

January 1943

Alien Property Custodian Tightens Control over Transfer of Property to Persons in Enemy Territory

Dicta Editorial Board

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

Recommended Citation

Alien Property Custodian Tightens Control over Transfer of Property to Persons in Enemy Territory, 20 Dicta 124 (1943).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

Alien Property Custodian Tightens Control over Transfer of Property to Persons in Enemy Territory

Alien Property Custodian Tightens Control Over Transfer of Property to Persons in Enemy Territory

Leo T. Crowley, Alien Property Custodian, has issued a regulation known as General Order No. 20, which prohibits any payment, transfer or distribution of property in the process of administration by a person under judicial supervision or involved in any court or administrative action or proceeding, to or for the benefit of any person in any place under the control of an enemy country.

Executive Order No. 9095, as amended by Executive Order No. 9193, July 6, 1942, authorizes the Alien Property Custodian, under Section 2 (f) thereof, 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 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; and in Section 5, 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.

General Order No. 5, issued on August 3, 1942, requires persons or officers acting under judicial supervision, or in any court or administrative action or proceeding, or in partition, libel, or condemnation, or other similar proceedings, to file with the Alien Property Custodian, Form APC-3 covering the interests of persons in any enemy country or enemy-occupied territory in such proceedings

General Order No. 6, dated August 3, 1942, provides that where, in any court or administrative action or proceeding within the United States, service of process or notice is required to be made upon a person in any enemy country or enemy-occupied territory, a copy of such process or notice shall be sent by registered mail to the Alien Property Custodian.

dian at Washington, D. C. The Alien Property Custodian may within sixty days file a written acceptance of said service or refuse to accept the same, as in his judgment or discretion may be in the interest of the United States.

The purpose of General Order No. 20 is to postpone payment, transfer, or distribution of property in certain court or administrative actions or proceedings in the United States, as above described, until the Alien Property Custodian has made a determination with respect to the action to be taken therein.

To accomplish this purpose General Order No. 20 provides, in effect, that no payment, transfer or distribution of property which is in the process of administration or which is involved in any action or proceeding may be made to or for the benefit of any person within an enemy or enemy-occupied country, unless the Custodian either (1) has consented thereto, or (2) has filed a statement that he does not desire to represent such person, or (3) has appeared in the proceedings on behalf of such person and has been given ninety days prior notice of the proposed payment, transfer or distribution. The Custodian will act in each case as the facts and circumstances of that particular case demand.

Generally, in those cases in which the Custodian determines not to represent such persons, the Custodian will disclaim his interest in any proposed payment, transfer or distribution by filing with the court or agency in which the proceeding is pending a written statement that he has determined not to represent the person to whom distribution is proposed to be made. However, if the procedure and circumstances demand, the Custodian, in lieu of filing such statement, will issue a written consent to the proposed distribution.

The Custodian will also avail himself of the procedure of filing a written consent in those cases where he has appeared in the proceedings and desires to permit distribution prior to the expiration of the ninety-day period provided for.

Upon the issuance of a proper disclaimer in the manner specified in this General Order No. 20, or in those cases where the Custodian has appeared and the written notice of the proposed payment, transfer or distribution has been given to him, and ninety days have expired without the exercise of any power or authority by the Custodian with respect to such property, the proposed payment, transfer or distribution may be effected; provided, however, that such payment is licensed or otherwise authorized by the Secretary of the Treasury pursuant to the provisions of Executive Order No. 8389, as amended.