

Mr. Marriner

Bank of Canada

Ottawa November 24th, 1939

The Hon. Marriner S. Eccles,
Chairman of the Board of Governors,
Federal Reserve System,
Washington.

Dear Sir,

I am enclosing herewith, for your information, copy of an Order in Council, passed November 22nd and published in the Canada Gazette of that date, containing further amendments to our Foreign Exchange Control Order of September 15th last.

I am,

Dear Sir,

Yours faithfully,

Wenday
D. Gordon
Deputy Governor

EXTRA



THE CANADA GAZETTE LA GAZETTE DU CANADA

OTTAWA, WEDNESDAY, NOVEMBER 22, 1939

ORDER IN COUNCIL

[3799]

AT THE GOVERNMENT HOUSE AT OTTAWA

Wednesday, the 22nd day of November, 1939.

PRESENT:

HIS EXCELLENCY THE GOVERNOR
GENERAL IN COUNCIL:

HIS Excellency the Governor General in Council on the recommendation of the Minister of Finance and under and by virtue of the provisions of the War Measures Act, is pleased to amend the Foreign Exchange Control Order (P.C. 2716 dated September 15, 1939, as amended by P.C. 2852 dated September 25, 1939), and it is hereby further amended as follows:

1. Paragraph (k) of subsection (2) of Section 2 of the said Order is amended by adding thereto the following:

"Any person who was a resident on September 15th, 1939, or at any subsequent time shall thereafter be deemed to be a resident for the purposes of this Order unless the Board makes a finding to the contrary."

2. The following Section is hereby added after Section 18 of the said Order:

"Change of Residence.

18A. Any non-resident becoming a resident subsequent to September 15th, 1939, shall forthwith declare to the Board, in such manner as the Board may determine, all foreign exchange and foreign securities which, or any right, title or interest in or to which, is in the possession, ownership or control of such person at the time of becoming a resident, and in case of doubt the Board may determine, for the purposes of this Order, the time at which such person became a resident."

3. The following Sections are hereby added after Section 19 of the said Order:

"Kinds of Foreign Currency Required for Exports and other Transactions.

19A. The Board may from time to time prescribe the foreign currencies which may or may not be received in connection with exports or other transactions involving foreign exchange, with respect to particular transactions or kinds of transactions, and in any such case it shall be unlawful for any person, except as permitted by the Board, to engage in any such transaction for payment otherwise than in accordance with the ruling of the Board."

"Prepayment of Freight on Exports.

19B. If freight is to be prepaid on any shipment of goods exported from Canada, the exporter of such goods must, unless the Board otherwise provides, pay or agree to pay the cost of such freight to the transportation company concerned, and must charge the same to his customer as follows:

(a) If the goods are being exported for payment in foreign exchange the exporter shall charge his customer with the equivalent of the cost of the freight either in the same foreign currency as the goods were sold or in the foreign currency, if any, in which the freight was paid.

(b) If the goods are being exported for payment in Canadian dollars under a permit from the Board the exporter shall charge his customer with the cost of such freight either in Canadian dollars, in which case payment must be obtained in the same manner as is required for payment for the goods, or in the equivalent amount of foreign exchange."

4. The following Sections are hereby added after Section 21 of the said Order:

"Export of Capital."

21A. (1) Unless the Board otherwise provides, no person shall make an export of capital from Canada except as permitted by the Board.

(2) Without restricting the generality of the expression "export of capital," each of the following shall be considered to be an export of capital, if effected directly or indirectly by any person:

(a) The making of any export shipment from Canada of goods or other property having a fair value in excess of \$100 for which no payment is to be received, or at a price less than the fair value thereof;

(b) The importation of any goods or other property into Canada at a price in foreign exchange greater than the fair value thereof, or the payment to a non-resident for goods or other property imported into Canada of an amount in foreign exchange greater than the fair value thereof;

(c) The sale of any goods or other property for export, or the sale of any goods or other property exported from Canada, in either case on terms which provide for payment more than six months after shipment from Canada, except that where any goods are shipped on consignment within the usual course of the exporter's business it shall be permissible to provide for payment not more than six months after the date of sale of such goods;

(d) Failure to take reasonable steps to collect any debt owing by a non-resident with respect to goods or other property exported or to be exported from Canada, or the granting of an unreasonable extension of time for payment of any such debt;

Provided, however, that this subsection shall not apply with respect to the export or sale of goods or other property, or the collection of any debt resulting therefrom, by a non-resident who has previously paid to a resident an amount not less than the fair value thereof in foreign exchange or, if so permitted by the Board, in Canadian dollars, nor with respect to the export or sale of any goods or other property to the government of the United Kingdom or of any country in the British Empire or to any allied government in the present war.

(3) Without restricting the generality of the expression "export of capital" or the operation of subsection (2), each of the following shall be considered to be an export of capital if effected directly or indirectly by any resident:

(a) The transfer to a non-resident of any property situated abroad or any foreign securities held in Canada or abroad or any claim upon a non-resident, having a fair value in excess of \$100, except for payment of the fair value thereof in foreign exchange not more than six months after the date of the transfer, or, if so authorized by the Board, for payment of the fair value thereof in Canadian dollars not more than six months after the date of the transfer.

(b) The acceptance of payment in Canadian dollars in satisfaction of all or part of any debt owing in foreign exchange to such resident by a non-resident.

(c) The waiver or relinquishment of, or the failure to take reasonable steps to acquire title to, any foreign exchange or foreign securities, or any debt owing by a non-resident in

foreign exchange, or any property situated abroad, or any right, title, or interest in or to any such foreign exchange, foreign securities, debt or property, to which such resident is or may be entitled.

(d) Paying or contracting to pay to a non-resident for any goods or other property situated abroad or in Canada an amount in foreign exchange which is greater than the fair value thereof.

(e) Creating, acknowledging, paying or giving security for a debt in foreign exchange to a non-resident other than a debt for the fair value of goods or other property transferred or of services rendered by such non-resident, or of goods or other property received by such resident for such non-resident.

