the dissolution there remained arising out of what had been done, not merely a debt or pecuniary obligation, but the further performance of the contract, and this the Treaty did not save. Further, if viewed as one contract, it was a contract severable under paragraph 3 of the Annex to Section V, Part X. That which had been done became complete by the purchase by the creditors. That which remained to be done—*i.e.*, the sale of the same number of securities to the debtors against the payment of the purchase price—was dissolved by the Treaty. As to the creditors' contention that the original taking-up of, and payment for, the shares were to be regarded as acts giving rise to a pecuniary obligation to pay for them, it appeared to the Tribunal that this obligation was discharged on each occasion when the shares were purchased from the debtors by the creditors at the beginning of each continuation.

The Tribunal, after reviewing certain further contentions put forward by the creditors, which they found not maintainable, decided that the creditors were only entitled to recover the sum of £12 4s. 3d. under Article 296, being the disbursements outstanding at the date of outbreak of war.

From a broad point of view, the decision that the transaction, notwithstanding its highly technical nature, must be regarded not as one but as two contracts, one of which had been completed and the other which was dissolved by the Treaty, involves considerable hardship to brokers in the position of the creditors in this case. There seems to be some ground for the view that the whole transaction should be regarded as one, and that to approbate part and reprobate the other part is to give a narrow interpretation which could not have been intended. The decision, moreover, involves the somewhat startling result that a broker who adopts one method of carrying out a client's instructions may under the Treaty incur a heavy personal loss, while if he adopts another equally common method of arriving at the same results his right to a complete indemnity remains intact.

The Tribunal (First Division) again followed their decision in Seligman, Weinberger, & Pearson *v.* Dreher & Uhry in another case of Hodding King *v.* Bruno Becker (No. 474), (*Recueil*, iv, p. 624), which, as mentioned in last year's report, had been adjourned for further evidence to be produced as to the manner in which the shares purchased on behalf of the German debtor had been dealt with by the creditors. As a result of the further evidence it was ascertained that the brokers had carried over the shares with the jobbers until August, 1916. The Tribunal, in accordance with their previous decisions, treated the transaction as closed on the date when the creditors closed with the jobber.

The creditors in their claim charged contango at rates above their disbursements to the jobber, because they had themselves deposited with him as margin their own securities, which were separate from the securities bought for their client. The Tribunal held that the provision of margin by the creditors entitled them to charge something in excess of the disbursements to the jobber, because the brokers, by immobilizing their own securities which they pledged, had sustained a loss for which they were entitled to be indemnified. This loss the Tribunal estimated by a method of calculation shown in the judgment. The brokers further claimed interest on the balance due in August, 1916, at 1½ per cent. above bank rate, which was the rate applicable to loans between the parties; but the Tribunal held that the rate applicable to a loan is not to be applied to the balance due on the closing of the account in August, 1916, which would bear interest only at 5 per cent.

The Second Division of the Tribunal in Koch *v.* Kleemann (No. 1420) also gave a decision on a claim in which a broker had before the war taken up shares purchased for his client's account. The shares in question were pledged with a bank before the war against a loan, and the broker claimed by way of indemnity for the liability incurred by him, as agent for the debtor, his disbursements to the bank in respect of interest on the loan. The broker contended that the case of Stamm & Co. *v.* Froehlich & Liebmann (No. 317), (*Recueil*, ii, p. 702), referred to in my report for 1923, applied to such payments, and that they were chargeable against the debtor as capital payments, and that interest thereon was claimable at 5 per cent.

The Tribunal held that the broker was under a liability at the outbreak of war which he had incurred as agent for the debtor. Against the consequences of this liability the broker was entitled to be indemnified, and the amount claimed in respect of these shares represented disbursements naturally and properly made by the broker in regard to the transactions in question.

As to another block of shares which the broker had taken up before the war, but which were not pledged with a bank, the Tribunal held that the broker was not at the outbreak of war under any liability to any one in respect of the shares, and he was therefore only entitled to recover the amount of the debt from his client as it existed at the outbreak of war, with interest thereon at 5 per cent.

It will be noticed that the first part of this decision is in conflict with the decision of the First Division in Seligman, Weinberger, & Pearson *v.* Dreher & Uhry.

(3.) *Company wound up during the War under the Trading with the Enemy Act.—Claim under Article 296 of the Treaty of Versailles.*

More than one attempt has been made on behalf of the German Government to establish that the clearing procedure does not apply in the case of British companies which, or the business of which, have been wound up during the war under the Trading with the Enemy Acts on the ground of enemy influence or participation in capital, but such attempts have proved unsuccessful. In Athelstan Dangerfield (Liquidator of Calmann Bros. & Co., Ltd.) *v.* Kraus (No. 2057) the creditor company, through its liquidator, claimed under Article 296 a sum of money in respect of stock-exchange business done for the debtor. The company's business had been ordered to be wound up by the Board of Trade under the Trading with the Enemy Act, 1916, and in 1918 the liquidation of the company had been ordered under the Trading with the Enemy (Amendment) Acts, 1918, but the liquidation had not been completed and the company had not been actually dissolved.

The claim was contested by the German Clearing Office on the ground that the creditor company, though incorporated in England, was a German concern, that the amount collected would be made subject to the charge, and that the claim was virtually in the nature of liquidation proceedings against property situated in Germany, and so contrary to the provisions of Article 297 (*b*).

In the opinion of the Tribunal the objections so raised were not valid to enable the debtor to resist the claim of the company, which was the real party before the Tribunal, acting through its representative. Article 296 therefore operated, and the debt to the company from a German national was to be settled as prescribed in that article. It could not be said that, as a result of British emergency war legislation, the company in liquidation was deprived of the right of recovering a debt due to it before its liquidation.

As to the rate of interest to be applied, the creditor had produced a statement showing that between July, 1912, and June, 1914, the company had charged interest which was, on the average, 2·41 per cent. over bank rate, and this was relied on to establish that there was a contractual rate of interest between the parties. The Tribunal, however, were not satisfied that there was in existence such a contractual rate, and accordingly only allowed interest at the rate of 5 per cent. from 4th August, 1914.

A similar view as to this right to claim under Article 296 had already been taken by the Tribunal (First Division) in International Anthracite Steam Coal Association *v.* Hedwigshutte Anthracite Kohlen und Kokeswerke James Stevenson A.G. (No. 1537), (*Recueil*, iv, p. 182), and they confirmed these two decisions in the further case of Anglo-Continental Coal Association, Ltd. (in liquidation) *v.* Hedwigshutte Anthracite Kohlen und Kokeswerke James Stevenson A.G. (No. 1579).

(4.) *Article 296 of the Treaty of Versailles.—Claims against Companies dissolved prior to the 10th January, 1920.*

A number of claims have been made both by German and British nationals against British limited companies and German companies having a similar corporate existence, and the question has frequently arisen as to whether a debt claimed under Article 296 is maintainable where the company, prior to the 10th January, 1920, has not only gone into liquidation but been actually dissolved or extinguished. The British point of view has always been that, in view of the fact that there must be on that date a debtor resident in the country of the debtor Clearing Office, no valid claim can be put forward under the article in a case where prior to that date the company has gone out of existence.