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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 Chicago, Illinois, August 23-25, 1943.

1942-43

American Bar Association
Section of International and
Comparative Law
Division of Comparative Law

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Because of exigencies of war and the resultant pressure on the time of all Committee members the work of the Committee during the year was subdivided among only two subcommittees instead of three as in previous years.2/ The Subcommittee on Comparative Social and Labor Legislation headed by Mr. Harry C. Shriver and that on Comparative Industrial and Trade Regulation headed by Miss Ellen L. Love, filed interim reports in April. These interim reports were consolidated by the Committee to form its interim report presented by the Committee Chairman (both orally and in writing) on May 1st at the Washington meeting of the Section. During May and June both Subcommittees continued the gathering of material supplementary to their interim reports and thereafter one consolidated report was prepared in draft form by cooperative effort of the Chairman of these Subcommittees.3/ This procedure saved the time of the Committee itself which otherwise would have had to be devoted to consolidating their separate reports.

In summary of social, labor and industrial legislation and trade regulation during the past year, we may note: (1) In countries at war when we reported a year ago, such as the British Empire, there has been little change in basic legislation, though some amendments have been passed and many orders issued for industrial mobilization in furtherance of the war effort. (2) Latin American countries have become "war conscious" and defense measures have been replaced by more stringent laws adopted after declaration of war. (3) The United Nations have rapidly developed a spirit of cooperation resulting in international agreement on many plans and projects, some effective during the war period and others to meet post war problems.

REGULATION FOR WAR PURPOSES CONTINUED
IN THE BRITISH COMMONWEALTH

Patent Law Amended in Britain

The British Patent and Designs Act, 1942, 5 and 6 Geo. 6, Ch. 6, amended the previous legislation on this subject by extending the term

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2/Because Messrs. Irwin W. Silverman and Harry C. Shriver transferred from the Library of Congress to the Office of the Solicitor, Department of Interior, and to the Federal Trade Commission, respectively, the Subcommittee on Bibliography was discontinued.

3/Both of them are attorneys in the Federal Trade Commission.

of a patent where the patentee has suffered a loss by reason of hostilities. The statute also gave the Crown further rights with respect to the use and sale of patented designs and inventions as may be necessary in the efficient prosecution of the present war.

War Risk Insurance

Insurance for war damage has been in operation in Britain for several years. In Canada the War Risk Insurance Act of 1942 (6 Geo. VI, Ch. 35) provides for insurance of property against war risk and for the payment of compensation for war damage. Under this statute the Government, through the Minister of Finance, may enter into a contract of insurance with any person, natural or legal, to insure against the risk of war damage any property in which such person has an insurable interest. Compensation is allowed, under the statute, for damage which may be suffered to personal property, chattels, or to dwellings.

Controllers

In England the Ministry of Supply has operated through "Controllers" in charge of the various industries. Much the same system of control was adopted in the Dominions.

In Canada the authority of the Governor in Council to delegate to a controller, powers conferred by the War Measures Act, was challenged in an action before a County Court Judge at Toronto, who held in November 1942 that orders issued by the Controller of Supplies were ultra vires. In order to test this issue, Orders in Council issued by the Controller of Chemicals were referred to the Supreme Court of Canada, and in January 1943 unanimous decision was rendered by that court upholding the validity of the orders and the delegation of authority.

Price Fixing and Rationing

Price fixing and rationing have been continued and extended in the United Kingdom. In addition to the Limitation of Supplies Orders which serve to ration materials for British manufacturers, coupon rationing has been applied to clothing and most food items. Heavy workers are given extra portions, and special provisions are made to provide milk and fruit juices for children and mothers.

The Canadian Fair Prices and Trade Board has exercised broad authority over prices, services, public utility and railroad rates, wages, rationing, concentration of industry, simplification and subsidies.

In Canada coupon rationing was applied in 1942 to sugar, tea, coffee, butter and gasoline. Rubber tires and standard railroad watches are also under ration but not by coupon. Here too there has been a limitation of materials for some lines in order to increase the production of war goods.

In Australia the Black Marketing Act, No. 49 of 1942, makes it an offense to engage in "black marketing," and one who is found guilty

is punishable by imprisonment for not less than three months or more than one year, and subject to fine of from one to ten thousand pounds. Upon conviction of an offense, a notice to this effect is posted or exhibited on the offender's place of business.

