

REPORTS OF INTERNATIONAL ARBITRAL AWARDS

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Harald Waldemar von Campen (United States) v. Austria

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kronen, and (i) that this claim became impressed with American nationality on July 24, 1919.

Final judgment in this case is reserved.

HUGO DYLLA (UNITED STATES) *v.* AUSTRIA; JOHN SZANTO AND
SZEKELY VARGA KATALIN SZANTO *v.* AUSTRIA; CHARLES
GASPER (UNITED STATES) *v.* AUSTRIA

(March 22, 1929. Pages 104-105.)

BONDED PUBLIC DEBTS: COLLECTION OF INTEREST COUPONS.—EVIDENCE: BURDEN OF PROOF. Purchase of Austrian War Loan bonds through American and Austrian banks. Understanding, acquiesced in by claimants, that bonds shall be held, interest coupons shall be collected, and proceeds shall be placed, by Austrian bank in deposit of American banks. *Held* that claimants failed to prove existence of debts due by Austrian national.

Bibliography: Prossinagg, p. 42.

In each of these three cases the bonds involved were purchased by the claimant through American bankers from the impleaded Austrian debtor.¹ The impleaded debtor was notified that the bonds had been subscribed for account of the claimant but notified the claimant in writing that the bonds would be held by it in the deposit of the American banker, the latter being "the only one who may dispose of the subscribed War Loan". So far as appears from the records the claimant in each case acquiesced in this arrangement, and the bonds continued to be held by the impleaded debtor in the deposit of the American banker. When the coupons matured they were collected by the impleaded debtor and the proceeds placed to the credit of the American banker, which was in accordance with the understanding, acquiesced in by the claimant, that the bonds (and hence the interest thereon) should remain with the impleaded debtor in the deposit of the American banker. These cases are distinguishable from the Zohrer case (docket No. 1083-A)² in that in each of these cases the claimant was not entitled to receive the interest payments on the bonds save through the American banker through whom the bonds were purchased. The claimant in each case has failed to discharge the burden resting on him to establish a debt due him by an Austrian national. The cases are dismissed.

HARALD WALDEMAR VON CAMPEN (UNITED STATES) *v.* AUSTRIA

(March 22, 1929. Pages 105-106.)

JURISDICTION: DEBTS, EXCEPTIONAL WAR MEASURES.—DEPRECIATION OF SECURITIES, CURRENCY NOTES.—EVIDENCE: BURDEN OF PROOF. *Held* that alleged indebtedness to claimant of claimant's brother, a Danish national, alleged payment by the latter with depreciated securities and currency notes

¹ Wiener Bank-Verein, Budapest Branch.

² See p. 272 *supra*.

made after the United States entered war, and alleged exceptional war measures against claimant's brother and his property fall outside jurisdiction of Commission, and that claimant, therefore, failed to prove existence of claim within terms of Treaty of Vienna.

The debt on which this claim is based represents the proceeds of the sale of real estate located in Austria the legal title to which was in claimant's brother, a Danish national. The claimant asserts that the equitable title in this real estate was in him. Under the laws of Austria the claimant could not have enforced as against his brother any claim or interest in this real estate or the proceeds thereof. Claimant's brother, however, admits that he was indebted to the claimant to the amount of the proceeds received by him for this real estate but asserts that he has discharged this indebtedness by payments already made to the claimant and by depreciated currency and securities which he has set aside and holds for claimant's account.

The indebtedness declared upon by claimant was an indebtedness due him by a Danish national and therefore not within the jurisdiction of the Commission. The securities and currency notes which claimant now holds were acquired by him from his brother after the United States entered the war and therefore not within the jurisdiction of the Commission. The alleged exceptional war measures, if they were such, were taken against claimant's brother and his property and not against the claimant or his property. On the record submitted, giving the claimant the benefit of every doubt, the facts do not bring the claim within the jurisdiction of this Commission. The claim is dismissed on the ground that the claimant has failed to discharge the burden resting on him to establish facts bringing his claim within the terms of the Treaty of Vienna.

CAMILLA SHORT (UNITED STATES) *v.* AUSTRIA AND HUNGARY

(*March 29, 1929. Pages 106-107.*)

BONDED PUBLIC DEBTS: COLLECTION OF INTEREST COUPONS.—EVIDENCE: BURDEN OF PROOF, AFFIDAVITS OF CLAIMANT AND HUSBAND.—NATIONALITY OF CLAIM. *Held* that from affidavits of claimant and husband it appears that until January, 1920, claimant's mother, an Austrian national, entitled to proceeds of interest coupons of bonds Austrian "unified public debt" owned by claimant, and that claimant, therefore, failed to prove that during period of belligerency of United States claim was or became impressed with American nationality.

From the meager record in this case it appears that the claimant inherited from her father, an Austrian national, certain bonds issued by Austria, known as Unified Public Debt bonds, which have been held by her for some 25 years, and that these bonds were deposited in the Austro-Hungarian Bank in Vienna in a trust fund, the interest thereon to be paid to the claimant's mother, Countess Hoyos, during her lifetime. The instrument creating this trust fund is not in the record and its terms are not disclosed. It is apparent from the affidavit of the claimant and the later affidavit of her husband, Charles W. Short, that the claimant's mother had and claimed the right to receive the proceeds of the interest coupons, which right she undertook in January, 1920, to relinquish to the claimant. The record indicates that the claimant and her husband are at least morally obligated to claimant's mother for all amounts which claimant