

In the case of *W. J. Bush & Co. Ltd. v. German Government* (No. 2153), a British company had shipped certain goods on board the "Hanu," a German ship, on the 25th July, 1914. The "Hanu" was in port at Antwerp on the outbreak of war, and was there seized by the Belgian Government. Before the claimants' goods could be released Antwerp was occupied by the German Army, and the goods were requisitioned by the German authorities. The claimants accordingly brought a claim under Article 297 for the value of the goods.

The Tribunal were of opinion that the words "German territory as it existed on 4th August, 1914," occurring in Article 297 (e), did not include German merchant ships lying in the harbour of another country. The seizure in the port of Antwerp was, moreover, a seizure in occupied territory, and consequently did not fall within the provisions of Article 297. They were therefore unable to uphold the claimant's contention.

In *J. W. Harrison v. German Government* (No. 2236), the claimant was chief engineer on board a British steamer which was captured by a German raider in July, 1916. On arrival at Swinemunde, the crew of the raider boarded the ship, and the claimant's tools and effects were seized. The claimant contended that German naval officers superintended this action of the crew. The German Government contested the claim on the ground that the effective cause of the damage was solely an act of warfare which took place at sea—i.e., outside German territory.

The claimant was repatriated in June, 1918, but was only allowed to carry a small handbag. The remainder of his luggage was traced to a certain German station but no farther.

The Tribunal (Second Division) made an award under Article 297 (e) of compensation limited to what occurred at Swinemunde.

(13.) *Claims under Article 297 of the Treaty of Versailles—arising out of Internment.*

In *Gooding v. German Government* (No. 649), (*Recueil*, v, p. 30), the Tribunal (First Division), adhering to their former decisions in *Kamna Rubber Estates v. German Government* (No. 592) and *Shutte v. German Government* (No. 2069), refused to grant compensation under Article 297 (e) to the claimant, who had been interned in November, 1914, and who contended that such internment had seriously affected his property and had led to the liquidation of his business and to bankruptcy proceedings in Germany in February, 1915. The Tribunal admitted that an anomaly might exist in the case of one whose property had been affected as a result of internment, but considered themselves bound by the terms of the Treaty.

On the other hand, in *Boyes v. German Government* (No. 1257), where the claimant had also been interned and part of his property had been lost and part taken over by the authorities, the Tribunal refused to accept the contention of the German Government that the latter property had not been subjected to exceptional war measures because it was taken over by the authorities as a measure connected with the internment. They accordingly awarded him compensation in respect of the latter property whilst refusing it in the case of the former.

(14.) *Claims in respect of Lost Luggage and Effects.*

There have been a number of claims brought by British nationals against the German Government asking for compensation in respect of the loss of luggage and personal effects which were left behind in Germany at the time when the owner left that country at or about the outbreak of war or at some later time. Some difficulty has been experienced by claimants in satisfying the Tribunal that the loss resulted from the application of exceptional war measures, and in some cases it has been suggested to the claimants that they should consider the advisability of bringing proceedings against the railway administration, to whom the personal effects may have been entrusted.

In the case of *Rigg v. German Government* (No. 1916), before the Second Division, the claimant had left her luggage when leaving Germany in August, 1914, in the care of Messrs. Thomas Cook and Son at Hamburg, and there was evidence that it was removed by the German authorities, forced open for the purpose of examination, and subsequently restored to Messrs. Cook and Son. When finally restored to the claimant in 1919 it was found that many articles were missing, which the respondents suggested was due to the fact that the premises of Messrs. Cook were broken into during the Revolution. The Tribunal (Second Division) held that the respondents had not discharged the onus which, under these circumstances, lay upon them of showing that the damage in question did not result from the exceptional war measure which had been applied—viz., the removal for the purpose of examination. Judgment was accordingly given for the claimant for the value of the missing articles.

In *Pellant Ltd. v. German Government* (No. 1766) a claim was made under Article 297 (e) in respect of a motor-car belonging to the claimants which shortly before the outbreak of war had been taken into Germany in the custody of a chauffeur-courier for the purposes of a tour arranged by the claimants for an American national. The chauffeur was subsequently interned, and the car was garaged and sold by the garage-owner to defray expenses. The German Government denied that any requisition had taken place with regard to the car. From the evidence of the American national who hired the car it appeared that upon his leaving Baden on the 21st August, 1914, the authorities refused to allow him to take either the car or the chauffeur with him. The Tribunal (Second Division) decided that the claimants were entitled to compensation on the footing that the removal of the car was prevented by the operation of German legislation, and made an award accordingly.

(15.) *Article 296 of the Treaty of Versailles.—Rate of Interest on Claims, no Interest on Claim for Interest.*

The Tribunal further considered the question of the rate of interest on a debt under Article 296 in the case of *Standard Bank of South Africa v. German Government* (No. 460), (*Recueil*, iv, p. 269). In this case the branch of the claimant bank at Hamburg was subjected to exceptional war measures, and supervisors of the branch were, pursuant to a decree of the Federal Council, appointed on the 4th September, 1914. Certain advances were made by the representative appointed by the supervisors to a customer in Germany, which advances, in the opinion of the Tribunal, came within paragraph 3 of the Annex to Section IV, Part X, of the Treaty, entitling the claimant bank to compensation under Article 297 (e). The Tribunal accordingly awarded compensation on the basis that if such advances had not been made from the claimant's accounts at the Deutsche Bank and Reichsbank they would have been entitled to recover the amounts thereof as pre-war debts under Article 296 (1). The measure of damage was therefore represented by the sterling equivalent at the pre-war rate of exchange of the advances, together with such interest as the claimant bank would have been entitled to under paragraph 22 of the Annex to Section III, Part X.

On the question of what rate of interest should be allowed, the case subsequently came before the Tribunal for a second hearing. They found that the original advances making up the amount of the claim were drawn partly from the claimant bank's account with the Reichsbank, Hamburg, and partly from their account with the Deutsche Bank, Hamburg.

As to the drawings from the Reichsbank, prior to the war no interest was allowed in the account, and the respondents accordingly admitted that, under the Treaty, the rate of interest applicable was 5 per cent. As to the account with the Deutsche Bank, it was found that an arrangement was in force prior to the war under which the claimants' credit balance at the bank should carry interest at the Hamburger Girobanken rate. At the outbreak of war this was 1 per cent.

The claimants submitted that as the agreement was not for a definite rate, fixed or expressed, but for a rate subject to fluctuation, it could not be regarded as a contractual rate, and that consequently the rate of 5 per cent., as provided by paragraph 22 of the Annex, was applicable to the period subsequent to the dissolution of the contract under the provisions of Article 299 (a) on the outbreak of war.

The Tribunal, following their decision in *Schwerdt v. Frankfurter Bank* (No. 847), mentioned in last year's report, decided that the varying rates were nevertheless in the nature of contractual rates as contemplated by paragraph 22. They accordingly awarded as compensation for loss of user interest at the rate of 5 per cent. on the amounts drawn from the claimants' account at the Reichsbank, and at the Hamburger Girobanken rate on such amounts as were drawn from their account at the Deutsche Bank, Hamburg, from the 4th August, 1914.