

right of confiscation of the property of an alien enemy does not now exist at Law, some statute would be necessary to relieve alien enemies from the penalties and disabilities which the Common Law imposed on them, and we are not aware of any statute which does so.

It would, therefore, seem that, as a matter of strict law, all the property, and rights of action in respect of property, of alien enemies within the King's Dominions, are liable to forfeiture, subject to the modification of International law, that if the forfeiture is not actually enforced, on the restoration of peace, the alien's rights will revive.

If this be the legal aspect of the matter, it would seem to rest entirely with the executive of a nation whether or not the forfeiture of enemy's property shall, or shall not, be exacted, and it, therefore, may be open to question whether the judiciary can properly assume as a matter of course that such forfeiture will, in any case, much less in all cases, be waived.

This seems to have an important bearing on the proper course to be pursued where the objection of alien enemy is set up as a bar to the further prosecution of an action. Such an objection, as we have seen from what was said *In re Boussmaker, supra*, is not intended to benefit third parties or the defendant in the action. It was really originally founded on the fact that the right had become vested in the Crown, and even now the Crown is interested, and entitled, if it sees fit, to possess itself of the alien enemy's rights. The question of what the Courts should do in the case of an objection of alien enemy being raised does not, therefore, appear to be a private question concerning merely the parties to the action; and it does not seem proper, in such circumstances, that the question should be dealt with, without notice to the Crown. It is for the Crown to say whether it will, or will not, exact a forfeiture; and that is a matter a Court of Law cannot deal with. Moreover, it is proper that the Crown should be informed of the cause of action in order that it may determine whether or not it is willing that the action should proceed. The action of the Crown would probably be governed more or less by what is done by the enemy's government in