Black Marketing is defined in the Australian law to consist of selling or offering for sale, purchasing or offering to purchase, paying or offering to pay for any goods at a greater price than the maximum price fixed; supplying or offering to supply any service at higher rate than the maximum rate fixed; delivering or offering to deliver any goods which are prohibited; or manufacturing or producing anything which is the subject of restriction.

In Australia prices continue to be controlled under the National Security (Prices) Regulations of 1940. In New Zealand ceilings were fixed by the Price Tribunal, and rents, wages and salaries were frozen under regulations issued in December 1942. In South Africa new regulations were issued by the Price Controller in July 1942, based on the principle of 5% profit margin.

Advertising in New Zealand

The New Zealand Medical Advertisements Act, No. 11 of 1942, repealed the Quackery Prevention Act of 1908 and makes it unlawful to publish fictitious testimonials as a medical advertisement, providing for the regulation of the publication of advertisements for the alleviation, cure, or treatment of incurable diseases. The statute also provides for the labeling of certain drugs and the regulation of such matters as must be mentioned in advertisements and such matters which may not be mentioned.

Concentration and Limitation of Non-Essential Production

Concentration has been effected by the British Board of Trade in a number of industries, for the purpose of keeping factories at full time operation, closing some plants and shifting employees from one to another. Seventy branches of industry have been affected during the past two years, including the textile mills and manufacturers of hosiery, boots and shoes, carpets, and pottery. The clothing and printing industries are now under concentration plans.

Canada has adopted a program for limitation of non-essential production. On November 2, 1942, the Wartime Prices and Trade Board "froze" Canadian business establishments, and on November 10th an Order in Council, P.C. 10277, granted to the Board power to "require any person engaged in any business or undertaking to discontinue or limit such business or undertaking in whole or in part in such manner and circumstances as the Board may prescribe." This power of the Board to actually close business concerns has been used only in the newsprint industry, where there has been a reduction of output and a concentration of production in a few concerns. The purpose of this action was not only to release man power for other industries but also to utilize power facilities needed for war production plants operating in the same regions.

Subsidies

Subsidies have been granted to prevent inflation, especially in those countries where imports and exports are of vital importance.

A statement made in the British House of Lords in 1942 showed the amount of British subsidies to be about £127,000,000 or more than \$500,000,000 a year. About one third of this sum was used to keep down the price of bread, flour, oatmeal and feedstuffs. About twenty percent was applied to meats and lesser amounts to milk, potatoes, sugar and eggs.

Some of the British import subsidy was to offset higher shipping and insurance charges. Large quantities of foodstuffs are imported from the Dominions at prices designed to sustain and encourage production. Canada contracted to furnish Britain with 600,000,000 lbs. of bacon during the year ended June 30, 1942, and this amount was increased to 675,000,000 lbs. for the following year. Australia has not only assisted in feeding the Allied armed forces in the Southwest Pacific but has also shipped meat, dairy products, dried fruit and other foods to Britain.

The British Ministry of Food is the sole importer of foodstuffs for that country; it can therefore buy at world prices and sell within the realm at prices within the means of the people, the Government absorbing the difference. Under a program effective in October 1942, the British Milk Board is the sole purchaser of milk from producers, and the Ministry of Food purchases from the Board for allocation to distributors and manufacturers. Livestock is now sold by the farmer in Britain to the Ministry of Food at packing plants licensed by the Government. The meat is then sold to the Wholesale Meat Supply Associations operating under the Ministry of Food.

Part of the British subsidy was paid to domestic producers whose costs had risen, or to compensate for expense in developing new agricultural areas. England has staged a most intensive plow-up program. Parks, golf courses, public commons, pasture land, swamp land, moors covered with bracken, and marginal lands covered with thickets, have been put into cultivation, the Government paying a subsidy for plowing grasslands, as well as large sums for drainage and clearance.

Canada has given subsidies on milk, butter, leather footwear, parts of the twine industry, and on coal, in amounts said to represent approximately the amount of increase in operating costs due to increase in the cost of living bonus. Only a small part of the Canadian subsidy is on domestic produce; the bulk has been on imported goods where world market prices have risen to a degree that cannot be absorbed by trade and industry in Canada.

