

Book Reviews

LAW AND CONTEMPORARY PROBLEMS:

THE NATIONALIZATION OF BRITISH INDUSTRIES

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In Great Britain between 1939 and 1949, a bloodless revolution occurred; between those years the control of the basic industries was transferred from private to public ownership. This was no transmogrification and if it was a revolution at all, it was rather dull, in the historical sense, as there was neither blood, nor bayonets, nor barricades; there were only twelve acts of parliament! These acts, conceived after detailed and thorough study, were similar in effect and similar in pattern. Their net result was to establish in Britain a mixed economy, where one segment of British industries and services was privately owned and operated while the other sector was controlled by Parliament through a new instrument of public management—the public corporations.

The organization and function of the various public corporations which are managing the iron and steel industries, coal mining, transport and other nationalized industries are the principal focal point of the eight articles contained in this symposium. The authors do not attempt in any way to argue the merits of nationalization. Rather, they accept the twelve acts of parliament and they concentrate in an impartial and scholarly manner, on the management, functions and control of the public corporations.

The first article is written by Clive M. Schmitthoff and deals with the nationalization of the basic industries generally. Mr. Schmitthoff accepts the definition of a public business corporation as given by Denning, L.J., in *Tamlin v. Hannaford* (1) where it was held that the public business corporation was neither a government department nor an agent of the crown, but, "a commercial corporation—that—acts on its own behalf even though it is controlled by a government department."

While the public corporations are not forbidden to make profits they are not intended to exploit natural or human resources to the detriment of what the economists call the "national good;" "they are entrepreneurs with a conscience."

The most profound and most discerning article is written by Professor W. Friedmann of Toronto University. It is entitled "The Legal Status and Organization of the Public Corporation." Mr. Friedmann states that the characteristic feature of the public corporation

(1) (1950) 1 K.B. 18 at page 25

is "legal autonomy coupled with political responsibility." This dual character was recognized in *Tamlin v. Hannaford* (2) where it was stated:—

"In the eye of the law, the (public) corporation is its own master and is answerable as fully as any other person or corporation. It is not the Crown and has none of the immunities or privileges of the Crown. Its servants are not civil servants, and its property is not Crown property. It is as much bound by Acts of Parliament as any other subject of the King. It is, of course, a public authority and its purposes, no doubt, are public purposes, but it is not a government department nor do its powers fall within the province of government."

In short, the public corporation is an institution deliberately designed to integrate public enterprise with the existing common law system.

These first two articles are so much better than the remaining ones that they are necessarily anti-climactic.

Mary Bell Cairns, a lady barrister of the Middle Temple, deals very thoroughly with every legal aspect of compensation for nationalized assets. Compensation has been treated in Britain as a legal right. However, no single method of compensation has been used and Parliament has fixed a different yardstick of compensation for each industry which has been nationalized.

Mr. G. F. Wheldon has written a short but penetrating article on financing the nationalized industries. Mr. Reginald W. Bell points out the need for proper selection and training of the administrative and executive personnel of the new public corporations. A section of the book is devoted to labour relations in the nationalized industries. Mr. Charles Winter is not very exhaustive in his treatment of parliamentary, ministerial and judicial control of the nationalized industries. The last article deals summarily and abruptly with some of the more obvious economic aspects and problems of nationalization.

To those who are used to scandals and political patronage surrounding the operations of government in business it will come as a shock that none of the authors claim that the public corporation in Britain has been used as a vehicle of political corruption. All in all, this symposium is a valuable contribution to the study of government.

(2) Per Denning, L.J., (1949) 2 A.E.R. 327, 329

J. Carlisle Hanson,

Associated with Gilbert and McGloan, Saint John, N.B.