value of the policy at the date of its lapse or avoidance, has come before the Tribunal for consideration in two cases, Ehrhardt *v.* Pensionskasse, &c. (No. 768), and Lewis *v.* Germania, &c. (No. 523). In each of those cases the creditor had elected to take the surrender value, and claimed under Article 296 that the amount due in respect thereof should be valorized, but the Tribunal held that in neither case did the claim constitute a debt to be settled under Article 296, in view of the fact that the obligation on the part of the insurance company to pay the surrender value did not accrue until it was asked for after the coming into force of the Treaty. It would not, apparently, follow that a similar decision would be given in a case where a surrender value became due under a policy prior to the ratification of the Treaty.

(4.) *Decisions regarding Nationality—Articles 296 and 297 of the Treaty of Versailles.*

The Tribunal has had to consider in more than one case what is the material date for possessing nationality necessary for basing a claim under Article 296. It has already held (compare Kohn and Goldschmidt *v.* Arnold Oppenheimer (No. 214), (*Recueil,* ii, p. 211) that the only material date for residence under the same article is the 10th January, 1920, the date of the ratification of the Treaty.

In the case of Rehder *v.* Landgesellschaft Wannsee (No. 1543), (*Recueil,* iv, p. 201) the creditor, a British subject, claimed a debt not in his own name, but as executor of the will of a German national who died on the 13th March, 1917, in America. The Tribunal (First Division) held that the test of nationality was to apply not only at the date of 10th January, 1920, but that it was to apply also (*a*) for pre-war debts at the date of the outbreak of war between the two respective Powers, (*b*) for debts which became payable during the war at the date when they became thus payable, and accordingly decided that the debt was not one to be settled through the Clearing Office under the provisions of Article 296.

The decision was followed in the case of Abraham *v.* Weiss (No. 1419), in which case a British creditor claimed a debt under Article 296 (2) against a debtor who, although he had become a German national in the year 1919, was an Austrian national at the outbreak of war and at the time when the alleged debt became payable during the war. The Tribunal were of opinion that, reserving the special provisions of Article 296 (*f*), which in this case were not applicable, the words in Article 296 (2) did not mean any opposing Power, but the opposing Power within whose territory the respective party resided. In that case the opposing Power was Germany, where the debtor resided, and the Tribunal, following their former decision in Rehder, held that the debt in question did not fall within the provisions of Article 296.

It should, however, be mentioned that a similar question arose for the decision of the Tribunal (Second Division) in the cases of Huth *v.* Niepenberg (No. 1087) and Levi *v.* Heim (No. 2030). The point had been already somewhat exhaustively argued in the former case prior to the decision in the Rehder case, and judgment has been reserved in both cases. The matter, therefore, cannot be regarded as yet concluded.

Another highly important question as to nationality came before the Tribunal in the case of the National Bank of Egypt *v.* German Government and Bank fur Handel und Industrie (No. 631), (*Recueil,* iv, p. 233). The creditor was a company incorporated in Egypt, with its registered office at Cairo, and the claim was against a German national, and alternatively against the German Government. Part III of the Treaty has not been adopted in the case of Egypt, and accordingly the claim was not made through the British Clearing Office, but valorization of the debt and interest was claimed against the bank upon the ground that on the proper construction of the Treaty, and in particular of paragraph 14 of the Annex to Section IV, Part X, similar rights in that respect are provided for even though Part III is not adopted. The claim was contested on the ground that the claimant was not a British national under the Treaty, and that the Tribunal had no jurisdiction.

A similar question had already been decided in favour of the claimant by the Anglo-Austrian Tribunal in a claim against the Anglo-Austrian Bank. The Anglo-German Tribunal held that in the present case Article 296 of the Treaty applies to subjects of protectorates, who are to be regarded as nationals of the protecting Power. The only reason that Article 296 does not apply to Egyptians is because Section III of the Treaty was not adopted with reference to that country, but, upon the true construction of the Treaty, Egyptians must be considered as British nationals for the purpose of carrying out Section III, Part X, and the same applies to Section IV, Part X, especially in view of the distinct provisions in the second part of paragraph 14 of the Annex. In the opinion of the Tribunal, the termination of the protectorate, which took place in 1922, could not have the effect of depriving Egyptians of the benefit of the provisions of Article 297 (*e*) if their claims lay under that article.

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

The Tribunal has had several cases before it of claims by British companies arising under Article 296 (2) in which the creditors had branches in Germany, and the defence has accordingly been raised that, in view of the fact that under the regulations in force in Germany there was nothing to prevent the German debtor from paying his debt to the branch, there was no suspension of the execution of the contract on account of the declaration of war.

In the case of the Anglo - South American Bank *v.* Mengers & Co. (No. 970), (*Recueil,* iii, p. 220) the German debtors had entrusted bills of exchange drawn on firms in South America to the Hamburg branch of the creditors for collection, and against these the creditors had made certain advances. Shortly after the outbreak of war the branch was placed under official supervision by the German Government. The control of the head office ceased, but the branch continued to be managed by a German national, who acted without instructions from England. The creditors eventually, in October, 1919, under license, gave the manager instructions to liquidate the business, subject to certain limitations. On the 10th January, 1920, there remained due from the debtors M.169,419, as to M.90,057 of which the creditors made a claim through the British Clearing Office, which was in due course admitted and paid.

The remaining M.79,361, claimed in the present case, only subsequently came to the knowledge of the creditors. It appeared that on various dates between February and April, 1920, the manager of the business, without the consent or knowledge of the creditors, was paid or credited by the debtors with M.81,549, and during the same period he debited the debtors with M.2,185. The creditors contended that these payments by the debtors were void as being in contravention of the opening words of Article 296 and paragraph 3 of the Annex to Section III, Part X. The Tribunal, however, decided that there was no debt from the debtors to the créditors, on the ground that the Hamburg branch remained throughout the war on the trade register, and continued to do business though subject to supervision. Further, that under British legislation the Hamburg branch was regarded as an enemy during the war, and therefore, on the standpoint of English law, payments from the debtors to the branch were not unlawful. In the opinion of the Tribunal it could not be said that the execution of the contracts or transactions was suspended wholly or in part on account of the declaration of war, and, this being the case, debts which arose out of them were not caught by the provisions of Article 296.

It is not altogether easy to reconcile this decision with other decisions based on the principle that under Clearing Office procedure the debts due to and by a branch are to be regarded as due to and by the head office, which is the real creditor, and with the fact that the German manager, owing to the dissolution of the agency contract between him and the creditors, could not be regarded as properly representing them, his transactions having been admittedly out of their control.

In the case of the Standard Bank of South Africa Ltd. *v.* Rascher & Co. (No. 931), (*Recueil,* iv, p. 265) the Tribunal in somewhat similar circumstances held that the partial execution of transactions or contracts between the creditor bank, which had a branch in Hamburg, and the debtors was suspended.