The Canadian Fair Prices and Trade Board instructs the Commodity Prices Stabilization Corporation concerning the subsidy program. The Corporation may either pay the subsidy to private importers or it may

make bulk purchases itself, resell the goods in Canada and absorb whatever loss is involved. The Board is authorized to grant a subsidy or to reduce the duties and taxes on imports to meet such a condition. Canada has also suspended the anti-dumping duties on imports from the United States and other non-Empire countries (except for fresh fruits and vegetables) in order to stimulate the importation of consumer goods.

In Australia and South Africa, export bounties have been continued by marketing boards in effect before the war began, now serving in cooperation with controllers appointed for war purposes. As to imports, the South African Wheat Board is the sole purchaser of wheat, both domestic and imported, fixing the price to the producer and the retail price of wheat, flour and bread. In reselling, the Board may take a loss to cover increased cost in production or an increase in the market price abroad.

Social Legislation

Several acts which were passed in Australia during the last year merely made minor amendments to existing law, such as the Invalid and Old Age Pension Act, the Maternity Allowance Act, the Widows Pension Act, and the Women's Employment Act.

From a social standpoint, the New Zealand Women Jurors Act, No. 12 of 1942, is a particular significance. This act provides that any woman between the ages of twenty-five and sixty years, who possesses the qualification for service as a juror which is required by the principal act relating to jurors in the case of a man, shall be qualified and liable to serve upon juries in the same manner in all respects as if she were a man.

Post War Measures

One of the principal statutes enacted in England in 1942 was the Restoration of Pre-War Trade Practices Act, 5 and 6 Geo. 6, Ch. 9. This act provided that employers are required to restore certain pre-war practices at the close of the war and to continue or maintain such trade practices for eighteen months after the war. Any trade practice obtained by agreement between employers and the trade unions and abandoned for the purpose of accelerating production, shall be restored. The statute also set up certain machinery and established fines and penalties for the enforcement of this legislation.

The Canadian Reinstatement in Civilian Employment Act, 1942 (6 Geo. VI, Ch. 31) provides that it shall be the duty of any employer by whom a person accepted for service in His Majesty's Forces was employed when accepted for such service, to reinstate him at the termination of his service and in such position under such conditions not less favorable to him than those which would have been applicable if he had stayed in the employment of that employer. An employee who is reinstated shall not be terminated without reasonable cause, and if his services are terminated within six months after reinstatement, the

burden of showing such reasonable cause is on the employer. Nor is it permissible for an employer to discharge an employee in anticipation of and prior to entering the service, in order to avoid the obligations of later reinstatement. The act applies to all those in the active services in the present war, in the Navy, Military, or Air Forces, as well as those serving in the Canadian Women's Auxiliary Corps, and to the merchant marine seamen. In order that an employee have the benefit of this statute, he must have been in service of the employer for at least three months prior to the date of acceptance into the armed services.

The Canadian Veterans Land Act, 1942 (6 Geo. VI, Ch. 33) was passed to assist and reward veterans and to encourage farm home ownership. This act provides, among other things, that a veteran may secure farm land at a stipulated price which is less than its actual value. Loans are made by the Government and appropriate means are provided for the administration of the law. In order for a veteran to be eligible under the law, he must have served in the armed forces or in a theatre of actual war for not less than twelve months or be entitled to a pension by reason of disability.

LATIN AMERICA HAS BECOME WAR CONSCIOUS

Defense Measures Replaced by War Acts

The more loosely drawn defense measures adopted in Latin American countries during their neutrality, have in most cases been replaced by more stringent war acts. Authority of the Executive to issue decrees with force of law, has been extended to facilitate wartime regulation.

In Brazil a constitutional amendment in 1942 (Constitutional Law No. 5, Diario Oficial, March 11, 1942) gave to the President increased powers during the state of emergency or war. After declaration of war in August 1942, Decree-Law No. 4750 was passed on September 26, 1942, placing all resources of the nation at the service of the Government, dissolving the Commission of National Defense created in 1939, and creating a Coordinator of Economic Mobilization with broad powers over all utilities and economic resources, trade, transportation, and man power. The Coordinator will investigate the cost, prices and profits of all articles, materials and services, fix maximum, minimum and basic prices, determine quantities of goods to be sold and services rendered, prescribe conditions of sale, require licenses where necessary, and intervene in the labor market to stabilize man power. Anyone who opposes the execution of the Coordinator's orders or who creates embarrassment to his actions shall be tried before the Tribunal of National Defense, and may be punished by fine and imprisonment.

