

# **REPORTS OF INTERNATIONAL ARBITRAL AWARDS**

---

## **RECUEIL DES SENTENCES ARBITRALES**

**Louis Zecchetto (United States) v. Austria and Hungary**

11 July 1928

VOLUME VI pp. 259-260



NATIONS UNIES - UNITED NATIONS  
Copyright (c) 2006

States will then on his behalf demand that your Government pay damages for its failure to give to him now the recognition to which he is not entitled.

The purpose of the statute is to deny the protection due an American citizen to one against whom an un rebutted presumption of expatriation has arisen. That purpose would be defeated if claimant could, subsequent to the events forming the basis of a claim, overcome the presumption, and then as an American citizen demand and receive compensation as damages resulting from acts against which he was not entitled to protection.

The nationality of the claim here asserted is determined by the status of claimant's citizenship at the time the claim arose, and as at that time the claimant was not entitled to and was expressly denied recognition and protection as an American citizen the claim cannot be impressed with American nationality through the subsequent acts of claimant, even should such acts operating prospectively be held to overcome the legal presumption which the statute had raised against him. His citizenship, as determined by the statutory rule then in effect, and all of his rights dependent thereon were permanently impressed upon the claim here asserted, and the nationality thereof cannot be affected by claimant's subsequent acts.

On the record submitted the Commissioner holds that throughout the material period claimant was not entitled to recognition or protection as an American citizen; that because of his then status the competent authorities, designated to act for the United States in dealing with him and others similarly situated, expressly declined then to recognize him as an American citizen or to interpose then to obtain his release from military service in the Austro-Hungarian army; that on claimant's behalf the Government of the United States cannot now complain that the Austrian authorities then pursued a like course and declined to recognize claimant as an American citizen; and that this claim, based on enforced military service by claimant, who at the time had presumptively ceased to be an American citizen, is not one which from its inception was impressed with American nationality, and hence does not fall within the terms of the Treaties of Vienna and of Budapest.

For the reasons stated the Commission decrees that neither the Government of Austria nor the Government of Hungary is obligated under the Treaty of Vienna or of Budapest to pay to the Government of the United States any amount on behalf of Henry Rothmann, claimant herein.

---

LOUIS ZECCHETTO (UNITED STATES) *v.* AUSTRIA AND HUNGARY  
(July 11, 1928. Pages 87-88.)

---

NATIONALITY OF CLAIM.—NATIONALITY AND RIGHT TO PROTECTION.—NATURALIZATION: EXPATRIATION, EFFECT OF RETURN TO ADOPTED COUNTRY.—INTERPRETATION OF MUNICIPAL LAW. Naturalization of claimant, Italian by birth, as United States citizen on April 14, 1902. Return to Italy not later than 1914. Purchase on September 5, 1916, of real property in Italy. Alleged damage caused by Austro-Hungarian troops on November 11-21, 1918. Return to United States after 1918 to reside. *Held* that claimant failed to prove that his claim on account of damage, if any he ever had, was impressed with American nationality at time it arose (reference made to Henry Rothmann award, p. 253 *supra*). Claim disallowed.

This claim is put forward on behalf of Louis Zecchetto as a naturalized citizen of the United States to recover the sum of \$10,904.00 against Austria

and Hungary on account of damages alleged to have resulted from the occupancy of claimant's lands and three houses located in Italy and the seizure of claimant's livestock and personal property by the Austro-Hungarian army.

From the meager record submitted it appears:

(1) That claimant, a native of Italy, became through naturalization a citizen of the United States on April 14, 1902.

(2) Thereafter he returned to Italy. The date of his return is not disclosed by the record, but it is apparent that he was living in Italy in 1914.

(3) On September 5, 1916, he purchased 17 acres of land in the town of Annone Veneto, Italy, upon which were located three houses. Claimant with his wife and children resided on this property as did also claimant's aged parents. There appears to have been a vineyard located on the property and it was well stocked with poultry.

(4) It is alleged that the Austro-Hungarian army occupied and damaged these premises and confiscated livestock, poultry, feed, wine, and other personal property belonging to claimant. The only statement in the record with respect to the time the acts complained of occurred is that "it was in the latter part of November 1918, that is, from the 11th to the 21st of November".

(5) From the record it appears that the Austro-Hungarian troops occupying the Italian territory began a hasty retreat on October 29, 1918, so that when the Armistice of November 3, 1918, was signed no Austro-Hungarian troops remained on Italian territory save those who had been taken prisoners by the pursuing Italian armies.

(6) At some time after 1918 not disclosed by the record claimant returned to the United States to reside.

On the record submitted the Commissioner holds that the claimant has failed to discharge the burden resting upon him to prove that his property was appropriated or damaged by Austro-Hungarian troops or that he was otherwise damaged as a consequence of hostilities or of any operations of war bringing his claim within the terms of the Treaty of Vienna or the Treaty of Budapest.

For the reasons set forth in the opinion this day handed down in the case of Henry Rothmann, claimant, docket No. 8, the Commissioner further holds that the claimant has failed to prove that his claim, if any he ever had, was impressed with American nationality at the time it arose.

Wherefore the Commission decrees that neither the Government of Austria nor the Government of Hungary is obligated under the Treaty of Vienna or of Budapest to pay to the Government of the United States any amount on behalf of Louis Zecchetto, claimant herein.

---

LOUIS JOHN HOIS (UNITED STATES) *v.* AUSTRIA AND WIENER  
BANK-VEREIN

(July 24, 1928. Pages 37-45.)

---

DEBTS, APPLICABLE LAW, *LEX LOCI SOLUTIONIS*. INTERPRETATION OF MUNICIPAL LAW.—DISCHARGE OF DEBT: EFFECT OF COURT DEPOSIT, LEGAL TENDER.—INTERPRETATION OF CONTRACTS: INTENTION OF PARTIES.—INTERPRETATION OF TREATIES: CLEAR LANGUAGE. General checking account, established by claimant on August 15, 1916, with Vienna bank. Conditions *inter alia*: (1) right of bank to cancel account at any time; (2) place of performance: Vienna; (3) applicability of Austrian law. Offer by bank on October 24, 1919, to repay pre-war credit balance. Failure of claimant to reply. Court