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TO HIS EXCELLENCY

the Right Honourable Baron Tweedsmuir of Elsfield, a Member of His Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of the Royal Victorian Order, Member of the Order of the Companions of Honour.

GOVERNOR GENERAL AND COMMANDER IN CHIEF
OF THE DOMINION OF CANADA

Report, of a Committee of the Privy Council ON MATTERS
OF STATE.

PRESENT

The RIGHT HONOURABLE

W. L. MACKENZIE KING

THE HONOURABLE

T. A. CRERAR

THE RIGHT HONOURABLE

E. LAPOINTE

THE HONOURABLE

P. J. A. CARDIN

W. D. EULER

I. A. MACKENZIE

C. P. POWER

J. L. ILSLEY

J. E. MICHAUD

N. McL. ROGERS

C. D. HOWE

J. G. GARDINER

N. A. McLARTY

J. A. MacKINNON

APPROVED
5 SEPTEMBER 1939

May it please Your Excellency

*Amended by P.C. 2586, 8/9/39.
See P.C. 519, 7/2/40.
Amended by P.C. 1935, 11/5/40
Cancelled " " 3959, 21/8/40*

AT THE GOVERNMENT HOUSE AT OTTAWA

TUESDAY, the 5th day of SEPTEMBER, 1939

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL:

WHEREAS the Acting Secretary of State of Canada, with the concurrence of the Acting Minister of Finance, reports that it is expedient to make Regulations under and by virtue of the power vested in the Governor in Council by the War Measures Act, R.S.C. 1927, Chapter 206, with the view of regulating trading with the enemy and the treatment of enemy property;

NOW, THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Acting Secretary of State, is pleased to make the attached Regulations marked "A" and described as "Regulations respecting Trading with the Enemy, 1939", and they are hereby made and established accordingly.

6th Sept. 1939.

*Two Secretaries of State,
In Presence of Minister of Finance*

Approved

Approved

W. S. D. M. C.

5. ix. 39.

*Canada Gazette
Extra 11-9-39*

*Canada Gazette
16-9-39. P. 795*

"A"

Recommendation getting Secretary of State
September 1939.

His Excellency the Governor General under and by virtue of the power vested in him by the War Measures Act R.S.C. 1927, C. 206, by and with the advice of the King's Privy Council for Canada, is pleased to enact and put into force the following Orders and Regulations under the title of Regulations Respecting Trading with the Enemy, and the same are hereby made and enacted accordingly:-

Regulations Respecting Trading with the Enemy.

1. For the purposes of these Regulations, the following expressions shall be construed so that -

(a) "Person" shall extend to and include persons and bodies of persons, incorporated (wherever incorporated) and unincorporated, such as firms, clubs, companies and municipal authorities, and, as well, trustees, executors and administrators.

(b) "Enemy" shall extend to and include -

(i) any State, or Sovereign of a State, at war with His Majesty,

(ii) any person who resides or carries on business within territory of a State or Sovereign for the time being at war with His Majesty, or who resides or carries on business within territory occupied by a State or Sovereign for the time being at war with His Majesty, and as well a person wherever resident or carrying on business who is an enemy or treated as an enemy and with whom dealing is for the time being prohibited by these Regulations or by statute or proclamation of His Majesty by and with the advice of His Majesty's Privy Council for Canada or by the common law.

(iii) any person acting as agent or otherwise on behalf of an enemy.

(iv) any other person who is declared by the Governor

in Council to be an enemy,

Provided however that the Governor in Council shall have power to declare any person not to be an enemy who would otherwise be considered as such under these Regulations.

The onus of proof shall rest upon the person who claims not to be an enemy within the meaning of these Regulations.

(c) "Enemy subject" extends to and includes a person wherever resident, who is a subject of a State or Sovereign for the time being at war with His Majesty.

(d) "Enemy territory" means any area which is under the sovereignty of, or in the occupation of, a State or Sovereign for the time being at war with His Majesty.

(e) "Securities" shall extend to and include stock, shares, annuities, bonds, debentures, debenture stock or other obligations or rights, whether registered or in bearer form, issued by or on behalf of any government, municipal or other authority, or any corporation or company whether within or without Canada and regardless of the place of registration of such securities or the situs of the certificates representing same.

(f) "Dividends, interest or share of profits" shall extend to and include any dividends, bonus or interest (whether payable within Canada or not) in respect of any shares, stocks, debentures, debenture stock or other obligations of any company, any interest in respect of any loan to a firm or person carrying on business for the purposes of that business, and any profits of such a business, and, where a person is carrying on any business on behalf of an enemy, any sum, which had a state of war not existed, would have been transmissible by a person to the enemy by way of profits from that business, shall be deemed to be a sum which would have been payable and paid to that enemy.

(g) "Commencement of the present war" shall mean, as respects any enemy, the first day on which a state of war existed between His Majesty and the country in which that enemy resides or carries on business.

2. Any person who during the present war trades or attempts to trade or directly or indirectly offers or proposes or agrees to trade, or has since the commencement of the present war traded, attempted or directly or indirectly offered or proposed or agreed, to trade with the enemy within the meaning of these Regulations, shall be guilty of the offence of trading with the enemy.

3. Without restricting the generality of the terms of the immediately preceding Regulation, it is declared that the following set forth matters constitute trading with the enemy within the meaning of these Regulations:-

(1) Entering into any transaction or doing any act which was at the time of such transaction or act prohibited by or under any proclamation issued by His Majesty, for the time being in force, dealing with trading with the enemy, or which at common law or by statute or under any orders or regulations constitutes an offence of trading with the enemy.

