

LIBRARIES

UTAH STATE AGRICULTURAL COLLEGE

From.....

Pr

160908

Call No. 32.4216: Acc. No.

no. 11-22

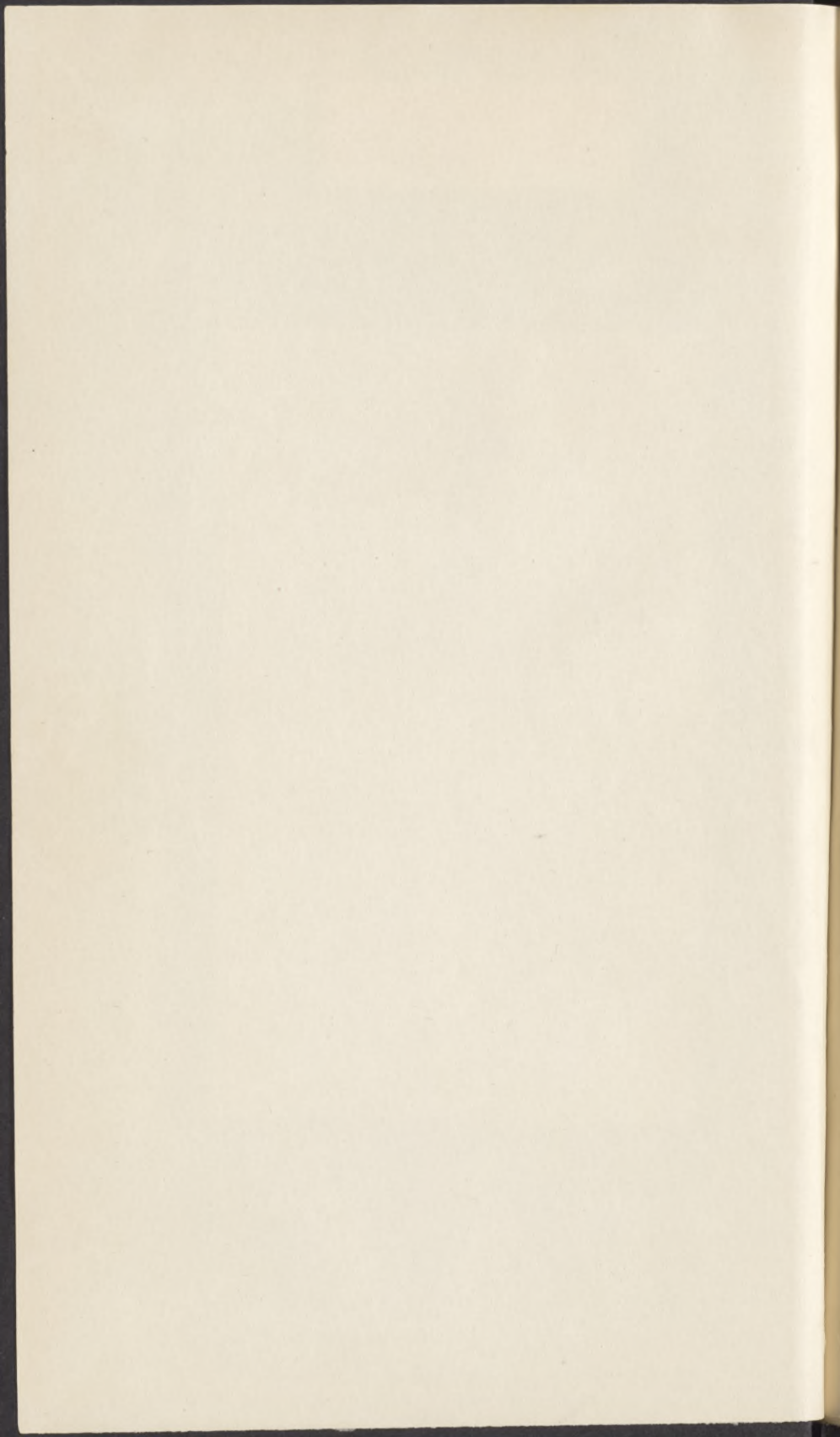
1944-47

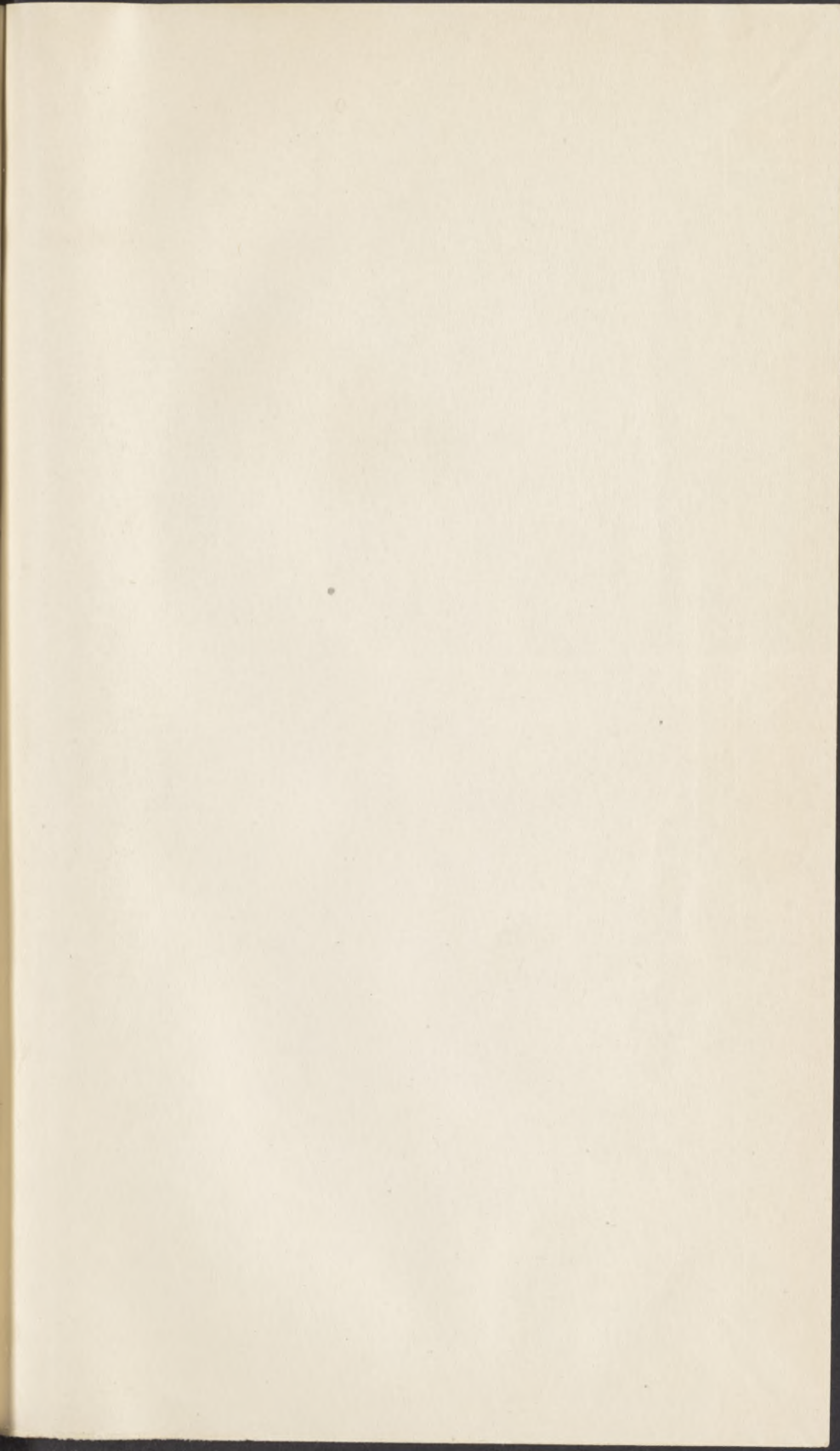
DOCUMENTS

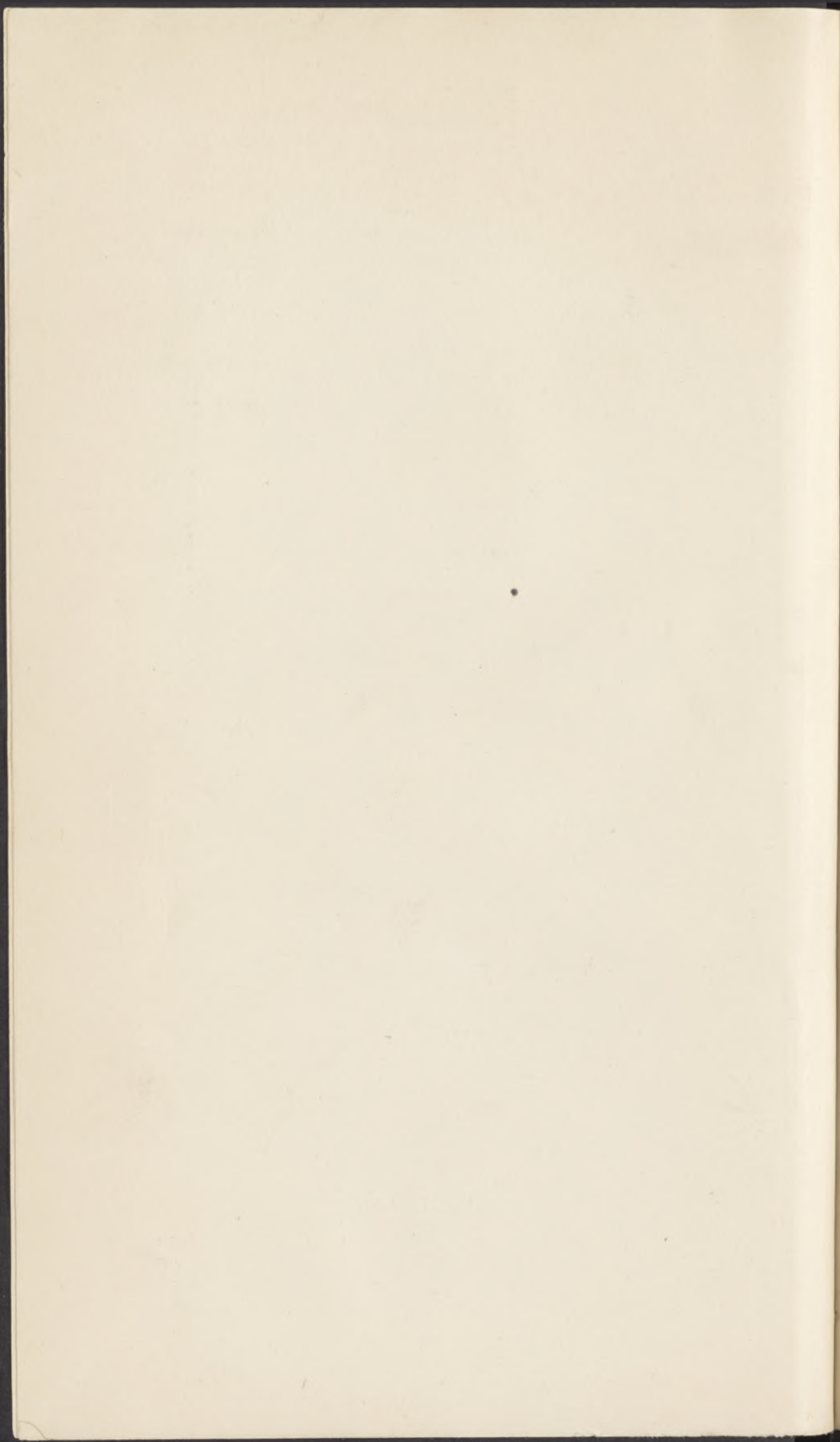


✓ S

[illegible]







OFFICE OF PRICE ADMINISTRATION

CHESTER BOWLES, *Administrator*

ELEVENTH QUARTERLY REPORT

+

FOR THE PERIOD ENDED
SEPTEMBER 30, 1944

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON : 1945

For sale by the Superintendent of Documents, U. S. Government Printing Office
Washington 25, D. C. • Price 15 cents

160908

UTAH STATE AGRICULTURAL COLLEGE
LIBRARY

LETTER OF TRANSMITTAL

OFFICE OF PRICE ADMINISTRATION,
Washington, D. C., January 5, 1945.

SIRS: I have the honor to submit herewith the eleventh report of the Office of Price Administration, covering the period ended September 30, 1944.

Sincerely yours,

CHESTER BOWLES,
Administrator.

The VICE PRESIDENT.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Pr
32.4216:
no. 11-22
1944-47

TABLE OF CONTENTS

Chapter	Page
I. Price Control: Progress and Special Problems.....	1
Compliance with the Stabilization Act.....	4
Planning for Reconversion.....	5
Surplus Goods Pricing.....	7
II. Price Control: The Food Programs.....	9
Food Prices.....	10
Grains and Feeds.....	14
Tobacco.....	14
Restaurants.....	15
III. Price Control: Consumer Goods.....	16
Consumer Durable Goods.....	16
Textiles.....	18
Apparel.....	19
Leather, Fur, and Fibers.....	20
IV. Price Control: Industrial Products.....	22
Building Materials.....	22
Lumber.....	23
Paper and Paper Products.....	25
Iron and Steel.....	25
Used Passenger Cars.....	26
V. Price Control: Fuels, Services, and Other.....	27
Petroleum.....	27
Solid Fuels.....	29
Services.....	30
Export-Import Regulations.....	31
Emergency Court of Appeals.....	33
Appendix to Price Chapters.....	38
VI. Transportation and Public Utilities.....	40
Transportation.....	41
Public Utilities.....	46
VII. The Rent Control Program.....	49
Amendments to Regulations.....	49
Protest and Review Proceedings.....	51
Area Office Operations.....	54
VIII. Rationing: The Food Programs.....	56
Meat Rationing.....	57
Fats, Oils, and Dairy Products.....	58
Processed Foods.....	59
Sugar Rationing.....	61
Institutional Users.....	63

IV • Table of Contents

	Page
IX. Rationing: Automotive Supply.....	64
Rubber Tires.....	64
Automobiles.....	65
Gasoline.....	66
X. Rationing: Fuel Oil and Other Programs.....	68
Fuel Oil.....	68
Pacific Northwest.....	69
Stoves.....	70
Shoe Rationing.....	71
Rubber Footwear.....	72
Currency Control Program.....	72
XI. Enforcement.....	75
Enforcement Programs.....	76
Litigation.....	80
Statistical Summary.....	84

PRICE CONTROL: PROGRESS AND SPECIAL PROBLEMS

September 1944 was the 16th month of the "hold-the-line" price control program, which got under way in May and June of 1943.¹ During this period the cost of living was held within a narrow range of fluctuation and in September was only 1.1 percent above the level of May 1943. This slight rise over a period of 16 months contrasts sharply with the total increase of 28.3 percent during the 61 months since August 1939.

This total rise of 28.3 percent may be compared in turn with the cost-of-living increase in the first World War. Between July 1914 and November 1918, when the Armistice was signed, the cost of living rose 61.8 percent and by August 1919, the 61st month after the outbreak of war (corresponding to September 1944 in this war), it had risen 76.3 percent.

These comparisons bring out clearly how much more effectively the cost of living has been controlled in the present war and how slight the rise has been since the hold-the-line program was instituted in late spring 1943.

Similar comparisons may be made with regard to industrial prices. Their total rise between August 1939 and September 1944 was 23.1 percent. Since May 1942, however, the rise has been only 2.0 percent. In the last war, by the Armistice, industrial prices had risen 97.7 percent and in the 61st month after the outbreak of hostilities, they were up 106.9 percent from pre-war levels.

These comparisons are shown graphically in Charts 1 and 2.

