Adopted/Appl Baulkham Hills Council v Land Commission (1985) 1 NSWLR 479
Cons/Appl Coulton v Holcombe (1990) 20 NSWLR 138
Appl Baulkham Hills SC v Land Comm of NSW (1985) 55 LGRA 337
Appl R v Macleod (2001) 52 NSWLR 389

[HIGH COURT OF AUSTRALIA.]

BROWN . . . . . APPELLANT;
DEFENDANT,

AND

GREEN . . . . . RESPONDENT.
INFORMANT,

ON REMOVAL FROM A COURT OF QUARTER SESSIONS OF NEW SOUTH WALES.

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SYDNEY, *Nov.* 26, 27; *Dec.* 20.

Dixon, McTiernan, Williams, Webb, Fullagar and Kitto JJ.

Landlord and Tenant—Commonwealth regulations—State statute—Validity of regulations—Essentiality—Offence—Guilty knowledge—National Security (Landlord and Tenant) Regulations, regs. 7AA, 25—*The Constitution* (63 & 64 *Vict. c.* 12) *s.* 51 (*vi.*)—*Defence (Transitional Provisions) Act* 1946-1947 (*No.* 77 *of* 1946—*No.* 78 *of* 1947)—*Landlord and Tenant (Amendment) Act* 1948-1949 (*N.S.W.*) (*No.* 25 *of* 1948—*No.* 21 *of* 1949), *ss.* 1 (2), 4, 35.

The constitutional validity of the *National Security (Landlord and Tenant) Regulations* was not an essential condition of the application of the *Landlord and Tenant (Amendment) Act* 1948-1949 (N.S.W.) to determinations of fair rent made under those regulations and existing at the date of the commencement of the Act.

So *held* by *Dixon, McTiernan, Webb, Fullagar* and *Kitto* JJ., *Williams* J. dissenting.

Held by *Williams* J. (1) that on the true constuction of the Act, determinations made under the regulations could only have force and effect under the Act if the regulations were valid at the date of its commencement, and (2) the *Defence (Transitional Provisions) Act* 1946-1947 was valid so far as it purported to continue the regulations in force until 31st December 1948.

Guilty knowledge of the contravention of or failure to comply with the provisions of s. 35 (1) of the *Landlord and Tenant (Amendment) Act* 1948-1949 (N.S.W.) is not an element in the offence.

So *held* by the whole Court.

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REMOVAL from a Court of Quarter Sessions of New South Wales to the High Court under s. 40 of the *Judiciary Act* 1903-1950.

Rose Prentice Brown, married woman, of 42 Penkivil Street, Bondi, was charged at a court of petty sessions in Sydney, on the information of Reginald Rae Green, an officer employed in the office of the Rent Controller, that on or about 24th October 1949 she, contrary to s. 35 of the *Landlord and Tenant (Amendment) Act* 1948-1949 (N.S.W.), received as rent for premises, being rooms numbers 8/8A, and 9/9A, situate at 27 Ocean Street, Bondi, the sum of £1 17s. 6d. for a period of one week, which exceeded the fair rent of those premises, namely, £1 13s. 0d. per week, which was determined on 4th June 1947.

In a certificate given by him under s. 58 of the *Landlord and Tenant (Amendment) Act* 1948-1949 (N.S.W.), dated 31st January 1950, and admitted in evidence, the Acting Rent Controller for the State of New South Wales certified that "the fair rent of shared accommodation comprising rooms Nos. 8/8A, 9/9A, being part of the premises situate at No. 27 Ocean Street, Bondi, and being more particularly described in Departmental Plan No. 2522 (of which copy is marked Annexure 'A') and of which a copy was furnished to Lessor with Notices of Determination including services of electricity for lighting and power and goods leased therewith, and Tenant's right to use of power for wireless, iron, toaster and jug, was determined on the fourth day of June 1947, at £1 13s. 0d. weekly, operative from twelfth day of May 1947, and such determination has not since been varied."

The determination referred to was made under reg. 25 of the *National Security (Landlord and Tenant) Regulations*. Under reg. 7AA of those regulations an order was made on 12th August 1948, by which it was declared that the fixing of fair rents in the State of New South Wales should cease to be controlled under the *National Security (Landlord and Tenant) Regulations* from and including 16th August 1948. The Governor in Council, by a proclamation published in the New South Wales *Gazette*, appointed 16th August 1948 as the date on which the *Landlord and Tenant (Amendment) Act* 1948 (N.S.W.) should commence. By s. 4 (1) of that Act determinations made before its commencement under the above-mentioned regulations, and then current, continued to have force and effect.

