

1922.
NEW ZEALAND.

ENEMY PROPERTY IN NEW ZEALAND

(SECOND REPORT ON) BY THE PUBLIC TRUSTEE AS CUSTODIAN OF ENEMY PROPERTY
AND AS CONTROLLER OF THE NEW ZEALAND CLEARING OFFICE.

Presented to both Houses of the General Assembly by Leave.

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REPORT.

To the Hon. the Attorney-General, Wellington.

SIR,—

I have the honour to submit a report on the work performed during the year ended 31st March, 1922, in connection with the duties imposed on the Public Trustee as Custodian of Enemy Property and as Controller of the New Zealand Clearing Office. In my last report (H. 25, 1921) made under the above heading a comprehensive survey was supplied of the general development of the policy of the Government in connection with the registration, control, and disposal of enemy property in New Zealand, and of the procedure adopted in accordance with the provisions of the various Treaties of Peace for the settlement of debts between British nationals resident in New Zealand and the nationals of former enemy States.

2. In order that the general trend of the work carried out during the period under review may be more readily understood, it is necessary to refer briefly to many of the matters which are explained in greater detail in my previous report. Although every effort is being made to bring this work to a conclusion at the earliest possible date, it is apparent that in many cases final action cannot be taken until further information or documents are received from the German Clearing Office in response to requests made by this Office.

3. In some cases several communications between the German Clearing Office and the New Zealand Clearing Office will probably be involved before the items concerned can be adjusted in terms of the Treaty. Before action can be taken in certain other cases it is necessary to wait until particulars come to hand of the policy adopted in the United Kingdom in regard to certain special classes of property, rights, or interests of enemy nationals. After carefully considering the present position I am of the opinion that this work will not be concluded for at least another two years, although it is reasonable to expect that the present volume of correspondence, both inwards and outwards, will shortly decrease.

4. The special powers and duties conferred or imposed on the Public Trustee are now contained in the Act and in the Orders in Council mentioned below :

(a.) The War Regulations Continuance Act, 1920.

(b.) Treaty of Peace Order, 1920, and the Treaty of Peace Amendment Order, 1922.

5. For the purpose of convenience this report has been divided into two main parts, as follows :—

Part I, which contains a summary of the action taken in connection with the registration and realization of enemy property in New Zealand in pursuance of the various War Regulations, and the final disposal of the proceeds of such property as required by Part II of the Treaty of Peace Order and its amendment.

Part II, which contains a brief account of the procedure adopted in connection with the settlement of debts and claims between British nationals resident in New Zealand and German nationals resident in Germany, together with a statement of the position regarding the debts due by or to the nationals of the other ex-enemy Powers.

PART I.—REALIZATION AND DISPOSAL OF ENEMY PROPERTY IN NEW ZEALAND.

6. During the war period various regulations were issued under the War Regulations Act, 1914, and its amendments, empowering the Public Trustee as Custodian of Enemy Property to exercise supervision over enemy property in New Zealand, and, where deemed necessary, to collect the amounts due to all persons and firms resident in enemy territory, and to realize the property of enemy subjects, in order that the transmission of such moneys out of New Zealand might be prevented, and in this way effectively block any financial aid reaching the enemy from sources in the Dominion. The various provisions under which action has been taken are set forth briefly in the following paragraphs.

SUPERVISION AND LIQUIDATION OF ENEMY FIRMS.

7. In pursuance of the War Regulations dated 25th November, 1914, the Attorney General, by warrant dated 28th November, 1914, appointed the Public Trustee as controller of the Continental C. & G. Rubber Company (Limited). The above-mentioned regulations did not require the Public Trustee to wind up this business over which he had been appointed controller, although he had power to do so if such a course was considered desirable.

8. Amended regulations were issued on the 11th May, 1916, under which the Public Trustee was appointed by the Attorney-General as controller of the undermentioned companies, firms, or persons : Markwald, Son, and Ross ; G. Hardt and Co. ; Eugene Schroeder ; Rhodius and Co. (Limited) ; Continental C. & G. Rubber Company (Limited). Under the new regulations the powers and the duties of the Public Trustee were amended so as to permit the carrying-on of the business only so far as he deemed necessary for the winding-up of such business and the realization of the assets thereof. A complete statement of the steps taken to realize the assets of these firms is contained in paragraph 2 (i) to (vii) of my previous report, which was laid on the table of the House of Representatives in September last.

9. With the exception of several small balances of debts which, on account of the financial position of the debtors, are being collected in instalments, the whole of the New Zealand assets of these firms have been realized.

The question of transferring the balances at credit of the Continental C. & G. Rubber Company (Limited) and G. Hardt and Co. to the credit of the German Liquidation Account, in pursuance of paragraph 27 of the Treaty of Peace Order, 1920, is at present under consideration.

In the case of Markwald, Son, and Ross, authority has been received to pay the proceeds to the partners in accordance with their respective shares. A balance of £119, however, is held pending the settlement of a matter still in dispute.

The firm of Rhodius and Co. (Limited) was incorporated in New Zealand in accordance with the Companies Act, and, as two of the shareholders are stated to be of Belgian nationality, information is being obtained regarding the policy adopted by the British Government in connection with the disposal of the proceeds of companies incorporated in the United Kingdom, where some of the shares in such companies are held by British, Allied, or neutral nationals.

10. Some idea of the extent of the work involved in this connection may be formed when it is stated that the receipts derived from the liquidation of the assets of these firms amounted to £130,259 19s. 3d., while the payments to sundry creditors, expenses of liquidation, and commission amounted to £17,745 8s. 2d. After payment of the sum of £3,838 12s. to certain partners in respect of their shares, there is a credit balance amounting to £108,675 19s. 1d., which is held in the Common Fund of the Office. The following is a summary of the credit balances as at 31st May, 1922 :—

	£	s.	d.
Continental C. & G. Rubber Company (Limited)	91,038	7	0
G. Hardt and Co.	17,483	7	0
Markwald, Son, and Ross	119	0	0
Rhodius and Co. (Limited)	35	5	1
	<u>£108,675</u>	<u>19</u>	<u>1</u>

ENEMY GOODS ARRIVING IN NEW ZEALAND SUBSEQUENT TO THE OUTBREAK OF WAR.

11. On the outbreak of war the Government arranged for the amounts owing by New Zealand consignees on the shipments of goods of enemy origin which arrived in New Zealand subsequent to the declaration of war to be collected by the Collectors of Customs at the various ports. The amounts received in accordance with these instructions were paid to the credit of the Public Account, and on the appointment of the Public Trustee as Custodian of Enemy Property the sum of £5,281 18s. 8d., representing the proceeds of approximately 120 shipments, was transferred to the Public Trust Office, where it has been held and invested in the Common Fund of the Office.

12. In several instances satisfactory evidence has been submitted that the firm concerned was not of enemy nationality, and consequently the Hon. the Attorney-General has authorized the release of such amounts from the charge imposed thereon under the Treaty of Peace Order, 1920. The balance of the items has been transferred to the credit of the German or the Austrian Liquidation Account, as required by the provisions of the above-mentioned Order in Council.

REGISTRATION OF ENEMY PROPERTY IN NEW ZEALAND.

13. In pursuance of the War Regulations issued on the 3rd April, 1916, it was necessary for every person who, on the coming into operation of those regulations, held or had the possession, management, or control of any enemy property to communicate the fact, together with full particulars of such property, to the Custodian of Enemy Property at the Public Trust Office, Wellington. A similar provision was included in the Enemy Property Regulations dated 5th August, 1919. The information received was duly recorded, and, where necessary, action was taken in accordance with the powers conferred on the Public Trustee as referred to in the following paragraph.

COLLECTION OF ENEMY MONEYS.

14. On receipt of notification of income or debts due to an alien enemy steps were immediately taken by the Public Trustee to collect such amounts in pursuance of paragraphs 11 and 12 of the War Regulations dated 3rd April, 1916. In several cases in which the financial position of the New Zealand debtor rendered it impossible, or extremely inconvenient, to insist on the immediate payment of the amount due, the Custodian of Enemy Property arranged, in exercise of the discretion vested in him under paragraph 12, for extension of time in which payment could be made. Only two or three balances remain to be collected. With the exception of several cases in which the beneficial owners have supplied satisfactory evidence that they are not of enemy nationality the amounts received under the above regulations have been credited to the German Liquidation Account.

ENEMY GOODS HELD IN NEW ZEALAND ON CONSIGNMENT.

15. Where notification was received that goods belonging to enemy nationals were held in New Zealand on consignment or otherwise, the facts were reported to the Attorney-General, who, where necessary, signed a vesting-order under paragraph 17 of the War Regulations dated 24th July, 1916. During the current period several pre-war consignments of enemy goods have been notified to the Custodian of Enemy Property and have been realized in pursuance of the above provision.

