

EDITORIAL COMMENT

INTERNATIONAL CONTROL AND DISTRIBUTION OF RAW MATERIALS

The project for an economic conference under the auspices of the League of Nations, which has been receiving serious consideration, presents some questions of interest from the point of view of international law. One of the purposes of such a conference, as appears from the preliminary discussions of the subject, is to arrange for the international control of the supply, price and distribution of certain raw materials, including foodstuffs.

Among the methods proposed for the accomplishment of this purpose, three have emerged from the preliminary discussions as embracing all the others. One of these plans, which has been proposed apparently only for the purpose of demonstrating that it is impracticable, is termed the Nationalist Solution. This plan contemplates an adjustment of political affiliations and boundaries among nations in such a way that each nation, or affiliated groups of nations, should be self-contained and self-supporting with reference to raw materials, including foodstuffs, necessary for their own population and industries. In the discussions of this plan, the conclusion seems to have been reached that, however desirable it might be as an ideal organization of the family of nations, it is beyond the possibility of accomplishment through any action at present possible on the part of the League of Nations.

Another plan, which has received serious consideration, is called the Socialist or State Solution, although it is not intended to operate independently within any particular state, but only collectively among groups of states. This solution contemplates the establishment of a central international organization with authority to acquire raw materials and foodstuffs throughout the world, and to distribute them equitably among the member states, to meet, so far as possible, the requirements of each individual state. The organization established under this plan would correspond to the so-called "International Executives" established by the United States and the Principal Allied Powers during the war. The organization and operation of those Executives was described in an editorial in this JOURNAL, January 19, 1919, page 85, from which the following extracts are quoted:

An interesting example of the possibility of establishing, on a practical and workable basis, international executive committees with certain delegated powers conferred upon them by the participating governments, for the purpose of securing joint international control in special spheres of common interest, is furnished by the successful operation during the war of international executives for nitrate of soda, tin, hides and leather, and certain other raw materials, and some food supplies.

These Executives, as they were called, were international joint committees organized by agreements between the United States and the principal Allied Governments, each committee being vested with certain well-defined executive powers relating to the procurement and distribu-

tion of some one or more of the materials mentioned to the best advantage of all the participating countries. . . .

Different methods of procurement and purchasing were found to be necessary in the case of some of the other raw materials mentioned, where only a part of the annual output came from neutral countries and a considerable quantity of the available supply was produced within the United States or in territories under the jurisdiction of some of the Allied Governments. In some cases it was found advisable, instead of empowering a single director of purchases to act for all, to arrange for several directors of purchases in the different markets, all acting under the direction of the Executive and in conjunction with each other for the mutual advantage of the several governments concerned. Again, in some cases it was found advisable to allot to each country separate markets exclusively for its own purchases as well as to allot to each country its proportionate share of purchases made in a common market. In such cases it was provided that if the allocation of markets resulted in disadvantage to any of the participating countries through inequality of prices in different markets, then the cost of purchases in the different markets might be equalized by the Executive by monthly readjustments, so that all participating countries would pay the same average price for their respective shares, and the Executive was also authorized to require that all purchases made for account of more than one of the participating countries in a common market should be pooled as to quantity and price. In every case, however, each of the participating countries reserved to itself the right to determine the purchasing agencies or importing houses through which its allocated share should be purchased, either in its own market or in the markets of other countries. . . .

The underlying condition, which was essential to the success of these arrangements and which entered into all of them, was the governmental control exercised during the war in each of the participating countries over imports and exports, because it was necessary to agree, with reference to the materials under the control of each Executive, that the respective governments would exercise such control over their respective nationals as would prevent them from buying these materials through any channels except those provided for under the direction of the respective Executives. . . .

It remains for the future to disclose whether the principle of international coöperation, applied during this war through the operations of international executives, will find its way into the economic conditions prevailing in time of peace.

