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Karl Klein (United States) v. Austria

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KARL KLEIN (UNITED STATES) *v.* AUSTRIA*(March 8, 1928. Pages 61-62.)*

BONDED PUBLIC DEBTS AND STATE SUCCESSION: LIABILITY FOR INTEREST.—INTERLOCUTORY JUDGMENTS. Acquisition in 1916 of bonds constituting portion of Austrian debt specifically secured on railways and in existence on July 28, 1914. Decision by Reparation Commission pursuant to article 203, Treaty of St. Germain, that as from July 1, 1919, Austria liable for 20.023 per cent, and Czechoslovakia for 79.977 per cent of debt. *Held* that Austria liable for interest due on or before July 16, 1920 (reference made to Henry Neugass award, see p. 235 *supra*). Interlocutory judgment will be entered for half of amount claimed.

Cross-reference: Am. J. Int. Law, vol. 22 (1928), pp. 698-699.

Bibliography: Prossinagg, p. 32; Bonyngé, p. 39.

This claim is asserted by the United States on behalf of Karl Klein, an American national through naturalization in 1906, against Austria for 384 German marks, the aggregate amount of thirty-two coupons detached from bonds acquired by claimant in the year 1916 and since owned by him. These coupons matured by their terms November 1, 1919, May 1, 1920, November 1, 1920, and May 1, 1921, so that ninety-six marks became payable on each of these four dates. The bonds from which the coupons were detached constitute a "portion of the debt of the former Austrian Government which is specifically secured on railways . . . and which was in existence on July 28, 1914" dealt with in article 203 of the Treaty of St. Germain. In pursuance of the provisions of that article the Reparation Commission decided that as from July 1, 1919, Austria should be held liable for 20.023 per cent of this debt and Czechoslovakia for 79.977 per cent thereof.

The Austrian Agent contends that Austria is not liable for coupons maturing on or after July 1, 1919; while the American Agent contends that so far as American-owned bonds are concerned Austria is liable for all interest which matured on or before July 2, 1921, when the state of war came to an end.

For the reasons set out in the opinion of this Commission of January 6, 1928, in docket No. 1147, Henry Neugass, claimant, and in the decision of the Anglo-Hungarian Mixed Arbitral Tribunal in the case of the North British and Mercantile Insurance Company, Limited, *v.* the Hungarian Government, III Dec. M. A. T. 788 *et seq.*, and in the decision of the Anglo-Austrian Mixed Arbitral Tribunal in the case of the North British and Mercantile Insurance Company, Limited, *v.* the Austrian Government, IV Dec. M. A. T. 292 *et seq.*, the Commissioner holds that Austria is liable as for a debt on each of the coupons which matured on or before July 16, 1920, the date of the coming into force of the Treaty of St. Germain, but not liable for the coupons which matured subsequent to that date.

It follows that the United States on behalf of the claimant herein is entitled to an interlocutory judgment against Austria for 192 German marks, which will be entered in accordance with the rules of procedure announced in Administrative Decision No. II at page 35.¹ This judgment will decree the dismissal of the balance of the claim, amounting to 192 German marks.

Leave is hereby granted the American Agent to withdraw from the record herein all coupons which matured subsequent to July 16, 1920, in order that

¹ This volume, p. 227 *supra*.

they may be returned to the claimant, who may desire to present them to the Succession States liable therefor under the terms of the Treaty of St. Germain.

ANTON PENTZ (UNITED STATES) *v.* AUSTRIA, HUNGARY, AND
AUSTRO-HUNGARIAN BANK

(*March 28, 1928. Pages 62-66.*)

JURISDICTION.—DEBTS: EVIDENCE, CURRENCY NOTES.—DUAL NATIONALITY, LIQUIDATION OF AUSTRO-HUNGARIAN BANK. Acquisition in 1914 of currency notes issued by Austro-Hungarian Bank. *Held* that claim against Austria (Hungary) for value of notes converted into American currency at pre-war rate of exchange falls outside terms of Treaty of Vienna (Budapest), article 206 (189) thereof and the annex following it making express provision for liquidation of Austro-Hungarian Bank, which was legal entity possessing dual nationality, and special and exclusive provision for payment of its notes, which are no evidence of "debts" as term is used in Treaty.

Cross-reference: Am. J. Int. Law, vol. 22 (1928), pp. 699-702.

Bibliography: Prossinagg, p. 25; Bonyngé, p. 35.

This is one of a group of cases put forward by the United States on behalf of American nationals who seek awards against Austria [Hungary] for the value of currency notes issued by the Austro-Hungarian Bank. From the record in this particular case it appears that the claimant, Anton Pentz, an American national by naturalization, sold property in Hungary in 1914 and in payment therefor came into possession of Austro-Hungarian Bank currency notes aggregating in amount 4,050 kronen which have since been in his possession and ownership, and for which, converted into American currency at the rate of exchange in effect in 1914, an award is sought.

The Commissioner holds that the Treaties of Vienna and of Budapest contain no warrant for entering an award on behalf of the claimant. The reasons for this holding can best be stated by briefly reviewing the provisions of the Treaties dealing with the Austro-Hungarian Bank and the measures taken in pursuance thereof looking to its liquidation.

The Austro-Hungarian Bank was a private stock company constituted in pursuance of a statute of Austria and a similar statute of Hungary. It possessed a legal exclusive right to issue banknotes for both countries, each of which exercised equal supervision over it. The last concession granted to it by the two Governments was for a term of years to expire December 31, 1919.

The by-laws of the bank obligated it "to redeem immediately on demand at its head offices at Vienna and Budapest, against legal coin of Austrian or Hungarian coinage, the notes issued by it". This provision of the by-laws, however, was, by the statutes of both Austria and Hungary, "suspended for such time until they come into force in accordance with the provisions of article V of the Austrian law and paragraph V of the Hungarian law, respectively, concerning the prolongation of the license of the Austro-Hungarian Bank, or shall be made valid by the legislatures of both States" (Imperial Law Gazette, 1911, No. 157, and 1917, No. 513). The provision requiring redemption of these currency notes remained suspended, although prior to the war the bank in practice maintained these notes at a parity with gold.

The Commissioner finds that the Austro-Hungarian Bank was a legal entity possessing a dual nationality and was both an Austrian national and a Hun-