1926.

NEW ZEALAND.

ENEMY PROPERTY IN NEW ZEALAND

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

Presented to both Houses of the General Assembly by Leave.

CONTENTS.

REPORT.

To the Hon. the Attorney-General, Wellington.

SIR,—

I have the honour to submit my Sixth Report on Enemy Property, setting out the work performed during the year ended 31st March, 1926, in connection with the realization of ex-enemy property in New Zealand, and the disposal of claims lodged by or against British nationals resident in New Zealand for settlement in accordance with the Clearing Office procedure established under the provisions of Article 296 of the Treaty of Versailles.

2. The proposals to which I referred in my last report for the purpose, *inter alia*, of conferring upon the Clearing Offices the power of finally rejecting claims lodged by the opposing Clearing Offices have now reached finality.

3. It was mutually agreed between the New Zealand Clearing Office on the one hand and the German Clearing Office on the other that this power should be available for exercise upon condition that the claims rejected become unenforceable in the clearing procedure unless formally submitted to the Anglo-German Mixed Arbitral Tribunal within nine months after rejection.

4. This power of rejecting claims has been freely exercised by this office, and up to the present some 240 outstanding German claims, totalling £7,944 15s., have been included on final rejection schedules. The German Clearing Office on its part has notified the rejection of six claims, totalling £3,024 17s. 10d. The result of the operations of this agreement will, it may be anticipated, be reflected in a considerable reduction of the Clearing Office claims during the coming year.

5. In addition to this provision, the agreement concluded between the New Zealand Clearing Office and the German Clearing Office contains other provisions relative to the clearing procedure, of which the more important are :—

(*a.*) The amalgamation of the accounts between New Zealand and Germany under both Articles 296 (Clearing Office procedure) and 297 (Liquidation of German property rights and interests). This necessarily followed upon the adoption of the Dawes Plan of which a cardinal feature was the principle that Germany should make one comprehensive payment annually in settlement of its Treaty obligations. This payment is made to the Reparations Commission, and payment of the Clearing Office balances will not now be made separately by Germany. It was understood that the Reparations Commission would not favourably consider applications for payment of Clearing Office balances in cases where sufficient surplus funds derived under Article 297 of the Treaty are available for application towards the Article 296 account; as a consequence the proposal to amalgamate the accounts under Articles 296 and 297 was put forward and duly agreed to.

(*b.*) A provision that awards by the Anglo-German Mixed Arbitral Tribunal for compensation under Sections IV or V of Part X of the Treaty of Versailles, or by the arbitrator appointed under clause 4 of the Annex to Section IV, shall be interest-bearing. This provision is of some considerable benefit to British claimants under the above-mentioned Treaty provisions.

(*c.*) The extinguishment of the right previously conferred by agreement with the German Government to claim interest on the balance of the Article 296 account with Germany.

(*d.*) An undertaking by the German Government that it will not claim through the Mixed Arbitral Tribunal any interest or profits derived from or arising out of the proceeds of the liquidation of German property rights or interests liquidated either by virtue of war legislation confirmed by the Treaty or by the application of Article 297 of the Treaty of Versailles. This undertaking is, however, not to be considered as depriving the German Government of any right which it may claim to prosecute a claim of this nature through channels other than the Mixed Arbitral Tribunal.

6. While steady progress is being maintained towards the completion of the various duties imposed upon the Public Trustee by virtue of the War Regulations and the Treaty legislation, I am unable to report that the end of the work involved is yet in sight. Although it is confidently anticipated that the next twelve months will see the settlement of most of the outstanding claims, and the completion of action in regard to the bulk of the German property yet undisposed of, there will almost certainly be at the expiration of that period some claims and some property in regard to which it will have been found impossible to reach finality.

7. The subject-matter of this report is set out in substantially the same manner as in my previous reports. One exception is that a number of tables appearing in the body of my previous reports have this year been relegated to the appendix.

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

AMOUNT CREDITED TO THE GERMAN LIQUIDATION ACCOUNT BY THE NEW ZEALAND CLEARING OFFICE.

8. The Court case to which I referred in my previous report, where the right of the New Zealand Government to retain certain property by virtue of the Treaty of Versailles was questioned, has been settled, judgment being entered by consent for the defendants, the Hon. the Attorney-General and the Public Trustee as Custodian of Enemy Property.

9. The amount credited up to 31st March, 1926, to the German Liquidation Account in respect of German property rights and interests in the Dominion retained and liquidated in accordance with Article 297 of the Treaty of Versailles was £238,457 6s. 5d. Credits totalling £1,424 15s. have been withdrawn from the Liquidation Account.

10. Table I appearing in the appendix to this report gives particulars of the cash amounts held in respect of German property not yet credited to the Liquidation Account, and of the ex-enemy property which it has not yet been found possible to convert into cash.

Amounts credited to the Austrian Liquidation Account.

11. The total amount credited up to 31st March, 1926, to the Austrian Liquidation Account in accordance with Article 249 of the Treaty of St. Germain-en-Laye was £1,284 19s. 11d. One amount of £66 16s. 3d. has been withdrawn with the concurrence of the Austrian authorities, leaving a net amount credited to the Liquidation Account of £1,218 3s. 8d.

12. The position regarding the amounts which were collected by the High Commissioner from London offices of companies incorporated in the Dominion, to which I referred in my report for 1925, has not yet been finally settled. The High Commissioner is dealing with the matter, and he will in due course report the result of the action he has taken.

13. In paragraph 17 of my last report I referred to the possibility that it might be found desirable to make some provision for New Zealand creditors of Austrian concerns in respect of pre-war debts which they were unable to collect from their debtors. The High Commissioner, who was approached in the first instance by the representatives of the creditors, has, however, now advised that all the creditors have succeeded in obtaining settlement of their claims direct.

Amounts released from the Provisions of the War Regulations, Treaty of Peace Order, 1920, and the Treaty of Peace (Austria and Hungary) Order, 1924.

14. Table II in the Appendix hereto gives particulars of all amounts which have been released from the provisions of the various war and treaty legislation relating to ex-enemy property, whether on the grounds of non-ex-enemy nationality, for compassionate reasons, or otherwise.

15. The period within which applications for the compassionate release of ex-enemy property must have been lodged with this Office was fixed to expire on the 31st October last. As a result practically all applications for a release under this heading have now been disposed of, though some applications lodged prior to that date have not yet been finally considered.

16. The release of the amounts collected on behalf of repatriated Germans or Dalmatians has, with two exceptions, now been completed.

Statement of Amounts held under the War Regulations, Treaty of Peace Order, 1920, and the Treaty of Peace (Austria and Hungary) Order, 1924.

17. A table (No. III) summarizing the balances held in pursuance of the above regulations and orders appears in the appendix to this report.

PART II.—SETTLEMENT OF CLAIMS BY OR AGAINST BRITISH NATIONALS RESIDENT IN NEW ZEALAND.

Total of Claims received for Settlement through the New Zealand Clearing Office.

18. The following table shows the total amount of the claims by or against German nationals or the German Government received for settlement through the New Zealand Clearing Office to the 31st March, 1925, and 31st March, 1926, respectively. The total of the additional claims received since the last report is given in the third column :—

—	31st March, 1925.	31st March, 1926.	Increase.
Claims under Article 296 of the Treaty of Versailles :—	£	£	£
(*a.*) By New Zealand nationals against German nationals ..	53,034	53,034	Nil
(*b.*) By German nationals against New Zealand nationals ..	210,177	210,975	798
Claims under Article 297 of the Treaty of Versailles :—			
(*c.*) By New Zealand nationals	52,732	52,732	Nil
Totals	315,943	316,741	798

The progress regarding the disposal of the Clearing Office claims is indicated in the tables printed in the appendix hereto. It will be seen that only a small percentage of the claims originally lodged for settlement remain outstanding.

Time-limits prescribed for notifying Claims under Article 297 of the Treaty of Versailles.

19. In continuation of paragraphs 36–42 of my previous report, I have to state that it has been found desirable, to assist in securing finality in regard to Article 297 claims, to prescribe an additional time-limit within which to notify certain claims falling within this article of the Treaty.

20. It frequently happens that a New Zealand claimant who originally lodged a claim under Article 296 of the Treaty has ascertained as a result of the investigation of his claim by the German Clearing Office that his correct remedy lies under Article 297. Although time-limits have been imposed within which other claims falling for settlement under Article 297 of the Treaty must be notified to the Clearing Office, no time-limit had been imposed within which claims of this description must be advised.

21. The original claim under Article 296 might be disposed of in the following manner:—

(*a.*) By withdrawal by the claimant.

(*b.*) By final rejection by the opposing Clearing Office, in which event two positions might arise, namely:—

(1.) The claimant might appeal to the Anglo-German Mixed Arbitral Tribunal under Article 296 within the time provided; or

(2.) The claimant might not appeal to the Tribunal under Article 296 and allow his claim to lapse.

22. With a view to securing finality in regard to the claims under Article 297 arising out of claims originally lodged under Article 296, the following periods were suggested in the United Kingdom within which the claims under Article 297 were to be lodged:—

(*a.*) Where the claimant withdraws the claim under Article 296, within sixty days from the date of withdrawal.

(*b.*) Where the claim has been finally rejected, then—

(1.) Where the claimant appeals to the Tribunal under Article 296, a time-limit of sixty days running from the date of the Tribunal's decision or a withdrawal of the claim from the Tribunal by the claimant.

(2.) Where the claimant does not appeal to the Tribunal, a period of sixty days from the expiration of the period prescribed for lodging his claim with the Tribunal.

23. After consideration it was decided to adopt the suggestions for application to the New Zealand Clearing Office, with suitable provision on account of the time which necessarily elapses in the transmission of communications between the United Kingdom and the Dominion. The High Commissioner will make the necessary arrangements in this respect.

Claims in Terms of Paragraph 4 of the Annex to Section IV of Part X of the Treaty of Versailles.

24. In paragraph 34 of my report for 1925 I referred to the position then existing in regard to claims under the above Treaty provisions. Since that date particulars have been received of an agreement which was entered into between the British and German authorities with a view to expediting the settlement of claims of this description. The agreement provides, briefly, that the facts relating to each ship in regard to which claims have been received shall be jointly investigated by the British and German Government Agents, and offers in settlement of the claims submitted by the German Government Agent at stated proportions according to whether it is agreed that the case falls or does not fall within a category in which the Arbitrator has decided that a claim is entitled to succeed in principle. Provision is further contained in the agreement that where the Government Agents are not in agreement as to whether a ship falls within the principles laid down by the arbitrator, endeavours shall be made to agree upon a proportion of the claim for which an offer of compensation will be made by the German authorities.

25. As a result of an investigation in accordance with the provisions of this agreement, an offer in settlement of the only claim of this description within the control of this Office was received from the German authorities, and it has been accepted conditionally by the claimant.

Decisions of Mixed Arbitral Tribunals.

26. I have reprinted hereunder a summary of the recent decisions of the various Mixed Arbitral Tribunals. The summaries are derived from the report of the Legal Adviser to the Central Clearing Office, appended to the last report of that Office. The references to the volumes of the *Recueil des Decisions des Tribunaux Arbitraux Mixtes* have been inserted by me in regard to cases which have been reported in those publications.

