necessary for carrying out the said Treaty and for giving effect to any of the provisions of the said Treaty."

(2) " Any Order in Council made under this Act . . . shall have effect as if enacted in this Act."

On August 10th, 1921, after the ratification of the Treaty of Trianon, an Order in Council was made, the Treaty of Peace (Hungary) Order, 1921, which, after reciting the Treaty of Trianon and the Treaty of Peace (Hungary) Act, 1921, ordered :—" (1) The sections of the Treaty set out in the Schedule to this Order shall have full force and effect as law." It further proceeded to make provisions for carrying out the sections. Included in the scheduled sections is Section IV, with Annex, including Clause 2, as set out above. The defendants maintain and the President has held that the terms of this clause bar the plaintiffs' claim. The plaintiffs contend that the Annex must be read subject to the general provisions of Article 232, which is expressed to cover property, rights and interests in an enemy country. The " Bathori," it is said, was sunk on the high seas, and was never for relevant purposes in the United Kingdom as an enemy country. Their Lordships, however, have no doubt that the plaintiffs' right, if any, to claim in prize before an English Prize Court would be property in England, and that Clause 2 operates to defeat this right of property. The plaintiffs thereupon further objected that they had, by virtue of the Treaty of Rapallo, made between Italy and Jugo-Slavia, and ratified by those two states and recognised by England before the Treaty of Trianon came into force, been divested of Hungarian nationality and had assumed the nationality of the independent state thereby established. The result was to prevent Article 2 from applying to them, for the article could only be intended to apply to those persons who were nationals of Hungary at the time the treaty came into force. No country could, it was said, be supposed to purport to surrender private rights of persons who were not within its protection at the moment of surrender. Such a surrender would be inoperative in international law, and the language of the treaty, however general, should be construed so as to limit its operation to cessions that could be validly made.

This contention gave rise to interesting arguments which involved the nationality of residents of Fiume at different dates after the war. It further raised the important question mentioned above as to the validity in international law of stipulations in treaties purporting to affect the private property of ex-nationals no longer nationals of the contracting states. In the opinion of their Lordships, it is unnecessary to decide these problems in the present dispute. Whether the plaintiffs were or were not Hungarian nationals at the effective date of the treaty, their Lordships have come to the conclusion that the clause in question plainly was intended to cover them. The treaty was the treaty of peace

between Hungary and the Allied Powers, and it appears reasonably clear that the intention of the parties was that for acts or omissions done to the property of Hungarian nationals during the war those nationals should have no redress whether they did or did not continue to be Hungarian nationals up to the date of the treaty. Whether for acts done before the acquisition of new nationality the new State can or will exercise protection, or whether the former State can exercise protection, may be debateable; but in the circumstances attending a peace treaty it appears very natural that the former State should be required to renounce protection for its ex-nationals, and in the present treaty it seems clear that Hungary did so act. This, however, only determines the question of construction. If the treaty operated by international law only, the tribunal in Prize might well have had to determine how far Hungary's attempt to affect the rights of ex-nationals could be treated as effective. But for an English Court, whether in Prize or not, this question is precluded by the terms of the Treaty of Peace Act. The Orders in Council made under it are to have effect as if enacted in the Act. The Order provides that the scheduled sections of the treaty are to have full force and effect as law. If, therefore, the clause in question bears the construction which has already been imputed to it, that construction must be enforced in British Courts as law. It follows that the claim of the plaintiffs is barred by the clause. It does not appear that the contention as to the invalidity of the clause in international law was raised before the learned President, or that the effect of the statute was brought to his attention. The statute was not in terms pleaded, though the Orders in Council were referred to in the plea raising the question of the charge with which the Board have not found it necessary to deal. No circumstances exist, however, which preclude the defendants from relying on the terms of the statute on appeal to His Majesty in Council, and no extra costs can have been incurred by reason of reliance on it being belated.

Their Lordships will humbly advise His Majesty that the appeal be dismissed. The appellants must bear the costs of the appeal.

In the Privy Council.

IN THE MATTER OF THE STEAMSHIP "BATHORI."

ADRIA SOCIETA ANONIMA DI NAVIGAZIONE MARITTIMA (a Corporation established under Italian Law) AND OTHERS

v.

HIS MAJESTY'S PROCURATOR GENERAL AND ANOTHER.

DELIVERED BY LORD ATKIN.

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