

handle, or a handle of some non-conducting material, so that the light could be safely carried. Then the screen or cage which protected the lamp against breaking in case of a fall was no protection to the workmen. These wires, as in the present case, would, in case of leakage of electricity, become charged, and there was negligence in not having these covering wires insulated, or in not having a covering over or in place of wires as at present. No difficulty exists in having protection to render the portable lamp reasonably safe for persons carrying it.

Upon cross-examination of the widow, one of the plaintiffs, she stated that she was born in Hungary; and so it was argued that, as an alien enemy, belonging to a country with which Canada is at war, she could not maintain this action. About 7 or 8 years ago, the deceased, with his wife, one infant son and an infant daughter, left Hungary and went to the United States. Shortly before the accident, the deceased, with his wife and children, came to Canada, apparently with the intention of making Canada his permanent place of residence. The death occurred, and this action was commenced, before war was declared, and I am of opinion that the plaintiffs are entitled to enforce their claim in our Courts.

In the very recent case of *Princess of Thurn and Taxis v. Moffitt*, [1914] W.N. 379, Mr. Justice Sargant said that there appeared to be a general impression that during the continuance of a state of war an alien enemy as such was not entitled to any relief as a plaintiff in the Courts of this country; but, in his Lordship's opinion, that proposition was too widely stated, and did not apply to a person in the position of the plaintiff in that case.

In Hall's *International Law*, 6th ed., p. 388, it is said: "When persons are allowed to remain either for a specified time after the commencement of war or during good behaviour they are exonerated from the disabilities of enemies, for such time as they in fact stay, and they are placed in the same position as other foreigners, except that they cannot carry on a direct trade in their own or other enemies' vessels, with the enemy country." See *Wells v. Williams* (1697), 1 Salk. 46.

The plaintiffs are within the proclamation of the Governor-General of Canada of the 13th August, 1914. This Proclamation, after reciting that there are many immigrants of Austro-Hungarian nationality quietly pursuing their usual avocations in various parts of Canada, and it is desirable that such persons should continue in such avocations without interruption, is as