The informant attempted, unsuccessfully, to prove that notice in writing of the determination was given to the defendant in compliance with regs. 25 (8) and 55 of the regulations. The receipt by her of any such notice was denied by the defendant.

In evidence she said that she was aware that some tenants then occupying part of the premises had, early in 1947, made an application for a determination of the fair rent, and that an officer of the Fair Rents Board had discussed the matter with her. She further said that those tenants had vacated the premises in April 1947, and that she did not receive any further information relating to the application, either from the Board or from a fair rents agent to whom she had paid a fee. She continued to charge and receive rents as hitherto. Subsequently she had a dispute with certain tenants who were using the premises as a factory, and then learned for the first time that she was receiving rent in excess of, and in some cases under, the fair rent of those premises as determined, whereupon she refunded the excess amounts to such tenants entitled thereto as she was able to locate.

The magistrate rejected submissions made on behalf of the defendant that (a) the defence power conferred by s. 51 (vi.) of the Constitution did not, in the conditions then prevailing in August 1948, enable the Commonwealth Parliament, by the *Defence (Transitional Provisions) Act* 1947, to maintain the *National Security (Landlord and Tenant) Regulations* in force up to 16th August 1948, and that those regulations having gone out of force prior to the commencement of the *Landlord and Tenant (Amendment) Act* 1948, there was not any determination of fair rent under the regulations in force or effect in New South Wales immediately before the commencement of that Act; and (b) that not (i) having received notification of the determination of the fair rent, or (ii) possessing any knowledge that the fair rent had been determined, she was not liable under s. 35 of the *Landlord and Tenant (Amendment) Act* 1948-1949.

The defendant was convicted on each charge, and she appealed therefrom to the Court of Quarter Sessions.

Upon an application by the Attorney-General for New South Wales the High Court made an order as of course under s. 40 of the *Judiciary Act* 1903-1950, removing the appeal into the Full Court of the High Court.

Relevant statutory provisions and regulations are sufficiently set forth in the judgment of *Dixon*, *McTiernan*, *Webb*, *Fullagar* and *Kitto* JJ. hereunder.

J. D. Holmes K.C. and *D. Mahoney*, for the appellant.

A. R. Taylor K.C. and *J. G. Starke*, for the respondent.

Cur. adv. vult.

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The following written judgments were delivered :—

DIXON, MCTIERNAN, WEBB, FULLAGAR and KITTO JJ. This is a cause removed under s. 40 of the *Judiciary Act* 1903-1950 from the Court of Quarter Sessions at Sydney. The order for removal was made as of course on the application by the Attorney-General of the State of New South Wales. The cause consisted in an appeal from a conviction by a Court of Petty Sessions for a breach of s. 35 of the *Landlord and Tenant* (*Amendment*) *Act* 1948-1949 (N.S.W.). At the time of removal the appeal was pending and the hearing had not begun. Section 41 of the *Judiciary Act* provides that when a case is removed into the High Court the High Court shall proceed therein as if the cause had been originally commenced in that Court and as if the same proceedings had been taken in the cause in the High Court as had been taken therein in the court of the State prior to its removal but so that all subsequent proceedings shall be according to the course of practice of the High Court. The parties agreed that the matter should be heard upon the depositions taken in the Court of Petty Sessions.

The defendant in the Court of Petty Sessions was charged by an information laid upon 3rd March 1950, for that she did on 24th October 1949, contrary to s. 35 of the *Landlord and Tenant* (*Amendment*) *Act* 1948-1949, receive as rent for certain premises in Ocean Street, Bondi, the sum of £1 17s. 6d. for a period of a week, which exceeded the fair rent of the premises, namely, £1 13s. 0d. per week, determined on 4th June 1947. The determination was made under reg. 25 of the *National Security* (*Landlord and Tenant*) *Regulations*. That regulation relates to the rent of shared accommodation. Under reg. 7AA, which was inserted in the Regulations by S.R. 1948 No. 108, notified on 12th August 1948, an order was made on the same day by which it was declared that the fixing of fair rents in the State of New South Wales should cease to be controlled under the *National Security* (*Landlord and Tenant*) *Regulations* from and including 16th August 1948. By a proclamation published in the New South Wales *Gazette* the Governor in Council appointed that day as the date on which the *Landlord and Tenant* (*Amendment*) *Act* 1948 should commence : see s. 1 (2) of that Act. Section 4 (1) of the Act provides that all determinations of fair rents made before the commencement of the Act under the Commonwealth Regulations and having force or effect in the State immediately before such commencement shall be deemed to have been made under the Act and, subject to the Act, shall continue to have force and effect accordingly. By s. 8 (1) the expression " Commonwealth Regulations " means the regulations

having the title of the *National Security* (*Landlord and Tenant*) *Regulations* as in force immediately before the commencement of the Act under the *Defence* (*Transitional Provisions*) *Act* 1946-1947 of the Parliament of the Commonwealth.