In Chile, an Emergency Law, known also as the Extraordinary Economic Powers Law, No. 7200, July 18, 1942 (Diario Oficial, July 21, 1942) granted to the President administrative, economic and financial powers, and prescribed other measures deemed advisable because of the present emergency. Under this law the President created a new Ministry of Economy and Commerce to coordinate a number of existing agencies including the National Air Lines, National Savings Bank, Development Corporation, Agricultural Colonization Institute, various credit organizations, and the General Commissariat of Subsistence and Prices. In

September 1942, a National Foreign Trade Council was established in Chile to take over the functions of the Exchange Control Commission, Import License Commission, Export Control Service, and National Supply Board, and to cooperate with the Agricultural Economy Institute in foreign trade matters.

In Costa Rica, Legislative Decree No. 34, December 24, 1941, authorized the Executive Power to take necessary measures to develop and protect agricultural, industrial and commercial activities, with particular regard to difficulties that may result from the war, and provided for creation of an Economic Defense Board (Gaceta Oficial, December 30, 1941). Under this authority the President has issued numerous decrees.

In the Dominican Republic, Law No. 16, June 23, 1942, declared a state of national emergency and empowered the President to take any steps considered necessary to protect the national economy.

Legislative decrees in Guatemala, Nos. 2563 and 2564, dated December 8 and 12, 1941, declared that a state of war existed and empowered the President to take such measures and issue such orders as may be necessary for the defense of the nation (Diario de Centro America, December 10 and December 12, 1941). Numerous orders have been issued adopting control of strategic minerals, certain metals, rubber, jute, automobiles, trucks and tires, gasoline, quinine and pharmaceutical specialties.

Legislative decrees in El Salvador were similar to those in Guatemala, and on the same dates, December 8 and 12, 1941 (Nos. 90 and 93, Diario Oficial, December 9 and 15, 1941). A further legislative decree in El Salvador on February 18, 1942 (No. 2, Diario Oficial, February 21, 1942) authorized the Executive Power and the Treasury Department to take whatever steps are necessary for the protection and continued functioning of the national economy, such as the control, restriction, or regulation of exports, imports, articles or materials; and created a Committee on Economic Coordination charged with the study and the proposal of necessary means to counteract the adverse effects of the war on the national economy.

Coordination of Government Agencies

As we have seen in the Brazilian and Chilean laws noted above, coordination of effort is noticeable as a trend. Offices that may well operate independently in peace times find it necessary to combine their efforts in war time.

There is also a tendency toward creation of economic councils or commissions to make inquiries and recommendations for Government action.

In Bolivia a National Economic Council was established by decree in December 1942, comprising the Ministers of La Paz, representatives of the Central Bank of Bolivia, the State railways, the private railways, and the Director General of Commerce and Industry. The primary function of the Council is to investigate and submit recommendations

for appropriate legislation in the field of economic matters, with special attention to supply, distribution and price of prime necessities, rent control, and exchange control.

In Colombia an Executive Order on April 1, 1942 (Diario Oficial, April 11, 1942) created a National Commission for Economic Study charged with planning and preparation of projects to be submitted by the Government to the Inter-American Financial and Economic Advisory Committee.

In Guatemala a Presidential Order on January 23, 1943, established a commission to prepare a national plan for economic mobilization (Diario de Centro America, February 4, 1943).

In Mexico a decree on June 16, 1942, established Mixed Regional Councils as organisms for the coordination of the nation's regional activities in agriculture, industry, transportation and commerce (Diario Oficial, July 25, 1942). A further decree on June 30, 1942, created a Federal Economic Planning Commission as a consulting organism of the Department of National Economy, its functions to be to study all programs and proposals made by the Mixed Regional Economic Councils and the concrete economic problems created by the war, and to formulate programs for the economic mobilization required by inter-American cooperation (Diario Oficial, July 9 and August 1, 1942).

