

SESSION II.
1921.
NEW ZEALAND.

ENEMY PROPERTY IN NEW ZEALAND

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

Laid on the Table of the House of Representatives by Leave.

TO THE HON. THE ATTORNEY-GENERAL.

ALMOST immediately on the outbreak of the war in 1914 it became necessary for the Government to take some steps to regulate the control of property in the Dominion belonging to persons residing within enemy States. After consideration it was decided that the Public Trustee of the Dominion was the officer most fitted to carry out the duties.

At the beginning the functions imposed on the Public Trustee were not very extensive, but as the war continued and the area of operations widened and the number of belligerents increased the importance of the duties became more marked.

Throughout the war the Public Trustee acted in various capacities under the War Regulations in dealing with property of alien enemies, on whom restrictions were imposed by the War Regulations. On the conclusion of peace further duties were imposed on him in regard to the carrying-out of the provisions of the Peace Treaties relating to the settlement of debts arising from pre-war contracts between British nationals residing in New Zealand and German nationals residing in Germany, and in connection with the liquidation of enemy assets in New Zealand.

Although a considerable amount of work remains to be done before the duties of the Public Trustee as Custodian of Enemy Property and Controller of the New Zealand Clearing Office are completed, it is considered that the time has arrived when an attempt should be made to place on record a connected account of the effect of the war legislation in the Dominion, and the nature of the duties performed by the Public Trustee under the direction of various statutes and War Regulations.

The following report will indicate generally the scope of the duties performed by the Public Trustee in the capacities named, and will afford some idea of the volume of the work entailed in connection with these duties.

The report will be found to deal with the following general matters:—

- (a.) The general development of the policy of the Government in regard to enemy property in New Zealand:
- (b.) The general policy adopted towards enemy subjects in New Zealand:
- (c.) The legal position *re* the settlement of debts owing by or to ex-enemy nationals:
- (d.) The final disposal of enemy property in New Zealand.

Subjoined is a memorandum from the Solicitor-General in regard to the matters dealt with in the report:—

Memorandum by Solicitor-General.

The Public Trustee.

Solicitor-General's Office, Wellington, 20th September, 1921.

I HAVE considered your exhaustive report on the above subject. It deals clearly and comprehensively with the responsible duties imposed on and discharged by you (during and since the war) both as Custodian of Enemy Property and as Controller of the New Zealand Clearing Office established under the New Zealand Treaty of Peace Order, 1920.

In my opinion it is manifest from the terms of the report (1) that the procedure adopted by you before peace was concluded was in accordance with the Acts and regulations then in force, and (2) that your later proceedings have been duly taken under and in conformity with the provisions of the Treaty of Peace embodied in the Treaty of Peace Order, 1920.

W. C. MACGREGOR, Solicitor-General.

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REPORT.

PART I.

1. GENERAL SCOPE OF LEGISLATION.

It is considered desirable to commence this portion of the report by outlining the general scope of the legislation under which the Public Trustee has derived his powers and duties.

(i.) *War Regulations Act, 1914*.—The first of the war legislation affecting the Public Trustee was the War Regulations dated the 25th November, 1914, issued by the Governor in Council under the War Regulations Act, 1914, which came into force on the 2nd November, 1914. This Act empowered the Governor in Council to make such regulations as he considered necessary for the purpose of better securing the public safety, the defence of New Zealand, and the effective conduct of the military or naval operations of His Majesty during the war, and for the prohibition of any acts which in the opinion of the Governor in Council were injurious to the public safety, the defence of New Zealand, or the effective conduct of military or naval operations (sections 2 and 3). The subsequent regulations issued under this Act relating to enemy property will be outlined under appropriate headings.

(ii.) *War Regulations Amendment Act, 1916*.—In 1916 there was a further development in regard to the policy relating to enemy property in New Zealand; and under the War Regulations Amendment Act, 1916, which came into force on the 7th August, 1916, the powers of the Governor in Council were extended to include the issue of regulations for the suppression, restriction, or control of enemy trade, and generally such provisions as the Governor in Council might consider advisable with respect to enemy property (section 3). This amending Act further provided that the regulations made thereunder in relation to enemy trade might confer upon the Supreme Court such civil jurisdiction as might be thought necessary, and might create, determine, and affect civil rights, obligations, and liabilities (section 3 (4)).

(iii.) *War Legislation Act, 1917*.—The War Legislation Act, 1917, empowered the Governor-General in Council to make regulations providing for the control and enforcement of the labour of alien enemies in New Zealand (section 35 (1) (c)).

(iv.) *War Regulations Continuance Act, 1920*.—The power of the Governor-General in Council to issue further regulations under the War Regulations Act, 1914, and its amendments, was cancelled by the War Regulations Continuance Act, 1920, except in so far as it was necessary to amend certain regulations, which were set forth in the Second Schedule thereto, for the purpose of giving full effect to the intention and purport of those regulations, but not further or otherwise (sections 4 and 6). The War Regulations which were not included or referred to in the schedules to the above Act are deemed to have been revoked as from the 6th October, 1920 (section 8).

2. CONTROL AND LIQUIDATION OF ENEMY FIRMS.

(i.) *Power to appoint the Public Trustee as Controller of an Incorporated Company*.—The War Regulations dated the 25th November, 1914, empowered the Attorney-General to appoint by warrant under his hand the Public Trustee as Controller of any incorporated company which was or had been carrying on business in New Zealand, whether incorporated in New Zealand or elsewhere, if the Attorney-General was satisfied that not less than one-half of the issued share capital thereof was held by or on behalf of alien enemies, or that the company bore or had borne such a relation to any other company, firm, or person carrying on business in enemy territory as to render the exercise of this power expedient for the public safety (paragraph 2).

(ii.) *Powers and Duties of the Public Trustee*.—The foregoing War Regulations did not require the Public Trustee to wind up any enemy business over which he had been appointed Controller, although he was empowered to do so if such a course was considered desirable. The chief intention of the Government in appointing the Public Trustee as Controller was for the purpose of preventing any moneys belonging to such companies being transmitted out of New Zealand and perhaps ultimately reaching an enemy country. The Public Trustee was advised at that time that there was no justification for the proposal to wind up an enemy business, and that such a course was not demanded by any public policy. It was considered that such a course would probably give rise to heavy claims for compensation at the end of the war. As much of the goods owned by these companies was of a perishable nature, and as there was a strong demand for them, it was undoubtedly for the benefit of the community that these goods should be sold for consumption, instead of being stored and allowed to depreciate by effluxion of time, as was desired by certain sections of the public. These regulations were revoked on the 11th May, 1916, when amended regulations were issued. (See paragraph v below.)

(iii.) *Supervision of the Continental C. & G. Rubber Company (Limited)*.—The first company over which the Public Trustee was appointed Controller in pursuance of the foregoing regulations was the Continental C. & G. Rubber Company (Limited), which was gazetted as an enemy firm on the 28th November, 1914 (see *Gazette* of the same date, p. 4215). This company, which was incorporated in Australia, possessed two branches in New Zealand—one in Auckland and one in Christchurch. As the New Zealand employees of the company were capable and trustworthy, and were not of enemy nationality, their services were retained in carrying on the ordinary business operations of the company under the supervision of the Public Trustee. All receipts were required to be deposited to the credit of the Public Trustee's Account, and all payments were made through the Public Trustee. The company was not permitted to obtain further supplies of goods from its branches in Australia. Every care was taken to dispose of the goods as far as possible at current market rates, in order that British, French, and American firms would not have cause to complain of unfair competition from the goods of German manufacture. Both the Auckland and Christchurch branches were carrying considerable stocks. The price of certain lines, which were overstocked or for which there was not a steady demand, had to be reduced in order that the same might be disposed of. The fact that this company was permitted to carry on its ordinary trading operations subject to

certain restrictions resulted in considerable adverse criticism being levied against the Government and the Public Trust Office, which was considered to be acting as agent for enemy subjects. One of the duties cast on the Public Trustee was that of the collection of debts due to the company. Even when definite assurance was given that such moneys would not be permitted to reach the enemy countries, many debtors strongly objected to making payment, and evidently considered that they should have had the use of such moneys during the war. It was necessary for the Public Trustee to take legal proceedings for the recovery of several outstanding debts due to the company. (See also paragraph vii *infra*.)

(iv.) *Extension of Power to appoint the Public Trustee as Controller.*—Under the War Regulations dated the 3rd April, 1916, the power of the Attorney-General to appoint the Public Trustee as Controller of incorporated companies was extended to include any company or firm whatsoever if the Attorney-General was satisfied that the exercise of this power was advisable by reason of the existence of any interest or control possessed or exercised in regard to that business by an enemy, or by an alien enemy, or by an enemy company (paragraph 29). This paragraph was revoked on the 11th May, 1916, when amended regulations were issued.

The amended regulations provided that if the Attorney-General was satisfied that any company, firm, or person carrying on business in or out of New Zealand was carrying on such business exclusively, or to a substantial extent, for the benefit or under the control of alien enemies resident out of New Zealand, or of an enemy company, or was engaged in any business communication or undertaking injurious to the interests of His Majesty in respect of the war, he might by notice in the *Gazette* declare such first-mentioned company, firm, or person to be an enemy (paragraph 20 (a)). All lists of declared enemies under this provision have been revoked. This power was revoked as from the 6th October, 1920, by the War Regulations Continuance Act, 1920 (section 8).

The War Regulations dated the 2nd May, 1916, provided that if the Attorney-General was satisfied with respect to any company incorporated in New Zealand that any enemy, or any enemy company, or any alien enemy (other than one who was also a natural-born British subject) possessed or exercised any substantial interest or control in or over any company, the Attorney-General might by notice in the *Gazette* declare such first-mentioned company to be an enemy (paragraph 10 (1)). This regulation was revoked as from the 6th October, 1920, by the War Regulations Continuance Act, 1920.

(v.) *Change of Policy regarding Enemy Companies.*—On the 11th May, 1916, further regulations were issued revoking the regulations dated the 25th November, 1914, and authorizing the Attorney-General to appoint the Public Trustee as Controller of the business of any company, firm, or person declared to be an enemy (paragraph 11 (1)). The powers and duties of the Public Trustee were amended so as to permit the carrying-on of the business only so far as the Controller deemed necessary for the winding-up of such business and the realization of the assets thereof.

In accordance with the amended practice of the Imperial Government the general policy of the New Zealand Government was changed, and the foregoing regulations were issued to give effect thereto. The primary object of the Government in declaring firms and companies to be enemies within the War Regulations was to suppress as quickly and completely as possible all business which was being carried on in New Zealand for the benefit of alien enemies resident outside New Zealand.

(vi.) *Appointment of Public Trustee as Controller of several Enemy Firms.*—On the 15th May, 1916, the Public Trustee was appointed by the Attorney-General as Controller of the undermentioned companies, firms, or persons in pursuance of the War Regulations dated the 11th May, 1916: Markwald, Son, and Ross; G. Hardt and Co.; Eugene Schroeder; Rhodius and Co. (Limited); Continental C. & G. Rubber Company (Limited).

(vii.) *Winding-up of Enemy Companies.*—In winding up such enemy companies the Public Trustee was directed to use every endeavour, as far as was consistent with the main purpose, to avoid any action which would amount to confiscation or would cause unnecessary pecuniary loss to the persons concerned. On the 19th May, 1916, the manager of the Continental C. & G. Rubber Company (Limited) was notified that its business was to be wound up within three months from that date, and that to secure the rapid disposal of the stock he was authorized to make such reductions in price as might be reasonably thought necessary for that purpose. The enemy companies were instructed to cancel by cable all overseas orders which had not been shipped. Goods or shipments in transit were disposed of on their arrival in New Zealand. In the majority of cases very satisfactory prices were realized. The amounts received from enemy businesses have been held in the Common Fund of the Public Trust Office. The Public Trustee was authorized to pay the capital due to partners of British nationality after the debts due by such firms had been paid. The following table sets forth the receipts and amounts disposed of on behalf of enemy companies:—

Firm.	Total Receipts to 31st March, 1921.			Debts and Expenses of Liquidation.			Balance at Credit, 31st March, 1921.		
	£	s.	d.	£	s.	d.	£	s.	d.
Continental C. & G. Rubber Company (Limited) ..	104,919	0	4	13,994	10	10	90,924	9	6
Hardt and Co.	20,448	17	1	2,982	10	0	17,466	7	1
Markwald, Son, and Ross	6,154	15	7	2,209	10	9	119	0	0
Capital refunded				3,826	4	10			
Rhodius and Co. (Limited)	37	10	3	2	5	2	35	5	1
	131,560	3	3	23,015	1	7	108,545	1	8

The balances at credit of the Continental C. & G. Rubber Company (Limited), Hardt and Co., and Rhodius and Co. (Limited) will be credited to the German Clearing Office under Article 297 (b) of the Treaty of Versailles, in accordance with paragraph 27 of the New Zealand Treaty of Peace Order, 1920.

(viii.) *Alien Enemies engaged in Foreign Trade.*—The additional War Regulations issued on the 2nd May, 1916, prohibited any alien enemy other than one who was also a British subject from engaging in foreign trade. On the 20th August, 1917, the above restriction was amended so as not to apply to any alien enemy who was a British subject by naturalization in any part of the British Empire, or who was a subject of the United States of America by naturalization therein, provided that such alien enemy should not be engaged in foreign trade unless he was permitted so to do by a license issued by the Attorney-General. This restriction did not apply to trading operations within New Zealand by aliens resident in New Zealand. Many of the persons and firms who were prevented from trading by the foregoing regulations had considerable shipments on the water at the time the prohibition was issued. Licenses were therefore issued by the Attorney-General to enable such persons and firms to deal with these shipments, and the Public Trustee was required to supervise all the foreign correspondence of such firms and persons. The object was to prevent money or credit being remitted to the foreign correspondents of such alien enemies. The amounts payable to such firms and persons were not payable to the Public Trustee as Custodian of Enemy Property.