(2) Entering into any transaction or doing any act with, to, on behalf of, or for the benefit of, any person (other than a person resident or carrying on business solely within His Majesty's Dominions) after the issue of any proclamation by His Majesty by and with the advice of His Majesty's Privy Council for Canada, declaring that such person, although not resident or carrying on business in enemy territory or in territory in occupation of the enemy, was, by reason of his enemy nationality or enemy associations, a person with whom trading was prohibited, and which transaction or act, if entered into or done with, to, or on behalf of or for the benefit of an enemy would be trading with the enemy.

(3) Dealing or attempting or offering, proposing, or agreeing, whether directly or indirectly, to deal with any money or security for money or other property which is in the hands of the person so dealing, attempting or offering, proposing or agreeing, or over which he has any claim or control, for the purpose of enabling an enemy to obtain money or credit thereon or thereby.

(4) Aiding or abetting any other person, whether or not such person is in Canada, to enter into, negotiate, or complete any transaction or do any act which, if effected or done in Canada by such other person would constitute an offence of trading with the enemy.

(5) Knowingly paying, discharging or satisfying any debt or chose in action to which paragraph (1) of Regulation 4 hereof applies.

(6) The knowingly discharging by any party to the instrument, of any bill of exchange or promissory note to which paragraph (2) of Regulation 4 hereof applies.

(7) Having any commercial, financial or other intercourse or dealings with, or for the benefit of, an enemy.

(8) Doing or attempting to do anything which, under these Regulations, is to be treated as trading with the enemy.

Provided that any transaction or act permitted by or under any proclamation or otherwise or by the Secretary of State or other competent authority shall not be deemed to be trading with the enemy.

4. (1) No person shall by virtue of any assignment of any debt or other chose in action, or delivery of any coupon or other security transferable by delivery, or transfer of any other obligation, made or to be made in his favour by or on behalf of an enemy, whether for valuable consideration or otherwise, have any rights or remedies against the person liable to pay, discharge or satisfy the debt, chose in action, security or obligation, unless he proves that the assignment, delivery or transfer was made by leave of the Secretary of State or was made before the commencement of the present war, and any person who knowingly pays, discharges or satisfies any

debt, or chose in action, to which this paragraph applies, shall be deemed guilty of the offence of trading with the enemy. Provided that this paragraph shall not apply where a license has been duly granted exempting the particular transaction from the provisions of this Regulation or where the person to whom the assignment, delivery or transfer was made, or some person deriving title under him, proves that the transfer, delivery or assignment or some subsequent transfer, delivery or assignment, was made in good faith and for valuable consideration before the publication in the Canada Gazette of these Regulations, nor shall this paragraph apply to any bill of exchange or promissory note.

(2) No person shall by virtue of any transfer of a bill of exchange or promissory note made or to be made in his favour by or on behalf of an enemy, whether for valuable consideration or otherwise, have any rights or remedies against any party to the instrument, unless he proves that the transfer was made before the commencement of the present war, and any party to the instrument who knowingly discharges the instrument shall be deemed to be guilty of the offence of trading with the enemy. Provided that this paragraph shall not apply where a license has been duly granted exempting the particular transaction from the provisions of this paragraph, or where the transferee, or some subsequent holder of the instrument, proves that the transfer, or some subsequent transfer, of the instrument was made in good faith and for valuable consideration, before the publication in the Canada Gazette of these Regulations.

(3) Nothing in this Regulation shall be construed as validating any assignment, delivery or transfer which would be invalid apart from this Regulation or as applying to securities within the meaning of Regulation 5 of these Regulations.

5. (1) No transfer made after the publication of these Regulations in the Canada Gazette (unless upon license duly granted exempting the particular transaction from the provisions

of this paragraph), by or on behalf of an enemy of any securities shall confer in the transferee any rights or remedies in respect thereof and no company or municipal authority or other body by whom the securities were issued or are managed shall, except as hereinafter appears, take any cognizance of or otherwise act upon any notice of such a transfer.

(2) No entry shall hereafter, during the continuance of the present war, be made in any register or branch register or other book kept by any company incorporated by or under the authority of the Parliament of Canada or the legislature of any Province of Canada, whether or not such register or branch register or other book is kept within Canada, or by any other company which has within Canada any register or branch register or other book, of any transfer of any securities therein registered, inscribed or standing in the name of an enemy except by leave of the Secretary of State.

(3) The provisions of this Regulation shall apply to all transfers regardless of the nationality of the transferee, the place of transfer, the location of the certificates or the situs of the registry where such securities may be registered.

(4) No share warrants payable to bearer shall be issued during the continuance of the present war in respect of any shares or stock registered in the name of an enemy.

(5) Any violation of any provision of this Regulation shall be an offence against these Regulations.

6. (1) Purchasing of enemy currency shall be treated as trading with the enemy.

(2) In this Regulation the expression "enemy currency" means any such notes or coins as circulate as currency in any area under the sovereignty of a State or Sovereign with whom His Majesty is at war, not being an area in the occupation of His Majesty or of a Power allied with His Majesty, or any such other

notes or coins as are for the time being declared by an order of the Minister of Finance to be enemy currency.

7. If the Secretary of State is satisfied that there is reasonable ground for suspecting that an offence under any of Regulations 2 to 5 inclusive has been or is about to be committed by any person he may, by written order, authorize a specified person to inspect all books or documents belonging to or under the control of the person named in the order, and to require any person able to give any information with respect to the business or trade of the suspected person, to give that information and if accompanied by a police officer to enter and search any premises used in connection with the business or trade, and to seize any such books or documents as aforesaid.

