where he remained during the war. On the 30th January, 1919, he was embarked for repatriation, but remained interned at Port Said until March, 1920, when he was released and returned to Hamburg on the 20th April, whence he returned to his old home.

The Tribunal stated that residence implies the notion of voluntary residence, and in their opinion it was not the ntention of the Treaty to exclude persons who had not been repatriated, because, through circumstances over which they had no control, they had not returned or taken up their residence in German territory. They further considered that past residence could have no application, for, in such a case as the present, the German national was excluded from a continuance of residence in the place in which he had been before the outbreak of war. They therefore considered that in the case of people detained, other than criminals, the place in which they took up their residence on release was to be considered their place of residence for the purposes of Article 296.

Whilst it is obvious that residence ought to be regarded as voluntary residence, it is not easy to see how a person can be regarded as residing in a place on a particular date, irrespective of his previous residence, merely because he had the intention to go there as soon as possible, and actually went there some four months subsequently.

(7.) *Debts owing by or to Partnerships consisting of Persons of Different Nationalities.*

The Tribunal has again affirmed the principle long since laid down in the case of Wydra & Soehne *v.* Hyman (No. 16) and Hardt *v.* Stern (No. 524) and other cases to the effect that in dealing with a partnership firm regard must be had to the residence and nationality of the individual partners.

In the case of Kolp Coleman & Co. *v.* Plaut & Co. (No. 1733) a claim was made by British nationals against the holders of drafts drawn on and accepted by the debtors at Berlin. The creditors contended that the debtors were a German firm, registered as such and resident in Germany; but the claim was disputed by the German Clearing Office on the ground (*inter alia*) that one of the partners was not of German but of Argentine nationality, and that neither of the partners was resident in Germany on the coming into force of the Treaty. In face of evidence, not rebutted by the creditors, that one partner was in the Commercial Register at Buenos Aires mentioned as being of Argentine nationality, and that the other partner had left Germany in the year 1919, the Tribunal decided that the claim did not fall within the scope of the clearing procedure.

(8.) *Stock Exchange Transactions.*

With reference to the case of Stamm & Co. *v.* Froehlich & Liebmann (No. 385), referred to in last year's report, there have been a certain number of cases concerning Stock Exchange transactions, in the course of which the Tribunal has again considered the question as to whether shares purchased for German nationals prior to the war, but not taken up until a later period, became their property so as to become subject to the charge, or whether they remained the property of the persons who had bought them.

In Seligmann, Weinberger & Pearson *v.* Dreher & Uhry (No. 758), (*Recueil*, iii, p. 749) the claimants were stockbrokers, who at the outbreak of war were carrying over securities for the German debtors. During the war some of the securities were contangoed with jobbers. The remainder were "taken in"—*i.e.*, the claimants took up the securities and at each fortnightly account date purported to enter into another contract with their clients to sell to them for the making up price of that day an equal amount of the same description of stock on the next account day. Some of the transactions were closed and the debtors were credited with the prices realized. The remaining securities were held until after the 10th January, 1920, and the claimants claimed a debt with contango charges up to January, 1920, without giving credit for the value of the securities, which were claimed by the Custodian under the charge.

The Tribunal held that, both in the case of the securities carried over by a jobber and those taken in during the war, the right of the client consisted only in a right to claim completion of the contract, and that right ceased when the contract was dissolved in August, 1914. The securities did not therefore become the property of the client and could not be subject to the charge. The broker's claim is only to be indemnified for the liability he had assumed on his client's behalf, and the claimants were therefore directed to deliver an amended account on that basis.

In Crews & Co. *v.* Hermann Vortisch Oertle (No. 679), (*Recueil*, iv, p. 69) the Tribunal considered a further question—*i.e.*, whether, having regard to the provisions of Article 299 and the dissolution of contracts provided for thereunder, the taking up after the 4th August, 1914, of stocks by a British broker on the Stock Exchange, who had been acting on behalf of a German client prior to the war, created a German property right or interest in the shares so taken up.

In that case the claimants were carrying over two blocks of shares for the debtors at the outbreak of war. The shares were taken up by the claimants, who borrowed from their bankers the necessary funds. One block of Goerz shares were sold at favourable prices amounting to more than the purchase price; the other block of Rand Mine shares were not sold during the war. The Tribunal confirmed its decision in the above-mentioned case of Seligmann, Weinberger, & Pearson *v.* Dreher & Uhry as to securities carried over until the 10th January, 1920, and held that the position must be ascertained as if the Rand Mine shares had been sold on the last account day prior to the 10th January, 1920. In the Tribunal's opinion the creditors were not entitled to recover commission charges in respect of dealings after the date when the shares were taken up. The claimants were therefore entitled to recover from the debtor—(1) the amount of the purchase price of the Goerz shares, together with commission and any justified disbursements up to the date when the shares were taken up; after that date the interest paid by them up to the date of the sale; after the date of the sale, interest at the rate of 5 per cent. per annum on any balance remaining due; (2) in respect of the Rand Mine shares, the amount of the purchase price, together with commission and any justified disbursements up to the date when the securities were taken up, and thereafter interest paid by them up to the last account day prior to the 10th January, 1920, less the value of the shares at the average Stock Exchange price for that day, and the amount of interest on the balance from that date at the rate of 5 per cent. per annum; (3) disbursements not included in the above, necessarily made by the claimants in connection with the matter.

In the case of J. Stamm & Co. *v.* Emil Heckscher & Co. (No. 976), (*Recueil*, iii, p. 532) the creditors in May, 1914, agreed to sell to the debtors 500 shares in a company, and immediately afterwards entered into a contract with third persons whereby they contracted to take up the shares necessary to fulfil their contract with the debtors. The creditors took up the 500 shares on the special settlement at the 30th October, 1919, but by that time the shares had greatly depreciated in value and were stated to have become worthless. The creditors claimed from the debtors, as a pecuniary obligation, the loss which they suffered by having purchased the shares, and it was on their behalf contended that the obligation incurred by them to the third parties in connection with the business in question brought their claim within the words of the exception in Article 299 (*a*) of the Treaty, which provides that any contract concluded between enemies shall be regarded as having been dissolved as from the time when any two of the parties became enemies, except in respect of any debt or other pecuniary obligation arising out of any act done or money paid thereunder. The Tribunal, however, were unable to accept the creditors' contention, and held that they took up the shares to place themselves in a position to perform their contract with the debtors, but the purchase was not entered into *under* the contract between the creditors and the debtors. The payment for the shares was not therefore made in pursuance of the contract between those parties, and there was no pecuniary obligation arising out of any act done or money paid under the contract within the meaning of Article 299.

It should be noted that in this case the creditors were not acting as brokers or agents for the debtors, as in the case of Cuthbertson, Hood, & Co. *v.* Calmann (No. 766), referred to in last year's report, and the claim was not therefore one by an agent for reimbursement.

In the case of Hodding, King, & Co. *v.* Bruno, Becker, & Co. (No. 474) the creditors were stockbrokers and claimed two sums: (*a*) £482 7s. 1d., with interest on part thereof from 10th January, 1920; (*b*) £813 3s. 1d., with interest at 1½ per cent. above bank rate on part thereof from 10th January, 1920.