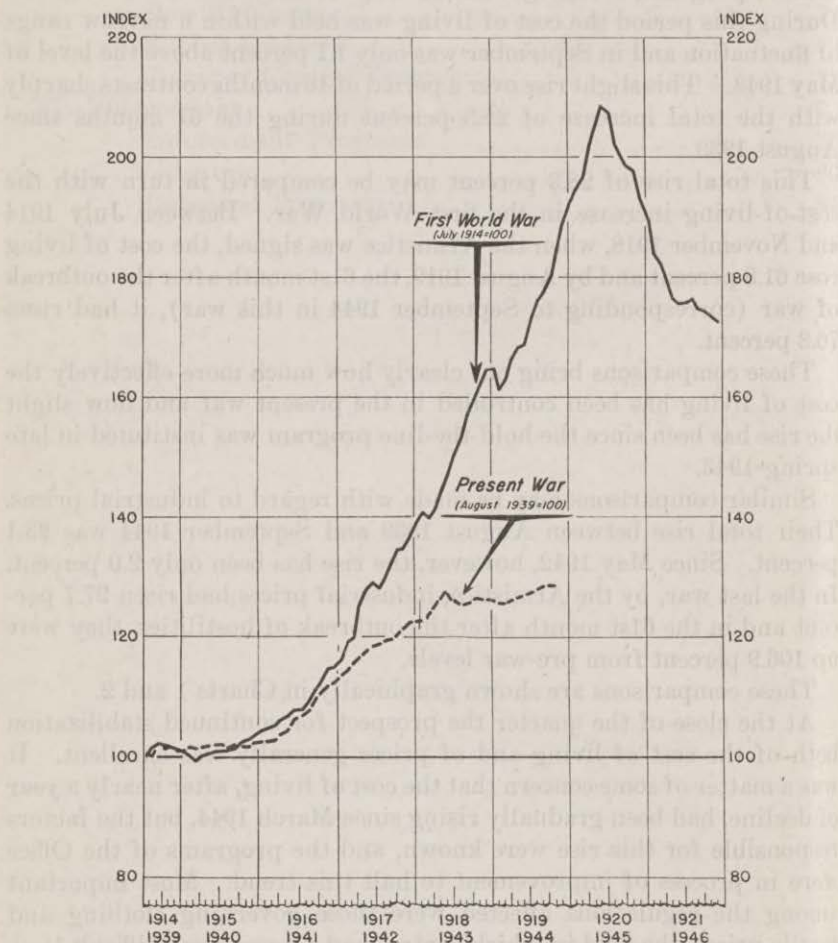
At the close of the quarter the prospect for continued stabilization both of the cost of living and of prices generally was excellent. It was a matter of some concern that the cost of living, after nearly a year of decline, had been gradually rising since March 1944, but the factors responsible for this rise were known, and the programs of the Office were in process of improvement to halt this trend. Most important among the regulations affected were those governing clothing and textile prices, the field in which control had proved most difficult.²

Retail clothing prices had increased 10.6 percent since May 1943. Had it not been for the decline of 4.2 percent in food prices during this

¹ See Fifth Quarterly Report, p. 1, and Sixth Quarterly Report, pp. 1 and 7-8.

² See Tenth Quarterly Report, pp. 12-14; Ninth Quarterly Report, pp. 7-8; and Eighth Quarterly Report, pp. 10-11; also, below, pp. 18-20.

COST OF LIVING IN AND AFTER FIRST WORLD WAR AND IN PRESENT WAR

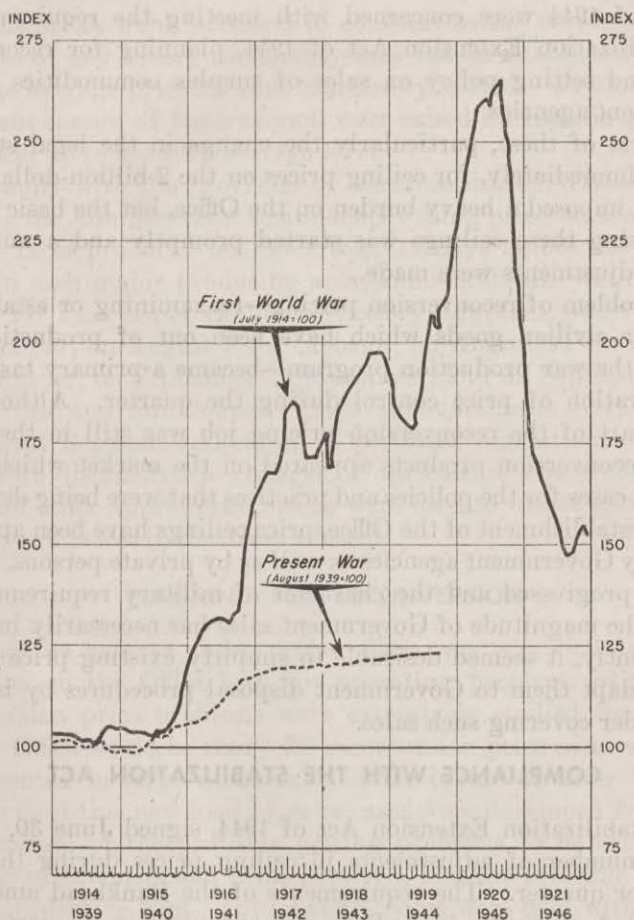


SOURCE: Office of Price Administration
and Bureau of Labor Statistics

OFFICE OF PRICE ADMINISTRATION

CHART I

INDUSTRIAL WHOLESALE PRICES* IN AND AFTER FIRST WORLD WAR AND IN PRESENT WAR



* All Commodities other than farm products and foods.
SOURCE: U.S. Bureau of Labor Statistics

OFFICE OF PRICE ADMINISTRATION

CHART II

period, the cost-of-living index would have increased by 1.3 percent on account of the rise of clothing prices alone. Thus, as the quarter came to a close, the question of clothing prices had assumed central importance similar to that which rising food prices had had before the hold-the-line program effectively halted and reduced them. It was expected that during the succeeding quarter the new programs designed to halt this rise would be put into final shape and scheduled to go into effect early in 1945.

Special problems which confronted the Office during the third quarter of 1944 were concerned with meeting the requirements of the Stabilization Extension Act of 1944, planning for reconversion prices, and setting policy on sales of surplus commodities held by Government agencies.

The first of these, particularly the change in the legal standard, effective immediately, for ceiling prices on the 2-billion-dollar textile industry, imposed a heavy burden on the Office, but the basic work of reappraising these ceilings was started promptly and a number of interim adjustments were made.

The problem of reconversion pricing—reexamining or establishing prices for civilian goods which have been out of production as a result of the war production program—became a primary task in the administration of price control during the quarter. Although the largest part of the reconversion pricing job was still in the future, several reconversion products appeared on the market which constituted test cases for the policies and practices that were being developed.

Since establishment of the Office, price ceilings have been applicable to sales by Government agencies as well as by private persons. As the war has progressed and the character of military requirements has shifted, the magnitude of Government sales has necessarily increased. Consequently, it seemed desirable to simplify existing price controls and to adapt them to Government disposal procedures by issuing a single order covering such sales.

COMPLIANCE WITH THE STABILIZATION ACT

The Stabilization Extension Act of 1944, signed June 30, brought about a number of adjustments in ceiling prices during the July-September quarter. The requirements of the Bankhead amendment necessitated virtually immediate upward revision in some cotton textile prices, a movement which complicated efforts of the Office to keep clothing prices from sharply ascending.³ In the apparel field, the highest price line limitation was removed at the retail level, in accordance with the mandate of the act.

³ See also below, pp. 18-20.

To meet the requirements of the act for the control of food prices, ceilings were increased in several instances. Thus, the requirement that the Administrator must from time to time adjust maximum prices to make appropriate allowance for substantial reductions in merchantable crop yields, unusual increases in costs of production, and other factors which result from hazards occurring in connection with the production and marketing of fresh fruits and vegetables, resulted in higher prices for cherries, plums, cabbage, apples, and potatoes.

Salmon prices were increased to conform to the requirement that the prices of any fishery commodity may not be established at levels below the average price for that commodity in 1942. Producer prices for certain species of fresh salmon were raised during the quarter to bring them up to the 1942 average level.

To comply with the provision of the Stabilization Extension Act requiring the Administrator to announce ceiling prices at the grower's level on farm products, not later than 15 days before the planting season in each major producing area, announcements were made on July 14 for lima beans, cauliflower, celery, eggplant, sweet peppers, and tomatoes; on August 9 for cabbage; on August 14 for beets and early potatoes; on September 13 for onions; and on September 30 for strawberries and cantaloupes. Such announcements were made in the Federal Register, and copies of pertinent regulations or amendments were distributed to colleges of agriculture and trade associations, and other appropriate means were used to insure general publicity to such prices in the areas affected.

PLANNING FOR RECONVERSION

During the quarter under review there was very little actual reconversion so the Office had few operating problems of this sort. Reconversion price problems were extensively studied, however, so that the Office would be ready for reconversion price cases when they are presented in large numbers, whether before or after V-E day. Plans to meet this new load of price cases were developed from study of the nature of the probable pricing problems to be encountered, the areas of products and firms involved, and the probable extent of the administrative load. Initial conferences were held with industry advisory committees. These meetings were exploratory, with formal action awaiting a final determination of Office policy concerning reconversion problems.

The reconversion pricing problem is that of pricing products which have been entirely or largely out of production for some time past as a result of Government orders incident to needs of the war production program. These products are principally consumer durable

goods and some items of industrial and housing equipment. Since most of these products had price ceilings set in 1942 or earlier, the pricing problem is one of reviewing such ceilings in the light of the present situation.

Reconversion pricing must have two primary objectives: (1) To prevent any unnecessary increases in prices above the last ceiling price, usually the 1942 price; and (2) to permit prices which will assist in rapid reemployment and expansion of civilian output.

The Administrator in his public utterances has stressed also that price policy in the reconversion period must be a flexible policy which will foster full production and full employment at high wage rates.

Scope of Problem

The scope of the problem is indicated by the following statistics. The retail value of the products made by the metal-using consumer durable goods industries was 6.5 billion dollars in 1941. That represented only 8.5 percent of the total of all consumer expenditures in 1941. About 12 principal products or product groups made up more than 85 percent of the value of all these metal-using consumer durable goods. Among these were automobiles and parts, refrigerators, sewing machines, washing machines, vacuum cleaners, other principal electrical household appliances, radios, phonographs, pianos, heating and cooking equipment, clocks, and watches. The other 15 percent of the total comprised thousands of miscellaneous articles such as egg beaters, garden trowels, roller skates, can openers, and the like.

About 25,000 firms of varying sizes were engaged in the production of the metal-using consumer durable goods. Approximately 80 percent of the total volume of all these products, however, was produced by only about a score of companies.

Basic Plans

According to the plans developed during the quarter, the price problems of at least the 12 principal products or product groups will be handled in the national office by consultation with industry advisory committees and by collection of pertinent data bearing on general changes affecting costs and profits on an industry-wide basis. The exact procedure for appraisal of prices of the thousands of other products produced by about 25,000 firms had not been completely worked out by the close of the quarter, but it was decided that a large part of this work would be done in the field offices under pricing standards developed by the national office. This decentralization of operations should enable rapid disposition of individual company cases.

Development of pricing standards for reconversion was well along

at the close of the quarter. The regular pricing standards used in the case of commodities which have been continuously in production cannot, as such, be automatically applied in the case of reconversion pricing, owing to the existence of special characteristics peculiar to the reconversion industries, such as lack of a continuous record of cost experience as a result of cessation of production, and uncertainties with respect to the rate at which volume of production can be expanded. Pricing standards for reconversion must take account of special characteristics and also fit into the general standards of the law as approved by the Congress.

SURPLUS GOODS PRICING

A general regulation covering sale by the Government of all commodities except food,⁴ and except commodities purchased by the Government for the sole purpose of resale or of stockpiling, was issued in August. The order also applies to sales of commodities (other than food) by a contractor or subcontractor whose contract has been terminated by the Government where such sales are authorized or directed by the Government. Resale prices of commodities purchased from Government agencies are not affected by the order unless special resale prices or exemptions are issued thereunder. The order became effective September 1, but prior to that date its use was optional with Government agencies.

Before issuance, the regulation was carefully considered by the principal owning and disposal agencies and by the Surplus War Property Administration. In order to achieve the necessary flexibility and at the same time maintain adequate price control, it seemed desirable to permit to the Government selling agencies alternative methods of establishing maximum prices where the use of a single method would entail undue administrative burdens.

General Provisions

Exemptions.—Certain transactions and commodities are exempt from price control where the nature of the transaction and market conditions for the particular commodity are such that little danger of inflationary prices exists.

New commodities.—Various alternatives are provided for establishment of maximum prices of new commodities. Where the Office has established maximum prices in dollar-and-cent terms at various levels of sales, such prices apply to Government sales. Where no such prices in dollar-and-cent terms have been established, Government prices may not exceed cost of acquisition of a particular commodity or the

⁴ Covered by a different order; see Ninth Quarterly Report, p. 16.

manufacturer's list price. The base price for the Government is the price generally charged by manufacturers to wholesalers or jobbers or on direct sales to industrial users or retailers, but the Government may sell at the ceiling prices of wholesalers or jobbers when selling to retailers or industrial users, or at the retail ceiling when selling to consumers for their personal use.

Used commodities.—In selling used commodities Government agencies may determine the maximum price by reference to dollar-and-cent prices where they exist, formulas contained in existing price regulations, or formulas proposed by the selling agencies and approved by the Office.

Special provisions.—Where the Government agency is not able to determine its own maximum price under the foregoing provisions, sales may be made on the basis of certifications from buyers that the price charged does not exceed their maximum price from customary sources of supply.

The order contains several provisions covering the sale of a number of heterogeneous lots of commodities and sales of contract termination inventory (which may be sold at not to exceed cost of acquisition); provision is also made for establishment of prices by the OPA upon its own motion or upon application of a Government agency.

Administration

The Office has established surplus price specialists in each of the regional offices to cooperate with the owning and disposal agencies in establishing maximum prices and in furnishing any information requested by the selling agency as to actual selling prices. Arrangements have been made with the disposal agencies for interchange of necessary information. In many areas special maximum prices applicable to sales by the Government as well as to subsequent resellers have been made.

The order contemplates the establishment of maximum prices for Government agencies at the same levels prevailing for private sellers under similar circumstances. As the necessity for price control may be removed owing to a true balance of supply and demand, further exemptions will be granted.

PRICE CONTROL: THE FOOD PROGRAMS

Price control was extended during the quarter to some fresh fruits and vegetables for the first time and to others at new levels of distribution. Prices were established for the 1944 crops on two varieties of tobacco.

Transfer of commodities from the General Maximum Price Regulation to a specific regulation in a number of instances resulted in tighter control. Continued efforts to simplify the regulations led to changes in several orders, which, it was anticipated, would bring about improved compliance.

The national restaurant regulation became effective at the end of July.

The Administrator on August 7 directed that price controls on various canned vegetables and canned fruits be based on commercial grades without reference to or use of the United States grades established by the Department of Agriculture. This action followed a ruling by the Comptroller General that the Congressional rider to the appropriation act providing funds for the Office for 1945 prevents "any and every use of AMA (Agricultural Marketing Administration) grades for fixing maximum prices in connection with the processed fruits and vegetables."

The rider prohibited the use of funds "to pay the salary or expenses of any person fixing maximum prices for different kinds or classes or types of processed fruits and vegetables which are described in terms of specifications or standards unless such specifications or standards were, prior to such order, in general use."

The ruling left the Office no alternative but to drop all reference to Government standards for grades, although it was realized that this would increase the enforcement problem in preventing inferior grades from being sold at ceilings for better grades.¹

The whiskey "holiday" for the month of August, which permitted the production of beverage alcohol for the first time since October 8, 1942, had a salutary effect in relieving pressure on ceiling prices. The Office set special ceiling prices, effective August 1, for all grain neutral spirits and bulk whiskey produced during the holiday, as well as new ceiling prices for bulk and packaged domestic gin and vodka.

¹ See Enforcement, p. 77.

The augmented liquor stocks and the prospect of their availability to the consumer did much to eliminate black-market operations.

FOOD PRICES

The requirements of the Stabilization Extension Act of 1944 necessitated upward price adjustments in a number of cases, and in other instances prices had to be increased to meet changed conditions. Adjustable pricing provisions were added to several regulations to facilitate movement of stocks.

Fresh Fruits and Vegetables

Price control was extended during the quarter by bringing a number of items in the fresh fruit and vegetable field under control for the first time. These were cantaloupes and other melons, peaches, pears, and horseradish root. In addition, the following fresh fruits and vegetables were for the first time brought under price control at the retail level, based upon action previously taken at prior levels: Apricots, Italian prunes, sweet peppers, melons, watermelons, peaches, and pears.

During the quarter, also, prices of table grapes were increased for the 1944 crop, and distributive and protective service allowances on a dollar-and-cent basis were provided. Concord grapes for table use were removed from price control in late August, pending preparation of new ceilings for the 1944 crop.

The Office in August revised apple prices for the 1944 crop, and made substantial modifications in technique. Pricing was changed from a zone basis to an f. o. b. basis, eliminating the freight equalization provision of 1943. The revised regulation set up standard containers, with specific pack specifications for each, and established appropriate differentials for graded, ungraded, and bulk. Over-all maximum markups (including allowances for direct sales and sales through agents) were provided for the distributive services, and provision was made for periodic adjustments for storage charges.

