

[HIGH COURT OF AUSTRALIA.]

THE WOOL SLIPING AND SCOURING COM- } PLAINTIFF ;
PANY LIMITED }

AND

THE CENTRAL WOOL COMMITTEE AND } DEFENDANTS.
OTHERS }

Action—Cause of action—Statutory regulations—Duties imposed on public officers— H. C. OF A.
—Liability for non-performance of duties — Interest of plaintiff— War 1920.
Precautions (Sheepskins) Regulations 1916 (Commercial Activities Act 1919,
No. 3 of 1919, Third Schedule), regs. 5, 7, 8, 14. SYDNEY,

Held, by Knox C.J., Isaacs, Gavan Duffy, Rich and Starke JJ., that the April 12, 13.
War Precautions (Sheepskins) Regulations 1916 (Third Schedule to the Com-
mmercial Activities Act 1919) confer no right of action upon any person in respect
of any omission by the Prime Minister, the Central Wool Committee or a State
Wool Committee to perform any act the obligation to perform which is laid
upon him or them by those Regulations. Knox C.J.,
Isaacs,
Gavan Duffy,
Rich and
Starke JJ.

Held, also, by Knox C.J., Gavan Duffy and Starke JJ. (Isaacs J. dissenting),
that to an action by a fellmonger against the Prime Minister, the Central
Wool Committee and a State Wool Committee, claiming damages for an
alleged breach of duty by them in not appointing appraisers of sheepskins
and making sheepskins available to fellmongers at appraised prices and an
order compelling performance of those duties, it was an answer that the plain-
tiff was not “properly authorized” within the meaning of reg. 14 of the War
Precautions (Sheepskins) Regulations 1916.

MOTION referred to the Full Court.

An action was brought in the High Court by the Wool Slipping and Scouring Co. Proprietary Ltd. against the Central Wool Committee and its members, the State Wool Committee for Victoria and its members, William Morris Hughes (the Prime Minister of

H. C. OF A. Australia) and the Commonwealth, the nature of which appears
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1. The plaintiff is a company duly incorporated under the *Companies Act* of the State of Victoria, and carries on the business of fellmongering at Dynan Road, West Melbourne, in the said State, and carries on no other business.

2. The said business consists in treating sheepskins, principally dry skins, so as to remove the wool therefrom and scour the same, and such wool and the pelts from which the wool is removed are then disposed of, and are not further treated by the plaintiff. In order to enable the business of the plaintiff to be carried on, it is necessary that it should obtain continuous and sufficient supply of sheepskins; the amount treated by the plaintiff prior to the grievances hereinafter mentioned was about 14,000 skins a week, and it employed about fifty-five employees.

(The third and fourth paragraphs set out that the defendants named as the members of the Central Wool Committee and of the State Wool Committee for Victoria were the duly appointed members of those Committees respectively, which were constituted under and in accordance with the *War Precautions (Wool) Regulations* 1916 and the *War Precautions (Sheepskins) Regulations* 1916, those Regulations being now set out in the Second and Third Schedules respectively to the *Commercial Activities Act* 1919.)

5. The defendant the Right Honourable William Morris Hughes is the Prime Minister of Australia as described in the said Regulations. By such Regulations the whole of the administration thereof is vested in the defendant the Central Wool Committee subject to the directions of the Prime Minister.

6. By regs. 5 (b) and 5 (c) of the said Sheepskins Regulations it is enacted that all the resultant wool obtained by fellmongering either green or dry sheepskins shall be subject to appraisalment in accordance with the said Wool Regulations. The defendants contend, and the plaintiff is advised, that the legal effect of such regulations is that all the wool obtained from the plaintiff's said fellmongering operations must be appraised under the said Wool Regulations and must be transferred to the control of the Central Wool Committee, for the purposes of the agreement with the Imperial

Government mentioned in the recitals to the said *Commercial Activities Act* 1919. The defendant the Central Wool Committee insists upon the plaintiff having all its said resultant wool appraised and transferred as aforesaid.

