

The following is a summary of the judgment in the case referred to in the above judgment :—

ATTORNEY-GENERAL *v.* DE KEYSER'S ROYAL
HOTEL, LTD.¹

Defence of the realm—War—Exigencies of the Public Service—Crown—Royal prerogative—Right of Crown to take possession of land and buildings without compensation—Defence Act, 1842 (5 and 6 Vict., c. 94), s. 19—Defence of the Realm Consolidation Act, 1914 (5 Geo. V., c. 8), s 1, sub-sections 1 and 2, and regulations thereunder.

The Crown is not entitled as of right, either by virtue of its prerogative or under any statute, to take possession of the land or buildings of a subject for administrative purposes in connection with the defence of the realm without paying compensation for their use and occupation.

In May, 1916, the Crown purporting to act under the Defence of the Realm Regulations, took possession of a hotel for the purpose of housing the headquarters personnel of the Royal Flying Corps, and denied the legal right of the owners to compensation. The owners yielded up possession under protest and without prejudice to their rights, and by a petition of right they asked for a declaration that they were entitled to a rent for the use and occupation of the premises, or, in the alternative, that they were entitled to compensation under the Defence Act, 1842,—

Held, first, that the suppliants were not entitled to a rent for use and occupation apart from statute, as there was no consensus on which to found an implied contract; secondly, that regulation 2 of the Defence of the Realm Regulations, issued under the Defence of the Realm Consolidation Act, 1914, when read with sub-section 2 of section 1 of the Act, conferred no new powers of acquiring land, but authorized the taking possession of land under the Defence Act, 1842, while impliedly suspending the restrictions imposed by that Act upon the acquisition and user of land; that the Crown had no power to take possession of the suppliants' premises in right of its prerogative simpliciter; and that the suppliants were entitled to compensation in the manner provided by the Act of 1842.

¹ (1920) A. C. 508.