(4) Notwithstanding any other provisions of this section, it shall not be considered to be an export of capital, unless the Board otherwise provides, to export securities beneficially owned by a non-resident or to transfer to a non-resident securities or other property beneficially owned by such non-resident.

(5) For the purposes of this section the Board shall have full power to determine what constitutes the fair value of any goods or other property exported, transferred, received or imported by a resident company or branch to or from any non-resident parent, subsidiary, affiliated or associated company or branch.

(6) A licence, permit or exemption granted by or on behalf of the Board with relation to any property, whether or not the value or the purported value of such property is stated therein, shall not be deemed to constitute any acknowledgment by the Board or other evidence of the fair value of such property nor to authorize any action which would be in contravention of the foregoing provisions of this section, unless the contrary is clearly apparent from the terms of the licence, permit or exemption or is expressly stated by the Board.

(7) The Board may, by regulation, further define what shall or shall not constitute an export of capital, provided that no such regulation shall be retroactive in effect.

(8) Nothing in this section shall be construed so as to authorize any transaction which is rendered unlawful under any other section of this Order or which requires any licence, permit or other authorization granted by or on behalf of the Board."

"Export of Services"

21B. (1) No person shall perform services in Canada for a non-resident, and no resident shall perform services outside Canada for a non-resident, otherwise than for payment in foreign exchange of not less than the fair value thereof, unless exempted by the Board.

(2) Subsection (1) shall apply only with respect to services designated by the Board, and in such circumstances as the Board may prescribe."

5. Section 39 of the said Order is amended by adding thereto, as subsection (3), the following:

"(3) Where any person is charged with an offence under the provisions of this Order it shall not be necessary for the prosecuting authority to establish that the person so charged did not possess a licence or permit issued by or on behalf of the Board or had not been exempted from the relative provisions of this Order, and if the person so charged pleads or alleges that

he had any such licence or permit or had been so exempted, the burden of proof thereof shall be on the person so charged."

6. Subsection (1) of Section 40 of the said Order is amended by adding after the words "summary conviction" where they appear therein the words "or on indictment."

7. Section 45 of the said Order is amended by adding thereto, as subsection (2), the following:

"(2) Every person having power to administer oaths or receive affidavits or statutory declarations for any purpose shall have similar power in any matter concerning this Order, and every Inspector appointed by the Board and any other person specifically designated by the Board or by any member of the Board shall have power to administer oaths and receive affidavits and statutory declarations."

8. Section 46 of the said Order is amended by adding thereto, as subsection (2), the following:

"(2) Every provincial and municipal law enforcement officer, in addition to any other authority which he may possess for the enforcement of the provisions of this Order, shall have the same power and authority as is conferred upon certain officers and employees of the Dominion Government in subsection (1) of this section."

H. W. LOTHROP,
Asst. Clerk of the Privy Council.

GOVERNMENT NOTICE

REGULATIONS OF THE FOREIGN EXCHANGE CONTROL BOARD

CERTIFIED extract from the Minutes of a Meeting of the Foreign Exchange Control Board held at Ottawa on the 22nd day of November, 1939.

ON motion duly made and seconded the following Regulations numbered 40 to 42 inclusive were passed and enacted:

40. For the period from the coming into force of this regulation up to and including the 31st day of December, 1939, no export licence will be required for the export of gifts in the form of goods or currency to a value not exceeding \$25 for each such export.

41. No person shall make any export to a country outside the British Empire for payment in sterling or in the currency of any British Empire country except by special permission of the Board.

42. After the 30th day of November, 1939, section 19 (2) of the Order shall apply with respect to sales for export entered into prior to the date on which the Order came into force in the same manner and to the same extent as in the case of sales for export entered into subsequent to the date on which the Order came into force.

Certified to be a true copy.

D. GORDON,
Chairman (Alternate).

OTTAWA: Printed by Joseph Oscar Patenaude, I.S.O., Printer to the King's Most Excellent Majesty.

EXTRA



THE CANADA GAZETTE LA GAZETTE DU CANADA

OTTAWA, FRIDAY, SEPTEMBER 15, 1939

PROCLAMATION

TWEEDSMUIR
[L.S.]

CANADA

GEORGE THE SIXTH, by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas KING, Defender of the Faith, Emperor of India.

To ALL To WHOM these Presents shall come or whom the same may in anywise concern,

GREETING:

A PROCLAMATION

W. STUART EDWARDS, WHEREAS in and Deputy Minister of Justice, Canada by Section Six of an Act of the Parliament of Canada, assented to on the fifth day of July in the year of Our Lord one thousand nine hundred and thirty-five, and intituled "An Act respecting the establishment of an Exchange Fund," being Chapter Sixty of the Statutes of Canada 1935, it is provided that the said Section of the said Act shall come into force on a day to be fixed by proclamation of Our Governor in Council.

AND WHEREAS it is expedient that the said Section of the said Act should come into force and have effect upon, from and after the sixteenth day of September in the year of Our Lord one thousand nine hundred and thirty-nine.

Now KNOW YE that We by and with the advice of Our Privy Council for Canada do by this Our Proclamation declare and direct that the said Section of the said Act shall come into force and have effect upon, from and after the sixteenth day of September in the year of Our Lord one thousand nine hundred and thirty-nine.

OF ALL WHICH Our Loving Subjects and all others whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed. WITNESS: Our Right Trusty and Well-beloved John, Baron Tweedsmuir of Elsfield, a Member of Our

Most Honourable Privy Council, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of Our Royal Victorian Order, Member of Our Order of the Companions of Honour, Governor General and Commander-in-Chief of Our Dominion of Canada.

AT OUR GOVERNMENT HOUSE, in Our City of Ottawa, this fifteenth day of September, in the year of Our Lord one thousand nine hundred and thirty-nine and in the Third year of Our Reign.

By Command,
E. H. COLEMAN,
Under-Secretary of State.

ORDER IN COUNCIL

[2716]

AT THE GOVERNMENT HOUSE AT OTTAWA
Friday the 15th day of September, 1939.

