

Court shall in any case or class of cases otherwise order.

4.—(1) Any application under Section 5 (2) of the Act for payment out of property vested in the custodian of any debt or debts shall, if made to the Court or Judge by whose order the property was vested in the custodian, be made and dealt with as follows:—

(2) The application shall be deemed a subsequent application for the purpose of the last preceding rule.

(3) The Court or Judge may on the hearing of the application direct all such accounts and inquiries as may be necessary or proper for the purpose of ascertaining the total debts and claims having priority to or ranking with the debt or debts proposed to be paid in whole or part, and (if thought fit) the property available for the payment of such debts and claims, and may for that purpose direct the custodian or any party to issue such advertisements and require such proof by statutory declaration or otherwise as may be expedient. And the custodian may, if he think fit, carry out the duties imposed on him by the proviso to Section 5 (2) under the direction of the Court.

(4) In directing any payment or payments under Section 5 (2) the Court or Judge shall act in accordance with the ordinary rules and practice of the Chancery Division of the High Court in the administration of estates but so nevertheless that the Court shall not be bound to inquire into or take into account or to cause the custodian to inquire into or take into account debts and claims against the enemy to any greater extent than provided for by the proviso to Section 5 (2).

5.—(1) Any application under Section 5 (2) of the Act for payment out of property vested in the custodian of any debt or debts shall, if made to a Court in which judgment has been recovered against an enemy as such Court, be made and dealt with to and by that Court as follows:—

(2) It shall be made by summons in the proceeding in which judgment has been recovered.

(3) Such summons shall be addressed to and served on the custodian in addition to any other proper party and shall be returnable and heard as the Court in question shall direct.

(4) If on the hearing of a summons under this rule it shall happen either that the custodian makes no objection to making the payment or some part thereof or if it shall otherwise appear clear to the Court that the payment or some part thereof ought to be made and can be made without prejudice to other persons owing debts or claims against the enemy in question then and in either of the said cases the Court may make an order for payment accordingly but so nevertheless as not to prejudice or affect the duty of the custodian under the proviso to Section 5 (2).

(5) In any other case than those provided for by the last preceding sub-rule and also in any case thereby provided for where a partial payment only has been ordered the Court in which judgment has been recovered shall not as such Court order any payment or any further payment as the case may be but may and in general shall transfer the application to be dealt with by the Court or Judge by whose order the property was vested in the custodian.

6. Any application under this Act whether original subsequent or other may be proceeded with heard and dealt with by the Court or a Judge if thought fit in the absence of an enemy or

any other party who may be or appear to be abroad or whose whereabouts may not be known or whose presence may otherwise be difficult to secure and without service of any summons or notice of summons on any such party or any intimation to such party other than such if any as the Court shall think fit. And this sub-rule shall be in addition to and by way of extension and enlargement of the ordinary powers and practice of the Court as to proceedings *ex parte* and as to substituted service.

7. The Court may at any stage of the proceedings on any application under Section 4 or Section 5 order that the case shall thenceforward be heard in private.

8. Any order made under Section 4 or Section 5 of these Rules may, should subsequent circumstances render it just so to do, be suspended discharged or otherwise varied or altered by the Court which made such order.

9. The following fees shall be payable under these Rules, that is to say—

On any summons whether original or subsequent 2s. 6d.

Provided that the Court may remit or excuse either in whole or part any court fees paid or payable under this rule.

10. The proceedings on any application under the Act shall so far as not otherwise provided for by these Rules be conducted in accordance with the ordinary practice dealing with similar matters of the Court to which application is made. And the costs of all, and incidental to all, such proceedings shall be in the discretion of the Court.

11. In the case of any property within the jurisdiction of a palatinate Court any original application which would under the foregoing rules be made to the Chancery Division may if the applicant think fit be made to the palatinate Court and if so made any subsequent proceedings shall also take place in that Court and the foregoing rules shall *mutatis mutandis* apply to any such original and subsequent proceedings.

11A. These Rules may be cited as The Trading with the Enemy (Vesting and Application of Property) Rules, 1915, and shall come into operation forthwith.

Schedule.

FORM OF ORIGINATING SUMMONS UNDER SECTION 4.

In the High Court of Justice,
Chancery Division.

Mr. Justice

In the matter of the Trading with the Enemy
Amendment Act, 1914,

And in the matter of *A.B.* an Enemy within
the Act.

Let *A.B.* of a person alleged
to be an enemy within the above Act and
the Public Trustee of
the custodian for England and Wales under
the above Act attend at the chambers of Mr.
Justice at the time specified in the
margin hereof [or on the day of
19 at o'clock in the noon]