the company, unless filed as therein mentioned, was applicable to book debts and to the charge in question. No registration had been effected in the present case, and therefore, under English law, the liquidator was entitled to avoid it, and this he had done. Such being the case, the debtor could only discharge his debt by paying it to the creditor. The creditor was therefore entitled to succeed in his claim.

With further reference to the question of the Government guarantee, I may refer to the case of *Tannenbaum* v. *Prussian Treasury* (No. 400), (*Recueil*, v, p. 632). The British creditor had already made a claim against a German debtor who died during the war, without, however, being able to furnish information as to the heir of such debtor. The Tribunal, following their ordinary principles in such a case, held that it was necessary, in order to establish a claim under Article 296, to show that there was a German debtor resident in Germany on the 10th January, 1920, against whom an award could be given, and requested the German Court at Altona to proceed under paragraph 1964 of the German Civil Code to determine whether there was an heir. The creditor subsequently amended his claim and directed it against the Prussian Treasury, maintaining that, in the absence of any other legal heir, the Treasury had inherited as an heir, and that the Prussian State was a juridical person and consequently a German national. He based his contention on paragraph 1936 of the German Civil Code, which provides that, in the absence of any heir, the Treasury becomes the statutory heir. The Tribunal, however, dismissed the claim on the ground that the Prussian Treasury was identical with the State, and, in becoming the heir of a deceased person under the said paragraph, was discharging a public duty; its task was of a public nature, and consequently it could not be considered a debtor national within the meaning of Article 296 (1) or (2) of the Treaty.

(2) *Article 296 of the Treaty of Versailles.—Claims in respect of Goods ordered prior to the War but not received.*

There are a large number of outstanding claims especially by German nationals against British debtors who ordered goods shortly before the outbreak of war but who never received them, notwithstanding that the claimants handed the goods to forwarding agents in Germany, and there has been considerable argument between the Clearing Offices and before the Tribunal as to the precise effect of what had been done, and as to whether there had been a passing of the property under either British or German law, or delivery of the goods, sufficient to except the contract from dissolution under Article 299, and whether, in the circumstances, the British debtor was responsible for the price of the goods under Article 296, notwithstanding the fact that he had never received them. These questions have to some extent been solved by an important decision of the Third Division in the case of *Lütges & Co.* v. *Ormiston & Glass, Ltd.* (No. 3522). The British respondents had ordered goods from a German firm, the order specifying that the goods must be delivered "as required, carriage paid, packing free." The goods reached England on the 23rd July, 1914, but were not delivered, and all trace of them was lost. The Tribunal held that, on the terms of the order, and according to the practice of the parties in previous transactions, in which goods had been delivered at the purchasers' warehouse by the sellers' London agent, the contract was for delivery at the purchasers' warehouse. They further held that, even apart from the special terms of the contract, the property had not passed nor had the goods been delivered within the meaning of the annex to Section V, Part X, of the Treaty. The claim being against an English firm, English private international law applied, and under that law the passing of property must be decided according to the law of the country where the goods were situate at the time when the act relied on as passing the property took place. The handing to the carrier in Germany did not pass the property under German law. No act took place in England which showed the intention of the parties that the property should pass.

"Delivery" in the Treaty is to be interpreted according to English meaning, and signifies transfer of possession, in this case to the buyer. The handing of goods to a carrier does not ordinarily under German law transfer possession to the buyer, and although under English law handing to a carrier may, *prima facie*, transfer possession to the buyer, the handing of goods to a carrier in Germany, or the transfer from carrier to carrier in England, cannot under English law, *prima facie*, be taken as transfer of possession to the buyer.

Under paragraph 447 of the German Civil Code, when goods are handed to a carrier the risk of transport passes to the purchaser, but if the goods are not lost as a risk of transport before the outbreak of war the contract is dissolved, and there does not remain under Article 299 (*a*) any pecuniary obligation arising out of the act of handing to the carrier, as the provisions of the contract are not severable within the meaning of paragraph 3 of the said annex.

In the case of *Carl Berg A.G.* v. *F. A. Welti & Sons* (No. 3254), the German creditors claimed against the British debtors for goods which had been shipped prior to the outbreak of war but which were detained in Antwerp and subsequently seized by the German Government, upon the footing that the property in the goods had passed. The order was for delivery f.o.b. Antwerp, and the goods having been shipped on s.s. "Huberfels" in Antwerp, the agents to the shipowners sent a mate's receipt for delivery to the creditors' agent in London. The latter, on the 5th August, 1914, offered to hand over that receipt to the debtors, who at first refused to accept it owing to the outbreak of the war, but eventually did accept it. The debtors paid the freight and obtained in exchange for the mate's receipt a bill of lading for the goods dated Antwerp, 31st July, 1914. As stated above, however, the goods never went out of Antwerp and were eventually seized by the German Government.

The Third Division pointed out that in a f.o.b. contract the property passes when goods are put on board at the disposal of the purchaser. In the present case there was no evidence to show whether the goods, when put on board, were shipped on account of the purchasers and at their disposal. The remission of the mate's receipt to the sellers' agent raised a presumption that they retained the disposal of the goods, and no evidence had been called to rebut this presumption. At the outbreak of war, therefore, the property had not passed and the goods had not been delivered, and the Tribunal accordingly found that there was no debt within the meaning of Article 296 due from the debtors to the creditors.

In *Gildemeister & Co.* v. *G. C. Dobell & Co., Ltd* (No. 3509), (*Recueil*, vi, p. 60), a further question arose as to the passing of property in goods delivered. In 1912 a contract was entered into between the predecessors in title of the German creditors and the British debtors for the sale by the former of 11,000 quintals of nitrate each month, payment to be made in London, documents to be taken up in cash at the expiration of ninety days after the arrival of the first bill of lading, or earlier should the vessel arrive. Under this agreement, on the 1st June, 1914, the creditors sold to the debtors a parcel of nitrate to be delivered f.o.b. Iquique. The bill of lading was made out to the creditors or their assigns, but the documents, including the bill of lading, were never tendered to the debtors, and were, in fact, produced by the German Government Agent at the hearing. The German Government Agent contended that the property passed from the creditors to the debtors at Iquique, or, in the alternative, that the parcel was delivered there, and that in consequence the contract was saved from dissolution by the provisions of paragraph 2 (*a*) of the annex to Section V, Part X. It was common ground that English law was applicable.

The Tribunal found that the relevant fact was that the bill of lading was issued to the order of the sellers and not the buyers, and was kept by the former. Having regard, therefore, to section 19 (1) and (2) of the Sale of Goods Act, 1893, the propery in the nitrate had not, they held, passed from the creditors, but remained in them on the outbreak of war. Moreover, delivery under the bill of lading had not taken place. The case did not, therefore, fall within paragraph 2 (*a*) of the annex to Section V, Part X, but the provisions of Article 299 (*a*) applied, and the contract between the parties was to be regarded as having been dissolved from the time of the outbreak of war, leaving no pecuniary obligation outstanding. They therefore decided that there was no debt due from the debtors to the creditors.

(3) *Article 296 of the Treaty of Versailles.—Residence of Debtor or Creditor.*

The question of residence of a creditor or a debtor for the purpose of Article 296 has also received further consideration, and there have been two decisions to which it may be worth calling attention. In *Magnus Alsleben* v. *Manusse* (No. 2987), (*Recueil*, vi, p. 63), the British debtor was temporarily staying in Germany for five months from October, 1919, until March, 1920, for family reasons. He had some time previously given up his house in London, and before