7. The plaintiff submits that upon the proper construction of regs. 5 (d), 5 (e), 5 (f), 7, 8 and 14 of the said Sheepskins Regulations : (a) it is the duty of the Prime Minister to appoint appraisers for sheepskins in the State of Victoria, and it is the duty of the Central Wool Committee to make recommendations for the appointment of such appraisers ; (b) it is the duty of the State Wool Committee of Victoria to arrange for the appraisal of sheepskins described in the above-mentioned regs. 5 (d), 5 (e), 7 and 14 ; (c), alternatively with (b), that it is the duty of the defendants constituting the Central Wool Committee, as having under reg. 5 of the said Wool Regulations and reg. 3 (2) of the said Sheepskins Regulations the control of the administration of all the said Regulations subject to the directions of the defendant the Prime Minister, to arrange for such appraisements, and it is the duty of the Prime Minister to give such defendants directions to do so if they omit or neglect their duty in that behalf ; (d) the Commonwealth Government has no power to consent to any sales of sheepskins other than any surplus sheepskins not required for fellmongery or other local purposes, and it is the duty of the Prime Minister and of the Central Wool Committee to do no acts and give no directions which would permit or enable sheepskins to be sold other than such surplus sheepskins, and then only to or through or with the consent of the Commonwealth Government.

8. In fact, since 30th June 1918 no such appraisers have been appointed by the Prime Minister either for the State of Victoria or for any other State, and there are not now and have not been since the said date any such appraisers ; and the Central Wool Committee have refrained altogether from making any recommendations whatever for the appointment of any such appraisers, but have devised and given directions for and carried out a different kind of scheme altogether for the sale and disposal of sheepskins after the said date other than that provided for by the said Regulations and without having any appraisalment whatever.

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9. The defendants constituting the State Wool Committee of Victoria, the defendants constituting the Central Wool Committee, and the Prime Minister have altogether neglected and omitted to respectively perform the duties prescribed by par. 7 (b) and (c) hereof.

10. The Central Wool Committee has, in breach of the said reg. 5 (f), directed and authorized the sales of large numbers of sheepskins which were not surplus sheepskins not required for fellmongering or other local purposes within the meaning of the said regulation, and has devised and carried out such scheme as aforesaid for the sale and disposal of all sheepskins in Australia without any appraisalment whatever, and has done so without the consent of the Commonwealth Government within the meaning of the said reg. 5 (f), or, alternatively, the said Commonwealth Government has wrongfully and in breach of the said provisions of the said reg. 5 (f) purported to give a consent or consents to such sales of sheepskins which were not such surplus skins as aforesaid.

11. The duties referred to in par. 7 hereof are owing to the plaintiff (*inter alios*) as such fellmonger as aforesaid, and the plaintiff has a special private interest in the performance of the said duties and the carrying out of the said Regulations as to appraisalment and sale of sheepskins, which were obviously intended to protect fellmongers (*inter alios*) from loss in carrying out the requirements mentioned in par. 6 hereof.

12. In consequence of such neglect of duty and breaches of the said Regulations and wrongful and unauthorized acts as aforesaid, the plaintiff has been unable to obtain sheepskins at the said appraised prices mentioned in the said regs. 5 (d), 5 (e) and 14, and it has become impossible for the plaintiff since 1st February 1920 to purchase sheepskins at such a price as would enable it to fellmonger the said skins and dispose of the said wool to the Central Wool Committee at the said appraised prices mentioned in par. 6 hereof, except at such a serious loss as would render it impossible to carry on its business; and the plaintiff has consequently been compelled to dispense with the services of all its hands except about ten, and will be compelled to dispense with the services of the remaining ten during the first week in April, and to close its said works, unless a

supply of sheepskins can be obtained at prices which will enable the plaintiff to keep the said works in operation and at the same time comply with the requirements of the said Regulations and of the Central Wool Committee mentioned in par. 6 hereof.

