CHAPTER 36.

An Act to facilitate Legal Proceedings against Enemies in certain cases. [16th March 1915.]

A.D. 1915.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Provision with respect to writs issued against enemy in certain cases

1.—(1) Leave may be given to issue a writ of summons in the High Court for service on an enemy out of the jurisdiction or of which notice is to be given to an enemy out of the jurisdiction if the court or judge is satisfied that the case is a case to which this section applies, and the court or a judge may, on an application made at the time leave is so given or at any subsequent time, if satisfied that the writ cannot promptly be served or brought to the notice of the enemy defendant by any of the usual means, make an order (in this Act referred to as an enemy service order) directing substituted or other service of the writ or the substitution of notice for service by means of advertisement or otherwise; and on that order being complied with, all proceedings may be taken on the claim as if the writ had been served on the enemy defendant by the usual means.

(2) The Lord Chancellor may make such rules as he thinks fit for expediting proceedings and regulating procedure generally in a case where an enemy service order has been made and the enemy defendant does not appear; and any rules so made shall have effect as if they were included in the rules of court for the time being in force.

(3) The court or judge, where an enemy service order has been made and it appears not to be practicable to obtain the best evidence of any document which is, in the opinion of the court or judge, material to the case, may admit such other evidence thereof as appears proper in the circumstances.

(4) The court or judge shall have power, where an enemy service order has been made and the enemy defendant does not

A.D. 1915.

appear, to order the plaintiff, though successful, to pay the whole or any part of the costs of the proceedings, if the court or judge consider that it is just to do so in the special circumstances of the case.

(5) The fact that, for the purpose of obtaining the benefit of this section, a writ of summons has been indorsed only with a claim for a declaration in accordance therewith shall not prevent any other declaration or any consequential or other relief being claimed in other proceedings, or prevent the case being dealt with, although no such other declaration or consequential or other relief is claimed.

(6) This section applies to cases where—

(*a*) the plaintiff is a British subject and is entitled for the time being to bring an action in the High Court; and

(*b*) the defendant or one of the defendants is an enemy; and

(*c*) the writ is indorsed only with a claim for a declaration as to the effect of the present war on rights or liabilities of the plaintiff or defendant under a contract entered into before the outbreak thereof; and

(*d*) there is written evidence of the contract.

Interpretation.

2. For the purposes of this Act—

(*a*) the expression "enemy" means any persons or body of persons of whatever nationality resident or carrying on business in an enemy country, but does not include persons of enemy nationality who are neither resident nor carrying on business in an enemy country; and

(*b*) the expression "outbreak of war" shall, as respects any enemy, be construed as referring to the date of the outbreak of war with the enemy country in which the enemy is resident or carrying on business; and

(*c*) the expression "British subject" includes a corporation incorporated in His Majesty's Dominions.

Saving

3. Nothing in this Act shall prejudice or interfere with any powers of the court to give leave to issue a writ of summons or to adjourn, postpone, or otherwise deal with, any proceedings on any claim against an enemy, and the court or judge may, if it appears on any proceedings in a case where an enemy service order has been made that for any reason the case cannot properly be dealt with under this Act, dismiss the case, without prejudice to any subsequent proceedings in the same matter.

Application to Ireland.

4. In the application of this Act to Ireland the Lord Chancellor of Ireland shall be substituted for the Lord Chancellor.

Short title.

5.—(1) This Act may be cited as the Legal Proceedings against Enemies Act, 1915.

(2) This Act shall not apply to Scotland.

Printed by EYRE and SPOTTISWOODE, LTD.,
FOR
FREDERICK ATTERBURY, Esq., C.B., the King's Printer of Acts of Parliament.