

HENRY HOWARD ELLISON, WILLIAM RODMAN ELLISON, AND
HENRY HOWARD ELLISON, Jr., AMERICAN PARTNERS IN THE
LATE FIRM OF JOHN B. ELLISON & SONS (UNITED STATES) *v.*
AUSTRIA AND LEOPOLD KURANDA

(March 22, 1929. Pages 101-102.)

This claim is put forward by the United States on behalf of claimants, American nationals, against Austria and Leopold Kuranda, impleaded Austrian debtor, asserting an indebtedness to claimants by Kuranda due and owing prior to December 7, 1917, which has never been paid.

The American and Austrian Agents agree that on February 11, 1918, Kuranda died, leaving no assets and no heirs or legal successor or successors.

It follows that subsequent to his death and on the coming into effect of the Treaty of Vienna there was no Austrian national indebted to the claimants and no debt due and owing by an Austrian national to the claimants. In these circumstances the asserted claim does not fall within the terms of the Treaty of Vienna.¹

The rules invoked on behalf of the claimants, which are incorporated in Administrative Decision No. II of this Commission, apply to questions of nationality and of residence of claimant creditors and impleaded debtors. They are not applicable here where the question presented turns on the existence of a debt due and owing by an Austrian national to the claimants at the time of the coming into force of the Treaty creating rights on behalf of the claimants which had no prior existence.

The Commissioner holds that the claimants have failed to discharge the burden resting on them to prove the existence of a debt falling within the terms of the Treaty of Vienna and the claim is dismissed.