DISPOSAL OF SHARES IN NEW ZEALAND COMPANIES BELONGING TO ENEMY NATIONALS.

16. Under the War Regulations dated 2nd May, 1916, it is provided that if the Attorney-General is satisfied that any share in a New Zealand company belongs, or at any time since the commencement of the war with Germany has belonged, in law or in equity to an enemy, or to an enemy company, or to an alien enemy, other than a natural-born British subject, the Attorney-General may, by order signed by him and published in the *Gazette*, order and declare that such share shall be vested in the Custodian of Enemy Property. The Custodian of Enemy Property is required to sell such share or shares, and to hold the proceeds in trust for all persons having any interest in such shares, income, or proceeds in accordance with their respective interests. The purpose of these regulations was to eliminate on the grounds of public policy all enemy interests from companies incorporated in New Zealand. In the case of companies incorporated outside New Zealand, but having branch registers in New Zealand, the disposal of shares on the local registers was not a matter for the New Zealand authorities, but for the Custodian of Enemy Property in the country where the company was incorporated.

17. As satisfactory evidence has been produced that certain of the shares so realized were held in trust for British nationals subject to a life interest in favour of German nationals, authority has been received for the Custodian of Enemy Property to release the capital amount of such shares for payment to the trustees. The remaining amounts, with the exception of the proceeds of certain shares, in regard to which the rights of enemy subjects under the trust instrument have not yet been definitely determined, have been credited to the German Liquidation Account in accordance with the terms of the Treaty.

ADMINISTRATION OF NEW ZEALAND ESTATES OF ENEMY SUBJECTS DYING DURING THE PERIOD OF THE WAR.

18. It is provided in the War Regulations dated 22nd February, 1916 (which are continued in force by the War Regulations Continuance Act, 1920), that, save with the consent of the Attorney-General, no person shall, whether on his own behalf or on behalf of any other person, make, or be concerned in making, any application to the Supreme Court for probate of the will or for letters of administration of the estate of any person who at his death was an alien enemy, wherever resident, or for the rescinding in New Zealand of any such probate or letters of administration granted elsewhere. In order to ensure compliance with the foregoing requirements, additional regulations under the Judicature Act, 1908, were made by the Governor in Council on the 10th July, 1916, and gazetted on the 13th July, 1916. The rules of the Court require an affidavit to be filed respecting the birth and nationality of the deceased. In accordance with the policy adopted, the Attorney-General required the estates of deceased alien enemies to be administered by the Public Trustee, and consent to administer was refused to all other persons and corporations.

19. Under paragraph 4 of the foregoing regulations the distribution or payment of any part of the assets of an estate to any beneficiary or creditor who was an alien enemy, wherever resident, or to any other person on his behalf, is prohibited save with the consent of the Attorney-General. Considerable difficulty has been experienced in administering these estates, on account of lack of definite information as to nationality, domicile, existence or non-existence of a will, and the next-of-kin of deceased aliens. Much correspondence has been involved in endeavouring to obtain this information, either by letters forwarded direct to the beneficiaries or by inquiries instituted through the London Legation of the country of which such beneficiaries were believed to be nationals. In those cases where satisfactory evidence has been produced that the beneficiaries in the estates of deceased alien enemies are not of enemy nationality, or have acquired the nationality of an Allied or Associated Power under one of the principal Treaties of Peace, application has been made to the Attorney-General for authority to pay to such beneficiaries the amount of their shares.

20. Under the various Treaties of Peace the New Zealand Government has the right to retain and liquidate all property, rights, and interests within New Zealand belonging, at the date of the coming into force of the respective treaties, to German, Austrian, Hungarian, Turkish, or Bulgarian subjects, or to companies controlled by such subjects. Where the administration of such estates has been completed the net credit balance has been transferred to the German or to the Austrian Liquidation Account concerned. As far as it has been ascertained at present there is only one small amount due to a Hungarian national. No estates in which Turkish or Bulgarian beneficiaries are interested have been reported to the Public Trustee.

CONTROL OF PROPERTY OF PRISONERS OF WAR.

21. In order to prevent undue loss arising on account of the detention of aliens who were interned in New Zealand during the war, provision was made in the War Regulations dated 24th July, 1916, for the appointment of the Public Trustee as custodian of the property of a prisoner of war, either by the prisoner himself or by the Attorney-General in any case where he considered it necessary that a custodian should be appointed. Wide powers were conferred on the Public Trustee under the regulations, and, in the case of the prisoners of war who were repatriated from New Zealand, the Public Trustee was empowered to sell the whole or any part of the real or personal property in New Zealand of that prisoner, and to execute in his name and on his behalf all proper instruments of assurance. The amounts collected on behalf of the prisoners of war who, on their release from internment, were permitted to remain in New Zealand were paid to such prisoners on their release. In the case of the prisoners of war who were repatriated from New Zealand, the amounts held on their behalf were remitted to the High Commissioner for New Zealand in London, who was requested

to follow the practice of the Imperial Government in connection with the payment of amounts in similar cases in the United Kingdom.

22. In a despatch dated 30th October, 1920, the Secretary of State for the Colonies advised that the British Government had decided to release the moneys under their control belonging to repatriated German and Austrian prisoners of war and interned civilians which were retained at the time of their repatriation, provided that those countries carried out their obligations in regard to the payment of amounts belonging to or earned by British prisoners of war.

RELEASE OF AMOUNTS DUE TO REPATRIATED GERMAN SUBJECTS.

23. Information was received by the High Commissioner from the Foreign Office that it had been decided to release money for the benefit of the individual German subjects to whom it was due. As it was understood by His Majesty's Government that the German Government had already paid the sums in question to their nationals, it was arranged to make the payments through the German Government on receipt of a definite statement that the sums had actually been paid by the German Government free of any deduction to the prisoners concerned. The High Commissioner for New Zealand has made similar arrangements for the payment of the amounts due to the German subjects who were repatriated from New Zealand.

RELEASE OF AMOUNTS DUE TO REPATRIATED AUSTRIAN SUBJECTS.

24. The Secretary to the Department for the Administration of Austrian Property (London), has informed the High Commissioner that in the opinion of that Department there is no reason why the amounts held on account of Austrian subjects repatriated from New Zealand should not be released as desired by the New Zealand Government. Consequently similar arrangements to those outlined above in connection with the repatriated German subjects have been made for the payment of the sums due to the Austrian nationals through the Austrian Ambassador at London.

RELEASE OF AMOUNTS DUE TO REPATRIATED DALMATIANS.

25. In connection with the amounts belonging to the Dalmatians who were repatriated from New Zealand the High Commissioner for New Zealand is in communication with the Secretary to the Legation of the Kingdom of the Serbs, Croats, and Slovenes to ascertain whether arrangements can be made for such amounts to be paid through the Serb, Croat, and Slovene Government. The Secretary to the Legation has requested his Government to furnish the original receipts, together with translations duly legalized by the Home Office or by the British Consul at Zagreb, and on receipt of these documents payment of the amounts will be made to the London Legation.

RIGHTS OF ALLIED AND ASSOCIATED POWERS TO RETAIN AND LIQUIDATE ENEMY PROPERTY.

26. Under the provisions of paragraph (b) of Article 297 of the Treaty of Versailles the Allied and Associated Powers have reserved the right (subject to any contrary stipulations in the Treaty) to retain and liquidate all property, rights, and interests belonging at the date of the coming into force of the Treaty to German nationals or companies controlled by them within their territories, colonies, possessions, and protectorates, including territories ceded to them by the Treaty. In regard to the properties belonging to the subjects of Austria, Hungary, Bulgaria, and Turkey, similar provisions are contained in the undermentioned Treaties of Peace :—

- (a.) Austria—Article 249 (b), Treaty of St. Germain-en-Laye.
- (b.) Hungary—Article 232 (b), Treaty of Trianon.
- (c.) Bulgaria—Article 117 (b), Treaty of Neuilly-sur-Seine.
- (d.) Turkey—Article 289, Treaty of Sèvres.

27. The term "national" as used in the articles of the various Peace Treaties referred to above does not imply a residential qualification, and consequently the expression "German national" is regarded as including any person of German nationality, whether resident in Germany or in an Allied or neutral country. A similar meaning is attached to the term "national" used in regard to the subjects of Austria, Hungary, Bulgaria, and Turkey.

RETENTION AND LIQUIDATION OF ENEMY PROPERTY IN NEW ZEALAND.