PRESENT:
HIS EXCELLENCY THE GOVERNOR
GENERAL IN COUNCIL

HIS Excellency the Governor General in Council, on the recommendation of the Minister of Finance and under and by virtue of the provisions of the War Measures Act, Chapter 206 of the Revised Statutes of Canada, 1927, is pleased to make the Order and Regulations attached hereto under the title of The Foreign Exchange Control Order and they are hereby made and established accordingly.

H. W. LOTHROP,
Assistant Clerk of the Privy Council.

FOREIGN EXCHANGE CONTROL ORDER AND REGULATIONS

ORDER

1. These provisions may be cited as the Foreign Exchange Control Order.

2. In this Order, unless the context otherwise requires,

(a) "Authorized dealer" means an authorized dealer in foreign exchange appointed by or under the authority of this Order, and when

- used with reference to any applicant or declarant means the authorized dealer designated in his application or declaration and being the authorized dealer or one of the authorized dealers with whom such applicant or declarant ordinarily does business;
- (b) "Board" means the Foreign Exchange Control Board established by this Order;
- (c) "Canadian currency" includes bank notes, postal notes, money orders, travellers' cheques, letters of credit, bank drafts and other similar instruments payable in Canadian dollars;
- (d) "Canadian securities" means securities issued by any Canadian Government, municipal or other authority or by any society, company or corporation whose head office is in Canada, excluding any securities which are payable, or any dividends or interest on which are payable, or the principal amount of which is expressed, otherwise than exclusively in Canadian dollars.
- (e) "Foreign currency" means any currency other than Canadian currency;
- (f) "Foreign exchange" includes any foreign currency and any bank balance or other deposit, bill of exchange, cheque, draft, letter of credit or other similar credit instrument, or to pay or promise to pay, which is payable in any foreign currency whether absolutely or conditionally or optionally or otherwise;
- (g) "Foreign securities" means securities issued by or on behalf of any government, municipal or other authority outside Canada or by any society, company or corporation whose head office is outside Canada, and any securities which are not payable, or any dividends or interest on which are not payable, or the principal amount of which is not expressed, exclusively in Canadian dollars.
- (h) "Minister" means the Minister of Finance.
- (i) "Non-resident" means any person other than a resident and for the purposes of this Order a branch or agency outside Canada of any resident shall be deemed to be a non-resident and a separate entity from such resident.
- (j) "Person" includes persons and bodies of persons, firms, corporations, associations, municipal authorities and all other entities of a kind or class known to the law in any part of Canada, including both residents and non-residents whether within Canada or outside Canada, and including His Majesty whether in right of Canada or in right of any Province or otherwise.
- (k) "Resident" means any person ordinarily resident in Canada, but excluding any branch or agency outside Canada of any resident and the Board shall have full power to determine who is or shall be deemed to be a resident for the purposes of this Order.
- (l) "Securities" includes stock, shares, bonds, debentures, debenture stock and other obligations and rights, whether registered or in bearer form, issued by or on behalf of any government, municipal or other authority, society, company or corporation whether within or without Canada and regardless of the place of registration (if any) of such securities or the situs of any certificates or other instruments representing the same.
3. This Order shall come into force on the sixteenth day of September, one thousand nine hundred and thirty-nine.

PART I

CONSTITUTION, MANAGEMENT AND POWERS OF THE FOREIGN EXCHANGE CONTROL BOARD

4. (1) There shall be and is hereby established a Board, under the name of the Foreign Exchange Control Board, which shall consist of five members holding office during pleasure of the Minister. The first members of the Board shall be, Graham Ford Towers, Governor of the Bank of Canada, William Clifford Clark, Deputy Minister of Finance, Hugh Day Scully, Commissioner of Customs, Department of National Revenue, Leolyn Dana Wilgress, Director of Commercial Intelligence Service, Department of Trade and Commerce, and Norman Alexander Robertson, First Secretary, Department of External Affairs. Each member may at any time and from time to time appoint an alternate to act in his place and stead. The Minister may replace any member and fill any vacancy that may arise.

(2) All letters and other mailable matter addressed to or sent by the Board and passing between any office of the Board and any place in Canada shall be free of Canada postage.

5. The Board shall have the powers, rights, privileges, duties and responsibilities in this Order expressly or by implication contained.

6. (1) There shall be a Chairman and Deputy Chairman of the Board to be selected by the members of the Board from among their number.

(2) The Board shall hold meetings at such time and place as the Chairman may decide, or as the Minister may require.

(3) The Minutes of any meeting of the Board or any certified copy thereof, or extract therefrom, signed by the Chairman or Deputy Chairman, shall be conclusive evidence of any transaction or decision therein recorded.

7. Upon the request of the Board the Minister may appoint advisors to assist the Board.

8. (1) The Bank of Canada is hereby appointed technical advisor to the Board and an authorized dealer under this Order, and by agreement with the Board is authorized to act as Agent or banker for the Board and to deal in foreign exchange and otherwise assist or act on behalf of the Board.

(2) The Board may appoint agents for such purposes as the Board may determine.

(3) Anything done on behalf of the Board by any agent or servant of the Board within the scope of his authority shall for the purpose of this Order be of the same force and effect as if done by the Board.

9. At the request of the Board the Governor in Council may transfer any member of the Civil Service Canada or any other servant of His Majesty in right of Canada to assist or serve the Board as the Board may determine, and any person so transferred shall not thereby lose any of his rights or privileges.

10. The Board may incur and pay such salaries and expenses as it may deem necessary in the course of carrying out the provisions of this Order.

11. (1) Unless otherwise ordered by the Minister in writing, the powers conferred on the Minister in sections 6 & 7 of the Exchange Fund Act, Chapter 60 of the Statutes of Canada, 1935, may be exercised by the Board, subject, however, to any instructions which the Minister may from time to time give to the Board.

