

ORIGINAL

GRIFFITHS

V.

THE COMMONWEALTH OF AUSTRALIA
AND OTHERS

REASONS FOR JUDGMENT

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Judgment delivered at **Sydney**

on **Wednesday, 2nd July, 1947.**

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JUDGMENT

WILLIAMS J.

Similar issues were raised in the pleadings in this action to those in Nelungaloo, but at the hearing the plaintiff did not challenge the validity of the acquisition of his wheat by the Commonwealth under the order of 16th November 1939 or the validity of the Wheat Tax Act 1946. The parties have agreed that the evidence in Nelungaloo, so far as relevant, shall be treated as evidence in this action. Additional evidence was given that wheat does not deteriorate for a considerable time when properly stored, apparently to support a contention that because the export value of wheat was rising at the date of acquisition, the plaintiff, but for the acquisition, might have stored his wheat and subsequently sold it at a higher price. But I do not think that this is a circumstance which I can take into account in assessing the amount of compensation to which the plaintiff is entitled under reg. 14 of the National Security (Wheat Acquisition) Regulations. No doubt the value to the owner of the property acquired is the value of the property with all its existing advantages and all its possibilities. But the possibilities referred to are, I think, generally speaking, those of putting the property to some more beneficial use in the future than the use to which it is being put at the date of acquisition. There is no evidence that the plaintiff was engaged in any business in which he could have used his wheat more profitably than by selling it. When the sole value of property is in its value for sale, I do not think that any allowance can be made for the possibility that, if a dispossessed owner is not deprived of his property, he might obtain a better price for it in the future than its value at the date of acquisition.

The plaintiff's claim is for 3185 bushels of bulk wheat

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and 16083 bushels of bagged wheat.

Leaving taxes out of account, and making the same assumptions and applying the same method of assessment as in the Nelungaloo case, I assess the compensation to which the plaintiff is entitled under reg. 14 as follows:-

8042 bushels of bagged wheat @ 9/9	£3920 -10- 0.
8042 " " " " @ 5/2	£2077 -10- 0.
1592 " " bulk " @ 9/6	£ 756 - 4- 0.
1592 " " " " @ 4/11	£ 391 - 8- 0.
	<u>£ 7145 -12- 0.</u>
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From this sum there must be deducted expenses at 9d per bushel amounting to £722-10- 0., leaving a balance of £6423. The amount which the plaintiff has received or will receive from the Australian Wheat Board, without deducting tax under the Wheat Tax Act, amounts to ⁶⁶⁴⁰£6440, approximately the same sum as that to which he is entitled under reg. 14.

This action therefore also fails and I give judgment for the defendants with costs.