3. CONTROL AND DISPOSAL OF ENEMY GOODS.

(i.) *Enemy Goods shipped prior to Outbreak of War.*—On the outbreak of war a considerable quantity of goods of enemy origin was in course of transit to New Zealand; and as the state of war rendered it unlawful for the New Zealand banks, to whom the documents in connection with such shipments had been sent, to continue to act as agents for enemy banks or firms in connection with the collection and remittance of the amounts due on account of such goods, it was necessary that some arrangement should be made by the Government, as otherwise it would have been impossible for these goods to have been delivered to the consignees. In order to avoid the dislocation of trade and the inconvenience which would have resulted from the non-delivery of these goods, and to prevent any money or credit reaching the enemy, the Government directed the Customs authorities to arrange with the banks for such consignments to be delivered from the control of the Customs to the consignees on the purchase-money being paid to the credit of the Public Account. The Collectors of Customs at the various ports were authorized to indemnify, on behalf of the Government, the banks and the consignees against any claim in respect of the purchase-money which had been paid into the Public Account. The above procedure applied to all goods for which the purchase-money had not been paid prior to the outbreak of war. Where non-enemy banks had purchased foreign drafts in connection with shipments forwarded by enemy firms, or had made advances against such bills, the amounts due to such banks were paid out of the moneys collected. In cases where the invoices did not come to hand owing to the interruption of postal communication the Collector of Customs assessed the fair market value of the goods, and this amount was paid to the credit of the Public Account. On the appointment of the Public Trustee as Custodian of Enemy Property the sum of £5,281 18s. 8d., representing the proceeds of 120 shipments, was transferred to the Public Trust Office. This amount was held in the Common Fund of the Office.

(ii.) *Imports of Alleged Enemy Origin detained by Collectors of Customs.*—The Collectors of Customs at the various ports were empowered under the War Regulations dated the 7th June, 1915, to detain any goods arriving in New Zealand if there were reasonable grounds for suspecting that such goods were of enemy origin or ownership, or that the importation thereof was contrary to the law as to trading with the enemy (paragraph 2). During the period of such detention it was not lawful for the importer or any other person to pay or remit to any person any sum of money in respect of those goods (section 3). The Comptroller of Customs was authorized, if he thought fit, to deliver the goods from the control of the Customs on receiving from the importer the deposit of a sum equal to the fair market value of the goods (paragraph 4). When the Comptroller was satisfied that such goods were not of enemy origin the sum of money so deposited was to be returned. Power was also conferred by these regulations on the Comptroller of Customs to sell such goods at any time for the purpose of refunding to the Crown out of the proceeds of such sale all expenses so incurred by the Crown. The foregoing provisions, with several amendments, were reissued in the War Regulations dated the 13th October, 1916. The amended regulations were repealed on the 6th October, 1920, by the War Regulations Continuance Act, 1920.

(iii.) *Cargo of s.s. "Wismar."*—With reference to the goods that were on board the s.s. "Wismar," an enemy ship which sought refuge in the territorial waters of the Dutch East Indies, a license under the Trading with the Enemy Act, 1914, was granted by the Governor, and gazetted on the 6th May, 1915, to permit all holders in New Zealand of bills of lading of any part of the cargo of this boat to pay to the owners of this steamship, or their agents, all charges by way of freight or otherwise the payment of which was necessary to secure the delivery of the said cargo.

(iv.) *Sale of Enemy Goods in Bond.*—As a general rule the enemy goods in bonded warehouses were sold by the Collectors of Customs under section 95 of the Customs Act, 1913, and the proceeds, after payment of shipping and storage charges, &c., were paid to the Public Trustee as Custodian of Enemy Property.

(v.) *Power of Custodian of Enemy Property to sell Enemy Goods.*—The War Regulations dated the 3rd April, 1916, required every person who held or controlled any enemy property to notify the Custodian of Enemy Property of the fact. In order that the Public Trustee as Custodian of Enemy Property might dispose of any enemy goods of a perishable nature, or where it was desirable for any other

reason to dispose of such goods, the Attorney-General was empowered by the War Regulations dated the 24th July, 1916, to authorize the Public Trustee as Custodian of Enemy Property to take possession of such goods or merchandise and to sell the same (paragraph 17). The Enemy Property Regulations dated the 5th August, 1919, empowered the Attorney-General, by order signed by him and gazetted, to vest any enemy property in the Custodian of Enemy Property, and the Attorney-General might direct the Public Trustee to sell the same (paragraph 18). The above powers of sale have been continued in force by the War Regulations Continuance Act, 1920.

(vi.) *Disposal of Proceeds of Enemy Goods.*—The New Zealand Treaty of Peace Order, 1920, vests all moneys received from the sale of such enemy property in the Public Trustee in trust for His Majesty, to be dealt with and disposed of in accordance with the provisions of the Peace Treaties (paragraphs 30 and 32).

4. REGISTRATION OF ENEMY PROPERTY IN NEW ZEALAND.

In order that the Government of New Zealand might be in possession of accurate information regarding the amount of enemy property in New Zealand, the War Regulations dated the 3rd April, 1916, required every person who, on the coming into operation of those regulations, held or had the possession, management, or control of any enemy property to communicate the fact, together with full particulars of such property, to the Custodian of Enemy Property at the Public Trust Office, Wellington. Considerable work was involved in recording the information received. The definition of "enemy" for the purpose of these regulations was wide, and included the following classes:—

- (a.) All persons, firms, or companies resident or carrying on business in enemy territory (Trading with the Enemy Proclamation of the 9th September, 1914).
- (b.) Persons and bodies of persons of enemy nationality resident or carrying on business in China, Siam, Persia, Morocco, Liberia, or Portuguese East Africa (subsequent Proclamations).
- (c.) Named persons, firms, or companies with whom correspondence, and therefore trading, was prohibited by the Postmaster-General under clause 2 of the War Regulations of the 17th December, 1914.
- (d.) Persons, firms, or companies declared by name to be enemies under the War Regulations of the 3rd April, 1916, by notice gazetted by the Attorney-General.

A similar provision directing that every person who held any enemy property should communicate the fact to the Custodian of Enemy Property on or before the 1st September, 1919, was contained in the Enemy Property Regulations dated the 5th August, 1919. For the purpose of these regulations a narrower meaning was given to the term "enemy." Both of the above provisions have been continued in force by the War Regulations Continuance Act, 1920.

5. COLLECTION OF ENEMY MONEYS BY CUSTODIAN OF ENEMY PROPERTY.

(i.) *Income due to an Alien Enemy.*—In pursuance of paragraph 11 of the War Regulations dated 3rd April, 1916, the Public Trustee as Custodian of Enemy Property collected all rents, dividends, interest, shares, profits, or other income owing or payable to an enemy, or to any person on behalf of an enemy, by any person in New Zealand, of which notification had been given in pursuance of these regulations.

(ii.) *Money other than Income due to an Alien Enemy.*—Paragraph 12 of the foregoing regulations empowered the Custodian of Enemy Property to collect all moneys due and payable to an enemy other than income (see (i) *supra*) if the Custodian of Enemy Property considered it expedient in the public interest. As a general rule all amounts due to enemy firms or persons were collected by the Custodian of Enemy Property; and in many cases time for payment was given, as it was not considered desirable to force any company into liquidation or to cause serious financial embarrassment to a New Zealand trader in regard to the collection of such moneys. Similar powers, with certain restrictions and modifications, were contained in the Enemy Property Regulations dated the 5th August, 1919.

6. SEQUESTRATION AND DISPOSAL OF ENEMY SHARES.

(i.) *Sale of Enemy Shares.*—As it was considered desirable in the public interest to eliminate all enemy interests from companies incorporated in New Zealand, the War Regulations issued on the 2nd May, 1916, provided that if the Attorney-General was satisfied that any share in a New Zealand company belonged at law or in equity to an enemy, or to an enemy company, or to an alien enemy (other than a natural-born British subject) the Attorney-General might, by order signed by him and published in the *Gazette*, order and declare that such shares should vest in the Custodian of Enemy Property. The Public Trustee was required, as soon as reasonably practicable after the vesting in him of any such shares, to sell them. On the 28th August, 1916, a further provision was made that no sale should take place without the consent of the Attorney-General. Vesting orders as to enemy shares in the Drapery and General Importing Company of New Zealand (Limited) and in Hallenstein Bros. (Limited) were published in the *New Zealand Gazette* on the 13th September, 1916, page 2991. Small parcels of shares in a number of other New Zealand companies have also been sold from time to time in accordance with the above regulations.

(ii.) *Power of a Company to purchase its own Shares which belonged to an Alien Enemy.*—On the 24th July, 1916, special provision was made that where shares in a company had been vested in the Custodian of Enemy Property in pursuance of the foregoing regulations, it should be lawful for the company to buy such shares and to become registered as the owner thereof, and to resell such shares, anything in any Act or in the constitution or regulations of the company to the contrary notwithstanding.

(iii.) *Acquisition of Shares by Alien Enemies prohibited.*—The War Regulations dated the 3rd April, 1916, provided that it should not be lawful for any enemy or for any alien enemy (other than one who was also a natural-born British subject) to acquire, whether at law or in equity, any shares, debentures, or debenture stock in any company incorporated in New Zealand. The War Regulations dated the 3rd April, 1916, also rendered it unlawful for the Registrar of Companies to issue a certificate of the incorporation of any company under the Companies Act, 1908, until and unless the Attorney-General, being satisfied that no enemy possessed any interest, whether legal or equitable, in that company, or being satisfied, notwithstanding the existence of such an interest, that the incorporation of the company was not contrary to the public interest, authorized the issue of such certificate (paragraph 22). Companies incorporated elsewhere than in New Zealand were prohibited from commencing to carry on business in New Zealand until and unless the Attorney-General, being satisfied that no enemy, and that no enemy company, and that no alien enemy (other than one who was also a natural-born British subject) possessed or exercised any substantial interest in or over that company, issued to that company a license to carry on business in New Zealand.

7. GRANT OF ADMINISTRATION OF ESTATES OF DECEASED ALIENS.

(i.) *General.*—During the war special provisions were made in regard to the administration of estates of deceased alien enemies. As a general rule any person who is otherwise qualified is entitled to a grant of administration, irrespective of the country to which he bears allegiance. During the war, it was deemed necessary in the public interest for certain regulations to be issued restricting the rights of alien enemies to obtain administration and of British subjects to administer the estates of alien enemies.

(ii.) *Definition of "Alien Enemy."*—It is interesting to note the wide definition of "alien enemy," which means, for the purpose of the War Regulations, "every person who is or has at any time been a subject of any State with which His Majesty was at war immediately prior to the 10th day of January, 1920, notwithstanding the fact that such person may be also by birth, naturalization, or otherwise a British subject, or may have in any manner ceased to be a subject of any such State, and also includes the wife of an alien enemy" (Second Schedule, War Regulations Continuance Act, 1920).

(iii.) *Restrictions on Right to administer and distribute.*—The War Regulations dated the 2nd February, 1916, provided that no person, save with the consent of the Attorney-General, should make application to the Supreme Court for probate of the will or for letters of administration of the estate of any person who on his death was an alien enemy, wherever resident, or for the resealing in New Zealand of any such probate or letters of administration granted elsewhere. The distribution of such estates was also forbidden save with the consent of the Attorney-General. In order to ensure compliance with the foregoing regulations additional regulations under the Judicature Act, 1908, were made by the Governor in Council on the 10th July, 1916, and were gazetted on the 13th July, 1916. The Rules of Court required an affidavit to be filed respecting the birth and nationality of the deceased.

(iv.) *Public Trustee as Administrator of Estates of Deceased Alien Enemies.*—As a matter of policy the Attorney-General authorized only the Public Trustee to administer the estates of deceased alien enemies. With three or four exceptions, the estates administered under the above provisions have been of small capital value, but, nevertheless, many difficult problems have arisen in the course of the administration of these estates. Considerable correspondence has been necessary in endeavouring to obtain satisfactory evidence as to nationality, domicile, existence or non-existence of a will, and the next-of-kin of deceased aliens.

(v.) *Distribution of Estates of Alien Enemies.*—Under the various Treaties of Peace the New Zealand Government has the right to retain and liquidate all property rights and interests within New Zealand belonging, at the date of the coming into force of those treaties, to German, Austrian, Hungarian, Turkish, and Bulgarian subjects, or to companies controlled by such subjects. In those cases where satisfactory evidence is produced that beneficiaries in the estates of deceased enemy aliens which have been administered under the above provision are not of enemy nationality application has been made to the Attorney-General for authority to pay such beneficiaries their shares under the War Regulations dated the 22nd February, 1916 (paragraph 4).

8. PERSONAL RESTRICTIONS ON ALIENS IN NEW ZEALAND.

(i.) *General.*—It is considered desirable at this stage to refer to certain restrictions placed on the liberty of action of alien enemies in the Dominion during the war.

(ii.) *Rights of Aliens.*—On the 19th August, 1914, a Proclamation made by the Governor was published declaring that all subjects of the German Emperor or of the Emperor of Austria and King of Hungary, being peaceably resident within the Dominion, were within the peace and protection of His Majesty in the same way as if they were subjects of His Majesty, and that they might sue and plead accordingly in all Courts of justice within the said Dominion in respect of contracts, rights, and injuries, or other causes or matters whatsoever, saving always the prerogative right of His Majesty in time of war to do with such persons as aforesaid, and with all other His Majesty's enemies, in all respects according to his good pleasure. Similar Proclamations in regard to the subjects of Turkey and of Bulgaria were not issued.

(iii.) *Power to arrest Alien Enemies.*—Under the War Regulations dated the 10th November, 1914, wide powers were conferred on the military authorities enabling them to arrest and detain any alien enemy who was reasonably suspected of having committed or being about to commit any breach of the regulations, or of having acted or of being about to act in a manner injurious to the public safety or the interests of His Majesty in respect of the war. The policy of the military authorities was not to interfere with alien enemies resident in New Zealand whose conduct was not obnoxious. Those aliens who were arrested and detained came within the definition of "prisoner of war" (see paragraph 9).