28. The necessary provisions for exercising in New Zealand the powers of retention and liquidation referred to in the preceding paragraph are contained in Part II of the Treaty of Peace Order, 1920, which was made under the authority of the War Regulations Amendment Act, 1916, and the Treaties of Peace Act, 1920. Under paragraphs 27 to 30 inclusive of this Order all moneys in the hands of the Public Trustee as Custodian of Enemy Property, or thereafter coming into the hands of the Public Trustee in pursuance of the War Regulations, are declared to be vested in the Public Trustee in trust for His Majesty. It is provided in paragraph 32 that all moneys and properties declared under the foregoing provisions to be vested in the Public Trustee in trust for His Majesty are to be retained and liquidated in accordance with the provisions of the Treaty. In addition to the powers relating to the liquidation of enemy property conferred under the various War Regulations, and continued in force by the War Regulations Continuance Act, 1920, it is provided in paragraph 33 of the Treaty of Peace Order, 1920 (as amended by the Treaty of Peace Amendment Order, 1922), that when the Attorney-General is satisfied that an enemy, or any person claiming through an enemy, was at the date of the coming into force of the Treaty of Peace with the State of which such enemy was a subject beneficially entitled to any estate, right, title, or interest in any property held in New Zealand, the Attorney-

General may, by order signed by him, declare that such estate, right, title, or interest is vested in His Majesty. The only vesting-order which the Attorney-General has so far signed under paragraph 33 is in connection with an estate of which the gross value amounts to £33,300.

29. The Treaty of Peace Amendment Order, 1922 (gazetted on the 15th June, 1922), empowers the Public Trustee to sell, realize, or otherwise convert into money any such estate, right, title, or interest. In paragraph 34 a similar provision is made for the liquidation of any estate, right, title, or interest in or in respect to any land or other property vested at law in an enemy, or any person claiming through an enemy.

30. The net proceeds of the property, rights, and interests of enemy nationals retained and liquidated in accordance with the above-mentioned provisions may be charged under paragraph 4 of the annex to Article 298 of the Treaty of Versailles, firstly, with the payment of amounts due in respect of claims by New Zealand nationals with regard to their property, rights, and interests, or debts owing to them by German nationals, and with payment of claims growing out of acts committed by the German Government, or by any German authorities since the 31st July, 1914, and before New Zealand entered into the war; and, secondly, with the payment of the amounts due in respect of claims by New Zealand nationals with regard to their property, rights, and interests in the territory of other enemy Powers in so far as these claims are otherwise unsatisfied.

31. Under the provisions of Article 297 (*h*) (1) credit must be given in sterling through the Clearing Office in respect of the proceeds of the realization of German property in New Zealand. The Central Clearing Office has drafted a schedule indicating what particulars of the property liquidated shall be transmitted for the information of the German Clearing Office. The total amount credited in accordance with this provision is as follows: Germany, £87,005 3s. 4d.; Austria, £310 14s. 11d.: total, £87,315 18s. 3d.

DELIVERY TO NEW ZEALAND OF SECURITIES HELD BY GERMAN NATIONALS.

32. Under paragraph 10 of the annex to Article 298 of the Treaty of Versailles Germany is required to deliver to the New Zealand Government all securities relating to properties, rights, and interests in the Dominion held by German nationals. This provision reads as follows:—

“Germany will within six months from the coming into force of the present Treaty deliver to each Allied or Associated Power all securities, certificates, deeds, or other documents of title held by its nationals and relating to property, rights, or interests situated in the territory of that Allied or Associated Power, including any shares, stock, debentures, debenture stock, or other obligations of any company incorporated in accordance with the laws of that Power. Germany will at any time, on demand of any Allied or Associated Power, furnish such information as may be required with regard to the property, rights, or interests of German nationals within the territory of such Allied or Associated Power, or with regard to any transaction concerning such property, rights, or interests effected since July 1, 1914.”

A cablegram dated 24th January, 1922, was received from the Secretary of State for the Colonies requesting the New Zealand Government to nominate a representative to take over from Germany the securities relating to the Dominion specified in the paragraph referred to above. The High Commissioner was authorized to nominate a representative on behalf of the Dominion, and in accordance with a suggestion made by the Central Clearing Office arrangements were made for an officer of the High Commissioner's staff to accompany the representative of the Australian Government to Berlin for the purpose of taking delivery of the securities relating to both Australia and New Zealand. The securities handed over proved to be almost entirely Australian documents, to the nominal value of about £80,000. While in Berlin the New Zealand representative took the opportunity of discussing with the German Clearing Office many matters relating to New Zealand in connection with Articles 296 and 297 of the Treaty.

PROPERTY BELONGING TO ENEMY SUBJECTS WHO HAVE BEEN PERMITTED TO REMAIN IN NEW ZEALAND.

33. The New Zealand Government has decided not to exercise any power of retention and liquidation which it may have under the Treaties of Peace in regard to the property, rights, and interests, of enemy subjects who have been permitted to remain in New Zealand.

RELEASE OF PROPERTY BELONGING TO PERSONS OF BRITISH, ALLIED, OR NEUTRAL NATIONALITY.

34. Owing to the wide definition of “alien enemy” contained in the War Regulations it was necessary for the Public Trustee, as Custodian of Enemy Property, to collect moneys owing to all persons who during the war were resident in enemy territory, irrespective of their nationality. The object was to prevent any financial assistance from reaching the enemy. In accordance with the practice followed in the United Kingdom, the property belonging to British, Allied, or neutral subjects is released on production of satisfactory evidence of nationality, with the approval of the Attorney-General. Twenty-eight amounts have been released under this heading, totalling £28,725 0s. 4d.

RELEASE OF PROPERTY OF PERSONS WHO CLAIM TO BE DESTITUTE OF NATIONALITY.

35. In a despatch dated 27th June, 1921, the Secretary of State for the Colonies forwarded a copy of a judgment delivered on the 28th April, 1921, by Mr. Justice Russell in the Chancery Division of the High Court of Justice in the case of *Stoeck v. Public Trustee and Attorney-General*. The plaintiff sued the Public Trustee and the Attorney-General, *inter alia*, for a declaration that the plaintiff was not on the 10th January, 1920 (the date when the Treaty of Peace with Germany came into force), and is not a German national within the meaning of the Treaty of Peace Order, 1919, or

the Treaty of Peace. The plaintiff contended—(1) That since 1896 he had been completely divested of Prussian nationality and German nationality; (2) that he had never acquired any other nationality; (3) that he was in a condition of a Stateless person; (4) that he was not on the 10th January, 1920, a German national; (5) that his property in England was therefore not subject to the charge created by the Treaty of Peace Order.

After considering German law as to the status of Stateless persons, and the opinions of writers on international law in regard to this question, Mr. Justice Russell declared that the plaintiff was not on the 10th January, 1920, a German national within the meaning of the Treaty of Peace Order, 1919, or within the meaning of Section IV of Part X of the Treaty of Peace. His Lordship further held that the condition of a Stateless person was not a condition unrecognized by the municipal law of England.

Special application forms have been provided by the Custodian of Enemy Property for the United Kingdom for the use of persons who claim the release of their property on the ground that they are destitute of nationality. Copies of these forms have been received, but no applications on these grounds have been received by this Office in connection with the property held in New Zealand.

RELEASE OF PROPERTY OF PERSONS WHO HAVE ACQUIRED THE NATIONALITY OF AN ALLIED OR ASSOCIATED POWER UNDER ONE OF THE PRINCIPAL TREATIES OF PEACE.

36. Paragraph (b) of Article 297 of the Treaty of Versailles provides that German nationals who acquire, *ipso facto*, the nationality of an Allied or Associated Power in accordance with the provisions of the Treaty will not be considered as German nationals whose property is subject to retention and liquidation.

The provision in paragraph (b) of Article 249 of the Treaty of St. Germain-en-Laye is wider in scope. The paragraph reads as follows:—

“Persons who within six months of the coming into force of the present Treaty show that they have acquired, *ipso facto*, in accordance with its provisions, the nationality of an Allied or Associated Power, including those who under Article 72 or 76 obtained such nationality with the consent of the competent authorities, or who under Article 74 or 77 acquired such nationality in virtue of previous rights of citizenship (*pertinenza*), will not be considered as nationals of the former Austrian Empire within the meaning of this paragraph.”

37. Similar provisions are included in the treaties with Bulgaria and Turkey. A special form has been prepared for completion by persons who claim the release of their property under this heading. In the majority of cases where there is reason to believe that the persons entitled to sums held under the War Regulations have acquired the nationality of an Allied or Associated Power under the foregoing provisions, it has been the practice to forward such amounts to the High Commissioner for New Zealand in London, who has been authorized to make payment as soon as satisfactory evidence as to nationality has been produced to him.

RELEASE OF PROPERTY OF BRITISH-BORN WIVES OR WIDOWS OF GERMAN NATIONALS.

38. The British Government has decided to release the property in the United Kingdom belonging to British-born women who married German subjects prior to the war and who since the 10th January, 1920, have been readmitted to British nationality either as widows or divorcees. Similar action is being taken in New Zealand in connection with two cases, and the sums released to date amount to £674 18s. 3d. It is probable that further sums will be released under this heading as soon as certain information is received from the Central Clearing Office, London. No special concessions have been granted to British-born wives or widows of German nationals who are still resident in Germany.

