

JUDGE DISCUSSES STATUS OF CANADA

In Theory Citizens of Hostile Nations Are Prisoners Without Civil Rights

RIGHTS OF MERCHANTMEN

Their Conversion Into Men-of-War Balances Subsidies in Time of Peace

Quebec, Que., Aug. 8.—The exact status of Canada, now war has been declared, was explained by Mr. Justice Gervais, of the Provincial Court of Appeals, in the course of a chat at the Court House recently. His Lordship, as is known, has been for many years professor of international law at Laval University.

"Yes," said his Lordship, in reply to a question. "Canada is in a state of war ever since the proclamation which England addressed to Germany. When a sovereign state goes to war its dependencies and colonies become involved immediately.

"As to the status of citizens of hostile nations resident in Canada, they lose with the declaration of war whatever rights they have under the civil and the criminal law of Canada, and their position is determined by international law. According to theory, these resident subjects of a hostile power are entirely at the mercy of their enemies, both as regards their persons and their belongings. Losing their rights before the civil courts, they cannot, for example, enforce the payment of debts due by British subjects. Of course, the theory is not strictly applied in practice, but so far as the law goes, these non-combatants are our prisoners of war, and not only their goods but their lives are in our hands."

Regarding Merchantmen.

Asked for the legal view regarding the seizing of merchant ships by the British power and their conversion into men-of-war, his Lordship replied:

"This is quite natural. The British state has an absolute right in time of war, as well as in time of peace, under certain conditions, over all things belonging to her subjects. Especially in time of war, she has an absolute right to take possession of all the merchantmen of this kingdom, whether they belong to private individuals or to commercial companies.

"England signed the declaration of

Paris of 1856, under which "la course maritime," or the usage and employment of corsairs was abolished. Before that declaration every state had the right to employ privateers, who were employed by the King to make war upon his enemies, giving bonds to behave themselves according to International Law and to divide the proceeds of the profits with the state. That usage gave rise to many abuses, because sometimes under the mask of a corsair one found a pirate. Then all the states with the exception of one agreed to abolish the employment of corsairs.

Made a Poor Bargain.

"But the great naval powers, and especially England, found after that date that they had made a poor bargain, for the simple reason that after the war was declared, they could not use their numerous and powerful merchantmen. That is the reason why most of the states resorted to the conversion of the latter after the opening of war by taking possession of merchantmen and installing therein a marine officer, bearing the King's patent. Not only England, but all the other naval states have come to create after the opening of war, what are styled corsair fleets, and you now see the wisdom of that measure. Hence England to-day can make use for the purpose of war of all the merchantmen of her immense Empire.

No Hardship on Companies.

"On the other hand one must remember that the Britannic state has not placed any hardship upon any of the great commercial companies for the simple reason that she has been subsidizing them for years in time of peace, just for the purpose of being able in the case of war to use them without any recrimination on the part of the companies. On behalf of the owners, France has done the same with her great company, La Messagerie Marine; Germany has acted in the same way with regard to her North German-Lloyd and all other navigation companies.

"In a word, England by asking the C. P. R. Steamship Company and the Allan Line to put their ships at her disposal is merely doing what is perfectly legal, both from the point of view of the public laws of England and the international law of the world.

"As you see, the conversion of merchantmen into men of war, is very simple, since the Britannic state had only to replace the civil captain by a maritime officer, bearing the King's patent, that is, his commission, which implies the right to kill and to make war."