

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."

In the present case the Court has no means of knowing whether this Proclamation, the terms of which are relied on as giving a right to maintain this action, covers this particular plaintiff. He may or may not be quietly pursuing his ordinary avocation, or he may be, for all that is before me, one of the class excluded by its subsequent provisions, or otherwise disentitled to take advantage of provisions intended for those who have resided here and engaged in business for some length of time. Nor am I at all sure that the Proclamation has the effect contended for. It appears to have been issued under sec. 6, sub-sec. (b), rather than under sub-secs. (e) and (f) of the War Measures Act, 1914, and may well refer only to police protection. It is not incumbent on the Court to make, still less to act upon, any presumption in favour of natives of either of the two nations now at war with the British Crown; and I think that every facility should be afforded for local inquiry, so that the Court should be fully informed as to whether or not the plaintiff is in fact entitled to set up the protection extended by the Crown under the wording of the Proclamation. Such an inquiry may properly be made at or before the trial, and may be called for at any time on motion; but, if pleadings had been delivered in this case, I should prefer to leave the questions both of fact and law to be determined when the case came up for trial, especially as recent English statutes and proclamations have not yet reached this country. But, as attention is pointedly called to it on this motion, and as the Crown has drawn a distinction between peaceable alien enemies and those who may be otherwise engaged, I think, at this early stage of the war, it will be proper to stay the action until the plaintiff satisfies the Court that it ought to allow him to proceed to trial, and there urge the contention that he is here under what amounts to a license sufficient to enable him to sue on such a cause of action as he is setting up.

Reference to recent discussions in the English law periodicals and to the report of an expert committee of the London Chamber of Commerce in August may be of use in finally determining the extent of the Proclamation and the scope of its provisions.

The injunction will be dissolved and the action stayed meantime, with leave to apply on notice to a Judge of the High Court Division to permit the action to proceed after time has been given