(2) Subject only to the provisions of Section 5 of the Exchange Fund Act, and unless otherwise ordered by the Minister in writing, all moneys in the special account referred to in Section 4 of the

said Act, and investments of such moneys, shall be at the disposal of the Board and may be used or dealt with by the Board as the Board may deem necessary or as the Minister may direct for the purposes of the Exchange Fund Act or of this Order, including the payment of any expenses or losses of the Board and the acquisition or disposition of foreign exchange, and all receipts or profits of the Board shall be placed in the said special account; all transactions affecting the said special account by or on behalf of the Board under this Order shall be and be deemed to be duly authorized under the Exchange Fund Act.

12. The provisions of The Consolidated Revenue and Audit Act, 1931, shall not apply to operations or transactions of the Board. An annual audit of the operations and transactions of the Board shall be made by the Auditor General in such manner as he thinks proper and he shall certify to the House of Commons that in his opinion, having regard to such examination, the transactions of the Board have or have not been in accordance with the provisions of this Order and that the records of the Board do or do not show truly and clearly such transactions. The annual audit to be made by the Auditor General under this section shall take the place of the annual audit specified in Section 9 of the Exchange Fund Act.

PART II

CONTROL OF FOREIGN EXCHANGE AND FOREIGN TRADE AND RELATED MATTERS

Foreign Exchange

13. No person shall purchase, borrow or otherwise acquire, or sell, lend or otherwise dispose of, deal in, or deal with any foreign exchange, whether absolutely or conditionally or by way of arbitrage or otherwise, as principal or agent or otherwise howsoever, except as may be permitted by or under the authority of this Order.

14. (1) All foreign exchange which, or any right, title or interest in or to which, is in the possession, ownership or control of any resident of Canada at the time of coming into force of this Order shall, unless the Board otherwise provides, be forthwith declared to the Board, in such manner as the Board may determine and shall not be used or dealt with except as permitted by the Board.

(2) The Board may at any time require all or any of such foreign exchange, or the right, title or interest of such resident therein, to be sold or assigned to the Board or to an authorized dealer at rates prescribed by the Board.

15. Any person who, at any time after the coming into force of this Order, acquires possession, ownership or control of any foreign exchange, or of any right, title, or interest in or to any foreign exchange, shall, unless the Board otherwise provides, forthwith declare the same to the Board in such manner as the Board may determine, and offer the same for sale or assignment to an authorized dealer at rates prescribed by the Board; provided, however, that this section shall not apply with respect to any foreign exchange purchased by such person from an authorized dealer pursuant to this Order and required for the purposes for which it was so purchased, nor with respect to any foreign exchange brought into Canada by a non-resident unless such non-resident desires to sell the same.

Transfer of Canadian Currency to Non-Residents

16. No Canadian currency or any right, title or interest therein or thereto shall be paid or transferred by any resident of Canada to any non-resident, or transferred from the account of a resident to or to the account of a non-resident, except under licence or permit granted by the Board; provided

that the Board may exempt any such transfer from the provisions of this section.

Foreign Securities

17. All foreign securities which, or any right, title or interest in or to which, are in the possession, ownership or control of a resident of Canada at the time this Order comes into force, shall, unless the Board otherwise provides, be forthwith declared to the Board in such manner as the Board may determine; such foreign securities may be bought and sold within Canada, but shall not be exported or imported except as permitted by the Board.

18. (1) The Board may by regulation and by public notice require that any foreign securities described therein shall be transferred to His Majesty in right of Canada, at the price (to be paid by the Board) specified in such regulation, being a price which in the opinion of the Board is not less than the value thereof at the date of such regulation and public notice thereof.

(2) On the making of any such regulation and public notice thereof, the securities therein specified and all right, title or interest in or to such securities capable of being affected by such regulation and notice shall forthwith vest in His Majesty in right of Canada free from any charge or encumbrance, and the Board shall have all necessary powers as agent of His Majesty to sell, transfer and otherwise deal with such securities as it may think fit.

(3) Any person affected by any such regulation and notice, whether as owner, trustee, beneficiary or otherwise, and any person who is responsible for keeping any register or book in which any such securities are registered or inscribed, shall do all such things as are necessary or as the Board may direct for the purpose of ensuring that such securities shall be delivered to the Board and in the case of any registered or inscribed security registered or inscribed in the name of His Majesty in right of Canada or such person as the Board may direct.

(4) Such regulation or notice shall not apply to any securities with respect to which satisfactory evidence is presented to the Board that at all times since the date on which this Order comes into force, all the persons interested in such security, other than persons interested therein merely as trustees or merely by virtue of any mortgage, pledge or charge created before the said date, but including any persons beneficially interested therein under a trust, were not resident in Canada.

(5) The Board may exempt any securities or the holders thereof from any provision of this section.

Exports

19. (1) No person shall export any goods, currency, securities, foreign exchange or other property from Canada except under and in accordance with the terms of a licence granted by the Board; provided that this subsection shall not apply to any property which has been accepted for export by any transportation agency prior to the date on which this Order comes into force.

(2) No person shall accept payment in Canadian dollars for any property exported or to be exported by him, except under and in accordance with the terms of a permit granted by the Board authorizing the acceptance of payment in such manner; except that, unless the Board otherwise provides, this subsection shall not apply with respect to any sale for export entered into prior to the date on which this Order comes into force and calling for payment of the purchase price or other consideration in Canadian dollars.

(3) This section shall not apply in any case in which the Board grants exemption by regulation or otherwise.

20. (1) The Board may provide for different kinds of export licences and permits for use in such circumstances as the Board may determine.

(2) Unless the Board otherwise provides every application for an export licence or permit shall designate the applicant's authorized dealer.

(3) The Board may impose conditions on any export licence or permit and may revoke or amend any such licence or permit at any time.

(4) Unless the Board otherwise provides a licence or permit to export shall not authorize or be deemed to authorize any exportation or the doing of any act by the holder thereof which would not have been lawful if this Order had not been made.

21. It shall be a condition of every licence to export whether or not expressly contained therein, that the proceeds in foreign exchange, if any, of the sale of all property exported or to be exported thereunder shall be declared and offered for sale as provided in section 15 hereof.

Imports

22. (1) No person shall import any goods, currency, securities or other property into Canada except under and in accordance with the terms of a licence granted by the Board; provided that this subsection shall not apply to any property which has been shipped to Canada from the country of export prior to the date on which this Order comes into force.

