

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

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

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.

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