13. The defendants, although requested by the plaintiff to give an undertaking that they would observe and carry out the provisions of the said Sheepskins Regulations so as to enable the plaintiff to obtain skins at the appraised prices, have altogether neglected and refused so to do, and the defendants will, unless restrained and enjoined by the order of this Honourable Court, continue to disregard the said Regulations as aforesaid and continue to do the said wrongful and unlawful acts.

14. The plaintiff has sustained damages by reason of being compelled to partially close its business works as aforesaid, and will continue to suffer similar and increasing damages as aforesaid by being compelled to close its said works altogether, and will lose the profits it would otherwise have made if the defendants had carried out the said duties and not disregarded the Regulations as aforesaid.

The plaintiff claims:—(1) An order that the Prime Minister shall perform the duty to appoint appraisers for each of the States of the Commonwealth including Victoria prescribed by reg. 8 of the Sheepskins Regulations, and that the Central Wool Committee shall perform their duty of making recommendations for the appointment of such appraisers. (2) An order that the State Wool Committee of Victoria shall perform all necessary acts on their part and give all necessary directions in order to carry out the appraisement of sheepskins described in regs. 5 (*d*), 5 (*e*), 7 and 14 of the said Sheepskins Regulations, and to make such aforesaid skins available for the plaintiff's said business requirements sufficient to enable it to fully carry on its said business. (3) An order that the Central Wool Committee and the Prime Minister perform all necessary acts and give all necessary directions to carry out the appraisement of sheepskins described in regs. 5 (*d*), 5 (*e*), 7 and 14 of the said Sheepskins Regulations, and to make such appraised skins available for the plaintiff's business requirements sufficient to enable it to carry on its said business fully. (4) An order restraining the Commonwealth, its Prime Minister and other officers from consenting to the sale of

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any sheepskins other than surplus skins not required for fellmongering or other local purposes. . (5) An order restraining the Central Wool Committee and the Prime Minister from doing any acts or giving any directions to permit or authorize the sale of any sheepskins other than such surplus skins as aforesaid. (6) An order restraining the Central Wool Committee, the Prime Minister and the State Wool Committee of Victoria from doing any acts or giving any directions to permit or enable sheepskins to be sold or disposed of after sale until they have been appraised and the plaintiff has been given proper facilities to inspect the same and obtain therefrom its requirements for its said business. (7) A declaration that the plaintiff is entitled to the relief above claimed against some one or more or all of the defendants. (8) A declaration that the plaintiff is entitled to damages in respect of some one or more or all of the matters alleged in pars. 6 to 12 of this statement of claim against some one or more or all of the defendants. (9) An inquiry as to the amount of such damages. (10) That the plaintiff may have such further or other relief as the nature of the case may require. (11) Alternatively to all or any of the relief heretofore claimed, if, contrary to the defendants' contention set out in par. 6 hereto, this Honourable Court is of opinion that upon the proper construction of the said regs. 5 (b) and 5 (e) the plaintiff is not bound to have the wool resulting from its said fellmongering operations dealt with as stated in the said par. 6, then the plaintiff claims a declaration that it is entitled to deal with such resultant wool as it may think fit.

After the writ in the action was served, the plaintiff moved for an interim injunction and mandatory order. The motion came on for hearing before *Knox* C.J., and was by him referred to the Full Court. The plaintiff subsequently filed the statement of claim, and, by consent, the motion was turned into a motion for a decree.

Sir Edward Mitchell K.C. and *Sheridan*, for the plaintiff. The *War Precautions (Sheepskins) Regulations* 1916, by regs. 5, 7, 8 and 14, impose duties upon the defendants which are owing to a class of persons, namely, local fellmongers, of which class the plaintiff is a member. The plaintiff is especially injured by the omission to

