. Proceedings with respect to such claims may be instituted hereunder not later than two years after the date of the enactment of this section [October 22, 1962].

(b) As used in this section the word "copyrights" includes copyrights, claims of copyrights, rights to copyrights, and rights to copyright renewals.

(c) All copyrights vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] subsequent to December 17, 1941, which have not been returned or otherwise disposed of under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], except copyrights vested by vesting orders 128 (7 F.R. 7578), 13111 (14 F.R. 1730), 14349 (15 F.R. 1575), 17366 (16 F.R. 2483), and 17952 (16 F.R. 6162) and copyrights vested with respect to the motion picture listed last in exhibit A of vesting order 11803, as amended (13 F.R. 5167, 15 F.R. 1626), are divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 22, 1962], and the persons entitled thereto shall on that day succeed to the rights, privileges, and obligations arising out of such copyrights, subject, however, to—

(1) the rights of licensees under licenses issued by the Alien Property Custodian or the Attorney General in respect of such copyrights;

(2) the rights of assignees under assignments by the Alien Property Custodian or the Attorney General of interests in such licenses; and

(3) the right retained by the United States to reproduce, for its own use, or exhibit any divested copyrighted motion picture films.

The rights and interests remaining in the Attorney General under licenses issued by him or by the Alien Property Custodian in respect to copyrights divested hereunder are transferred, effective the day of divestment, to the persons entitled to such copyrights: *Provided,* That all unpaid royalties or other income accrued in favor of the Attorney General under such licenses prior to the day of divestment shall be paid by the licensees to the Attorney General.

(d) All rights or interests vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] subsequent to December 17, 1941, arising out of prevesting contracts entered into with respect to copyrights, except—

(1) royalties or other income received by or accrued in favor of the Alien Property Custodian or the Attorney General under such contracts;

(2) rights or interests which have been returned or otherwise disposed of under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; and

(3) rights or interests vested by vesting orders 128 (7 F.R. 7578), 13111 (14 F.R. 1730), 14349 (15 F.R. 1575), and 17366 (16 F.R. 2483),

are divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 22, 1962], and the persons entitled to such rights or interests shall succeed thereto, subject to the right of the Attorney General to collect and receive all unpaid royalties or other income accrued in his favor under such prevesting contracts prior to the day of divestment.

(e) Nothing in this section shall be construed to transfer to a person entitled to a copyright divested hereunder the right of the Attorney General to sue for the infringement of such copyright during the period between (1) the vesting thereof or the vesting of rights and interests in a contract entered into with respect thereto, and (2) the day of divestment. The right to sue for infringement shall remain in the Attorney General. (Oct. 6, 1917, ch. 106, § 41, as added Oct. 22, 1962, Pub. L. 87–846, title II, § 206, 76 Stat. 1115, and amended Aug. 26, 1964, Pub. L. 88–490, 78 Stat. 607.)

AMENDMENTS

1964—Subsec. (a). Pub. L. 88–490 substituted "render judgment upon" for "report to the Congress concerning" and "two years after the date of enactment of this section [October 22, 1962]" for "one year after the date of the enactment of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 39, 41, 43 to 44 of this Appendix.

§ 43. Divestment of trademarks.

(a) Definition.

As used in this section, the word "trademarks" includes trademarks, trade names, and the goodwill of the business to which a trademark or trade name is appurtenant.

(b) Effective date of divestment; rights of licensees; transfer of interests; payment of royalties to Attorney General.

Trademarks vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] subsequent to December 17, 1941, which have not been returned or otherwise disposed of under this Act [said sections], except trademarks vested by vesting orders 284, as amended (7 Fed. Reg. 9754, 9 Fed. Reg. 1038), 2354 (8 Fed. Reg. 14635), 5592 (11 Fed. Reg. 1675), and 18805 (17 Fed. Reg. 4364), are divested as a matter of grace, effective the ninety-first day after the day of enactment of this section [Oct. 23, 1962] and the persons entitled to such trademarks shall on that day succeed to the rights, privileges, and obligations arising therefrom, subject, however, to the rights of licensees under licenses issued by the Alien Property Custodian or the Attorney General in respect to such trademarks. The rights and interests remaining in the Attorney General under licenses issued by him or by the Alien Property Custodian in respect to trademarks divested hereunder are transferred, effective the day of divestment, to the persons entitled to such trademarks: *Provided,* That all unpaid royalties or other income accrued

in favor of the Attorney General under such licenses prior to the day of divestment shall be paid by the licensees to the Attorney General.

(c) Prevesting contracts; exceptions; payment of royalties to Attorney General.

