

LAW AND CONTEMPORARY PROBLEMS

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FOREWORD

LAW AND CONTEMPORARY PROBLEMS considers itself fortunate in being able to present its symposium on War Contract Termination at this particular moment when the "termination problem" has assumed in the view of many the position of the number two national problem—second only to winning the war. Preparations for this symposium were made early in the summer of 1943 and an earlier publication had originally been contemplated. Postponement was occasioned by such developments in the fall of 1943 as the creation of the Advisory Unit for War and Postwar Adjustment Policies within the Office of War Mobilization to formulate and co-ordinate policies, congressional activity presaging legislation as manifested by various hearings before committees and culminating in the recently introduced Murray-George Bill (S. 1718, Feb. 11, 1944), and the over-hauling of certain procedures and policies within interested agencies. To be sure, the "termination problem" is still in its early dynamic stages and postponement of publication till further clarification might plausibly be urged. Repeated requests, however, from various sources for publication at this time of certain articles have resulted in the publication of this symposium in two parts, of which this issue is Part I. Part II will follow, it is hoped, in a matter of weeks.

Most of the articles in this Part I are of an exploratory nature. The discussion is opened by Cecil E. Fraser, Assistant Dean of the Harvard Graduate School of Business Administration, with an over-all economic survey entitled "The War Adjustment Problem," in which are indicated the important questions of the various stages of transition and the factors to be considered in the essential planning for demobilization.

The next article, by Leon Malman, examines the policies and procedures for the termination of war contracts, with special emphasis on the policies and procedures of the War Department. This analysis, from the Chief of the Legal Unit of the Contract Termination Section of the Office of the Chief of Ordnance, is particularly significant in view of the lion's share of terminations which falls within Ordnance's sphere and in view of the relative maturity of the War Department's termination program. The reader is urged not to be intimidated by the formidable length of this comprehensive article, the practical utility of which is attested by its use in the instructional program of the recently established Army Industrial College.

The two articles that follow discuss problems that arise in consequence of the hierarchy of prime, sub and remote contractors. John S. Carter, drawing upon the Radio Corporation of America's experience with its substantial prime contracts and subcontracts, discusses the various problems arising out of the subcontractor relationship—payments, insolvency, bases of settlement, time-lag. The article by Allen W. Maddren, of the Research Institute of America, explores the advantageous potentialities and administrative difficulties of "Company Settlements," and concludes that the difficulties of a flexible, non-mandatory mechanism would not be insuperable.

The final article in this Part I, by Bertram M. Gross, Staff Director of the War Contracts Subcommittee of the Senate Military Affairs Committee, analyzes the role that Congress may be expected to play in the termination picture—a more active role, apparently, than heretofore. Mr. Gross points out the necessity for legislation, and indicates its desirable characteristics. This article was written before the introduction of the pending Murray Bill, which Mr. Gross will analyze, together with the recently released "Baruch Report," in a companion article in the forthcoming Part II of this symposium.

Part II will include, besides Mr. Gross's above mentioned analysis, articles on the financing, accounting, property-disposition, labor, administrative, and historical (World War I) aspects of termination. It is also hoped that circumstances will not compel the omission of an article on the integration of termination problems with other governmental policies, the inclusion of which had at one time been tentatively announced.

This symposium (including its forthcoming Part II) constitutes the third of a series of three symposiums dealing with problems closely related to war contracts. The first two, dealing with Excess Profits Taxation and War Contract Renegotiation, have been recently published.

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