(iv.) *General Restrictions.*—The following is a summary of the principal provisions restricting the rights of aliens :—

- (a.) An alien enemy (not being a British subject by birth, naturalization, or otherwise) was prevented from being employed as a professor, lecturer, teacher, or other instructor in connection with any university, college, or of any secondary school, technical school, public school, endowed school, or Native school under the Education Act, 1914, or of any other educational institution supported wholly or in part by grants from the public revenue. (Alien Enemy Teachers Act, 1915.)
 - (b.) An alien enemy was prohibited after the 22nd December, 1914, from assuming any other name than that by which he was known at the date of the commencement of the war. The Minister of Internal Affairs was empowered to grant exemptions. (War Regulations dated the 17th December, 1914.)
 - (c.) An alien enemy was prohibited from leaving New Zealand without the consent in writing of the Minister of Defence. (War Regulations dated the 19th July, 1915.)
 - (d.) The Attorney-General was empowered to prohibit any company, firm, or person from continuing to carry on business in New Zealand under any name, description, or representation calculated to mislead the public as to the persons interested in that business, or as to the nature of that business, or as to the relationship between that company, firm, or person and alien enemies. (War Regulations dated the 9th August, 1915.)
 - (e.) The Attorney-General was authorized to impose such restrictions as he thought fit upon the scope or nature of any business carried on in New Zealand by, or on behalf of, or under the control of an enemy or an enemy company. (War Regulations dated the 3rd April, 1916.)
 - (f.) An alien enemy was prohibited from being engaged as master, or as a mate, or engineer of any home-trade ship, or engaged as a harbourmaster or in any other official position in the employment of the Harbour Board, save in pursuance of a license issued by the Minister of Marine. (War Regulations dated the 1st October, 1918.)
 - (g.) The restrictions regarding the acquisition of shares, and debentures, and letters of administration have already been referred to in the previous portions of this report.
- (v.) *Restrictions on the Acquisition of Land or Interests in Land either by Purchase or by Descent on Intestacy.*—The War Legislation Amendment Act, 1917, imposed restrictions on the right of acquisition of land by alien enemies. The principal points may be summarized as follows :—
- (a.) In the case of intestacy, whole or partial, any estate or interest in land which would have vested in an alien enemy but for the incapacity arising out of his enemy nationality vested in the Public Trustee in trust for His Majesty. The Supreme Court was empowered to declare the same vested accordingly on appropriate proceedings being taken by the Attorney-General. The disqualification on alien enemies holding or acquiring land does not extend to equitable interests under wills, as where a will directs conversion of the realty before distribution the above provisions do not apply.
 - (b.) Alien enemies were prevented from entering into contracts to acquire any freehold estate or interest in land or any leasehold estate or interest in land for a term which would not expire within two years from the date of the contract.
 - (c.) Certain cases have been dealt with by the Public Trustee under this legislation, and the land or interest involved has been disposed of by the Public Trustee and the proceeds paid to the credit of the Consolidated Fund of the Dominion. The amounts so paid will require to be credited to the Clearing Office of the country to which the enemy national owed allegiance.
- (vi.) *Revocation of Letters of Naturalization.*—By the Revocation of Naturalization Act, 1917, it is enacted that the Governor-General, if he is satisfied with respect to any British subject that it is expedient for the welfare or defence of the realm, or for the peace and good government of New Zealand, or otherwise on the grounds of public policy that the naturalization of such person should be revoked, may, by Order in Council, declare that the naturalization of the said person shall be revoked, and that the said person shall cease to be a British subject naturalized in New Zealand as from the date to be specified in that Order in Council, and every such Order shall have effect according to its tenor. Unless otherwise expressly provided thereunder an Order in Council revoking the naturalization of any person shall not affect the nationality of the wife or of any child of that person.
- (vii.) *Returns of Property of Alien Enemies in New Zealand.*—The War Regulations dated the 3rd April, 1916, provided that every alien enemy should, if so required by the Custodian of Enemy Property, give to the Custodian within fourteen days such particulars as the Custodian might require as to all property of the value of £50 or upwards, whether situated in New Zealand or elsewhere, which belonged to that alien enemy or in which he was interested.

9. CONTROL OF PROPERTY OF PRISONERS OF WAR.

(i.) *General.*—Many of the aliens who were interned in New Zealand during the war in pursuance of the War Regulations of the 10th November, 1914, were actively engaged in business, farming, or other occupations at the time of their internment. It was accordingly necessary for the Government to make suitable arrangements to prevent undue loss arising on account of the detention of such aliens.

(ii.) *Public Trustee as Custodian of Property of Prisoners of War.*—Under the War Regulations dated the 24th July, 1916, it was provided that the Public Trustee might be appointed as Custodian of the property of a prisoner of war, either by the prisoner of war himself or by the Attorney-General

in any case where the Attorney-General considered it necessary that a custodian should be appointed. Very wide powers and duties were conferred on the Public Trustee under the foregoing regulations. Arrangements were made to pay to such internees small amounts on account of their personal expenses while detained. Payments were also arranged for the maintenance of the wives and children of these men.

(iii.) *Disposal of Amounts held by the Custodian of Enemy Property.*—(a.) The amounts due to the prisoners of war who have been permitted to remain in New Zealand have been paid to such persons on their release from internment.

(b.) All the prisoners of war who were repatriated from New Zealand were interviewed by officers from this Department, as the military authorities required such prisoners to hand their cash assets to the Public Trustee for payment to them on their arrival in England or at a European port of disembarkation. Such aliens were also required to supply full details of any other property belonging to them in New Zealand, and to advise the address to which they desired the proceeds thereof to be forwarded. The Public Trustee has accordingly realized all the property belonging to such persons. In regard to the aliens belonging to southern Europe, payment of £50 each was made to such prisoners whose funds would so permit during the period they were in Australia awaiting repatriation. The amounts belonging to the German prisoners, and the balances due to the other prisoners, were forwarded to the High Commissioner for New Zealand in London, who was instructed to follow the practice of the Imperial Government in similar cases in the United Kingdom. Payment has been withheld until the German and the Austrian Governments release the amounts due to or earned by the British prisoners of war who were interned in Germany or Austria during the war. In regard to the repatriated prisoners of war who have acquired the nationality of an Allied or Associated State under one of the principal Peace Treaties, the amounts due to such prisoners are released on production of satisfactory evidence of nationality. The total amount forwarded to Sydney and to the High Commissioner for New Zealand for payment to repatriated prisoners of war was £30,674 2s. 11d.

10. REGISTRATION OF CLAIMS AGAINST THE ENEMY AND OF ALL BRITISH PROPERTY IN ENEMY TERRITORY.

(i.) *Action by Internal Affairs Department.*—The advisability of the Government being in possession of accurate data regarding the extent to which enemy firms and persons were indebted to British subjects in New Zealand was recognized in the early stages of the war. In order to obtain this information notices were published in the principal papers in the Dominion requesting all persons having monetary claims against enemy subjects to forward full particulars thereof to the Under-Secretary, Department of Internal Affairs, not later than the 31st December, 1915. Copies of the notice were also exhibited in all post-offices throughout the Dominion.

(ii.) *Compulsory Registration of Claims with the Public Trustee.*—The provisions of two Proclamations made by His Majesty, published on the 7th September, 1916, and on the 27th November, 1917, were issued in New Zealand under the War Regulations Act on the 28th February, 1918. Every British subject resident in New Zealand, and every company or other corporation incorporated in New Zealand, was required to make to the Public Trustee a return in writing of the following matters on or before the 30th April, 1918 :—

- (a.) All property which belonged to that British subject or corporation and which was situated within the territories of His Majesty's enemies :
- (b.) All property which belonged to that British subject or corporation and which was situated within any territory which was in the military occupation of His Majesty's enemies :
- (c.) All pecuniary claims of that British subject or corporation against any enemy Government :
- (d.) All pecuniary claims of that British subject or corporation against any persons or corporations resident or carrying on business within the territories of His Majesty's enemies :
- (e.) All pecuniary claims of that British subject or corporation against any person or corporation resident or carrying on business in any territory which was in the military occupation of His Majesty's enemies.

(iii.) *Total of Claims notified.*—Claims amounting to nearly £52,000 were notified to the Public Trustee in pursuance of the foregoing regulations.

(iv.) *Disposal of Claims.*—The claims registered in this Office are being disposed of as follows :—

- (a.) Claims against German nationals which fall within the provisions of Article 296 or 297 of the Treaty of Versailles are being settled through the Clearing Office (see later).
- (b.) Claims against the German Government in regard to losses sustained by enemy action have been referred to the Secretary to the Treasury, Wellington, as he is dealing with claims under the reparation portions of the Treaty.
- (c.) Persons who have claims against Austrian firms have been advised that a clearing office is not being established for the settlement of debts between British nationals in New Zealand and Austrian nationals in Austria, and that consequently such persons are at liberty to collect the amounts due to them through any channels which may be open.
- (d.) Persons who have registered claims against enemy subjects who have acquired the nationality of one of the Allied or Associated States have been advised that they may arrange for the direct settlement of such debts.

11. REGISTRATION OF CLAIMS AGAINST RUSSIA.

(i.) *General.*—In view of the change of Government in Russia and the consequent dislocation of trade and communications, it was considered desirable by the Secretary of State for Foreign Affairs, in consultation with the President of the Board of Trade, to institute a register of all claims by British subjects to property or other interests in Russia. The registration of these claims in the United Kingdom was undertaken by the Foreign Claims Office, Foreign Office, London S.W. 1.

(ii.) *Registration in New Zealand.*—On the 20th March, 1919, a notice was published in the *Gazette* requiring all persons, firms, and companies of British nationality in New Zealand owning property in territory which on the 1st August, 1914, formed part of the Russian Empire, or having claims against the Russian Government (including any Government exercising *de facto* authority in any part of that territory), or against any person, firm, or company, or municipal or other local authority in that territory, to transmit particulars of their claims to the Public Trustee at Wellington (on the requisite form) for registration by the Foreign Claims Office. It was specifically stipulated that the registration of a claim did not imply any undertaking on the part of His Majesty's Government to forward such claim, or any assurance that if same was forwarded it would be satisfied. Three claims, totalling £3,775 9s. 4d., were registered with the Public Trustee by persons in New Zealand. Full particulars of these claims have been forwarded to the Foreign Claims Office for registration. No information has been received as to the prospects of an early settlement of these debts.

12. GERMAN CHURCH TRUST.

(i.) *General.*—In 1917 it was reported to the Government that three bells belonging to the German Protestant Church in Worcester Street, Christchurch, had been cast from French cannon captured by the German Army at Sedan in 1870. The French Vice-Consul at Auckland made representations that the bells should be destroyed.

(ii.) *Property vested in the Public Trustee.*—The Government decided to introduce legislation to deal with the property of the German Church Trust, and by section 78 of the Reserves and other Lands Disposal Act, 1917, this property was vested in the Public Trustee upon such trusts and with such powers, discretions, and authorities as the Governor-General in Council might from time to time direct.

(iii.) *Powers of Public Trustee defined.*—An Order in Council dated the 6th August, 1918, authorized the Public Trustee at his discretion to exercise with respect to such property all or any of the powers conferred on him by section 29 of the Public Trust Office Act, 1908, as extended by section 21 of the Public Trust Office Amendment Act, 1913: Provided that the consent in writing of the Attorney-General should be required in lieu of an order by a Judge of the Supreme Court where such order was ordinarily necessary.

(iv.) *Destruction of Bells.*—In accordance with directions received these bells were taken to a foundry at Christchurch, where they were broken up and melted down in the presence of the Local Deputy Public Trustee and the Consular Agent for France. The analysis of the metal was as follows: Copper, 67.32 per cent.; tin, 21.51 per cent.; zinc, 9.30 per cent.; iron, &c., 0.40 per cent.; lead, 1.47 per cent. As the bells were composed of bell-metal, and not of gun-metal as was asserted, the remains of the bells were subsequently sold.

(v.) *The Church Premises leased.*—The Church premises are at the present time leased, and the Public Trustee is collecting the rent.

13. STATEMENT OF AMOUNT HELD UNDER THE WAR REGULATIONS.

The balances held under the War Regulations as at the 31st March, 1921, may be summarized under the following headings:—

	£	s.	d.
(1.) Proceeds of liquidation of German assets in New Zealand	38,048	3	2
(2.) Proceeds of liquidation of Austrian assets in New Zealand	67	7	5
(3.) Proceeds of liquidation of enemy firms	108,545	1	8
(4.) Estates of deceased German nationals under administration	39,764	6	2
(5.) Estates of deceased Austrian nationals under administration	171	0	10
(6.) Proceeds of property and shares belonging to British-born wives of German nationals	85,969	17	10
(7.) Property belonging to British subjects by birth or naturalization residing in Germany	8,308	16	11
(8.) Property belonging to friendly aliens (to be released)	5,532	14	3
(9.) Property belonging to repatriated prisoners of war which will be released on completion of administration	1,050	13	4
(10.) Miscellaneous (including German Church Trust, Christchurch)	989	12	5
(11.) Amounts collected from New Zealand nationals on account of claims received through the German Clearing Office—			
Collected by the Public Trustee	2,255	3	10
Collected by the High Commissioner	5,136	12	7
	7,391	16	5
Less amount paid to Central Clearing Office	3,641	7	11
	3,750	8	6
	292,198	2	6
Less sundry debit balances	80	8	9
	£292,117	13	9

PART II.

14. GENERAL PROVISIONS OF NEW ZEALAND TREATY OF PEACE ORDER, 1920.

(i.) *Treaty of Versailles*.—For the purpose of giving effect in New Zealand to the provisions of the Treaty of Peace with Germany an Order in Council, cited as the Treaty of Peace Order, 1920, was signed by the Governor-General on the 1st June, 1920, and issued as *Gazette Extraordinary* No. 57, dated the 7th June, 1920. Section 18 of the Treaty of Peace Order, 1920, provides that every Court in New Zealand shall take judicial notice of the terms of the Treaty of Versailles.

(ii.) *Establishment of New Zealand Clearing Office*.—In accordance with the provisions of Article 296 of the Treaty of Versailles a local Clearing Office (known as the New Zealand Clearing Office) was established, through which all debts which fell due prior to the 10th January, 1920, between German nationals residing in Germany and British nationals residing in New Zealand, including the Cook Islands and the territory of Western Samoa, must be settled.