(2) No person shall make payment in Canadian dollars for any property imported or to be imported by him, except under and in accordance with the terms of a permit granted by the Board authorizing the making of payment in such manner, except that, unless the Board otherwise provides, this subsection shall not apply with respect to any purchase for import entered into prior to the date on which this Order comes into force, and calling for payment of the purchase price or other consideration in Canadian dollars.

(3) This section shall not apply in any case in which the Board grants exemption by regulation or otherwise.

23. (1) The Board may provide for different kinds of import licences and permits for use in such circumstances as the Board may determine.

(2) Unless the Board otherwise provides, every application for an import licence or permit shall designate the applicant's authorized dealer.

(3) The Board may impose conditions on any import licence or permit and may revoke or amend any such licence, or permit at any time prior to actual shipment of the relative goods or other property to Canada from the country of export.

(4) Unless the Board otherwise provides, a licence or permit to import shall not authorize or be deemed to authorize any importation or the doing of any act by the holder thereof which would have been lawful if this Order had not been made.

Rates of Exchange

24. (1) The Board shall from time to time communicate to authorized dealers rates of exchange at which foreign exchange in such currencies as the Board may designate may be purchased or sold pursuant to this Order.

(2) Wherever any authorized dealer has power to fix a rate of exchange for any transaction, the rate to be fixed shall, unless the Board otherwise provides, be such rate then prevailing as has been prescribed by the Board for the relative transaction or kind of transaction.

Applications to Buy or Sell Foreign Exchange

25. (1) Every person other than an authorized dealer desiring to buy or sell foreign exchange shall make application to an authorized dealer, who may

fix the rate of exchange subject to the provisions of this Order.

(2) The fixing of a rate of exchange shall, unless the Board otherwise provides, constitute a permit to the applicant to buy from or sell to the authorized dealer as the case may be, the relative foreign exchange for the purposes stated therein.

26. The authorized dealer may submit any application to the Board, and shall submit to the Board any application the approval of which is not within his authority. The Board may approve or reject in whole or in part any application made to the Board or made to an authorized dealer and submitted by such authorized dealer to the Board. In approving an application to buy or sell foreign exchange the Board may fix the rate of exchange therefor.

27. The fixing of a rate of exchange for the sale to or purchase from an authorized dealer of any foreign exchange shall constitute an undertaking by the authorized dealer to buy and by the applicant to sell, or an undertaking by the authorized dealer to sell and by the applicant to buy, as the case may be, the amount of foreign exchange specified at the rate so fixed and at such time as may be agreed, unless an extension of time be granted by the Board.

28. (1) No authorized dealer shall have power to fix a rate of exchange for foreign exchange required by an applicant for any purpose, unless the application is in the opinion of such authorized dealer for normal requirements as hereinafter defined.

(2) Normal requirements, for the purposes of this section, shall mean with relation to any application.

(a) Foreign exchange for payment for goods imported or to be imported into Canada within the usual scope of the applicant's business.

(b) Foreign exchange for payment for services of a normal nature such as insurance premiums and claims, agents' commissions, salaries, freights, dues, patent rights, royalties and other payments of a like character.

(c) Foreign exchange for reasonable travelling expenses or personal expenses.

29. Any person other than an authorized dealer desiring to purchase or sell foreign exchange in a currency for which no rate of exchange has been prescribed by the Board, may do so by arrangement with an authorized dealer upon making application as hereinbefore provided to purchase or sell such amount of foreign exchange in a currency for which a rate of exchange has been prescribed by the Board as the parties may agree to be the equivalent of the amount of foreign exchange first mentioned, subject always to the regulations and instructions of the Board; in any such case the authorized dealer shall make available to or accept from the applicant the foreign exchange first mentioned, and shall account to the Board for the said equivalent amount of foreign exchange secondly mentioned.

30. Unless the Board otherwise provides, every person desiring to obtain foreign exchange to be used for the payment of interest on any loan, or for repayment or amortization of any loan or any part thereof, or for the redemption of any securities or for the payment of dividends, or for any purpose incidental to any of the foregoing, shall apply therefor at least thirty days prior to the date on which such foreign exchange is required, and every such application shall be submitted to the Board by the authorized dealer.

Applications for Permission to Transfer Canadian Currency from a Resident to a Non-Resident

31. (1) Unless the Board otherwise provides, every resident other than an authorized dealer desiring to pay or transfer any Canadian currency to or to the

account of a non-resident shall make application to an authorized dealer.

(2) Unless the Board otherwise provides, the authorized dealer shall have the same authority with respect to such an application as though it were an application to purchase foreign exchange, and shall submit to the Board any application the approval of which is not within his authority.

(3) Every such application when approved by or on behalf of the Board shall constitute a permit for the purposes stated therein.

Authorized Dealers

32. (1) Every bank incorporated under the Bank Act shall be an authorized dealer in Canada, and every Canadian branch of such a bank shall have the powers and duties of an authorized dealer pursuant to this Order.

(2) The Board may appoint other authorized dealers and may revoke any such appointment.

(3) Notwithstanding any other provisions of this Order, authorized dealers may engage in any transactions in or affecting securities, Canadian currency or foreign exchange which the Board may from time to time permit; the authority of authorized dealers shall at all times be subject to regulations and instructions of the Board, and any authority of authorized dealers under this Order may be limited, modified or expanded by the Board at any time and from time to time.

33. (1) Where any rate of exchange is fixed for any transaction in foreign exchange pursuant to this Order, the authorized dealer designated in the application, declaration or other instrument in which such rate of exchange is fixed shall, except as otherwise provided in section 29 hereof, buy or sell the relative foreign exchange from or to the person applying in that regard, and shall account to the Board for the same amount of foreign exchange at the same rate of exchange as that applicable to the transaction between the authorized dealer and the applicant.

(2) Settlements between the Board and the authorized dealer shall be made at such times and in such manner as the Board may prescribe.

