

Trading with the Enemy Act.

Compensation should be paid to resident enemies and allies of enemy until the issuance of a presidential proclamation to the contrary. As a compensation due individuals resident within territory of an enemy or ally of an enemy full report should be made to Alien Property Custodian.

Dec. 14th, 1917.

Industrial Accident Board,
Helena, Montana.

Gentlemen:

You have requested my opinion upon the question of the application of the "Trading with the Enemy Act" of Congress to the payment of compensation to non-resident alien beneficiaries and to resident aliens.

The following provisions of the "Trading with the Enemy Act," approved Oct. 6, 1917, cover the question which you have presented:

"Sec. 2. That the word 'enemy,' as used herein, shall be deemed to mean, for the purposes of such trading and of this Act—

"(a) Any individual, partnership, or other body of individuals, or 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.

"(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.

"(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 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."

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

"(e) To have any form of business or commercial communication or intercourse with.

"Sec. 3. That 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, *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 the 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.

"Sec. 6. That the President is authorized to appoint, prescribe the duties of, and fix the salary (not to exceed \$5,000 per annum) 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, and to hold, administer, and account for the same under the general direction of the President and as provided in this Act.

"Sec. 7 (a) 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 persons 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, 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.

"(c) 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 obligations 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.

"Sec. 16. That whoever shall willfully violate any of the provisions of this Act 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, 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."

It seems to me that the payment of compensation, either to an injured employee or to a beneficiary or dependent of a deceased employee, would be included within the term "to trade" as it is defined in Section 2 of this Act.

By Sec. 3 (a) it is unlawful to trade with an enemy or an ally of enemy, and Sec. 16 provides a very severe penalty for a violation of any of the provisions of the Act. Sec. 2, for the purposes of the question submitted by you, defines an "enemy" as any individual, resident within the territory of any nation with which the United States is at war, and such other 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*, 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," likewise, an "ally of enemy" is deemed to mean any individual, resident within the territory of any nation which is an ally of a nation with which the United States is at war, and such other 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*, 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."

Thus far the President has issued no proclamation under the authority granted him by this Act respecting enemies and allies of enemy resident within the United States. And, until such a proclamation is issued, compensation should be paid in all cases as before the war, to individuals not residing within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war, or which is an ally of any nation with which the United States is at war.

But, as to compensation due to individuals 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 of the United States and doing business within such territory, you should make a full report under Section 7 (a) of the Act to the alien-property custodian, appointed by the President under Section 6, covering all compensation due and payable out of the Industrial Accident Fund under Plan III of the Workmen's Compensation Act. It will be the duty of the insurance company to make this report in all cases where compensation is payable under plan II and of the employer in all cases where compensation is payable under plan I.

Respectfully,

S. C. FORD,

Attorney General.