The defendant contended in the Court of Petty Sessions that before the commencement of the *Landlord and Tenant* (*Amendment*) *Act* the Commonwealth Regulations had gone out of force and consequently there were no determinations of fair rents under the Commonwealth Regulations having force or effect in the State immediately before the commencement of the Act. The ground for this contention was that the legislative power of the Commonwealth with respect to defence (s. 51 (vi.)) did not, in the conditions by that time prevailing, enable the Commonwealth Parliament by the *Defence* (*Transitional Provisions*) *Act* 1947 to maintain the Landlord and Tenant Regulations in force up to 16th August 1948. This is the question arising under the Constitution or involving its interpretation by reason of which the Attorney-General of New South Wales applied under s. 40 of the *Judiciary Act* for the removal of the cause into this Court.

Section 35 (1) of the *Landlord and Tenant* (*Amendment*) *Act* 1948-1949 provides that a person shall not—" (a) let premises . . . at a rent exceeding the fair rent thereof; or (b) demand, receive or pay any sum as rent exceeding the fair rent thereof." Section 95 (1) provides that any person who contravenes or fails to comply with any provisions of the Act shall be guilty of an offence against the Act. The penalty for an individual is a fine not exceeding £250 or imprisonment for a term not exceeding six months or both: s. 95 (2). Section 8 (1) defines " determination " to mean a " determination of the fair rent of any premises . . . made or continued in force under the Act ". It was under these provisions that the defendant was prosecuted for receiving rent in excess of the fair rent.

It will be seen from the foregoing that the liability of the defendant under s. 35 cannot be made out unless a determination of the fair rent was carried over by s. 4 (1) so as to be binding under the State Act. The denial that it was effectually carried over depends upon two steps. The first concerns the meaning of s. 4 (1), and next the continuing validity of the Commonwealth Regulations. If upon the true construction of s. 4 (1) the constitutional validity of the Commonwealth Regulations is made an essential condition of the operation of the provision to take over the determinations made under the Commonwealth Regulations, then unless the Commonwealth Regulations were valid on

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16th August 1948, s. 4 (1) would not maintain them in force. The question, however, of the valid operation of the Commonwealth Regulations as on 16th August or immediately prior thereto does not arise unless upon the proper interpretation of s. 4 (1) their constitutional validity at that time is made an indispensable condition of the operation of that provision. For the contention that it is such a condition the defendant relies upon the words "and having force or effect in this State immediately before such commencement" which qualify the words "all determinations of fair rents" in s. 4 (1). The contention is that the determinations could not have force or effect in the State unless the Commonwealth Regulations were themselves valid. If the words "force or effect" refer to the binding legal obligation imposed by the determinations this is of course true. But a consideration of the legislation and of the circumstances under which it was passed suggest that the words were used in a more restricted sense. The purpose of the *Landlord and Tenant (Amendment) Act* 1948-1949 is well known. With the passage of time it had become clear that for not much longer could the operation of the defence power sustain such regulations as the *National Security (Landlord and Tenant) Regulations*. All six States therefore passed legislation relating to the control of the relations of landlord and tenant, and reg. 7AA was adopted to enable the transition of control to take place from Federal to State authority. In the case of most States the legislation took substantially the same form as the Landlord and Tenant Regulations. They consisted of little more than a redraft of their provisions. The Landlord and Tenant Regulations had not been declared invalid and were in *de facto* operation. What decision would be reached if they were challenged was probably felt to be in doubt. The *Defence (Transitional Provisions) Act* 1947 was, however, so framed as to purport to keep them in force until the end of the year 1948.

