

## CLAIMS IN TERMS OF PARAGRAPH 4 OF THE ANNEX TO ARTICLE 297 OF THE TREATY OF VERSAILLES.

34. By paragraph 4 of the Annex to Article 297 of the Treaty of Versailles the proceeds of the liquidation of German property in the Dominion are chargeable in the first place with the payment of the following classes of claims:—

- (a.) Amounts due in respect of claims by British nationals resident in New Zealand with regard to their property rights and interests, including companies and associations in which they are interested, in German territory.
- (b.) Debts owing to New Zealand nationals by German nationals—*i.e.*, claims established in accordance with the Clearing Office system set up in terms of Article 296 of the Treaty.
- (c.) Claims growing out of acts committed by the German Government or by any German authorities after the 31st July, 1914, and before the British Empire entered into the war—*viz.*, before the 4th August, 1914.

It is further provided that the proceeds may be charged in the second place with payment of the amounts due in respect of claims by British nationals with regard to their property rights and interests in the territory of other enemy powers in so far as those claims are otherwise unsatisfied.

35. The following are extracts from a memorandum prepared by the Central Clearing Office setting out the position regarding claims under the heading (c) above:—

Clause 4 of the Annex to Section IV, Part X, of the Treaty of Versailles provides for claims for compensation in respect of acts committed by the German Government, or by any German authority, since the 31st July, 1914, and before Great Britain entered into the war on the 4th August, 1914, and states that such claims may be assessed by a specially appointed Arbitrator.

The majority of claimants referred to above were serving on ships which were prevented from leaving German ports before the actual outbreak of war between Germany and Great Britain, which took place at 11 p.m. on the 4th August, 1914, and it would therefore be open to them to prefer claims under clause 4 of the Annex if the detention of the vessels (and consequently of the claimants themselves) can be shown to be due to acts committed by the German authorities between the dates mentioned.

In this connection Mr. Grey (the Controller of the Central Clearing Office) submitted a test case under clause 4 to the Arbitrator who was appointed to assess such claims for compensation and who sits in London.

The case was in respect of a claim by the master of a British ship which was prevented from leaving Hamburg between the 31st July and the 4th August, 1914, and the Arbitrator decided that the German Government was responsible for the detention of the ship, and therefore also of the claimant. In assessing compensation he stated, however, that in his opinion the only injury which could be regarded as coming within the terms of the clause in question was that directly caused by the acts committed by the German authorities between the 31st July and the 4th August, and that in the case before him such direct injury was the loss which the claimant suffered through being deprived of the higher rate of wages and special grants he would have earned if he had been able to return to England and had served with his steamship company during the war.

The Arbitrator further considered that ulterior damage suffered in Germany arising out of measures taken after the declaration of war, and directed against the claimant as an enemy, could not be regarded as coming within the terms of clause 4, but that any damage which might normally come within the reparation clauses of the Treaty, such as loss of health due to internment, or any damage normally falling under Article 297 of the Treaty—for example, loss of property in Germany—should be dealt with separately under the appropriate parts of the Treaty.

If a person having a claim under clause 4 has also suffered loss in respect of personal effects which were subjected to exceptional war measures after the 4th August, 1914—*e.g.*, a sailor's kit which was taken from him when he was interned—he may include the claim in respect of the personal effects with the claim under clause 4 instead of lodging a separate claim under Article 297. This is permitted by a special direction of the Mixed Arbitral Tribunal, but it is subject to the condition that the claim regarding the personal effects in question shall have been included in the claim under clause 4, and that such claims are included in a special list which should be lodged with the Tribunal by a specified date. The date fixed in the case of claims arising in the United Kingdom is the 31st December, 1924. If an extension of this prescribed period is required in respect of claims arising in British territory outside the United Kingdom, and particulars thereof are furnished to this Department at an early date, application will be made to the Tribunal for an extension of time in connection therewith.

As the result of this test case representations were made to the German authorities by this Department with a view to obtaining, if possible, a settlement in such cases by agreement, but as, up to the present, there has been no disposition on the part of Germany to admit claims of this nature, further test cases have been referred to the Arbitrator, and more are in preparation. The object is to obtain a decision in connection with each ship, as if it is once laid down that a ship was detained in Germany before the actual outbreak of war owing to acts of German authorities, it follows that all the men who were serving on that particular ship were also thereby prevented from leaving Germany.

In cases where the German authorities have definitely refused to admit liability the claimants, if they wish to pursue their claims, must submit their cases to the Arbitrator for decision, and it is open to them to do this in accordance with the procedure arranged with the Arbitrator.

Most claimants, however, prefer to await the decisions of the Arbitrator in the test cases before taking steps on their own behalf, as it is necessary, in order to succeed before the Arbitrator, for very detailed evidence to be furnished with a view to showing definitely that the ship was detained by acts of the German authorities and not merely through causes for which the German Government cannot be held responsible. Meanwhile it is advisable that any claimants whose cases appear to come within clause 4 of the Annex should register their claims in order that they may be placed before the German authorities and may be dealt with rapidly as soon as any particular test case is decided.

Claims under clause 4 may arise under other circumstances than the detention of vessels. It is, however, doubtful how far ordinary cases where persons were unable to leave Germany before the outbreak of war by train owing merely to railways being fully occupied with mobilization would succeed under that clause, as the Arbitrator's decisions have so far been unfavourable in such cases.

## TIME-LIMITS PRESCRIBED FOR FILING MEMORIALS OF CLAIMS UNDER ARTICLE 297 OF THE TREATY OF VERSAILLES.

36. In the following section of the report is set out in detail the position regarding the time-limits imposed upon persons who have lodged claims under the provisions of Article 297 of the Treaty of Versailles for the submission of formal statements (memorials) of their claims to the Anglo-German Mixed Arbitral Tribunal.