

§ 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 [sections 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 re-invested 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 depository, or depositaries, of property of an enemy or ally of enemy, any bank, or banks, or trust company, or trust companies, or other suitable depository or depositaries, located and doing business in the United States. The alien property custodian may deposit with such designated depository 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 depository 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 depository 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 re-sell 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 Custodian right to reject bids, and made violations of sale regulations subject to fine or imprisonment as misdemeanors.

TRANSFER OF FUNCTIONS

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

EX. ORD. NO. 6237—A. VESTING CERTAIN POWER AND AUTHORITY IN THE ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 6237—A, eff. 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 to 6, 7 to 39, and 41 to 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.

FRANKLIN D. ROOSEVELT.

EXECUTIVE ORDER NO. 7894

Ex. Ord. No. 7894, eff. May 23, 1938, 3 F.R. 998, 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 Trading with the Enemy Act, as amended.

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

During the present war, in addition to the facts required by section 60105 of title 46, and sections forty-one hundred and ninety-eight,¹ and forty-two hundred¹ of the Revised Statutes, as amended by the Act of June fifteenth, nineteen hundred and seventeen, 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.)

REFERENCES IN TEXT

The amendment by act June 15, 1917, referred to in text, probably means the amendment made by section 4 of title V of act June 15, 1917, ch. 30, 40 Stat. 222.

Section 4198 of the Revised Statutes, referred to in text, which was classified to section 94 of former Title 46, Shipping, was repealed by Pub. L. 103-182, title VI, §690(a)(8), Dec. 8, 1993, 107 Stat. 2223.

Section 4200 of the Revised Statutes, referred to in text, which was classified to section 92 of former Title 46, was repealed by Pub. L. 87-826, §3, Oct. 15, 1962, 76 Stat. 953.

CODIFICATION

In text, "section 60105 of title 46, and sections" substituted for "sections forty-one hundred and ninety-seven," on authority of Pub. L. 109-304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished with such offices to be terminated not later than Dec. 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 offices eliminated were already vested in 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.

§ 14. False manifest; 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

¹ See References in Text note below.