

MAX FOX (UNITED STATES) *v.* AUSTRIA AND HUNGARY

*(May 25, 1928. Pages 73-74.)*

This claim is put forward by the United States on behalf of Max Fox (formerly Fuchsbalg) to recover damages alleged to have been sustained by him growing out of enforced military service in the Austro-Hungarian army.

The claimant was born in the United States May, 1, 1896, of Hungarian parents. When claimant was some three years of age he returned with his parents to Hungary, where his mother died and where he continued to live with relatives after his father (who remained an Hungarian national until 1923 at least) returned to the United States. After attending the schools he entered the employ of a bank about 1912 and continued his studies in a college. At the outbreak of the European war he was enrolled for military duty. He claims that he protested that he was an American citizen and not subject to military services in the Austro-Hungarian army, but beginning with May, 1915, was compelled to render such service. The representatives of the Government of the United States in Hungary interested themselves in claimant's application for relief from service but the application was denied. In October, 1916, as a result of a flesh wound, he was in a hospital for several months. He was promoted to the rank of lieutenant and continued in the active service until the Armistice was signed. He returned to the United States in 1920 and has since remained there.

While he took an oath of allegiance to the Emperor of Austria and King of Hungary, he claims that this was under duress. While controverted, for the purposes of this decision the truth of his statement is assumed.

The facts in this case are very similar to those in the case of Alexander Tellech, claimant, docket No. 2, this day decided. For the reasons therein set out neither Austria nor Hungary is obligated to make compensation on account of the damages alleged to have been sustained by claimant.

Wherefore the Commission decrees that under the Treaty of Vienna and the Treaty of Budapest the Government of Austria and the Government of Hungary are not obligated to pay to the Government of the United States any amount on behalf of the claimant herein.

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