The *Landlord and Tenant (Amendment) Act* 1948 (N.S.W.) is divided into parts, and Part II. is entitled "Fair Rents". The leading provision, authorizing the fixing of fair rents is s. 15 (1). Section 15 (1) fixes the rent as at 31st August 1939 (see s. 8 (1), definition of "the prescribed date") as the "fair rent" unless the rent has been increased or decreased by a determination made before the commencement of the Act under the Commonwealth Regulations and in force immediately before such commencement. The whole of Part II. is based upon the supposition that a fair rent is thus ascertained. If there were no determinations under the Commonwealth Regulations that were carried over the fair rents

of all premises in existence on 31st August 1939 would be the rent payable for them upon that date. By virtue of an exception contained in s. 15 (1) premises not in existence on that date would not be governed by a fair rent, until a fair rent was fixed under the Act, unless the determinations under the Regulations were carried over. It is plain, therefore, that if the determinations under the Regulations are not made applicable under the Act the effect of the Act would be very different from that which its provisions appear to contemplate, and very different from the effect which *a priori* one would suppose the legislature would intend. The definition in s. 8 (1) of the Act of the Commonwealth Regulations speaks of "the regulations having the title of the *National Security* (*Landlord and Tenant*) *Regulations* as in force immediately before the commencement of this Act under the *Defence* (*Transitional Provisions*) *Act* 1946-1947 of the Parliament of the Commonwealth." In this definition the words "as in force" obviously imply an assumption that by the *Defence* (*Transitional Provisions*) *Act* 1946-1947 they were continued. From such an assumption a condition might be implied that unless the assumption were correct the definition should not operate. But in the conditions in which the Act was enacted it would, in our opinion, be erroneous to make such an implication. The assumption did not represent an intention that the operation of the State Act should depend upon the actual valid operation of the Commonwealth Regulations. It expressed no more than a belief based upon the common experience of those who witnessed the actual operation and enforcement of the regulations from day to day without their validity being called in question in this Court. When s. 4 (1) speaks of the determinations made before the commencement of the Act under the Commonwealth Regulations it assumes that the Commonwealth Regulations have the operation described and does not imply that it shall be a condition of the operation of s. 4 (1) that the operation of the Regulations shall be constitutionally valid. The words which follow "and having force or effect in this State immediately before such commencement" are necessary in order to ensure that a determination which was made but had since been rescinded or varied or the operation of which had expired shall not be included in the description. They are words which are attached to the word "determinations" and refer to the force or effect of the determinations on the footing or assumption that the Commonwealth Regulations are operative. They do not import the necessity that the Commonwealth Regulations themselves possess a valid constitutional force or effect. If a determination was made in point of

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fact but exceeded the power which the Commonwealth Regulations purport to confer or because of some other disconformity with the Commonwealth Regulations fell outside the authority they purport to confer it could not be considered to have force or effect under the Regulations. Sub-section (2) of s. 4 confirms this view of the Regulations, for it provides that applications to and other proceedings before the Commonwealth Rent Controller under the Commonwealth Regulations which are pending immediately before the commencement of the Act may be continued and may be determined by the controller. There are no words in sub-s. (2) which could make the validity of the regulations a condition of the application of this provision. Sub-section (3) deals with proceedings before a Fair Rent Board under the Commonwealth Regulations and provides for their continuance under the Act. Sub-section (4) relates to proceedings for the recovery of possession of prescribed premises under Part III., but it is to the like effect. Sub-section (5) provides that the generality of the section shall not be affected by any saving in any other section of the Act nor shall the section limit any saving in the *Interpretation Act* of 1897 as amended by subsequent Acts. It is not easy to apply this sub-section because s. 4 relates to the effect of the Commonwealth Regulations, which were going out of force. But whatever its precise application, it indicates a general intention that the arrangements found in effect *de facto* under the Commonwealth Regulations should not be disturbed. In s. 71 (2) there are provisions for giving effect to orders and warrants made or issued under the Regulations showing the same intention to take up the instruments on foot before the Act came into operation. A very general consideration affecting the question is that it would be contrary to the known purpose of the *Landlord and Tenant (Amendment) Act* 1948 if its operation on the existing controls was made dependent upon the answer to the question which caused the steps to take over the control of fair rents, namely, the question whether and at what date the Commonwealth Regulations might be considered constitutionally to go out of operation. The language of the Act does not require that it shall be supposed that their constitutional operation was an essential condition of its application to existing determinations and there is not sufficient reason why it should be construed as importing such a condition.

It follows that the question whether, prior to 16th August 1948, the defence power had so contracted in its operation as no longer to support the *National Security (Landlord and Tenant) Regulations* in operation does not arise.