RELEASE OF PROPERTY OF GERMANS IN NECESSITOUS CIRCUMSTANCES.

39. The British Government has decided that German nationals permitted to reside in the United Kingdom may in special cases receive the income from their property up to a reasonable amount for maintenance and for business purposes, and in addition sums on account of capital up to a maximum of £1,000 may be released to them. Sums up to a maximum of £200, and income up to a reasonable amount, belonging to a German national residing elsewhere may be released from the charge where the case is one of extreme hardship. The Board of Trade have appointed a committee, of which Lord Justice Younger is chairman, to advise on all applications of this nature.

Several such applications have been received in connection with the proceeds of property realized in pursuance of the War Regulations. The Hon. the Attorney-General has approved the release of £1,680 6s. 8d. to five applicants under this heading.

GERMAN CHURCH TRUST PROPERTY, CHRISTCHURCH.

40. By section 78 of the Reserves and other Lands Disposal Act, 1917, the property belonging to the German Church Trust at Christchurch was vested in the Public Trustee upon such trusts and with such powers, discretions, and authorities as the Governor in Council might from time to time direct. The church premises have been let, and the Public Trustee is collecting the rents and making such repairs as are necessary from time to time.

41. A petition signed by the German Protestant inhabitants of Canterbury has been received praying that the trust property formerly belonging to the German Protestant Church of Christchurch be now vested in the Evangelical Lutheran Concordia Conference Trust Board. The request has been considered by the Government, and legislation dealing with the matter will probably be introduced during the coming session.

PART II.—SETTLEMENT OF CLAIMS PREFERRED BY NEW ZEALAND NATIONALS AGAINST ENEMY SUBJECTS.

42. The arrangements made by the New Zealand Government during the period of the war for the purpose of obtaining a record of the debts owing to British nationals in New Zealand by enemy nationals, and particulars of property in enemy territory belonging to British nationals, have been set forth briefly in paragraph 10 of my previous report.

43. When the Treaty of Peace with Germany was being drafted considerable care was taken to include provisions which would ensure the settlement of debts owing by German nationals to the nationals of the Allied or Associated Powers. As a result provision was made in Article 296 of the Treaty of Versailles for the establishment of a Clearing Office for the settlement of debts between German nationals and Allied nationals. Paragraph (c) of Article 296 enacts that the provisions of this article, and the annex thereto, shall not apply as between Germany on the one hand and any one of the Allied or Associated Powers, their colonies or protectorates, or any one of the British Dominions or India, on the other hand, unless within a period of one month from the deposit of the ratifications of the Treaty by the Power in question, or of the ratification on behalf of such Dominion or of India, notice to that effect is given to Germany by the Government of such Allied or Associated Power, or of such Dominion or of India, as the case may be. The Government of New Zealand decided to adopt the provisions of the above-mentioned article in regard to Germany.

44. In view of the insignificance of the claims against the nationals of the other enemy Powers it was considered unnecessary to establish Clearing Offices for the settlement of debts between British nationals in New Zealand and Austrian, Hungarian, Bulgarian, and Turkish nationals under the similar provisions contained in the treaties with these Powers. The Clearing Office scheme for the settlement of debts applies equally to claims by British nationals against German nationals, and to claims by German nationals against British nationals.

DUTIES OF THE PUBLIC TRUSTEE AS CONTROLLER OF THE NEW ZEALAND CLEARING OFFICE.

45. The principal duties being performed by the Public Trustee in his capacity of Controller of the New Zealand Clearing Office may be summarized as follows:—

(1.) *Claims by British Nationals against German Nationals.*

(a.) On the establishment of the New Zealand Clearing Office the Public Trustee was required to advise all persons who had registered claims in accordance with the War Regulations dated 28th February, 1918, of the provisions of the Clearing Office procedure, and to forward the Clearing Office forms for completion by the claimants.

(b.) The completed statements of claim, after being checked, have been forwarded under a covering schedule to the High Commissioner for New Zealand for transmission to the German Clearing Office through the Central Clearing Office, London.

(c.) On receipt of a reply from the German Clearing Office the claimant is notified of the position. If the claim is admitted, in whole or in part, the amount payable is at once remitted to the claimant from enemy moneys held by the Custodian. If the claim is contested by the German Clearing Office, or by the German debtor, the claimant is supplied with a translation of the grounds on which the claim is not admitted.

(d.) If the claimant considers that he has not an enforceable claim, or for any other reason decides not to proceed with the claim, a formal notification is sent to the German Clearing Office that the claim is withdrawn.

(e.) *Disputed Claims.*—The procedure in connection with disputed claims is set forth in paragraphs 16–21 inclusive of the annex to Article 296 of the Treaty of Versailles. If the creditor desires to maintain his claim the following courses are open to him: (i) To prepare for transmission to the German Clearing Office a further statement containing particular reference to the grounds on which the claim has been contested; (ii) to refer the dispute to arbitration if the parties so agree, under conditions fixed by agreement between them; (iii) to submit the dispute to the jurisdiction of the Courts of the place of domicile of the debtor; (iv) to refer the dispute to the Anglo-German Mixed Arbitral Tribunal (for further particulars regarding the Tribunal please see paragraph 65 and the appendix to this report).

(2.) *Claims by German Nationals against British Nationals.*

(a.) Claims received from German nationals against British nationals in New Zealand are compared with the records of the amounts received under the War Regulations.

(b.) If the claim is identified with an amount received prior to the 10th January, 1920, the claim is contested as not falling under Article 296. Debts collected prior to the 10th January, 1920, by the Custodian of Enemy Property require to be credited to the German Clearing Office under Article 297 of the Treaty of Versailles.

(c.) If the claim cannot be identified with an amount collected by the Custodian of Enemy Property, a notification is sent to the debtor requiring him to advise this Office within seven days whether he admits or contests the claim, either in whole or in part.

(d.) If the claim is admitted, in whole or in part, the amount due, plus Treaty interest thereon, is collected, and the amount is included on an admission schedule for despatch to the German Clearing Office.

(e.) In regard to the claims, or the portions thereof, which are not acknowledged as owing by the debtors, formal contests covering copies of the letters from the debtors showing the grounds on which the claim is not admitted are forwarded to the German Clearing Office.

(f.) In some cases it is necessary to request the German Clearing Office to supply further particulars of the claim in order that the debtors may look further into the matter.

DIFFICULTIES IN DEALING WITH CLAIMS.

46. The difficulties experienced by both debtors and creditors in dealing with these claims will be readily appreciated when one considers the long period which has elapsed since the debts were incurred, the inevitable staff changes during that period, the possible destruction of original documents, papers, and books, and generally the great difficulty in ascertaining and establishing the facts relative to the claim. While the New Zealand Clearing Office is prepared to assist New Zealand nationals as far as possible in regard to the claims preferred by or against them, the responsibility for any action taken must be assumed by the national concerned. In many cases the Office has expressed an opinion as to the legal position regarding claims, but, on account of the possibility of further material facts being produced by either the claimant or the alleged debtor, the desirability of consulting legal advisers has always been stressed. Many letters from business firms in New Zealand have been received expressing appreciation of the help afforded by the Office.

TIME-LIMIT FOR LODGING CLAIMS.

47. The Treaty of Versailles provides that creditors are to communicate their claims to the Clearing Office of the country in which they are resident within six months of the date of the establishment of such office. No provision is made, however, for inflicting any penalty in the event of creditors failing to make their declarations within the stipulated period. A notification was published in the *New Zealand Gazette* dated 8th September, 1921 (page 2304), to the effect that by an agreement made with the German Clearing Office the time for lodging claims with the New Zealand Clearing Office under Article 296 of the Treaty of Versailles had been extended to the 30th September, 1921, and that no further claims under the above article would be accepted after that date. Inquiries have been instituted to ascertain what remedies (if any) are available to persons who have failed to comply with the notice.

INTEREST ON DEBTS.

48. In accordance with the terms of paragraph 22 of the annex to Article 296, interest at 5 per cent. is payable on all debts falling within the provisions of the Article, from the date of commencement of hostilities (or, if the sum of money to be recovered fell due during the war, then from the date on which it fell due) until the sum is credited to the Clearing Office of the creditor, except—(i) On sums of money due by way of dividend, interest, or other periodical payments which represent interest on capital; (ii) where the creditor is entitled to payment of interest at a different rate by contract law or custom. In such case the rate to which he is entitled shall prevail.