Control of Price and Supply

Price control in Latin America, formerly confined to articles of "prime necessity," has now been extended to meet war conditions. In some instances other goods have been added to lists of necessary products and within the control of boards established for that purpose. In others, new offices have been created to fix prices. Hand in hand with price control, and sometimes administered by the same office, is the control of supplies. In some instances special Supply Boards have been created for this purpose, with direction for cooperation with price control offices.

In Argentina Government price fixing was extended during the year, and a Special Commission for Supply Control was established by Presidential Decree on May 27, 1942 (Boletin Oficial, June 5, 1942). Some products are under control of the Ministry of Agriculture, by Executive decree.

The Brazilian Coordinator of Economic Mobilization has issued numerous orders, one of which froze prices as of December 1, 1942, and at the same time the minimum wage level was increased.

In Chile the Commissariat of Subsistence and Prices, now a part of the new Ministry of Economy and Commerce, has been active in the issuance of decrees fixing prices on articles of prime necessity.

In Columbia a law passed in 1943 authorized the President to establish a price control system, which was followed by a Presidential decree providing for an Office of Price Supervision, to be assisted by

an advisory committee representative of labor, agriculture, manufacturers and importers.

In Costa Rica prices of necessary products have been under surveillance since 1933, but in March 1942 an Office of Investigation and Control of Prices was created by Presidential decree, with direction to act in accord with the National Civil Defense Board (Decree No. 4, March 27, 1942, La Gaceta, March 28, 1942). Further regulation of prices is provided by Executive Decree No. 3, January 20, 1943, which created a General Supply Board, the purpose of which is said to be to prevent inflation by rigid enforcement of the price fixing acts and expropriation of essential commodities.

Price control in Cuba was continued and strengthened by the Production and Supply Law of January 20, 1942 (Gaceta Oficial, Jan. 21, 1942, 1089).

In the Dominican Republic, an Executive decree in March 1942 provided for reorganization of the Import and Export Control Commission (Gaceta Oficial, March 21, 1942) and a law in May (No. 734, May 14, 1942, Gaceta Oficial, May 19, 1942) provided for reorganization of the National Committee on Foods to facilitate the supervision of importation, exportation, and movement of articles of prime necessity, to fix their prices and adopt all other measures tending to avoid shortage, hoarding, or rise in price of said articles. A Price Controller was appointed for that purpose.

Without discussing them in detail, we may note similar measures during the past year in Ecuador, Panama, Paraguay, Peru, Salvador, Uruguay and Venezuela.

INTERNATIONAL AGREEMENT ON WAR AND POST WAR PROBLEMS

During the past year the member countries of the United Nations, by force of circumstances have moved more swiftly toward international cooperation. This unified effort has gone beyond the military field. It has taken the form of informal development plans, contracts, and international agreements.

One example of such action which may have far reaching effect, is the enactment by Britain of the United States of America (Visiting Forces) Act, 1942, 5 and 6 Geo. 6, Ch. 31, which authorized and gave effect to an agreement negotiated with the United States, providing that no criminal proceedings shall be prosecuted in the United Kingdom before any court of the United Kingdom against a member of the military or naval forces of the United States of America. In the trial of criminal offenses which may have been committed in the United Kingdom by members of United States forces, exclusive jurisdiction was given to the Service Courts and authorities of the United States. However, in a particular case, if the United States authorities do not wish to exercise this power, the case may be restored to British jurisdiction upon appropriate diplomatic representations on the part of the United States.

Under this Act, which shall continue in force until six months after the war, unless otherwise provided, the United States agreed to try, and on conviction to punish, all criminal offenses which may be brought to the attention of the American courts by the competent British and American authorities. The United States agreed that the trial of any member of the United States armed forces for an offense against the civilian population should be in open court (except where security considerations forbade this) and would be arranged to take place promptly within a reasonable distance from the spot where the offense was alleged to have been committed, so that witnesses would not be required to travel great distances. The United States also promised that if the British Forces are in American territory, the same privilege of trying their own offenders would be accorded. Mutual assistance is required to be given both by British and American authorities respecting the making of investigations and the collection of evidence in particular cases.

