In The British South African Explosives Co. Ltd. *v.* German Government (No. 1115) the Tribunal (First Division) gave a decision somewhat similar to that in Naylor, Benzon, & Co. *v.* German Government (No. 82), (*Recueil*, ii, p. 200), to which I referred in my report for 1923.

In April, 1915, and April, 1916, the Deutsche Bank had credited the British claimants with two amounts of Mks. 520,000 each in respec tof redeemed debentures. During the years 1917 and 1918 the Treuhander had collected from the Deutsche Bank the sum of Mks. 54,600 representing interest on the moneys so held by the Deutsche Bank. This sum was repaid to the claimants under the provisions of Article 297 (*h*) on the 15th May, 1922, without interest.

The claimants contended that if the interest had remained in the hands of the bank they would, pursuant to a pre-war contract, have received interest thereon, and therefore that by reason of the payment to the Treuhander they had been deprived of a benefit.

The Tribunal decided against the claimants' contention, being of opinion that if the sums referred to had remained in the hands of the bank they would not have been entitled to recover interest thereon through the Clearing Office, as such interest would have been in the nature of compound interest. The claimants might contend that under paragraph 241 (second part) of the German Civil Code, by virtue of their pre-war contract with the bank, interest not paid but left in the bank accrued to the capital, and, having become capital, bore interest also. The pre-war contract, however, must be treated as dissolved under Article 299 (*a*) and superseded by the provisions of paragraph 22 of the Annex to Section III, Part X, which excludes compound interest. Accordingly, as the claimants would not have been entitled to recover such compound interest under Section III, Part X, they had not been prejudiced by the collection of the moneys from the bank by the Treuhander. Their claim was therefore refused.

(16.) *Licenses in respect of Industrial, Literary, or Artistic Property.*

Article 310 provides that licenses in respect of industrial, literary, or artistic property concluded before the war between Allied nationals, or persons residing or carrying on business in Allied territory, on the one part and German nationals on the other part, shall be considered as cancelled as from the date of the declaration of war between Germany and the Allied Powers. The British view has always been that the effect of Section VII, Part X, of the Treaty, relating to industrial property, and comprising articles 306 to 311 inclusive, has been to constitute a special code relating to industrial property, and that the result of Article 310 is that a former licensee who has continued during the war to use the invention the subject-matter of the license is not liable for royalties during that period unless such royalties have been actually paid over, in which case the third paragraph of the article would apply. On behalf of the German Government it has been contended that the license was not annulled but only dissolved, and that there was saved from dissolution any pecuniary obligation arising out of any act done or money paid under the contract, notwithstanding that such pecuniary obligation may have arisen after the date of the dissolution. In support of this contention the German Government Agent has claimed in aid certain of the correspondence which passed between the Allied Powers and Germany before the signature of the Treaty.

The Tribunal (First Division) considered the various arguments in the case of Ascherberg, Hopwood, & Crew Ltd. *v.* Quaritch (No. 1509), and in their opinion the provision of the treaty under discussion was so clear that they were unable to base their interpretation upon any other document. Where payments by the licensee on account of the licensor were made during the war the sums so paid are to be dealt with in the same manner as other debts, but it could not be therefrom inferred that the right to demand payment, notwithstanding the cancellation of the license as from the outbreak of war, continued where no payments had been made. Article 310, unlike Article 299, was absolute, and the German debtor was therefore not entitled to set off against the British judgment creditor royalties which would have become due under a license but for the clause in the Treaty whereby such license was to be considered as cancelled as from the date of the declaration of war.

(17.) *Procedure.—Substitution of Parties.*

In Harvey, Samuel, and others *v.* Diamanten Regie South Africa (No. 389), (*Recueil*, iv, pp. 214, 603), the question of procedure as to the substitution of parties came before the Tribunal. At the hearing the creditors' representative applied for leave to amend their claim against the Diamanten Regie by adding the amount of a claim against the Berliner Handelsgesellschaft in the event of the Tribunal finding adversely to the claimants. In a claim previously brought against the Berliner Handelsgesellschaft a debt of the full amount had been previously notified against Pomona Diamanten Gesellschaft, but later this notification through the Clearing Office had been withdrawn, and the same amount had been notified in two sums against the Diamanten Regie and the Berliner Handelsgesellschaft. The facts, as further elucidated, seemed to point to the entire amount of the liability being one on the part of the Diamanten Regie.

The Tribunal considered that, in respect of time, the application was not barred by the provisions of paragraph 5 of the Annex to Section III, Part X, for it involved no more than a change in the person from whom it was sought to recover a debt already notified. Their attention had been called to a Protocol signed by the representatives of the French, Belgian, British, and German Governments on the 2nd November, 1923 (*Recueil*, iii, 1033 *et seq.*). Under Article 1 (2) of that Protocol it was provided that the principal amount of a claim under Article 296 was not to be increased after the 30th April, 1924, but under Article 3 a creditor Clearing Office was entitled to substitute a creditor or debtor after that date in a notification which had been made to the debtor Clearing Office before that date.

In those circumstances the Tribunal decided to reopen Case 966, treating the Diamanten Regie, as substituted, as debtors, and to make an award in that case covering the amount outstanding.

Decisions of English and Foreign Courts upon Matters affecting the Enemy Property and Clearing Office Work.

28. The following summary of decided cases having an important bearing upon the enemy property and Clearing Office work is derived from the report of the Legal Adviser to the Central Clearing Office, appended to the last report of the Central Clearing Office :—

(1.) *Seizure by British Custodian of German-owned Stock Certificates in the United States Steel Corporation deposited in the United Kingdom.—Judgment of Supreme Court of the United States.*

I desire to call attention to what was undoubtedly the most important judgment of the year as affecting the British Clearing Office and the realization of ex-enemy property—namely, that of the Supreme Court of the United States in two suits, Direction der Disconto Gesellschaft *v.* United States Steel Corporation, Public Trustee, Egremont John Mills, et al., &c. ; and Bank für Handel und Industrie *v.* United States Steel Corporation, Public Trustee, English Association of American Bond and Shareholders, Limited, et al. The facts were set out in my report for last year, but for the benefit of those who have not that report at hand I propose shortly to repeat them.

The two suits related to certain shares of stock in the United States Steel Corporation which, at the outbreak of war, were owned by the plaintiffs, the certificates for the stock having been deposited in England. Under the Trading with the Enemy Acts the British Custodian seized these certificates, and the right, title, and interest of the former owners were by decrees of the British Courts or competent authorities duly vested in him. Such certificates, which, in accordance with common practice in Great Britain, were in the names of well-known British banks or brokerage firms, contained a form of transfer which had been endorsed in blank by the registered holders, and in accordance with such practice they were, as so endorsed, delivered and accepted in fulfilment of sales and purchases of stock.