27. Immediately following is an extract from the last report of the Controller of the Central Clearing Office, explaining difficulties which have arisen and are likely to arise as a result of conflicting decisions which have been given by the various Divisions of the Anglo-German Mixed Arbitral Tribunal.

"In his summary of the decisions of the Mixed Arbitral Tribunals during the past year, Mr. Chetham Strode, the Legal Adviser to the Department, draws attention to various conflicting decisions of the different Divisions of the Anglo-German Mixed Arbitral Tribunal on points of law. It would be difficult to exaggerate the embarrassment which has been and is being caused to litigants and their advisers and to the Department by this conflict of jurisprudence. The points of Treaty law which have been the subject of varying decisions are vital to the issue in a large number of cases now awaiting trial. Each Division has so far adhered to the decisions which it has already given, and, as such decisions are final and cannot be appealed from, the rights of litigants are largely dominated by the element of speculation, for success or failure may depend solely upon which Division of the Tribunal tries the issue.

"The inconvenience to the Department resulting from this state of uncertainty is twofold. In nearly every case of dispute the advice of the Department is sought by the British party, who is anxious to obtain the view of the Legal Service as to whether a claim by or against him can be successfully pursued or defended before the Tribunal. When, as frequently happens in such a case, the issue is

dependent upon the determination of a point of Treaty law which has been the subject of varying decisions by different Divisions of the Tribunal, the Legal Service can only draw attention to these decisions and point out that the result of the proceedings will presumably depend upon the allocation of the case.

"An almost equally grave inconvenience which is occasioned by these conflicting decisions is the delay which they entail in the settlement of outstanding claims. It had been the practice of the British and German Clearing Offices to agree to advise parties to withdraw their claims when an adverse decision had been given by the Tribunal in a case in which the legal issue was identical. For the reasons stated above this procedure is now frequently impossible, with the result that the Tribunal's list is unduly swollen with cases which ordinarily would have been settled without their intervention.

"The above state of uncertainty is equally inconvenient to the parties themselves and to both Clearing Offices, and proposals have therefore been made by H. M. Government to the German Government which, if accepted, will, it is thought, solve the difficulty. The matter is now the subject of discussion between the two Governments, and it is hoped that an agreement will be arrived at."

(1.) *Decisions regarding Nationality.—Article 296 of the Treaty of Versailles.*

In last year's report I mentioned the cases of Rehder *v.* Landsgesellschaft Wannsee (No. 1543), (*Recueil*, iv, p. 201) and Abraham *v.* Weiss (No. 1419), (*Recueil*, iv, p. 601), in which the Tribunal (First Division) held that for the purpose of Article 296 the test of nationality was to apply not only as on the 10th January, 1920, but also (*a*) for pre-war debts, at the date of the outbreak of war between the two respective Powers; (*b*) for debts which became payable during the war, at the date when they became payable. I also referred to the fact that a similar question had arisen for the decision of the Tribunal (Second Division) in two cases, but that their judgment had been reserved. The Second Division have since delivered an important judgment in one of those two cases, that of Levy *v.* Heim (No. 2032), (*Recueil*, iv, p. 642), in which they have decisively differed from the view held by the First Division. The debtor Heim at the outbreak of war was a British national, and acquired German nationality on the 7th July, 1915. The German Government Agent therefore contended that the British creditor could not recover the debt in question under Article 296 owing to the nationality of the debtor not having been German at the date of the outbreak of war.

The Tribunal was of opinion that the literal meaning of Article 296 (1) was reasonably clear. Bearing in mind that the words "due" and "residing," without express qualification as to the time in respect of which they were used, naturally indicated that the framers of the Treaty were intending to speak as from the date when it should come into force, the Tribunal thought that the words of the clause were equivalent to the following: "Debts payable before the war and due on this present day of the 10th January, 1920, by one who is now a national of one of the contracting Powers residing within its territory, to one who is now a national of an opposing Power residing within its territory."

If effect was to be given to this meaning the present claim must succeed. Accordingly they had to decide whether there was any sufficient reason for departing from the literal meaning of the language of the Treaty and construing the words used as relating only to pre-war debts due on the 10th January, 1920, by one who was a national of one of the contracting Powers both on that date and on the 4th August, 1914, and resident within its territory on the 10th January, 1920. Such a construction did considerable violence to the language actually used, and in the Tribunal's view could be justified only if it were clear that the literal meaning of the words could not have been intended by the High Contracting Parties, and that, on the contrary, the suggested construction was in fact so intended.

The Tribunal, however, considered it natural that the Contracting Powers, in framing Article 296, should have desired to set up machinery for the recovery of debts owing to and by those who should be their respective nationals at the time when the Treaty came into force, irrespective of their previous personal history. On the other hand, there was nothing in the language used to suggest that the framers of the Treaty contemplated that the questions of nationality and residence should not be determined by reference to one and the same date. There seemed no conclusive reason why a difference in this respect between nationality and residence should have been intended, and to construe the clause as if it contained the words necessary to establish such a difference would, in the Tribunal's opinion, be an act of legislation rather than of judicial interpretation.

There was a consensus of opinion on the part of the Mixed Arbitral Tribunals which had had occasion to consider the matter that, with reference to residence within the meaning of the Article, the 10th January, 1920, was the only material date, and this consensus of authoritative opinion in itself presented a formidable obstacle against the adoption of the suggested construction that with regard to nationality within the meaning of the clause in question another date had also to be considered.

The Tribunal therefore decided that there was a debt within the meaning of Article 296 of the Treaty of Versailles of the sum claimed from the debtor to the British creditor.

In the case of Huth *v.* Niepenberg (No. 1087), before the Second Division, to which I also referred to in last year's report, no final judgment has been given, but the case was mentioned to the parties by the President on the 19th March, 1925, and an intimation was given that the Tribunal were in favour of the claimant's contention, and that judgment could be given against the defendant, although the defendant at the outbreak of war was not a German national. The question of how far the claimant could succeed must depend upon certain difficult questions of mixed partnership which would involve a consideration of how such matters were to be dealt with, having regard to the Hardt *v.* Stern decision. Unless the parties were able to come to a settlement on this subject it would be necessary for the Tribunal to hear further argument and to decide this question.

The importance of this pronouncement lies in the fact that the claim in this case was one under Article 296 (2), so that the Tribunal (Second Division) apparently came to the conclusion that for the purpose of (2) as well as (1) the material date for nationality as well as residence must be the 10th January, 1920, the date of ratification of the Treaty.

The question as to the material date for nationality under Article 296 was also considered by the Third Division in the case of Trustees of Isidor Morris (deceased) *v.* Michaelis (No. 3238), and this Division in a considered judgment adopted the same view as the Second Division. The creditors were British nationals, and the debtor, who had lost his German nationality a considerable time before the war broke out, only became German again by naturalization on the 30th January, 1917. It was common ground that the debtor was indebted to the British creditors in the sum claimed of £506. The claim was, however, contested on the ground that it could not be recovered under Article 296, as the debtor was not a German national on the 4th August, 1914. It was further contended that the debt did not become due before the coming into force of the Treaty of Versailles, but upon the facts the Tribunal were of opinion that the debt fell due before the 4th August, 1914.

As to the contention that the debt could not be recovered under Article 296, the Tribunal stated that the wording of Article 296 (1) did not indicate any intention on the part of the High Contracting Powers to restrict the scope of the stipulation only to such cases where the parties already at the date of the outbreak of war were nationals each of one opposing Power. As regards residence, it was generally agreed that the material date was the date of the coming into force of the Treaty of Versailles, and the wording of Article 296 (1) did not indicate that any different interpretation should be made as regards the material date for the test of nationality.

The Tribunal then discussed the meaning of paragraph 2 of Article 296, it being hardly to be supposed that the High Contracting Powers had the intention to differ in this respect between the two paragraphs. The wording of this paragraph was not, they stated, so clear as the wording of the preceding paragraph. Four different dates had been suggested as possible material dates for the test of nationality: (1) the date when the contract was made or the transaction took place; (2) the date of the outbreak of war—viz., the 4th August, 1914; (3) the date when the debt became payable during the war; and (4) the date when the Treaty of Versailles came into force. After reviewing and pointing out the difficulty of adopting each of the first three alternative suggestions, the Tribunal declared that the ambiguity of the text of paragraph 2 ought not to lead to the consequence of accepting for paragraph 1 another interpretation than the natural one under the clear text of paragraph 1 itself. It seemed right, therefore, to accept the date of the coming into force of the Treaty of Versailles as the material date for that paragraph. Even if the acceptance of that date might have consequences not envisaged by the High Contracting Powers, those consequences were not of a nature to make it necessary to accept another interpretation of the Treaty than the one most adapted to its own wording. The Tribunal accordingly decided in the case before them that there was a debt within the meaning of Article 296 of the Treaty of Versailles of the sum of £506 claimed, and directed that it be credited by the German Clearing Office to the British Clearing Office with interest at the Treaty rate from the 4th August, 1914, until crediting.

In the case of J. F. Smith and Paul G. A. Fanghanel *v.* Rheinhold (No. 1221), (*Recueil*, iv, p. 664), the First Division of the Tribunal adhered to their decision in Rehder *v.* Landgesellschaft Wannsee (No. 1543), and applied it to a debt which, as in the latter case, they held to come under (2) of Article 296. Mr. Aeschlimann, a Swiss national, lent the debtor, a German national, two sums of Mks. 5,000 each upon the security of two promissory notes, the debtor agreeing to repay the principal at three months' notice. Mr. Aeschlimann, who had lived in Great Britain since 1878, died on the 23rd March, 1918, his nationality remaining Swiss, and appointed J. F. Smith and P. G. A. Fanghanel executors of his will. These two persons accordingly claimed that the amount due on these notes—*i.e.*, £462 1s. 4d.—was, at the date of the coming into force of the Treaty, a debt due from a German national residing in Germany to British nationals residing in England, and submitted that the principles in Rehder *v.* Landgesellschaft Wannsee should not apply, because in that case the debt was claimed under Article 296 (2).

The Tribunal, however, were of opinion that it could not be said that the debts here in question were due and payable before the war. The result was that the decision in the case above referred to was directly in point, and they applied to the case before them the reasons which they gave in their former decision. In order to succeed it would be necessary to establish that the debt was due to a British national not only on the 10th January, 1920, but on the date at which it became payable. The creditors therefore failed in their claim.

(2.) *Stockbroking Transactions.*

With reference to claims arising out of stockbroking transactions, the case of Seligman, Weinberger, & Pearson *v.* Dreher & Uhry (No. 758), (*Recueil*, iii, p. 749, iv, p. 657), noted in last year's report, in which the First Division held that the claimants, who were British stockbrokers, were only entitled to commission earned on the 27th July, 1914, but not to later commissions, because commission was due only under the contract of brokerage which was dissolved at the outbreak of war, came in for further argument on certain points. The Tribunal decided that a broker continuing stock with a jobber, as a result of which he has become personally liable to the jobber, is entitled to be indemnified by his client in respect of his disbursements—*i.e.*, subject to all contangoes and differences of price paid by him during the time in which the stock is continued by such jobber. The time continued until the stock was taken up by the broker (whether he deposited it with a bank or not), or if it was not taken up, then up to and including the 9th January, 1920. The brokers were entitled to 5 per cent. interest on differences, contango charges and commission, the debtors being credited with dividends on securities whilst the securities were carried on the market for them. Where the stock represents part of a block and the brokers are unable to state whether the particular stock carried for the debtors was continued on the market or taken up, it is for the brokers to prove the loss in respect of which they claim indemnity, but where they cannot produce the evidence the Tribunal will apply the principle of proportion. For each denomination of stock and for each account day the proportion of the total stock dealt with in one way or the other can be ascertained by simple calculation, and such proportion will be applied to the amount in which the debtors were interested. The details of the items to be allowed to the brokers are set out fully in the Tribunal's award.

