

Sec. 8—Powers of Congress

Cls. 11, 12, 13, and 14—War; Military Establishment

Other legislation is designed to effect a transition from war to peace. The war power “is not limited to victories in the field. . . . It carries with it inherently the power to guard against the immediate renewal of the conflict, and to remedy the evils which have arisen from its rise and progress.”¹⁵⁹³ This principle was given a much broader application after the First World War in *Hamilton v. Kentucky Distilleries, Co.*,¹⁵⁹⁴ where the War Time Prohibition Act¹⁵⁹⁵ adopted after the signing of the Armistice was upheld as an appropriate measure for increasing war efficiency. The Court was unable to conclude that the war emergency had passed with the cessation of hostilities.¹⁵⁹⁶ But in 1924, it held that a rent control law for the District of Columbia, which had been previously upheld,¹⁵⁹⁷ had ceased to operate because the emergency which justified it had come to an end.¹⁵⁹⁸

A similar issue was presented after World War II, and the Court held that the authority of Congress to regulate rents by virtue of the war power did not end with the presidential proclamation terminating hostilities on December 31, 1946.¹⁵⁹⁹ However, the Court cautioned that “[w]e recognize the force of the argument that the effects of war under modern conditions may be felt in the economy for years and years, and that if the war power can be used in days of peace to treat all the wounds which war inflicts on our society, it may not only swallow up all other powers of Congress but largely obliterate the Ninth and Tenth Amendments as well. There are no such implications in today’s decision.”¹⁶⁰⁰

In the same year, the Court sustained by only a five-to-four vote the Government’s contention that the power which Congress had conferred upon the President to deport enemy aliens in times of a declared war was not exhausted when the shooting stopped.¹⁶⁰¹ “It is not for us to question,” said Justice Frankfurter for the Court, “a belief by the President that enemy aliens who were justifiably deemed fit subjects for internment during active hostilities [sic] do not lose their potency for mischief during the period of confusion and con-

¹⁵⁹³ *Stewart v. Kahn*, 78 U.S. (11 Wall.) 493, 507 (1871) (upholding a federal statute that tolled the limitations period for state causes of action for the period during which the Civil War prevented the bringing of an action). See also *Mayfield v. Richards*, 115 U.S. 137 (1885).

¹⁵⁹⁴ 251 U.S. 146 (1919). See also *Ruppert v. Caffey*, 251 U.S. 264 (1920).

¹⁵⁹⁵ Act of November 21, 1918, 40 Stat. 1046.

¹⁵⁹⁶ 251 U.S. at 163.

¹⁵⁹⁷ *Block v. Hirsh*, 256 U.S. 135 (1921).

¹⁵⁹⁸ *Chastleton Corp. v. Sinclair*, 264 U.S. 543 (1924).

¹⁵⁹⁹ *Woods v. Cloyd W. Miller Co.*, 333 U.S. 138 (1948). See also *Fleming v. Mohawk Wrecking & Lumber Co.*, 331 U.S. 111 (1947).

¹⁶⁰⁰ 333 U.S. at 143–44.

¹⁶⁰¹ *Ludecke v. Watkins*, 335 U.S. 160 (1948).