It seems that in recent discussions of this subject, the practical difficulty of operating satisfactorily, in time of peace, organizations of this character has been recognized, and the plan is being urged in a restricted form calling at the outset only for a statistical bureau to obtain and disseminate information about the production, price and distribution of raw materials and natural resources throughout the world. On the other hand, it has been pointed out that International Executives offer the only practical means by which exports could be controlled, in order to render effective a blockade against enemy states, which is the principle, if not the only economic weapon, at the

disposal of the League of Nations against enemy states. It is therefore anticipated that it may be necessary for the League to consider this plan with a view to its adoption in some form for use in case an economic blockade should be required pursuant to the stipulations of the Covenant of the League of Nations.

The third plan is known as the Free Trade Solution, and contemplates the establishment of complete freedom in international trade and economic relations, throughout the world, or among groups of nations, by the removal of every restraint upon the freedom of production and distribution of raw materials and the development of natural resources. This plan apparently does not contemplate the common ownership by all nations of raw materials and foodstuffs throughout the world, but it does contemplate the imposition of limitations upon a state with respect to any economic policy, which would be detrimental to others, concerning materials produced within its territory. Such limitations are recognized as restrictions upon the exercise of state sovereignty, and this objection is met by the argument that economic evolution is tending toward limitations in the exercise of state sovereignty, and that such limitations when voluntarily assumed by the states, as an exercise of their sovereign powers, is not in derogation of their sovereign rights.

In considering whether any of these plans, or any other plans of similar import, can be adopted and successfully operated in time of peace, it is worthy of note that a plan adopted by the United States, Great Britain, Japan, and Russia in their North Pacific Sealing Convention of 1911 for the protection of fur seals on the high seas, beyond the jurisdiction of the parties to the agreement, has been in successful operation ever since its adoption and both in time of peace and war. The purpose of this convention, as stated in an editorial in this JOURNAL, October, 1911, page 1025, was to secure the adoption of effective measures for the preservation and protection of fur seals frequenting the North Pacific Ocean, and to that end it provides that all persons subject to the laws and treaties of the parties to the convention, and their vessels, shall be prohibited from engaging in pelagic sealing in certain defined waters of the North Pacific Ocean, under penalty of seizure and punishment.

It also prevents the use of any of the ports or harbors of any of the parties by any persons for any purposes whatsoever connected with the operations of pelagic sealing in the waters mentioned, and it prohibits the importation into the territory of any of the parties to the convention of any seal skins of the American, Russian, or Japanese herds taken by pelagic sealing. One of the essential features of that convention was the apportionment among the parties of the annual proceeds of the several seal herds in which they are interested as follows:

30% of the skins annually taken from the American and Russian herds respectively is to be divided equally between Great Britain and Japan;

30% of the skins annually taken from the Japanese herd is to be divided equally between the United States, Great Britain and Russia; and 30% of the skins annually taken from any herd which may hereafter resort to the breeding grounds under British jurisdiction in the North Pacific Ocean, is to be divided equally between the United States, Japan, and Russia.

The convention contains other provisions relating to the annual killing of the seals of the several herds on land, the regulation and control of each herd being reserved, however, to the government having jurisdiction over the breeding grounds.

That arrangement has resulted in saving the fur seals from extinction for commercial uses, and has proved of great pecuniary advantage to all the parties concerned, as well as of indirect advantage to the consumers throughout the world by continuing the supply and cheapening the cost of fur seal skins as an article of commerce.

It is clear, however, that any attempt to impose international control over the production and distribution of raw materials will present different problems in each case, which will require special treatment, and that the adoption and operation of any such plan will depend upon the mutual advantages which the interested parties derive from it and upon the mutual consent of the parties concerned.

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THE NON-RECOGNITION AND EXPATRIATION OF NATURALIZED AMERICAN CITIZENS

The second paragraph of the second section of the Act of March 2, 1907 (34 Stat. 1228) in relation to the expatriation of naturalized citizens is as follows:

When any naturalized citizen shall have resided for two years in the foreign state from which he came, or for five years in any other foreign state it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: *Provided, however,* that such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe: *And provided also,* that no American citizen shall be allowed to expatriate himself when this country is at war.

By this enactment the Congress has established a rule governing every department of the government whenever a question of citizenship to which the paragraph is applicable calls for solution. The pure question of citizenship, whether an individual has through the operation of the law ceased to be an American national and become an expatriate, is essentially a judicial one, and when judicially determined binds the executive departments of the government. Nor can those departments in the absence of