

ALEXANDER TELLECH (UNITED STATES) *v.* AUSTRIA AND
HUNGARY

(May 25, 1928. Pages 71-73.)

This claim is put forward by the United States on behalf of Alexander Tellech for compensation for time lost and for alleged suffering and privation to which he was subjected, first through internment in Austria, and then through enforced military service in the Austro-Hungarian army. The claimant was born in the United States of Austrian parents on May 14, 1895. Under the Constitution and laws of the United States he was by birth an American national. Under

the laws of Austria he also possessed Austrian nationality by parentage. This created a conflict in citizenship, frequently described as "dual nationality". When the claimant was five years of age he accompanied his parents to Austria, where he continued to reside.

In August, 1914, the claimant, while residing in Austria a short distance from the Russian border, was subjected to preventive arrest as an agitator engaged in propaganda in favor of Russia. After investigation he was interned and confined in internment camps for 16 months. He then took the oath of allegiance to the Emperor of Austria and King of Hungary and was impressed into service in the Austro-Hungarian army. A decision of the sharply controverted claim that this oath was taken under duress and that he protested that he was an American citizen is not necessary to a disposition of this case. It appears that in 1915 and later representatives of the Government of the United States in Austria interested themselves in securing his release, but the application was denied.

In July, 1916, the claimant deserted from the Austro-Hungarian army and escaped into Russia, where he was arrested and held by the Russian army authorities as a prisoner of war until the outbreak of the Kerensky revolution, when he was released and thereupon returned to Prague, where he still lives and where he is practicing medicine.

The action taken by the Austrian civil authorities in the exercise of their police powers and by the Austro-Hungarian military authorities, of which complaint is made, was taken in Austria, where claimant was voluntarily residing, against claimant as an Austrian citizen. Citizenship is determined by rules prescribed by municipal law. Under the law of Austria, to which claimant had voluntarily subjected himself, he was an Austrian citizen. The Austrian and the Austro-Hungarian authorities were well within their rights in dealing with him as such. Possessing, as he did dual nationality, he voluntarily took the risk incident to residing in Austrian territory and subjecting himself to the duties and obligations of an Austrian citizen arising under the municipal laws of Austria.

Assuming that the claimant suffered the loss and injury alleged and had not lost his American citizenship by taking the Austrian Army oath, the Commissioner finds no provision of the Treaty of Vienna or of Budapest obligating Austria and/or Hungary to make compensation therefor.

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.
