

regard to like cases where British subjects are concerned: see Wheaton's International Law, s. 301; but, in order that the government may have a free hand, it seems desirable that the judiciary should refrain from assuming that the Crown will, or will not, take any particular line of action, and on all such applications should require the Crown to be notified. Under the former practice at law there might have been some technical difficulty in the way of doing this, but under our present system of procedure there seems to be none.

By attainder all the personal property and rights of action in respect of property accruing to the party attainted, either before, or after, attainder, are vested in the Crown without office found, and, therefore, attainder may be pleaded in bar to an action on a bill of exchange, but not in respect of a claim for uncertain damages: *Bullock & Dodson*, 2 B. & A. 258: and the same rule would seem applicable in the case of an alien enemy, except in so far as the rule has been, or may hereafter be, modified by statute, or International law.

In a recent case in Ontario, of *Luczycki v. Spanish River Pulp Co.*, 9 O.W.N. 136, which was an action by an alien enemy to recover damages for tort alleged to have been committed before the present war commenced, the learned Chancellor held that the action ought not to be dismissed because the right of action was merely suspended by reason of the war, and, therefore, the objection of alien enemy was in that case in the nature of a merely dilatory plea, and not a bar to the action. This ruling appears to accord with what is said in Bacon's Abridgmt. and Comyn's Dig., *supra*: but where the action is for unliquidated damages it might probably sometimes be more in the interest of the Crown that the action should be allowed to proceed. The payment of any judgment recovered in the action would, by the statutes, and Orders in Council, be suspended during the war, and it would be open to the Crown, if it should see fit, to confiscate the judgment: whereas, if the action is suspended till after the conclusion of peace, this right of confiscation would be lost.

From what has been said, we conclude that where an action