

THE NATIONAL WAR LABOUR BOARD *

C. A. L. MURCHISON

Ottawa

It is difficult to ascertain or even estimate the number of reports issued during the war years which told of the efforts of Canadians generally, and of Canadian industry in particular, in the defence of Canada. It is sufficient to say that there were a great many of them and that they were given wide circulation. One may therefore assume that all who read this article have a fair idea of the extent to which Canadian industry moved during the war years from the production of consumer goods to the production of munitions and supplies. The production of consumer goods was reduced to a minimum and, at the same time, employment and earnings increased. Eventually, buying power exceeded supply and the natural law of economics began to assert itself.

The cost-of-living index published by the Dominion Bureau of Statistics shows that the cost of living increased each month after August 1939. In the early months of World War II the increase was modest and gradual, but as time passed the rate of increase was accelerated. By October 1941 the cost-of-living index had risen 14.6 points above the index for August 1939.

Prior to October 1941 the Government of Canada had inaugurated the Victory Loan and War Savings Certificate Plans. The man on the street regarded these plans as effective means of assisting the Government to finance Canada's wartime programme. This view, though accurate to a point, was not complete. To complete the view, it is appropriate to say that the plans had the effect of draining off excess purchasing power. Notwithstanding the purposes of the plans, it became quite evident in the latter part of 1941, when there was a jump of one or two points a month in the cost-of-living index, that the Government's underlying fiscal policy would not be sufficient to combat the tendency toward inflation. Accordingly, it was found necessary to resort to certain controls. It was a task most complicated in all its steps. It involved an overall price ceiling, a drastic wage stabilization policy and heavy taxation.

The first wage stabilization order was established by Order in Council P.C. 8253, dated October 24th, 1941, the "Wartime

* The second of a series of articles on the special wartime boards, the first of which, by Mr. Harry D. Anger, K.C., O.B.E., on the Wartime Prices and Trade Board appeared in the August-September issue. Mr. C. A. L. Murchison, K.C., is Chairman of the National War Labour Board.

Wages and Cost-of-Living Bonus Order". To administer the Order, there were created the National War Labour Board and a Regional War Labour Board for each province. Labour and Industry were equally represented in the membership of each Board. The first Chairman of the National Board was Mr. Humphrey Mitchell, later to become the Minister of Labour for Canada. Usually the Chairman of each Regional Board was the Minister of Labour for the province.

The National Board was responsible for the administration of the Order, but had authority to delegate certain of its powers to the Regional Boards. The National Board retained jurisdiction over employers engaged in mining, transportation, communication and shipbuilding. Regional Boards were authorized by the National Board to administer the Order, as it concerned all other employers, within their respective territorial jurisdictions.

The Order prohibited an employer from increasing the wage rate for an occupational classification of his employees above the rate he had in effect on November 15th, 1941, unless and until he had received permission from the appropriate war labour board. The Board's authority to permit an increase in wage rates was contained in sub-section (2) of section 11 of the Order. This sub-section read as follows:

If the National Board finds that any employer's basic scale of wage rates is low as compared with the rates generally prevailing for the same or substantially similar occupations in the locality or in a locality which, in the opinion of the National Board, is comparable, it may prescribe such increased wage rates as it finds fair and reasonable.

The first step taken by a Board on an application for a wage increase for an occupational classification was to ascertain the prevailing rate in the locality for that occupational classification or one substantially similar thereto. The expression "prevailing rate" was construed as meaning the "market rate" or "the rate which is common to the greatest number". If the existing rates in a case were found to be below the prevailing rates, increases were approved to the extent requested or to the prevailing rate level, whichever was the lower. Thus the effect of the Order was to level up wage rates within localities.

At this point it might be appropriate to refer to the cost-of-living bonus. The cost-of-living bonus was designed for the sole purpose of providing the wage earner with such additional income as was deemed necessary and sufficient to meet increases in living costs as they were reflected by changes in the cost-of-living index. This method of adjusting an employee's remunera-

tion was introduced by Order in Council P.C. 7440, dated December 16th, 1940. The payment of a cost-of-living bonus, based on the rise in the cost-of-living index from October 1941, was made compulsory for all employers covered by the Order.

The Wartime Wages and Cost-of-Living Bonus Order applied to all employers, except those engaged in agriculture, horticulture, fishing and trapping and those operating hospital, religious, charitable and educational institutions operated on a non-profit basis. The Government of Canada and the governments of the provinces and municipalities were also excepted. At a later date Crown companies and certain other agencies of the Government were brought within the scope of the Order. It should also be stated that Order in Council P.C. 8253 and the Orders that succeeded it did not apply to employees declared to be above the rank of foreman or comparable rank.