An Inter-American Financial and Economic Advisory Committee, of which the Chairman, Mr. Nelson Rockefeller, is named as Coordinator of Inter-American Affairs, has undertaken a very extensive program for development of the natural resources of Latin American countries. To facilitate this work, development corporations have been created in the various countries, and projects will be financed through the United States Export-Import Bank and appropriations within the interested countries. In Brazil, for instance, the Amazon Basin Development Project affects an area said to cover over 2,600,000 square miles.

Brazil has been termed an "arsenal of strategic materials." Other countries are capable of producing large quantities of products of importance in war time. The Defense Supplies Corporation, U. S. Metal Reserve Co., U. S. Rubber Reserve Co., and the U. S. Commodity Credit Corporation have negotiated for purchases, in some cases covering the entire exportable surplus of such materials as rubber, metals, vegetable oils, and medicinal products. Increased production of agricultural products of the south will serve to take the place of goods formerly imported from enemy controlled lands, and will assure a supply of food and other necessities in the producing countries and for the armed forces. The Combined Food Board created by the United States and Britain in 1942 will go far toward solving problems of purchasing and distributing goods available to the United States and our allies.

War conditions have necessitated numerous international conferences and missions, in this country and abroad. The Meeting of Ministers of Foreign Affairs of the American Republics at Rio de Janeiro in January 1942, provided for an Inter-American Conference on Systems of Economic and Financial Control held at Washington in July 1942. The Conference adopted resolutions concerned with financial and commercial transactions with aggressor nations and with countries outside the Western Hemisphere through which enemy trade may pass. Alien property measures have been adopted abroad, as in this country, and every effort has been made to block trade with persons under Axis domination.

Several important missions from the United States have visited the Latin American countries in the interest of agricultural, industrial, engineering, and sanitation projects, including a tour of the Americas by Vice President Wallace in the spring of 1943. Problems relating to the production and distribution of agricultural products, of utmost importance at this time, were considered by the United Nations Food Conference at Hot Springs, Virginia, in May 1943, and a permanent international organization was proposed to continue this work.

It is important to note the trend toward international regulation of foreign trade. Recently adopted "decentralization" and "program licensing" plans of the United States Board of Economic Warfare are designed to tie in with foreign trade controls abroad, the purpose of which is said to be to determine the essential needs of each country for materials to be imported, to provide a procedure which will assure that imported materials and transportation to each country will be utilized in such a way as to promote the greatest possible efficiency in the war effort, and to maintain as far as possible the essential economy of the countries operating under the plan. (U. S. Board of Economic Warfare Current Export Bulletin No. 79, March 3, 1943.)

International cooperation will continue to expand as the war progresses, and will serve as a basis for post war policy. Already there are in the United States more than a hundred agencies, Governmental and private, working on post war plans. Other countries are considering the same problems. Reconversion of industry and reconstruction necessary after the war, must be planned for in advance; and machinery must be set up for readjustment of foreign trade and shipping facilities. In order to prevent world-wide unemployment, a United Nations Investment corporation has been proposed, under whose direction public and private capital can be put to work for world-wide reconstruction. ("What We Will Get Out of the War," Vice-President Henry A. Wallace The American Magazine, March 1943.) An international stabilization fund has also been proposed, in which all the United Nations and those nations which are associated with them in this war would participate, with powers and resources adequate to promote the maintenance of currency and stability. (Statement of Secretary of the Treasury Henry Morgenthau, Jr., to the Senate Committees on Foreign Relations and Banking and Currency and the Special Committee on Post War Economic Policy and Planning, April 5, 1943.)

CONCLUSION

Appreciation is expressed to the members of the Committee in general;^{4/} to Messrs. Oppenheim and Reilly for their constructive work in the reviewing and consolidating of the subcommittee reports; to Miss Love and Mr. Shriver for the subcommittee research and interim

^{4/}The Committee members are: Miss Ellen L. Love, Mr. Nathaniel L. Nathanson, Professor S. C. Oppenheim, Honorable Gerard D. Reilly, Mr. Harry C. Shriver and Mr. Irwin W. Silverman.

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reports and for the basic draft of this final report; and to the Federal Trade Commission for access to information relative to foreign legislation in the files of its Export Trade Section.

Respectfully submitted,

Robert Elliott Freer,
Chairman.

July 12, 1943
Washington, D. C.