Maximum prices for 1944 crops were set during the quarter on red sour cherries, white potatoes, and dry onions. Prices were increased seasonally for winter and very early strawberries; for Western peaches to provide properly for the containers customarily used; for lettuce to permit addition of a protective service charge; for cabbage, on authorization of the War Food Administration with approval of the Office of Economic Stabilization, to secure adequate production; and on Isle of Pines (Cuban) grapefruit, with OES approval to offset discontinuance of subsidy payments. Specific dollar-and-cent prices were substituted for freeze prices for sweet potatoes on a zone basis and for cucumbers and snap beans on a basing-

point basis. The dry bean and pea regulation was revised and collated after intensive consultation with industry.

Processed Fruits and Vegetables

Actions taken during the quarter fall into two broad classes: Those providing adjustable pricing provisions for existing regulations, and those substituting new maximum prices and new regulations for those previously in effect.

Adjustable pricing provisions.—The purpose of the adjustable pricing provision is to enable processors to make sales and delivery of new pack items at current maximum prices subject to adjustment upward or downward in accord with maximum prices subsequently established for the pack.

These provisions were attached to several regulations at the request of Government procurement agencies who found that uncertainty over the level of prices had delayed purchasing programs. They were also deemed necessary to enable processors to move stocks and to free warehouse space, pending announcement of new prices. In industries where seasonal packs were being completed, piling up stocks in processors' hands before calculations of new maximum prices could be concluded, it was essential to provide this form of pricing flexibility to remove uncertainty in the trade.

Adjustable pricing provisions were made applicable during the quarter to regulations covering packed fruits and vegetables, frozen fruits and vegetables, dried fruits, and dried and processed apples.

New maximum prices.—A supplement issued in July was designed to provide maximum prices for sales of frozen fruits, berries, and vegetables of the 1944 and later packs by all persons except wholesalers and retailers, who price under the fixed markup regulations. Dollar-and-cent ceilings were established under this supplement for frozen red sour pitted cherries, superseding the former more complicated formula method of pricing. Additional frozen products were to be added from time to time.

Maximum prices for the 1944 pack of fruits and vegetables were established under a general formula allowing processors to add to 1941 base selling prices a dollar-and-cent permitted increase, calculated so as to return to the industry, on the average, profits earned in the years 1940-41.

Prices for the following products were issued during the quarter: Apricots (packed in California), asparagus, beets, red sour pitted cherries, sweet light unpitted cherries (packed in California), sweet corn, fruit cocktail (packed in California), yellow cling peaches (packed in California), Bartlett pears (packed in California), green peas, snap beans, spinach, and tomatoes except Italian pear-shaped. Of this group, asparagus, red sour pitted cherries, sweet corn, green

peas, snap beans, spinach, and tomatoes had previously been under flat dollar-and-cent ceilings. The remainder of these products had been priced at processors' 1942 maximum prices plus increases necessary to cover higher raw material costs up to a specified maximum.

Dollar-and-cent maximum prices for the 1944 pack of dried fruits allowed for changes in the cost of raw material from 1943 levels. The following products were included: Dried apricots, peaches, pears, prunes, raisins, and figs. Ceilings in 1943 had also been dollar-and-cent prices.

Dollar-and-cent maximum prices for the 1944 crop of unpacked natural condition dried prunes and raisins were established on the basis of 1944 support prices announced by the Department of Agriculture. Prices for the 1943 crop had also been on a dollar-and-cent basis.

Meat and Fish

Canned meats.—Virtually all canned meats were brought under a single simplified regulation during the quarter instead of five regulations as previously. Some of the most important canned meat items were uniformly priced for all sellers on a dollar-and-cent basis. Other varieties were priced on a formula basis with a definite rollback in the prices which had formerly prevailed. A flexible pricing provision was added to the regulation to permit the Government to purchase canned meats under development contracts, free from price control, until adequate data were obtained to support uniform dollar-and-cent pricing of such experimental products.

Cured fish.—In August a regulation on cured and smoked fish was issued. Processors had previously been under the General Maximum Price Regulation and prices were subject to wide individual variation and increased costs. This had led to a serious black market condition which was difficult to eliminate. The regulation raised legal prices by some 10 cents per pound at retail but in reality led to a price reduction in that it established enforceable prices substantially below the black market level. The new regulation provided processors with the minimum requirements of the law, using the base-period earning standard as a criterion. The establishment of cents-per-pound prices throughout the country led to better trade recognition and understanding of ceilings, and was expected to result in better compliance by both consumers and the trade.

Eggs, Dairy Products, and Fats

Eggs.—In mid-September a revised regulation on eggs and egg products was issued, establishing shell egg prices by zones. Ceiling prices on eggs and egg products had been established under the original regulation on the basing-point system. Experience with this

system, however, proved it lacking in the flexibility required to move eggs rapidly in and out of certain areas as seasonal demand necessitates. The revised regulation includes a table of prices in cents per dozen for shell eggs in every county of the United States. It was believed that this system would facilitate the movement of eggs to areas of rapidly increasing demand and would assist in effective enforcement.

Manufactured dairy products.—Swiss cheese was removed from the freeze prices established at the September 28–October 22, 1942, level, and specific dollar-and-cent maximum prices were established for producers, assemblers, and primary and service wholesalers. Adjustments were made in the prices of Limburger, Brick, and Munster cheese, and new dollar-and-cent maximum prices were established for consumer sales of Blue and Gorgonzola cheese. These actions were part of the general program designed for all manufactured dairy products, which will place manufacturers on an equitable competitive basis in the procurement of raw milk. After consultation with advisory committees, margins were established on a functional basis for each step in the movement of cheese from the factory to the retail store.

Fats and oils.—Oleomargarine was transferred from GMPR to the fats and oils regulation in order to assure tighter control. The Office had found, upon investigation, that upgrading was widespread and that manufacturers were introducing high-priced brands, with a consequent undesirable effect on the cost of living. Under the new procedure a higher price cannot be secured until the processor has proved conclusively to the national office of OPA that he has substantially improved the quality or the method of distribution. Only two such applications had been approved by the close of the quarter. The effect on other processors who had adopted higher prices for so-called improved brands was to roll prices back to March 1942 ceilings.

Sugar

Establishment of uniform maximum basis prices for raw and direct-consumption sugars throughout the Nation was completed during the quarter.

The basis prices of cane and beet sugar were set at \$5.50 and \$5.40 per 100 pounds respectively, and prices of other types of direct-consumption sugar were set in their historical relationship to these prices. A study of the industry revealed that the refiners in the Northeast were no longer in need of the full 15 cents differential over the \$5.45 price prevailing in the rest of the country, which had been granted in March 1942 to prevent their suffering substantial losses.

The study further indicated that the equalization of prices at \$5.50 per 100 pounds for cane sugar, and \$5.40 per 100 pounds for beet sugar, would reflect to the sugar refining industry as a whole, including cane refiners and beet processors, profits not less than those earned during the 1936-39 base period. However, beet sugar processors' earnings were still below those of the base period because of a sharp decline in volume.

The equalization of prices of raw cane sugar on a historical c. i. f. (cost, insurance, and freight) basis resulted in a slight decrease in off-shore sugar prices formerly prevailing for deliveries at all ports except United States Gulf of Mexico ports, at which the price remained the same, and in an increase of 2 cents per 100 pounds in the price of mainland raw cane sugars. This equalization was effected in conjunction with the revision of refined sugar prices.

GRAINS AND FEEDS

Oats and barley, which had been priced on a freeze basis, were during the quarter placed on a specific dollar-and-cent basis. Inequities which had been uncontrollable under the freeze order were eliminated, and uniformity was established in the provisions for pricing retail sales of grain. There had been some variance in the provisions of the individual regulations covering cottonseed meal, and minor protein meal products, and a regulation effective in September unified these provisions. It was anticipated that these changes would permit better understanding, greater compliance, and easier enforcement of the grain-pricing regulations.

In July oats prices were reduced by about 5 cents per bushel on a nation-wide average and barley about 3 cents, to align ceilings with parity. In August and September oats and barley prices declined considerably below parity with the new crop movement.

In September animal feeds made from milk products were removed from the freeze regulation, and dollar-and-cent prices were established on sales by manufacturers, wholesalers, and retailers.

Two actions in August simplified control of bakery product prices by consolidating one regulation and its four amendments, and by bringing under one regulation products which had hitherto been controlled by three regulations.

TOBACCO

Control was extended during the quarter over Florida-Georgia shade-grown tobacco at the farm level and flue-cured tobacco of the 1944 crop at the farm and dealer level. For the Florida-Georgia tobacco previous prices were renewed. In the case of flue-cured

tobacco the differential between tied and untied tobacco was broadened to provide 4½ cents per pound between the two.

For the first time since the inception of price control, an increase was granted in the manufacturers' price of scrap chewing tobacco, to offset repeated rises in the cost price of cigar cuttings and clippings and of certain types of cigar leaf tobacco. The adjustment was made to restore base period earnings to manufacturers of scrap chewing tobacco and to permit continued production of this product which is in great demand by tobacco users employed in war plants where smoking is prohibited.

A revision was made in existing controls over the pricing of imported cigars to provide prices more in line with the value of new brands and sizes of imported cigars than had been previously possible.

RESTAURANTS

The national restaurant regulation issued June 29² went into effect July 31. Meetings were held in each district during the quarter to acquaint the industry with the regulation, and educational material and administrative procedures were developed.

To secure widespread industry cooperation in compliance, a system of industry advisory councils was formulated and inaugurated. Over 2,500 restaurant operators, representing all types of eating and drinking establishments were organized into local groups. As a result of their suggestions and advice, 95 district posting orders were issued and the items to be listed on restaurant posters in the particular district were determined upon. These councils serve not only to advise the local price officials on industry problems and to make recommendations, but also to inform local establishments of the provisions of the regulation and to secure their cooperation in compliance.

Responsibility for compliance work in connection with the posting and filing requirements of the revised restaurant regulation was placed upon the price panels. During August members of price panels made educational visits to all restaurants to inform them of the new regulation and of the posting and filing provisions.

A letter of instructions which outlined council activities was sent to the chairmen of the industry advisory councils by the president of the National Restaurant Association, and the chairman of the war food committees of the American Hotel Association. To further the effectiveness of this cooperative program, frequent conferences were held with members of the national restaurant advisory council.

A national survey to measure the compliance of the industry under the new regulation was prepared. This survey was to be made by the price panels during the period September 15 to 30.

² See Tenth Quarterly Report, pp. 9-10.

. III .

PRICE CONTROL: CONSUMER GOODS

Efforts to develop a single over-all regulation to replace the GMPR at retail for all consumer goods (other than food) were abandoned during the quarter. With the active cooperation of representatives of the retail trade, a number of plans had been proposed, examined, and abandoned in the course of almost a year. The eighth such plan was completed and discussed with the industry advisory committee during the quarter. Although this plan was admittedly the best of the many considered, the net judgment was that it was impossible to frame a single regulation which was both simple and practicable for retailers, and yet represented adequate, enforceable price control. Instead, substantial improvements in the GMPR, revision and possible consolidation of existing retail regulations, and the development of new specific retail controls were decided upon.

In the consumer durable goods field, the main problem was reconversion pricing, while the major problem in the textiles field was the urgent necessity to reexamine prices for all cotton textiles in terms of the new standards required by the Stabilization Extension Act of 1944. This also led to considerable difficulty in apparel pricing, which continued to be one of the most acute problems of the Office.

CONSUMER DURABLE GOODS

A number of ceilings were set during the quarter on products recently brought back into production. In addition, complaints and protests were analyzed, industry studies were continued, and progress was made on improvement of existing controls over both new and used commodities.

Dollar-and-cent ceiling prices for upholstery springs and accessories for use in the manufacture of upholstered furniture were issued in July. Inner constructions for sofa beds and studio couches were simultaneously placed under similar control. Prices for most of these reconversion products, particularly those of all-metal construction, were set at March 1942 levels. Adjustments were necessary, however, on several assembled items in which cotton fabrics comprised a significant item of material.

Following the authorization of the War Production Board for the resumed manufacture of electric irons, prices of this essential civilian

commodity were established in mid-August at March 1942 levels. Retail ceiling prices were required to be displayed on tags attached by the manufacturer.

The piano and piano parts industry presented one of the first full-blown reconversion industry problems. During the quarter, a comprehensive cost and price survey was made in order to determine the amount of adjustment which would be forthcoming by applying the various reconversion formulas then under consideration. After examining the data, an order was prepared embodying a proposed price adjustment. This order was sent to the Director of Economic Stabilization at the close of the quarter.

A resumption in the manufacture of small firearms for civilian sale was also authorized during the quarter by the War Production Board, and a financial survey was undertaken to determine whether a price adjustment was needed in this case. The decision had not yet been officially issued at the end of the quarter, pending a determination of the method of handling the adjustment at the wholesale and retail levels.

In response to industry complaints and protests, studies were made of the general fairness and equitability of ceiling prices for a number of products which had remained in production. Industries on which such surveys were completed and in which hardship was found not to exist were wood office and institutional furniture, vitrified and semi-vitreous china and pottery, caskets, brushes, and wheelbarrows.

A finding of hardship was made in the case of unpainted furniture and assembled wood furniture parts, and manufacturers of those articles were made eligible for the 5-percent price adjustment granted in December 1943 to manufacturers of wood household furniture.

Studies continued for the wool floor covering and the glassware industries, and a special survey was started on surgical dressings as a result of the price increases required by the Bankhead amendment to the Stabilization Extension Act of 1944.

In the absence of new consumer goods, the pressure of demand for used items made necessary the extension and tightening of controls on the used items. Dollar-and-cent regulations covering used pianos, used sewing machines, and used business machines were in preparation during the quarter. Existing regulations covering used washing machines, used vacuum cleaners, and used photographic equipment were extended or in process of revision.

Special problems which received attention during the quarter included the formulation of a regulation to improve control over jobbers of household furniture, and an additional adjustment provision to aid in maintaining production of low-end merchandise.

TEXTILES

Requirements of the Stabilization Extension Act necessitated immediate examination of textile prices. Available data indicated that prices for a number of important fabrics were probably below the requirements of the new legal standards. An order was therefore issued July 3, effective June 30, permitting adjustable pricing¹ of these fabric groups. As rapidly as reasonably satisfactory data could be obtained, adjustable pricing for these products was replaced by interim prices. Interim prices were established July 8 for denims; July 29, chambray; August 17, print cloth yarn fabrics; August 28, combed and carded sales yarns; September 5, sheeting yarn fabrics; and September 16, fine cotton goods. At the end of the quarter, adjustable pricing still remained for towels and ducks.

These interim prices covered fabrics which account for about 57 percent of total cotton consumption, while an additional 11 percent was under adjustable pricing. The increases permitted amount to approximately 100 million dollars on an annual basis. Because the interim prices were based on incomplete and largely unchecked data, it is possible that the cost accounting survey of the cotton textile industry, which was begun during the quarter, may permit a reduction of some of the interim prices. It is also possible, however, that the survey will disclose the necessity to increase prices of a few of the other fabrics which, because there was no evidence to show that existing ceiling prices did not accord with the new legal standards, were not covered by interim pricing.

The price increases necessitated by the act bore most heavily upon one group—the converters, who have cotton goods finished for use by the garment trades. An amendment to the finished piece goods regulation was issued, requiring converters to absorb the increased costs resulting from the new grey goods prices. It was clear from all available data that converters' profits were such that they could absorb the entire amount of the increased cost and still remain far above the minimum standards for fairness and equity. The mere requirement that converters absorb these increased costs did nothing, of course, to reduce the overfinishing which had become so prevalent in the trade; if anything, it tended to increase the incentive to overfinish. Efforts to find a remedy for this difficult problem were intensified during the quarter, and at the end of September three alternative plans were under consideration, with a decision among them pending final consultation with the trade.

¹ Adjustable pricing, if authorized by the Administrator, permits open billing when actions to increase ceiling prices are pending in the Office. The buyer and seller may agree that if the existing ceiling price is later increased, the price for deliveries made in the interim may retroactively be adjusted up to the amount of the new ceiling.

Ample supplies of wool tended to reduce inflationary pressures in the woolen fabric field, despite continuing manpower shortages in yarn and fabric production. Supplies of mohair were so plentiful that price control was lifted from this commodity.

APPAREL

Although significant progress in apparel price control was made during the quarter, it remained an area in which the greatest efforts of the Office are required in order to halt the rise in the clothing component of the cost-of-living index. Increased inflationary pressures resulting from further shrinkage of textile supplies available for civilian use added to the already great difficulties of controlling prices in an area where the commodities being priced are constantly changing, and where style is an important factor of value. In addition, pricing of apparel was complicated by the increased textile and yarn prices required by the Stabilization Extension Act.

