

# **REPORTS OF INTERNATIONAL ARBITRAL AWARDS**

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## **RECUEIL DES SENTENCES ARBITRALES**

**Herbert Payne (United States) v. Austria and Hungary**

12 April 1927

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and of Hungary to act advisedly in adopting measures for the ultimate payment of such judgments—measures political rather than juridical in their nature; and will enable the law-making power of the United States to act advisedly in making final disposition of the Custodian Property as contemplated by section 5 of the Peace Resolution constituting a part of the Treaties of Vienna and of Budapest.

This decision in so far as applicable will control the preparation, presentation, and decision of all claims based on debts owing to American nationals by Austrian [Hungarian] nationals or by Austria [Hungary] presented to the Commission and falling within its scope. In any case in which the American Agent, the Austrian Agent, and/or the Hungarian Agent is of the opinion that the peculiar facts of that case take it out of the rules here announced, such facts, with the differentiation believed to exist, will be called to the attention of the Commissioner in the presentation of that case.

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HERBERT PAYNE (UNITED STATES) *v.* AUSTRIA AND HUNGARY

(*April 12, 1927. Pages 46-47.*)

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RESPONSIBILITY FOR ACTS OF MILITARY AUTHORITIES.—WAR: SEIZURE, REQUISITION OF PRIVATE PROPERTY.—DAMAGES: MARKET VALUE. Austria and Hungary *held* responsible for seizure and requisition in Karlsbad of automobile by military authorities on or about November 15, 1915. Reasonable market value at time and place of seizure allowed.

In case styled and numbered as above <sup>1</sup> the claimant, an American national, in July, 1914, was motoring through Europe using an Italian automobile belonging to him. He stored his car at Karlsbad at the outbreak of the World War on or about August 1, 1914, and returned through The Hague to the United States. On or about November 15, 1915, this automobile was seized and requisitioned by the Austro-Hungarian military authorities and although demand for its return to the claimant was made through diplomatic channels it has never been returned to him.

On the record submitted the Commissioner finds that the reasonable market value of this automobile at the time and place of seizure in its then condition was \$3,000.

Wherefore the Commission decrees that under the Treaty of Vienna the Government of Austria is obligated to pay to the Government of the United States on behalf of Herbert Payne the sum of one thousand nine hundred eight dollars (\$1,908.00) with interest thereon at the rate of 5 per cent per annum from November 15, 1915, and that under the Treaty of Budapest the Government of Hungary is obligated to pay to the Government of the United States on behalf of Herbert Payne the sum of one thousand ninety-two dollars (\$1,092.00) with interest thereon at the rate of 5 per cent per annum from November 15, 1915.

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<sup>1</sup> Original report: United States of America on behalf of Herbert Payne, claimant, *v.* Austria and Hungary, docket No. 17.