8. (1) Where it appears to the Secretary of State, -

(a) That one of the partners in a firm was immediately before or at any time since the commencement of the present war a subject of, or resident or carrying on business in, a state for the time being at war with His Majesty; or

(b) That one-third or more of the issued share capital or the directorate of a company immediately before or at any time since the commencement of the present war was held by or on behalf of or consisted of persons who were subjects of, or residents or carrying on business in, a state for the time being at war with His Majesty; or

(c) That a person, firm or company was or is acting as agent for any person, firm or company trading or carrying on business in a state for the time being at war with His Majesty;

the Secretary of State may, if he thinks it expedient for the purpose of satisfying himself that the person, firm or company is not trading with the enemy, by written order given to a person appointed by him authority to inspect all books and documents

belonging to or under the control of the person, firm or company, and to require any person able to give information with respect to the business or trade of that person, firm or company, to give that information.

(2) No action shall be brought or other proceedings commenced by a company, the books and documents of which are liable to inspection under this Regulation, unless notice in writing has previously been given by the company to the Custodian of their intention.

9. Any person who, having custody of any book or document which a person is authorized to inspect under Regulations 7 or 8 hereof, with intent to evade the provisions of this Regulation, destroys, mutilates or defaces any such book or other document or refuses or wilfully neglects to produce it for inspection, and any person who being able to give any information which may be required to be given under said Regulations 7 or 8 refuses or wilfully neglects when required to give that information, shall be guilty of an offence against these Regulations.

10. For the purposes of Regulation 8 hereof any person authorized in that behalf by the Secretary of State may inspect the register of members of a company at any time, and any shares in a company for which share warrants to bearer have been issued shall not be reckoned as part of the issued share capital of the company.

11. Where a person has given any information to a person appointed to inspect the books and documents of a person, firm or company under Regulations 7 or 8 hereof the information so given may be used in evidence against such person in any proceedings relating to offences of trading with the enemy within the meaning of these Regulations, notwithstanding that such information

was given as required by the inspector, in pursuance of his powers under the said Regulations.

12. Where, on the report of an inspector appointed to inspect the books and documents of a person, firm or company under Regulations 7 or 8 hereof, it appears to the Secretary of State that it is expedient that the business should be subject to frequent inspection or constant supervision, the Secretary of State may appoint that inspector or some other person to supervise the business with such powers as the Secretary of State may determine, and any remuneration payable and expenses incurred, whether for the original inspection or the subsequent supervision to such amount as may be fixed by the Secretary of State, shall be paid by the said person, firm or company.

13. (1) Where it appears to the Secretary of State in reference to any person, firm or company -

(a) That an offence against any of these Regulations has been or is likely to be committed in connection with his or its trade or business; or

(b) That the control or management of said trade or business has been or is likely to be so affected by the state of war as to prejudice the effective continuance thereof and that it is in the public interest that the said trade or business should continue to be carried on; or

(c) That it is expedient in the public interest owing to circumstances or considerations arising out of the present war, that a controller or manager of said trade or business should be appointed;

the Secretary of State may apply to the same court as would within the province wherein said person, firm or company carries on said trade or business, have jurisdiction to appoint a receiver under the Winding-Up Act of Canada, for the appointment of a controller of the firm or company, and said Court shall have

power to appoint such a controller, for such time and subject to such conditions and with such powers as the Court thinks fit; and the powers so conferred shall be either those of a receiver and manager or those powers subject to such modifications, restrictions or extensions as the Court thinks fit (including if the Court considers it necessary or expedient for enabling the controller to borrow money, power, after a special application to the Court for that purpose, to create charges on the property of the firm or company in priority to existing charges).

(2) The Court shall have power to direct how and by whom the costs of any proceedings under this Regulation and the remuneration, charges and expenses of the controller shall be borne, and shall have power, if it thinks fit, to charge such costs, charges and expenses on the property of the firm or company in such order of priority, in relation to any existing charges thereon, as it thinks fit.

14. Where the Secretary of State certifies that it appears to him that a company registered within Canada is carrying on business either directly or through an agent, branch, or subsidiary company outside Canada, and that in carrying on such business it has entered into or done acts which if entered into or done within Canada would constitute the offence of trading with the enemy, the Secretary of State may present a petition for the winding-up of the company by the Court under the Winding-Up Act of Canada, and the issue of such a certificate shall be a ground on which the Company may be wound up by the Court, and the certificate shall, for the purposes of the petition, be evidence of the facts therein stated.

15. No company shall during the continuance of the present war without the license of the Secretary of State previously obtained, acquire or attempt to acquire the whole or any part of the undertaking of a person, firm or company the books and documents of which are liable to inspection under Regulations 7 or 8 hereof.

16. Any company which in violation of Regulation 15 hereof acquires or attempts to acquire the whole or any part of the undertaking of a person, firm or company the books and documents of which are liable to inspection under Regulations 7 or 8 hereof shall, without prejudice to any other liability be guilty of an offence against these Regulations.

17. (1) Where it appears to the Secretary of State that the business carried on within Canada by any person, firm or company is, by reason of the enemy nationality or enemy association of that person, firm or company, or of the members of that firm or company or any of them, or otherwise carried on wholly or mainly for the benefit of or under the control of enemy subjects, the Secretary of State shall, unless for any special reason it appears to him inexpedient to do so, make an order either -

(a) prohibiting the person, firm or company from carrying on the business, except for the purposes and subject to the conditions, if any, specified in the order; or

(b) requiring the business to be wound up.