(3) The Board shall pay such costs and remuneration in connection with the functions and services of authorized dealers pursuant to this Order as the Board may prescribe.

General

34. (1) The Board may make regulations, not repugnant to this Order, for any of the following purposes:—

(a) Prescribing the forms to be used, and the circumstances of their use, for the purposes of this Order.

(b) Prescribing the procedure to be followed by applicants, authorized dealers and other persons in connection with any matter arising under or in pursuance of this Order.

(c) Generally, with respect to any matter arising in the course of, or connected with, or ancillary to, the Board's operations, or making such other provision as may be deemed necessary for the efficient administration of this Order and for carrying out its provisions according to their true intent and meaning and for the better attainment of its objects and may amend or repeal any such regulation.

(2) The regulations annexed to this Order shall be the first regulations of the Board, effective on the date this Order comes into force. Any subsequent regulation, amendment or repeal shall come into force upon publication in the Canada Gazette.

(3) Regulations made by or under the authority of this Order shall have the same force and effect as if the same were expressly set forth herein.

(4) Unless the context otherwise requires, expressions used in any regulation of the Board shall have the same meaning as similar expressions in this Order.

35. General or specific instructions issued by the Board to any person acting as agent of or otherwise under the authority of the Board shall, with respect to such person, have the same force and effect as if contained in regulations made and published as provided in the preceding section.

36. Every Collector of Customs and Excise and every Postmaster shall if so required by the Board act as agent for the Board with relation to the issuing of export and import licences, and shall have such authority in that behalf as the Board may prescribe by regulation.

37. (1) If any authorized dealer or other person fails or neglects or refuses to approve an application under this Order, the approval of which was within his authority, the application may be submitted by the applicant direct to the Board, and the Board may deal with such application in such manner as it may deem proper under the provisions of this Order.

(2) If any person is dissatisfied with any ruling, regulation or decision of the Board he may, if the Board so permits, appeal in writing to the Minister, who shall have power to decide the question at issue with or without further hearing the appellant, and may if he sees fit exempt the appellant wholly or partly from any regulation of the Board.

38. (1) All transactions in foreign exchange permitted hereunder by any person with an authorized dealer, shall be and be deemed to be entered into with the authorized dealer and not with the Board, and the Board shall not incur any obligation to any such person.

(2) The foregoing subsection shall prevail notwithstanding that an authorized dealer in approving any application or fixing any rate of exchange is described as acting on behalf of the Board, or is acting under any instructions or regulations of the Board, and notwithstanding any approval of an application of any kind by the Board itself under section 26 hereof or otherwise.

PART III

ENFORCEMENT PROVISIONS

39. (1) Every person shall be guilty of an offence who,

(a) in any application or declaration under this Order makes any statement which to his knowledge is false or misleading or which he had not reasonable grounds for believing to be true, or,

(b) deceives or misleads or attempts to deceive or mislead the Board or an authorized dealer or a Collector of Customs and Excise or any other person concerned in the administration of the provisions of this Order; or,

(c) being the holder of a licence or permit commits or attempts to commit a breach of any of the general or special conditions of such licence or permit or fails to comply with any of such conditions; or,

(d) violates or attempts to violate any other provision of this Order or any regulation of the Board; or,

(e) aids or abets the commission of any offence under the provisions of this Order.

(2) It shall be an offence for any transportation agency or employee thereof to transport or assist in transporting from Canada any property unless no licence is required for the export of the same or the requisite licence has been obtained, or to remove any imported goods or other property from any

Customs port for delivery within Canada unless no licence is required for the import of the same or the requisite licence has been obtained.

40. (1) Every person guilty of an offence under this Order shall be liable on summary conviction to a fine not exceeding Two Thousand Dollars or to imprisonment for not more than one year, or to both fine and imprisonment.

(2) In addition to any other penalty, if any person, contrary to the provisions of this Order, exports or attempts to export from Canada any goods or other property, or imports or attempts to import into Canada any goods or other property, or buys or sells or otherwise deals with or attempts to buy or sell or otherwise deal with any foreign exchange or foreign securities, or fails to declare any foreign exchange or foreign securities, such goods or other property may be seized and detained and shall be liable to forfeiture, at the instance of the Minister of Justice, upon proceedings in the Exchequer Court of Canada or in any superior court.

41. No Collector of Customs and Excise shall permit the export or import of any goods or other property through any port over which he has authority, unless he or an officer acting for him is satisfied that no licence is required for such export or import, or that the appropriate licence has been obtained.

42. If the requisite import licence be not obtained and produced to the Collector of Customs and Excise within thirty days after the arrival in Canada of any property for the importation of which a licence is required, and which has been held at a Customs port pending the production of such licence, the Collector of Customs and Excise may cause such property to be destroyed, or to be sold by public auction to the highest bidder and the proceeds thereof, in case of sale, shall be applied to the payment of duties and charges, and the surplus, if any, after discharging the vessel's lien or other charges for transportation shall be deposited to the credit of the Receiver General of Canada.

43. Any person who on any occasion is about to leave Canada (which person is hereafter in this section referred to as "the traveller") shall, if required by any Customs officer or other person thereunto authorized, declare whether he has with him any goods, currency, securities, foreign exchange or other property, and shall produce any such property which he has with him; and the officer or other authorized person, and any person acting under his directions, may search the traveller and examine or search any article which the traveller has with him, and shall seize any such property which the traveller has with him, unless the export of the same is permitted by or under the authority of this Order.

44. (1) The Board and each member of the Board may require any person to furnish such information as the Board or such member of the Board may deem necessary, and shall have power to summon any person to give information under oath or otherwise, and to produce books and documents, at such time and place and in such manner as the Board or member of the Board may require.

(2) Every member of the Board shall have power to administer oaths and receive affidavits and statutory declarations.

45. The Board may appoint Inspectors to assist in the enforcement of the provisions of this Order, who shall have power to obtain from any person such information under oath or otherwise, and whether orally or in writing or by inspection of documents or other evidence, as the Board may deem necessary.

