Gleislose Lloydbahnen Kohler's Bahnpatente G.m.b.H. v. *Brush Electrical Engineering Co., Ltd.* (No. 3306), (*Recueil*, v, p. 631). The German creditors claimed interest on patent royalties which had accrued due prior to the 4th August, 1914, and which were paid through the Clearing Office. This claim was contested by the British Clearing Office on the ground that royalties constitute a periodical payment representing interest on capital within the meaning of paragraph 22 of the annex to Section III, Part X. The Third Division refused to accept this contention, and held that interest was payable.

(7) *Article 296 of the Treaty of Versailles.—Life-insurance Policies.*

The case of *Stuttgarter Lebensversicherungsbank* v. *Turvill* (No. 1955), (*Recueil*, vi, p. 51), contains an interesting decision regarding a policy of life assurance under paragraph 14 of the annex to Section V, Part X. In March, 1914, the British debtor entered into a policy of life assurance with the creditors, the sum due being payable in 1934, or on his previous death. The policy was subject to the conditions contained in the statutes and general terms of insurance of the company. The insurance company claimed under Article 296 (2) in respect of the premiums payable during the war, and based their claim in the first instance upon paragraph 14 of the said annex. The First Division held that paragraph 14 dealt only with new rights given by the Treaty, and not with premiums which were enforceable under the terms of the policy and the law governing the contract. A claim rightly based on paragraph 14 could not, therefore, succeed under Article 296.

Alternatively, the creditors contended that their claim was covered by the second part of paragraph 11 of the said annex. The Tribunal held that the words contained in this paragraph were wide enough to cover premiums which were enforceable under the terms of the policy and the law governing the contract. As, therefore, under the general terms of insurance and under German law the premiums were debts and not merely voluntary payments, they were caught by the provisions of Article 296 (2), notwithstanding the fact that future payment of the policy-moneys or of the surrender value had to be settled outside the clearing procedure. The Tribunal accordingly made an award for the amount of the premiums under Article 296 (2).

(8) *Stockbroking Transactions.*

In the award in *Seligman Weinberger & Pearson* v. *Dreher & Uhry* (No. 758), (*Recueil*, iii, p 749; iv, p. 657), of the 8th May, 1925, referred to in my report of last year, the Tribunal delivered an interim decision, in which they reserved the question of a further credit, which practically involved the question as to whether the creditors, who were brokers, were entitled to an indemnity from their clients. The creditors had carried over certain shares with a firm of H. Wagg & Co., who, up to December, 1912, had been members of the London Stock Exchange, but had since ceased to be members. Before the end-December account, 1912, the debtors had bought through the creditors a quantity of securities, which, however, were never taken up by the debtors, but carried over by the creditors with the said firm of H. Wagg & Co. Evidence was adduced by the creditors that a representative of the debtors' firm was frequently in London, and was fully aware that the creditors had arranged the financing of the debtors' account by carrying over both on and off the Stock Exchange. Further, the said representative of the debtors' firm had informed the creditors that his firm had an account open with Messrs. H. Wagg & Co., which continued down to the outbreak of the war.

The debtors relied on Rule 83 of the Stock Exchange Rules, which provides that a broker shall not execute an order with a non-member unless thereby he can deal for his principal to greater advantage than with a member. In such a case he shall not receive brokerage from such non-member, and the contract note shall state that the bargain has been done between non-members. The creditors, however, submitted that the rule in question did not apply to continuations, but only to original purchases of shares.

Having regard to the above facts, and in particular to the consent of the debtors, the Tribunal were of opinion that the creditors were entitled to be indemnified by the debtors, and made an award upon that basis.

In *Henry Ansbacher & Co.* v. *Weingart* (No. 1071), (*Recueil*, vi, p. 49), the British creditors, who were stockbrokers, bought for account of the German debtor certain shares on the 27th May, 1913, and continued the shares from account to account, themselves acting as "takers-in." On the first fortnightly account contango was charged at the rate of 7½ per cent. per annum, and then until the 28th August, 1913, at 8½ per cent. per annum. The debtor in June and April made certain payments to the creditors by cheque, but by August, 1913, the shares had fallen to such an extent that the creditors altered the transaction from one of continuation to one of loan, charging 8 per cent. compound interest with fortnightly rests. The German Clearing Office contended that the transaction did not alter in character and remained a continuation transaction in which the creditors were "takers-in." The Tribunal, however, upon the evidence, were satisfied that the character of the transaction was altered in this manner with the consent of the debtor. The creditors contended that they were entitled to 8 per cent. interest with fortnightly rests until the 29th July, 1914, and thereafter simple interest at the rate of 8 per cent. per annum on the amount due on that day. The contest, based in the first instance on the ground of the debtor's insolvency in the autumn of 1913, was rejected by the Tribunal upon the same facts as those on which they founded their decision in *Ladenburg* v. *Weingart* (No. 499). The debtor did not himself resist the claim to interest, but the German Clearing Office contended that only Treaty interest at the rate of 5 per cent. was payable, and that in any event the Treaty interest would not be payable on such part of the account as originated in interest. The Tribunal, upon the facts, decided that there was an agreement to pay 8 per cent. compound interest as from the 28th August, 1913, and that this agreement would take effect up to the 29th July, 1914. They accordingly held that the creditors were, under paragraph 22 of the annex to Section III, Part X, entitled to simple interest at the contractual rate of 8 per cent. on the sum then owing.

(9) *Clearing Procedure.—Residence in Plebiscite Territory.*

The question as to whether German creditors and debtors who resided on the 10th January, 1920, in the so-called plebiscite territory are subject to clearing procedure, regardless of the result of the plebiscite which subsequently took place, was for long a matter of controversy between the two Clearing Offices. The German Clearing Office originally adopted the view that such creditors and debtors were subject to clearing procedure, and to this view the British Clearing Office, adopting the strict and literal construction of the Treaty, acceded, and in pursuance thereof made a considerable number of admissions of claims put forward by the German Clearing Office. Subsequently, after the result of the plebiscite became known, the German Clearing Office changed their view and refused to admit British claims against German debtors who resided in that part of Silesia which, as a result of the plebiscite, eventually became Polish territory. The difference of opinion was decided in the case of *The Standard Bank of South Africa, Ltd.* v. *Bismarckhutte A.G.* (No. 1845), (*Recueil*, vi, p. 68), in which the creditors, an English company, with their head office in London, claimed a debt against a company which carried on business and continued to carry on business at Bismarckhutte, in that part of Silesia which was ceded to Poland under the provisions of Article 88 of the Treaty of Versailles in October, 1921.

The main contention put forward by the German Government Agent was that, whilst Article 296 rendered it necessary that a national should be resident in the territory of his State on the 10th January, 1920, this was only one of the elements necessary to make the clearing system applicable to the debts in which he was interested, whether as a debtor or creditor. It was submitted that in such a case as the present, where territory ceded after the coming into force of the Treaty was involved, the party must reside within the territory of his former State after the date of cession. It was said to be essential for the administration of the clearing system that the private party concerned should continue to be subject to the jurisdiction of the clearing State.

The Tribunal declared themselves unable to uphold that contention, as the Treaty under which the territories in question were ceded makes no reference to such considerations as those alleged on behalf of the German Clearing Office. **They therefore made an award in favour of the British national for the amount of his claim.**