(2) The Secretary of State may at any time revoke or vary any such order, and may, in any case where he has made an order prohibiting or limiting the carrying on of the business, at any time, if he thinks it expedient, substitute for that order an order requiring the business to be wound up.

(3) Where the Secretary of State makes any such order he may at the same time or at any time subsequently appoint a controller to control and supervise the carrying out of the order, and, if the case requires, to conduct the winding up of the business, and in any case where it appears expedient to the Secretary of State, he may, as occasion requires, confer on the controller such powers as are exerciseable by a liquidator in a voluntary winding-up of a Company, including power in the name of the person, firm or company or in his own name and by deed or otherwise to convey or transfer any property, and power to apply to the Court having

jurisdiction in winding-up proceedings under the Winding-Up Act of Canada, or a judge thereof to determine any question arising in the carrying out of the order, or those powers subject to such modifications, restrictions or extensions as the Secretary of State thinks necessary or convenient for the purpose of giving full effect to the order, and the remuneration of and costs, charges and expenses incurred by the controller, and any remuneration payable and costs, charges and expenses incurred in connection with the supervision or inspection of the business, to such amount as may be approved by the Secretary of State, shall be defrayed out of the assets of the business and shall be charged on such assets in priority to any other charges thereof.

(4) The distribution of any sums or other property resulting from the realization of any assets of the business, whether these assets are realized as the result of an order requiring the business to be wound up or as the result of an order prohibiting or limiting the carrying on of the business, shall be subject to the same rules as to preferential payments as are applicable to the distribution of the assets of a company which is being wound up under the Winding-Up Act of Canada, and those assets shall, so far as they are available for discharging unsecured debts, be applied in discharging such debts due to creditors who are not enemies in priority to the unsecured debts due to creditors who are enemies; and any balance, after providing for the discharge of liabilities, shall be distributed amongst the persons interested therein in such manner as the Secretary of State may direct: Provided that any sums or other property which had a state of war not existed would have been payable or transferable under this paragraph to enemies, whether as creditors or otherwise, shall be paid or transferred to the Custodian to be dealt with by him in like manner as money paid to him under these Regulations.

(5) Where there are assets of the business in enemy territory, the controller shall cause an estimate to be prepared of the value of those assets and also of the liabilities of the business to creditors, whether secured or unsecured, in enemy territory, and of the claims of persons in enemy territory to participate in the distribution of any balance available for distribution, and such liabilities and claims shall, for the purposes of this Regulation, be deemed to have been satisfied out of such assets so far as they are capable of bearing them, and the balance (if any) of such liabilities and claims shall alone rank for payment out of the other assets of the business. A certificate by the controller as to the amount of such assets, liabilities, claims and balance, shall be conclusive for the purposes of determining the sums available for discharging the other liabilities and for distribution amongst other persons claiming to be interested in the business: Provided that nothing in this paragraph shall affect the rights of creditors of and other persons interested in the business against the assets of the business in enemy territory.

(6) The Secretary of State may, on application for the purpose being made by a controller appointed under this Regulation, after considering the application and any objection which may be made by any person who appears to him to be interested, grant him a release, and an order of the Secretary of State releasing the controller shall discharge him from all liability in respect of any act done or default made by him in the exercise and performance of his powers and duties as controller, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(7) Where an order under paragraph (1) of this Regulation has been made as respects the business carried on by any person, firm or company, no steps shall be taken for the enforcement of the rights of any creditors of the person, firm or company, nor shall any petition for the winding-up of such company be presented,

nor any resolution for the winding-up of such company be passed, without the consent of the Secretary of State, but the Secretary of State may present a petition for the winding-up of the company by the Court, and the making of an order under this Regulation shall be on a ground on which the company may be wound up by the Court.

(8) The Secretary of State shall from time to time prepare and publish in the Canada Gazette lists of the persons as to whom orders have been made under this Regulation, together with short particulars of such orders, and notice of the making of an order under this Regulation prohibiting or limiting the carrying on of any business, or requiring any business to be wound up, shall likewise be published in the Canada Gazette.

(9) An order under this Regulation shall continue in force notwithstanding the termination of the present war until determined by order of the Secretary of State.

18. If any person contravenes the provisions of any order made under paragraph (1) of Regulation 17 hereof he shall be guilty of an offence punishable and triable in like manner as the offence of trading with the enemy and such of these Regulations as relate to the trial and punishment of that offence shall apply accordingly.

19. Where it appears to the Secretary of State that a contract entered into before or during the war with an enemy or enemy subject or with a person, firm or company in respect of whose business an order shall have been made under Regulation 17 hereof is injurious to the public interest, the Secretary of State may by order cancel or determine such contract either unconditionally or upon such conditions as he may think fit, and thereupon such contract shall be deemed to be cancelled or determined accordingly.

20. The powers of the Secretary of State to appoint inspectors and supervisors under Regulations 7, 8 and 12 hereof includes a power

to appoint an inspector or supervisor of the business carried on by any person, firm or company within Canada for the purpose of ascertaining whether the business is carried on for the benefit of or under the control of enemy subjects, or for the purpose of ascertaining the relations existing, or which before the war existed, between such person, firm or company, or any member of that firm or company, and any such subject; and the Secretary of State may require any inspector, supervisor or controller appointed as aforesaid to furnish him with reports on any matters connected with the business.

21. (1) Where on an application for the registration or incorporation of a company it appears that any subscriber or applicant or any proposed director of the company is an enemy subject, such registration or incorporation may be refused.

