

tion under that Act, if it appears that the applicants are alien enemies, may be refused upon the Judge's own initiative, though no opposition has been filed and no objection offered.

The King v. Lynch, [1903] 1 K.B. 444, and *Porter v. Freudenberg*, [1915] 1 K.B. 857, followed; *In re Herzfeld* (1914), 46 Que. S.C. 281, disapproved.

M. A. Secord, K.C., for applicants. No one opposed the applicants.

ANNOTATION ON THE ABOVE CASE FROM D.L.R.

A declaration of war by a foreign country against a foreign power imports a prohibition of commercial intercourse with the subjects of that power: *Barrick v. Buba*, 2 C.B (N.S.) 563.

The national character of a trader is to be decided, for the purposes of the trade, by the national character of the place in which it is carried on. If a war breaks out, a foreign merchant carrying on trade in a belligerent country has a reasonable time allowed him for transferring himself and his property to another country. If he does not avail himself of the opportunity, he is to be treated, for the purposes of trade, as a subject of the power under whose dominion he carries it on, and as an enemy of those with whom that power is at war: *The Gerasimo*, 11 Moore P.C. 88.

Trading with an enemy without the King's license is illegal; and it is illegal for a subject in time of war, without the King's license, to bring even in a neutral ship goods from an enemy's port, which were purchased by his agents resident in the enemy's country, after the commencement of hostilities, although it may not appear that they were purchased from an enemy: *Potts v. Bell*, 2 Esp. 612.

Merchants, subjects of neutral states, resident in the territories of an ally, are, for the purposes of war, considered as domiciled in the territories of an ally, and prohibited from trade with a belligerent: *The San Spiridione*, 2 Jur. (n.s.) 1238.

Commerce by a person resident in an enemy's country, even as a representative of the Crown of this country, is illegal and the subject of prize, however beneficial to this country, unless authorized by license: *Ex p. Baglehole*, 18 Ves. 528; *McConnell v. Hector*, 3 Bos. & P. 113.

The character of an alien and a British subject cannot be united in one person: *Reg. v. Manning*, 2 Car. & K. 887.

The common law rule strictly limiting an alien enemy in his civil rights is now modified in his favour when he resides in this country by a license or under protection of the Crown: *Topay v. Crows Nest Pass Coal Co.*, 18 D.L.R. 784.

PROOF OF ALIENAGE.—To prove that a person was an alien enemy at the time of the action, it is not enough to shew that he was some time before domiciled in a territory which has become hostile, without shewing that he was a native of that territory: *Harman v. Kingston*, 3 Camp. 152.

The mere production of a passport found on a prisoner, which is proved