perform those duties, because, being compelled to sell the wool off the sheepskins treated by it at the appraised prices fixed under the *War Precautions (Wool) Regulations*, it is unable to obtain skins at such a price as will enable it to carry on its business without loss. The plaintiff therefore has a right, correlative to the duty imposed upon the defendants, which it can enforce by action. It is entitled to recover damages against the Commonwealth (*Baume v. The Commonwealth* (1); *Zachariassen v. The Commonwealth* (2); *Blom v. The Commonwealth* (3)). The plaintiff is also entitled to a declaratory order (*Welsbach Light Co. of Australasia v. The Commonwealth* (4)), and to an injunction to prevent sheepskins being sold otherwise than in accordance with the Regulations. The plaintiff is further entitled to a mandatory order to compel the defendants other than the Commonwealth to perform their duties. If a duty is imposed upon an officer of the Government in the performance of which the plaintiff has a private interest above that of any other persons, he has a right of action against the Government (*Marriott v. East Grinstead Gas and Water Co.* (5); *R. v. Lords Commissioners of the Treasury* (6)). There is nothing in the Regulations to limit the class of persons to whom the duties are owed. The authority referred to by reg. 14 in the term "authorized persons" is given by the purport of the Regulations themselves.

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Owen Dixon, for the defendants. The jurisdiction to award damages extends only to the claim against the Commonwealth. The plaintiff must, in order to succeed, establish a private right against the Commonwealth created by the Regulations. Upon the construction of the Regulations no such private right was created in the plaintiff or in any member of the public. The Regulations were designed to procure the wool upon sheepskins for the Imperial Government, and the secondary object was to ensure that before sheepskins went abroad the local manufacturers should have an opportunity of obtaining skins first in the open market and, if that did not satisfy their requirements, then under reg. 14, if the State Committee should choose.

(1) 4 C.L.R., 97, at pp. 110, 119.

(2) 24 C.L.R., 166.

(3) 24 C.L.R., 189.

(4) 22 C.L.R., 268, at p. 282.

(5) (1909) 1 Ch., 70, at pp. 78-79.

(6) (1909) 2 K.B., 183.

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KNOX C.J. The plaintiff in this case is the Wool Slipping and Scouring Co. Ltd., which carries on the business of fellmongering, and the defendants are the Central Wool Committee and its members, the State Wool Committee for Victoria and its members (both of which Committees are constituted under the *War Precautions (Wool) Regulations* 1916), and the Prime Minister and the Commonwealth. The allegations upon which the claim is founded are, first, that the plaintiff in carrying on its business requires a sufficient supply of sheepskins, and it also requires to be able to obtain sheepskins at a price which will not involve it in ruinous loss. It is pointed out in the statement of claim that under the *War Precautions (Sheepskins) Regulations* 1916—which, with the *War Precautions (Wool) Regulations* 1916, are now in Schedules to the *Commercial Activities Act* 1919—wool obtained from sheepskins in the course of treatment of the skins is subject to appraisalment under the latter Regulations; which means that the price obtained for that wool is limited by the average price agreed to be paid by the Imperial Government for the wool clip of Australia. The statement of claim then goes on, in par. 7, to set out what the plaintiff alleges is the proper construction of the Sheepskins Regulations to which I have referred. It alleges, first, that it is the duty of the Prime Minister to appoint appraisers of sheepskins, and of the Central Wool Committee to make recommendations for the appointment of such appraisers; secondly, that it is the duty of the State Wool Committee to arrange for the appraisalment of sheepskins, and, thirdly, as an alternative contention, that it is the duty of the Central Wool Committee to make such arrangements and of the Prime Minister to give directions for such arrangements to be made. The plaintiff then contends that the Commonwealth Government has no power to consent to any sales of any sheepskins other than sheepskins not needed for fellmongering or other local requirements, and that it is the duty of the Prime Minister and of the Central Wool Committee to do no act which would permit or enable sheepskins to be sold other than such surplus sheepskins. The plaintiff then goes on to allege in par. 8 that no appraisers have been appointed in Victoria or any other State since 30th June 1918, and that the Central Wool Committee have refrained from making any recommendations for the