All rights or interests vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] subsequent to December 17, 1941, arising out of prevesting contracts entered into with respect to trademarks, except—

(1) royalties or other income received by or accrued in favor of the Alien Property Custodian or the Attorney General under such contracts;

(2) rights or interests which have been returned or otherwise disposed of under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; and

(3) rights or interests vested by vesting orders 284, as amended (7 Fed. Reg. 9754; 9 Fed. Reg. 1038), 2354 (8 Fed. Reg. 14635), 5592 (11 Fed. Reg. 1675), and 18805 (17 Fed. Reg. 4364),

are divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 23, 1962], and the persons entitled to such rights or interests shall succeed thereto, subject to the right of the Attorney General to collect and receive all unpaid royalties or other income accrued in his favor under such prevesting contracts prior to the day of divestment.

(d) Publication of ownership list in Federal Register; effective date of divestment; succession to ownership of equivalent trademarks.

The Attorney General shall within forty-five days after the date of enactment of this section [Oct. 23, 1962] publish in the Federal Register a list of trademarks which at the date of vesting in the Alien Property Custodian or Attorney General were owned by persons who were resident in or had their sole or primary seat in the area of Germany now in the Soviet Zone of Occupation or in the Soviet sector of Berlin or in German territory under provisional Soviet or Polish administration. Notwithstanding the provisions of subsection (b) of this section, the effective date of divestment of the trademarks so listed and published in the Federal Register shall be the date of publication in the Federal Register by the Secretary of State of a certification identifying the cases in which an equivalent trademark has been registered in the Federal Republic of Germany for a person residing or having its sole or primary seat in the Federal Republic of Germany or in the western sectors of Berlin. In those cases of an equivalent trademark certified by the Secretary of State, the person registered by the Federal Republic of Germany as owner of such equivalent trademark shall succeed to the ownership of the divested trademark in the United States (Oct. 6, 1917, ch. 106, § 42, as added Oct. 23, 1962, Pub. L. 87-861, § 2, 76 Stat. 1139.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 39, 41 to 42, 44 of this Appendix.

§ 44. Motion picture prints, transfer of title.

(a) Prints in custody of Library of Congress; exception.

The Attorney General is authorized and directed to transfer to the Library of Congress the title to all prints of motion pictures now in the custody of the Library, which prints were vested in or transferred to the Alien Property Custodian or the Attorney General pursuant to this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] after December 17, 1941, except prints of motion pictures which are the subject of suits or claims under section 9(a) or section 32 of this Act [section 9(a) or section 32 of this Appendix].

(b) Prints in custody of Attorney General; exception; right of selection by Library of Congress; disposal of unselected prints by Attorney General.

Subject to the right of selection by the Library of Congress, the authorization, direction, and exception contained in subsection (a) hereof [of this section] shall apply with respect to such prints now in the custody of the Attorney General. Prints not selected by the Library of Congress may be disposed of by the Attorney General in any manner he deems appropriate.

(c) Retention, reproduction and disposal of prints by Library of Congress.

With respect to all prints concerning which title is transferred to the Library of Congress pursuant to subsections (a) and (b) hereof [of this section], the Library shall have complete discretion to retain such prints and to reproduce copies thereof, or to dispose of them in any manner it deems appropriate. (Oct. 6, 1917, ch. 106, § 43, as added Oct. 23, 1962, Pub. L. 87-861, § 2, 76 Stat. 1140.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 39, 41 to 42, 44 of this title.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1918

ACT MAR. 8, 1918, CH. 20, 40 STAT. 440

§§ 101 to 165. Omitted.

CODIFICATION

Sections, act Mar. 8, 1918, ch. 20, Arts. I—VI, §§ 100—604, 40 Stat. 440—449, provided civil relief for soldiers and sailors during World War I. Section 124 was added as section 303 of act Mar. 8, 1918, by act Sept. 16, 1940, ch. 720, § 13(c), 54 Stat. 896.

TERMINATION AFTER OCT. 17, 1940

Sections 101—165 of this Appendix were rendered inapplicable to military service performed after Oct. 17, 1940, under Selective Training and Service Act of 1940 and Army Reserve and Retired Personnel Law of 1940, by former section 585 of this Appendix. Some of the sections had previously been made applicable to those 1940 acts by sections 313 and 404 of this Appendix. Present provisions on soldier's and sailor's civil relief are contained in section 501 et seq. of this Appendix.

RELIEF FROM FAILURE TO FILE AFFIDAVIT

Act Sept. 3, 1919, ch. 55, 41 Stat. 282, provided that where default judgments were entered and no affidavits required by section 111 of this Appendix had been filed, the plaintiff, on notice, could file an affidavit stating that persons in default were not in military service at time of entry of default judgment and authorized court to enter an order making the judgment effective as of date of entry.