The defendant raised two defences which do not depend on any constitutional consideration but entirely on the provisions of the legislation. Under reg. 25 (8) of the *National Security* (*Landlord and Tenant*) *Regulations* when a determination of rent for shared accommodation had been made the controller was required to give notice in writing thereof and of the date fixed as the date on which the determination should come into force to the lessor and the lessee concerned. By reg. 55 a notice required or permitted by that part of the regulations to be given to or served upon any person might be given by delivering the notice to him personally or by forwarding it by post to him at his usual last known place of abode or business or at any address notified to the Board. An attempt was made on behalf of the informant to establish that notice had been given in conformity with these provisions, but the proof failed. The defendant denied in evidence that the notice had ever been actually received by her. In these circumstances she contends that she was not liable under s. 35 of the *Landlord and Tenant* (*Amendment*) *Act* 1948-1949 under which she was prosecuted. The contention might be put in two ways. First, it may be said that a determination of fair rents was not binding unless reg. 25 (8) was complied with. Secondly, it may be said that compliance with reg. 25 (8) was a condition precedent to liability under s. 35 (1) (b). The first of these contentions cannot be maintained because sub-reg. (6) of reg. 25 provided that every such determination should come into force on a date fixed by the controller but the date so fixed should not be earlier than the date upon which the application for the determination was received or in the case of an inspection not earlier than the date of the inspection. Sub-regulation (9) provided that where any rent has been determined in pursuance of the regulation it should, as from the date upon which the determination comes into force and until varied, be the rent of the shared accommodation in respect of which it is fixed. These provisions are inconsistent with the view that notice is a condition precedent to the operation of the regulation. The second of the two ways of expressing the contention is not supported by any of the language of s. 35 (1), nor by any context. Moreover, s. 57 (1) says that it shall be the duty of the lessor of any prescribed premises to take all reasonable steps to ascertain whether the fair rent thereof is fixed by or under that Part and if so the amount of the fair rent. It does not seem possible to import into the provisions of the Act any qualification which will make a failure to serve notice an answer to the prosecution.

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The second of the two further defences relied upon by the defendant was that she in fact possessed no knowledge that the fair rent had been fixed and that she was not liable to conviction under s. 35 (1), either on the ground that she was under a mistake of fact or that guilty knowledge was essential. According to her evidence as it appears from the depositions, certain tenants occupying part of the premises early in 1947 made an application for the fixing of the fair rent of so much of the premises as they occupied and an officer of the Fair Rents Board came to see the defendant. She placed the matter in the hands of a fair rents agent to whom she paid a fee. The tenants vacated the premises on 28th April 1947 and she heard no more about the matter. In point of fact the fair rent was determined on 4th June 1947 as from 12th May 1947 at a sum of £1 13s. 0d. weekly. She, however, received rent for a number of rooms at a sum exceeding the fair rent fixed. She said that she subsequently learned in a dispute with a tenant that she was receiving rent in excess of the fair rent and that thereupon she returned the excess to such tenants as she was able to find.

It is unnecessary to decide whether under s. 35 (1) it is a defence that the landlord honestly believed on reasonable grounds that no determination of the fair rent had been made. For the defendant has not established that she honestly believed on reasonable grounds that no determination of the fair rent had been made. She knew that proceedings to fix a fair rent had been commenced and she made no inquiry as to how they had terminated. It is, however, contended that under s. 35 (1) guilty knowledge forms part of the offence. This view, however, of s. 35 (1) does not appear to be correct.

Section 35 (1) forms part of a series of provisions designed to regulate the rights and duties of landlord and tenant and to ensure that the landlord does not depart from the terms upon which he is bound in respect of the amount of rent he is entitled to receive. It is not for the purpose of punishing acts criminal in an ordinary sense but to protect a civil right by a drastic means of enforcement. Under s. 35 (4) averments on the part of the prosecutor of certain facts, including the rent payable in respect of prescribed premises at the prescribed date, are prima-facie evidence of the matter or matters averred. Ensuing sub-sections deal in detail with the manner in which averments may be rebutted and with the conditions governing their operation. These provisions suggest that the legislature did not contemplate guilty intent as an additional element in the offence. The legislation does not deal with a branch of the criminal law, but with a matter of economic

and social regulation, and there is no rule of construction raising a prima-facie presumption in such a case that guilty intention is an element in an offence of this character. There is not sufficient ground for introducing into s. 35 (1) guilty intent as an element in the offence.