appointment of appraisers, and generally (par. 9) the plaintiff alleges that the State Wool Committee, the Central Wool Committee and the Prime Minister have altogether omitted to perform the duties described in par. 7, to which I have already referred. The statement of claim further alleges (par. 10) that the Central Wool Committee, in breach of clause 5 (*f*) of the Sheepskins Regulations, directed and authorized the sale of a large number of sheepskins which were not surplus sheepskins at all, and has devised and carried out a scheme contrary to the provisions of the Regulations. Then it is alleged (par. 11) that the duties referred to in par. 7, which are duties which the defendants are alleged to have omitted to perform, are duties owing to the plaintiff (among others) as a fellmonger, and that the plaintiff has a special private interest in the performance of those duties and the carrying out of the Regulations as to appraisal and sale of sheepskins, which, it is said, were obviously intended to protect fellmongers (among others) from loss in carrying out the scheme mentioned in par. 6 of the statement of claim, namely, that all the wool obtained in the course of the plaintiff's fellmongering operations must be appraised under the Wool Regulations and transferred to the control of the Central Wool Committee. The plaintiff then alleges (par. 12) that, in consequence of the neglect of duty and breaches of the Regulations, it has not been able to purchase sheepskins except at a price which, having regard to the fact that it must sell the wool from the skins at the appraised prices, would involve it in serious loss, and consequently that it is unable to carry on its business and is compelled to close down; and also (par. 13) that the defendants have refused and neglected to carry out the provisions of the Sheepskins Regulations; and (par. 14) that the plaintiff has sustained damage by being compelled to close down. The plaintiff then claims an order that the Prime Minister shall appoint appraisers and that the Central Wool Committee shall make recommendations for the appointment of appraisers, and such orders as may be necessary to ensure that there shall be appraisements of sheepskins and that sheepskins shall be made available for the plaintiff's business, and an inquiry as to damages.

Broadly speaking, therefore, the action is one to recover damages for an alleged breach of duty by the defendants in not appointing

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appraisers and making sheepskins available, and to obtain an order which will compel the defendants to perform those duties. The plaintiff having moved before me for an interim injunction and a mandatory order, I referred the matter to the Full Court, and after it came on for hearing the plaintiff filed a statement of claim. The matter is now before us for a decree. Since the proceedings were instituted a notice has been issued calling upon every person owning sheepskins over the value of £50 to make them available for appraisal, and approval has been given by the Prime Minister to the appointment of appraisers.

The foundation of the right of the plaintiff to relief in this action is the allegation in par. 11 that the plaintiff has a special private interest in the performance of the duties imposed by the Regulations. I think that regs. 5 (d) and 5 (f) show that the general intention of the scheme established by the Sheepskins Regulations was that local requirements in the way of sheepskins should be provided for before sheepskins were to be available for other purposes, and that a part of that general intention was that sheepskins should be made available for fellmongers and for other local requirements at prices which would enable the local users to carry on having regard to the fact that they were limited to certain prices for the wool taken off the skins. The claim of the plaintiff is that every fellmonger has, by virtue of the Regulations, a right to enforce by action the performance of the various acts directed by the Regulations to be done by the different persons in the position of the defendants here, and that any omission by the Central Wool Committee, the State Wool Committee or the Prime Minister to perform any of the duties or obligations laid on them or him by the Regulations gives rise to a cause of action for damages to any fellmonger injured by such omission. I think that there are two answers to the claim of the plaintiff. The first is that, reading the Regulations as a whole, while it appears from regs. 5 (d) and 5 (f) that the general intention was as I have stated it to be, it appears equally clearly from reg. 14 that the class of persons which was to have the benefit of getting sheepskins at appraised prices was limited to persons who had obtained authority —“persons,” in the words of reg. 14, “properly authorized.”

Reg. 14, of course, only deals with the display and examination of skins and the invoicing of skins to authorized persons, but it must be looked at in conjunction with the other regulations to see what the general scheme was, and, in my opinion, it shows that the general scheme for the benefit of local industries was conditioned upon the owners of those industries being persons "properly authorized," that is to say, persons who had been authorized to purchase sheepskins by the Central or the State Wool Committee. That would be calculated to ensure that persons not intended to get sheepskins should not get them. I think that that affords the first answer, because it is clear on the evidence that the plaintiff is not, and never has been, an authorized person within the meaning of the Regulations, and therefore has never been in a position to require selling brokers to perform their duty under reg. 14 even if all matters precedent to that had been carried out.