(iii.) *Appointment of Public Trustee as Controller of New Zealand Clearing Office*.—The Public Trustee has been appointed Controller of the New Zealand Clearing Office (clause 9, Treaty of Peace Order, 1920).

(iv.) *Channel of Communication with the German Clearing Office*.—The New Zealand Clearing Office acts in conjunction with the Central Clearing Office at London, through which office are forwarded all communications to or from the German Clearing Office in regard to the settlement of debts, or in regard to the liquidation of German property in New Zealand, or relating to property in Germany belonging to New Zealand nationals. The High Commissioner for New Zealand in London represents the New Zealand Clearing Office in connection with the collection and adjustment of claims by or against the London branches of New Zealand companies and firms.

(v.) *Classes of Pecuniary Obligations under Article 296*.—The classes of pecuniary obligations to be settled through the Clearing Office are set out in Article 296, as follows:—

- (1.) Debts payable before the war and due by a national of one of the contracting Powers, residing within its territory, to a national of an opposing Power, residing within its territory:
- (2.) Debts which became payable during the war to nationals of one contracting Power, residing within its territory, and arose out of transactions or contracts with the nationals of an opposing Power, resident within its territory, of which the total or partial execution was suspended on account of the declaration of war:
- (3.) Interest which has accrued due before and during the war to a national of one of the contracting Powers in respect of securities issued by an opposing Power, provided that the payment of interest on such securities to the nationals of that Power or to neutrals has not been suspended during the war:
- (4.) Capital sums which have become payable before and during the war to nationals of one of the contracting Powers in respect of securities issued by one of the opposing Powers, provided that the payment of such capital sums to nationals of that Power or to neutrals has not been suspended during the war.

The territorial limitation imposed by paragraphs (1) and (2) *supra* restricts claims to those residing within the territories of the opposing Powers. "Residence" means something more than mere accident of locality, and denotes some degree of permanent habitation. The material date of residence of debtor and creditor is the day on which the Treaty of Peace was ratified—*i.e.*, the 10th January, 1920—and not the date when the debt became payable. Claims against residents in those parts of the former German Empire which were detached by the terms of the Treaty are not forwarded through the Clearing Office.

(vi.) *Definition of "Debt"*.—The word "debt" is nowhere defined in the Treaty, and is capable of a variety of constructions. In general it is used in a somewhat limited sense, though the dictionary definition is "that for which payment is liable to be exacted," and it is therein stated to be synonymous with obligation and liability (Webster). The construction which the Central Clearing Office has decided to adopt is "any liability which is capable of assessment by a creditor under a contract or obligation subsisting on the 4th August, 1914, and which became payable on or before the 10th January, 1920." Debts which fell due subsequent to the 10th January, 1920, may be settled direct.

(vii.) *Definition of "National"*.—The Controllers of the Allied Clearing Offices have agreed to accept the following definition of the term "national" for the purpose of Article 296 of the Treaty: "The expression 'national' for the purpose of Article 296 shall be deemed to include any company or corporation incorporated within the territories of either of the two countries in accordance with the law of the State, and in the case of a protectorate the natives thereof. A foreign branch of any such company or corporation shall be considered as of the same nationality and residence as that of the company or corporation itself, and any debts owing to German nationals by such branch shall not be treated as subject to the charge conferred by paragraph 4 of the annex to Section IV of the Treaty in favour of the country in which the branch is established. Where, however, under the laws of either country, a debt due from such branch is collected and retained by the liquidator of a German business wound up under war legislation, nothing contained in this agreement shall interfere with such collection or retention."

(viii.) *Debts due by Repatriated Prisoners of War*.—Debts incurred by a prisoner of war or interned civilian prior to repatriation will require to be settled through the Clearing Office, provided the debtor returned to Germany or to New Zealand, as the case may be, prior to the 10th January, 1920, and on that date was residing in Germany or New Zealand. If the New Zealand claimant is unable to supply the address of the German debtor the German Clearing Office is requested to endeavour to ascertain the whereabouts of the debtor. Claimants should supply all the available information in their possession to assist in the tracing of these men, as, unless it can be established that the debtor

was residing in Germany on the date of the coming into force of the Treaty, the claim may not be accepted by the German Clearing Office.

(ix.) *Losses incurred owing to the Outbreak of War.*—Claims arising out of the non-fulfilment of contracts which was caused by the outbreak of war present considerable difficulty, and each case must be dealt with on its own merits. From the English Law Reports it appears that the Courts are endeavouring to solve this vexed question on two lines :—

(a.) Considering whether there was necessarily an implied term in the particular contract that the happening of an event of a particular character should dissolve the contract ; and

(b.) If so, ascertaining whether what has happened is an event of that particular character. Where they have held, as they generally have, that there is an implication that an event reasonably likely to cause such difficulty or delay in performance as to render the contract commercially impossible, or to frustrate the commercial adventure, renders the contract void, they have been disposed to hold that the war itself was of so serious a character and so indefinite and indeterminate a length that delay caused by it is such a frustration—still more if there is direct prohibition of performance during the war.

(x.) *Goods on German Vessels interned in Neutral Ports.*—Several claims against German steamship companies have been received by the Clearing Office in regard to expenses and losses incurred owing to German vessels which were carrying cargo for New Zealand seeking refuge in neutral ports on the outbreak of the war. The copies of the German bills of lading produced to this Office contain a paragraph specifically contracting the German steamship company out of any liability in regard to transshipment charges or losses caused by the vessel seeking refuge in a neutral port on the outbreak of war. It is therefore considered that the New Zealand claimants have but a slight chance of recovering the amount disbursed by them in arranging for their shipments to be forwarded to New Zealand.

(xi.) *Unused Steamer Tickets.*—Where a German shipping company has failed to carry out its contract with a passenger of British nationality such company remains after the war liable to pay him damages for its breach of contract, and the measure of such damages would, as a rule, be the actual loss sustained. In all cases, however, this right to recover damages would be subject to two conditions :—

(a.) That the original steamer ticket contained no provision contracting the shipping company out of any such liability ; and

(b.) That the contract itself was not of such a character as to be deemed in law to have become impossible of performance owing to the war.

The Central Clearing Office, London, advises that, while claims in respect of the unexpended portion of steamer tickets may be recoverable under Article 296 of the Treaty, no claim can be preferred either under that article or under Article 297 in respect of extra expenses incurred by the holders of such unexpended portions owing to the non-fulfilment of the contract. Claimants are entitled to recover the difference between the amount paid for the return ticket and the cost of a single ticket for the journey completed by such claimants.

(xii.) *Deduction of Cash Discount.*—In cases where under the terms of the contract the debt is subject to a cash discount if paid before a certain date such discount may be deducted from the amount of the claim, provided that the payment fell due subsequently to the 4th August, 1914.

(xiii.) *Mixed Partnerships.*—Where a firm consists of British nationals and aliens, the proportionate interest of the British national or nationals must be ascertained, and the share of the debt due to such British national or nationals may be claimed through the Clearing Office.

(xiv.) *Interest on Debts.*—In the collection of claims received through the German Clearing Office against New Zealand firms and nationals considerable difficulty has been experienced by the Clearing Office in regard to the interest due under the Treaty on such debts. It is therefore considered desirable to quote paragraph 22 of the annex to Article 296, which provides for interest :—

“ 22. Subject to any special agreement to the contrary between the Governments concerned, debts shall carry interest in accordance with the following provisions :—

“ Interest shall not be payable on sums of money due by way of dividend, interest, or other periodical payments which themselves represent interest on capital. The rate of interest shall be 5 per cent. per annum, except in cases where, by contract, law, or custom, the creditor is entitled to payment of interest at a different rate ; in such cases the rate to which he is entitled shall prevail. Interest shall run from the date of commencement of hostilities (or, if the sum of money to be recovered fell due during the war, from the date at which it fell due) until the sum is credited to the Clearing Office of the creditor. Sums due by way of interest shall be treated as debts admitted by the Clearing Offices, and shall be credited to the creditor Clearing Office in the same way as such debts.”

As a general rule interest is not payable on debts unless express provision is made therefor.

(xv.) *Rate of Exchange.*—Paragraph (d) of Article 296 provides that debts shall be paid or credited in the currency of the Allied Power concerned. If the debts are payable in some other currency they must be paid or credited in the currency of such country at the pre-war rate of exchange, which is defined as the average cable transfer rate prevailing in the Allied or Associated country concerned during the month immediately preceding the outbreak of war between the said country concerned and Germany. The rate has been fixed as follows :—

(a.) Between Great Britain and Germany—at 20·5075 marks = £1 ;

(b.) Between New Zealand and Germany—at 20·30 marks = £1.

If a contract provides for a fixed rate of exchange governing the conversion of the currency in which the debt is stated into the currency of the Allied or Associated country concerned, then the above provisions concerning the rate of exchange shall not apply.

(xvi.) *Government Guarantee.*—Under paragraph (b) of Article 296 and paragraph 4 of the annex to Section III of Part X of the Treaty of Versailles the German Government and the New Zealand Government are respectively responsible for the payment of debts due by their nationals, except in a case where at the date of the outbreak of war the debt was barred by the laws of prescription in force in the country of the debtor, or where the debtor was at that time in a state of bankruptcy or failure or had given formal indication of insolvency, or where the debt was due by a company whose business had been liquidated under emergency legislation during the war.

(xvii.) *Debts automatically admitted.*—Paragraph 7 of the annex to Article 296 provides that debts shall be deemed to be admitted in full and shall be credited forthwith to the creditor Clearing Office, unless within three months from the receipt of the notification, or such longer time as may be agreed to by the creditor Clearing Office, notice has been given by the debtor Clearing Office that it is not admitted. This period has been extended to six months in the case of claims forwarded from the German Clearing Office to the New Zealand Clearing Office. The Central Clearing Office provisionally contests all claims to which replies are not received within the time specified.

(xviii.) *Direct Settlement of Debts forbidden.*—Section 10 of the Order provides that it shall not be lawful for any person to pay or accept payment of any enemy debts (except in cases where recovery thereof in a Court of law is allowed as hereinafter provided) otherwise than through the Clearing Office, and no person interested in any such debt as debtor or creditor shall have any communications with any other person interested therein as debtor or creditor except through or by leave of the Clearing Office. Contravention of this provision renders a person guilty of an offence, and liable to be prosecuted and punished as if he had been guilty of the offence of trading with the enemy contrary to the Trading with the Enemy Act, 1914. This penalty is provided in accordance with paragraph (a) of Article 296 of the Treaty and paragraph 3 of the annex to Article 296 of the Treaty.

The *London Gazette* of the 29th June, 1920, contained a license issued by the Controller of the Central Clearing Office enabling British creditors and debtors to communicate in writing with their German debtors and creditors direct: Provided that no proposal or suggestion is made for the payment or settlement of such debts except through the Clearing Offices, and that the party so communicating shall retain true copies of such communications and the original replies thereto, and hand the same to the Controller on demand at any time. A similar license has not been gazetted in New Zealand, but any person desiring to communicate with a German national with a view to ascertaining particulars of the indebtedness between the parties is granted permission on similar terms if application is made to the Controller of the New Zealand Clearing Office.

(xix.) *Penalties.*—Section 14 provides that any creditor who refuses or fails to give notice, or to furnish such documents or information as required by the Treaty, shall be liable on summary conviction to a fine not exceeding £20. Section 15 provides that if any person collusively gives notice of or admits any debt which is not owing, or furnishes any false information with respect to any debt, he shall be liable on summary conviction to a fine not exceeding £100 or imprisonment for a term not exceeding two months.

(xx.) *Power of Public Trustee to sue for Recovery of Debts and Interest.*—Sections 12 and 13 of the Order empower the Public Trustee, as Controller of the New Zealand Clearing Office, to sue for and recover in his own name, in any Court of New Zealand, any enemy debt owing by a New Zealand national, together with such interest and any fine payable in accordance with the terms of the Treaty.

At the date of writing it has not been necessary to institute proceedings for the recovery of any Clearing Office debt. In several cases debtors have been notified that if payment was not made the Public Trustee would be compelled to sue.

(xxi.) *Time-limit for lodging Claims.*—The Treaty of Versailles provides that creditors are to communicate their claims to the Clearing Office of the country in which they are resident within six months from the date of the establishment of such Clearing Office. No provision was made, however, for inflicting any penalty in the event of creditors failing to make their declarations within the stipulated period. The fixing of a time-limit for the lodgment of these claims is therefore a question to be settled by each Government. An announcement was published in the *Gazette* and in the principal papers in the Dominion advising New Zealand nationals that the last day for lodging the prescribed Clearing House forms in regard to debts due by German nationals was the 31st March, 1921. It was further stated that no claim in respect of any pre-war debt would be accepted for transmission to the German Clearing Office after that date, unless it was proved that the omission to lodge the claim by the date mentioned arose from circumstances for which the claimant could not justly be held responsible.

(xxii.) *Duties of Controller of the New Zealand Clearing Office.*—The chief duties of the Public Trustee as Controller of the New Zealand Clearing Office may be summarized as follows:—

(1.) *Debts due to New Zealand Nationals.*—(a.) The majority of debts due by German nationals to British nationals in New Zealand had been registered with the Public Trustee as Custodian of Enemy Property in pursuance of the War Regulations dated the 28th February, 1918. As the declaration made under the War Regulations was not suitable for the transmission of the claim to the German Clearing Office, it was necessary to draft another form and to have five copies completed in regard to each debt. On receipt of completed statements of claims they were examined by the Clearing Office, and, if in order, were forwarded to the High Commissioner for New Zealand, London, for transmission to the German Clearing Office through the Central Clearing Office, London. While the New Zealand Clearing Office will assist creditors in the preparation of claims as far as lies in its power, the responsibility of forwarding such claims must be accepted by the claimant.

(b.) If the amount of the debt or portion thereof is admitted by the German debtor through the German Clearing Office the Public Trustee, on receipt of the schedule of admission, arranges payment of the amount admitted, together with Treaty interest thereon.