The first area to feel the impact of higher textile prices was men's and boys' work clothing. Increased costs of denim and chambray, on top of higher labor costs, required an increase in manufacturers' ceilings for work clothing made from these fabrics. Available evidence demonstrated, however, that distributors of work clothing, frozen at March 1942 levels by the General Maximum Price Regulation, had in many instances been frozen at prices which yielded more than their historical distributive margins. Consequently, wholesalers and retailers of work clothing were placed under a specific regulation which gave them dollar-and-cent margins approximately equal to average historical margins. As a result, prices of work clothing to consumers, on the average, were not increased.

A second product on which a price increase was necessitated by the act was heavyweight knitted underwear. Pending completion of an accounting survey of the underwear industry, manufacturers' prices were increased by about 2 or 3 percent. Distributors' prices were left unchanged, pending further study.

Increased cotton yarn prices were felt also by knitters of lightweight underwear, cotton hosiery, and cotton outerwear, and surveys were under way to determine whether price increases on these products were required.

Another action required by the Stabilization Extension Act was the removal of the highest price line limitation at retail. This limitation, which does not permit a seller to offer any goods which constitute a higher price line than the highest price line offered by him during the base period stipulated in the regulation, had formerly applied to retail sellers of women's outerwear, fur garments, men's tailored clothing, and certain seasonal wear.

Plans were made to include knitted heavyweight underwear and men's and boys' clothing in the program of price adjustments for items of which the War Production Board had directed production, in accordance with the directive of the Office of Economic Stabilization.

Acting on the recommendations of a joint WPB-OPA task committee, the War Production Board issued a program designed to channel textile supplies into low-end medium-priced essential garments. A price regulation establishing manufacturers' and distributors' prices for these garments was about to be issued at the close of the quarter. Earlier in the quarter, a dollar-and-cent regulation was issued covering certain low-priced women's housedresses and slips and maternity dresses and slips, and men's shirts and shorts, for which WPB had allocated materials. Although the total coverage of these two programs was not sufficient to affect the cost of living in any important degree, they represented a significant new direction in administration and controls, which, if extended, might prove of major importance in holding or reducing the consumer's clothing expenditures.

LEATHER, FUR, AND FIBERS

Many improvements in price control on hides and leather were in progress during the quarter, and changes in military demand, in shipping conditions, and in international distribution practices required alterations in existing price regulations. Action was completed to revise prices for imported pickled sheepskins, and action was in progress on raw and tanned shearlings, imported cabrettas, India-tanned goatskins, domestic and imported alligator leather, and imported peccary, carpincho, and deerskins. In addition, a major revision of the basic leather regulation was under way. Among the most important revisions were those affecting prices of finding leather for the shoe repair trade and affecting markups for jobbers and dealers in leather.

In the fur area, the most important action during the quarter was a new regulation which in effect reduced dealers' resale prices on imported Australian and New Zealand rabbit skins in order to make it possible for garment and hat manufacturers to operate within their existing ceilings. Nonetheless, manufacturers and wholesalers of low-priced fur garments were found to need relief, and exemption levels (prices below which the highest price line limitation is not controlling) were established for eight principal types for fur garments. A complete revision of the fur garment regulation was undertaken.

A drastic increase in the price of rope manufactured from a combination of sisal and American hemp over the price of rope manufactured from pure sisal was avoided through the cooperation of the

Commodity Credit Corporation. This hemp, which was produced in large quantities as an emergency measure, is being furnished to cordage mills for combining with sisal in the manufacture of rope at the same price as sisal fiber.

Maximum prices for the important shoe industry remain governed by the GMPR. Imminent changes in the controls exercised by the War Production Board (over styling, color, etc.) made it imperative that action be taken promptly on the long-pending specific price regulation for shoes. At the end of the quarter, plans were almost completed for a major accounting survey of the shoe industry, which will form the basis for a new regulation.

Increases in lumber prices, and the necessity to use substitute woods, presented the necessity for reexamining and extending the coverage of maximum prices established for heel blocks, heels, and wood shanks.

BUILDING MATERIALS

. IV .

PRICE CONTROL: INDUSTRIAL PRODUCTS

While the price level of important industrial materials in general remained relatively stable throughout the quarter, there were a number of significant price increases, particularly in the field of building materials. These increases were to a very large extent made necessary by the sharp decline in construction activity that took place during the early months of 1944.

The most important price action affecting consumers was the regulation bringing prices of used passenger cars under control for the first time. This action resulted in the stabilization of a market that had some time ago become highly speculative in character.

BUILDING MATERIALS

Increases were permitted during the quarter in the prices of vitrified clay sewer pipe and allied products when sold in the North Central and the East Central States. The decline in volume experienced by this industry during the first two quarters of 1944, coupled with increases in labor and fuel costs and declining efficiency of labor, reduced earnings below their normal level. These price adjustments were designed to return to each segment of the industry average dollar profits equal to those earned during the 1936-39 period.

Increases in the price of Portland cement were permitted for producers in the Ohio and Michigan area and in southern California to meet the minimum requirements of law and at the same time assure production of that commodity.

Studies were made during the quarter of virtually the entire structural clay products industry, and during this period adjustments ranging from \$2 to \$3.75 per thousand were permitted in the price of brick and tile produced in the southern, midwestern, and middle Atlantic States. While demand for brick and tile was somewhat lower as the result of a decline in construction, increasing direct costs and diminished labor supply, with a consequent reduction in the number of operating plants, resulted in an acute shortage of clay products in these areas. A price was provided for each segment of this industry which, by covering the costs of needed supply, was designed to assure continued production of essential supplies.

An increase was also permitted of 3 percent in the price of asphalt and tarred roofing products in the eastern area. This action, which rescinded a portion of a price reduction originally ordered in December 1941, was undertaken to permit dollar returns to this industry equal to those earned during a representative peacetime period.

An important step was taken during the quarter to stabilize the prices of used plumbing and heating equipment by the issuance of a regulation establishing specific dollar-and-cent prices for this equipment. The scarcity of new materials resulting from the curtailment of production had resulted in such pressure upon ceilings under the General Maximum Price Regulation that prices were not effectively controlled and in some instances had risen as much as 300 percent above the March 1942 levels. The specific dollar-and-cent regulation issued during the quarter was designed to aid in effective enforcement and to maintain a continuous flow of used equipment at fair prices.

The regulation controlling construction services and installed sales of building materials was significantly revised during the quarter. This revision was undertaken to clarify the regulation and, at the instance of the Director of the Office of Economic Stabilization, to provide for the recognition of increased labor costs resulting from authorized wage increases in the construction industry. Further, the revision gave the OPA field offices broad authority to establish specific area maximum prices when necessary.

LUMBER

The general price level of lumber remained relatively stable throughout the quarter and many of the price actions issued during this period consisted of technical adjustments in the regulations and measures taken to clarify existing provisions and to simplify administrative controls. The only significant changes in individual industry price levels were made in northeastern softwoods and in walnut lumber. Of particular importance to the lumber industry and to lumber price control was the establishment in August of over-all control of lumber in the United States by the War Production Board.

Price Adjustments

At the request of the northeastern softwoods industry advisory committee, the OPA made a detailed accounting study of the costs of producing softwood lumber in the Northeast. It was found that as of March 1944 approximately 40 percent of the output was produced at a loss. To correct this situation, price increases of \$1 to \$2.50 per thousand board feet were established in the maximum prices of softwood species, grades, and items, applied in accordance with the recom-

mendations of the War Production Board. It was expected that the increases would enable all but the normally unprofitable fringe mills to operate on a break-even or on a profitable basis.

A new regulation provided specific dollar-and-cent maximum prices for milling and kiln drying services on northeastern softwoods when performed on a custom basis in the six New England States. The level of prices established was similar to that previously prevailing under the regulation governing services. The new regulation, which was patterned after the regulation on custom milling and kiln drying of western softwoods, was issued to facilitate efficient handling and processing of northeastern softwoods and, by so doing, to contribute to a reduction in the average prices paid by consumers for this lumber.

Dollar-and-cent maximum prices were established for walnut lumber at a level in line with that established for comparable species produced in the same area. The result of this action was to increase the average prices of walnut lumber \$8.75 per thousand board feet, or 7.5 percent, over those established at March 1942 levels under the special pricing provisions of the formerly applicable regulation.

An increase of approximately 14 percent was permitted in the maximum prices for cooperage dowel pins. Since maximum prices were first established for this commodity, general cost increases occurred in material, labor, and other production costs to the extent that the average sales realization was not covering the average cost of production. Continued production could not be obtained under such conditions, and the War Production Board certified that maximum production was vitally needed in the war effort. The increase established provided an average selling price which would permit a dollar-and-cent margin of profit comparable to that received in March 1942. The increase in the cost of dowel pins did not affect prices of headings or cooperage, since the cost of pins is negligible in comparison with that of the products in which they are used and the increase of approximately 14 percent could be absorbed by heading manufacturers.

WPB Control Order

The order establishing an over-all control on the movement of lumber in the United States was issued by the War Production Board during the quarter, effective August 1. The sustained demand for lumber in face of declining production and depleted inventory stocks had resulted in a critical shortage of lumber. In order to assure an adequate supply for military and essential industrial needs, a limitation order was imposed on the entire industry, which prescribed methods of lumber procurement and provided for the allocation of lumber to be used by nearly all types of consumers.

The establishment of such an over-all control was expected to have a very salutary effect on controls established by the OPA. The pressure for higher prices grew progressively stronger as the lumber market became increasingly tight. Any control which had the effect of equating effective demand with the potential supply was expected to ease the pressures threatening the maintenance of price ceilings.

PAPER AND PAPER PRODUCTS

An important price action was taken during the quarter to effect an increase in ceiling prices of packed and sorted wastepaper, together with small increases on several grades of wastepaper in loose condition. A uniform differential of \$5 per ton was established between the ceilings for loose wastepaper and packed wastepaper for all grades. The purpose of this action, which was taken after extensive consultation with industry, with the WPB, and with officials of the wastepaper salvage campaign, was to enlarge the flow of properly packed and sorted wastepaper to the consuming mills, chiefly paperboard mills. Concurrently, an extensive compliance and enforcement campaign was initiated to stamp out widespread violations of the wastepaper ceiling.

While no industry-wide increases in ceilings on paperboard were permitted in connection with the increase in wastepaper ceilings, OPA was giving attention to the question of adequacy of existing paperboard ceilings at the end of the quarter.

Prices of used paperboard containers were increased about 30 percent during the quarter to stimulate conservation and encourage the flow back to original users. During the period, also, prices of pulpwood imported from the Canadian provinces of Quebec, New Brunswick, and Nova Scotia were increased to bring prices in line with similar increases allowed to brokers by the Canadian Government.

IRON AND STEEL

During the third quarter of 1944, only one industry-wide price increase was permitted in iron and steel. Numerous industry profit studies were maintained on a continuing basis for the purpose of evaluating specific requests for price action.

A study was concluded of the cost-price relationship of steel power shovel castings, the demand for which had greatly increased during the war. Maximum prices for these castings had been established at July 1941 levels, but cost increases since 1941 had absorbed the profit margin which existed at that time, and these castings were generally being produced at a loss. As the earnings of the steel castings industry were currently considerably in excess of base period earnings,

a 6-percent increase, designed to cover out-of-pocket costs of more than half of the volume of power shovel castings, was granted. In addition, individual price adjustments, sufficient to cover out-of-pocket costs of 75 percent of the production not fully covered by this 6-percent increase, were made for three companies.

USED PASSENGER CARS

The regulation establishing maximum prices for used passenger automobiles became effective in July.¹ This action was undertaken to stabilize a highly speculative market and to reduce prices that consumers were paying for these highly essential items.

Dollar-and-cent prices were set forth in the regulation. These were determined on the basis of a formula designed to preserve insofar as possible the relationship existing among the list prices of various cars when new. Soon after issuance of the regulation, it was called to the attention of the Office that use of this formula tended to lower prices of Chevrolet cars in relation to competitive makes. A study was therefore initiated to determine the extent of this alleged discrimination and to determine what steps, if any, could be taken to alleviate the situation.

As one step in improving enforcement of the regulation, an amendment was issued that extended the use of a certificate of transfer to all sales of used passenger cars. Formerly, filing of such a certificate with the local war price and rationing board had been required only on sales to persons other than dealers. At the same time used car dealers were required to file reports of used car inventories.² The price panels of the local boards were delegated responsibility for securing the certificates of transfer and for auditing them for compliance with ceiling prices. This program resulted in a workload of some 200,000 certificates of transfer each month at the local boards.

In spite of some dealer opposition to the regulation, experienced during the quarter indicated that dealers were continuing to handle a high proportion of the used cars changing hands and were realizing good margins on these sales.

¹ See Tenth Quarterly Report, pp. 18-19.

² See also Enforcement, pp. 78-79.

. V .

PRICE CONTROL: FUELS, SERVICES, AND OTHER

Foremost among petroleum price actions during the quarter were establishment of specific prices in several areas and inauguration of the stripper well premium plan. In solid fuels, a number of anthracite mines were granted increases, as were various bituminous mines; simplified schedules were issued in the bituminous field.

PETROLEUM

Amendments to the regulation governing fuel oil, gasoline, and liquefied petroleum gas prices during the quarter continued the practice of spelling out dollar-and-cent prices wherever such action will simplify pricing practice and aid enforcement. The fuel oil blending amendment was revised, and the price of 72/74 octane gasoline was reduced to offset a reduction in octane rating. Several actions were taken in the crude petroleum field to facilitate administration of the stripper well premium plan.

Petroleum Products

The Office established specific prices for Inland Lower Texas petroleum products on shipments to PAW District 1 (17 Eastern States) and on shipments to all other States except Texas. Inland Lower Texas constituted the only part of that State for which specific prices for petroleum products destined for PAW District 1 had not been established. Since relatively few products normally moved from this area into other regions, their prices were not generally known by potential purchasers.

Specific dollar-and-cent prices f. o. b. refineries and terminals on shipments within the State and to other States were also established in Kansas at the request of refiners. An amendment which became effective during the quarter allows refiners a uniform netback where heretofore their netback varied considerably, depending on the particular destination involved.

A fundamental change, agreeable to a substantial portion of the industry, was made in the method of pricing residual fuel oils and blends thereof with distillates. The very great need for heavy residual fuel oil, which had inspired the adoption of the blending amend-

ment in March 1943, no longer existed. In operation, that amendment had given fuels less desirable from the consumer's point of view higher ceiling prices than more desirable fuels. During the quarter the Office provided for the establishment of ceiling prices for residual fuel oil and blends thereof with distillates on the same basis as that in effect prior to the adoption of the blending amendment.

Another amendment established maximum delivered-at-destination ceilings in 11 midwestern States for gasoline and kerosene delivered in tank cars and transport trucks to tank wagon resellers and consumers. The formula provisions adopted provide, in most instances, a method of determining prices that has the same advantages of simplicity and ease of administration as flow from specific dollar-and-cent ceilings. This method is consistent with industry practice and will not change the general level of prices. It removes the uncertainties hitherto prevailing in this area with respect to the delivered-at-destination ceilings, which were a source of inconvenience both to the industry and to the administration of price control.

The maximum price of 72/74 octane ASTM gasoline was reduced one-eighth cent except at the tank wagon and retail levels. The jobbers in most cases reaped the benefit of this decrease. The Office considered this desirable since jobber margins in many parts of the country were not too broad when account was taken of the reduced volume being distributed. The reduction in price was made in order to compensate, at least in part, for the lower octane content brought about by a directive of the Petroleum Administrator for War, the purpose of which was to conserve tetraethyl lead.

Crude Petroleum

The most significant price actions in the crude petroleum field during the quarter had to do with the stripper well premium plan,¹ formulated in accordance with a directive issued by the Director of the Office of Economic Stabilization and inaugurated August 1, 1944. Production data from every known pool or field in the United States had been obtained from the respective conservation or proration authorities of the States involved, and upon the basis of this information it was determined which wells or pools were eligible to receive premium payments. Industry committees were established in all of the important producing areas.

A plan was formulated whereby pools or fields not otherwise eligible to receive the premium payments may be granted such payments on an adjustment basis. Generally speaking, these adjustments are to be made upon the basis of demonstrated hardship.

¹ See Tenth Quarterly Report, pp. 24-25.

Specific dollar-and-cent prices for crude petroleum in the States of Kansas and Oklahoma were established chiefly to facilitate administration of the stripper well premium plan. An interpretation made by the Office, effective August 19, 1943, had permitted use of the highest posted price on gravities below 28° rather than the lowest posted price as had previously been the case. Investigation revealed that the change had resulted in these States in establishment of maximum prices somewhat in excess of prices prevailing during the base period. The new prices, which were to go into effect October 3, more nearly reflected October 1, 1941 prices and did not reduce the prices actually being charged on August 1, 1944.