The right of a stockbroker who "takes in" shares for his German customer to recover the purchase price, as to which a decision adverse to the British claimant was given by the First Division in the above-mentioned case of Seligman, Weinberger, & Pearson *v.* Dreher & Uhry (No. 758), was again argued at some length in Wassermann Plaut & Co. *v.* Oscar Heimann & Co. (No. 1624). The British creditors claimed the sum of £2,122 10s. 1d. from the debtors in the following circumstances: Some time before the outbreak of war the creditors had been instructed by the debtors to buy, and did buy, certain shares. At the outbreak of the war the creditors were carrying over these shares for account of the debtors. At the beginning of the transaction they acted as agents only, and in so doing effected contracts between their clients and other parties as sellers of the shares, but the other parties to the contract had, by the time of the outbreak of the war, dropped out, and the debtors and creditors were then the only parties concerned in the transaction. The creditors accordingly claimed that the manner in which they had acted in "taking in" these shares constituted an act giving rise to a pecuniary obligation which remained enforceable in the clearing procedure, and was saved from dissolution under Article 299 (*a*) of the Treaty. This involved asking the Tribunal to hold that the construction placed by them on the similar transactions in the case above referred to was a wrong construction. The creditors did not rely upon certain of the arguments put forward in that case, and in particular no longer contended that a broker who himself "took in" was not a principal in the transaction as regards his client.

On behalf of the creditors, the transactions in the shares referred to were explained as follows. The debtors gave an order to purchase the shares to the creditors, who made the purchase on behalf of the debtors for the next account day. The creditors therefore became liable to take delivery and pay for the shares on that day. The debtors, however, not wishing themselves to take delivery, instructed the creditors to continue. The creditors, when the time came to complete the transaction, paid the price and took delivery, this being done, it was claimed, on behalf of the debtors, and, as a consequence, in the absence of instructions to continue, the creditors would be in a position of holding shares the property of their customer, subject to their lien for the purchase price.

For the creditors it was contended that the sale and the agreement to rebuy constituted one contract, and that the actual position on the outbreak of war was that the debtors having at the end-July account purchased the stock in accordance with their mid-July contract, the creditors had rebought the same stock from them at the making-up price of the end-July account and had undertaken to sell, and the debtors had undertaken to buy at mid August a similar quantity of the same stock at the making-up price of the end-July account, plus the contango. If the effect of Article 299 (*a*) was to annul completely the contract, the creditors claimed to be entitled to be put back in the position in which they were when they purchased the stock for the debtors, and to receive the purchase price plus interest at a reasonable rate. If, on the other hand, the effect of Article 299 was only to dissolve the contract, there remained on the part of the debtors a pecuniary obligation to pay the making-up price of the end-July account against delivery of the stock.

In the opinion of the Tribunal the creditors' claim failed. They could not uphold the creditors' contention that the transaction, entered into fortnightly, and for the last time at the end of July, 1914, was a single contract. Section 77 (2) of the Finance (1909–10) Act, 1910, contains a provision which apparently treated a carrying-over transaction as consisting of two contracts, and in the opinion of the Tribunal there were two contracts, the dissolution of which occurred at a time at which one had been completed and the other remained purely executory, nothing having been done on either side to give rise to a pecuniary obligation. Viewed as a single contract, at the time of

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.

The matter came before the Second Division for consideration in the case of Mabel de Vere Reed *v.* Rieder & Peratoner G.m.b.H. (No. 1690), in which the British creditor claimed under Article 296 to recover money lent to the debtors. Under the terms of the contract the loan was repayable without notice on the 15th April, 1920, but by reason of bankruptcy proceedings taken in Germany against the company during the war the Tribunal found that in accordance with German law the debt in question fell due at the date of the institution of those proceedings, and accordingly became payable during the war within the meaning of Article 296 (2). From entries in the files of the competent German Court it appeared that the bankruptcy proceedings came to an end on the 24th October, 1919, and that on the 1st December, 1919, an entry was directed to be made in the official Commercial Register stating that the company had been dissolved and the firm had ceased to exist. Accordingly the Tribunal found that the company in question ceased to exist as a legal entity before the Treaty came into operation.

The German Government Agent opposed the contention of the British Attorney-General that where a debtor company had been dissolved before the 10th January, 1920, no claim could be maintained under Article 296.

The Tribunal were of opinion that in order that there might be a debt within the meaning of either (1) or (2) of the article there must, as a general rule, have been a *vinculum juris* between a national of one of the Contracting Powers and a national of an opposing Power at the date when the Treaty came into force. Reliance was, however, placed by the German Government Agent upon clause (*b*) of the article, which provided that each of the High Contracting Parties should be responsible for the payment of "such debts" due by its nationals, except in the cases where before the war . . . the debt was due by a company whose business had been liquidated under emergency legislation during the war.

In the present case the borrower company itself had been liquidated, and not its business only. Moreover, the liquidation was not effected under emergency legislation, but under the ordinary law of Germany. It was therefore clear that, in their ordinary meaning, these words did not support the contention which was founded upon them. The German contention, moreover, in view of the Tribunal, disregarded the effect of the word "such" in the earlier part of the clause, whereby its application was limited to debts as defined at the beginning of the article. The Tribunal in a case such as the present, in which the meaning of the words of the Treaty in relation to the matter in question, read and construed in their ordinary sense, was reasonably clear, did not feel at liberty to depart from this meaning merely upon an assumption that the framers of the Treaty might have had their attention directed to a point which in fact might have been overlooked, and upon a speculative suggestion as to the way in which it was to be supposed that they intended that the draftsmen should deal with it.

The Tribunal therefore decided that on the 10th January, 1920, there was no debt due from the German company to the British creditor within the meaning of Article 296.

(5.) *Article 296 of the Treaty of Versailles.—Death of Debtor (a) prior to 10th January, 1920, (b) subsequently to 10th January, 1920.*

The German Clearing Office sought again, in the case of *Re* Bank fur Handel und Industrie *v.* H. Goldstein (German Clearing Office *v.* British Clearing Office) (No. 2415), to extend the Government guarantee under Article 296 to a case where the debtor national had died prior to the 10th January, 1920. In the case in question the British debtor was killed in action on the 23rd March, 1918, and no grant of administration of his estate had been taken out. The British Clearing Office contested the claim on the grounds that there was no living debtor resident in England on the 10th January, 1920, and that therefore Article 296 was not applicable. The German Clearing Office set up that the guarantee provided for in Article 296 (*b*) and paragraph 4 to Section III, Part X, of the Treaty was applicable to such a case.

The Tribunal decided that in its present form the claim could not succeed, and followed their decision in Delius *v.* German Government (No. 403), the decision being without prejudice to the right of the creditors to present their claim again, whether under Article 296 or any other article and against any person.

In cases under Article 296 where an enemy debt is shown to exist on the 10th January, 1920, the liability under the Treaty to credit cannot be affected by the death of the debtor since that date.

In the case of Redfern (Paris) Ltd. *v.* The Testamentary Executors of Edith Kappel (deceased) (No. 1767), (*Recueil*, iv, p. 645), the original German debtor died on the 2nd October, 1920, her heirs being her four children, of whom two had by marriage acquired non-German nationality. The German Clearing Office contested part of the claim on the grounds that the obligation of the executors was to administer the estate for the heirs, and that they (the executors) were not entitled to withhold an amount corresponding to the two daughters' share of the inheritance, for the daughters, having lost German nationality, could not be made answerable, through the clearing procedure, for the debt of the testatrix. Whilst, as a matter of procedure, German law allowed the executor of an estate not distributed amongst the heirs to be sued, this did not, it was stated, make him personally liable. On the other hand, until the estate was distributed, the heir, it was claimed, was not personally liable for the debts of the deceased, the limit of his obligation being that he was not entitled to object to the creditors of the deceased being satisfied out of and in proportion to his share of the estate. A similar position arose if the community of heirs were sued. The German Clearing Office therefore contended that under German law no personal legal liability existed, and that there could not therefore be a debt within the meaning of Article 296.

The Tribunal, however, were of opinion that, assuming that there was a pecuniary obligation within the provisions of Article 296—*i.e.*, a debt payable before the war and due by a German national residing within Germany on the 10th January, 1920, to a British national residing within British territory on the same date—the main provision directing its settlement through the Clearing Office was applicable, and that such provision was not to be affected or defeated through events which had happened in the course of unavoidable delay in carrying the matter through. In the case before them there were present on the 10th January, 1920, all the necessary elements, and there was in existence a debt of a determined amount to which the provisions of Article 296 applied.

As a matter of procedure, however, the Tribunal required that there should be before them some existing party against whom they might make an award. They did not consider it necessary to insist upon the community of heirs whose fortune was affected being before them, for under paragraph 327 of the German Civil Processordnung a judgment given in a case between an executor and a third person (*i.e.*, not an heir) in respect of a right that is subject to the administration of the executor operates whether for or against the heir. The Tribunal were thus in the position of being able to give an effective decision against the executor in his capacity as such. The creditors were therefore entitled to succeed.

(6.) *Decisions regarding Life Policies.*

The decision in Hahlo *v.* Law Union and Rock Insurance Co. Ltd. (No. 2501), (*Recueil*, v, p. 35), is one of some importance in regard to claims under policies of life insurance. The German creditor was the executor under the will of H. J. Hahlo, a German national, who died in September, 1916, and who held a policy of life insurance issued by the Crown Life Assurance Company. The policy contained a clause making the insurance company liable to pay amounts secured thereby within three calendar months after proof should have been given to the satisfaction of the directors of the death of the assured. On account of the war, proof of death was not given until the 12th April, 1922. The debtors were prepared to admit principal, bonus, and interest from that date, but the creditor claimed interest as from the date of death, relying upon paragraph 11 of the Annex to Section V, Part X, of the Treaty, which provides that contracts of life insurance entered into between enemies shall not be deemed to have been dissolved by the outbreak of war, or by the fact of the person becoming an enemy, and that any sum which during the war became due upon a contract deemed not to have been dissolved under the preceding provision shall be recoverable after the war, with the addition of interest at 5 per cent. per annum from the date of its becoming due up to the date of payment.

The Tribunal (First Division) were of opinion that this provision of the Treaty governs all contracts of insurance to which it applies, and in so far as it conflicts with the contract it is to be taken as overruling the contract. By the operation, therefore, of the above paragraph, the day of the death of the assured is to be taken as the day on which the principal sum became due under the policy, and interest runs from that date.

This decision was followed by the same Division in the British claim of Zillessen *v.* Concordia Colnische Lebens Versicherungs (No. 1751), (*Recueil*, v, p. 35).

