

After the conclusion of peace between the United States and Germany the plaintiff banks demanded of the Steel Corporation that it should refuse to transfer upon its books the stock represented by the certificates vested in the Custodian, and that the corporation should enter the plaintiffs as the owners of record of the shares of stock represented by the said stock certificates. Upon the refusal of such demand suits were instituted by the Disconto-Gesellschaft and the Bank für Handel und Industrie, to which the Custodian and the United States Steel Corporation were made defendants.

The questions involved in the actions were :—

- (a.) Was the seizure of the endorsed certificates and their vesting in the Custodian, in compliance with British law, a valid transfer of the certificates, with the consequent right in the Custodian or his nominee, upon surrender of such certificates to the defendant corporation, to receive new certificates as the registered owner of the stock ?
- (b.) Was the said seizure and vesting of the right, title, and interest in the said shares, whether valid or not, so ratified and confirmed by the Treaties of Versailles and Berlin as to entitle the Custodian to be so registered ?
- (c.) Could the United States District Court entertain the suit, or was it barred by the provision of the Treaty of Versailles and the Treaty of Berlin, so that no claim might be brought by any German national in respect of any act done with regard to his property right or interest during the war under the authority of any Allied or Associated Power ?

The certificates of stock involved in the first suit were held on account of the plaintiffs by their Branch Office in London. The certificates of stock involved in the second suit were held by the London and Liverpool Bank of Commerce in London in an open running account of stock bought and sold, and of credits and debits because of such sales and purchases, and subject to the adjustment of such account. At the outbreak of war there was a debit balance shown in favour of the English bankers. The facts relating to the certificates of stock in each case, which were not in dispute, were agreed between the plaintiff banks and the Custodian in a statement put in on behalf of the latter, and the cases came on concurrently before the Hon. Mr. Justice Learned Hand on the 1st May, 1924, who delivered his opinion on the 6th June in favour of the Public Trustee.

The cases were heard on appeal by the United States Supreme Court, which allowed them to be specially advanced, on the 9th January, 1925, and on the 26th January Mr. Justice Holmes, one of its most distinguished members, delivered the opinion of the Court affirming the decision of the Court of First Instance. Having regard to its lucid and concise nature and the importance of the issues involved, I propose to reproduce it in full. It is as follows :—

“These are bills in equity in similar form, each raising the same question. In each the plaintiff is a German corporation and the interested defendants are the Public Trustee, an English corporation sole appointed to be Custodian of Enemy Property during the late war, and the United States Steel Corporation. Each plaintiff claims 100 identified shares in the Steel Corporation and seeks to be declared owner of the same, to have new certificates issued to it and the outstanding certificates cancelled on the books of the corporation, and to recover past dividends declared but unpaid. The cases were submitted by them upon an agreed statement of facts, and the District Court, after a discussion that leaves nothing to be added, dismissed the bills. The decree declared the Public Trustee to be entitled to the shares, and directed the Steel Corporation to issue new certificates to his nominee on surrender of the old ones properly endorsed.

“As is usual with shares which it is desired to deal in abroad, these shares were registered by tens on the Steel Corporation's books in the name of some well-known broker or the like domiciled in England, and the assignment and power of attorney to transfer the shares printed on the back of the certificate was signed by the broker in blank, so that the certificate passed from hand to hand. The Disconto-Gesellschaft had bought 100 shares and held the certificates thus indorsed in its London branch. The Bank für Handel had bought the same number and pledged them with an English banking house in a running account. On the 27th March, 1918, an order of the Board of Trade, in pursuance of statutory powers purported to vest in the Public Trustee, the rights of the Disconto-Gesellschaft to the shares and the right to take possession of the documents of title. On the 30th April, 1917, a similar order had been made as to the Bank für Handel's stock. The Public Trustee thereupon seized the certificates in London, as was regular and lawful under the laws of England while the war was going on, and freed the pledged securities from the lien upon them by a sale of other stocks. He claims a title confirmed by the Treaty of Berlin and the Treaty of Versailles. The plaintiffs set up that a decree recognizing his title would deprive them of their property without due process of law.

“The appellants, starting from the sound proposition that jurisdiction is founded upon power, overwork the argument drawn from the power of the United States over the Steel Corporation. Taking the United States in this connection to mean the total powers of the Central and the State Governments, no doubt theoretically it could draw a line of fire around its boundaries and recognize nothing concerning the corporation or any interest in it that happened outside. But it prefers to consider itself civilized and to act accordingly. Therefore New Jersey, having authorized this corporation, like others, to issue certificates that so far represent the stock that, ordinarily at least, no one can get the benefits of ownership except through and by means of the paper, it recognizes as owners any one to whom the person declared by the paper to be owner has transferred it by the indorsement provided for, wherever it takes place. It allows an indorsement in blank, and by its law as well as by the law of England an indorsement in blank authorizes any one who is the lawful owner of the paper to write in a name, and thereby entitle the person so named to demand registration as owner in his turn upon the corporation's books. But the question who is the owner of the paper depends upon the law of the place where the paper is. It does not depend upon the holder's having given value or taking without notice of outstanding claims, but upon the things done being sufficient by the law of the place to transfer the title. An execution locally valid is as effectual as an ordinary purchase : *Yazoo and Mississippi Valley R.R. Co. v. Clarksdale* (257 U.S. 10). The things done in England transferred the title to the Public Trustee by English law.

“If the United States had taken steps to assert its paramount power, as in *Miller v. Kaliwerke Aschersleben Aktien-Gesellschaft* (283 Fed. Rep. 746), a different question would arise that we have no occasion to deal with. The United States has taken no such steps. It therefore stands in its usual attitude of indifference when title to the certificate is lawfully obtained. There is no conflict in matter of fact or matter of law between the United States and England, and therefore *Baker v. Baker, Eccles, & Co.* (242 U.S. 394) does not apply. We deem it so plain that the Public Trustee got a title good as against the plaintiffs by the original seizure that we deem it unnecessary to advert to the treaties upon which he also relies, or to the subsequent dealings between England and Germany showing that both of those nations have assumed without doubt that the Trustee could sell the stock. We think it unnecessary also to repeat what was said below as to the possibility of the United States making a claim at some future time.

“Decree affirmed.”

(2.) *Statelessness.—German Law as to Loss of Nationality owing to Uninterrupted Residence abroad.*

In *Hahn v. Public Trustee* (41 T.L.R. 586) a claim was made by three brothers for a declaration that they were not on the 10th January, 1920, German nationals, and that their property rights and interests in His Majesty's Dominions were not subject to the charge under the Treaty of Peace and the Treaty of Peace Order, 1919.

All three brothers were originally of German nationality, and had left Germany about the year 1893 and come to England. By the German Statute of Nationality of 1870, section 21, a German national loses his residence by an uninterrupted stay abroad for ten years. In the case of each of the three brothers, temporary visits to Germany had been paid at various dates since 1893, and the question at issue in the case was whether the plaintiffs had in fact lost