SOLID FUELS

The entire anthracite mine price situation was reviewed, and maximum price adjustments granted to several mines to enable them to secure a realization approximating their representative costs of production. Other actions designed to facilitate production and distribution of solid fuels, in view of the possibility of a critical winter fuel situation, consisted of adjusting maximum prices for various bituminous coal mines, promulgating prices for 328 new mines, clarifying bunker fuel prices in New York Harbor, and establishing dollar-and-cent prices for sales of bunker fuel in certain Gulf harbors.

The program of reviewing, in the light of later data, the temporary bituminous coal mine price increases which had been issued subsequent to the wage agreement of November 1943, was nearing completion by the end of September.² Revised and simplified schedules of maximum prices for 11 of the 22 bituminous coal-producing districts in the country were promulgated under this program. The new schedules, which cover the bulk of the bituminous coal production, apply to all mines in Districts Nos. 2 (western Pennsylvania), 3 (northern West Virginia), 6 (West Virginia Panhandle), 7 (portions of West Virginia and Virginia), 8 (portions of West Virginia, Virginia, Kentucky, Tennessee, and North Carolina), 9 (western Kentucky), 11 (Indiana), 13 (Alabama and portions of Georgia and Tennessee), 17 (southern Colorado and portions of New Mexico), and 22 (Montana), and all mines shipping by rail in District No. 10 (Illinois). Schedules covering the remaining producing districts are under consideration and will be issued as quickly as the analysis of the pertinent data is completed.

Continuing the solid fuels area ceiling program, 36 area ceiling price orders were issued during this period. The area covered by these orders consumes approximately 7,000,000 tons annually, bringing the total tonnage for all areas covered to an estimated 85,000,000.

² See Ninth Quarterly Report, pp. 9-10, and Tenth Quarterly Report, p. 23.

Additional sections of the States of Idaho, Oregon, and Washington were granted dollar-and-cent prices by 10 firewood area orders issued during this quarter. As of September 30, there were 104 dollar-and-cent firewood orders in effect, covering all or parts of 30 States.

SERVICES

The principal task in the service trades field during this quarter was to acquaint the trade with the provisions of the revised maximum price regulation covering the service trades.³ This became effective August 1. A bulletin emphasizing the changes in the new regulation was distributed to the trade not only through the customary mailing lists, but also through the price panels of the local war price and rationing boards.

An amendment issued in August to the revised regulation required suppliers of services to new purchasers to submit to the Office complete data on such service and to secure approval of the proposed price before putting it into effect. This amendment cut the filing of data to a minimum and provided automatic approval of prices for services supplied before August 1, the effective date of the regulation; these prices were, however, subject to revision if the Office found them to be out of line.

Considerable progress was made on a shoe repair pricing program which was to be completed in the next quarter. Dollar-and-cent prices were established for shoe repair services in Seattle, Wash., with the requirement that they be posted. A war-swollen population, together with rising labor and materials costs, had constituted a constant pressure against base-period prices which were difficult to enforce.

An influx of military and civilian personnel in the Columbia, S. C., area had heavily overburdened laundry and dry-cleaning plants, and there was a very strong upward price pressure. The Office took action to translate the March 1942 prices into dollar-and-cent prices, and required that they be posted to provide for more effective enforcement.

At the request of the War Food Administrator, OPA established dollar-and-cent prices for services rendered on a contract basis, in connection with harvesting and baling of alfalfa hay and flax straw in the Imperial Valley area of California where WFA had established specific wage ceilings. Control of services rendered through a contractor is necessary to prevent evasion of the wage ceilings established by WFA, since the services covered by this regulation are generally furnished to farmers by contractors, and farmers do not normally employ agricultural labor directly. Rates established were based on WFA ceilings, allowing the margins of profit prevailing in this industry in the normal pre-war period.

³ See Tenth Quarterly Report, pp. 25-26.

EXPORT-IMPORT REGULATIONS

The quarter was marked principally by improved administration of the export and import regulations. While a number of amendments were made to both regulations, these resulted in no fundamental change. Improved operating techniques were put into effect, however, better compliance was achieved, and improved trade relations resulted in closer cooperation with industry.

During the quarter the Office was called upon by the Department of State to interview and advise authorities from other countries visiting the United States on price control problems. Specially prepared memoranda on specific problems, as well as printed and mimeographed material, were supplied price control officials of foreign countries. Information on maximum export prices, which some countries use as a base for determining maximum prices within the country, was supplied when requested by foreign countries.

Exports

Two amendments were issued to the Maximum Export Price Regulation during this quarter. One amendment, issued in August, broadened the language of a section which had been added to the regulation so as to permit Government agencies to recover subsidies paid in order to maintain low prices on domestic consumption. The amendment provides that exporters of products which are subsidized when sold domestically, but not when sold in the export market, may increase their otherwise applicable base prices by the amount of the subsidy or similar payment which they are unable to obtain, or which they must refund to the Government.

Another amendment, issued and effective in September, permits domestic firms to resume the practice of charging exporters in this country higher prices than the maximum prices which they are permitted to charge similar domestic buyers, provided this was their regularly established practice before the imposition of price controls. Many firms had this practice prior to the institution of controls, in order to protect their own export sales organization, but it was forbidden in many cases by the Maximum Export Price Regulation. The amendment permits resumption of the practice on an equitable basis. To prevent possible abuses, approval must be obtained from the Office, and is granted where the supplier can satisfactorily show that it was, in fact, his regularly established practice and that resumption is necessary to protect his export organization.

Imports

The Maximum Import Price Regulation was amended during the quarter to permit adjustments in maximum wholesale and retail prices

of articles made in the United States of imported materials for which an industrial user had been given an adjustment of his maximum prices. The term "purchasing commission" was clarified by indicating that it applies only to commissions paid by the importer to his agent abroad.

The definition of total landed costs was changed to include an allowance for war risk insurance costs which may not exceed the amount of the war risk insurance premium paid (at rates in effect at the time of shipment) on a value representing 105 percent of the sum of the foreign invoice price, freight to port of entry, and premiums paid for marine and war risk insurance. This amendment was made necessary by the almost complete withdrawal of the War Shipping Administration from the field of war risk cargo insurance. The definition of total landed costs previously permitted the inclusion of a war risk insurance premium not in excess of that which would be charged by the War Shipping Administration. Other maximum price regulations which contained a reference to war risk insurance premiums charged by the War Shipping Administration as an element in determining maximum prices were similarly amended.

An amendment was issued and made effective in September which in effect extended coverage of the Maximum Import Price Regulation to foods and food products which are imported ready for human consumption. These products had been originally excluded because it was feared their inclusion would lead to an increase in the cost of living. It was found, however, that prices of imported foods had risen steadily since March 1942 by reason of the ability of importers to convert themselves into sales agents of foreign sellers, thus buying and selling free from price control, or by reason of such importers being permitted a markup on their costs under regulations governing certain domestic foods at wholesale and retail.

By no longer permitting a markup on what was, for all practical purposes, an uncontrolled cost, the Office expects to reduce prices on imported food products. Moreover, the amendment puts all importers on an equitable basis. Thus importers who had been under GMPR and were limited to their prices of March 1942, the base date under the Maximum Import Price Regulation, may recover cost increases incurred between that month and April 1943.

Coverage of the MIPR was also extended to include sales of imported materials by importers to Government agencies and Government contractors and subcontractors. The effect was to bring the prices of imported materials sold to Government agencies and contractors in line with those being charged manufacturers producing articles for civilian use.

EMERGENCY COURT OF APPEALS

Several cases of general significance to the price control program were decided by the Emergency Court of Appeals during the quarter. The most important of these was *Gillespie-Rogers-Pyatt Co. Inc., et al., v. Bowles*, which involved the general standards applied by the Price Administrator in determining whether maximum prices are generally fair and equitable. Another case of considerable significance was *Powers and Urick v. Bowles*, in which the court considered questions of interpretation and application of the minimum pricing standards established in section 3 of the Stabilization Act of 1942.

Gillespie-Rogers-Pyatt Co., Inc.⁴

Eight manufacturers of bleached shellac charged that ceiling prices established by Maximum Price Regulation 245 were no longer generally fair and equitable because increased costs of production and distribution had decreased profit margins since issuance of the regulation. The Price Administrator had denied the protests on the ground that protestants had not shown either that the over-all earnings of the industry had fallen below their normal peacetime level, as evidenced by earnings in the period 1936-39, or that the maximum prices for bleached shellac were insufficient to return out-of-pocket costs on that particular product. The court held that the administrative standards thus applied by the Price Administrator—the industry earnings standard and the product standard—constituted a correct application of the statutory standards of section 2 (a) of the Emergency Price Control Act, and that the complainants had failed to offer sufficient evidence to sustain their burden of establishing that the maximum prices for bleached shellac were not generally fair and equitable.

After examining the legislative history of the Stabilization Extension Act of 1944, the court said:

We conclude that the use by the Administrator of the industry earnings standard in conjunction with the product standard to determine whether a maximum price previously set by him is no longer generally fair and equitable and such as will effectuate the purposes of the Emergency Price Control Act is a reasonable exercise of the discretion conferred upon him in the administration of the act and is in consonance with its mandate. It follows that the present complainants, who sought to have the maximum prices of bleached shellac modified upon the ground that they were no longer fair and equitable, had the burden of showing the facts from which the Administrator in the light of the industry earnings and product standards could find that these prices had ceased to conform to the statutory standard.

⁴ *Gillespie-Rogers-Pyatt Co. Inc., et al. v. Bowles*, No. 134, decided August 24, 1944.

In applying these standards to the facts of the particular case, the court said:

It is true that the complainants' evidence does show a reduction in the gross profit on bleached shellac which might call for an increase in the maximum price of that product under the industry earnings standard if the industry has in fact suffered a substantial decrease in its over-all earnings as compared with those of the pre-war period. But since the complainants declined to offer evidence as to their over-all earnings for either period they failed to provide the Administrator with the necessary basis for determining, by the application of the industry earnings and product standards, whether the maximum prices for bleached shellac had ceased to be generally fair and equitable. They failed to exclude the possibility that reduced profits on bleached shellac had been offset by increased profits in other departments of the industry.

Lucius Powers and W. E. Urick⁵

Growers of California table grapes asserted that maximum prices for table grapes violated provisions of the Emergency Price Control Act of 1942 and the Stabilization Act of 1942. The Price Administrator had established a single dollar-and-cent maximum price for all grades, brands, and varieties of table grapes, subject to seasonal variations. The growers contended that the price regulation violated the minimum standards prescribed for agricultural commodities by the Stabilization Act of 1942, on the ground that the Secretary of Agriculture should have determined price differentials for the different grades and varieties of table grapes, and that such differentials should have been embodied in the regulation. The court, however, held that the Price Administrator's obligation under the act was to establish maximum prices not lower than the minimum price standards "determined and published by the Secretary of Agriculture," and that determination by the Secretary of an undifferentiated minimum price standard for table grapes did not render the maximum price invalid.

The court also held that evidence of cost increases since 1942 did not establish that the maximum prices violated the provision of the Stabilization Act requiring that maximum prices for agricultural commodities reflect increases in labor and other costs since January 1, 1941. The court stated that the appropriate base point for computing whether maximum prices reflect increased costs was January 1, 1941, the date set forth in the act, rather than the later date chosen by the growers.

The court also ruled that the Price Administrator was not arbitrary or capricious in establishing a single maximum price for all table grapes, in view of past fluctuations in price relationships, and in view of the recommendation of a committee of table grape producers that separate maximum prices for the different grades and varieties of

⁵ *Lucius Powers and W. E. Urick v. Bowles*, August 4, 1944. The Supreme Court denied complainants' petition for a writ of certiorari October 23, 1944.

table grapes would be unworkable. Finally, the court rejected the growers' contention that such a single maximum price required them to change their business practices in violation of section 2 (h) of the Emergency Price Control Act.

Automatic Fire Alarm Co.⁶

In this case the court considered the validity of Maximum Price Regulation 165, Services, as applied to charges for services in the "maintenance, repair, rental, supervision, operation, or inspection" of equipment used for the detection of, and protection against, fire and theft. The court held that the Administrator had no authority to regulate charges for the "maintenance" of such equipment where the equipment remained the property of the person rendering the service. The court said:

We conclude that there is no warrant in the act for the Administrator's inclusion in the amended regulation of services in connection with the maintenance, supervision, operation and inspection of fire protection equipment, to the extent that these services involve more than the repair of such equipment and that to the extent that they involve no more than repair their inclusion is unnecessary.

Foster and Company⁷

The Emergency Court of Appeals in this proceeding passed upon the authority of the Price Administrator to modify and reduce maximum prices which he had theretofore established. Under the General Maximum Price Regulation, and later under Maximum Price Regulation 193, maximum prices for packaged distilled spirits were established by the freeze technique on the basis of prices charged by the seller during March 1942. Subsequent to this base period, Foster & Co. proposed to sell packaged whiskey under a new brand name. Being unable to establish a maximum price under the freeze provisions, application was made and approval secured of a maximum price on the basis of prices charged in the base period for other brands of whiskey. The order establishing the maximum price provided that the order "may be revoked or amended by the Price Administrator at any time." The company entered into contracts for the sale of its whiskey at the maximum price so obtained. However, before delivery of all the whiskey covered by these contracts, dollar-and-cent maximum prices applicable to all brands not sold in the base period were established. This action reduced the maximum price theretofore established for Foster & Co. and cut across the contracts calling for delivery at the higher price.

⁶ *Automatic Fire Alarm Co. et al. v. Bowles*, No. 105, decided July 3, 1944.

⁷ *Foster & Co. v. Bowles*, No. 140, decided September 27, 1944.

The company contended that the Price Administrator was not empowered to reduce a maximum price which he had established, and that modifications in maximum price regulations could be made only when suggested by an industry advisory committee. The court rejected these contentions, stating:

* * * There can be no question but that constantly occurring changes in the economy and improvements in price control techniques frequently call for changes of maximum prices. Rarely, if ever, will such changes be recommended by industry when, as frequently is the case, they entail reductions in the maximum prices which industry may charge. The Price Administrator, appointed to have charge of the program of price control, is the one who will be expected to act. Under these circumstances, this Court is not justified in imposing limitations upon his power to make required reductions of price levels unless the statute clearly requires it. In this case we find it does not.

The court also held that the Price Administrator's power to modify and reduce maximum prices was not limited by the outstanding contracts, which had recognized the possibility that the ceiling price might be changed. The court observed that "in the case before us the necessity arose to change the regulation in order to bring about effective price control and complainant's contracts must yield to this necessity."

Kingan & Co.⁸

The question of adjustments in the maximum prices of beef sold to the armed forces was involved in this case. Supplementary Order No. 9, issued by the Price Administrator in July 1942, provided that any person who contracted for the sale of a commodity to the United States Government might file an application for the adjustment of his maximum price if he believed that the price impeded or threatened to impede production of the commodity. Kingan & Co. filed such applications, asserting that the established maximum prices failed to cover the costs of producing carcass beef sold to the United States Army. The cost of producing this beef was determined in accordance with the so-called cut-out test method generally used by the industry. The Administrator denied the application for adjustment and the protest which followed.

The Administrator introduced into the protest proceeding evidence concerning the multiproduct nature of the meat packing industry, the use in numerous processed byproducts of material derived from the slaughter of cattle, as well as evidence of authorities on meat packing accounting to show that a loss in the cut-out test method did not establish that production of beef would be impeded so long as the packer's over-all earnings were greater than in the base period 1936-39. The Administrator also introduced evidence tending to show that before

⁸ *Kingan & Co. v. Bowles*, No. 124, decided August 3, 1944.

price control the industry generally failed to recover the cost of producing beef as determined by the cut-out method.

Kingan & Co. did not introduce any evidence to rebut the evidence relied on by the Administrator, did not submit its current over-all earnings as compared with those of the period 1936-39, and did not submit any data on the volume of its cattle slaughter.

The court concluded that the complainant had failed to meet the burden of proof necessary to entitle it to an adjustment of prices and had not shown the Administrator's analysis of the problem to be unreasonable. The complaint was accordingly dismissed.

Other Cases

In *Capitol Foundry Co. v. Bowles*,⁹ the court sustained the Administrator's denial of an application by a producer of gray iron casting for a price adjustment under an adjustment provision in Maximum Price Regulation 144 designed to aid in securing essential supply. The court held that the Administrator correctly applied an objective test in disposing of the application and that it was not unreasonable to adopt as that test whether the producer was realizing as high a profit as the industry generally realized in a representative peacetime period. In *Crawford & Doherty Foundry Co. v. Bowles*,¹⁰ the court sustained the Administrator's denial of an application for an individual price adjustment by a seller of gray iron castings whose current profits exceeded both his own as well as the industry's general pre-war earnings.