(c.) If the claim or portion thereof is disputed the claimant is advised of the grounds on which the German debtor does not admit liability. If the New Zealand claimant decides to withdraw his claim

the German Clearing Office is advised to that effect. If, however, the claimant still maintains that he is entitled to payment his further statements in support of his claim are forwarded to the German Clearing Office. If, however, the Clearing Offices are unable to bring the debtor and creditor to agreement, the creditor will then be required to take proceedings before the Anglo-German Mixed Arbitral Tribunal under the following provisions of the Treaty (paragraphs 16 and 17 of the annex to Article 296):—

“ 16. Where the two Clearing Offices are unable to agree whether a debt claimed is due, or in the case of a difference between an enemy debtor and an enemy creditor or between the Clearing Offices, the dispute shall either be referred to arbitration, if the parties so agree, under conditions fixed by agreement between them, or referred to the Mixed Arbitral Tribunal provided for in Section VI hereafter.

“ At the request of the creditor Clearing Office the dispute may, however, be submitted to the jurisdiction of the Courts of the place of domicile of the debtor.

“ 17. Recovery of sums found by the Mixed Arbitral Tribunal, the Court, or the Arbitration Tribunal to be due shall be effected through the Clearing Offices as if these sums were debts admitted by the debtor Clearing Office.”

(2.) *Debts owing by New Zealand Nationals.*—On receipt of claims through the German Clearing Office it is necessary for the Public Trustee to compare same with the records of the amounts received under the War Regulations, to ascertain whether the claim is in regard to any amounts which have been collected by the Customs Department subsequent to the outbreak of war, or by the Custodian of Enemy Property in pursuance of the War Regulations dated the 3rd April, 1916, or the Enemy Property Regulations dated the 5th August, 1919. If the amount has not been collected the statement of claim is forwarded to the debtor, who is requested to advise within seven days whether he admits or disputes the claim. If the claim is disputed a protest setting out the grounds for the rejection of the claim is forwarded to the German Clearing Office. In many cases the claims were paid to banks in connection with drafts received from the German claimants, but the proceeds of such drafts were held in London owing to the outbreak of war. In such cases the High Commissioner for New Zealand at London is requested to ascertain the position and notify the German Clearing Office accordingly. Schedules of debts paid to this Office and admitted under the Treaty are forwarded to the German Clearing Office from time to time.

(xxiii.) *Limitation of Right of Action.*—Article 300 of the Treaty provides that all periods of prescription or limitation of right of action, whether they began to run before or after the outbreak of war, shall be treated in the territory of the high contracting parties, so far as regards relations between enemies, as having been suspended for the duration of the war.

Section 17 of the Treaty of Peace Order provides that the time at which the period of prescription or limitation of right of action referred to in Article 300 of the Treaty shall begin again to run shall be on the expiration of six months after the coming into force of the Treaty.

Paragraph 23 of the annex to Article 296 provides that the presentation of a claim to the Clearing Office suspends the operation of any period of prescription.

(xxiv.) *Territory of Western Samoa.*—The powers of the Public Trustee as Controller of the New Zealand Clearing Office, in so far as such powers relate to the territory of Western Samoa, have been delegated to the Commissioner of Crown Estates at Western Samoa. All correspondence with the German Clearing Office in regard to the collection or payment of debts under Article 296, or the liquidation of German property in Samoa, is made through the New Zealand Clearing Office.

PART III.

PROPERTY, RIGHTS, AND INTERESTS (a) OF BRITISH NATIONALS, (b) OF ENEMY NATIONALS.

15. BRITISH PROPERTY, RIGHTS, AND INTERESTS IN GERMANY.

(i.) *General.*—Claims by British nationals under the Treaty of Versailles fall under two main headings:—

(a.) Claims for the payment of debts due by German nationals to British nationals (Article 296):

(b.) Claims by British nationals with respect to their private property, rights, and interests in Germany (Article 297).

The procedure in connection with claims falling under the first heading has already been described in the preceding portion of this report. It is now proposed to summarize the position in regard to claims belonging to the second category.

(ii.) *British Subjects not entitled to Restitution in Specie.*—Persons who have made application for the restitution in specie of their property which has been subjected to measures of transfer in Germany have been advised that in view of the terms of paragraph (g) of Article 297 it is not in accordance with the intention of the Treaty that restitution in specie should be accorded to British nationals under the circumstances described in paragraph (f) of Article 297.

(iii.) *Claims by British Nationals for Compensation.*—Such persons retain the right to claim, through the Clearing Office, payment of the proceeds of the liquidation of their property, and compensation for any damages which have been sustained by reason of such liquidations.

(iv.) *General Provisions of Article 297.*—The net proceeds of the sale of British property, rights, and interests, wherever situated, carried out under German war legislation, and in general all cash assets, must be credited to the British Government through the Clearing Office. The British nationals are entitled to compensation in respect of damage or injury inflicted upon their property, rights, and interests, including all companies or associations in which they are interested, in German territory as it existed on the 4th August, 1914, by the application of exceptional war measures or measures of transfer, in so far as such compensation is not met by the proceeds of liquidation which have been credited to the British Government as stated above. Claims under Article 297 should be for the total

loss suffered by a British national owing to being deprived of his property, irrespective of whether it is wholly for the proceeds of liquidation, or for compensation, or partly one or partly the other. No provision has been made in the Treaty of Versailles for the payment of interest on claims arising under Article 297. As, under the provisions of Article 297 (e), claimants are entitled to claim compensation for the damage or injury inflicted on their property, they may include in their claims a definite amount for the loss of the use of their money or property. Such interest may be calculated to a date six months beyond the date of submission of the claim to the Clearing Office, and a paragraph should be added claiming such further compensation as the Mixed Arbitral Tribunal may consider reasonable.

(v.) *Agreement between British and German Governments re Restitution of Property, Rights, and Interests.*—On the 31st December, 1920, an agreement was signed between the British and German Governments under which the property, rights, and interests in Germany belonging to British nationals which have been subjected to exceptional war measures, but which have not been completely liquidated, shall be restored to such British nationals immediately upon application being made by such nationals in accordance with the provisions of Article 297 (a) of the Treaty of Versailles. At the time of writing no information had been received that this agreement had been ratified. The New Zealand Government has notified the Imperial Government that New Zealand is willing to be included in this agreement.

(vi.) *German Inquiry Office.*—An office has been established by the German Government for furnishing information with regard to the property, rights, and interests in Germany of British nationals. The name and address of this office is as follows: "Treuhänder für das Reindliche Vermögen, Auskunftsabteilung, Berlin S.W., Verlaengerte Hedemannstrasse, 11/12."

Inquiries as to whether property requisitioned in territories occupied by Germany during the war still exists in specie should be addressed to the Office de la Commission des Reparations, Wiesbaden, with the request that the necessary information be obtained from the Reichsruecklieferungskommission, Berlin.

Persons desiring to know the amount of the proceeds realized from the liquidation of their property, or to obtain any information concerning the administration of their property by administrators or liquidators, should, if they know where the property is, apply to the Landescentralbehörden of the State where the property is situated.

Place.	State.	Address.
Altenburg ..	Sachsen-Altenburg ..	das Sachsische Staatsministerium.
Arolson ..	Waldeck and Pyrmont ..	den Herrn Landesdirektor von Waldek und Pyrmont.
Berlin ..	Preussen ..	das Ministerium für Handel und Gewerbe.
" ..	" ..	das Ministerium für Landwirtschaft, Domanen und Forsten. (Agricultural property.)
Braunschweig	Braunschweig ..	das Braunschweig-Lüneburgische Staatsministerium.
Bremen ..	Bremen ..	die Handelskommission des Senats.
Buckeburg ..	Schaumburg-Lippe ..	das Schaumburg-Lippe'sche Ministerium.
Darmstadt ..	Hessen ..	das Hessische Staatsministerium.
Dessau ..	Anhalt ..	den Staatsrat für Anhalt.
Detmold ..	Lippe-Detmold ..	das Lippe'sche Landespräsidium.
Dresden ..	Sächsen ..	das Sachsische Wirtschaftsministerium.
Gera ..	Reuss ..	die Landesregierung des Volksstaates Reuss.
Gotha ..	Sachsen-Gotha ..	das Sachsische Staatsministerium.
Greiz ..	Reuss-Plauen ..	die Reuss-Plauen'sche Landesregierung.
Hamburg ..	Hamburg ..	die Deputation für Handel, Schifffahrt und Gewerbe.
Karlsruhe ..	Baden ..	das Badische Ministerium des Innern.
Lubeck ..	Lubeck ..	die Senatskommission für Reichs und Auswärtige Angelegenheiten.
Meiningen ..	Sachsen-Meiningen ..	das Sachsische Staatsministerium.
München ..	Bayern and Sachsen-Coburg	das Ministerium des Innern.
Neustrelitz ..	Mecklenburg-Strelitz ..	das Mecklenburg-Strelitzsche Ministerium.
Oldenburg ..	Oldenburg ..	das Ministerium des Innern.
Rudolstadt ..	Schwarzburg ..	das Schwarzburgische Ministerium.
Schwerin i/M	Mecklenburg-Schwerin ..	das Mecklenburg-Schwerinsche Ministerium des Innern.
Sonderhausen	Schwarzburg-Sonderhausen	das Schwarzburg-Sonderhausen'sche Ministerium.
Stuttgart ..	Württemberg ..	die Württembergische Centralstelle für Gewerbe und Handel.
Weimar ..	Sachsen-Weimar ..	das Sachsische Ministerium des Innern.
Berlin ..	(When not known where property was)	Reichsministerium für Wiederaufbau, Wilhelmstrasse, 67, Berlin W.

British nationals residing in New Zealand who desire to obtain the proceeds of their property which has been liquidated in Germany, or compensation therefor, under the Treaty should communicate full particulars of their property to the New Zealand Clearing Office, which will advise them what forms should be completed by them.

(vii.) *Duties of Controller of the New Zealand Clearing Office.*—On receipt of schedules showing the amounts realized by the German Government in regard to property belonging to British subjects in New Zealand which has been realized under the German war legislation, the Public Trustee is required to arrange payment to the person concerned after verifying that such person is entitled to

payment. If the amount paid is not accepted in full settlement the Public Trustee forwards a notification to the German Clearing Office setting out the position.

16. DISPOSAL OF ENEMY PROPERTY IN NEW ZEALAND.

(i.) *German Property*.—Under Article 297 (b) of the Treaty of Versailles the New Zealand Government has the right to retain and liquidate all property, rights, and interests within New Zealand belonging at the date of the coming into force of the Treaty to German nationals, or companies controlled by them. The proceeds of property realized and retained under the above provision must be credited to the German Clearing Office under Article 297 of the Treaty. Under the Treaty this amount is charged with—

- (a.) The debts due by German nationals residing in Germany to British nationals residing in New Zealand :
- (b.) Compensation due to New-Zealanders in respect of damage or injury inflicted upon their property, rights, or interests, including any company or association in which they are interested, in German territory by the application of exceptional war measures or measures of transfer.

Any credit balance in favour of Germany is to be credited to Germany through the Reparation Commission, but this balance will be retained and applied in reduction of New Zealand's share of the reparation moneys.

(ii.) *Property belonging to other ex-enemy Nationals*.—Similar provisions are contained in the following Treaties of Peace :—

- (a.) Austria—Article 249 (b), Treaty of Saint Germain-en-Laye.
- (b.) Hungary—Article 232 (b), Treaty of Trianon.
- (c.) Bulgaria—Article 117 (b), Treaty of Neuilly-sur-Seine.
- (d.) Turkey—Article 289, Treaty of Sèvres.

The New Zealand Government has not yet decided whether this power of retention and liquidation will be exercised in the case of all ex-enemy property in New Zealand.

(iii.) *Meaning of Term "German National"*.—For the purpose of Article 297 the expression "German national" is regarded as including any person of German nationality, whether residing in Germany or in an Allied or neutral country. A similar meaning is attached to the "nationals" of other countries with which the British Empire was at war.

(iv.) *Property belonging to British, Allied, or Neutral Subjects*.—Owing to the wide definition of "alien enemy" contained in the War Regulations, property belonging to persons of British, Allied, or neutral nationality was collected by the Public Trustee as Custodian of Enemy Property. In all cases the onus of proof is thrown on the claimants in proving that they are not of enemy nationality. On receipt of satisfactory evidence of nationality and ownership the Public Trustee arranges to release such property.

(v.) *Release of Property belonging to former Austrian Nationals who have acquired the Nationality of an Allied or Associated Power under the Provisions of the Treaty of Peace with Austria*.—Persons claiming to have acquired the nationality of an Allied or Associated Power under the provisions of the Treaty of Peace with Austria are required to forward the following information and proofs :—

- (1.) The name of the claimant; the full description of the property claimed; by whom it is held, and for whose account if a third party is concerned :
- (2.) The following documents, with duly authenticated translations and notarial certificates :—
 - (a.) A certificate of birth :
 - (b.) A certificate of the municipality or community in which rights of citizenship are claimed, showing that such rights are held, and how and when obtained, to which must be attached a certified extract or copy of the entries relating to the applicant in the local register of the place at which he claims rights of citizenship, with particulars of the dates of the entries :
 - (c.) A certificate of nationality issued by the Government concerned, duly viséd for use in this country, and endorsed with the statement by the Government concerned that the applicant has renounced any rights to opt for Austrian or other former enemy nationality, or alternatively has exercised his option to become a citizen of an Allied or Associated State, and has renounced any right to German, Austrian, or other former enemy nationality which he might have :
 - (d.) In the case of a married woman or widow, the marriage-certificate and certificates of the husband's rights of citizenship and nationality, with extracts from register, are required.

(vi.) *Ex-alien Enemies in New Zealand*.—The New Zealand Government has decided that this power of retention and liquidation will not be exercised in regard to the property, rights, or interests belonging to persons of ex-enemy nationality who have been permitted to remain in New Zealand.