(7.) *Principal and Agent.—"Reasonable Conduct."*

In Charles *v.* Lomer (No. 2125), (*Recueil*, v, p. 33), the Tribunal (First Division) again adopted the principle of making their award depend upon reasonable conduct in relation to events which happened subsequently to the outbreak of war, a test which has frequently been applied in cases between principals and agents.

The creditor prior to the war had acted as London agent to the debtor in the purchase of furs, and had been in the habit of making himself liable on purchases for his principal, looking to the latter for indemnity and for funds to enable him to pay for the goods purchased. As a result of the declaration of war the debtor was unable to provide the creditor with the necessary funds to pay for certain purchases, and accordingly allowed the goods to be sold by the brokers from whom the purchases had been made in accordance with the conditions of sale. The creditor became liable for a balance of £2,079 17s. 7d., representing the differences between the prices at which the goods were purchased and at which they were sold and other expenses, and was compelled to pay this sum to the brokers.

The German Clearing Office contested the claim on the ground that it was made in respect of a contract of purchase which was cancelled under the Treaty, but the Tribunal considered that the claim arose not under a contract of purchase, but under the contract of agency between the parties, and that by incurring thereunder a liability on behalf of the debtor the creditor had performed an act giving rise to a pecuniary obligation reserved under Article 299 (*a*), and therefore falling within Article 296 (2). The creditor had, in the opinion of the Tribunal, acted reasonably, not being under any obligation to find out of his own pocket the whole of the balance of the purchase price, and he was therefore entitled to reclaim the sums of money which he had expended. They further awarded him interest at the rate of 6 per cent. per annum, that being the rate at which it appeared from pre-war accounts that dealings between the parties was customary.

(8.) *Government Guarantee of Debts established through Clearing Office Procedure.—Article 296 (b) of the Treaty of Versailles.*

The meaning of the term "formal indication of insolvency" in Article 296 arose again for consideration in the case of Baron & Salaman *v.* Max Arendt (No. 2101), in which the British creditors claimed against the debtor a pre-war balance of a stockbroking account in which they acted as brokers for the debtor.

The claim was contested by the German Government Agent on the ground that on the 20th May, 1914, the debtor had made an oath of discovery as to his assets (*Offenbarungseid*), and that he was therefore, before the war, in a state of failure, or had given formal indication of insolvency. From the official file relating to the swearing of the oath in question, which the Tribunal had before them, it appeared that execution under a judgment had been levied and proved fruitless, and that the assets disclosed on oath by the debtor were insufficient to discharge the liabilities in respect of which he had thereupon been called upon to swear the oath.

In those circumstances the Tribunal were of opinion that the swearing of the oath at the order of a Court was a most formal act, and that where the deponent disclosed assets which are insufficient to discharge claims notified against him, it could not be said that it is not an indication of insolvency. The creditors' claim therefore was not one which was guaranteed by the German Government. The Tribunal, having regard to a statement by the creditors that certain dividends had been offered or paid during the war, allowed the point to remain open for six weeks with a view to the creditors, if so advised, presenting an amended case within that period.

(9.) *Article 296 (2) of the Treaty of Versailles.—Suspension of Execution of Contract on account of the Declaration of War.*

With reference to the case of the Pacific Phosphate Co. Ltd. *v.* Anglo-Continentale, &c., Guano Works (No. 1305), (*Recueil*, v, p. 3), referred to in last year's report, which was adjourned for further information on certain points, and in which the German Government Agent submitted that, in so far as concerned Article 296 (2), there was no suspension of payment in view of the fact that the creditors could at any time during the war have been paid by the branch office of the debtors in London, the case came on for further hearing before the Tribunal (First Division). On the further information supplied the Tribunal held that, although a payment of £2,000, made in July, 1915, *prima facie* appeared to substantiate the German Government's Agent submission, the true position was that this payment was made by consent of the British Board of Trade and on a certain condition, and that later during the war the debtors' London branch was sequestrated as an enemy concern and sold by the British Custodian.

The Tribunal, therefore, were of opinion that, with regard to the balance due from the debtors to the creditors in respect of goods consigned to the debtors, there was a suspension of payment. Consequently the creditors were entitled to recover the balance due under the provisions of Article 296 (2).

In two cases of Burns, Philp, & Co. Ltd. *v.* Nord-Deutsche Lloyd (Nos. 502 and 1453), (*Recueil*, iv, p. 627), the British creditors claimed a sum of £6,263 17s. 4d. against the German debtors in respect of a pecuniary obligation alleged to arise out of a contract between the two parties, and, in the alternative, in respect of a debt payable before or during the war and arising out of a bill of lading dated July, 1914, whereby the debtors agreed to carry certain bags of copra belonging to the creditors from Sydney to Hamburg on the s.s. "Pommern." The bill of lading contained certain exceptions permitting deviation, and a provision that in case the ship should be prevented from reaching her destination by the hostile act of any Power the master might discharge the goods into any convenient port, where the ship's responsibility should cease.

On the 3rd August, 1914, in compliance with a wireless message, the master caused the vessel, which had already started on her outward voyage, to turn and run for Honolulu, then a neutral port. The copra was eventually sold in October, 1914, for £11,482 3s. 6d., and the creditors' claim was for the difference between that sum and £17,746 0s. 10d. stated by them to be the value of the goods.

The debtors relied on the exceptions and conditions in the bill of lading, and further contended that the claim was one for damages, and if it arose at all did not arise on the contract, but out of a breach of the contract, and was in consequence not within Article 296 (2).

The Tribunal considered that the parties intended the contract to operate under English law, which makes a clear distinction between deviation in the course of the voyage and abandonment of the voyage. In the opinion of the Tribunal, the captain must be considered as having abandoned the voyage, and they arrived at this conclusion after an examination of a number of English authorities, in particular The "Teutonia" (L.R. 4 P.C., page 171). Once it was decided that the voyage had been abandoned, the contract contained in the bill of lading must be deemed to have been repudiated, and the carrier could no longer rely on the terms thereof or on the exceptions in his favour permitting of deviation. The Tribunal proceeded to give directions for the parties to arrive at the amount of the damage suffered by the claimants, and held that such damages could not constitute a debt under Article 296 (2), but would be recoverable by the claimants under the provisions of Article 304.

In pronouncing their decision the Tribunal stated that such decision had been arrived at by a majority, the minority holding that abandonment of the voyage before the 4th August, 1914, with the consequent dissolution of the contract, had not been sufficiently proved; and, further, that the deviation was in accordance with the exceptions

in the bill of lading, and that there was accordingly no sufficient link of casualty between the act of the captain and the damage claimed. The Tribunal proceeded further to point out that the signature of a decision by all three members of a Division did not imply that the decision was not finally due to a vote of the majority.

The further cases of Dalgety & Co. Ltd. *v.* Nord-Deutsche Lloyd (Nos. 1838 and 1839), (*Recueil*, iv, p. 637), involving the same question in regard to the same voyage of the "Pommern," subsequently came before the Second Division for consideration, and this Division held, contrary to the finding of the First Division, that there was no ground for presuming that on the 3rd August, 1914, the master of the vessel acted in pursuance of any definite decision, already formed on his part, to abandon the proposed voyage to Europe. On the contrary, the Tribunal found that the evidence available led to a different conclusion. Accordingly the Tribunal held that the claimants were not entitled to recover anything in respect of their claims except as to a small sum representing the value of the copra consumed on the voyage to Honolulu.

These two decisions are illustrative of the difficulty in which the Legal Branch of the Clearing Office finds itself in advising claimants as to their prospects of success. Upon similar evidence each of the two Divisions of the Tribunal in the case of this particular ship came to diametrically opposite conclusions.

(10.) *Right of Conversion of Proceeds of Argentine Bonds belonging to a British National converted into Francs and then credited in a German Bank Account in Marks.*

In my last report I referred to the conflicting decisions in Coit *v.* German Government (No. 959), (*Recueil*, iv p. 282), and Jaffe *v.* German Government (No. 1710), as to the basis of valorization of moneys paid in marks to the Treuhander representing interest and dividends derived from dollar securities.

A similar question under Article 296 of the Treaty of Versailles came before the Second Division in the case of Coleman *v.* Pfalzische Bank (No. 2121), where the proceeds of an Argentine Bond which had been drawn for repayment were first converted into Belgian francs and subsequently credited in account to the creditor by the respondent bank in marks in October, 1919. It was contended on behalf of the bank that the creditor was, under these circumstances, obtaining a double benefit by the application of the ordinary principles of valorization. The Tribunal, however, refused to draw any distinction between the position which arises under Article 297, where the moneys have been paid to the Treuhander, and the question of a debt under Article 296, and decided that the creditor was entitled to have the actual marks with which he was credited in the books of the respondent bank in respect of the proceeds of the security in question valorized at the pre-war rate of exchange.

(11.) *Claims under Article 297 of the Treaty of Versailles.—Liquidation of Property of German Nationals who subsequently became British Nationals prior to 10th January, 1920.*

Turning to cases under Article 297, the claim of Grossmann *v.* German Government (No. 821) is interesting as showing the view taken by the Tribunal (First Division) in a case where the German authorities carried out an exceptional war measure during the war, purporting to be against the property of a person who was at that time a German national, which property, owing to the owner's death, had devolved upon his widow, who subsequently to the measure but prior to the 10th January, 1920, obtained British nationality.

The claimant, who was British born, married in 1902 the late Karl Grossmann, a German national, domiciled and residing in England. The latter died in August, 1916, leaving as sole executrix and beneficiary under his will his widow, who, on the 1st January, 1920, became naturalized and resumed her British nationality. On various dates between March, 1917, and June, 1919, the Treuhander had required Grossmann's bank in Germany to pay to him moneys received by them on behalf of their customer, who was apparently treated in Germany as an enemy. Some of these payments were made on dates after the 11th November, 1918. The claimant, subsequently to the 10th January, 1920, had notified her claim through the British Clearing Office against the German bank, and the balance standing to the credit of the account on that date had been credited and paid.

The German Government resisted the claim in respect of the moneys paid to the Treuhander on the ground that they were at the time of collection the property of a German national, and that therefore such collections did not amount to exceptional war measures within the meaning of Article 297. They further contended that any liability under which they might be to the present claimant could be in respect only of what occurred on or after the 1st January, 1920, the date of her naturalization.

The Tribunal held that the claimant was entitled to recover under Article 297 (*h*) as cash assets all money collected by the Treuhander prior to the 11th November, 1918, and that such collection amounted to an exceptional war measure, though at the time not directed against an enemy national. On the 1st January, 1920, all the necessary conditions were fulfilled, and on the 10th January, 1920, the moneys in the hands of the Treuhander were the cash assets of an enemy, and were therefore to be credited under the above-mentioned article.

As to the sums collected after the 11th November, 1918, as a result of the second part of paragraph 1 of the Annex to Section IV, Part X, the measures were void and could not found a claim under Article 297 (*h*); nevertheless the Treuhander's action was an exceptional war measure in respect of which the claimant was entitled to be compensated. In view of the Tribunal's decision in Rehder *v.* Landgesellschaft Wannsee (No. 1543), (*Recueil*, iv, p. 201), and of the former German nationality of the claimant, the sum involved, assuming that exceptional war measure not to have taken place, would not have come under Article 296. The claimant was therefore, as to these sums, only entitled to compensation representing the difference between the sterling value of the sums on the 10th January, 1920, when but for the action of the Treuhander she might have received the moneys and their value on the 25th March, 1922, when the money was in fact offered.

