

economic dependency, and whether they should be repealed completely or made less restrictive and specifically whether compulsory licensing on reasonable terms should be required.

3.37 *Extraterritoriality* (1) The Canadian Ownership Law should include provisions preventing the extraterritorial application of foreign laws. Specifically this legislation would prohibit the compliance with any foreign court order for the removal of commercial records and data from Canada; make it illegal for any director or officer of a Canadian corporation in making decisions with regard to Canadian operations to be governed by American or other foreign laws, particularly American laws restricting Canadian exports, anti-trust laws and commercial decisions of a Canadian company, including decisions with regard to the payment of dividends and the investment of funds. Such legislation should also declare that any person who, when making decisions with respect to Canadian operations, would be subject to the laws of the United States or any other foreign state is disqualified, by reason of conflict of interest from serving as a director or officer of any Canadian corporation.

(2) The Committee has considered the recommendation contained in the Watkins Report that in order to avoid United States restrictions on the freedom of Canadian subsidiaries to export, a Government export trade agency be created with the necessary powers to ensure that export orders are filled and they conform with Canadian law and Canadian foreign policy. The Committee believes that more effective results could be achieved by somewhat different methods. It recommends that where the Canadian Ownership and Control Bureau is satisfied that a foreign controlled corporation is refusing to make sales because of the application of foreign laws, the corporation in question may be subjected to public utility regulation: in other words it is put in the same position as the railroads, telephone and telegraph companies and other public utilities and is required to sell to all credit-worthy customers to the extent that it has products available. The Committee recommends that any such decision by the Bureau should be subject to appeal by the corporation involved but that pending the outcome of the appeal the public utility requirement should apply. If these provisions were adopted, the Committee does not believe that it would be necessary to create a Government export trade agency which might be relatively less efficient than existing private traders.

(3) As a means of enforcing the law, the committee has considered carefully a suggestion made in evidence before it to the effect that in cases where there is a specific extraterritorial application of foreign laws to a Canadian subsidiary, the effect of the foreign laws might be countervailed by the appointment by the federal government of a voting trustee. This trustee would exercise the voting rights of foreign owned shares of any corporation affected by such extraterritorial laws so long as they purported to apply to the Canadian subsidiary. During this time, also, any persons subject to the application of such extraterritorial foreign laws would be disqualified from holding office as a director or as an executive officer of such a corporation.

Professor Rotstein indicated that a somewhat similar procedure had been followed in France:

"I can cite one instance where such a law, such a procedure, actually exists and has not to my knowledge stifled American investment: the trusteeship provision is actually being used, has been used, in France. It