In the foregoing we have outlined the arrangements made by Hungary, exerting herself to the utmost, to settle the problem of foreign debts. These arrangements were dictated by necessity, and their object had been to place temporary restrictions upon payments in order to be able to offer to creditors, pending the improvement of the economic situation, the maximum they can expect in the given circumstances, if the interests of creditors as well as debtors are to be regarded alike. It should not be forgotten that Hungarian Law, which had been built upon the classic foundation of respect for acquired rights, only departed from its traditional principle under duress, and only to such an extent and to such limits as seemed unavoidable.

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Rates of exchange to be applied when discharging debts in foreign currency.

Our legal rules, when determining the rate of exchange to be applied in discharging debts contracted in foreign currency (but without the gold-clause) differ as to the date of such rates according to the nature of the transaction underlying the claim.

I. In *commercial matters,* unless payment in actual foreign currency had been stipulated, creditors may acording to the Commercial Code only claim the Pengoe equivalent of the foreign currency amount, to be converted at the rate quoted on the *day of maturity* (though debtors are also entitled to pay in foreign currency).

II. The *Bill of Exchange* Act also discriminates as to whether or not payment in actual foreign currency has been stipulated by the drawer of a bill. In the latter case, the creditor may only claim the Pengoe equivalent of the foreign currency, but the debtor is entitled to make the payment in the stipulated foreign currency as well. According to the practice invariably followed by our Courts the rate to be applied to the conversion is that *quoted last prior to the day of maturity.*

If payment in actual foreign currency has been stipulated debtors can, in cases of commercial matters as well as of Bills of Exchange, only discharge their debt by a payment in the foreign currency concerned. Under normal conditions creditors as a rule accept the Pengoe equivalent

at the rate prevailing on the *day of payment,* which can easily be changed into foreign currency.

III. In *civil matters* this question is not governed by legal rules of general applicability, but two maxims of our Civil Law are of great importance. On the one hand, in civil matters less significance is attributed to the stipulation of payment in actual foreign currency than in commercial matters and in cases of Bills of Exchange, and on the other the conversion is based upon the rate prevailing on the *day of payment.*

According, namely, to Decision No. 768 of the Supreme Court, passed in a civil matter, the creditor must recover as much value (in Pengoes), as if he had received foreign currency, even if payment in actual foreign currency was not stipulated. This purpose, however, can only be attained by the debtor paying at the rate quoted on the *day of payment.*

Furthermore, in the event of a sale by auction of real estate — typical instance of legal relations governed by the Civil Law — any mortgage debt expressed in terms of some foreign currency must be converted into Pengoes at the rate prevailing *at the time* when the allotment or the actual payment of the proceeds takes place irrespective of whether or not payment in actual foreign currency had been stipulated and recorded in the Land Register.

Our Code of Civil Law under preparation also neutralises the difference between debts with or without the aforesaid stipulation by providing that the rate quoted *at the time of payment* always must be taken as a basis. The significance of that stipulation will thus be limited to the *mode* of fulfilment.

IV. In normal times the above described discordance of our legal rules did not cause much trouble, but international conflicts or financial crises, involving considerable dislocations in the rates of foreign exchanges, lent an increased importance to the date of the quotation to be applied. Nor did *our Courts,* when settling sharp controversies between creditors and debtors, restrict themselves to interpreting the wording of the Law, but always endeavoured to adapt themselves to the given economic and financial situation. This is the reason why the jurisdiction of recent decades does not present an uniform aspect: as against the plain terms of the Law sometimes the day of maturity, and sometimes the day of payment has been taken as a basis, according to the fluctuations of the rates of exchange.

Although the value of the Hungarian legal tender (the Krone) rapidly and boundlessly deteriorated during the years 1919—1923, in the absence of a stipulation of payment in actual foreign currency our Courts consistently adhered to the text of the Law and took as guide the rate obtaining on the *day of maturity.*

The introduction and stabilisation of the new Hungarian currency (the Pengoe) has for almost a decade deprived this question of its significance.

However, the temporary closing of banks and the restriction upon dealings in foreign exchanges instituted in 1931 changed the practice of the Courts hitherto followed, in that, chiefly under the influence of Decision No. 768, the rate prevailing on the *day of payment* has been taken as a basis for the conversion in commercial matters and in cases of Bills of Exchange also.

Quite recently, when the tables were again turned, and the currencies, in which, on account of their stability, debts had been expressed (Pound Sterling, Dollar etc.), suffered considerable depreciations of their par values, we meet in the decisions of the Courts more and more frequently with the reasoning that defaulting debtors must re-establish the *status quo* and make full compensation in effecting payment at the higher rate quoted on the *day of maturity.*

This wavering of the practice followed by the Courts is by no means due to a legal insecurity, but rather to a recognition of the fundamental truth that creditors should in any circumstances recover the values credited by them without any loss on the exchange.

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The Hungarian Law of Insolvency.

The first systematic Hungarian Bankruptcy Act was enacted in 1840, whereas the law, at present in force, was embodied in the Act XVII of 1881. When preparing it, the German Bankruptcy Bill published in 1873 had been taken as a model, and the construction of our Bankruptcy Act, in respect both of substantive law and the law of procedure, was based upon the dispositions of the German Bankruptcy Act.

The Hungarian Bankruptcy Act has not changed essentially since 1881. No serious objection can be raised to its legal structure, in the first place to its dispositions touching upon substantive law. The position, however, is different