

Court during war. But this rule is always stated with an exception. In *Wells v. Williams*, 1 *Ld. Raym.* 282, 1 *Salk*, 46, Sir George Treby, Chief Justice of the Common Pleas (temp. Wm. III.) said: "An alien enemy who is here in protection may sue his bond or contract." And in the oft-quoted case of *The Hoop* (1799), 1 *C. Rob.* 196, Sir William Scott laid it down that, even in British Courts, by the law of nations, "no man can sue therein who is a subject of the enemy unless under particular circumstances, that, *pro hac vice*, discharge him from the character of an enemy, such as his coming under a flag of truce, a cartel, a pass, or some other act of public authority that puts him in the King's peace *pro hac vice*. But otherwise he is totally *exlex*."

This exception is recognised in more modern time by Sir Alexander Cockburn, L.C.J., in his work on *Nationality* (1869), p. 150: "An alien enemy has no civil rights in this country, unless he is here under a safe conduct or license from the Crown. In modern times, however, on declaring war, the Sovereign usually, in the proclamation of war, qualifies it by permitting the subjects of the enemy resident here to continue, so long as they peaceably demean themselves; and without doubt such persons are to be deemed alien friends."

But to the enjoyment of this privilege important qualifications are annexed. One is that the alien enemy must shew himself possessed of what amounts to such a license: *Esposito v. Bowden* (1857), 7 *E. & B.* 762, 763. And, further, if the license be a general one, the alien enemy may be prevented from asserting it. In *Sparenburg v. Bannatyne* (1797), 1 *B. & P.* 163, at p. 170, Eyre, C.J., says: "I take the true ground upon which a plea of alien enemy has been allowed is that a man professing himself hostile to this country and in a state of war with it cannot be heard if he sue for the benefit and protection of our laws in the Courts of this country."

The Crown has, by Royal Proclamation dated on the 15th August, 1914, directed: "That all persons in Canada of German or Austro-Hungarian nationality, so long as they quietly pursue their ordinary avocations, be allowed to continue to enjoy the protection of the law and be accorded the respect and consideration due to peaceful and law-abiding citizens; and that they be not arrested, detained, or interfered with, unless there is reasonable ground to believe that they are engaged in espionage, or engaging or attempting to engage in acts of a hostile nature, or are giving or attempting to give information to the enemy, or unless they otherwise contravene any law, order in council, or proclamation."