(12.) *Claims under Article 297 of the Treaty of Versailles.—Seizure of Property upon High Seas; upon German Vessel in Belgian Port.*

In John Slater Ltd. *v.* German Government (No. 271), the rights of British subjects who have suffered loss through the seizure by the German Government of a ship on the high seas were considered. The claimants were a British company, the successors in title to a firm of Adam Bromley & Son, who during the war had chartered a Norwegian steamship for a voyage from Sweden to London. The vessel was stopped outside territorial waters on the high seas by a German patrol boat and ordered to Swinemunde, where the cargo was asserted to be contraband, the master and crew being paid off under the direction of the German authorities and repatriated to Norway. Subsequently, however, the vessel and cargo were released and no condemnation in prize took place.

The action of the German Government, however, caused considerable delay, and the British charterers put forward a claim under Article 297 (*e*) based on the alleged seizure and detention of the steamship, whereby they had lost her use for considerable periods. They contended that such seizure and detention amounted to exceptional war measures within the meaning of Article 297 (*e*).

In so far as the stoppage on the high seas was concerned, the Tribunal held that this would not in itself afford a ground for compensation under the said article, it being an act which took place outside German territory. The Prize Court proceedings and detention of the ship for the purposes thereof could not be disconnected from the seizure and considered in themselves as exceptional war measures. As to the delay resulting from the repatriation of the neutral crew, the Tribunal, following their decision in Kamna Rubber Company *v.* German Government (*Recueil*, iii, p. 29), held that the measure was one taken with regard to persons, and was therefore not an exceptional war measure within the meaning of the said article. They differentiated the case from that of Dutfoy *v.* German Government (*Recueil*, iii, p. 395), on the ground that the latter decision was based on a condemnation in prize of French goods which the Franco-German Tribunal held to be a measure of transfer within the meaning of Article 297 (*e*). The Anglo-German Tribunal had not to decide this point in the present case, there having been no condemnation, and their opinion thereon was reserved.

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.

In The British South African Explosives Co. Ltd. *v.* German Government (No. 1115) the Tribunal (First Division) gave a decision somewhat similar to that in Naylor, Benzon, & Co. *v.* German Government (No. 82), (*Recueil*, ii, p. 200), to which I referred in my report for 1923.

In April, 1915, and April, 1916, the Deutsche Bank had credited the British claimants with two amounts of Mks. 520,000 each in respec tof redeemed debentures. During the years 1917 and 1918 the Treuhander had collected from the Deutsche Bank the sum of Mks. 54,600 representing interest on the moneys so held by the Deutsche Bank. This sum was repaid to the claimants under the provisions of Article 297 (*h*) on the 15th May, 1922, without interest.

The claimants contended that if the interest had remained in the hands of the bank they would, pursuant to a pre-war contract, have received interest thereon, and therefore that by reason of the payment to the Treuhander they had been deprived of a benefit.

The Tribunal decided against the claimants' contention, being of opinion that if the sums referred to had remained in the hands of the bank they would not have been entitled to recover interest thereon through the Clearing Office, as such interest would have been in the nature of compound interest. The claimants might contend that under paragraph 241 (second part) of the German Civil Code, by virtue of their pre-war contract with the bank, interest not paid but left in the bank accrued to the capital, and, having become capital, bore interest also. The pre-war contract, however, must be treated as dissolved under Article 299 (*a*) and superseded by the provisions of paragraph 22 of the Annex to Section III, Part X, which excludes compound interest. Accordingly, as the claimants would not have been entitled to recover such compound interest under Section III, Part X, they had not been prejudiced by the collection of the moneys from the bank by the Treuhander. Their claim was therefore refused.

(16.) *Licenses in respect of Industrial, Literary, or Artistic Property.*

Article 310 provides that licenses in respect of industrial, literary, or artistic property concluded before the war between Allied nationals, or persons residing or carrying on business in Allied territory, on the one part and German nationals on the other part, shall be considered as cancelled as from the date of the declaration of war between Germany and the Allied Powers. The British view has always been that the effect of Section VII, Part X, of the Treaty, relating to industrial property, and comprising articles 306 to 311 inclusive, has been to constitute a special code relating to industrial property, and that the result of Article 310 is that a former licensee who has continued during the war to use the invention the subject-matter of the license is not liable for royalties during that period unless such royalties have been actually paid over, in which case the third paragraph of the article would apply. On behalf of the German Government it has been contended that the license was not annulled but only dissolved, and that there was saved from dissolution any pecuniary obligation arising out of any act done or money paid under the contract, notwithstanding that such pecuniary obligation may have arisen after the date of the dissolution. In support of this contention the German Government Agent has claimed in aid certain of the correspondence which passed between the Allied Powers and Germany before the signature of the Treaty.

The Tribunal (First Division) considered the various arguments in the case of Ascherberg, Hopwood, & Crew Ltd. *v.* Quaritch (No. 1509), and in their opinion the provision of the treaty under discussion was so clear that they were unable to base their interpretation upon any other document. Where payments by the licensee on account of the licensor were made during the war the sums so paid are to be dealt with in the same manner as other debts, but it could not be therefrom inferred that the right to demand payment, notwithstanding the cancellation of the license as from the outbreak of war, continued where no payments had been made. Article 310, unlike Article 299, was absolute, and the German debtor was therefore not entitled to set off against the British judgment creditor royalties which would have become due under a license but for the clause in the Treaty whereby such license was to be considered as cancelled as from the date of the declaration of war.

(17.) *Procedure.—Substitution of Parties.*

In Harvey, Samuel, and others *v.* Diamanten Regie South Africa (No. 389), (*Recueil*, iv, pp. 214, 603), the question of procedure as to the substitution of parties came before the Tribunal. At the hearing the creditors' representative applied for leave to amend their claim against the Diamanten Regie by adding the amount of a claim against the Berliner Handelsgesellschaft in the event of the Tribunal finding adversely to the claimants. In a claim previously brought against the Berliner Handelsgesellschaft a debt of the full amount had been previously notified against Pomona Diamanten Gesellschaft, but later this notification through the Clearing Office had been withdrawn, and the same amount had been notified in two sums against the Diamanten Regie and the Berliner Handelsgesellschaft. The facts, as further elucidated, seemed to point to the entire amount of the liability being one on the part of the Diamanten Regie.

The Tribunal considered that, in respect of time, the application was not barred by the provisions of paragraph 5 of the Annex to Section III, Part X, for it involved no more than a change in the person from whom it was sought to recover a debt already notified. Their attention had been called to a Protocol signed by the representatives of the French, Belgian, British, and German Governments on the 2nd November, 1923 (*Recueil*, iii, 1033 *et seq.*). Under Article 1 (2) of that Protocol it was provided that the principal amount of a claim under Article 296 was not to be increased after the 30th April, 1924, but under Article 3 a creditor Clearing Office was entitled to substitute a creditor or debtor after that date in a notification which had been made to the debtor Clearing Office before that date.

In those circumstances the Tribunal decided to reopen Case 966, treating the Diamanten Regie, as substituted, as debtors, and to make an award in that case covering the amount outstanding.

Decisions of English and Foreign Courts upon Matters affecting the Enemy Property and Clearing Office Work.

28. The following summary of decided cases having an important bearing upon the enemy property and Clearing Office work is derived from the report of the Legal Adviser to the Central Clearing Office, appended to the last report of the Central Clearing Office :—

(1.) *Seizure by British Custodian of German-owned Stock Certificates in the United States Steel Corporation deposited in the United Kingdom.—Judgment of Supreme Court of the United States.*

I desire to call attention to what was undoubtedly the most important judgment of the year as affecting the British Clearing Office and the realization of ex-enemy property—namely, that of the Supreme Court of the United States in two suits, Direction der Disconto Gesellschaft *v.* United States Steel Corporation, Public Trustee, Egremont John Mills, et al., &c. ; and Bank für Handel und Industrie *v.* United States Steel Corporation, Public Trustee, English Association of American Bond and Shareholders, Limited, et al. The facts were set out in my report for last year, but for the benefit of those who have not that report at hand I propose shortly to repeat them.

The two suits related to certain shares of stock in the United States Steel Corporation which, at the outbreak of war, were owned by the plaintiffs, the certificates for the stock having been deposited in England. Under the Trading with the Enemy Acts the British Custodian seized these certificates, and the right, title, and interest of the former owners were by decrees of the British Courts or competent authorities duly vested in him. Such certificates, which, in accordance with common practice in Great Britain, were in the names of well-known British banks or brokerage firms, contained a form of transfer which had been endorsed in blank by the registered holders, and in accordance with such practice they were, as so endorsed, delivered and accepted in fulfilment of sales and purchases of stock.

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

their German nationality by reason of ten years' absence from Germany, or whether such absence had been broken by their temporary returns to Germany. The Reichsgericht, which is the Supreme Court in Germany in civil and criminal matters, had in several cases held that the ten years' stay abroad was broken by a temporary return for a short visit or to take a cure. The Administrative State Courts in Prussia and Bavaria, against whose decisions there was no appeal, had taken the opposite view. The Reichswirthschaftgericht, a Court which is functioning in Germany for the purpose of deciding questions of compensation to Germans under the Treaty of Peace, and whose decisions are also made final, had in practice followed the decision of the Reichsgericht.

Mr. Justice Astbury, in his judgment, first referred to an unreported decision given by him in July, 1922, upon a somewhat similar question in the case of Reeve *v.* Loyanté. In that case the Custodian was also the defendant. An affidavit as to German law by the late Dr. Schuster was put in in support of the petitioner's claim, and, no other evidence having been put in by the Public Trustee, he had given his decision in favour of the petitioner, to the effect that she had become stateless, notwithstanding that she had on two occasions made temporary visits of a few hours to Germany to consult a lawyer, returning on each occasion to Paris on the same day.

In the present case it appeared to him that the position in Germany was entirely different to that which Dr. Schuster in his affidavit thought it was. He had had the assistance of three expert German lawyers, two called by the plaintiffs and one called by the defendant, and had been made acquainted with the state of the decisions in Germany and the opinions of its legal jurists to a very much greater and different extent from what was laid before him in the former case. The Reichsgericht, or the Imperial Court of Leipzig, which is the highest Court in Germany, and which has a civil and criminal side, had held on the 4th February, 1895, that the ten years' term in the Act of 1870 was interrupted by any physical entry of the person in question into Germany, and that as from such entry the ten years' term had to commence again. That decision of the Leipzig Court had been consistently followed in a considerable number of cases since February, 1895, and from that decision and the reasoning and effect thereof the Imperial Court had never departed whenever the question had arisen before it. The second set of Courts referred to in the action were what are called the Supreme Administrative Courts of the various German States. The first considered decision of those Courts was a decision of the Prussian Court of the 25th June, 1901, which had been followed in 1904 and 1908 by the Bavarian Administrative Court, and as late as the 1st January, 1924, there was a similar decision of the Administrative Court of Hamburg. In the first of those decisions the Court had held that a German-born subject who had gone abroad to Holland and had become naturalized there had not, by casual visits to Germany, interrupted the ten years' term. The Bavarian and Hamburg Courts had given decisions to the same effect.

