the company, and the debtors, in whose custody the shares were, sold certain of the rights in the years 1918 and 1919. The proceeds of sale were credited, together with the sums received as dividends, to the account of the creditors. The debtors contended that the moneys received from the sale of the rights did not arise out of a contract or transaction of which the execution had been suspended owing to the declaration of the war, and were not therefore within the meaning of Article 296 (2).

The Tribunal were, however, of opinion that by selling the subscription rights and collecting the price of the proceeds of sale the debtors fulfilled spontaneously an obligation implied in the contractual relations of the parties, and thereby assumed towards the creditor a pecuniary obligation arising out of the contract and giving rise to a claim under Article 296. This decision would appear to be upon the same lines as that of the Franco-German Mixed Arbitral Tribunal in the case of Maridort *v.* Behrens (p. 581, Vol. i, of the *Recueil des Décisions des Tribunaux Arbitraux Mixtes*), under which it was held that sums resulting from the sale by a former agent during the war of property which had been entrusted to his care by his French principal and in regard to which the agent had exercised a reasonable and proper discretion in the so-called contract of business management which must be inferred to have arisen consequently upon the cancellation by the war of their former agreement ought to be regarded as coming under Article 296 (2) and were to be credited through the Clearing Offices.

(7.) *Claims in respect of the Sale of Goods belonging to British Firms.*

A decision on somewhat similar principles was given in the case of the Russian Mining Corporation *v.* Maschinenban Anstalt Humboldt G.m.b.H. (No. 807) a case in which the debtors had manufactured a plant for the British creditors, the delivery of which had been postponed under pre-war arrangements made between the parties. The creditors had prior to the war paid the purchase-price, and during the war the debtor sold part of the plant for a sum of 28,250 marks without the creditors' consent. The creditors claimed £1,378, the sterling equivalent of 28,250 marks; but the German Clearing Office contested the debt as not coming within Article 296, upon the ground that the sale had been unauthorized, having been effected not on the basis of a pre-war contract, but in contravention of it. The Tribunal considered that the amount credited was a debt which arose out of transactions of which the execution was suspended on account of the declaration of war. Applying the usual standard of reasonable conduct, they considered that the debtors regarded themselves as entitled to sell under the provisions of the former contract, which must be considered as having been dissolved, and that they acted in the discharge of the obligation which they had assumed before the war. The objection of the German Clearing Office was accordingly overruled.

(8.) *Claims arising under Wills.*

In two cases where a creditor made a claim under Article 296 (2) and relied upon a title derived through a will the Tribunal refused to make an award on the ground that a will constitutes a one-sided act and not a transaction within the meaning of the article. In the first of the two cases—Benvenisti *v.* Fürstenberg (No. 515), (*Recueil*, ii, p. 190)—the claim arose upon the cesser of a life interest during the war, upon a falling-in of which the British creditor became entitled to a further life interest in remainder. The Tribunal held that the will was a one-sided act, that the acceptance of office and the acceptance of the estate by the executors and heirs were respectively one-sided acts, and that consequently no transaction had arisen between the creditor and the debtor in respect of which a claim could lie under Article 296 (2).

In the second case—Boland Moore *v.* May and Eltsbacher (No. 853), (*Recueil*, ii, p. 886)—the British creditor had for many years prior to the war been in receipt of an annuity under the will of a German national, the executors having been in the habit of collecting the proper amount from the heirs, in whom the estate was vested, and remitting them to the creditor. The claim was for the sums which had fallen due under the will during the war. The Tribunal, following their decision in the first of the two above-mentioned cases, decided that under German law a will was a one-sided act and not a transaction. The claim, therefore, whether made against the executors or the heirs, was, in the view of the Tribunal, not one to be settled through the intervention of the Clearing Offices under Article 296.

(9.) *Payment of Treaty Interest.*

A reference may be made to the case of Jacob Walter & Co. *v.* Norddeutscher Bank, Hamburg (No. 638), (*Recueil*, iii, p. 34), as confirming the view previously adopted by the British Clearing Office, that Treaty interest is payable notwithstanding an express condition made before the war that the account between the creditors and the debtors should carry no interest. In the view of the Tribunal the words in para. 22 of the Annex to Article 296, providing that in cases where the creditor is entitled by contract, law, or custom to payment of interest at a different rate to the rate of 5 per cent. fixed by the Treaty, cannot be extended to cases where interest was not stipulated for or excluded. It cannot be said that the complete exclusion of interest means fixing a rate of 0 per cent.

Further, in the Central Mining and Investment Corporation *v.* Darmstadter & Nationalbank the Tribunal made an award for interest at the Treaty rate as from the 4th August, 1914, the date on which, under the conditions of the contract between the parties, a loan became repayable, and refused to reduce that rate either to 4½ per cent. (the rate which had been fixed between the parties up to that period) or to 1½ per cent. (the rate which the debtor bank stated that they were giving to other customers who had accounts with them on daily call).

*(10.) Meaning of the Terms "Formal Indication of Insolvency."—"Before the war."*

In the case of Johnson Bros. (Hanley, Ltd. *v.* N. Joachimson (*Recueil*, iii, p. 223) the Tribunal again considered the meaning of the term "formal indication of insolvency." The German debtors had on the 1st August, 1914, placed their affairs in the hands of a liquidator. On the 3rd August, 1914, there was issued from the Hamburg office of the firm a circular letter, addressed to all creditors, stating that the firm had been compelled to suspend payment and calling a meeting of creditors for the 10th August. The Tribunal considered that such a circular, addressed to all creditors, was a formal act indicating insolvency, and came within the expression used in the Treaty. They further refused to accept a contention raised on behalf of the creditors that in the application of Article 296 (*b*) the words "before the war" meant before the 1st August, 1914—*i.e.*, when war first broke out with some of the High Contracting Parties. In the Tribunal's opinion the material date as between Great Britain and Germany was the date when the war commenced between these Powers. They accordingly held that the guarantee of Germany under Article 296 and the Annex to Section III, Part X, of the Treaty did not extend to the debt claim, although due at the outbreak of war by the debtors to the creditors.

*(11.) Meaning of the Term "Cash Assets."*

Turning to the cases brought under Article 297 of the Treaty, there have been a considerable number of decisions which throw light upon the view taken by the Tribunal as to the meaning of the expression "cash assets," which under (*h*) of that article are to be credited through the Clearing Offices. In substance, the Tribunal has expressed the view that notwithstanding the somewhat general definition of "cash assets" in para. 11 of the Annex to Section IV, Part X, of the Treaty the cash assets to be credited, and which accordingly enjoy the privilege of valorization, are only those which have come into the hands of some official of the German Government by virtue of an exceptional war measure. Such officials will include compulsory Administrators. Further, they do not comprise securities or investments which have been seized by the Treuhander or an Administrator without having been converted into cash. If in consequence of such seizure a British national is able to satisfy the Tribunal that he has been prevented from realizing them as he