

In the case of *Schaffenius v. Goldberg* (1916, 1 K.B. 284) it was decided that in England an internee was entitled to sue in an English Court, and that case applies equally to this Dominion.

Moreover, the creditor had, in terms of the War Regulations dated 24th July, 1916, the right at any time thereafter to appoint the Public Trustee custodian of his property, and the Public Trustee would then have been empowered to sue for the debt.

The claim from the German Clearing Office was therefore contested upon these grounds.

#### BRITISH EMPIRE ACCOUNT WITH GERMANY UNDER ARTICLE 296 OF THE TREATY OF VERSAILLES.

44. The position regarding payment of the amounts owing by Germany in respect of its Clearing Office obligations has changed radically since my last report. Under the provisions of Article 296 of the Treaty of Versailles the balance between the British Empire and Germany resulting from the clearing transactions was to be struck monthly. Any balance in favour of the British Empire was to be paid over by Germany in cash. On the other hand, any balance in favour of Germany was not payable in cash, but was simply carried forward to the next account. If upon completion of the Clearing Office procedure the balance was in favour of Germany payment would have been withheld until Germany had made full payment of all amounts owing by it under the Treaty.

45. Since September, 1922, Germany has been in default in payment of the balance under Article 296 owing by her to the British Empire except for some inconsiderable payments. The following extract from the last report of the Controller of the Central Clearing Office details the further steps taken by him to secure payment of the outstanding balance in favour of the British Empire, and the recent developments in this respect :—

*Monthly Accounts.*—The system of accounting between the Allied and German Clearing Offices has been fully explained in my previous reports. Owing to the failure by Germany towards the end of 1922 to meet her engagements to the Allied Clearing Offices, and the impossibility of securing acceptance by the interested parties of an agreement that had been negotiated by the Allied Controllers with Germany for securing payment of future cash instalments, the Allied Clearing Offices were compelled to have recourse to the proceeds of the liquidation of German property for payment of the debt claims under Article 296. In January last, as the result of further discussions, the German authorities agreed to resume payment of monthly cash instalments to the Allied Clearing Offices, upon a modified scale and for a limited period within which they undertook to submit definitive proposals for a general settlement. In April last the first committee of experts appointed by the Reparation Commission submitted their report, in which they recommended that all the obligations of the German Government should be met by the payment of an inclusive annual sum which should cover all Treaty charges, including the monthly balances payable to the Clearing Offices. This recommendation was accepted by the Allied Governments, and, inasmuch as a separate agreement for payment by the German Government of the monthly balances would have been in conflict with such recommendation, the further discussions with a view to the conclusion of a definitive agreement on the subject were not proceeded with. It is right, however, to state that the German Government punctually discharged its obligation to the Allied Clearing Offices for payment of the modified instalments referred to above.

46. It is desirable at this point to recall attention to the fact that under the provisions of paragraph 4 of the Annex to Article 297 of the Treaty of Versailles it is competent for an Allied or Associated Power to charge the proceeds of the liquidation of German property rights and interests within its dominions with payment of the debts established in accordance with the Clearing Office procedure. This has in fact been done both in the United Kingdom and in this Dominion for the purpose of providing funds for the payment of admitted claims, and the funds available in the Dominion for the purpose are more than sufficient to meet any possible charge of this nature. The only possible method now of obtaining payment of the Clearing Office credit balance in the Article 296 Account would be through the medium of the Reparations Commission, and it is unlikely that an application to the Commission for liquidation of the balance would meet with success while sufficient funds were available from the proceeds of German property retained and liquidated. It is therefore improbable that payment of the Clearing Office balance in favour of New Zealand will ever be secured from the German Clearing Office. The likelihood of obtaining payment from the Central Clearing Office is referred to in another portion of this report (*vide* paragraph 48).

47. In view of the above developments, a clause was inserted in the agreement entered into by His Majesty's Government and Germany (referred to in paragraphs 30, 31 of this report) providing for the amalgamation of the accounts between Great Britain and Germany under Articles 296 (Clearing Office Account) and 297 (Liquidation of German Property Account) of the Treaty of Versailles, and it will only be the ultimate debit balance owing by Germany upon the combined account which will be claimable by His Majesty's Government through the Reparations Commission.

A consequence of this necessity for amalgamating the accounts is that the Central Clearing Office has discontinued the British Empire Account, and has rendered separate accounts as between the various local Clearing Offices and Germany. No further figures in this respect will appear in these reports.

#### NEW ZEALAND ACCOUNT WITH THE CENTRAL CLEARING OFFICE, LONDON.

48. In paragraphs 48 and 50 of my previous reports I described in detail the system of accounts in existence between the New Zealand Clearing Office and the Central Clearing Office, and stated in regard to the balance shown on this account in favour of New Zealand that payment would not be made by the Central Clearing Office until payment of the Clearing Office balance was resumed by Germany. It will be seen from the preceding section of this report that the possibility of a resumption of payments by Germany has now disappeared. Consideration is now being given to the question of