(vii.) *Exemptions in Special Cases*.—(a.) British-born wives or widows of German nationals : The British Government has decided to release the income accrued since the 10th January, 1920, for the payment to British-born wives or widows of German nationals if the person concerned resides within the United Kingdom and the circumstances justify it. In cases of property belonging to the wives or widows of German nationals residing within the British dominions held by the New Zealand Custodian of Enemy Property applications for a similar concession are considered by the Government, and the Custodian of Enemy Property acts in accordance with the directions received.

(b.) German nationals whose income is less than £400 per annum : In accordance with an agreement between the British and German Governments dated the 31st December, 1920, the British Government will be prepared to consider applications for the release of household furniture and effects, personal belongings, family souvenirs, and implements of trade belonging to German nationals, with

the exception of articles of special value up to an amount of £500, in any case where the competent German authority certifies that the income of the applicant does not exceed the equivalent of £400 a year at a current rate of exchange. Applications for release must be made within a period six months from the ratification of this agreement. The New Zealand Government has decided to adopt a similar policy.

(c.) Austrian nationals whose income is less than £400 per year: The British Government has decided to release household furniture and effects, personal belongings, family souvenirs, and implements of trade belonging to Austrian nationals, with the exception of articles of special value up to a reasonable amount—say, £500—in any case, providing that the application is accompanied by a Government certificate that the income of the owner of the property does not exceed the equivalent of £400 sterling per annum. The New Zealand Government has decided to grant a similar concession.

(17.) ANGLO-GERMAN MIXED ARBITRAL TRIBUNAL.

The *New Zealand Gazette* Extraordinary dated the 17th February, 1921, contained a copy of the rules of procedure of the Anglo-German Mixed Arbitral Tribunal which has been constituted under Article 304 of the Treaty of Versailles.

The principal matters which will be dealt with by this tribunal are as follows:—

- (a.) Under Article 296: To decide, where a difference has arisen between debtor and creditor or between the British and the German Clearing Offices, as to the amount of the debt.
- (b.) Under Article 297: To determine the compensation to be borne by Germany in respect of damage or injury inflicted on the property, rights, or interests of British nationals in German territory as they existed on the 1st August, 1914, by exceptional war measures, &c.
- (c.) Under Article 299: To grant equitable compensation to the prejudiced party where the execution of a contract, which otherwise would have been regarded as having been dissolved as from the time when the two of the parties became enemies, is required in the general interest by Great Britain.
- (d.) Under Article 300: To order, where equitable and possible, the restoration of the rights of British nationals which have been prejudiced by measures of execution taken in German territory on account of failure to perform any act or comply with any formality during the war.
- (e.) Under Article 302: To fix compensation to a British national who has suffered prejudice in regard to a judgment given by a German Court during the war in respect of any dispute.
- (f.) Under Article 305: To grant redress to a British national whenever a competent Court has given or gives a decision in the case covered by Sections III, IV, V, or VII of the Treaty, and such decision is inconsistent with the provisions of such sections.
- (g.) (1.) To fix conditions for the issue of new licenses to German nationals in respect to industrial, literary, or artistic property belonging to British nationals and in which certain rights had been granted to German nationals prior to the outbreak of war.
(2.) To fix the amount to be paid for the use of the rights during the war.

18. CERTIFICATES FOR THE ISSUE OF MONEY-ORDERS PAYABLE IN GERMANY.

In order to prevent breaches of the Treaty of Peace Order, 1920, or of the War Regulations Continuance Act, 1920, in regard to the settlement of pre-war debts or the transfer of German property, the Secretary of the Post and Telegraph Department arranged with the Public Trustee as Custodian of Enemy Property to examine applications for the issue of money-orders payable in Germany, and to grant permits if the remittance is not prohibited by law.

This procedure is in accordance with the system in force in the Commonwealth of Australia.

Applications for permits should be made in writing addressed to the Custodian of Enemy Property, Public Trust Office, Wellington, and should contain the following information:—

- (a.) The full name, address, and nationality of both the remitter and payee:
- (b.) The purpose for which the remittance is being sent.

19. CONCLUSION.

A perusal of the foregoing report will indicate that a very large amount of work has been cast upon the Public Trustee and his officers in connection with enemy-property matters, and the burden resulting therefrom was greatly increased owing to the shortage of staff at the time when the earlier portion of the work had to be transacted. Apart from the volume of the work performed, the delicate nature of many of the transactions called for the exercise of special tact and discretion on the part of the Public Trustee and his officers. It is gratifying to be able to state that with few exceptions the duties were carried out without friction with any of the parties involved.

The Public Trustee has endeavoured to protect the Government in every way without inflicting undue hardship on persons who found themselves unfavourably situated owing to the effect of the War Regulations.

In the discharge of the duties the Public Trustee has been brought into contact with several of the Government Departments, particularly the Crown Law Office and the Customs Department. It has also been necessary to secure the assistance of the banks throughout the Dominion in obtaining information connected with enemy property and the settlement of claims received from the German Clearing Office.

I desire to express my appreciation of the cordial assistance and co-operation which has been given to me in carrying out the duties imposed by the Government. I also desire to express my appreciation of the devoted work of the officers of the Public Trust Office who have been entrusted with the discharge of these particular duties.

I have, &c.,

J. W. MACDONALD, Public Trustee,
As Custodian of Enemy Property and as Controller
of the New Zealand Clearing Office.

APPENDIX.

SUMMARY OF THE PRINCIPAL DESPACHES RECEIVED FROM HIS MAJESTY'S SECRETARY OF STATE FOR THE COLONIES IN REGARD TO ENEMY PROPERTY.

RECOMMENDATIONS OF (IMPERIAL) ENEMY PROPERTY COMMITTEE. — REGISTRATION OF ENEMY PROPERTY IN BRITISH EMPIRE.

1. DESPATCH dated 26th June, 1919, enclosed copies of the report of the Enemy Property Committee dated 8th July, 1918, and intimated that the recommendations of the Committee had been approved by His Majesty's Government, and that the necessary powers to give effect thereto were being taken in the Aliens Restrictions Bill which was then before the House of Commons. The following is a summary of the main recommendations of the Committee :—

(1.) They recommend that steps should be taken to render the information now available as to enemy property in the Empire more complete, and as far as possible to maintain the accuracy of that information during the continuance of the war (enemy property to be taken as property belonging to persons of enemy nationality). (Paragraphs 6 and 9.)

(2.) They recommend that for this purpose—

(a.) All persons managing or holding property on behalf of any enemy subject should be under an obligation to give information to the Custodian as to the property managed or held by them.

(b.) Companies and partnerships should give particulars to the Custodian of any interest of any enemy subject in the company or partnership.

(c.) All enemy subjects in the United Kingdom should be put under a general obligation to give information to the Custodian as to their property. The bank accounts of enemy subjects would be treated as the property of the enemy subject for these purposes, both from the point of view of the bank where the account is kept and from the point of view of the enemy subject whose account it is.

(d.) The Custodian should have power to call for further returns, from any person who is under an obligation to make a return, at any time if he thinks it necessary to do so.

(e.) The information required should include information as to transfers of property taking place between the introduction of any Bill imposing the obligation to give the information and the date on which the return of property is required. (Paragraphs 17, 18, and 19.)

(3.) The Committee also consider that steps should be taken to obtain similar legislative provision in the dominions and colonies as respects enemy property in the dominions and colonies, and also to obtain from the Governments of Allied and neutral countries any supplemental information as respects enemy property in the Empire which these Governments are in a position to furnish (Paragraphs 20 and 21.)

(4.) For the purpose of avoiding the multiplication of useless returns the Committee recommend—

(a.) That some limitation should be imposed on the obligation of individual enemy subjects to make returns of property of small value, either by excluding from the obligation property of a certain value or certain classes of property, or by exempting from the obligation persons whose whole property does not exceed a fixed amount; and

(b.) That Poles, Czechs, Armenians, and others who are technically enemies but who have received from the Home Office or from the police a general exemption from the principal restrictions of the Alien Restriction Order, and who hold a certificate from the Home Office or the police to that effect, should be exempt from the obligation to make returns. (Paragraphs 24 and 25.)

(5.) The Committee recommend that the returns given by British-born women married to enemy subjects should be separated from those given by other enemy subjects. (Paragraph 26.)

(6.) For the purpose of maintaining the accuracy of information obtained the Committee recommend that—

(i.) No transfer of—

(a.) Securities;

(b.) Property deposited with banks, safe-deposit companies, solicitors, &c., for safe custody; or

(c.) Land

belonging to a person of enemy nationality should be allowed except with the consent of the Custodian or some committee appointed by him or acting with him.

(ii.) The Custodian or the committee should have power, as respects any property of a person of enemy nationality which did not come within the general restriction, to give notice to the owner and any person having custody of the property that it was to be subject to the like restrictions. (Paragraph 37.)

(7.) The Committee consider that these recommendations should be carried out, if possible, by means of a special Act of Parliament for the purpose. (Paragraph 32.)

[N.B.—The paragraphs quoted refer to report of (Imperial) Enemy Property Committee.]

PERSONAL EFFECTS OF GERMAN SUBJECTS.

2. Despatch dated 18th September, 1919, enclosed copies of correspondence with the German Peace Delegation, Versailles, relative to the treatment by the Allied and Associated Powers of the household and personal effects of German subjects in their countries, having regard to the provisions of Article 297 of the Peace Treaty. The correspondence has been translated as follows:—

The CHAIRMAN of the GERMAN PEACE DELEGATION to the CHAIRMAN of the PEACE CONFERENCE, Paris.

SIR,—

Versailles, 24th July, 1919.

A specially strong feeling of anxiety has been aroused among the numerous Germans who before the war lived in the countries of the Allied and Associated Powers and returned to Germany on account of the war, owing to those provisions of the Peace Treaty which refer to the treatment of German private property. These Germans were obliged to leave almost all their movable possessions in their former place of residence, and are now anxious lest these movable possessions also will be compulsorily liquidated in accordance with Article 297 of the Treaty of Peace. They are afraid they will lose in this way not only their business property, but also their household and personal effects.

These fears are quite comprehensible, seeing that the right of liquidation which the Allied and Associated Powers have reserved to themselves in Article 297 included, according to wording of the said provision, German property of every description. The German Government believes also that it may assume that the conditions of Article 297 do not imply the intention to subject every kind of German property to sale without exception. In the note of 16th June transmitted to the German Peace Delegation at Versailles it was stated that the sole object of this liquidation was based on the wish to devote the proceeds thereof to covering a portion of the indemnity demanded from the German Reich. There is no need to demonstrate the fact that the sale of second-hand household furniture and utensils, family souvenirs, clothes and linen, scientific material, or articles of a similar nature would not contribute, to any perceptible degree, towards the attainment of that object. In any case, the advantage accruing to the Allied and Associated Governments through the sale of such objects would be entirely out of proportion to the prejudice which the Germans concerned, with homes abroad, would thereby have to suffer. For this prejudice would be not only of a material nature, since the objects concerned are chiefly such as in many cases can only be replaced with difficulty under present conditions, or to which, for obvious reasons, their owners were attached not only for their intrinsic value. Monetary compensation paid by the German Reich would not, therefore, ensure sufficient indemnity to the owners.

In addition, the Germans concerned have used every means during the war to retain the possessions in question. In particular they have uninterruptedly paid rents and taxes, which meant no inconsiderable sacrifice for many of them who have been reduced to extremely poor circumstances owing to the loss of their economic livelihood. As these payments were made with the express sanction of the foreign Governments concerned, the owners were justified in believing that their possessions would not be seized after the war. The German Government ventures to hope that the Allied and Associated Governments will not reject these considerations, and that, however the liquidation of German private property may otherwise be settled, they will now give an assurance that objects of the kind described will be exempted from liquidation. Such an assurance would give to numerous people of the less wealthy classes the comforting prospect of regaining possession at an early date of at least those objects which they urgently need, or to which they are particularly attached.

I remain, &c.,

FREIHERR VON LERSNER.

To Baron Von Lersner, Chairman of the German Delegation, Versailles.

SIR,—

Paris, 28th August, 1919.

The Allied and Associated Powers have examined the note of the German Delegation dated 24th July, and relative to the provisions of the Treaty of Peace with Germany, referring to the liquidation of the private possessions of German nationals. The German Government was particularly desirous of knowing what treatment would be accorded, in virtue of Article 297, to objects which could only be replaced with difficulty in present circumstances, or to which the owners are attached for reasons unconnected with their intrinsic value.

The Allied and Associated Powers wish to state that, while reserving the exercise of the right of liquidation of German possessions within their territory according to circumstances, they do not intend to liquidate personal effects or souvenirs of little value.

The French Government nevertheless wishes to point out that on the 26th May, 1917, when protesting against the liquidation of French possessions ordered by Germany, it asked that household furniture at least might not be scattered.

Information which has reached the French Government shows that the German Government took no account of the request addressed to it, which was based on the same feelings as that now formulated by it. In Alsace-Lorraine especially nearly five hundred sets of French furniture are said to have been liquidated on the instructions of the German authorities.

I remain, &c.,

CLEMENCEAU.

3. Despatch dated 30th March, 1920, intimated that as the Treaty of Peace with Germany had come into force the necessary steps were being taken in the United Kingdom to give effect to the assurance given to the German Peace Delegation so far as property in the United Kingdom was concerned. It was proposed to adopt a liberal interpretation of the term "personal effects" in dealing with the case of British-born wives of German subjects. The assurance relates only to the property of German nationals, and not to the property of Austrian, Hungarian, Bulgarian, or Turkish nationals, which it was proposed to continue to hold meanwhile.

SEQUESTERED ENEMY BUSINESSES.

4. Despatch dated 1st January, 1920, enclosed copy of an agreement which was being concluded between His Majesty's Government and the French Government relative to the reciprocal payment of debts due by sequestered enemy businesses and other similar questions. This agreement was worded as follows:—

"In the liquidation in the United Kingdom of an enemy business or a company controlled by enemies, French nationals will have the same right as British nationals with respect to the restoration of property held on their behalf and for their benefit, the payment of debts owing to them by the business or company which is liquidated, and their participation as partners or as shareholders in the distribution of the proceeds of the liquidation, provided that debts owing to, and property held on behalf of, the business or company by French nationals are paid or delivered to the person appointed to conduct the liquidation. Similarly, in the liquidation in France of an enemy business or a company controlled by enemies, British nationals will on the same conditions have the same rights as French nationals with respect to the matters referred to above. The debts referred to above are only those due by or to establishments in the United Kingdom or France."