There was a further Court in Germany from which again there was no appeal, a Reich or Imperial Court, which had been referred to in the case as the Economic Court or the Compensation Court. This was a Court set up to determine questions of compensation between individuals and the Reich on this very question. It appeared plain to the learned Judge, from reading three decisions of that Court which had been referred to, that it based itself upon the Leipzig view and not upon the view of the Administrative Courts. Although there was no direct decision of that Court definitely deciding the exact meaning of the ten years' uninterrupted stay abroad in the statute of 1870, he had no doubt, nor had the plaintiffs' expert witnesses, that that Court had acted in accordance with the view laid down by the Imperial Court at Leipzig, and had never attempted to follow or suggested that it ought to follow the view of those Administrative Courts that he had referred to.

The learned Judge, after reviewing the evidence given in the case and the certificates that the plaintiffs were stateless, which had been given by the Government authorities (Regierungsrath) of Birkenfeld, stated that it appeared plain from the experts' evidence that these certificates were only *prima facie* evidence.

The German jurists and text-book writers, to whose views he had been referred, differed very considerably in their opinions. Laband and Seydel, two leading writers of commentaries on German law, took the view that the Administrative Courts were right, but they differed in other respects in their reasons. Dr. Cahn, on the other hand, the most eminent authority who had written a general digest, adhered to the view taken by the Reichsgericht. There were a number of jurists who had written monographs or theses on the particular point under the Act of 1870, and, with the exception of one, all of them followed the view of the Reichsgericht and thought that it was right. Further, ordinances had been directed by the Executive of Prussia and a number of other States in Germany to those whom they controlled decreeing that the Leipzig decision was to be followed in preference to the others.

Upon the evidence before him he was unable to hold that the Administrative Courts' decisions represented the correct view of German law. He had no competence to decide which of two sets of Courts in Germany were the best interpreters of the German statutes. As to the principal contention made on behalf of the plaintiffs—that in the circumstances the giving of the certificates by the Regierungsrath was binding and conclusive—it seemed to him plain from the evidence of the three German experts that the certificates, which he would assume were issued by the proper and competent authorities, were only *prima facie* evidence of the statelessness which they certified. The whole of the expert evidence resulted in this: that, notwithstanding the *prima facie* validity of those certificates, nevertheless when produced before a Court in Germany having to try the question raised in the certificates, such Court would not only be entitled but bound, if facts were brought before it to show that there was a serious question whether the statelessness certified was a fact or not, to decide the question brought before it according to its own view of what the German law was. On the evidence proved before him as to what would be the practice in the German Courts with regard to the certificates, he had no hesitation in finding that, under the circumstances proved in that Court, if they arose in a German Court in which the question of statelessness was a relevant matter to be considered, the Court would not hesitate to go behind the certificates.

As a result he came to the following conclusions: He considered that the final onus of proving their statelessness was upon the plaintiffs. If the Leipzig and Economic Court decisions were right and the view of the German Executive authorities was correct, the plaintiffs' case of necessity failed; if, on the other hand, the view of the Administrative Court was to be preferred, then the evidence and general facts which had been adduced before him were consistent with the plaintiffs having possibly had throughout an intention to retain their German business connection. In his opinion, based on the evidence before him, it was impossible to say that even in an Administrative Court in Germany the plaintiffs must have made out their case if they had litigated it there upon the materials laid before him. In any event the question appeared to him to depend upon German law which he was unable and incompetent to construe for himself, and it was plainly impossible for him under the circumstances proved in that case to say what the unquestionable or undoubted German law, if there was such on the subject, was, when the highest German Courts and jurists differed diametrically upon it, and the Executive authorities insisted that the Liepzig construction of the Act of 1870 should be observed by those whom they control.

For these reasons he had no alternative but to hold that none of the plaintiffs had proved that their German nationality had been lost on or before the 10th January, 1920, and that the action must be dismissed with costs.

(3.) *Liquidation of Austrian Property.—Interpretation of Paragraph (b) of Article 249 of the Treaty of St. Germain-en-Laye.*

The Treaty of Peace (Austria) Order, 1920 (section 2), provides that the expression "nationals of the former Austrian Empire" does not include persons who, within six months of the coming into force of the Treaty, show to the satisfaction of the Administrator of Austrian Property that they have acquired, *ipso facto*, in accordance with its provisions, nationality of an Allied or Associated Power, including those who, under Articles 72 or 76 of the Treaty, obtained such nationality with the consent of the competent authorities, or who, under Articles 74 or 77 thereof, acquired such nationality by virtue of previous rights of citizenship. (This definition follows the exact wording of the last subparagraph of paragraph (*b*) of Article 249 of the Treaty of St. Germain-en-Laye.)

The meaning and effect of this provision was fully discussed in an unreported case before the Divisional Court—The King *v.* Administrator of Austrian Property, *ex parte* Charles Fidao and others—in which judgment was given on the 13th November, 1924.

The Administrator of Austrian Property had claimed certain moneys to which C. Fidao, who was admittedly a national of the former Austrian Empire, but who claimed to have acquired Italian nationality, *ipso facto*, under the Treaty of St. Germain-en-Laye, was entitled under a will dealing with property in this country which became effective during the war. No application was made to the Administrator by the said C. Fidao regarding his nationality until two years after the Treaty of St. Germain had been ratified, and accordingly the Administrator refused to include the applicant amongst the excepted class of persons within the meaning of the above-mentioned paragraph, and gave a certificate under Article I (x) (*eee*) of the Order in Council that the property in question was subject to the charge. The applicant obtained a rule *nisi* against the Administrator of Austrian Property, and accordingly the latter appeared to show cause (1) why a writ of certiorari should not be issued to quash the said certificate, and (2) why a writ of mandamus should not be issued to direct the Administrator to appear and determine the applicant's claim for exemption from the charge. It was argued on behalf of the applicant that the time-limit did not apply to his case, and that the words "including those who" in the above-mentioned section should be read as tantamount to "nor those who."

In delivering judgment the Lord Chief Justice stated that in his opinion it was not necessary for the purposes of the case to consider the question of whether, if the facts had been analysed, this was within the class of cases in which they could issue a writ of certiorari. The Attorney-General took the point that the certificates which were complained of were in fact correct. In his opinion that contention was clearly right. The submission, on the other side, seemed to him to involve a misreading of the definition section in the Order in Council. The Administrator in his affidavit had stated that he had not considered or made any decision upon the question whether the applicant would have been exempted from the operation of the charge imposed by the Treaty of Peace Order if he had applied to him or produced any evidence to him within the period allowed for the purpose by section 2 of the Order in Council, and the extended period which had been conceded, to show that he had, *ipso facto*, in accordance with the Treaty, acquired nationality of an Allied or Associated Power, or attained or acquired such nationality in the manner mentioned in the said section, but in fact (and this was not disputed) no such application was made or evidence produced until on or about the 2nd August, 1922. The applicant, therefore, was clearly out of time if the application fell within the class to which the limitation of time referred. The construction and the definition which the applicant contended for, if it were upheld, would omit him from that class.

In the opinion of the learned Judge, for reasons given in his judgment, it was obvious that the construction placed on the section by the applicant was wrong, and that the construction contended for by the Administrator was right, and that on the merits the application for a writ of certiorari failed.

The like considerations applied to the order *nisi* for a writ of mandamus. The application being *ex hypothesi* out of time, if that judgment was correct it followed that the Administrator was not to be commanded to hear and determine an application made beyond the limits of the legal period. In his opinion, therefore, each of the rules ought to be discharged. The other members of the Court delivered judgments to a similar effect.

PART III.—MISCELLANEOUS.

Conversion of German Government Loans.

29. In continuation of paragraph 55 of my last report, I have to state that information was recently received from the German Consul for New Zealand regarding the provisions of German legislation relating to the conversion of German Government loans. Under a German statute of the 16th July, 1925, provision is made for the conversion of German Government loans into a loan liquidation debt on the basis of R.M. 25 (*i.e.*, gold marks) for each M. 1,000 of the old loans. At first only those persons who are able to prove their uninterrupted ownership from before the 1st July, 1920, will be permitted to exchange their certificates. Such persons will receive bonds of the loan-liquidation debt, and also drawing-certificates. Of these drawing certificates a certain number will be drawn each year, extending over a period of thirty years from 1926, and the winners will receive five times the face value of their bonds in cash, plus interest at the rate of $4\frac{1}{2}$ per centum per annum on the face value, commencing from this year. The period prescribed for the lodging of applications for the exchange of such certificates commenced on the 1st April last, and it will close on the 30th June. Applications were directed to be addressed direct to the German Consul, P.O. Box 1300, Wellington. It is understood that German loan certificates which were acquired by present holders after the 1st July, 1920, are expected to be exchanged later this year.

Archives of the German and Austrian Consulates in New Zealand.

30. Upon the appointment of an honorary German Consul in Wellington the archives of the former German Consulate, which were held by the Public Trustee to safe custody, were delivered to that official. It is understood from the Austrian authorities that the appointment of an honorary Austrian Consul in Auckland is at present under contemplation, and at their request the archives are being retained in the meantime.

Claims against Russia.

31. The position regarding this matter is unchanged. Until an agreement is reached with the Russian Government for the recognition and settlement of British claims no further action is possible.

German Property in Samoa.

32. In my last report I stated that it was anticipated that all the liquidation schedules in regard to German property in Samoa retained by the New Zealand Government would be completed shortly thereafter. The value of the Reparation Estates has, however, not yet been settled, and I understand that it is the intention of the Right Hon. Sir Francis Bell, ex-Minister of External Affairs, to propose a basis for arriving at the valuation of these properties to the representatives of the German Government, whom he anticipates meeting at the assembly of the League of Nations at Geneva in September next. If his proposal is acceptable to the German Government the assessment of the values of the property will occupy a period of several months. It is not anticipated, therefore, that the New Zealand Government will in the near future be in a position finally to account for the value of the ex-enemy property retained in Samoa.

STATISTICS RELATIVE TO THE ENEMY PROPERTY AND CLEARING OFFICE WORK.

33. The following is a list of the tables printed in the appendix to this report, containing statistics relating to the work entrusted to the Public Trustee under the War Regulations and the Treaty of Peace Order, 1920. The comparative tables referred to under the last three headings were compiled by the Controller to the Central Clearing Office and published in his Fifth Annual Report :—

I. Statement of the cash amounts held in New Zealand but not yet credited to the Liquidation Account, and the property not yet liquidated.
II. Statement of amounts released in New Zealand from the provisions of the War Regulations, the Treaty of Peace Order, 1920, and the Treaty of Peace (Austria and Hungary) Order, 1924.
III. Statement of the amounts held on the 31st March, 1926, by the Public Trustee as Custodian of Enemy Property and Controller of the New Zealand Clearing Office.
IV. Statement showing the progress made in New Zealand towards the disposal of Clearing Office claims.
V. New Zealand Clearing Office Account with the Central Clearing Office—December, 1924, to December, 1925.
VI. Statement of the position in regard to claims in respect of enemy debts under Article 296 of the Treaty of Versailles owing to Allied creditors by German debtors.
VII. Statement of the position in regard to claims in respect of enemy debts under Article 296 of the Treaty of Versailles owing to German creditors by Allied debtors.
VIII. Statement of the position in regard to claims by Allied nationals under Article 297 of the Treaty of Versailles.