In *Marlene Linens v. Bowles*,¹¹ the court ruled that Maximum Price Regulation 127 was not arbitrary and capricious in including within its scope, as finished piece goods, uncut bolts of table cloths manufactured by complainant. The court also stated that "if the complaint merely sought an interpretation of the regulation, without in any way attacking its validity, it would not be cognizable by this court."

⁹ *Capitol Foundry Co. v. Bowles*, No. 120, decided September 20, 1944.

¹⁰ *Crawford & Doherty Foundry Co. v. Bowles*, No. 138, decided September 28, 1944.

¹¹ *Marlene Linens v. Bowles*, No. 148, decided September 29, 1944.

APPENDIX TO PRICE CHAPTERS

Table 1.—Actions Extending Price Control, July–September 1944

Effective date	Commodity	Level of action
July 8, 1944	Corded pulpwood (in western areas).....	Producer.
July 15, 1944	Imported materials (sold to Government agencies, contractors, or subcontractors).....	Importer.
Do.....	Fresh peaches (for table use).....	All except retail.
Do.....	Benzol, toluol, and xylo (coal carbonization or carburated water gas and oil gas products).....	Producer.
Do.....	Imported quartz crystals (sales to agents, contractors, or subcontractors of the Government).....	Importer.
July 17, 1944	Horseradish root.....	Producer.
July 25, 1944	Fresh pears (for table use).....	All except retail.
July 31, 1944	Restaurant prices (nation-wide).....	Retail.
Aug. 2, 1944	Used garden tractors and certain types of mowers.....	All sellers.
Aug. 10, 1944	Fresh pears (for table use).....	Retail.
Aug. 14, 1944	Hardwood logs (produced in western Washington and western Oregon).....	Mill.
Do.....	Fresh beets (Texas growers).....	Country shipping point.
Aug. 15, 1944	Used photographic equipment (in Hawaii).....	All sellers.
Sept. 1, 1944	Pulpwood (produced in western United States).....	Producer.
Sept. 8, 1944	Florida and Georgia shade grown tobacco (1944 and future crops).....	Grower and packer.
Sept. 26, 1944	Farm services (Imperial Valley, Calif.).....	Contractor.

Table 2.—Dollar-and-Cent Prices Set During July–September 1944

Effective date	Commodity	Level of action
June 30, 1944 ¹	Fine cotton goods (including box-loom clip-spot marqui- ettes).....	Producer.
July 5, 1944	Meal and meal products.....	All sellers.
July 7, 1944	Low-priced women's house dresses, and slips and men's shirts and shorts.....	All.
July 11, 1944	Flameproof cotton insulation.....	Do.
Do.....	Melons (except watermelons).....	Country shipping point.
Do.....	Domestic tung oil.....	Producer.
July 15, 1944	Sweet potatoes (1944 crop; for Sunset, La., and 4 zones).....	Do.
Do.....	Aluminum foil (clear scrap).....	Do.
July 17, 1944	Frozen red sour pitted cherries (1944 and later packs).....	Processor.
July 19, 1944	Shoe repair services (Seattle, Wash.).....	Retail.
July 20, 1944	Metal springs, constructions, and accessories for uphol- stered furniture.....	Manufacturer.
Do.....	Melons (in Illinois and Wisconsin and States west of the Mississippi).....	All sales except shipping point and retail.
July 22, 1944	Disposable diaper inserts (sales in Trenton, N. J., area).....	All.
July 24, 1944	Veneer cores (southern pulpwood).....	Producer.
Do.....	Crude peanut oil (in newly developed crushing areas).....	Do.
July 25, 1944	Melons (east of the Mississippi except Illinois and Wiscon- sin).....	All sales except country shipping point and retail.
Do.....	Sweet potatoes (1944 crop; for Sunset, La., and 4 zones).....	Primary wholesaler.
July 29, 1944	Argentine corn (imported to meet local feed shortage).....	Importer.
Do.....	Shell eggs.....	Wholesale.
July 31, 1944	Asphalt and tarred roofing products (carlot sales in Utah area).....	Distributor.
Aug. 1, 1944	Domestic vodka and gin.....	Processor.
Aug. 5, 1944	Mussel shells (niggerhead and sandshell types).....	Producer.
Do.....	Railroad locomotive fuel (District No. 11).....	All sellers.
Aug. 7, 1944	Sliced dried beef (packed in 4-ounce cans).....	Processor.
Aug. 8, 1944	Bituminous coal (produced in Texas).....	Producer and distributor.
Aug. 9, 1944	Plumbing and heating items (used and reconditioned).....	All sellers.
(²)		
Aug. 12, 1944	Electric irons (manufactured by Dominion Electric Manu- facturing Co., Ohio).....	All.
Aug. 14, 1944	Gasoline, kerosene, and distillate fuel oils (Kansas).....	Refinery and terminal.
Do.....	Kerosene, No. 1 fuel oil, and range or stove oil (2 counties in New Jersey).....	Tank wagon and wholesale.
Do.....	Bituminous coal (deliveries at Pensacola Harbor, Fla., Mobile Harbor, Ala., and New Orleans Harbor, La.).....	Supplier.
Do ³	Fresh beets (Texas grown).....	Country shipping point.
Do ⁴	Early white potatoes (U. S. No. 1, 1945 crop).....	Country shipper.
Aug. 15, 1944	Gasoline (70-74 octane A. S. T. M.).....	Shipping or delivery point.
Do.....	Staple work clothing.....	Retail.
Aug. 19, 1944	Motorcycle tires (size 3.85-20) and 3 new tractor tires.....	All sales.

¹ Retroactive.

² Issuing date for prices in effect beginning December 1944.

³ Issuing date; effective Nov. 1, 1944.

⁴ Issuing date for advance notice; effective Mar. 31, 1945, and later by specific areas.

Table 2—Dollar-and-Cent Prices Set During July-September 1944—Continued

Effective date	Commodity	Level of action
Aug. 16, 1944	Bituminous coal (District No. 8).....	Producer and distributor.
Do.....	Boiled-down vegetable oil foots soap stock.....	Producer.
Aug. 23, 1944	Walnut lumber and walnut gunstock blanks.....	Mill.
Aug. 24, 1944	Electric irons.....	Retail.
Do.....	Fur garments.....	Manufacturer and wholesaler.
Aug. 26, 1944	Imported Canadian barley.....	Importer.
Aug. 28, 1944	Certain superfine counts of combed cotton yarn.....	Producer.
Sept. 1, 1944	Staple work clothing.....	Manufacturer and wholesaler.
Sept. 2, 1944	Milling and kiln drying services (northeastern softwood lumber).	Custom-mill.
Do.....	Hops (1944 and future crops; Pacific Coast and New York State).	Grower and dealer.
Sept. 4, 1944	Cigars (imported).....	Importer, wholesaler, and retailer.
Sept. 6, 1944	Canned sliced bacon and braised pork and gravy (sold to the Army).	Processor.
Do.....	Australian and New Zealand rabbit skins and hatter's furs.	All sales.
Sept. 7, 1944	Blue and gorgonzola cheese (individual size consumer portions).	Do.
Do.....	Bunker coal (sold in New York harbor).....	Supplier.
Do.....	Low-priced maternity dresses and slips.....	All.
Sept. 8, 1944	Florida and Georgia shade-grown tobacco (1944 and future crops).	Grower and packer.
Sept. 9, 1944	Natural condition unpacked dried prunes and raisins (1944 and later crops)	Producer, dehydrator, and dry-yard operator.
Do.....	Snap beans and cucumbers (month of October).....	Country shipper.
Sept. 11, 1944	Hand laundries (Washington, D. C.).....	Retail.
Sept. 12, 1944	Variety meats and edible byproducts.....	Wholesale.
Do.....	Hand laundries (Flint, Mich.).....	Retail.
Do.....	Imported hog bristles (used in manufacture of paint and varnish brushes, etc.).	Domestic shipping point.
Sept. 14, 1944	Dairy byproducts (prepared as animal feeds).....	All sellers.
Sept. 19, 1944	Domestic canned crabmeat (No. 1, squat containers used by Gulf Coast carriers).	Packer.
Sept. 20, 1944	Gum rosin (sales on the Savannah, Ga., Cotton and Naval Stores Exchange).	All sellers.
Sept. 21, 1944	Family laundry and dry cleaning services (Columbia, S. C. area).	Wholesale.
Do.....	Ester gum (containing gum rosin).....	All sellers.
Sept. 25, 1944	Castor pomace (produced west of the 100th meridian).....	Producer.
Sept. 28, 1944	Straight flavor hard candies.....	Manufacturer.
Sept. 30, 1944	Ammunition (for civilian use).....	Wholesale and retail.
Do.....	Imported crude and refined peanut oil.....	Mill.
Oct. 2, 1944	Soybean byproducts (used as animal feed).....	Processor.
Do.....	Storage and handling of edible dry beans and peas (Kansas City area).	All sellers.

Table 3.—Price Reductions Ordered During July-September 1944

Effective date	Commodity	Level of action	Amount of price reduction
Aug. 4, 1944.	Canred meat.....	Slaughterer-packer.....	10 percent of raw meat costs
Aug. 14, 1944.	Elastic webbing, braid, and cord.....	Wholesale.....	¾ of current GMFR prices.
Aug. 16, 1944	Fresh apples (for table use, 1944 crop).....	All except retail.....	Average of ¾ cent at consumer level.
Aug. 23, 1944.	California canned apricots (1944 pack).....	Processor.....	1½ cents per average size can at consumer level.
Sept. 1, 1944.	Gasoline, kerosene, distillate fuel oils, and residual fuel oils (parts of Atlantic seaboard).	All except retail.....	0.3 to 0.6 cent per gallon on gasoline, kerosene, and distillate fuel oils, and 15 cents per barrel on residual fuel oils.
Sept. 4, 1944	Swiss cheese (except processed and specialty types).....	Wholesale.....	Approximately 3 cents per pound at retail.
Sept. 10, 1944.	Gasoline, kerosene, distillate fuel oils, and residual fuel oils (parts of Atlantic seaboard).	Service station and other retail sales.	0.3 to 0.6 cent per gallon on gasoline, kerosene, and distillate fuel oils, and 15 cents per barrel on residual fuel oils.
Sept. 19, 1944.	Log-run Southern pine lumber.....	Manufacturer.....	5 cents per MBM per mile on transportation allowance for deliveries over 30 miles.
Oct. 5, 1944.	Single cone bedding coils (with knotted end).....	Manufacturer and sales agent.	9 percent.

• VI •

TRANSPORTATION AND PUBLIC UTILITIES

Authority to participate before regulatory agencies in proceedings involving transportation and public utility rate increases is delegated to the Price Administrator by the Director of the Office of Economic Stabilization.¹ Under this authority the Office receives and examines notices of all proposed rate increases. In processing these notices, it is the established policy of the Office, wherever possible, to work in close collaboration with all regulatory bodies having original jurisdiction over transportation and public utility rate matters and with other agencies of government, both Federal and local, and to cooperate with interested members of the industries involved.

During the quarter under review, the Office intervened, informally as well as formally, in many transportation rate matters, and was successful in a number of instances in preventing inflationary increases. The greatest activity in this field continued to be in transportation by motor trucks.

The activity of the Office as intervenor in cases involving proposed increases in public utility rates continued to make itself felt before Federal and State regulatory bodies and courts. On the whole, rates and charges for public utility services remained fairly stable, and few increases were made which conflicted with the economic stabilization policy of the Government.

The Office participated during the quarter in the periodic meetings of the interdepartmental traffic requirements and priorities committee of the War Production Board, on which are represented the War Production Board and other war agencies, including the War and Navy Departments. The most important problem confronting the committee during the period was the revision of the essentiality list governing distribution of heavy duty truck tires by local rationing boards.

The Office at the end of September had 15 industry advisory committees, representing various phases of the transportation and storage service industries, with which the Office consults on all major phases of its programs.

¹ Except for contract carrier rates over which the Office has direct control under the Emergency Price Control Act.

TRANSPORTATION

A total of 1,864 notices of proposed changes in rate schedules was filed with the Office by all types of common carriers during the July-September period. For the most part, as in previous quarters, the changes were for the purpose of correcting tariff errors, canceling obsolete rates, or announcing the expiration of rates which had served special purposes. On 72 notices, however, the Office filed individual protests with the Interstate Commerce Commission and several State commissions. On 25 of the notices, protest by the Office resulted in 20 separate suspension proceedings, several of which were joint interstate and State proceedings. Eight tariff publications were withdrawn by the carriers in view of protest by the Office, and 7 protests were withdrawn by the Office on the basis of subsequent facts submitted by the carriers. In 9 other instances the various commissions declined to suspend, while results of 3 protests were not known at the close of the quarter.

Railroad Rates

The Office was engaged in extensive preparations during the month of September for taking part in renewed hearings before the Interstate Commerce Commission on *Ex Parte 148*, Increased Railway Rates, Fares, and Charges, 1942. In this case, the Office had the support and assistance of the Department of Agriculture, of several of the State public utility commissions, and of affected shippers' organizations. The Interstate Commerce Commission had awarded both passenger and freight rate increases effective March 18, 1942.² Through the efforts of the Office and other Government agencies, the freight rate increases were suspended effective May 15, 1943, until the end of 1943, re-suspended to June 30, 1944, and again to December 31, 1944. Without further action, they were to have been restored January 1, 1945. As a result of a petition filed by the National Association of Railroad and Utilities Commissioners in September, however, the entire proceeding was reopened by the ICC for further hearing to begin October 23, 1944.

Appeals to the United States Supreme Court were taken during the quarter in the Alabama, Kentucky, Tennessee, and North Carolina intrastate fares cases, following decisions by the district courts in the Western District of Kentucky and Eastern District of North Carolina, which upheld the Interstate Commerce Commission's order authorizing the railroads in those States to increase intrastate passenger coach fares from 1.65 to 2.2 cents per mile.

² See also Fifth Quarterly Report, pp. 9-11.

Railroad coach fares in the Southeast, prior to the war, had been 1.5 cents per mile, except for a period of 14 months during 1937-38. During that period the railroads had attempted to maintain a fare of 2 cents per mile but found they could not compete at this rate with private automobiles and with bus service. Entry of the United States into the war, however, basically altered this situation. Unparalleled travel, coupled with strict rationing controls over gasoline, tires, and automobiles made competition virtually nonexistent.

Southeastern railroads, along with other railroads throughout the country, benefited by the 10 percent increase in passenger fares authorized under *Ex Parte 148* in February 1942. Effective October 1, 1942, the railroads in the Southeast increased their fares to a basis of 2.2 cents per mile. The Office protested these increases but the Interstate Commerce Commission declined to suspend them. The Office then joined with the North Carolina Utilities Commission and the Alabama Public Service Commission in petitioning the ICC for an investigation into the reasonableness of the increase. The petitions were denied in October 1943. The State commissions in the four States had meanwhile denied the increases for intrastate travel within their States. After investigations, the ICC overruled the State commissions, and the increases were put into effect. The States and the Office thereupon appealed to the courts, carrying the case to the United States Supreme Court.

Although witnesses for the Price Administrator at hearings in the Southeastern passenger fares cases showed that the rate of return for southeastern railroads, prior to Federal income taxes, averaged about 18 percent on depreciated book investment plus cash, materials, and supplies, the Interstate Commerce Commission and the courts found unjust and unreasonable discrimination against interstate commerce, forbidden by section 13 of the Interstate Commerce Act, and held that the existing favorable position of the railroads should not be a controlling factor against their request for higher rates. It was upon this latter point that the appeal to the Supreme Court was directed.

Motor Carrier Charges

Motor carriers of merchandise traffic in the State of Nebraska sought permission during the quarter to revise their current rate structure, which is based on air-line distances, to a higher level patterned after the interstate rail rates applicable in that section of the country. The Office appeared at the hearing and urged that the Nebraska Commission hold any increase to the level granted in other sections of the country, or a horizontal increase of 4 percent for the period of the emergency. As a result, the commission issued an interim order permitting a 4-percent general increase, and it appeared

unlikely that any further increase would be permitted until after the war.

Proposals to increase rates were dropped by motor carriers in the State of Montana during the quarter, after the matter was discussed informally with the Montana Commission and with the Office.

Motor carriers in the State of Texas sought a general increase of 10 percent. Though the proposal was the subject of hearings before the Texas Commission, in which representatives of the Office participated, no decision had as yet been handed down by the end of September.

Joint proceedings before the Interstate Commerce Commission, the New York State Commission, and the Pennsylvania Commission, involving minimum charges of motor carriers in the East, had not been completed at the close of the quarter. It was anticipated that the adjourned hearings, scheduled to begin October 16, would complete the series.