(2) No allotment or transfer of any share, stock, debenture, or other security issued by a company made after the publication in the Canada Gazette of these Regulations to or for the benefit of an enemy subject, shall, unless made with the consent of the Secretary of State, confer on the allottee or transferee any rights or remedies in respect thereof, and the company by whom the security was issued shall not take any cognizance of or otherwise act upon any notice of any such transfer except by leave of a court of competent jurisdiction or of the Secretary of State; and any company which contravenes any provision of this paragraph shall be guilty of an offence against these Regulations.

22. Where the right of nominating or appointing a director of a company is vested in any enemy or enemy subject, the right shall not be exerciseable except by leave of the Secretary of State, and any director nominated or appointed in exercise of such right shall, except as aforesaid, cease to hold office as director.

23. (1) The Secretary of State is hereby appointed to receive, hold, preserve and deal with such property, rights and interests as may be paid to or vested in him in pursuance of these Regulations and he is hereafter referred to as "The Custodian".

(2) All moneys payable to the Custodian in pursuance of these Regulations shall be paid to the credit of the Custodian through such officers, banks or persons and in such manner as the Custodian from time to time directs and appoints.

(3) The Custodian may place on deposit with any bank or may, with the approval of the Treasury Board, invest in any securities, approved by the Board, any moneys paid to him, or received by him from property vested in him pursuant to these Regulations, and any interest or dividends received on account of such deposits or investments shall be dealt with in such manner as the Treasury Board may direct.

24. (1) All property, rights and interests in Canada belonging at the commencement of the present war to enemies and whether or not such property, rights and interests have been disclosed to the Custodian as required by these Regulations are hereby vested in and subject to the control of the Custodian.

(2) This Regulation shall be a vesting order and shall confer upon the Custodian all the rights of the original enemy holder, including the power of selling, managing and otherwise dealing with such property, rights and interests as he may in his sole discretion decide.

25. Where during the continuance of the present war any coupon or other security transferable by delivery is presented for payment to any company, municipal authority, or other body or person, and the company, body or person has reason to suspect that it is so presented on behalf of or for the benefit of an enemy, or that since the commencement of the present war it has been held by or for the benefit of an enemy, the company, body or person shall pay the sum due in respect thereof to the Custodian who shall deal with it in

accordance with these and any future Regulations and such a payment shall for all purposes be a good discharge to the company, body or person.

26. (1) Any sum which, had a state of war not existed, would have been payable and paid to or for the benefit of an enemy, by way of dividends, interest or share of profits or debts, and all such sums which shall become payable during the continuance of the present war shall be paid by the person, firm or company by whom it would have been payable to the Custodian, to hold subject to the provisions of these and any future Regulations, and the payment shall be accompanied by such particulars as the Custodian may prescribe or require. Any payment required to be made under this paragraph to the Custodian shall be made,-

(a) within thirty days after the publication of these Regulations in the Canada Gazette, if the sum, had a state of war not existed, would have been paid before such publication; and

(b) in any other case within thirty days after it would have been paid.

And this paragraph (1) of this Regulation shall extend to sums which, had a state of war not existed, would have been payable and paid to enemies -

(a) in respect of interest on securities,

(b) by way of payment of any securities which have become payable on maturity or by being drawn for payment or otherwise.

(2) Where before the publication of these Regulations in the Canada Gazette any such sum has been paid into any account with a bank, or has been paid to any other person in trust for an enemy, the person, firm or company by whom the payment was made shall, within thirty days after the publication of these Regulations as aforesaid, by notice in writing, require the bank or person to pay the sum over to the Custodian to hold as aforesaid, and shall furnish the Custodian with such particulars as aforesaid. The bank or other person shall, within one week after the receipt of the

notice, comply with the requirement and shall be exempt from all liability for having done so.

Provided that in the case of such sums as, had a state of war not existed, would have been payable and paid to enemies (other than sums in respect of the payment of securities issued by a Company) the duty of making payments to the Custodian and of requiring payments to be made to him and of furnishing him with particulars shall rest with the person, firm or company, through whom the payments are made.

(3) Any such person who refuses or fails to make or require the making, as the case may be, of any payment, or to furnish the prescribed particulars, within the time mentioned in this Regulation, shall be guilty of an offence against these Regulations.

27. If, in the case of any person, firm or company whose books and documents are liable to inspection under Regulation 8 hereof, any question arises as to the amount which would have been so payable and paid as provided in the last preceding Regulation, the question shall be determined by the person who may have been or who may be appointed to inspect the books and documents of the person, firm or company, or, on appeal, by the Secretary of State, and if, in the course of determining the question, it appears to the inspector or the Secretary of State, that the person, firm or company has not distributed as dividends, interest or profits the whole of the amount properly available for that purpose the inspector or Secretary of State may ascertain what amount was so available and require the whole of such amount to be so distributed, and, in the case of a company, if such dividends have not been declared, the inspector or the Secretary of State may declare the appropriate dividends, and every such declaration shall be as effective as a declaration to the like effect duly made in accordance with the constitution of the company; provided that where a controller has been appointed under Regulation 13 hereof, this paragraph of this Regulation shall apply as if for reference to the inspector there were substituted

references to the controller.

28. (1) Any person who holds or manages for or on behalf of an enemy any property real or personal (including any rights, whether legal or equitable, in or arising out of property, real or personal), shall, within thirty days after the publication in the Canada Gazette of these Regulations or if the property comes into his possession or under his control after the said publication, then within thirty days after the time when it comes into his possession or under his control, by notice in writing communicate the fact to the Custodian, and shall furnish the Custodian with such particulars in relation thereto as the Custodian may require.

