

every one that in the stress and danger to the life of any nation in war, the Courts should be exceeding careful not to hamper the actions of those especially charged with the safety of the nation; careful, among other things, not to take up the time and attention of those who should be fighting the enemy in the field, in fighting law-suits in the law-courts over private rights. It is not a time when the prisoner is to have the benefit of the doubt; it is a time when in all things, great and small, the country must have every possible advantage: when it must be the general safety first in all things always; until the final victory is won; even though individuals may suffer meanwhile. Private wrongs can be righted then: while final defeat would not only prevent that but bring untold disasters to all.

It may be that the prisoner is a British subject, and if so, under the law as it now stands, his imprisonment is unlawful; but, being detained as he alleges he is, "as an alien enemy, or upon suspicion that he is an alien enemy," he cannot "be released upon bail, or otherwise discharged, or tried, without the consent of the Minister of Justice:" the Parliament of Canada has so decreed in its War Measures' enactment, and decreed it "for the security, defence, peace, order, and welfare of Canada:" and it is the duty of the Courts to give full effect to that enactment: to attempt to whittle it down, or to evade its provisions in any respect, would be inexcusable, even in a hard case; which, I feel bound to say, this case does not appear to me to be: the prisoner, according to his own statement, made, at his own urgent request, in open Court, is an Austrian—Viennese—by birth: a resident in Canada for about 8 years: the husband of a Canadian wife, and the father of several children by her, all born in Canada, where his marriage took place: a British subject since the year 1910, when he became naturalised through proceedings in one of the Courts of General Sessions of this Province: arrested recently when seeking work at his trade of brick-layer, on, as he knew, forbidden grounds; and held as a prisoner of war ever since.

Whether he is in law a British subject may depend upon several questions of law and fact—for instance: whether the certificate of naturalisation on which he relies is a genuine one; whether it was obtained by fraud or is for any other reason invalid: whether naturalisation under the former laws of Canada, as distinguished from those passed last year, take the man out of the category of an alien enemy, or are confined to property and civil rights in Canada other than that in question: whether, in short,