

AMERICAN BAR ASSOCIATION
SECTION OF INTERNATIONAL AND COMPARATIVE LAW

REPORT OF COMMITTEE ON COMPARATIVE SOCIAL,
LABOR AND INDUSTRIAL LEGISLATION

To be presented by
Hon. R. E. Freer, Chairman

To the Section
at the annual meeting at
Detroit, Michigan,
August 24-26, 1942

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REPORT OF COMMITTEE ON COMPARATIVE SOCIAL,
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Two-thirds of the members of this Committee are in the Government service and most of the other third have indicated that they also are engaged in the war effort. While no meetings of the Committee as such were possible, the Chairman assigned projects to three sub-committees, and previously has filed an interim report of the progress of their work for inclusion in the advance program of this annual meeting.

Two of the sub-committees have rendered reports. Each deals with social and industrial wartime legislative trends abroad and in the Latin-American countries. The first pertains to the adjustment and settlement of the affairs of persons financially affected by the war; the second, with price controls and the rationing of goods.

The country's entry into the war has affected, and will seriously affect, the social, political and economic relationships of government to society, of businessman to businessman, of banker to banker, and of creditor to debtor. A sub-committee under the direction of Mr. Irwin W. Silverman studied the various plans formulated in other countries dealing with the numerous proposals for wartime economic adjustments. Considerable thought and study was given to the British Wartime Adjustment and Liabilities Act of 1941 (4&5 Geo. 6, c. 24), a very detailed and comprehensive enactment followed in other countries.

In brief, this Act provides for the adjustment and settlement of the affairs of persons who are financially disaffected by war circumstances.

The Act provides for an administrator, comparable to the Referee in Bankruptcy in this country, who is authorized to formulate and approve plans for the composition of debts, the postponement of their payment, their assignment, and for a general moratorium of all obligations arising out of the war. Any scheme or plan so approved is then generally binding upon all creditors.

The Act is made to apply to partnerships, companies, corporations and to estates as well as to individuals. And as to obligations of Government, the Act provides for its application "to debts and liabilities due to or incurred towards the Crown, property in which the Crown has an interest, leases, mortgages and contracts entered into with the Crown, proceedings by the Crown, and the exercise of remedies by the Crown, in like manner as in the case of subjects."

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The subject is a comprehensive one, and its application to our laws and proceedings in Bankruptcy under our reorganization Acts has not yet been studied.

It is suggested that the Committee during the ensuing year make a more detailed study of the provisions of similar legislation enacted in other countries as sources of information become available, and, if it is the wish of the Section, the Committee should also be instructed to submit a proposed draft of legislation to be submitted for approval by the Association and then to the appropriate Congressional Committee for possible enactment by the Congress of the United States. Nothing has as yet been done in this country to cope with the matter of wartime economic adjustment. It is imperative that serious consideration be given to the whole subject. Thousands of businesses and millions of persons will be affected during the conflict. Remedial legislation is essential.

A limited number of mimeographed copies of the sub-committee report are available.

Because of the coming upon the American scene of such things as rationing, price ceilings, export licensing and the like, the other sub-committee working under the direction of the Chairman of the Committee reported upon wartime industrial control measures abroad.

All over the world the State has adopted strict controls designed to conserve strategic materials and to prevent their hoarding and dissipation by either industry or consumer. Almost everywhere exports and imports are licensed or otherwise controlled. Price ceilings or fixed prices are general. In some lands there is a trend toward compulsory membership in "Chambers of Commerce" and a use of these industrial trade associations as the media for cooperation between industry and government. In every quarter of the globe the State is the chief buyer and generally the chief consumer of the agricultural and industrial crops of the nation and out of this need of the State to take for itself so much of the fruits of the labor of its citizenry there have resulted the various types of wartime controls of production, distribution and of enforced cooperation in defense of national security.

