otherwise would have done, and has thereby suffered damage, he will be entitled to compensation under Article 297 (*e*). Further, if a British national can show that sums of money to which he became entitled in Germany during the war, even though such sums remained in the hands of private individuals and were not taken control of by any official of the German Government, were withheld from him in consequence of the Imperial Decrees published in Germany, and prohibiting the export of money to countries with which Germany was at war, he will on that ground be entitled to compensation, and that compensation will in general be based upon the difference between the exchange value of the mark at the date when, in the ordinary course, the sums ought to have been remitted to him and its exchange value at the date when, consequent upon the repeal of the prohibition against export, he might with ordinary diligence have obtained payment.

Sums, however, got in by the Treuhander after the 11th November, 1918, are not to be considered as "cash assets" in view of the fact that under section 1 (second sentence) of the Annex to Section IV the measures there above-mentioned taken by the German authorities since that date are to be void, but a debtor who has so paid his debt to the Treuhander is not discharged, and a claim against him will lie under Article 296. Moreover, if upon such a claim being put forward under Article 296, it is refused by the Clearing Offices on the ground that it is out of time, the claimant will be entitled to claim compensation for the losses occasioned to him through the exceptional war measure, even though void: See Jacobi *v.* German Government (No. 431) and Walenn *v.* German Government (No. 509).

(12.) Claims in respect of the Compulsory Investment of British Funds in German Securities.

The consequence of the investment in German securities of funds in Germany belonging to British nationals was considered in two cases, Drake & Co. *v.* German Government (No. 77) (*Recueil*, ii, p. 707), and Dressel *v.* German Government (No. 54), (*Recueil*, ii, p. 690). In the first of these cases the investment had been made by a former servant of the British firm subsequent to the appointment of a supervisor of the firm under exceptional war legislation. The former servant had, however, been appointed as "representative" of the firm, and acted under the general directions of the supervisor.

On behalf of the respondents it was contended that the former servant had authority to make investments on behalf of the firm, and that the transaction was a purely voluntary one. The Tribunal, however, after hearing the evidence, were of opinion that the appointment of the representative was an exceptional war measure, and that the investments were consequences arising therefrom. They accordingly awarded compensation based upon the difference between the exchange value of the marks at two different periods. Subsequently, however, to the judgment, additional facts were called to the attention of the Tribunal, from which it appeared that the assets of the firm, which had been subsequently liquidated, had been diminished by the sum so invested, and that under para. 12 of the Annex to Section IV, Part X, these assets were to be accounted for irrespective of any such investment. Without any further order of the Tribunal the German Clearing Office eventually consented to account for the liquidated assets on the basis that the investments must be considered as having been annulled.

In the second of the above cases a sum had fallen due to a British national during the war from the estate of a deceased German national, and in the absence of the heir a Curator had been appointed, in accordance with the ordinary German civil law, to represent and safeguard his interests.

In reply to the claim of the British national that the investment should be annulled under para. 14 of the Annex to Section IV, it was argued by the respondents that the investment had not been made by an order of the Court or through the interference of the German Government, but had been properly made by an Administrator in the best interest of the claimant, and that nothing had been done by the German Government under Article 297 (*e*) with regard to the investment. The Tribunal were of opinion that there was no evidence that the investment was made by order of the Court or through the intervention of the German Court, and that no exceptional war measures or measures of transfer had been taken by the German Government with regard to the sums of money in question. They therefore dismissed the claim of the British national for compensation.

(13.) British Moneys paid to the Treuhander.

The question of the liability of the German Government for compensation in respect of money owing to British nationals and paid to the Treuhander during the war has come before the Tribunal upon more than one occasion, and the Tribunal has in principle decided that where the action of the German Government under exceptional war measures has deprived the claimant of a rate of interest or profit to which he would otherwise have been entitled he will be entitled to compensation on that footing. Thus in Claudius Ash, Son, & Co., Ltd. *v.* German Government (No. 260), (*Recueil*, ii, p. 198), the money seized by the Treuhander was a debt which would otherwise have been due to the claimant under the provisions of Article 296. The German Government contended that as no provision is made under Article 297 for the payment of interest on proceeds of liquidation, proceeding by analogy no compensation should be allowed for loss of use.

The Tribunal refused to uphold this contention, and considered that the damage to the claimants which followed directly on the taking-over of the debt by the German Government was that which they suffered through being deprived of the right of recovering the money due from the German debtor under Article 296. They accordingly decided that as the claimants would have been entitled to receive interest at the Treaty rate if the exceptional war measure had not taken place they must receive by way of compensation a sum representing that amount of interest. This decision was followed in two cases of Singleton Benda & Co. *v.* The German Government (Nos. 59 and 60).

In Naylor, Benzon, & Co. *v.* German Government (No. 82), (*Recueil*, ii, p. 200), the claim was in respect of dividends upon an investment in the German company which had been paid by that company to the Treuhander. The Tribunal, after pointing out that compensation for loss of use of money paid to the Treuhander was allowed only in cases in which the exceptional war measure had operated to deprive the claimant of the interest to which he would have been entitled and that Article 297 of the Treaty did not in terms allow interest, dismissed the claim for compensation on the ground that, pursuant to para. 22 of the Annex to Section III, which provides that interest shall not be payable on sums due by way of dividend, the claimants would, if the dividends had not been paid to the Treuhander, have been entitled to no more than that which they had already received.

PART III.—MISCELLANEOUS.

Settlement of Mortgages in Germany.

55. A Press cablegram from Berlin dated the 6th May, 1923, intimated that the High Court at Darmstadt had delivered an important decision that a mortgagee was not obliged to accept paper marks in payment of a mortgage loan made in gold marks. It was added that this decision struck at the basis of the whole German currency system, as State and all other debts had hitherto been regarded as payable in paper marks.

56. As several mortgages over properties in Germany were included among the assets of estates under administration by the Public Trustee inquiries were instituted to ascertain further particulars.