A perusal of the statements referred to in paragraphs I to IV above will indicate that considerable progress has been made towards the finalization of the duties entrusted to the Public Trustee. As previously indicated, however, it is difficult, for various reasons, to forecast when the duties will be completed.

I have, &c.,
J. W. MACDONALD,
Public Trustee, as Custodian of Enemy Property and Controller of the New Zealand Clearing Office.

Wellington, 1st July, 1926.

APPENDIX.

I. STATEMENT OF THE CASH AMOUNTS HELD BUT NOT YET CREDITED TO THE LIQUIDATION ACCOUNT, AND THE PROPERTY NOT YET LIQUIDATED.

Cash.	£	s.	d.
(1.) Amounts held subject to claims for compassionate releases	6,413	17	7
(2.) Amounts held subject to the settlement of claims under Article 296 of the Treaty of Versailles	116	1	9
(3.) Amounts held subject to the determination of contingencies	17,939	14	2
(4.) Amount held subject to determination of the owner's nationality	176	9	6
	£24,646	3	0

Property.

(The amounts shown are approximate only.)

	£	s.	d.
(1.) Interests in estates consisting of assets not realized or not yet realizable—*e.g.*, unpaid purchase-money, mortgages not yet matured, &c.	16,761	0	0
(2.) Property held subject to the determination of contingencies	3,746	0	0
(3.) Property presenting inherent difficulties of realization, such as interests of German remaindermen, &c.	7,630	0	0
	£28,137	0	0

N.B.—In the above figures no deductions have been made in respect of prior life interests.

II. Amounts released from the Provisions of the War Regulations, the Treaty of Peace Order, 1920, and the Treaty of Peace (Austria and Hungary) Order, 1924.

The following statement shows the amounts which have been released from the provisions of the War Regulations, the Treaty of Peace Order, 1920, and the Treaty of Peace (Austria and Hungary) Order, 1924, on the undermentioned grounds, for payment to the persons beneficially entitled thereto, or to their authorized agents. These figures comprise only the amounts which have actually been refunded by the Custodian, and do not include the value of the properties in regard to which the power to retain and liquidate has not been exercised (*e.g.*, assets belonging to internees or other ex-enemy nationals who have been permitted to remain in the Dominion, certain property belonging to British-born wives of German nationals, &c.). Payments made in respect of claims established by New Zealand nationals have not been included in this statement.

	£ s. d.	£ s. d.
(1.) Amounts belonging to persons or firms who have submitted satisfactory documentary evidence that they possessed prior to the outbreak of war British, Allied, or neutral nationality, or were in a condition of statelessness ..		16,703 15 11
During the war all persons resident in enemy territory, or enemy occupied territory, irrespective of their nationality, were regarded as enemies for the purpose of the War Regulations, and consequently all amounts payable to them during the war were required to be paid to the Custodian of Enemy Property. On the conclusion of peace the necessary steps were taken to release the amounts belonging to British, Allied, and neutral subjects, or persons without nationality.		
(2.) Amounts belonging to persons of former enemy nationality who have acquired the nationality of an Allied or Associated Power under one of the principal Treaties of Peace, or were otherwise entitled under such treaties to the release of their property		4,689 9 2
These persons are entitled to the release of their property in accordance with the express terms of the various Treaties of Peace.		
(3.) Amounts belonging to British-born subjects who lost their British nationality on marriage, and who, subsequent to the coming into force of the Treaty of Peace, have been renaturalized as British subjects		29,342 19 1
These moneys have been released in conformity with the policy of the Imperial authorities in connection with similar cases in the United Kingdom.		
(4.) Amounts belonging to British-born wives of German nationals		11,346 5 2
(5.) Proceeds of investments representing savings from earnings made in New Zealand by German nationals who were not at the outbreak of the war permanently resident in the Dominion and who are now in necessitous circumstances ..		3,028 3 9
(6.) Compassionate releases upon grounds other than (3), (4), and (5) above ..		7,724 15 0
(7.) Moneys belonging to aliens who were interned during the war, and/or who were repatriated from New Zealand at their own request or otherwise		40,254 15 5
(8.) Moneys belonging to the German Church Trust at Christchurch, released in pursuance of an Order in Council dated 23rd April, 1923, made under section 54 of the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1922		971 15 2
(9.) Amounts transferred for disposal by the Commonwealth Clearing Office, the liquidator of the English branch of an enemy company, or in accordance with the Ex-enemy Absentee Property (Samoa) Order, 1923		1,171 1 0
(10.) Amounts transferred to Consolidated Fund :—		
(*a.*) Proceeds of realty acquired by a German subject which was forfeited and declared by the Supreme Court to be vested in the Public Trustee in trust for His Majesty the King under section 5 of the War Legislation Act, 1917 ..	£ s. d. 520 4 5	
(*b.*) Sundry amounts where the legal or beneficial owners could not be traced	1,728 17 4	
		2,249 1 9
(11.) Miscellaneous releases		628 11 11
		£118,110 13 4

III. Statement of Amounts held under the War Regulations, the Treaty of Peace Order, 1920, and the Treaty of Peace (Austria and Hungary) Order, 1924.

The balances held in pursuance of the War Regulations, the Treaty of Peace Order, 1920, and the Treaty of Peace (Austria and Hungary) Order, 1924, as at the 31st March, 1926, have been summarized under the following headings :—

	£ s. d.	£ s. d.
Credit Balances :—		
(1.) Net proceeds of German property retained and liquidated in New Zealand and credited to Germany in accordance with Article 297 of the Treaty of Versailles (see paras. 8–10, *supra*)	237,032 11 5	
(2.) Sundry credit balances awaiting transfer to the German Liquidation Account, or release	24,646 3 0	
(3.) Net proceeds of Austrian property retained and liquidated in New Zealand and credited to Austria in accordance with Article 249 of the Treaty of St. Germain-en-Laye	1,218 3 8	
(4.) Sundry sums the disposal of which cannot at present be definitely determined	589 9 10	
Inquiries to ascertain further particulars in regard to each case have been instituted.		
(5.) Accommodation interest charged by the Custodian of Enemy Property against debtors who were granted extensions of time for payment of amounts payable to the Custodian in pursuance of the War Regulations ..	1,161 7 6	
		264,647 15 5
Debit Balances :—		
(6.) Difference between sundry credit and debit balances in accounts relative to transactions under Article 296 of the Treaty of Versailles	3,899 8 2	
(7.) Advertising, printing, stationery, sundry expenses ..	4,858 19 4	
(8.) Commission charged by the Controller on amounts collected from New Zealand debtors and credited in full to the German Clearing Office in accordance with the provisions of the Treaty of Versailles	492 14 8	
(9.) Bad Debts Account, being claims established by German nationals against New Zealand nationals or firms and credited to the German Clearing Office in accordance with the provisions of the Treaty, but which amounts cannot be recovered owing to the insolvency or disappearance of the debtors	1,018 11 11	
(10.) Sundry debit balances representing claims admitted to the German Clearing Office in certain cases where the debtors have been unable to make immediate settlement of the amounts due but are paying by instalments ..	82 19 2	
The collection of these balances is receiving careful attention in order to prevent or minimize any loss to New Zealand funds.		
(*a.*) Claims paid in respect of the proceeds of British property liquidated in Germany .. £ s. d. 17,625 11 1		
(*b.*) Payments on account of compensation awarded by the Anglo-German Mixed Arbitral Tribunal in respect of British property liquidated in Germany 2,324 5 6		
	19,949 16 7	
		30,302 9 10
Balance, being net amount held by Public Trustee in his capacity as Custodian of Enemy Property and Controller of the New Zealand Clearing Office and held in the common fund of the Public Trust Office		£234,345 5 7

IV. Progress regarding the Disposal of Claims.

The following table indicates the progress which has been made in connection with the disposal of claims lodged through the New Zealand Clearing Office as at 31st March, 1926 :—

(a.) Claims by New Zealand Nationals against German Nationals under Article 296 of the Treaty of Versailles.

	£ s. d.	£ s. d.
171 claims lodged in New Zealand and forwarded to the Central Clearing Office, London	34,665 15 5	
45 claims lodged with the London representative of the New Zealand Clearing Office	18,368 8 3	
		53,034 3 8
Claims withdrawn in whole or in part by the New Zealand Clearing Office in response to contests received from the German Clearing Office and in accordance with the instructions of the claimants ..	22,808 6 8	
Claims admitted by the German Clearing Office in whole or in part ..	22,193 17 8	
		45,002 4 4
Balance, being claims still under action as follows : Eleven lodged in New Zealand and three claims lodged in London		£8,031 19 4

In addition to the sum of £22,193 17s. 8d. admitted and credited by the German Clearing Office as shown above, interest thereon amounting to £6,641 6s. 5d. has also been credited by that Office. The amount admitted, less a deduction of 2½ per cent., being Clearing Office commission thereon, has been paid by this Office to the New Zealand claimants.

Since the last report claims totalling £1,930 14s. 6d., together with Treaty interest thereon amounting to £1,048 7s. 3d., have been admitted by the German Clearing Office, and claims totalling £1,137 14s. 1d. have been withdrawn by the New Zealand Clearing Office. One claim of £2,391 admitted by the German Clearing Office was transferred to the Central Clearing Office for settlement, and the claim and the relative admission were therefore cancelled. The total amount of claims disposed of during the year is £3,068 8s. 7d.

Of the fourteen outstanding claims, totalling £8,031 19s. 4d., the German Clearing Office have finally rejected six claims, of a total amount of £3,024 17s. 10d. There are accordingly eight claims under current action, totalling in all £5,007 1s. 6d.

(b.) Claims by German Nationals against New Zealand Nationals under Article 296 of the Treaty of Versailles.

	£ s. d.	£ s. d.
1,474 claims received from the German Clearing Office through the Central Clearing Office		210,975 9 9
Claims retransferred to the Central Clearing Office as not applicable to New Zealand	1,164 5 2	
Claims withdrawn in whole or in part by the German Clearing Office in response to letters of contest forwarded by this Office on behalf of the alleged New Zealand debtors	162,695 5 8	
Claims admitted in whole or in part by New Zealand firms and credited to the German Clearing Office	30,353 16 1	
		194,213 6 11
Balance, being 283 claims still unsettled		£16,762 2 10

In addition to the sum of £30,353 16s. 1d. admitted and credited to the German Clearing Office as shown above, Treaty interest amounting to £10,593 0s. 11d. has also been admitted.

Since the last report liability in regard to claims amounting to £941 5s. 2d. exclusive of interest has been established by the German claimants or acknowledged by New Zealand debtors. The necessary credit schedules have been duly forwarded to the German Clearing Office in respect of these claims.

In response to letters of contest lodged by this Office on behalf of the alleged New Zealand debtors, the German Clearing Office has withdrawn claims amounting to £4,643 14s. 9d. during the period.

The total amount of claims under this heading finally disposed of during the year is therefore £5,584 19s. 11d.