46. At the request of the Board or any Inspector appointed by the Board or of any duly authorized representative of the Board, officers and employees

of the Post Office, the Department of National Revenue, the Department of Mines and Resources, the Royal Canadian Mounted Police and the Department of Justice shall take such action by way of detention or search of persons or property, or disclosure of information in their possession, as the Board, its Inspector or authorized representative may deem necessary for preventing violations of the provisions of this Order or ascertaining whether any violation has taken place, or is likely to take place, or for ensuring the arrest and conviction of any person who may have violated or be violating any provision of this Order, or for obtaining evidence of or relating to any past, present or future violation or suspected or attempted violation; and all such officers and employees shall have full authority to take any such action upon such request.

47. In case of any conflict between this Order and any law in force in any part of Canada, the provisions of this Order shall prevail.

REGULATIONS OF THE FOREIGN EXCHANGE CONTROL BOARD

1. The following exemptions are hereby made from the respective provisions of the Order:—

- (a) No export licence or import licence will be required for the export or import of goods which are entitled to entry under items 706 and 707 of the Customs Tariff, or for the export or import of travellers' samples.
- (b) No import licence will be required for the importation of goods in any manner to a value not exceeding One Hundred Dollars by any person in any calendar month.
- (c) No export licence will be required in the case of goods taken out of Canada by and with a non-resident to a value not exceeding One Hundred Dollars; provided that this exemption shall not apply to any person more than once in any calendar month.
- (d) Personal effects belonging to and required for the use of any person entering or leaving Canada may be brought into or taken out of Canada by and with such person without licence.
- (e) No export licence will be required in the case of gifts to a value not exceeding Twenty-five Dollars sent from Canada by mail or parcel post by any person in any calendar month.
- (f) Foreign exchange or foreign securities having a value not exceeding in either case the equivalent in Canadian currency of One Thousand Dollars and being in the possession, ownership or control of any resident of Canada at the time of the coming into force of the Order need not be declared under section 14 or section 17 of the Order, unless in the case of foreign exchange such resident desires to sell the same, but such foreign exchange or foreign securities may not be used or dealt with otherwise than as permitted under the Order or Regulations.
- (g) Any person may bring with him on entering Canada or take with him on leaving Canada, for any purpose, Canadian currency and foreign exchange amounting in all to not more than One Hundred Dollars or the equivalent thereof, without licence or permit, provided that this exemption shall not apply to any person more than once in any calendar month.
- (h) In addition to any exemption that may be available under paragraph (g), any non-resident leaving Canada may, without licence or permit, take with him Canadian currency or foreign exchange not exceeding in either case the amount of Canadian currency or

foreign exchange, respectively, brought into Canada by him when entering Canada; and if a licence to import the same, in Form P, was obtained at the time of entry, such licence shall be conclusive evidence of the amount so brought in.

- (i) Any person may purchase from an authorized dealer at the appropriate rate prescribed by the Board, foreign exchange to a value not exceeding One Hundred Dollars in any calendar month, without any permit and without using any form herein prescribed; provided that the foregoing provisions of this paragraph shall apply only with respect to foreign exchange in the form of cash, cheques, postal notes, money orders and other items of a similar nature payable at sight or on demand; and similarly any resident may pay or transfer Canadian currency to or to the account of non-resident to an aggregate amount not exceeding One Hundred Dollars in any calendar month without a permit and without using any form herein prescribed.
- (j) Any person may sell to an authorized dealer at the appropriate rate prescribed by the Board, foreign exchange not arising out of the proceeds of exports, to a value not exceeding Five Hundred Dollars, without any permit and without using any form herein prescribed; provided that this paragraph shall apply only with respect to foreign exchange in the form of cash, cheques, bond coupons and dividend warrants, postal notes, money orders and other items of a similar nature payable at sight or on demand.
- (k) Unless a Collector of Customs and Excise otherwise requires, a vessel or vehicle may operate internationally without obtaining an import or export licence when entering or leaving Canada; but an import or export licence, as the case may require, will always be necessary in respect of the last importation into or exportation from Canada of any such vessel or vehicle which changes its ownership or ceases to operate internationally.
- (l) A resident of Canada may pay or transfer in Canadian currency to a resident of Newfoundland (whether in Canada or Newfoundland) without a permit in Form G; and a resident of Canada may, without obtaining a permit in Form D, export to Newfoundland property for which no payment in foreign exchange is to be received, and may accept payment in Canadian dollars for such export.
- (m) Any resident who is a merchant, hotelkeeper or otherwise customarily engaged in any business serving tourists may accept from any tourist an amount of foreign currency not in excess of the equivalent of five hundred Canadian dollars in payment for purchases or services rendered or to be changed into Canadian currency at a rate to be authorized by the Board, provided that the foreign currency so obtained shall be sold to an authorized dealer within ten days of the date it is acquired. No person shall have in his possession more than the equivalent of one thousand Canadian dollars in foreign currency obtained in this way unless he holds a special permit from the Board authorizing him to do so.

2. (a) Every Collector of Customs and Excise shall act as agent of and on behalf of the Board in connection with the issuing of licences to export and import and accepting declarations of exports.

(b) A Collector of Customs and Excise may, on behalf of the Board, licence the exportation or importation of goods through the port over

which he has authority, subject to the instructions of the Board.

- (c) The Collector of Customs and Excise having authority over the port through which any exportation is made under authority of a General Licence shall receive the declaration of exports required under the Regulations.

3. Any applicant may authorize an agent or attorney to sign applications under the Order and Regulations on his behalf, and where a power of attorney has been or is hereafter lodged with a Collector of Customs and Excise by any person authorizing a customs broker named therein to act as the agent or attorney of such person in connection with matters which include the exportation or importation of goods, such power of attorney shall be deemed to include authority to the customs broker therein named to act as agent and attorney of the said person in making application for export and import licences and related matters and to give any undertakings required in connection therewith, unless the said person gives written notice to the contrary to the Collector of Customs and Excise.