The second answer is, I think, that, even assuming that the plaintiff were an authorized person, it would not necessarily follow that it could maintain an action to compel the defendants to carry out the Regulations or to recover damages for their omission to do so. The right to maintain such an action depends on the existence of a duty as between the persons laid under an obligation by the Regulations and the plaintiff, and I can find no trace of any intention to create any duty of the defendants to any particular person or to any class of persons or individuals comprised in that class. The Regulations appear to have been designed to carry out a scheme to meet the abnormal circumstances caused by the War and the consequent scarcity of shipping. The scheme originated in the sale of the whole of the wool in Australia to the Imperial Government. That involved wool "off skins" as well as wool "off sheep," and therefore the sale of the wool to the Imperial Government at a named price necessarily reacted upon the sale of sheepskins. These Regulations were therefore designed for the conduct of the trade in sheepskins in consequence of the sale of the whole of the wool to the Imperial Government. To my mind the administration of the Regulations is akin to the administration of a Government Department, as to which it is clear that individuals have no right to bring actions for omissions to do some act the obligation to do which

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H. C. OF A. is laid upon officers of the Department, unless that right is expressly
1920. conferred.

WOOL For these reasons I think that the action fails, and should be dis-
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CENTRAL ISAACS J. read the following judgment:—In the circumstances
WOOL of this case it turns out to be unnecessary to consider certain con-
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Isaacs J. selves. Dealing with the case on other grounds, it is important to
see what is claimed. The plaintiff claims now in this proceeding,
which is by consent the hearing, four things, viz., (1) a mandatory
order, (2) an injunction, (3) a declaration of right and (4) damages.
Since the conclusion arrived at is that there is no cause of action,
damages may be put aside. But in considering whether there is a
cause of action the other claims are, of course, important.

The net result of the argument on behalf of the plaintiff is this :
It says that under the *Commercial Activities Act* 1919 (No. 3 of
1919) the Commonwealth Parliament has laid down a set of provisions
which, while restraining the normal rights of trading in sheepskins
and wool, also substitutes other rights—modified rights,—and that
the plaintiff's substituted or modified rights arising under the Act
have been violated or disregarded or are threatened with violation.
The plaintiff says in effect: (1) Persons other than fellmongers and
others engaged in local manufacture are prohibited under penalty
from purchasing otherwise than in accordance with the Act; (2)
fellmongers and local manufacturers are also separately prohibited
under penalty from selling except in accordance with the Act;
(3) the two sets of prohibitions are correlative, and the permissive
provisions are also correlative to the prohibitions, and, as long as
the fellmongers are prohibited from violating the Act, the other
persons should be equally prohibited; and, lastly, (4) it is the duty
of the Government and the Prime Minister and the Committees
to do all that is required by the Act to preserve the substituted or
modified rights—the statutory rights—of fellmongers, so long as
the statutory prohibitions on them remain. In support of those
contentions, learned counsel for the plaintiff rely (*inter alia*) on reg.
14, which gives to “authorized persons”—i.e. authorized by some