Interest may also be recovered through the Clearing Office for a period prior to the outbreak of war, provided such interest is payable under the terms of the contract. As a general rule New Zealand nationals who have claims against German nationals have expressed satisfaction with the provisions of the Treaty relating to interest, although in some cases creditors have considered that the rate of interest should have been higher, or that compound interest should have been made payable. Where New Zealand firms are the debtors the interest provisions have been the subject of some severe criticism. In this connection the comments made by the Controller of the Central Clearing Office, London, in his first report, dated the 27th September, 1921, are directly in point, and will be read with interest :—

The demand made upon British debtors for payment of interest on their debts owing to Germany arises out of the express obligation which is imposed upon all debtors by section 111 of the Treaty, and applies equally to the nationals of our Allies and Germany. Having regard to the fact that this country is a creditor nation, the provision undoubtedly benefits British traders as a whole, although it may be admitted that this consideration does not in itself offer much consolation to individual debtors. In the case of traders, however, it must be borne in mind that throughout the period of the war they have had the use in their businesses of the moneys owing to their German creditors, and that, in the vast majority of cases, they have earned profits thereon far in excess of the interest now demanded of them. In many cases it has been alleged by creditors that, actuated by patriotic motives, and influenced by appeals published in the Press, they had invested their German moneys in war loan, the earlier issues of which did not produce interest equal to the demand now made upon them, and that, moreover, the necessity to account for the original sum invested results in a considerable loss to them by reason of the depreciation of their holdings. Upon investigation it has rarely been found that the investment was earmarked as the property of the German customers, nor would one expect this to have been the case, for the relation between a trader and his customer is not that of trustee and *cestui qui trust*, and the trader is under no obligation to set aside a specific fund for payment of his debts, which are chargeable against his assets generally. Moreover, the claim that the investment was made from patriotic motives is somewhat inconsistent with the contention that any loss which may have arisen therefrom should be charged to the taxpayer. It may be doubted whether, had a profit accrued from the investment of the money, there would have been an equal anxiety to account for such profit to the Clearing Office. That genuine cases of hardship have occurred by reason of this particular Treaty provision is admitted, but such cases are inevitable in any general scheme of this nature. Fortunately they are comparatively few in number.

Information has been received from the Imperial Government that interest on debts collected in accordance with the provisions of Article 296 of the Treaty of Versailles in the distant parts of the Empire must be calculated and credited to the German Clearing Office up to the date on which the sums are credited by the Central Clearing Office in London, although interest can be collected from the debtors only up to the date of payment to the local Clearing Office. Correspondence has ensued between the Central Clearing Office and certain of the Clearing Offices of the British dominions as to the correctness of this view. The matter has not yet been definitely settled. In any case, the amount involved in connection with the New Zealand Clearing Office is comparatively small.

DELAY IN PAYMENT OF CLAIMS.

49. Considerable correspondence has been necessary in replying to letters from creditors in regard to the delays which have occurred in receiving replies from the German Clearing Office. The following extract has been made from the first report by the Controller of the Central Clearing Office, London :—

That in many cases there has been undue delay in the payment of claims is admitted, but for this the Department is not to blame. The Treaty provides that within three months of the notification of a debt to the debtor Clearing Office, or such further time as may be agreed upon by the two Clearing Offices, the debt shall be either admitted or contested. In view of the vast number of claims between this country and Germany, and the impossibility of clearing them within the time limited by the Treaty, it was mutually agreed to extend the time to six months, except in the case of certain income debts, where the period of three months was adhered to. It was also agreed that either Clearing Office could give notice to the other of the exclusion from the operation of this agreement of any specified debts. The greatest expedition has been used by the Department in notifying claims to the German Clearing Office. Once a claim has been notified to the German Clearing Office it is out of the control of the British Office. On the 15th of the month following that in which notice of its admission has been received the debt is paid. Hitherto notice of admission or contest has been received from the German Clearing Office in respect of all debts notified to it, within the limited period referred to above. When a debt is contested, the creditor is entitled to lodge at once a memorial with the Anglo-German Mixed Arbitral Tribunal, which sits in London, by way of appeal from the decision of the German Clearing Office. The procedure is simple, and if the creditor is successful in establishing his claim its amount is at once paid to him by this office. Before, however, recourse is had to the Mixed Arbitral Tribunal, the Treaty contemplates that every endeavour should be made to reach an amicable settlement. The branch of this office which has been established in Berlin has been exercising continual pressure to procure the more speedy admission of claims, and the results of its efforts have been satisfactory. It is only right, however, to point out that the German Clearing Office has to deal not only with the claims of the nationals of this country, but with those of most of our Allies. The volume of these claims is enormous, and the fact that the debts have been outstanding for upwards of seven years adds to the difficulty of agreeing them with the debtors, many of whom have disappeared. Staff difficulties and the unsettled state of the country have also militated against expedition, but even when all these factors are taken into consideration there can be no doubt that in very many cases there has been avoidable delay on the part of the German Clearing Office. As some compensation to creditors for this delay it may be noted that interest upon all capital sums continues to run in their favour, pending admission of their debts.

CHARGE TO CREDITORS OF $2\frac{1}{2}$ PER CENT. COMMISSION ON PAYMENT OF THEIR CLAIMS.

50. Under paragraph 20 of the New Zealand Treaty of Peace Order, 1920, it is provided that it shall be lawful for the Clearing Office to deduct from any sum payable by that office to a creditor such commission, not exceeding $2\frac{1}{2}$ per cent. of the amount payable, as may be fixed by the Public Trustee. On account of the many New Zealand claims which have been contested by the German Clearing Office and subsequently withdrawn by the claimants it is probable that the charge of $2\frac{1}{2}$ per cent. will not be sufficient to reimburse the Public Trust Office for the expenses incurred in carrying out the duties under Part I of the Treaty of Peace Order. Although inquiries as to this charge have been made by New Zealand claimants, no direct objection has been taken. Of the $2\frac{1}{2}$ per cent. which is deducted, the New Zealand Clearing Office is required to pay 1 per cent. to the Central Clearing Office, on account of the duties performed by that office in transmitting the claims to the German Clearing Office, &c.

51. This matter has been referred to by the Controller of the Central Clearing Office in the following words :—

This charge has frequently been objected to by creditors upon the ground that its imposition reduces the amount which they consider themselves entitled to receive. A little reflection, however, would doubtless convince them of its justice. It is levied under the express authority of the Treaty, to cover "risks, expenses, or commissions." It is applied towards the expenses of the Department, and forms the fund for meeting the loss arising from the failure to collect debts owing by British nationals whose solvency is guaranteed under the Treaty by the British Government. This guarantee, which is an obligation imposed upon the Governments of all the Allied and ex-enemy countries which have adopted the Clearing Office system, is one of the greatest benefits conferred upon creditors by the Treaty. And this is particularly the case as regards British creditors, for, owing to the greater depreciation of the mark in relation to sterling than in relation to the currencies of other Allied countries, there is a greater probability of default on the part of their German debtors in meeting their obligations. When this fact is taken into consideration, together with the other benefits derived by creditors from the Clearing Office provision to which attention has already been drawn, the charge cannot, it is submitted, be regarded as excessive or unreasonable.

SYSTEM OF ACCOUNTING WITH THE GERMAN CLEARING OFFICE.

52. The system of accounting between the German Clearing Office and the Central Clearing Office is explained in the following extracts from the report of the Controller of the Central Clearing Office :—

It is desirable to take this opportunity of explaining the system of accounting between the two offices which is enjoined by the Treaty, as it has been the constant subject of complaint by British debtors that they are compelled to pay their German debts. Under the Treaty each Government undertakes responsibility for the debts owing by its nationals, except in the case of the pre-war insolvency of the debtor. Accordingly, subject to this exception, upon admission of a debt by a British debtor the British Clearing Office gives credit to Germany for the amount so admitted, irrespective of whether or not it can be collected. At the end of each month an account is prepared by this office debiting the German Clearing Office with the amount of the debts owing by German nationals which have been admitted during that month, and crediting it with the debts owing by British nationals which have been admitted during the same period. This account is designated "the Monthly Account," and is delivered to the German Controller on or about the 7th of the month. If the balance is in favour of this country, Germany is required by the Treaty to pay such balance to this office in cash. If, however, as sometimes happens, the balance is in Germany's favour, no payment is made to the German Clearing Office, but such balance is carried forward to its credit in the next account. If, upon the completion of the clearing process, the balance be in favour of Germany, it is to be retained until complete payment shall have been effected of the sums due to the Allied or Associated Powers or their nationals on account of the war. This explanation should dispel the illusion which appears to be common amongst debtors that the amounts collected from them are actually paid to their German creditors. This is only true in the sense that the amount of their admitted debts is credited to the German Clearing Office in the monthly account, and that this reduces *pro tanto* the balance which the latter office has to pay to the British Clearing Office. Owing to the guarantee referred to above, the non-payment by British debtors of their admitted debts in no way

prejudices Germany. On the other hand, the fund required to pay the admitted claims of British creditors is deficient by the amount of British debts credited to Germany in the account which the Clearing Office has failed to collect. Any deficiency caused by the default of British debtors to meet their obligations has to be made good out of Clearing Office funds to the extent to which these are available.