For these reasons all the grounds of defence fail and the defendant's appeal ought not to succeed. Under ss. 40 and 41 of the *Judiciary Act* we should or at all events may make the same order as the Court of Quarter Sessions ought to have done had the appeal been heard by that Court. The appeal should therefore be dismissed. The proceedings were removed at the instance of the Attorney-General because of the general importance of the first question dealt with in this judgment, and on the whole it seems the better course to allow the Crown to bear its own costs of the proceedings in this Court. There should be no order as to costs.

Since these reasons were prepared the *Landlord and Tenant (Amendment) Act* 1951 of New South Wales has been passed. The effect of s. 2 of the Act is to express in terms the proposition at which we have arrived by construction. Sub-section (2) (a) of s. 2 provides that the amendments which produce this result shall be deemed to have commenced on 16th August 1948 but par. (b) of the sub-section goes on to say that a person shall not be guilty of an offence by reason of the amendments if he would not have been guilty had they not been made. The Act therefore does not relieve us of the necessity of deciding the question with which the judgment first deals.

WILLIAMS J. I agree with the conclusions in the joint judgment of my brethren just delivered and with the order they propose, but in one respect I reach the same result by a different path. In my opinion determinations made under the *National Security (Landlord and Tenant) Regulations* could only have force and effect in New South Wales so long as those regulations remained valid. Once they ceased to be valid, determinations made under them would become mere pieces of paper and could have no legal force or effect whatever. They could not be determinations within the meaning of s. 4 (1) of the *Landlord and Tenant (Amendment) Act* 1948 (N.S.W.).

The Landlord and Tenant Regulations came within Federal power during hostilities because the diversion of manpower to war activities caused a restriction of building operations in that period and helped to create a shortage of homes and business premises. This shortage tended to inflate rents. It was a shortage which

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was bound to continue for some time after the fighting had ceased. Other causes arising since the cessation of hostilities have contributed to make the housing problem continue to be an acute problem right up to the present time. But the defence power during the transition period would only be wide enough to continue the regulations in force for a sufficient period to overcome the shortage of houses and business premises so far as it was due to hostilities.

The question is whether the defence power was wide enough to support the regulations until 16th August 1948. The *Defence (Transitional Provisions) Act* 1947 was assented to on 11th December 1947. It purported to continue the regulations in force during 1948. If the defence power was wide enough for the purpose when the Act was passed it could not be said that a further period of twelve months was beyond the wide latitude of discretion that Parliament has to decide whether to extend such legislation.

I am not prepared to hold that the Landlord and Tenant Regulations could not be validly continued during 1948. These regulations are different in character from the legislation under review in the three cases reported *sub nomine R.* v. *Foster*; *Ex parte Rural Bank of N.S.W.* (1). The legislation there in question closest in character to the Landlord and Tenant Regulations was the Liquid Fuel Regulations. They dealt with the distribution of petrol but not with its price. I would have been disposed to give those regulations a longer life if they had provided a scheme of distribution ensuring that priority of supply was afforded to persons engaged in activities useful for the purpose of restoring the community to conditions of peace. But in that respect they suffered from the same defect as that pointed out in *Crouch* v. *The Commonwealth* (2).

Control of the prices of the necessities of life, particularly food, clothing and shelter, so as to prevent inflation, was an integral part of the economic organization of the nation for war, and laws on this subject of war economy were well within the limits of the defence power during hostilities. And the power, so far as it authorized legislation to prevent inflation, could be expected to wane more slowly during the transition period than it would with respect to laws on other economic subjects. In *Hume* v. *Higgins* (3) I saw no reason to doubt the power of the Commonwealth Parliament to provide in the *Defence (Transitional Provisions) Act* 1947 that the Economic Organization Regulations should continue in

(1) (1949) 79 C.L.R. 43.
(2) (1948) 77 C.L.R. 339, at p. 361.
(3) (1949) 78 C.L.R. 116, at p. 140.

force during the year 1948. These regulations controlled prices and therefore had some affinity to the Landlord and Tenant Regulations. I think that it could be said of all regulations relating to the control of inflation, and of the Landlord and Tenant Regulations and the Prices Regulations in particular, that such regulations had, in the language of insurance, good transition lives. In my opinion they were not quite senile when the Commonwealth suddenly repealed them in August and September 1948.

Appeal dismissed. No order as to the costs of the appeal.

Solicitors for the appellant, *S. T. Hodge & Richards.*

Solicitor for the respondent, *F. P. McRae*, Crown Solicitor for New South Wales.

J. B.