The Office protested during the quarter to the Interstate Commerce Commission and to the various State commissions action by motor carriers to transfer "inflated ratings" on low-density bulky freight to the national motor freight classification in an attempt to apply these ratings nationally. The ratings had been deliberately inflated by individual carriers, particularly in the East, to discourage movement by motor of low density bulky freight like luggage, electric-light bulbs, paper cores, etc.³ These ratings are abnormal and considerably higher than the traffic will bear. They would seriously affect price ceilings if allowed to stand. For the most part they were first published either individually by carrier or individually by associations of carriers in different sections of the country.

The Office participated in Interstate Commerce Commission hearings on the matter in July. The decision of the ICC was not expected before early 1945.

Considerable time and effort were expended during the quarter in connection with a New York Public Service Commission proceeding involving the establishment of a proper level for transporting milk in tank trucks. This is a highly specialized industry in New York State, for which transportation rates had not been regulated up to a little over a year ago. No decision had been released by the Commission by the end of September.

As the quarter closed, the problems of establishing charges for the use of refrigerating or heating equipment in motortrucks was still before the national committee appointed by the motor carriers to study this problem.

³ This freight is distinguished from lower-grade commodities such as wheat, coal, slag, cement, etc., for which minimum rate stops have been invoked. (See Eighth Quarterly Report, pp. 31-32.) Motor carriers in this instance were discouraging long hauls of this traffic by motor.

The Office participated in hearings before the National Motor Freight Classification Board during the period on a proposed change in the schedules for egg shipments. For some time, an estimated weight of 53 pounds per standard case of eggs had been maintained by both rail and motor carriers for tariff purposes. The Office was successful in showing that a proposed change to 57 pounds was not proper at this time in view of the adverse effect it would have on the stabilization program.

The National Motor Freight Classification Board also considered during the quarter increased ratings for transporting prepared foods such as dry and cooked cereals for breakfast use and for infant and invalid feeding. These proposed increases were opposed informally by the Office and by shippers. Should the carriers conclude to go forward with the revisions, however, the Office will oppose them before the appropriate regulatory bodies.

Petroleum Truck Rates

While activity in respect to the rates for transporting petroleum in tank equipment was rather great during the quarter, it was anticipated that it would be even greater during the months following because of revision of General Order 7 by the Office of Defense Transportation. This order was first issued by ODT to channel into longer hauls the supply of rail tank equipment for the transportation of petroleum. Use of this equipment was therefore limited to distance of 200 miles or over. The revision permitted use of rail tank cars for distances exceeding 100 instead of 200 miles. This operated to divert motortruck shipments for distances between 100 and 200 miles to rail equipment because of the lower rail rates and the greater loading capacity of tank cars as compared with tank trucks. It was anticipated that the diversion might result in revenue losses to motor carriers great enough to cause them to seek increased rates for transportation up to 100 miles.

Following Office intervention before the Kansas Commission, petroleum carriers in that State as of October 1 were denied the temporary increase for hauling United States Army Air Force gasoline to air force installations, which had been granted them by the commission in May, pending further hearings.

The Minnesota Railroad Commission permitted petroleum haulers in that State to increase rates by approximately 7.1 percent for distances not exceeding 45 miles. This Office was represented at the hearing at which the carriers sought to justify a proposed increase of 15 percent on all traffic.

An over-all increase of 5 percent in the rates of an important petroleum motor transport company was permitted by the Interstate

Commerce Commission despite protest by the Office. The Company, however, agreed to limit the term of increase to December 31, 1944, and agreed further to furnish full accounting data to support any increase then thought necessary. In view of the Commission's adverse decision, the Office withdrew its protests against similar increases in several States.

A total of 109 midwestern motor carriers was being operated during the quarter by the Office of Defense Transportation in order to maintain an essential transportation service which was threatened by labor troubles. This operation developed some rate problems which required the attention of the Office. As the quarter closed, negotiations were being concluded to permit some of the carriers to improve their revenue positions by the cancellation of all freight rates maintained between Chicago and the Twin Cities of Minneapolis and St. Paul.

Contract Carriers and Services

Contract carrier adjustment applications processed during the quarter totaled 68. Of these, 5 were denied, 36 were granted, 12 were granted in part, and 2 were dismissed. The remaining 13 applications processed involved amendments to earlier orders, requests for review from affected carriers, and orders modifying previous actions of the regional offices.

Applications for adjustment of pick-up and delivery rates were filed by 846 carriers during the quarter while the number granted in the same period totaled 776. To a considerable extent, the relatively large number of adjustments was due to increased maintenance and wage costs, to inability to obtain new equipment, and to an accelerated deterioration of existing equipment. At the end of the quarter, 63 applications for adjustment in the rates of pick-up and delivery carriers were pending.

The national office post-audited 98 adjustment applications which had been initially handled in the field offices. Petroleum carriers filed 38 rate reports to support increased charges for petroleum transport in tank trucks under individual rate agreements with shippers, whereby shippers would absorb the increase.

The minimum rates established by the Public Utilities Commission of Colorado were adopted as the maximum rates for the transportation of petroleum and petroleum products in tank trucks in Colorado by "for-hire private carriers" (contract carriers).

Storage and Terminal Charges

The March 1942 freeze of storage and terminal rates continued to operate satisfactorily as indicated by the relatively few applications for adjustment received during the quarter.

The emergency surcharge which had previously been authorized for cotton compresses and warehouses in the southern States and which expired July 31, 1944, was reconsidered on the basis of a petition filed by the industry. As a result, a surcharge of 17 percent was authorized for the entire industry over and above the March 1942 ceiling rates, to be effective until July 31, 1945.

A uniform tariff was adopted setting the maximum charges to apply to the storage and handling of general commodities at Phoenix, Ariz., in response to a petition filed by warehouses in that city.

At the request of the War Food Administration, dollar-and-cent maximum prices were established for storage of dried beans and peas in the Kansas City area.

PUBLIC UTILITIES

A total of 77 notices of proposed rate increases was received by the Office during the quarter. The Office opposed 14 of these as being unwarranted. The Office was also involved during the period in 4 pending court cases as well as in 23 cases pending before various State and municipal regulatory bodies.

An investigation was begun during the quarter in the case of a major Ohio gas utility which had consistently failed to notify the Office of proposed increases in its rates and charges until after the various municipalities had adopted ordinances providing for increases. This policy had prevented "timely intervention" by the Office before the municipal legislative bodies which were in effect the regulatory agencies.

Detroit Edison Company⁴

The Michigan Public Service Commission during the quarter under review ordered a \$10,450,000 reduction, on an annual basis, in the rates of the Detroit Edison Co. This reduction was the result of a remand by the State Supreme Court in which the court stated that the commission had authority to exclude avoidable expenses, including excess profits taxes, if the company would still enjoy a fair return. The principal item of controversy had been whether the Michigan commission had the power to disallow Federal war taxes as an operating expense in considering the company's earnings. Hearings were held July 10 and July 24, 1944, at Lansing, Mich., with the Office of Price Administration participating at the request of the City of Detroit. The commission found that the ordered rate reduction, eliminating as a secondary consequence most of the excess profits taxes from expenses, would not cause an unwarranted decrease in the company's net earnings after income taxes.

⁴ See also Tenth Quarterly Report, p. 39, and Eighth Quarterly Report, p. 33.

This decision was of great importance in that it set the stage for similar consideration by other State regulatory bodies. In line with this decision, the Railroad Commission of California instituted an investigation on its own motion into the effect upon utility rates of Federal war taxes, including excess profits taxes. Extensive hearings were held in the matter during August and September. As the quarter closed, the Office was engaged in preparation of a brief in this matter for consideration by the commission. The major issue of concern to the Office in these cases is the treatment of excess profits taxes by the regulatory agency in rate cases. Precedents established in these cases will be of vital importance in the future in preventing inflationary rate increases.

Chicago Commutation Fares

The Interstate Commerce Commission in August refused to approve an increase in existing railroad commutation fares in the Chicago area. The Illinois Commerce Commission simultaneously joined in the hearing for purposes of passing upon intrastate increases which were likewise sought. It concurred in the findings and conclusions reached by the Interstate Commerce Commission.

This case had been pending for some time. In October 1943 the Interstate Commerce Commission and the Illinois Commerce Commission held a joint hearing on the question of such fares, prompted by the petition of the Office to the Interstate Commerce Commission to rescind increases granted under Ex Parte 148. At the hearing, at which this Office was represented, the examiner of the Interstate Commerce Commission recommended a 20-percent increase in commutation fares. To this recommendation, the Office filed exceptions and led the way for several communities in the Chicago area and for the Attorney General of the State to do likewise.

The carriers involved indicated that they would file a petition asking the Interstate Commerce Commission to reconsider its order. An annual saving to the population in the Chicago area of about \$2,100,000 could be brought about by the successful outcome of this case. Though the interstate increase alone would have amounted to only about \$100,000, had it become effective, it would have been a powerful entering wedge for the intrastate roads to demand a similar increase in the amount of \$2,000,000.

The Office participated in September in hearings before a Master in Chancery in the Superior Court of Cook County in the matter of Chicago and North Western commutation rates. In November 1942 the railroad had filed a proposed tariff with the Illinois Commerce Commission, wherein it sought to increase its commutation fares approximately 10 percent. The commission at the time denied the increase, whereupon the railroad appealed the case, as permitted by the

Illinois Public Utility Act, and also filed an independent complaint in equity seeking to enjoin the order of the commission. In January 1943 the company obtained a preliminary injunction in the second case authorizing it to collect a 10-percent increase in fares. The increased revenues, however, have since been impounded pending final determination, and receipts are given to all commutation riders for amounts in excess of the old rates. The Office intervened in this case, which was consolidated by order of the court with the appeal case.

Hearings before a Master of Chancery were to be continued in November 1944. Should the increase be finally denied, the impounded funds will be returned and the 10-percent increase, amounting to approximately one quarter of a million dollars per year, would become inoperative.

Chicago Rapid Transit Co.⁵

The Supreme Court of Illinois in September reviewed the action of the Circuit Court of Cook County in upholding the Illinois Commerce Commission in its denial of a fare increase on the elevated lines of the Chicago Rapid Transit Co. When the circuit court reversed a Master's findings that the fare be increased approximately 23 percent, the company took an appeal to the Illinois Supreme Court. The Office, as intervener, filed a brief with the court, opposing the rate increases. No decision had been reached by the close of the quarter. The increase the company proposed would cost the Chicago public approximately \$3,000,000 a year.

Other Cases

Increases were denied the *Cabot Gas Corporation* and the *Pavilion Natural Gas Co.* by the New York Public Service Commission. The Office intervened and participated in these hearings, which resulted in a savings of approximately \$60,000 per year to the public.

As a result of an informal plea that it cooperate in the national stabilization program, the *City of Holyoke, Mass.*, withdrew its request for a \$29,000 a year increase in gas rates.

⁵ See also Tenth Quarterly Report, p. 39.

• VII •

THE RENT CONTROL PROGRAM

Rent control was extended to 13 new areas during the quarter ended September 30, bringing control to 382 of the total 459 designated defense-rental areas in the United States and territories. Areas under control comprised a population of 88 million during the 1940 Census period.

The maximum rent regulations were amended in several respects during the quarter, and the procedural regulation, which prescribes rules for adjustment, amendment, protest, and interpretation under the maximum rent regulations, was revised and reissued August 26, 1944.

The Office continued to receive new registrations for rental housing and to hear landlord and tenant petitions, as well as those initiated by area rent directors. Adjustments were granted in 62 percent of the landlord petitions disposed of and in 27 percent of the tenant and director cases heard.

AMENDMENTS TO REGULATIONS

Two important amendments were enacted during the quarter to bring the maximum rent regulations into conformity with the Stabilization Extension Act of 1944, approved June 30.¹ Several other amendments were issued, one of which was necessary to bring the regulation into compliance with a judgment of the Emergency Court of Appeals.

Stabilization Act Revisions

The first of the amendments brought about by the Stabilization Extension Act added a new ground for adjustment, where the rent on the date determining the maximum rent had been materially affected by peculiar circumstances which had resulted in a rent substantially lower than the rent generally prevailing in the defense-rental area on the maximum rent date for comparable housing accommodations. As a corollary, maximum rents which, as a result of peculiar circumstances, are substantially higher than those prevailing for comparable accommodations on the maximum rent date may also be adjusted.

¹ See Tenth Quarterly Report, pp. 1-4, 40.

The second amendment provided for adjustment where a substantial hardship has resulted from a substantial decrease in the net income (before interest) of the property for the current year, as compared with a representative period prior to the maximum rent date, due to a substantial and unavoidable increase in property taxes or operating costs.

The two basic minimum conditions thus established as a prerequisite to a finding of substantial hardship are: (1) A substantial decrease in net income (before interest); and (2) a substantial and unavoidable increase in property taxes or operating costs. The landlord must also be able to show the results of 1 year of operation under rent control, since only actual experience on that basis can reveal the effects of rent control on operating position. A period of 1 year is, in the Administrator's judgment, a minimum for making a fair determination of current operating costs. For the showing of substantial hardship required by the act, it is the Administrator's judgment that the decrease in net income before interest and the increase in property taxes or operating costs must each be equal to at least 5 percent of the annual maximum rent.

"First rent" cases, in which a maximum rent for the housing accommodations is established by initial renting after the maximum rent date, would be ineligible on two grounds: (1) They have generally not had rental experience prior to the maximum rent date; and (2) experience has shown that these first rents, occurring at a time when war activities had affected rents in the area, are more apt to be substantially above the generally prevailing level on the maximum rent date. For this reason the regulations authorize orders decreasing first rents to those generally prevailing throughout the area for comparable accommodations on the maximum rent date.

Under the new provision of the regulation, adjustment will be in the amount the Administrator believes necessary to relieve the hardship, but limited by the rent generally prevailing in the defense-rental area for comparable housing accommodations on the maximum rent date. It may be modified or rescinded where the necessity for increase has been either modified or eliminated. An additional clause was added to the regulation to cover this last contingency.

Court of Appeals Compliance

An amendment applying to the adjustment of rents for employee-occupied housing was issued during the quarter to bring the regulation into compliance with the judgment of the Emergency Court of Appeals.² To be eligible under this clause the housing accommoda-

² *Adams, Rowe, and Norman, Inc., v. Chester Bowles*, see pp. 53-54.

tion must have been rented to an employee of the landlord on the date determining the maximum rent and at the time the adjustment order is issued. It provides that in cases where landlord and tenant, as the result of a continuous process of bargaining on interrelated matters, had agreed, after the date determining the maximum rent but prior to the effective date of the rent regulation in the area, upon a wage increase and a rent increase, and the wage increase had been put into effect, maximum rents may be increased by order to the rent agreed upon in the interrelated bargaining process.

Other Changes

A clarifying amendment on the subject of prepayment of rents and security deposits became effective September 1. In general, this amendment provided that a security deposit stipulated in a lease or other rental agreement establishing a rent on the maximum rent date may continue on the same terms and conditions. For accommodations with maximum rents established by a first renting between the maximum rent date and the date when rent control became effective in the area, deposits received in connection with the initial renting may also be continued, but are subject to review and the security deposit may be decreased or eliminated by order of the area rent director. For public housing, only such security deposits as are provided for in the rental agreements in effect on the effective date of the amendment are permitted. For all other accommodations, including those constructed with priority rating and having rents approved by the agency granting priority, no security deposits may be required.

These restrictions are liberalized by a provision that the rent director may authorize a security deposit of not more than 10 dollars for landlords who, on petition, can show a special need for a deposit to secure the return of movable articles.

The provision for an adjustment of rents for a substantial change in the housing accommodations on or before the maximum rent date by a major capital improvement, where the rent on the maximum rent date was fixed by a rental agreement in force at the time of the change, was liberalized to cover a substantial increase in the services, furnishings, furniture, or equipment as well. The adjustment would be based on the difference in rental value of the housing accommodations on the maximum rent date by reason of the increase or change. This standard also applies to hotels under the same circumstances.

PROTEST AND REVIEW PROCEEDINGS

Administrative review of the orders issued by an area rent director may be obtained by any landlord on application to the regional office. Further review of an order or regulation may be asked of the Price

Administrator and, finally, of the Emergency Court of Appeals, expressly set up for that purpose by the Price Control Act.

Administrative Review

As of September 30, 1944, regional offices had received a cumulative total of 15,540 applications for review and disposed of 14,529, or 93 percent of them. There were 1,226 applications pending at the end of the quarter.

By the end of the quarter, landlords had filed 463 protests with the Administrator, asking further administrative review. Disposal of these cases was as follows: 61 were dismissed, 14 withdrawn, 219 denied, and 43 granted, making a total of 337 cases. On September 30, 126 protests were still before the Administrator.