(2) The preceding paragraph shall extend and apply to balances and deposits standing to the credit of enemies at any bank, and to debts which are due, or which, had a state of war not existed, would have been due to enemies, or which shall become due, as if such bank or debtor were a person who held property on behalf of an enemy. All such balances, deposits and debts shall be paid to the Custodian as required by Regulation 26 of these Regulations.

(3) Every company incorporated by or under the authority of the Parliament of Canada or of the legislature of a Province of Canada, and every company which, though not so incorporated, has a share transfer or share registration office in Canada, shall, within thirty days after the publication in the Canada Gazette of these Regulations, by notice in writing communicate to the Custodian full particulars of shares, stock, debentures, and debenture stock and other obligations of the company which are held by or for the benefit of an enemy; and every partner of every firm, one or more partners of which on the commencement of the war became enemies or to which money has been lent for the purpose of the business of the firm by a person who so became an enemy, shall, within thirty days after publication aforesaid of these Regulations, by notice in writing communicate to the Custodian full particulars as to any

share of profits and interest due to such enemies or enemy.

(4) Any such person, bank or company, if he or it refuses or fails to furnish the information and particulars within the time mentioned in this Regulation, shall be guilty of an offence against these Regulations.

29. Where the Custodian is satisfied from returns made to him under Regulation 28 hereof that any securities are held by any person on behalf of an enemy, the Custodian may give notice thereof to the person, firm or company, by or through whom any dividends, interest or bonus in respect of the securities or any sums by way of payment off of the securities are payable, and upon receipt of such notice any dividends, interest or bonus payable in respect of, and any sums by way of payment off of the securities to which the notice relates shall be paid to the Custodian in like manner as if the securities were held by an enemy.

30. (1) Where the Custodian executes a transfer of any shares, stock or securities which are vested in him by these Regulations, the company or other body in which books the shares, stock, or securities are registered shall, upon the receipt of the transfer so executed by the Custodian, and upon being required by him so to do, register the shares, stock, or securities in the name of the Custodian or other transferee, notwithstanding any regulation or stipulation of the company or other body, and notwithstanding that the Custodian is not in possession of the certificate, scrip, or other document of title relating to the shares, stock or securities transferred, but such registration shall be without prejudice to any lien or charge in favour of the company or other body or to any other lien or charge of which the Custodian has notice.

(2) If any question arises as to the existence or amount of any lien or charge the question may, on application being made for the purpose, be determined by any Superior Court of Record or a judgment thereof.

31. (1) The Exchequer Court of Canada or any judge thereof, on the application of the Custodian, or any one acting on his behalf, may vest in the Custodian any property real or personal, (including any rights, whether legal or equitable, in or arising out of any property real or personal), suspected of belonging to or held or managed for or on behalf of an enemy, and may by the order confer on the Custodian such powers of selling, managing and otherwise dealing with property as to the Court or Judge may seem proper.

(2) It shall not be necessary to give any notices of such application to the suspected enemy unless notice or notices shall be ordered by the court or judge before whom the application is made.

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

33. (1) Any moneys required by these Regulations to be paid to the Custodian shall be paid within the time provided for by such Regulations and if no time for such payment is provided all such moneys shall be paid within thirty days from the publication of these Regulations in the Canada Gazette.

(2) All interest payable on any such sums of money shall be paid to the Custodian and any moneys not paid within the time required by these Regulations shall bear interest at the rate of five per cent per annum from the date on which such payment is required by these Regulations.

(3) Where any money is payable or becomes payable to any enemy

by contract, law or custom in other than Canadian currency, it shall be paid to the Custodian in Canadian currency at the rate of exchange equal to the average cable transfer rate prevailing in Canada during the month immediately preceding the commencement of the war.

34. (1) Any payment by or on behalf of a debtor made to the Custodian shall, to the extent of the payment, discharge the debtor from all obligations and liabilities to the creditor or to the Custodian in respect of the debt, and interest shall cease to run against the debtor in favour of the creditor or of the Custodian on the amount so paid from the date of its receipt by the Custodian.

(2) The Custodian shall have power to execute and deliver any document necessary or proper as evidence of such discharge and to deliver up to the person making such payment any note, bond or other evidence of or any security for the debt which may be in the possession of the Custodian.

35. (1) Every person in Canada to whom a debt is owing, at the commencement of the present war or to whom a debt becomes payable during the present war, by an enemy shall within one month after the publication of these Regulations in the Canada Gazette, or within one month after such debt became payable, notify the Custodian of such debt and thereafter from time to time shall within one month of demand by the Custodian furnish such further information and documents in his possession or power, in such form and verified in such manner, as the Custodian shall require.

(2) The claim of any person who fails to comply with any provision of paragraph (1) shall, if the Custodian so orders, be forever barred and extinguished, and such person shall be guilty of an offence under these Regulations.

(3) No person shall bring or take or continue in any Court in Canada any action or other proceeding relating to the payment of an enemy debt unless such person shall have obtained the written consent of the Custodian to take or continue such action.

(4) The notification to the Custodian under paragraph (1) of this Regulation shall not impose upon the Custodian any liability with respect to such debt.

(5) Any person who furnishes any false information with respect to any enemy debt shall be guilty of an offence under these Regulations.

36. The Custodian may, where he considers it advisable to do so, liquidate any enemy property vested in him and shall deal with the proceeds of the liquidation of such property in the same manner as he may deal with moneys paid to him under these Regulations.

37. (1) The property held by the Custodian under these Regulations shall not be liable to be attached or otherwise taken in executions, but the Custodian may upon an order of a Superior Court of Record or a Judge thereof, or of any Court in which judgment has been recovered against an enemy, pay out of the property paid to him in respect of that enemy the whole or any part of any debts due by that enemy and specified in the order.