competent authority under the Regulations—rights of inspection, *after appraisalment*, and rights of getting copies of appraisements, and of getting invoices of what they purchase. But I do not understand learned counsel to rest there; nor am I able to limit my opinion to that regulation. The claims for mandatory order and injunction are respectively directed to regs. 5 (*d*) and 5 (*f*). Reg. 5 (*d*) provides that all “other” dry skins shall be collected, concentrated, classified, and appraised, and that the appraised prices shall be their selling value for fellmongering or any other local purpose. Reg. 5 (*f*) provides that “surplus” sheepskins not required for fellmongering or local requirements may be sold, but only to, or through, or with the consent of, the Commonwealth Government. The mandatory order sought is to compel compliance with reg. 5 (*d*) which includes appraisalment. And as appraisalment includes the appointment of appraisers, such appointment is sought. And further, as the rights given by reg. 14 are subsequent to appraisalment, I am not able to say that the want of authorization to do something that can only be done *after* appraisalment, and is futile in the absence of appraisalment, is in itself a complete answer to the claim. So as to 5 (*f*) the injunction sought is to restrain the permission to sell “surplus” sheepskins, that is sheepskins that fellmongers do not require. It seems to me that, if the plaintiff’s main argument is sound, namely, that fellmongers and other local manufacturers are given individual statutory rights, the authorization mentioned in reg. 14 is only one of those rights and the plaintiff has a prior and fundamental right of protection, which could not be got rid of by a refusal to authorize the plaintiff under reg. 14. But I think, on broad grounds of construction, that the argument of the plaintiff is not sound. It is laid down, in cases of the class of *In re Nathan* (1), that the Court will not interfere with the official execution of an Act of Parliament at the instance of a private person, unless there is a violation or threatened violation of a duty to that particular person. *Fulton v. Norton* (2) is a converse case where the Privy Council enforced an individual right under a statute. And so has this Court acted under the *Public Service Act* (*R. v. Commonwealth Public Service*

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(1) 12 Q.B.D., 461.

(2) (1908) A.C., 451.

H. C. OF A. *Commissioner ; Ex parte O'Brien* (1), and other cases). The *Commercial Activities Act* 1919 is a public general Act, under which
 1920. for war purposes the Commonwealth Parliament has laid down
 WOOL controlling regulations in certain trading operations, and pro-
 SLIPING AND vides, by means of direct executive action and the action of cer-
 SCOURING tain committees, machinery for carrying out the scheme. Reading
 CO. LTD. the Act and the Sheepskins Regulations as a whole, I interpret
 v. them as leaving to the wisdom and fairness and discretion of the
 CENTRAL agencies designated as an administrative function the task of carrying
 WOOL out the broad lines of policy outlined by Parliament. I do not
 COMMITTEE. read them as creating specific rights in individuals, except perhaps
 Isaacs J. where, as in reg. 14, certain express provisions are made relating
 to brokers on the one hand and authorized persons on the other.
 It would be tedious here to analyse the various regulations, but
 that is the general result. They were sufficiently analysed during
 the argument. It was contended that great hardship arises from a
 neglect to observe the requirements of the Act. That may be so
 —whether it is so, I am not called upon to inquire ; but even if
 it be so, that is a political matter : it is a matter for the Executive
 Government, and ultimately for Parliament. But, having regard to
 the authorities that bind us, it is not a matter with which this Court
 can interfere without overstepping the boundaries of its constitu-
 tional powers, by substituting its judgment for the judgment of
 the political branch.

I therefore agree that judgment should be entered for the defendants.

GAVAN DUFFY J. I agree with what has been said by the Chief Justice. .

RICH J. In my opinion the plaintiff has not shown that it has any right to require the defendants or any of them to do any of the acts mentioned in reg. 5 (*d*) of the Regulations, or to abstain from acting under reg. 5 (*f*). Consequently, whatever has been done or left undone by the defendants or may be done or left undone under either of these regulations, it cannot be said that there has been or

will be any invasion of a legal right of the plaintiff. We are therefore asked to interfere with the public duty of a Department of the Government and with the discretion which it has to exercise in its public capacity. The authority of the Vice-Chancellor of England shows there is no jurisdiction to do so (*Ellis v. Earl Grey* (1)).

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I would add that what I have said is apart from any constitutional question.

STARKE J. I agree with the opinion of the Chief Justice.

Action dismissed with costs.

Solicitors for the plaintiff, *Ash & Maclean*.

Solicitor for the defendants, *Gordon H. Castle*, Crown Solicitor for the Commonwealth.

B. L.

(1) 6 Sim., 214, at p. 223.