Towards the end of October, 1920, representations were made by the German Government that owing to its other commitments, and to the depreciation of the mark, it would be impossible for it in the immediate future to provide the necessary funds to meet the Clearing Office balances; and on the 16th December following a communication was addressed to me by the representative of the German Ministry attached to this Department, notifying me that his Government would be compelled for the present to make default in the payment of the Clearing Office balances. A notice in similar terms was at the same time addressed to the French Controller. A meeting of the Council of Allied Controllers was thereupon summoned to consider the position, and to determine what steps should be taken in the circumstances. It may be conceded that strict adherence to the method of payment envisaged by the Treaty for the liquidation of Germany's obligations under Article 296 might prove embarrassing to the German Government. The monthly balances cannot be estimated in advance, for they are dependent upon the volume of admissions up to the day in each month when the accounts are simultaneously presented by all the Allied Clearing Offices. The aggregate of these balances has then to be provided in the currencies of the respective Allied countries within seven days of the presentment of these accounts. As the result of the discussion which ensued, it was agreed to consent to a variation in the above method of payment by substituting fixed for variable balances, with a view to facilitating the task of the German Government by affording it ample opportunity to provide the necessary funds in advance of its requirements. Joint meetings of the Allied Controllers and representatives of the German Government then took place, when the latter welcomed the above proposal, and as a result of prolonged negotiations it was ultimately agreed that fixed monthly instalments of £2,000,000 should be paid by the German Government for division between the Allied Clearing Offices in proportion to the respective amounts of their monthly balances.

In a footnote to the above extract, the Controller of the Central Clearing Office intimated that at the date of his report (27th September, 1921) the proportionate amounts received by the British Clearing Office under the above arrangement were in excess of its monthly balances.

53. On the 24th March, 1920, a cablegram was received from the Secretary of State for the Colonies in which it was stated that there appeared to be two alternative methods regarding the application of Article 296: (1) That New Zealand should establish its own Central Clearing Office, which would be entirely distinct from the office in London, would communicate directly with the German Clearing Office, and would appoint representatives in Germany; (2) that His Majesty's Government were willing that the Central Clearing Office, London, should act as agent for New Zealand for the transmission of claims between New Zealand and Germany.

The second alternative was adopted by New Zealand. In accordance with paragraph 11 of the annex to Section III of Part X of the Treaty, the Central Clearing Office, London, admits to the German Clearing Office liability in respect of the German claims upon New Zealand which are collected by the New Zealand Clearing Office, or by the High Commissioner for New Zealand from the London offices of New Zealand firms. The effect of these admissions is that the German Clearing Office has paid over to the British Clearing Office so much less than would have been the case had it not been necessary under the provisions of the Treaty to credit these admissions. In December, 1920, the Central Clearing Office therefore claimed from the New Zealand Clearing Office the amounts admitted by this office, less the amount of the claims admitted by the German Clearing Office as due to British nationals in New Zealand. As provided for by the Treaty, any indebtedness between New Zealand and Germany must be paid or received by Germany in New Zealand itself. The sum to be credited to Germany in the monthly settlement in respect of New Zealand admissions is the value of a cable draft for the amount payable in New Zealand on the day of settlement. The Central Clearing Office keeps a New Zealand Account, which is credited with all claims admitted by the German Clearing Office in respect of debts due to British nationals in New Zealand, and is debited with debts admitted by the New Zealand Clearing Office as due to German nationals. The balance of this account is settled with the Central Clearing Office monthly. If there is a balance in favour of the Central Clearing Office, payment is made to that office. If the balance is in favour of the New Zealand Clearing Office, the Central Clearing Office pays the amount to the High Commissioner for New Zealand in London.

LIABILITY OF THE NEW ZEALAND GOVERNMENT FOR DEBTS OWING BY DEBTORS WHO ARE UNABLE TO PAY.

54. Paragraph (b) of Article 296 of the Treaty provides that each of the high contracting parties shall be respectively responsible for the payment of debts falling within the scope of the Clearing Office scheme and due by its nationals, except in the case where before the war the debtor was in a state of bankruptcy or failure, or had given formal indication of insolvency, or where the debt was due by a company whose business has been liquidated under emergency legislation during the war. Under this provision it will be necessary to credit the German Clearing Office with the amount of debts which are proved against New Zealand nationals, even if the New Zealand Clearing Office is unable, for any reason, to collect the sums due. Thus, if a debtor becomes insolvent subsequent to the commencement of the war, or has left New Zealand after the 10th January, 1920, the above-mentioned provision will apply. The German Clearing Office is likewise required by the terms of the Treaty to credit in full to the Central Clearing Office, London, all debts proved to be due by German nationals to British nationals resident in New Zealand, irrespective of the fact that the German Clearing Office may not be in a position to collect a portion of these debts.

55. The charge of $2\frac{1}{2}$ per cent. commission which is deducted in the United Kingdom (see paragraph 50) will probably be sufficient to provide a fund for meeting all losses arising from the failure to collect debts owing by British nationals in the United Kingdom. As the volume of claims lodged by New Zealand nationals against German nationals for settlement through this Office is comparatively small, the charge of $2\frac{1}{2}$ per cent. will probably prove inadequate to establish a fund for meeting

the bad debts in New Zealand in addition to the expenses incurred in connection with the Clearing Office, especially in view of the fact that 1 per cent. of the 2½ per cent. deducted by this Office from claims by New Zealand nationals admitted by the German Clearing Office must be paid to the Central Clearing Office for transmitting New Zealand claims and advising this Office in connection therewith.

56. Any loss which may be incurred owing to the inability of this Office to collect the amounts due in respect of Clearing Office debts owing by British nationals in New Zealand can be met from the ample funds derived from the realization of enemy property in New Zealand.

CONVENTIONS WITH BELGIUM AND FRANCE.

57. On the 20th July, 1921, conventions under Article 296 (f) of the Treaty of Versailles were concluded between His Majesty's Government and the French and Belgian Governments respectively. New Zealand has been included within the scope of both conventions. The general effect of the conventions is to apply the provisions of Article 296 of the Treaty of Versailles to French and Belgian nationals residing within New Zealand, and to New Zealand nationals residing in France and in Belgium, in the same way as if such nationals were actually nationals of the country in which they are resident. The following notice was accordingly inserted in the *New Zealand Gazette* dated 17th November, 1921, page 2784 :—

In view of the agreements between the British Government and the Belgian and French Governments which are now awaiting ratification, and which apply the procedure under Article 296 of the Treaty of Versailles relating to pre-war debts to the claims of French and Belgian nationals in New Zealand on the 10th January, 1920, the Controller of the New Zealand Clearing Office (Enemy Debts) desires to receive at the earliest possible moment the names and addresses of such claimants, together with the amounts of their claims. These claims must be confined to debts against German nationals as defined by Article 296 of the Treaty.

No claims have been received under the above heading.

COUNCIL OF ALLIED CONTROLLERS.

58. The following paragraph, extracted from the first report of the Controller of the Clearing Office, London, is of general interest :—

Immediately upon its establishment, this office was confronted with difficulties which, although in a measure foreseen, could only be fully appreciated in the light of actual experience. In applying the operative articles of the Treaty which regulate the Clearing Office procedure, problems were at once presented to which solutions had immediately to be found. It appeared desirable that the Allied Clearing Offices should agree upon a common solution of these problems, and with this end in view I communicated with my colleagues, the Directors of the Allied Clearing Offices, and as the outcome of correspondence which took place between us it was decided to form a consultative body, to be designated "The Council of Allied Controllers," of which the Directors of the Clearing Offices of Belgium, France, Great Britain, Italy, and Siam became members. It was arranged that the Council should meet from time to time in the capitals of the various Allied countries to discuss and, if possible, to agree upon common solutions of these various Treaty problems. Meetings have been held in Paris, Brussels, and London, and the proceedings of the Council have been marked by the most complete unanimity. In spite of the varied circumstances of the different countries and of their divergent interests, unanimous resolutions have been arrived at on every question submitted. These resolutions have been embodied in a *procès-verbal* which has been assented to by the six countries concerned, and, subject to any contrary decisions by the Mixed Arbitral Tribunal, will guide the respective Clearing Offices in deciding the questions dealt with therein.

It would be difficult to exaggerate the mutual benefit which the Allied Clearing Offices have derived from these meetings. All the members of the Council have the same functions to perform and are faced with the same difficulties. To have acted independently of one another would have resulted inevitably in varying and contradictory solutions of the same problems, and consequent delay and confusion. On the other hand, the Council has had the advantage of the combined knowledge and assistance of its members, and the interchange of their views has led to uniformity of practice. The most cordial relations exist between the members, and, speaking for myself, I cannot be sufficiently grateful for the loyal and whole-hearted assistance which the other members of the Council have, one and all, rendered to me.