Provided that before paying any such debt the Custodian shall take into consideration the sufficiency of the property paid to or vested in him in respect of the enemy in question to satisfy that debt and any other claims against the enemy of which notice verified by statutory declaration may have been served upon him.

(2) The receipt of the Custodian or any person duly authorized to sign receipts on his behalf for any sum paid to him under these Regulations shall be a good discharge to the person paying the same as against the person in respect of whom the sum was paid to the Custodian.

38. Any restrictions imposed by statute or Proclamation or Regulations on dealings with enemy property shall continue to apply to property particulars whereof are or are liable to be notified to the Custodian in pursuance of these Regulations, not only during the continuance of the present war, but thereafter until such time as they may be removed by
Order

in Council, either simultaneously as respects all such property or at different times as respects different classes or items of property.

39. "Property, rights and interest" as used in these Regulations shall extend to and include all real and personal property of every description, including debts, credits and accounts.

40. (1) Where any real estate is vested in the Custodian by these Regulations, the Custodian may issue a certificate stating that such property is vested in the Custodian and such certificate shall be registered without charge in the Land Titles Office or registration office in the district in which the land is situate, but failure to register such a certificate shall not release the property from the provisions of these Regulations.

(2) On the registering of such certificate and upon the written request of the Custodian, the property affected thereby shall be transferred to him as "Custodian of Enemy Property".

(3) The interest of all enemies in such property shall be regarded as having been effectively dealt with by any such action on the part of the Custodian whether or not their interests are specifically mentioned therein.

(4) The Custodian shall have full power to sell or otherwise dispose of all such property in accordance with these Regulations.

41. The Custodian shall establish an office or offices for the administration of these Regulations, and such other matters as may be delegated to him, and there shall be attached to the said office such officers, clerks and advisers as the Custodian may select, and there shall be paid to such officers, clerks and advisers such remuneration as the Custodian may determine.

42. The Custodian's Office shall be deemed to be a Department of the Government of Canada, and the Custodian the head of such Department, for the purposes of the Canada Evidence Act.

43. The Custodian shall not be liable for any tax, assessment, mortgage, lien, charge, call, rent, interest or payment upon or in respect of any property, right or interest vested in him.

44. No property, right or interest vested in the Custodian shall be forfeited for default in doing any act or making any payment in respect thereof, or attached, seized or taken under any legal process or any distress, or foreclosed or sold under any mortgage, lien, pledge or charge, or sold for any tax or assessment.

45. The Custodian may at any time, at his discretion and by such notice, conveyance, transfer or release as he may think proper, relinquish any property, right or interest or the proceeds of the liquidation of any property, right or interest.

46. The Custodian may dispose of any property, right or interest at such time and place and to such person or persons and upon such terms and in such manner, whether publicly or privately, as he in his discretion shall think proper.

47. All periods of prescription or limitations of right of action, whether they began to run before or after the commencement of the present war, shall be treated in Canada, so far as regards relations between enemies, as having been suspended during the war.

48. Every document purporting to be an order, certificate or other instrument issued by the Custodian and signed by him or any other person authorized by the Custodian, shall without further proof, unless the contrary is shown, be deemed for all purposes, including its receipt in evidence, to be such order, certificate or other instrument.

49. Any power or duty conferred or imposed by these Regulations upon the Secretary of State and or Custodian may be delegated by him to such person or persons as he may think proper.

50. (1) The Custodian may order the reporting of any claim against enemies, not otherwise provided for by these Regulations and shall if he so orders cause a record to be kept of all such claims.

(2) Any person who furnishes any false information with respect

to any claim reported under paragraph (1) hereof shall be guilty of an offence under these Regulations.

51. The Custodian shall have power to charge such fees in respect of his duties under these Regulations, whether by way of percentage or otherwise as the Treasury Board may fix, and such fees shall be collected and accounted for by such persons in such manner and shall be paid to such account as the Treasury Board direct, and the incidence of the fees as between capital and income shall be determined by the Custodian.

52. (1) It shall be the duty of every enemy subject who is within Canada, if so required by the Custodian, within one month after being so required, to furnish the Custodian with such particulars as to -

- (a) Any stocks, shares, debentures, or other securities issued by any company, government, municipal or other authority held by him or in which he is interested; and
- (b) Any other property of the value of two hundred dollars or upwards belonging to him or in which he is interested as the Custodian may require.

(2) Any such person who refuses or fails to furnish such particulars within the time mentioned, if required, shall be guilty of an offence against these Regulations.

53. If the benefit of an application made by or on behalf of or for the benefit of an enemy or enemy subject for any patent is by a certificate of the Custodian declared to have been vested by these Regulations in the Custodian, the patent may be granted to the Custodian as patentee and may, notwithstanding anything in any statute to the contrary, be sealed accordingly.

54. (1) Where in exercise of the powers conferred on him under these Regulations, the Custodian proposes to sell any shares or stock forming part of the capital of any company or any securities issued by the company which are vested by these Regulations, the company may, with the consent of the Custodian, purchase the shares, stock, or securities, any law or any regulation of the company to the contrary notwithstanding, and any shares, stock, or securities so purchased may from time to time be reissued by the company.

(2) The transfer on sale by the Custodian of any property shall be conclusive evidence in favour of the purchaser and of the Custodian that the requirements of these Regulations have been complied with.

55. The onus of proof in every instance shall rest upon the person or persons who assert that they, or that the property, rights and interests claimed by them, are not within the provisions of these Regulations.