A very comprehensive paper based upon data collected and submitted to the Chairman by Ellen L. Love, Esq. 2/, Chief of the Export Trade Section of the Federal Trade Commission, and dealing in detail with the whole subject has been mimeographed and a limited number are available. The study deals with the principal features of the price control laws in England, France, Germany, Switzerland, Sweden, the Netherlands, Canada and the Latin-American countries. It treats the subject of control as it affects control of materials necessary for war purposes; control of the necessities of life--rationing; the freezing of prices and price ceilings; government purchasing and group selling; and then, the horizontal controls as between nations, rather than the vertical alignment of prices as between persons in each country, dealing with the control of imports and exports.

2/ A member of the American Bar Association, though not a member of this Section.

Particularly interesting is the Canadian experience. Price fixing in Canada is under the direction of the Wartime Prices and Trade Board. This Board consists of officials selected from the old-line agencies and from offices long experienced in dealing with such matters. A few persons from outside the government service with business experience also serve on the Board. The members of this Board are ex-officio members of the Wartime Industries and Control Board (similar to our W.P.B.). The functions of the two are well integrated with uniformity of control and little conflict of authority.

In the administration of the Act much has been copied from the German plan on freezing prices as of a certain date. Price control generally precedes freezing orders so that the basic price may be controlled at a fair level. As a matter of fact, the plan which the United States adopted during World War I, of determining prices on the basis of investigations of cost and profit, has been considered to form a sound foundation for freezing prices, as the "frozen" price is fair only if the base price is a fair one.

The over-all ceiling price law, after which our present law is patterned, was not adopted by Canada until the fall of 1941, not until it had been at war for more than two years. Before the adoption of the over-all ceiling prices, substantial increases were permitted by the Wartime Prices and Trade Board, especially in the prices of agricultural products; adjustments and exceptions were also made by it to meet the complaints of what is commonly known as the "squeeze" between the price of raw materials and that of finished products. The present over-all ceiling price law of Canada does not apply to imports by the Government of materials necessary for war purposes; nor does it apply to exports; and, adjustments in the case of all other imports and for seasonal goods is also provided for.

The Canadian law applies to all manufacturers, importers, wholesalers and retailers. They are forbidden to sell at prices higher than the maximum price charged for the same or similar goods sold during the basic period, September 15 to October 11, 1941. The Act applies not only to commodities, essential services and rents, but it applies with equal force to the freezing of wage rates with the exception that the payment of a cost-of-living bonus may be made, if deemed necessary. It applies also to managerial and executive salaries and directors' fees. The whole wage stabilization program is in the hands of the National War Labour Board.

Government buying and selling is another interesting feature. This is especially true in England because supplies are limited and to a large extent imported. Government buying and selling is a new feature in this country. During World War I large quantities of goods were sold to the Allies by producers and exporters. But our lend-lease program has necessitated many changes in dealing with this problem. The character of the relationships between all of the countries under this program is unique; and, the difficulties that will be involved in post-war adjustments are now too complex and too delicate a problem to broach. Prior to the lend-lease program, England made every effort to export as much as possible in order to help pay for some of the imports. To this end and to facilitate the operation of the program, all of the exporters have been urged to form export groups. Today, however, this is of decreasing importance since

there is an appreciable lessening of exports; so large a quantity of materials is now needed by her at home.

Very little has been published about the war plans being adopted in the Latin-American countries. More may develop during the ensuing year. If so, a number of interesting studies may be anticipated in integrating the developments there with those of this country. The actual experience under plans formulated in this country is too brief for a fair appraisal as compared with the experiences abroad.

So much for the work of the two sub-committees this year. The other sub-committee working on a selected bibliography has not been able to complete this project. It is recommended that this work be continued during the ensuing year.

Respectfully submitted,

R. E. Freer,
Chairman. 3/

August 17, 1942.

3/ Other members of the Committee are: Hon. Charles Fahy, Hon. Gerard D. Reilly, Prof. S. C. Oppenheim, Prof. Nathaniel L. Nathanson, H. Milton Colvin, Esq., Grace McEldowney, Esq., and Herman A. Gray, Esq.