RESTITUTION IN SPECIE OF PROPERTY IN GERMANY BELONGING TO BRITISH SUBJECTS.

59. In paragraph 15 (ii) of my first report it was stated that persons who made application for the restitution in specie of their property in Germany which had been subjected to measures of transfer had been advised that in view of the terms of paragraph 9 of Article 297 it was not in accordance with the intention of the Treaty that restitution in specie should be accorded to British nationals under the circumstances described in paragraph (f) of Article 297. Under Article 2 of an amended agreement, dated London, 31st December, 1920, between the British and German Governments, respecting Article 297 of the Treaty of Versailles of the 28th June, 1919, ratifications of which were exchanged at London on the 6th October, 1921, British nationals are now entitled to claim, under section 4 of Part X of the Treaty of Versailles, restitution of their property, rights, and interests in Germany in so far as these have not been liquidated by the German authorities under German war legislation, or the proceeds of their sale if they are so liquidated. In addition to the actual amount realized by the sale of their property, nationals are also entitled, under Article 297 (e), to compensation for any loss or damage which they may have sustained by reason of such sale, or the application of exceptional war measures.

CLAIMS BY BRITISH NATIONALS UNDER ARTICLE 297.

60. In addition to the account which is kept between New Zealand and Germany under Article 296 of the Treaty of Versailles, the following two accounts are necessary under Article 297 :—

- (1.) *The Liquidation Account*, which deals with the property of each nation in the hands of the other. This account is credited with the proceeds of German property liquidated in New Zealand, and debited with the proceeds of New Zealand property which has been liquidated in German territory.

- (2.) *The Compensation Account*, which deals with compensation awarded to British nationals by the Mixed Arbitral Tribunal under Article 297 (e) in respect of any damage to property, rights, and interests in Germany which resulted from emergency war legislation. The amounts so awarded are payable in cash by Germany, subject to an agreement dated at London, 23rd November, 1921, regarding Article 297 (e) of the Treaty. There is but one side to this account, since any claim by German nationals in respect of similar damage to their property must be made against the German Government under Article 297 (i).

LAST DATE FOR RECEIPT OF CLAIMS UNDER ARTICLE 297.

61. In *New Zealand Gazette* No. 97, dated 17th November, 1921, the Controller of the New Zealand Clearing Office announced that the 15th December, 1921, was the latest date on which claims could be submitted through the New Zealand Clearing Office by British nationals in New Zealand for the proceeds of liquidation of property in Germany, or for compensation under Articles 297 and 300 (b) of the Treaty of Versailles in respect of damage inflicted on their property, rights, and interests in Germany by the application of exceptional war measures, measures of transfer, or measures of execution.

CREDITS BY THE GERMAN CLEARING OFFICE UNDER ARTICLE 297.

62. Credit sheets have been received from the German Clearing Office admitting two claims totalling £1,162 13s. 11d., made by New Zealand nationals in respect of their property liquidated in Germany. Payment of these claims has been arranged through the High Commissioner for New Zealand in London out of the proceeds of German property liquidated in New Zealand.

In accordance with the scale fixed by the Controller of the Central Clearing Office, commission at the following rate is deducted from the amount of the claims admitted by Germany under Article 297 : 2½ per cent. on the first £2,000, 2 per cent. on the next £3,000, 1½ per cent. on the next £5,000, 1 per cent. on the next £90,000, ½ per cent. on all further sums.

COMPENSATION CLAIMS.

63. In order to facilitate the settlement of claims for compensation, the Director of the Ministerium für Wiederaufbau intimated that Germany would be prepared to facilitate the settlement of claims for compensation by making voluntary offers in all cases where liability was admitted, and thus avoid the expense and delay of at once submitting to the Mixed Arbitral Tribunal cases in which amicable settlement of the claim could doubtless be arrived at. To give effect to this proposal an agreement, dated 31st December, 1920, was entered into between the two Governments, and a subsection of the Ministerium für Wiederaufbau was created to act in conjunction with the Berlin Branch of the Central Clearing Office in the discussion and settlement of such claims. When offers for compensation are received they are forwarded to the Central Clearing Office, and submitted to the claimants, and, if accepted, they will be presented by the Central Clearing Office to the Anglo-German Mixed Arbitral Tribunal for a formal award giving effect to the settlement arrived at. In the event of the claimant refusing to accept the offer, or if the whole claim is contested, the claimant is entitled to refer the matter to the Mixed Arbitral Tribunal. This agreement does not in any way interfere with the right of the claimant to refer at once his claim to the Anglo-German Mixed Arbitral Tribunal without awaiting the result of the negotiations between the two offices. Two offers have been received in connection with New Zealand claims, and these were duly accepted by the claimant. As soon as formal judgment of the Mixed Arbitral Tribunal is given payment will be arranged. A uniform rate of 2½ per cent. commission is deducted from all amounts payable to British nationals under this section.

REGISTRATION OF CLAIMS AGAINST RUSSIA.

64. Three claims, totalling £3,775 9s. 4d., were registered with the Public Trustee by persons in New Zealand, in accordance with a notice published in the *Gazette* in March, 1919, requiring all persons, firms, and companies of British nationality in New Zealand owning property in territory which on the 1st August, 1914, formed part of the Russian Empire, or having claims against the Russian territory, or against any person, firm, or company, or municipal or other local authority, in that territory, to transmit particulars of their claims to the Public Trustee at Wellington for registration by the Foreign Claims Office, London. No information has been received as to the prospects of a settlement of these debts.

ANGLO-GERMAN MIXED ARBITRAL TRIBUNAL.

65. The Anglo-German Mixed Arbitral Tribunal was appointed in 1920 in accordance with the provisions of Article 304 of the Treaty of Versailles. The personnel of the Tribunal is—President, Professor Eugène Borel; British member, Mr. R. E. L. Vaughan Williams, K.C.; German member, Dr. jur. Adolph Nicolaus Zacharias. Although certain rules of procedure were laid down in sections 3 to 7 of Part X of the Treaty, it was found necessary that a more complete set of rules should be put forward by the Tribunal itself in order to give general information to persons interested as to the method in which cases should be submitted to the Tribunal and presented to them for hearing. These rules were published in the *New Zealand Gazette* Extraordinary, No. 13, dated 10th February, 1921.

With the exception of appeals under Article 296, claims must, as a rule, be lodged within twelve months of the publication of the rules; but there is an exception under Article 297 where the claimant

had not at that date learnt whether damage or injury had been inflicted on his property, rights, or interests, or under Article 305 where the decision is given at a later date. It should be noted that the claimants are entitled to present their claims under Article 296 to the Mixed Arbitral Tribunal as soon as they are contested, while under Article 297 memorials can be lodged without waiting for the decision of the Clearing Offices. The decisions of the Tribunal are final and conclusive. The place and time of sitting are determined by the President of the Tribunal. Sittings are held in public.

The Anglo-Austrian, Anglo-Hungarian, and Anglo-Bulgarian Tribunals have also been constituted, and have separate rules of procedure, which, although not identical in form, contain no material differences. The headquarters of all the Tribunals are at Winchester House, 21 St. James's Square, London S.W. 1.

66. On the 15th August, 1921, the Secretary of the Central Clearing Office, London, advised that the Anglo-German Mixed Arbitral Tribunal had agreed to consider an application by the Central Clearing Office for an extension of time in a large number of cases, in view of the fact that endeavours to negotiate settlement of these claims are being made with the German authorities. It was further stated that the rules of procedure of this Tribunal provided that the date for lodging with the Tribunal claims by residents in the United Kingdom was the 16th November, 1921. The 1st October was therefore fixed as the last date upon which claims could be lodged with the Central Clearing Office to give sufficient time for the preparation of a list of all claims received in order that, where necessary, an extension of time could be obtained. In those cases in which claimants have not deposited their claims with the Central Clearing Office by the 1st October they will have to prosecute their own cases before the Mixed Arbitral Tribunal, in accordance with the rules of procedure, which provide, *inter alia*, that memorials in support of claims should be lodged with the Tribunal within twelve months from the date of the publication of the rules in the place where the claimant resides. A notice was published in the *New Zealand Gazette* No. 97, dated 17th November, last, advising that the 15th December, 1921, was the latest date on which claims could be submitted through the New Zealand Clearing Office by British nationals residing in New Zealand for the proceeds of liquidation of property in Germany. It was further announced that it will be necessary for claimants who had not thus submitted their claims to the New Zealand Clearing Office by the 15th December, 1921, to prosecute their own cases before the Anglo-German Mixed Arbitral Tribunal, in accordance with the rules of procedure of the Tribunal, a copy of which was published in the *New Zealand Gazette* Extraordinary, No. 13, dated 10th February, 1921.