The New Zealand Government decided to adhere to the above agreement.

5. Despatch dated 18th February, 1920, advised that the technical delegates at the Peace Conference had considered the question of the settlement of French and English interests in the liquidation of enemy property in the two countries, and had reached an agreement, which has been translated as follows :—

“In the liquidation in England of enemy businesses or of companies controlled by enemies, French nationals will have the same rights as English nationals in regard to (1) property detained on their account and for their benefit, (2) the payment of debts due to them by the business or company which is being liquidated, (3) and also dividends on shares in the distribution of the proceeds of liquidation as between shareholders, provided that the debts due to the business or company by French nationals or the property detained on account of such businesses or companies are paid or restored to the person empowered to carry out the liquidation. Reciprocally, in the liquidation in France of enemy businesses or companies controlled by enemies, British nationals shall have in similar circumstances the same rights as French nationals as set out above.”

PROPERTY OF BRITISH, ALLIED, OR NEUTRAL SUBJECTS RESIDENT IN ENEMY TERRITORY.

6. Despatch dated 12th April, 1920, advised that the practice in the United Kingdom in the case of property of British, Allied, or neutral subjects or citizens who were treated as enemies during the war by reason of residence in enemy territory was to release the property on production of satisfactory evidence of nationality.

INSURANCE POLICIES OF GERMANS.

7. Despatch dated 19th June, 1920, intimated that His Majesty's Government were advised that the sums payable in respect of insurance policies issued to German nationals by British companies before the war, which matured during the war and did not lapse owing to the non-payment of premiums or otherwise, are enemy debts within the meaning of Article 296 of the Treaty of Peace, and should accordingly be dealt with through the Clearing Offices if the claimant was a German national residing within German territory. This position obtains whether the debt is claimed as due from the head office of the company or from a branch office in a foreign country.

TRANSFER OF GERMAN-OWNED STOCK.

8. Despatch dated 5th July, 1920, enclosed copies of extract from the *London Gazette* of the 8th June, 1920, No. 31933, containing the following notice by the Board of Trade relative to the transfer of German-owned stocks, &c., under the provisions of the Treaty of Peace Order in Council in 1919 (British):—

NOTICE TO COMPANIES, MUNICIPAL AUTHORITIES, AND BANKERS AS TO TRANSFER OF STOCKS, ETC.

With reference to the notice in the *London Gazette* of 23rd June, 1916, as to the provisions of the Trading with the Enemy Acts, and Proclamations in connection with the transfer of securities, the attention of all companies, municipal authorities, and bankers who keep registers or branch or local registers of any annuities, debenture stocks, debentures, stocks, shares, or securities, is called to the fact that as from the coming into force of the Treaty of Peace with Germany on the 10th January, 1920, the provisions of the Treaty of Peace Order, 1919, made in pursuance thereof, now apply to the property, rights, and interests of German nationals, wherever resident.

Therefore, while the position as regards persons or body of persons resident or carrying on business in Austria, Bulgaria, Hungary, and Turkey has not at present altered, and they remain “enemies” subject to the trading-with-the-enemy legislation until a Treaty of Peace with each of those Powers comes into force, as regards Germany the position has been altered as from the date on which the Treaty came into force—viz., 10th January, 1920—by the Treaty of Peace Order, 1919, made in pursuance of the Treaty of Peace with Germany, and the following provisions, *inter alia*, came into force :—

(a.) By Article 297 (b) of the Treaty, and Section 1 (XVI) of the Treaty of Peace Order, 1919, all property, rights, and interests within His Majesty's dominions or protectorates belonging to German nationals, wherever resident, at the date when the Treaty came into force (not being property, rights, or interests acquired under general license issued by or on behalf of His Majesty), are charged to meet, *inter alia*, certain claims by or debts due to British nationals. Section 1 (XVII) (e) of the Treaty of Peace Order requires that if any person called upon to pay any money or to transfer any property, rights, or interests has any reason to suspect that the same are subject to such charge he shall, before paying, transferring, or dealing with the same, report the matter to the Custodian.

It follows from this that all securities (British, Allied, neutral, enemy, or ex-enemy) held in the United Kingdom at 10th January, 1920, by or on behalf of a German national, wherever resident, cannot be transferred without the consent of the Custodian.

(b.) Under paragraph (10) of the annex to Articles 297 and 298 of the Treaty, Germany will, within six months from the coming into force of the Treaty, deliver to each Allied or Associated Power all securities, certificates, deeds, &c., held by its nationals and relating to property, rights, and interests situated in the territory of that Allied or Associated Power, including any shares, stocks, debentures, debenture stock, or other obligations of any company incorporated in accordance with the laws of that Power, and will furnish, on the demand of any Allied or Associated Power, information with regard thereto.

In order to make these provisions effective it is necessary to restrict the transfer in the United Kingdom of securities issued by or in British, Allied, or Associated countries belonging to or held by or on behalf of German nationals, wherever resident, at the coming into force of the Treaty, in whatever part of the world they were held. Accordingly the “Form of Declaration by Transferors” prescribed by the notice in the *London Gazette* of 23rd June, 1916, has been revised, and in future all companies, municipal authorities, and bankers are required, before registering or allowing any transfer of any annuities, debenture stock, debentures, stocks, shares, or other securities, to obtain from the transferor a declaration in the form or to the effect of the declaration following :—

“[Name, and amount of security.]

“I [We] declare that the within-written security has not been in enemy ownership at or since the outbreak of war, or alternatively since it was transferred in accordance with the Stock Exchange Temporary Regulations, and was not held by or on behalf of a national of an ex-enemy Power on the date on which the Treaty of Peace with the ex-enemy Power concerned came into force.

“[Date.]

“[Signature.]
“[Description.]”

NOTE.—The expression “enemy” means any person or body of persons, of whatever nationality, resident or carrying on business in an enemy country with which a Treaty of Peace has not yet come into force—viz., at present,

Austria, Bulgaria, Hungary, and Turkey. In the case of incorporated bodies, enemy character attaches only to those incorporated in an enemy country.

The expression "national of an ex-enemy Power" means the subject of a State with whom a Treaty of Peace has come into force, wherever resident, other than a person or corporation which, under the Treaty of Peace with that Power, has acquired *ipso facto* Allied or neutral nationality.

The Board of Trade announce that their consent will no longer be required to the allotment or transfer of any share, stock, debenture, or other security issued by a company to or for the benefit of an enemy subject under section 10 (2) of the Trading with the Enemy Amendment Act, 1916, and accordingly in this connection no declaration by transferees will in future be required.

PROPERTY BELONGING TO PERSONS OF SERB-CROAT AND SLOVENE NATIONALITY.

9. Despatch dated 5th July, 1920, forwarded copies of notes from the Serb-Croat and Slovene Legation, London, regarding the money and effects belonging to persons of Serb-Croat and Slovene nationality which had been retained in New Zealand. The despatch further advised that in similar cases in the United Kingdom it was the practice of His Majesty's Government to release the property of persons claiming to be subjects of the Kingdom of Serbs, Croats, and Slovenes, on production of a certificate granted by the Government of that State to the effect that the applicant was a subject of that State.

INSURANCE POLICIES OF GERMANS.

10. Despatch dated 6th July, 1920, advised that overdue premiums on life-insurance policies did not constitute a "debt" under Article 296, nor could the surrender value of policies, unless actually payable prior to the 10th January, 1920, be claimed through the Clearing Office. The Central Clearing Office has decided, as regards life and endowment policies effected in the United Kingdom, that the surrender value of such policies issued to German nationals, and in the case of matured policies, when such policies have lapsed during the war through non-payment of premiums, the claims of the assured thereunder are not to be considered as subject to the charge created by the Treaty of Peace Order, 1919, Section 1 (XVI). It was further stated that British life offices had been authorized to direct all communications direct to their German policyholders except where such communications related to the payment of claims in respect to policies which matured during the war and which, not having lapsed owing to the non-payment of premiums or other causes, were enemy debts within the meaning of Article 296 of the Treaty of Versailles, and as such can only be settled through the Clearing Office.

PERSONAL EFFECTS OF AUSTRIANS.

11. Despatch dated 27th July, 1921, enclosed a copy of a memorandum forwarded to His Majesty's representative at Vienna by the Austrian Foreign Office for transmission to His Majesty's Government. The text of the memorandum is as follows:—

MEMORANDUM.

According to Article 249, paragraph (b), of the Treaty of St. Germain, the Allied and Associated Powers reserve the right to retain and liquidate all property, rights, and interests which belong at the date of the coming into force of the said Treaty to nationals of the former Austrian Empire, or companies controlled by them, and are within the territories, colonies, possessions, and protectorates of such Powers.

On the representations made by the Austrian peace delegates concerning these stipulations, which were addressed to the Peace Conference in Paris, the Allied and Associated Powers, in their reply dated 2nd September, 1919, declared that they intended to make use of their right of liquidating Austrian property according to circumstances, but they did not wish to liquidate personal effects or souvenirs of minor value which belonged to Austrian subjects.

Now, there are many Austrian subjects who before the outbreak of the war had their residence in Great Britain or her territories (it is mostly the question of business people on a small scale, workmen, craftsmen, waiters, servants, and other money-earning persons of the not-well-off classes) and who, either at the time of their departure from English territory when the war broke out, or later before they were being interned, were obliged partly to leave behind all their belongings, especially clothes, linen, household implements, and sundry effects for daily and personal use, in their places of abode, partly to have them sent to a storehouse. After the termination of the war the owners of the abovesaid effects have repeatedly tried to recover them, as they cannot do without them. These effects, though time-worn and deteriorated by long storage, and thus being of little value on the market, are yet their only resource, and practically irreplaceable, as the people concerned are totally destitute and, considering the tremendous rise of prices in Austria, unable to buy new things.

As this Foreign Office understands, the custodians of these effects, especially the managers of the storehouses, insist, in conformity with the British law, on having first the Public Trustee informed that enemy property is under their care, and said Trustee regularly refuses the release of the property mentioned. The consequence is that the owners, just now when they try to begin a new life, cannot dispose of their property which they so badly want. They are thus not only deprived of the possibility of finding a way out of their desolate situation, but they get, with their families, in ever deeper mischief, augmenting the number of these unhappy ones who join the army of the proletariat and paupers, and who, in their despair, willingly listen to the words of agitators.

Of the same importance as the recuperation of these effects is, for many Austrians who had their residence in England, the release of their savings which they had earned during their stay in England by hard work that had also benefited England. This is specially the case with Austrians who, when being sent away or interned at short notice, had to sell their belongings under cost, as they were unable to have them properly stored. These Austrians need their most necessary good furniture, &c., which they would have to buy new, as badly as the persons enumerated before. But they are refused to be allowed to make use of the only means to meet the necessary expenses connected therewith, and thus to give a modest home again to their families, their savings being sequestered as enemy property, and under Article 249 liable to liquidation. The Austrian Government, it is true, has the obligation to indemnify these persons for the liquidation of their property, and it will undoubtedly do all in its power to comply with this provision of the Peace Treaty, as it will with all the others. But the deplorable financial situation of the Austrian Republic renders it most difficult, if not impossible, considering the depreciation of the crown, fully to indemnify its citizens for the loss of their accounts, which are low in English currency.

The same considerations that speak for a release of the personal and sundry effects of Austrian citizens can be put forward for reasons of humanity not to confiscate the small amounts, which hardly influence English economic life.

The Foreign Office expects that His British Majesty's Government, which so often and in so magnanimous a way had manifested its intention of endeavouring to set up again and to contribute to the economical and social reconstruction of Austria, and which did everything possible to alleviate the sufferings of the poorer working classes—in concert with the endeavours of private charity organizations—will respond to the present appeal.

Trusting that this will be the case, the Austrian Government begs to request that the modest belongings left to Austrians who had been residing in England or her colonies be released (especially in view of the ever-increasing storage fees) as soon as possible, and that the assurance above mentioned be thus realized. It would further be a great relief to the Austrian Republic, and all Austrians concerned in their hard struggle for life, if the Austrian citizens were allowed again to dispose of their small cash assets in England and her colonies.

The Austrian Foreign Office was advised in reply that His Majesty's Government were prepared to consider applications for the release from the charge under the Treaty of Peace of household furniture and effects in the United Kingdom belonging to Austrian nationals up to a reasonable amount in any case, with the exemption of articles of special value. It was added that this concession was conditional on the furniture and other property of British nationals in Austria being returned to them under the Treaty of Peace without delay.

POSITION OF NON-ENEMY SHAREHOLDERS IN GERMAN COMPANIES.

12. Despatch dated 14th August, 1920, contains the following statement with regard to the position of non-enemy shareholders in German companies with property in the colonies not possessing responsible Governments, and protectorates, or in the ex-German colonies in respect of which His Majesty's Government will receive a mandate:—

“By section 2 of the Treaty of Peace Order, 1919, the expression ‘nationals’ in relation to any State is defined as including any company or corporation incorporated therein according to the law of the State. It is therefore considered that a company incorporated in German territory must be regarded as a single German national, and that the right to liquidate its property and dispose of the proceeds in accordance with the Peace Treaty is not affected by the nationality of its shareholders. Moreover, it does not appear possible in practice (even if it were desirable as a matter of policy) to distinguish the interests of non-enemy shareholders for special treatment. In virtue of Article 297 (i) such a company would appear to have a right to claim compensation from the German Government for the benefit of all its shareholders, and it is therefore considered that any claim for compensation on the part of individual shareholders of any nationality must lie against the company and not against His Majesty's Government or the Government of the colony or protectorate concerned.

“The position with regard to debenture-holders and other persons having a charge upon the assets of a company of the kind in question is more difficult, but it is thought that a similar policy may be adopted in this case also, provided that the legal estate of the property which it is proposed to liquidate remains in the company, so that the property is subject to the charge imposed in virtue of paragraph 4 of the annex to Article 297 of the Peace Treaty.”