56. Any person who for the purpose of obtaining any authority or sanction under these regulations or for any other reason, or in giving any information for the purposes of these Regulations or of any orders made thereunder, knowingly or recklessly makes a statement knowing it to be false shall be guilty of an offence under these Regulations.

57. Any person who wilfully obstructs any person in the exercise of any powers conferred on him by or under these Regulations shall be guilty of an offence under these Regulations.

58. Nothing in these Regulations shall be construed as limiting the power of His Majesty by proclamation to prohibit any transaction which is not prohibited by these Regulations.

59. The Judges of the Court to which any jurisdiction is by these Regulations committed may make provision by rules for the practice

and procedure to be adopted for the purpose of the exercise of such jurisdiction.

60. (1) The Custodian shall, in addition to his other duties as defined by these Regulations, keep a record of:-

(a) Debts (including bank balances) due to persons resident or being within Canada, from persons residing or being in enemy countries.

(b) Other property in enemy countries (including securities) belonging to persons residing or being in Canada.

(c) All debts reported to him under Regulation 35 of these Regulations.

(2) Any person desiring to record such claims or property may obtain the necessary forms for that purpose from the Custodian; but the action of the Custodian will be confined to entering upon the record claims of which particulars are supplied to him, and it shall in no way commit the Government of Canada either to responsibility for the correctness of the claim entered or to taking any action on the conclusion of hostilities or otherwise for the recovery of the debtor property in question.

(3) The Custodian shall record claims against enemy Governments in respect of public securities of these Governments held by the claimants but not any other claims against enemy Governments, as distinct from claims against enemy subjects.

(4) The Custodian shall keep a register of all property, whereof returns have been made to him, or which is held by him, under these Regulations, and such register may be inspected by any person who appears to the Custodian to be interested as creditor or otherwise at all reasonable times free of charge.

61. (1) In case of a dispute or question whether any property, right or interest belongs to an enemy or is subject to these Regulations the Custodian or, with the consent of the Custodian, the claimant may proceed in the Exchequer Court of Canada for a declaration as to the ownership thereof or as to whether or not

such property, right or interest is subject to these Regulations.

(2) The consent of the Custodian to proceedings by a claimant shall be in writing and may be subject to such terms and conditions as the Custodian thinks proper.

(3) No mandamus proceeding shall be taken against the Custodian to obtain his consent, nor shall any proceeding by way of petition of right be instituted by any claimant where the Custodian has, under paragraph (1) hereof, refused a consent.

62. No prosecution for an offence under Regulations 2, 3 or 4 of these Regulations shall be instituted except by or with the consent of the Attorney General of Canada; provided that the person charged with such an offence may be arrested and a warrant for his arrest may be issued and executed, and such person may be remanded in custody or on bail notwithstanding that the consent of the Attorney General of Canada to the institution of the prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

63. Where an act or default constitutes an offence both under these Regulations and under any statute, or both under these Regulations and at common law, the offender shall be liable to be prosecuted and punished under either these Regulations, or such statute, or at common law, but he shall not be liable to be punished twice for the same offence.

64. Subject to the provisions of Regulation 62 hereof, any offence declared and any penalty or forfeiture imposed or authorized by these Regulations may in the absence of any provision for a different procedure be prosecuted, recovered, or enforced by summary proceedings and conviction under the provisions of Part XV of the Criminal Code.

65. Any person guilty of the offence of trading, attempting or directly or indirectly offering or proposing or agreeing to trade with the enemy in violation of any of these Regulations shall be liable -

- (a) on summary conviction to imprisonment with or without hard labour, for a term not exceeding twelve months, or to a fine not exceeding two thousand dollars, or to both such imprisonment and such fine, or
- (b) on conviction or indictment to imprisonment for a term not exceeding five years or to a fine not exceeding five thousand dollars, or to both such imprisonment and fine.

And the Court may in any case order that any goods or money in respect of which the offence has been committed shall be forfeited to the Custodian.

66. Any person guilty of an offence under these Regulations shall be liable to a fine not exceeding five hundred dollars or imprisonment with or without hard labour for a term not exceeding six months, or to both such fine and imprisonment.

67. Where a company, incorporated or unincorporated, or other body of persons, has been guilty of an offence or default under these Regulations, and the penalty or punishment provided as respects said offence or default is or includes a fine and whether or not imprisonment, additionally or alternatively, the company or other body shall be liable to the fine only (with any additional fine or fines provided by any of these Regulations with respect to continuing defaults) and every director, manager, secretary, or other officer of such company or body of persons and every partner or member of such unincorporated company or body of persons, who is knowingly a party to the offence or default, shall also be deemed guilty of the offence or default and liable on conviction to the like fine or fines as the company or other body of persons, or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such fine or fines and such imprisonment.

68. (1) In the event of failure by any person to pay to the Custodian any sum payable to him under these Regulations the Custodian may take action in the Exchequer Court of Canada to recover such sum.

(2) Any sum admitted by a debtor or found due by the Exchequer Court of Canada, in any action taken by the Custodian under paragraph (1) hereof, may be certified by the Custodian, and on production to the proper officer of the Exchequer Court of Canada the certificate shall be registered by that officer.

(3) Any certificate registered in the Exchequer Court of Canada as provided in paragraph (2) hereof shall from the date of such registration be of the same force and effect, and all proceedings may be taken thereon, as if the certificate were a judgment obtained in that Court for the recovery of a debt of the amount specified in the certificate and entered upon the date of such registration.

(4) All reasonable costs and charges attendant upon the registration of such certificate shall be recoverable in like manner as if they were part of such judgment.

69. These Regulations may be cited as "Regulations Respecting Trading with the Enemy, 1939".