CERTIFICATE FOR THE ISSUE OF MONEY-ORDERS PAYABLE IN GERMANY.

67. In paragraph 18 of my previous report it was stated that in order to prevent breaches of the Treaty of Peace Order, 1920, or of the War Regulations Continuance Act, 1920, in regard to the settlement of pre-war debts or the transfer of German property, the Secretary of the Post and Telegraph Department had arranged with the Public Trustee, as Custodian of Enemy Property, to examine applications for the issue of money-orders payable in Germany, and to grant permits if the remittance was not prohibited by law. During the year further instructions have been issued by the Postal Department under which permits issued by the Public Trustee are no longer necessary for the issue of money-orders payable in Germany.

CONCLUSION.

68. A summary of the more important despatches and communications from the Imperial authorities which have not been referred to specially in the foregoing report will be found in the appendix.

69. The duties connected with the management and disposal of property seized in pursuance of the War Regulations, and with the settlement of claims by and against British nationals in New Zealand through the medium of the Clearing Office, have proved to be onerous and exacting, both on account of the involved nature of many of the transactions and also on account of the reluctance on the part of some debtors to settle obligations for (as they imagine) the benefit of ex-enemy subjects. In the absence of any precedents for many of the matters dealt with the most watchful care has been called for in order that the interests of the Government and of British nationals under the various Treaties of Peace may be fully conserved, and, at the same time, that any undue hardship upon debtors may be avoided.

The readjustment of rights of property and of the settlement of mutual debts after so long an interruption of commercial relations through the operation of a state of war is a matter of almost world-wide difficulty, and the difficulty is increased by the disorganization of trade and commerce which has followed upon the upheaval in international relations as a result of the war. In many cases the position has been complicated by the question of nationality, since the old national boundaries of Europe have been profoundly modified as the result of the various Treaties of Peace.

It is now apparent that the settlement of pre-war debts between the subjects of the Allied and Associated Powers and the subjects of the ex-enemy States is likely to be protracted, especially where, as in the case of our own Dominion, the time which elapses in communicating with the Enemy Clearing Office is considerable.

Special attention is now being given to the closing of all enemy property accounts where possible. Fair progress in this direction has been made during the past few months, and in many cases the Office is only waiting the decision of the Central Clearing Office in London on questions of policy to dispose of many other cases which will be governed by the decisions given.

70. I have again to express my thanks to the banks and other commercial institutions for the ready way in which they have assisted the work of the Custodian by furnishing information bearing upon claims received from or lodged against German nationals.

I also to desire to place on record my appreciation of the work of the officers of the Public Trust Office who have been engaged on enemy-property work during the year.

I have, &c.,

J. W. MACDONALD,

Public Trustee, as Custodian of Enemy Property, and
Controller, New Zealand Clearing Office.

Wellington, 24th August, 1922.

APPENDIX.

SUMMARY OF THE PRINCIPAL DESPATCHES RECEIVED FROM HIS MAJESTY'S SECRETARY OF STATE FOR THE COLONIES IN REGARD TO ENEMY PROPERTY AND THE SETTLEMENT OF DEBTS THROUGH THE CLEARING OFFICE.

ANGLO-AUSTRIAN MIXED ARBITRAL TRIBUNAL.

1. Despatch dated 9th September, 1921, enclosed copies of the following extracts from the *London Gazette* No. 32437, of the 26th August, 1921, regarding the establishment of an Anglo-Austrian Mixed Arbitral Tribunal under Article 256 of the Treaty of Peace with Austria:—

The following announcement is made by the Board of Trade:—

In pursuance of Article 256 of the Treaty of St. Germain-en-Laye, the Mixed Arbitral Tribunal between the British Empire and Austria has been constituted, and is about to commence work in London. The President is Mr. B. C. J. Loder, LL.D., Judge of the Supreme Court of the Netherlands; the British member is Mr. Heber Hart K.C., LL.D.; and the Austrian member Dr. jur Paul Hammerschlag.

An important part of the work of the Tribunal will be to decide upon claims in respect of debts under Section III of Part X of the Treaty, where a difference arises between British and Austrian nationals or between the British and Austrian Clearing Offices. It has also jurisdiction under Section IV ("Property, Rights, and Interests"), Section V ("Contracts, Prescriptions, Judgments"), Section VI ("Mixed Arbitral Tribunal"), and Section VII ("Industrial Property") of Part X of the above Treaty.

By the Treaty the high contracting parties have agreed that their Courts and authorities shall render to the Tribunal direct all the assistance in their power, particularly as regards transmitting notices and collecting evidence; and they have also agreed to regard the decisions of the Tribunal as final and conclusive, and to render them binding upon their nationals.

Statutory effect has been given to the provisions of the Treaty in this country by an Order in Council of the 13th August, 1920 (Statutory Rules and Orders, 1920, No. 1613).

The British Government has provided headquarters for the Tribunal at Winchester House, 21 St. James's Square, S.W. 1. Mr. Claud Mullins, barrister-at-law, is the British Secretary.

Rules of Procedure of the Mixed Arbitral Tribunal between the British Empire and Austria under Article 256 of the Treaty of St. Germain-en-Laye.

Notice is hereby given that the Rules of Procedure of the Mixed Arbitral Tribunal between the British Empire and Austria have been published as Statutory Rules and Orders, 1921, No. 1301, and copies of the same can be purchased (price 6d. net), either directly or through any bookseller, from His Majesty's Stationery Office at the following addresses: Imperial House, Kingsway, London W.C. 2; 28 Abingdon Street, London S.W. 1; 37 Peter Street, Manchester; 1 St. Andrew's Crescent, Cardiff; 23 Forth Street, Edinburgh; or from E. Ponsonby (Limited), 116 Grafton Street, Dublin, or at the Secretariat of the Tribunal.

ANGLO-HUNGARIAN MIXED ARBITRAL TRIBUNAL.

2. Despatch dated 12th September, 1921, enclosed copy of two extracts from the *London Gazette* No. 32444, of the 2nd September, 1921, containing notices regarding the constitution of the Mixed Arbitral Tribunal between the British Empire and Hungary under Article 239 of the Treaty of Trianon.

The following announcement is made by the Board of Trade:—

In pursuance of Article 239 of the Treaty of Trianon, the Mixed Arbitral Tribunal between the British Empire and Hungary has been constituted, and is about to commence work in London. The President is Mr. B. C. J. Loder, LL.D., Judge of the Supreme Court of the Netherlands; the British member is Mr. Heber Hart, K.C., LL.D.; and the Hungarian member Mons. Bela de Zoltán, formerly Minister of Justice in Hungary.

An important part of the work of the Tribunal will be to decide upon claims in respect of debts under Section III of Part X of the Treaty, where a difference arises between British and Hungarian nationals or between the British and Hungarian Clearing Offices. The Tribunal has also jurisdiction under Section IV ("Property, Rights, and Interests"), Section V ("Contracts, Prescriptions, Judgments"), Section VI ("Mixed Arbitral Tribunal"), and Section VII ("Industrial Property") of Part X of the above Treaty.

By the Treaty the high contracting powers have agreed that their Courts and authorities shall render to the Tribunal direct all the assistance in their power, particularly as regards transmitting notices and collecting evidence; and they have also agreed to regard the decisions of the Tribunal as final and conclusive, and to render them binding upon their nationals.

The British Government has provided headquarters for the Tribunal in Winchester House, 21 St. James's Square S.W. 1. Mr. Claude Mullins, barrister-at-law, is the British Secretary.

Rules of Procedure of the Mixed Arbitral Tribunal between the British Empire and Hungary under Article 239 of the Treaty of Trianon.

Notice is hereby given that the Rules of Procedure of the Mixed Arbitral Tribunal between the British Empire and Hungary have been published as Statutory Rules and Orders, 1921, No. 1422, and copies of the same can be purchased (price 5d. net), either directly or through any bookseller, from His Majesty's Stationery Office at the following addresses: Imperial House, Kingsway, London W.C. 2; 28 Abingdon Street, London S.W. 1; 37 Peter Street, Manchester; 1 St. Andrew's Crescent, Cardiff; 23 Forth Street, Edinburgh; or from E. Ponsonby (Limited), 116 Grafton Street, Dublin, or at the Secretariat of the Tribunal.

ANGLO-GERMAN MIXED ARBITRAL TRIBUNAL.

3. Despatch dated 2nd February, 1922, advised that the Anglo-German Mixed Arbitral Tribunal had agreed that no time-limit would for the present be imposed within which claimants could approach the Tribunal in the case of claims under Article 297 or 300 (*b*) of the Treaty of Versailles, arising out of claims which were put forward through the Clearing Office under Article 296 of the 30th September, 1921, and which had been contested by the German Clearing Office as not coming within that article.

Approximate Cost of Paper.—Preparation, not given; printing (1,225 copies), £24.

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