4. (a) Every application for a licence or a permit, and every declaration of foreign exchange or securities or of exports, shall be made in the appropriate form referred to below, which may be obtained as indicated in section 5 of these Regulations.
- (b) In any case where no appropriate application form has been prescribed, the applicant may apply in writing to the Board, giving full particulars.
- (c) Instructions printed on the forms shall have the same force and effect as if expressly set forth in the Regulations.
- (d) An application which has been duly approved and signed by or on behalf of the Board shall constitute a licence or a permit for the purposes stated therein, subject to any conditions or limitations contained therein, and subject always to the provisions of the Order and of Regulations of the Board.
- (e) When a rate of exchange has been fixed in connection with any proposed transaction in foreign exchange, the form upon which such rate is noted, when signed by the person authorized to fix the rate, shall constitute a permit to the applicant to proceed with and complete the relative foreign exchange transaction subject as aforesaid.

5. (a) The forms and their uses are as follows:—

Form A: Application for General Licence to Export Goods.

This must be submitted direct to the Board and will be issued only to exporters making regular shipments whose business is of such a nature that it would be difficult to complete the details required by a Particular Licence before the goods are ready for export. The licence relates only to export of goods.

In respect of each exportation under authority of a General Licence, a Declaration on Form B must be made by the exporter and submitted to the Collector of Customs and Excise not later than six days after the date of the Customs clearance of the vessel, if the exportation was by water or by air, or of the Customs report outwards of the vehicle if the exportation was by land. If no foreign exchange is to be obtained by the exporter for the exportation, Form D must be completed and approved *in advance* of the exportation, as referred to below.

Form B: Application for Particular Licence to Export Goods, or Declaration of Goods exported under authority of General Licence. The Particular Licence may, subject to instructions of the Board, be issued by a Collector of Customs and

Excise for the exportation of goods. The same form may also be used for the purposes of the Declaration required where goods are exported under the authority of a General Licence.

Form C: Declaration of Foreign Exchange Offered for Sale. This form is to be used when any person declares and offers foreign exchange for sale.

Form D: Application for Permit to Export Goods in connection with which no Foreign Exchange is to become available. This form must be used and approval obtained (whether or not the exporter is the holder of a General Licence) *in advance* of the exportation of any goods for which payment in foreign exchange has not been and will not be received. If approval is so obtained, the exporter may proceed to obtain the requisite Particular Licence to export or make the requisite Declaration of Exports under authority of a General Licence, as the case may be.

Form E: Application for Licence to Import. This form is to be used for every importation by a resident unless exempted by the terms of the Order or these regulations; and for every importation by a non-resident, unless so exempted, except in the case of a non-resident bringing with him into Canada Canadian currency and/or foreign exchange, in which case Form P shall be used with respect to such Canadian currency and/or foreign exchange.

A Licence in Form E may, subject to instructions of the Board, be issued by a Collector of Customs and Excise.

Form F: Application for Foreign Exchange. This form is to be used by every person requiring foreign exchange for any purpose other than for travel purposes.

Form G: Application to Transfer Canadian dollars to Account of Non-resident. This form is to be used and approval obtained *in advance* by every resident of Canada desiring to pay or transfer Canadian dollars to or to the account of a non-resident, whether in payment for imports or for any other purpose.

Form H: Application for Foreign Exchange for Travel Purposes and/or for Permission to Export Foreign Exchange and/or Canadian Currency for Travel Purposes. This form must be used and approval obtained (except for amounts exempted under the Regulations of the Board) by every person desiring to obtain foreign exchange for purposes of travel and/or to take Canadian currency or foreign exchange out of Canada for travel purposes. One copy will be returned to the applicant and must be shown on demand to any Collector of Customs and Excise or other authorized person.

Form K: Application for Licence to Export Property other than Goods. This form must be used in respect of each export from Canada of property other than goods (e.g. currency, securities, etc.)

unless exempted under the Order or Regulations or provided for by Form H.

Form M: Declaration of Foreign Exchange and Foreign Securities in the Possession, ownership or Control of Resident of Canada on the date of coming into force of the Order.

Form P: Declaration by Non-resident of Canadian Currency and/or Foreign Exchange Brought into Canada and Licence to Import the Same. This form shall be used by every non-resident bringing with him into Canada any Canadian currency and/or foreign exchange, unless exempted under the Regulations, and will serve as a licence to import the same. The form must be surrendered on leaving Canada when claiming exemption from export licence requirements in respect of any Canadian currency and/or foreign exchange being taken out of Canada.

(b) The forms referred to herein may be obtained from the Board in Ottawa or from the following sources:

Form P—from Collectors of Customs and Excise;

Forms A, B, and E—from Collectors of Customs and Excise, and authorized dealers;

Forms C, D, F, G, H, K and M—from authorized dealers.

6. (a) In addition to any other authority or function prescribed by the Order or Regulations or by Instructions of the Board, every authorized dealer shall act as agent of the Board for the purpose of issuing licences and permits in the following cases:—

- (i) Licence to export property other than goods;
- (ii) Permit to export goods in connection with which no foreign exchange is to become available;
- (iii) Permit to pay or transfer Canadian currency from a resident to a non-resident;
- (iv) Permit to export foreign exchange and/or Canadian currency for travel purposes.

(b) Authorized dealers shall have such authority with respect to licences and permits referred to in paragraph (a) hereof as may be prescribed in instructions of the Board.

7. (a) Every postmaster and postal clerk shall act as agent of the Board in accordance with instructions of the Board relating to the control of exports by mail and parcel post.

(b) The Postmaster General and all postmasters are hereby appointed agents of the Board to sell foreign exchange in accordance with instructions of the Board, in the form of postal money orders payable in any foreign currency for which the Board may from time to time prescribe rates of exchange.

November 29, 1939.

Honorable D. Gordon,
Deputy Governor, Bank of Canada,
Ottawa, Ontario,
Canada.

Dear Sir:

Receipt is acknowledged, with thanks, of your letter of November 24, addressed to Chairman Eccles, with which you enclosed a copy of an Order in Council, passed November 22nd and published in the Canada Gazette, containing further amendments to the Foreign Exchange Control Order of September 15th.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,
Assistant Secretary.

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