BRITISH SHAREHOLDERS OR DEBENTURE-HOLDERS OF GERMAN COMPANIES.

13. Despatch dated 16th August, 1920, enclosed copies of the following extract from the *London Gazette*, No. 31994, dated 27th July, 1920:—

Board of Trade, Great George Street, London S.W. 1, 26th July, 1920.

Notification was given by His Majesty's Government to the German Government on 9th July, under Article 299 (b) of Treaty of Versailles, in the following terms:—

“The dissolution of contracts by Article 299 is not considered to affect the proprietary interests of shareholders or debenture-holders of companies, or the constitution of companies; but, in order that no doubt may exist on the point, notice is given, in accordance with Article 299 (b), that the execution of contracts conferring proprietary rights on shareholders or debenture-holders of companies, and of contracts for the constitution of companies, is required in the general interest.”

PROPERTY OF EX-ENEMY SUBJECTS IN THE UNITED KINGDOM.

14. Despatch dated 25th August, 1920, advised that it had been decided that the property in the United Kingdom of ex-enemy subjects who had been exempted from repatriation in the United Kingdom might be released up to a maximum of £1,000, provided that good and sufficient reasons for such release could be shown; and that the income from property in excess of that amount might continue to be released under the conditions at present obtaining. It was further stated that in the case of British-born wives or widows of German nationals it was the practice in the United Kingdom to allow payments under Section 1 (XVII) (a) of the Treaty of Peace Order, 1919, in respect of funds accrued since the 10th January, 1920, provided that the person concerned was resident in the United Kingdom and the circumstances of the case were such as to justify the payments. Applicants are required to give information as to their means and those of their husbands (if living). In very special cases payments to such persons residing in Germany have been authorized, but as a general rule such applicants are advised to apply to the German Government.

CLAIMS BY BRITISH SUBJECTS AGAINST GERMAN FIRMS.

15. Despatch dated 25th September, 1920, advised that the question had been raised whether any further remedy was open under the Treaty of Peace to a British subject who had a claim against a German firm whose business in one of the colonies or protectorates had been liquidated, the claim not having been paid in the liquidation either because the local assets in the colony or protectorate concerned were insufficient or for some other reason.

As stated in a previous despatch, His Majesty's Government had been advised that claims against the branch office of a company whose head office is in British territory should be regarded as claims against the head office. Similarly it is considered possible to regard the debts of the branch

of an incorporated company whose head office is in Germany as being debts of the head office in Germany. Provided, therefore, that they are "debts" as defined in Article 296 of the Treaty, and the British creditor is resident in a part of the Empire to which the Clearing Office system applies (*i.e.*, in the United Kingdom, in any of the self-governing dominions except the Union of South Africa, in India, or in any of the colonies not possessing responsible Government, or protectorates), it is open to him to put forward a claim in respect of debts not paid in the liquidation of the branch against the head office of the company in Germany, through the Clearing Office in the country where he resides.

The same considerations hold good where the local firm was the branch of an unincorporated firm with headquarters in Germany, provided that the owner or partner was resident in Germany on the 10th January, 1920.

The question has also been raised whether a similar procedure can be adopted in cases where the capital sum claimed has been paid in liquidation, but a claim for interest on the sum has been rejected. It is not considered that any claim can be put forward through the Clearing Office for interest if the whole debt had been liquidated prior to the 10th January, 1920; but where, by contract, law, or custom, interest was payable on the capital sum a claim may be put forward through the Clearing Office in respect of the interest (provided that the other conditions mentioned in the preceding paragraphs are fulfilled), notwithstanding the fact that a claim for interest has been rejected in the liquidation.

ATTITUDE OF THE UNITED STATES GOVERNMENT WITH REGARD TO ENEMY PROPERTY SEIZED
BY THE CUSTODIAN.

16. Despatch dated 30th September, 1920, enclosed—(1) Copy of an Act (Public No. 252, 66 Congress, H.R. 14208) passed by the United States of America, providing for the release of certain property in the United States, or the proceeds of property which were held by the Alien Property Custodian or by the Treasurer of the United States under the Trading with the Enemy Act; (2) copies of forms and instructions for making application for the release of such enemy property; (3) copy of a letter forwarded to His Majesty's Ambassador at Washington by the United States Government, asking to be informed of the attitude of His Majesty's Government and of the Dominion Governments with regard to enemy property held by the Custodian of Enemy Property in the United Kingdom and the British dominions.

The provisions of the United States Act have been summarized as follows:—

On production of satisfactory evidence, property belonging to the following persons, firms, companies, or Governments will be released by the Alien Property Custodian:—

- (a.) A subject of any nation, State, or free city, other than Germany or Austria-Hungary:
- (b.) A woman who at the time of her marriage was a subject or citizen of a nation which has remained neutral in the war, or of a nation which was associated with the United States in the prosecution of the war, and who prior to the 6th April, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary, and that the money or other property concerned was not acquired by such woman either directly or indirectly from any subject or citizen of Germany or Austria-Hungary: Provided that, in respect of a nation associated with the United States in the prosecution of the war, such nation, in like case, extends reciprocal rights to the citizens the United States:
- (c.) An American-born woman who prior to the 6th April, 1917, intermarried with a subject of Germany or Austria-Hungary, and that the money or other property concerned was not acquired by such woman either directly or indirectly from any subject or citizen of Germany or Austria-Hungary:
- (d.) A member of the diplomatic or consular service of Germany or Austria-Hungary:
- (e.) A subject of Germany or Austria-Hungary who was interned but who has been released, and is at the time of the return of the property living within the United States:
- (f.) A partnership or other incorporated body consisting of subjects of any country except Germany or Austria-Hungary:
- (g.) The Government of Bulgaria or Turkey, or any political or municipal subdivision thereof:
- (h.) The Government of Germany or Austria-Hungary, provided that the money or other property concerned was the diplomatic or consular property of such Government.

It is further provided that no person shall be deemed a subject of Germany or Austria-Hungary for the purpose of this section if he has become, or shall become *ipso facto* through exercise of option, a subject of any nation, or State, or free city, other than Germany or Austria-Hungary, under the terms of such Treaties of Peace as have been or may be concluded subsequent to the 11th November, 1918, between Germany or Austria and certain other countries (these will include the Treaties of Versailles and St. Germain).

The information supplied in response to the inquiry from the United States Government as to the attitude of the New Zealand Government with regard to enemy property seized by the Custodian is incorporated in the foregoing report.

PROPERTY OF GERMAN CONSULAR OFFICERS.

17. Despatch dated 1st October, 1920, enclosed a copy of the following note to the German Chargé d'Affaires, embodying the decisions which have been taken with regard to the property in the United Kingdom of German consular officers. Similar provisions have been adopted in the case of property belonging to consular officers of other enemy and ex-enemy States.

SIR,—

Foreign Office, S.W. 1, 10th September, 1920.

With reference to your notes, Nos. B. 277, B. 1695, B. 3539, and B. 3699, of 1st March, 17th May, 27th July, and 5th August last respectively, relating to the release of certain property belonging to German consular officers who were serving in the United Kingdom at the outbreak of the late war, I have the honour to inform you that it has now been decided to release such property belonging to German Consuls de Carrière in so far as it consists of personal effects, household furniture, and private bank balances. Similar treatment will be accorded to consular archives and official furniture and effects, in so far as they have not been released already.

His Majesty's Government regret, however, that they are unable to regard any other property belonging to Consuls de Carrière as entitled to exceptional treatment, and such property must therefore be dealt with in accordance with the terms of the Peace Treaty.

No privileged treatment can be extended to the property of trading or unsalaried Consuls.

The above decisions are being communicated to the Public Trustee and to the Clearing Office of Enemy Debts, to which Departments copies of your above-mentioned notes are being sent in order that the necessary action may be taken in each case.

The question of the release of property owned by German consular officers in India and various of His Majesty's dominions and colonies, which formed the subject of your notes Nos. B. 272, B. 2083, B. 3546, and B. 4400, of 9th March, 18th May, 27th July, and 3rd September, and other correspondence, is still under discussion with His Majesty's Secretaries of State for India and the Colonies respectively, but I hope shortly to be able to communicate to you the decisions reached in these and similar cases.

Herr Friedrich Sthamer.

I have, &c.,

ERIC PHIPPS, for the Secretary of State.

BANK BALANCES OF EX-ENEMY CONSULAR OFFICERS.

18. Despatch dated 29th November, 1920, advised that His Majesty's Government have not found it practicable to release the private bank balances (including accumulated interest and dividends) belonging to the consular officers of ex-enemy States in so far as such balances constitute "debts" under the economic clauses of the various Peace Treaties, otherwise than in accordance with the procedure set up under those treaties. Consular officers concerned are therefore advised to apply for the release of the balances through the Clearing Office in the usual way.

INABILITY OF THE GERMAN GOVERNMENT TO MAKE CASH PAYMENTS DUE UNDER THE CLEARING OFFICE SCHEME.

19. Despatch dated 23rd December, 1920, enclosed the following translation of a letter from the representatives in London of the German Clearing Office, reporting the inability of the German Government to make the cash payments due under the Clearing Office scheme:—

[Translation.]

From the REPRESENTATIVE of the REICHS CLEARING OFFICE, London.

SIR,—

16th December, 1920.

I have the honour to submit the following:—

The German Government, at the end of November, 1920, informed the British Government (explaining in detail the position of economic need in which the German Reich finds itself) that the monthly cash payments of the debit balances resultant upon the clearing procedure seriously endangered the economic existence of Germany, and that Germany has already touched the extreme limit of the possible in obtaining the foreign bills and cheques necessary to meet the payments of debit balances which fell due at the beginning of November, 1920. In consequence of the circumstances outlined in this note from the German Government, the Reichsausgleichsamt is not in the position at present to obtain the necessary means to meet the cash payments due now. Much to the regret of the Reichsausgleichsamt, the latter is obliged to refrain for the present from making the cash payment of the amount due.

I have, &c.,

A. V. FRIEDBERG.

To the Controller of the Clearing Office, E. S. Grey, Esq., Cornwell House.

RELEASE OF PROPERTY OF NEUTRAL SUBJECTS FORMERLY GERMAN NATIONALS BY CUSTODIAN OF ENEMY PROPERTY.

20. Despatch dated 7th January, 1921, forwarded copy of correspondence with the Danish Minister indicating the general policy of His Majesty's Government with regard to the property of Danish subjects who were formerly German nationals.

The following is the text of the reply from the Secretary of State for Foreign Affairs:—

With reference to the note, No. 305, which Monsieur H. de Grevenkop Castenskiold was good enough to address me with on 12th November, I have the honour to inform you that it is not possible for the Public Trustee, as Custodian, to give any general direction in respect of property alleged to belong to persons who have acquired Danish nationality.

I would venture to suggest that all applicants should be informed that they should approach the Custodian direct, submitting with their application a certificate from the competent Danish authority that the applicant will acquire Danish nationality *ipso facto* and will lose German nationality, and that the applicant has renounced the right to opt for German nationality. This certificate should be legalized by one of His Majesty's Consuls, and be accompanied by all the necessary documents in support of the application proving that the securities in question were the absolute property of the applicants on the 4th August, 1914, or under what circumstances they had acquired such property since that date.

If, in fact, the Danish subjects in question have acquired property which, in accordance with the provisions of the Treaty of Peace and of the Treaty of Peace Order made in pursuance thereof, was the property of German nationals on the 10th January, 1920, and was subsequent to that date acquired by persons who now claim Danish nationality, His Majesty's Government would not be prepared in such cases to recognize the rights of the Danish nationals in question.

As regards, however, property which belonged to persons, who now claim Danish nationality, on the 4th August, 1914, or was acquired by them prior to the 10th January, 1920, His Majesty's Government will be prepared to consider their applications for the release of such property on their merits.

RELEASE OF PROPERTY OF FORMER AUSTRIAN SUBJECTS.

21. Despatch dated 14th January, 1921, enclosed copies of correspondence relative to an inquiry of the Czecho-Slovak Chargé d'Affaires as to the prolongation of the period of six months within which Austrian subjects who have acquired Allied nationality must prove their new nationality in order to obtain the release of property situated in British territory.

The following is the text of the reply, dated 5th January, 1921 :—

With reference to your note of the 1st ultimo, I have the honour to inform you that His Majesty's Government is prepared to agree to the extension by three months of the period within which late Austrian subjects who have acquired Allied nationality should prove their new nationality. They consider, however, that only those who lodged their claims to such nationality with the Administrator of Austrian property within the time specified by the Treaty can be granted this extension.

DISPOSAL OF ENEMY PROPERTY.

22. In a despatch dated 30th May, 1921, the principles adopted for the disposal of German property in the United Kingdom under Article 297 of the Treaty of Versailles were set forth in response to an inquiry from the New Zealand Government for this information. Certain particulars in this despatch, which have already been included in the foregoing summaries, have been omitted in the following statement :—

(1.) It has been decided that the liquidation of German property in the United Kingdom must be proceeded with, in view of the obligations of the Clearing Office to make payment to British claimants, and the Public Trustee has been authorized to dispose of particular parcels of property as rapidly as opportunity occurs of selling it at an advantageous price. Property of German nationals who were permitted to reside in the United Kingdom is not at present being sold.

(2.) Property in the United Kingdom belonging to British-born women who had married German subjects prior to the war, and who since the 10th January, 1920, had been readmitted to British nationality either as widows or as divorcees, is being released from the charge imposed under the Treaty of Peace Order.

(3.) German nationals permitted to reside in the United Kingdom are, in suitable cases, allowed to receive the income from their property up to a reasonable amount for maintenance or business purposes, and in addition sums on account of capital up to a maximum of £1,000 may be released to them. Further, sums up to a maximum of £200, and income up to a reasonable amount, belonging to a German national residing elsewhere may be released from the charge where the case is one of extreme hardship. The Board of Trade has appointed a committee, of which Lord Justice Younger is chairman, to advise them on all applications of this nature.

(4.) Property belonging to naturalized British subjects who were residing in Germany during the war is released from the charge under the Peace Treaty on production of satisfactory evidence that such persons did not resume German nationality since their residence in Germany.

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