Of the 283 unsettled claims totalling £16,762 2s. 10d., 240 claims totalling £7,944 15s., have been rejected, and there are therefore forty-three claims totalling £8,817 7s. 10d. still under active consideration by this Office.

(c.) Claims by New Zealand Nationals against Germany under Article 297 of the Treaty of Versailles.

	£	s.	d.	£	s.	d.
13 claims forwarded to the German Clearing Office through the Central Clearing Office				52,731	17	3
Claims acknowledged in part by the German Clearing Office or established before the Anglo-German Mixed Arbitral Tribunal and credited to the New Zealand Clearing Office	17,625	11	1			
Compensation awarded by the Anglo-German Mixed Arbitral Tribunal either by consent of the parties or in course of formal judgment ..	2,319	19	5			
Claims withdrawn in part on acceptance of German offers of compensation or in accordance with judgment of the Mixed Arbitral Tribunal	30,624	19	7			
				50,570	10	1
Balance, being two claims under action				£2,161	7	2

Claims under this heading amounting to £1,016 19s. 5d. have been disposed of either by admission or by withdrawal during the year. Offers have been received from the German authorities in regard to the two outstanding claims. In one case the offer has been accepted in full settlement by the claimant, and the other offer has been accepted conditionally.

V.—The New Zealand Clearing Office Account with the Central Clearing Office.

Monthly Balances under Article 296 of the Treaty of Versailles.

(The amounts from October, 1920, to December, 1924, were printed in the Fourth and Fifth Reports on Enemy Property in New Zealand—H.-25, 1924 and 1925.)

Month.	Claims and Treaty Interest thereon admitted by: New Zealand Clearing Office.	Claims and Treaty Interest thereon admitted by: Germany through Central Clearing Office.	Dr. or Cr.	Balance.	Exchange on Balances: In favour of New Zealand Clearing Office.	Exchange on Balances: In favour of Central Clearing Office.	Commission on German Admissions payable to Central Clearing Office.	Monthly Balances payable by: New Zealand Clearing Office.	Monthly Balances payable by: Central Clearing Office.	Interest on Balances: In favour of New Zealand Clearing Office.	Interest on Balances: In favour of Central Clearing Office.	Cash Payments by: New Zealand Clearing Office.	Cash Payments by: Central Clearing Office.	Net Balances each Month in favour of: New Zealand Clearing Office.	Net Balances each Month in favour of: Central Clearing Office.
(1.)	(2.)	(3.)	(4.)	(5.)	(6.)	(7.)	(8.)	(9.)	(10.)	(11.)	(12.)	(13.)	(14.)	(15.)	(16.)
1925.	£ s. d.	£ s. d.		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Totals carried forward	39,612 4 11	28,247 2 4	..	..	762 8 2	49 4 8	195 2 10	28,281 15 6	17,434 13 7	1,849 15 6	1,659 9 3	22,600 1 7	7,080 14 5	..	..
January ..	1 15 6	..	*Dr.*	1 15 6	..	0 0 4	..	1 15 10	..	20 3 1	..	..	..	4,880 18 9	..
February ..	86 1 6	6 2 1	..	79 19 5	..	0 16 0	..	80 15 5	..	18 3 11	..	..	..	4,818 7 3	..
March ..	74 4 7	..	..	..	..	..	..	..	..	..	..	..	..	..	..
„ ..	2,391 0 0*	387 10 9	..	2,077 13 10	..	34 15 10	..	2,112 9 8	..	19 16 2	..	..	..	2,725 13 9	..
April	..	†1 14 10	*Cr.*	1 14 10	..	0 0 6	..	..	1 14 4	10 12 6	..	..	..	2,738 0 7	..
May	..	..	..	..	..	..	..	..	..	10 16 9	..	..	..	2,748 17 4	..
June	665 7 11	2,584 12 4	..	1,919 4 5	4 16 0	..	..	..	1,924 0 5	10 9 10	..	..	..	4,683 7 7	..
July	..	..	..	..	..	..	..	..	..	18 19 10	..	..	..	4,702 7 5	..
August ..	..	..	..	..	..	..	..	..	..	19 0 3	..	..	..	4,721 7 8	..
September ..	239 11 4	..	*Dr.*	239 11 4	0 12 0	..	..	238 19 4	..	18 7 11	..	..	..	4,500 16 3	..
October ..	13 2 1	..	..	13 2 1	0 0 8	..	..	13 1 5	..	17 19 10	..	..	..	4,505 14 8	..
November ..	44 17 1	..	..	44 17 1	0 2 3	..	..	44 14 10	..	17 7 2	..	..	..	4,478 7 0	..
December ..	211 6 11	..	..	211 6 11	..	..	..	211 6 11	..	17 15 0	..	..	..	4,284 15 1	..
Totals ..	43,339 11 10	31,227 2 4	..	..	767 19 1	84 17 4	195 2 10	30,984 18 11	19,360 8 4	2,049 7 9	1,659 9 3	22,600 1 7	7,080 14 5	..	..

* Cancellation of admission of a claim by German Clearing Office. † Cancellation of admission of a claim by New Zealand Clearing office.

VI.—Position in regard to Claims in respect of Enemy Debts, under Article 296 of the Treaty of Versailles, owing to Allied Creditors by German Debtors.

As at 31st March, 1925.

Allied Country.	Claims notified to the German Clearing Office to 31st March, 1925.: Number of Claims.	Claims notified to the German Clearing Office to 31st March, 1925.: Amount.	Of the Principal Amount of the Claims notified, there has been— Admitted by the German Clearing Office.: Number of Claims.	Admitted by the German Clearing Office.: Principal Amount of Claims.	Admitted by the German Clearing Office.: Interest thereon.	Admitted by the German Clearing Office.: Total Amount admitted.	Contested by the German Clearing Office and withdrawn by the Creditors, or disallowed by the Mixed Arbitral Tribunal.	Still under Consideration by the German Clearing Office, practically all having been contested.	Note.—The amounts in these two columns include Treaty interest to date of admission.: Cash received from the German Clearing Office.	Cash paid to Allied Creditors.
Belgium ..	24,534	Francs 500,834,505	13,933	Francs 104,225,489	Francs 9,308,217	Francs 113,533,706	Francs 43,949,951	Francs 352,659,065	Francs 133,928,892	Francs 103,497,753
Great Britain ..	94,469	£67,112,959	73,008	£40,170,042	£8,725,215	£48,895,257	£17,315,555	£9,627,362	£23,676,460	£48,895,257*
France—										
Paris Office ..	126,240	Francs 1,424,201,393	90,056	Francs 699,927,236	Francs 125,011,992	Francs 824,939,228	Francs 215,118,986	Francs 509,155,171	Francs 375,778,592	Francs 772,945,284
Strasburg Office	183,167	Francs 2,083,978,574	112,852	Francs 530,059,216	Francs 48,883,691	Francs 578,942,907	Francs 214,666,375	Francs 1,339,252,983	Francs 251,288,517	Francs 375,027,251
Greece ..	2,004	Dr. 318,104,116	274	Dr. 29,112,319	Dr. 2,013,804	Dr. 31,126,123	Dr. 1,736,447	Dr. 287,255,350	Dr. 912,984	Dr. 12,702,052
Italy					(These figures are not at present available.)					
Siam	75	Ticals 1,131,464	8	Ticals 265,658	Ticals 5,665	Ticals 271,323	Ticals 813,294	Ticals 52,512	Ticals 188,163	Ticals 203,817

* The £48,895,257 includes credits in favour of the Dominions and colonies which have been passed to them for settlement.

VII.—Position in regard to Claims in Respect of Enemy Debts, under Article 296 of the Treaty of Versailles, owing to German Creditors by Allied Debtors.

As at 31st March, 1925.

Allied Country.	Claims notified to Allied Clearing Office to 31st March, 1925.		Of the Principal Amount of the Claims notified, there has been—					
			Admitted to German Clearing Office.				Contested and Withdrawn by the German Clearing Office or disallowed by the Mixed Arbitral Tribunal.	Still under Consideration, practically all having been contested.
	Number of Claims.	Amount.	Number of Claims.	Principal Amount of Claims.	Interest thereon.	Total Amount admitted.		
Belgium	71,537	Francs 199,830,381	5,969	Francs 7,555,034	Francs 1,064,511	Francs 8,619,545	Francs 45,044,218	Francs 147,231,129
Great Britain ..	265,507	£62,823,100	169,330	£15,185,256	£4,556,709	£19,741,965	£36,067,166	£11,570,678
France—								
Paris Office ..	177,513	Francs 779,764,259	154,138	Francs 251,151,460	Francs 58,129,502	Francs 309,280,962	Francs 123,012,379	Francs 405,600,420
Strasburg Office ..	161,809	Francs 599,856,840	134,022	Francs 93,530,328	Francs 3,869,207	Francs 97,399,535	Francs 68,709,806	Francs 437,616,706
Greece	7,010	Dr. 118,339,593	4,054	Dr. 3,448,414	Dr. 542,258	Dr. 3,990,672	Dr. 1,365,331	Dr. 113,525,848
Italy				(These figures are not at present available.)				
Siam	495	Ticals 2,785,375	207	Ticals 163,974	Ticals 20,344	Ticals 184,318	Ticals 145,779	Ticals 2,475,622

VIII.—Position in regard to Claims by Allied Nationals, under Article 297 of the Treaty of Versailles, for Compensation in respect of Damage or Injury inflicted upon their Property, Rights and Interests in German Territory by the Application of Exceptional War Measures or Measures of Transfer.

As at 31st March, 1925.

Allied Country.	Allied Claims.							German Property in Allied Territory.	
		In respect of Claims notified, Credits have been given for—				Payments to Allied Claimants.			
	Notified to Germany under Article 297 *(h)* and *(e)*.	Proceeds of Liquidation under Article 297 *(h)*.	Property restored under Article 297 *(f)*.	Compensation awarded by the Mixed Arbitral Tribunal or agreed to by the German Government under Article 297 *(e)*	Total Credits.	Proceeds of Liquidation. Article 297 *(h)*.	Compensation. Article 297 *(e)*.	Property Realized.	Credited to Germany under Article 297 *(h)*.
Belgium ..	Francs 132,021,468	Francs 19,218,450	Nil	Francs 684,606	Francs 19,903,056	Francs 19,048,069	Nil	Nil	Nil
Great Britain ..	£65,044,056	£19,828,986	£114,537	£7,981,383	£27,924,906	£19,797,637†	£5,963,669†	£51,033,941*	£32,545,482
France—									
Paris Office ..	Francs 917,756,576	Francs 207,813,075	Francs 83,659,599	Francs 453,062,350	Francs 744,535,024	Francs 153,117,996	Francs 453,062,350	Francs 1,665,951,034	Francs 367,803,852
Strasburg Office									
Greece				(These figures are not at present available.)					
Italy									
Siam	Ticals 2,249,677	Nil	Ticals 403,928	Nil	Ticals 403,928	Nil	Nil	Ticals 4,626,232	Ticals 18,113

* The delay in crediting the whole of this sum to Germany is largely owing to the fact that it includes the proceeds of sale of depôt securities which are subject to claims by third parties. It does not include realizations in the Dominions, particulars of which are not available. † The figure of £19,797,637 and £5,963,669 include credits in favour of the Dominions and Colonies which have been passed to them for settlement.

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