As a result of experience gained in the administration of this Order the National War Labour Board found that certain of its clauses required clarification. On the Board's recommendation the Order was revoked and replaced by Wartime Wages Control Order, P.C. 5963, dated July 10th, 1942. No change was made in the basic circumstances in which War Labour Boards were empowered to approve or direct increases in wage rates, nor in the basic conditions concerning cost-of-living bonuses.

There was no provision in the Wartime Wages Control Order that permitted parties to appeal from any decision of a Regional Board, but the by-laws of the National Board provided that whenever the members of a Regional Board were not unanimous in their views concerning any application, the Regional Board was required to forward the application to the National Board. After considering the application, the National Board would state its views to the Regional Board. At that time the National Board had no power to direct a Regional Board.

In February 1943 the composition of the National War Labour Board was changed. The Board was reduced to three members, one of whom represented employers and another employees; the third member, who acted as Chairman, was selected from the judiciary. On March 23rd, 1943, Order in Council P.C. 2320 was passed, giving interested parties the right to appeal to the National Board from any decision of a Regional Board. Since that time there have been 681 appeals. The National War Labour Board, since its reconstitution in February

1943 and the creation of its appellate jurisdiction, has functioned substantially as a quasi-judicial body. It issues written reasons for its decisions. It maintains an orderly procedure for the presentation of written submissions and arguments and its decisions have been accepted by Regional Boards as binding upon them.

Under the authority of Order in Council P.C. 1141 of February 11th, 1943, the National Board held public hearings, as authorized in the Order, concerning labour relations and wage conditions in Canada. Many briefs were presented by organizations representative of employees and employers and of the public generally. As a result of these representations and of its conclusions thereon, the National Board made certain recommendations in August 1943 to the Government of Canada. Most of these recommendations were accepted by the Government of Canada and, to give effect to such of them as related to wages, Wartime Wages Control Order, 1943, P.C. 9384, was passed on December 9th, 1943. This Order replaced Wartime Wages Control Order, P.C. 5963.

Wartime Wages Control Order, 1943, required employers to incorporate previously authorized cost-of-living bonuses into basic wage rates from February 15th, 1944.

The powers of a War Labour Board relating to the conditions upon which wage increases could be prescribed were materially changed by P.C. 9384. This Order provided that a Board could authorize or direct an employer to increase wages only if and to the extent that the Board found such increased wages were necessary to rectify a gross inequality or gross injustice.

In addition to appeals from decisions of the Regional Boards, the Order provided that the National Board should, itself, review all decisions made by Regional Boards and that the National Board could, on its own motion, vary or rescind a Regional Board's decision, if in the opinion of the National Board the decision was not in accordance with the purposes or provisions of the Order.

Wartime Wages Control Order, 1943, has been amended from time to time as experience in administering it required. It was not, however, until Order in Council P.C. 348 of February 15th, 1946, was passed that the powers of the Boards, as to the circumstances in which wage increases might be approved, were materially altered. P.C. 348 abandoned the gross inequality or gross injustice formula and, instead, gave the Boards power

to authorize or direct an employer to increase a single rate or the rates of a range to the extent that the Board found such rates low in comparison with the rate or rates generally prevailing for the same or comparable occupational classifications in the same locality, or, if no such occupational classifications existed there, then in some locality that, in the opinion of the Board, was comparable. It will be noted that the provisions of P.C. 348 constituted a return to the principle that had been in effect from November 15th, 1941, to December 9th, 1943, under the then governing Wages Orders.

In addition to the power to authorize or direct increases found low by comparison, War Labour Boards, under Order in Council P.C. 348, might authorize an employer to vary a single rate or the rates of a range "on such other basis and to the extent as in the opinion of the Board is reasonable in the circumstances and consistent with the maintenance of existing prices of the goods and services which the employer sells".

In dealing with applications made on the basis of the alternative power just quoted, War Labour Boards considered that a responsibility devolved upon them to ascertain that the added labour costs resulting from any wage increase authorized would not be used as a ground in support of an application for permission to increase prices.

The Wartime Wages Control Order, P.C. 9384, was again amended on June 20th, 1946, by Order in Council P.C. 2432. The important change the amending Order introduced was to rescind the powers given under Order in Council P.C. 348, and under which the War Labour Boards had operated from February 15th to June 20th last.

The new provision under Order in Council P.C. 2432 now empowers War Labour Boards to authorize or direct an employer to increase a single rate or the rates of a range if and to the extent that the Board finds that such increased rate or range is "just and reasonable" and is consistent with and will give effect to the purposes of the Order, having regard to all the circumstances deemed by the Board in its discretion to be material.

It should be realized that War Labour Boards are now given a much wider discretion in the matter of directing wage increases than they have previously had. That discretion is, however, governed to some extent by the paramount principle of maintaining stability in prices. The Order is now broad enough to enable Boards to deal with every known type of case involving wage rates.