Protest Proceedings

Protests against the maximum rent regulations were filed by four landlords between July 1 and September 30. No new areas were involved in these protests, and the number of defense-rental areas from which protests had been received remained 58. By the close of the quarter, 200 protests against the provisions of the maximum rent regulations had been filed in all: 40 against the regulation for hotels and rooming houses, and 160 against the regulation for other housing accommodations.

Excluding protests that were amended and returned for further consideration after dismissal, and other protests reopened after denial, a total of 187 protests were disposed of: 47 were dismissed, 117 denied, and 23 withdrawn. There were 13 protests pending September 30.

Among the five protests denied during the quarter, those sponsored by the Metropolitan Fair Rent Committee of New York City attracted considerable attention. The protestants had made objections to the maximum rent date in the area, requesting the option of an alternative date, and had claimed a 10-percent increase in rents would be required if maximum rents in the area were to be generally fair and equitable.

The opinion accompanying the orders included a detailed review of the conditions that led to the initiation of rent control in the New York City defense-rental area and the results of a survey of the operating position of approximately 50,000 dwelling units. This survey showed that in the area, generally, a substantial increase in occupancy had more than compensated for the rise in expense of less than 5 percent which had occurred in the preceding 4 years.

Emergency Court of Appeals

The Emergency Court of Appeals had received a total of 50 cases dealing with rent matters by September 30. In disposing of these cases, the court had dismissed 32 and remanded 4 to the Administrator. Four complaints were withdrawn and there were 10 pending.

The court disposed of four complaints during the quarter, dismissing three of them. The complaint of the *Equitable Trust Co. of Detroit* was filed for the owners of a group of housing accommodations of various types, and directed principally against the choice of the maximum rent date in the area and against the rent date method of rent control. Housing accommodations owned by *Isaac Rabkin* in the Cincinnati defense-rental area were first rented after the maximum rent date and the area rent director after review instituted proceedings on his own initiative to reduce the rents charged for these units. After denial of a protest to the Administrator, a complaint was filed by the landlord, objecting to the Administrator's evaluation of the evidence and reliance upon the expert testimony of inspectors employed by the OPA rather than that supplied by the complainant's experts. The third complaint dismissed by the court was that filed by the *Roth Hotel Co.* and two other commercial hotels of St. Paul, Minn.

The fourth complaint disposed of was filed by a group of Alabama coal mine operators³ who own housing accommodations located near their mines and rent exclusively to employees. They questioned the Administrator's authority to regulate rents for company houses rented to employees, and objected to the application of the general maximum rent date to them without exception.

On the maximum rent date in the areas in question the complainant's employees were on strike. Under the terms of the master agreement later concluded between the operators and the union, each of the complainant operators, through the established collective bargaining machinery, negotiated an adjustment of rents for its company-owned houses, providing for rent increases in consideration of the already agreed upon wage increases and of the operators' undertaking certain repairs and betterments. When rent control became effective, rents were returned to the maximum rent date level.

The court affirmed the Administrator's authority to regulate the rents for company houses rented to employees, but ruled that this large atypical group of housing accommodations should be granted relief. A judgment was therefore entered setting aside the provisions of the maximum rent regulations in the two areas, insofar as they applied the general maximum rent date in the areas to the housing accommodations owned by the complainants, or others similarly situ-

³ *Adams, Rowe, and Norman et al. v. Chester Bowles*, No. 110, decided July 31, 1944.

ated, and rented to employees. The regulations were thereupon amended to provide for this circumstance.⁴

AREA OFFICE OPERATIONS

Registrations for family dwelling units received by area offices during the quarter totaled 369,526, and those for hotels, 19,494. As of September 30, 1944, a cumulative total of 14,845,531 registrations had been received for family dwelling units and 478,530 for hotels.

During July, August, and September, area offices received 198,695 class D registrations for family dwelling units not rented on the maximum rent date nor during the 2 months ending on that date. By September 30, the cumulative total of these registrations, which are subject to review by the area rent director, was 2,304,213, or 16 percent of the total registrations received. Less than 3 percent of these class D registrations were still awaiting review by rent directors at the close of the quarter.

Landlord Petitions

Landlords filed 96,037 petitions for an adjustment in rent during the quarter, bringing the cumulative total received by area offices as of September 30, to 962,931. Processing of landlord petitions disposed of 91,796 cases during the quarter, and there were 38,911 petitions pending on September 30; of the pending cases, 85 percent were less than 60 days old.

Cases disposed of during the period resulted in 57,264 adjustments of all types on landlord petitions. Adjustments in rent for dwelling units accounted for 48,912 adjustments, with adjustments for increases in furniture, equipment, and services as the most frequent ground for adjustment, and major capital improvements in second place. The entire amount of the rent increase requested by the landlord was granted in 54 percent of the cases. The other cases dealt with hotels, services, rent determinations, and other types of adjustments.

By September 30, area offices had disposed of a cumulative total of 924,013 landlord petitions, granting adjustments in 479,157 cases, or 52 percent of the total.

Tenant and Director Cases

Reporting tenant applications, complaints, and cases developed on the director's initiative together, area offices received 388,208 cases during the quarter, resulting in a cumulative total of 1,839,142 received by the close of the period. There were 107,265 cases pending at the end of September.

⁴ See pp. 50-51.

Since the initiation of rent control, a cumulative total of 1,722,883 tenant and director cases has been disposed of. During the quarter under review, 262,648 cases were dismissed or withdrawn; a report of violations was made in 2,916 cases; and adjustments or settlements were ordered in 96,880 cases. The total number of cases completely processed during the quarter was 362,444.

Adjustments or settlements ordered involved 27 percent of the total number of cases disposed of during the period. Review of class D registrations by the rent director and complaints were of about equal importance as a source of these cases, while formal tenant applications accounted for about 7 percent of them.

Among the adjustments ordered, 45,748 effected a reduction in rent, while 8,507 ordered a restoration of services, furniture, or equipment. Refunds, reported made by landlords in 16,154 cases, amounted to \$806,858.22. The remaining cases were settled by discontinuance of an overcharge, reregistration, or some other form of adjustment.

Cumulated adjustments as of September 30, in 532,291 cases, amounted to 31 percent of the cumulative total of tenant and director cases disposed of.

. VIII .

RATIONING: THE FOOD PROGRAMS

Vigilance in gearing food rations to supplies during the third quarter of 1944 resulted in resumed rationing of certain items, but in relaxed rationing of others. Pork loins and hams and canned fish were returned to rationing, and mutton and utility grades of lamb and beef were given zero values. Nearly all processed foods except canned fruits, four canned juices, canned tomatoes, tomato catsup, and chili sauce were removed from rationing by request of the War Food Administrator.

A crisis in coffee supply threatened a return to rationing of that commodity. Throughout the quarter, the coffee situation remained unsettled because growers and exporters in producing countries were postponing coffee shipments to the United States in hopes of higher ceiling prices here and of an early opening of the coffee-starved European market. Nation-wide publicity given to this problem caused heavy and widespread consumer runs, which made the situation critical. Rationing was averted, however, when the Brazilian Government undertook to make available for shipment here one million bags (132 million pounds) of coffee during each of the last 3 months of 1944.

Despite increased seasonal demand, continued labor shortages at seaboard refineries, low stocks of beet sugar, and scant supplies of off-shore refined sugar, the Office was able to liberalize sugar rationing in minor respects and still meet all rationed needs.

The Wartime Food Diary continued to be the pulse of the Nation's food retailing. Some 2,000 American families, organized as a consumer panel, report each fortnight on consumer purchases and point expenditure. Data from this panel indicated that consumers' rate of point expenditure was brought closer to their allowance during the quarter, and that they may have drawn on accumulated unused points. The panel indicated also a growing demand for renewed rationing, based on recent experiences of consumers with shortages and with poorer quality of meat at retail. Consumers appeared to be more appreciative of rationing to prevent maldistribution, preferring purchasing restrictions to empty butcher shelves.

Both industry and trade were very cooperative throughout the quarter in advising on rationing problems. Their suggestions in

setting point values were again invaluable because of their first-hand contact with current conditions. The sugar trade was in substantial agreement as to the need for continued sugar rationing; this was true of almost the entire processing industry, as well as leading brokers, industrial users, and distributors. Committees of institutional users, set up in various sections of the country to cooperate with OPA regional and district offices, led to better cooperation and compliance by operators.

MEAT RATIONING

The Wartime Food Diary measured the effects of trying to slow down consumption by returning foods to rationing. Consumers, probably wishing to store canned fish for future use, bought, on an average, greater quantities while it was off rationing. Then, after point values were restored, they cut their purchases in half. Likewise, restoring the choicest cuts of pork to rationing brought about a substantial decrease in buying. The average weekly per-capita purchase of all pork cuts, from the return of choice cuts to rationing August 13 through the end of the quarter, declined nearly 20 percent from the weekly average amount bought per person during the entire period, beginning May 4, that pork had been off rationing.

Only the most desirable cuts of the top grades of beef, lamb, and pork remained under rationing during most of the quarter, leaving about 70 percent of the civilian meat supply unrationed. Greater quantities of the unrationed items, canned meats, sausage, and veal were bought. This increase was offset by smaller pork and lamb purchases after the most desirable cuts of these species were returned to rationing.

Supply and Point Value Changes

Generally speaking, distribution of meats followed the usual pattern of scarce supplies in the eastern part of the country as compared with the principal producing areas. Rationed beef of choice and good grades continued to be in relatively small supply. A 12-percent decrease in civilian allocations made it necessary to raise point values on this beef by one to two points. Commercial beef was more plentiful but not sufficient to meet consumer demand in areas remote from producing and slaughtering centers.

Fear of a heavy run of unfinished cattle from the range directly to slaughter and the difficulty of packers in moving lower grades at ceiling prices brought about a War Food Administration directive which resulted in removing utility beef from rationing controls beginning August 13.

Veal was in relatively plentiful supply, and its distribution improved during the quarter.

The distribution of lamb and mutton was very uneven. In Washington and Oregon, grass-fed lambs were abundant; but their low quality and their great shrinkage in transit made extensive shipments to other sections of the country impracticable. Emergency action to permit more of these lambs to be consumed locally was taken by issuing a spare stamp, effective September 3 to October 21, for the purchase of lamb cuts in only the Seattle, Portland, and Spokane district office areas.

To meet an anticipated liquidation of sheep and lower-grade lambs, both mutton and utility-grade lamb were assigned a zero point value. The uneven distribution of lamb, which had developed upon its removal from rationing,¹ however, made it necessary to restore the better cuts to rationing with point values ranging from 3 to 10 per pound.

Pork hams and loins were considerably short of filling consumer demand, especially after the issuance by the War Food Administration on August 27 of a set-aside order on many pork products. Pork loins and hams were therefore returned to rationing at 5 points per pound.

Canned fish, notably scarce since its removal from rationing control in May, was also restored to rationing, with point values ranging from 2 to 6 per pound.

Distributor Adjustments

Virtually all outstanding point loans made before May 1, 1944, for the purpose of enabling wholesalers and retailers to purchase rationed meats and canned fish during the peak production season, were audited and settled during the quarter. The policy of making this type of loan had been discontinued with the reduction of most meats and canned fish to zero point value May 4, but was resumed when canned fish was returned to point requirements in August. A similar point loan policy was devised to enable wholesalers and retailers to buy fresh meats for storage, should heavy production develop in the late fall or winter.

To lighten the burden on trade and industry, primary distributors were relieved from reporting sales and transfers of items reduced to zero point value.

FATS, OILS, AND DAIRY PRODUCTS

Few important problems arose during the quarter in this field of rationing, and administration of the program had no need for radical

¹ See Tenth Quarterly Report, p. 46.

changes in procedure. Butter, cheese, oleomargarine, and canned milk continued to be rationed, while shortening and cooking and salad oils remained at zero point value. As a result of butter shortage, margarine purchases increased. With indications of reduced lard production, the movement and disappearance of shortening and of cooking and salad oils were kept under close observation.

Butter supplies continued short largely because of lowered production due principally to diversion of raw material to other dairy products and to commercial uses. Drought in States east of the Mississippi and north of Tennessee was a contributing factor to decreased production. Production of farm butter increased somewhat. However, this butter cannot move in interstate commerce and must be consumed in the areas where it is produced.

As a result of this situation, point values for butter were sharply increased. Creamery butter was advanced to 16 from 12 points a pound, and at the close of the quarter to 20 points. Farm butter was advanced to 12 from 8 points per pound, and processed butter to 6 from 4 points per pound and later to 12 points.

Continued limitation in supplies of cheese also brought about increases in point values for these products. Group I cheese, mostly cheddar (American) and products manufactured from it, was advanced to 12 from 10 points. Group II cheese, which includes creamed cheese, creamed cheese spreads, and rationed creamed cottage cheese, was advanced to 6 from 4 points. Other cheeses, constituting group III, were advanced to 8 from 4 points and later to 10 points.

While canned milk production was at satisfactory levels, supplies available for civilians were somewhat reduced. A slight rise in point values was necessary to insure fair distribution, and during the quarter values were advanced from one-half to two-thirds and then to 1 point per pound.

PROCESSED FOODS

Consumer purchases of processed foods during the July-September quarter reflected both response to changing point values and the availability of fresh produce. Information from the Wartime Food Diary indicated that purchases of canned peas and canned tomatoes during July, August, and the first half of September, with these two products at low point values, were two-thirds below the volume they had been in June at zero value. Purchases of canned corn, which remained at zero value, in July were one-third below the June level, and during August and the first two weeks of September dropped two-thirds below June.

Consumer reaction to the removal of most processed vegetables from rationing, announced September 6, was immediately reflected in purchases, according to the Wartime Food Diary. Purchases of canned

corn and canned peas, which were low in the first two weeks of September, rose sharply to approximately their midsummer levels when they were removed from rationing September 17. Purchases of tomatoes, remaining under rationing, tripled during the week following the announcement of the September 17 action, but returned to the previous levels during the two succeeding weeks.

Canned fruits remained under rationing after September 17 at sharply increased point values.

During the first half of September, weekly purchases of canned fruits were greater than at any time since February 1944. After September 17, however, purchases were 50 percent lower than in the earlier part of the month. Some consumers were undoubtedly limited in their purchases by availability of supplies. The Bureau of Labor Statistics, in a monthly survey of over 1,000 independent stores, indicated an out-of-stock position during this period of from 25 to 60 percent for peaches, pineapples, and mixed fruits.

Point-Value Changes

With the beginning of the new pack for asparagus, peas, and tomatoes in July and for corn in August, points were restored to assure fairer distribution of supply. Slight increases were also made in point values of the 46-ounce container of vegetable-juice combinations, the 18-ounce size for pineapple juice, and the small-size containers of tomato juice. Because movement was slow, mixed vegetables were reduced from 10 to 5 points for the No. 2 can; and small reductions were made in the point values of spaghetti sauces, tomato sauce, and tomato pulp or puree. Canned fruits, short in supply, retained their relatively high point values. Grape jam, tomato preserves and marmalades, fruit butters, dry beans, and prune juice were added to the zero group.

Adjustments were also made during the quarter for all No. 10 containers; point values were changed slightly to convert them to multiples of 10. This change was made as a convenience to wholesalers in keeping inventories and other records. On the ground that there were "ample available and prospective supplies of these products," the War Food Administration requested the Office to remove from rationing all varieties of fruit spreads and most canned vegetables and juices. As a result of this directive, the only items remaining on the ration list after September 17 were canned fruits, 4 canned juices, canned tomatoes and tomato catsup, and chili sauce.

The reduction in the number of items under rationing necessitated increased point values for processed foods still rationed; point values were approximately doubled to absorb the sharply increased point purchasing power of consumers. The new point values of September 17 were set in multiples of 10 to obviate change making because of the

decision to retire blue tokens from circulation on October 1.² A point-replenishment policy made it possible for a retailer whose point inventory had been considerably reduced to apply to his local board for relief.

Adjustments in Procedure

Administration of the order was facilitated by several changes during the quarter. The requirement that ration checks be certified was eliminated in most cases. Uniform procedures were set forth for replacing stamps or certificates when lost, destroyed, stolen, or mutilated.

Wholesalers were enabled to plan their purchases in advance and to simplify their computations by permission to compute their maximum allowable inventories for a ration period on the basis of average transfers for the first 4 months of 1944, rather than by multiplying OPA's inventory factor by their average transfers for the first three of the four preceding periods.

Distributors' point accountability and compliance were strengthened. Before honoring any wholesaler's petition for points, his net point inventory must be audited. Apparent violations or failure to account for point shortages result in denial of further point issuances.

SUGAR RATIONING

Short supplies stemmed from an acute manpower problem at seaboard refineries, from the relatively low supply of offshore refined, and from low stocks of beet sugar. To solve this situation, additional labor was obtained through the efforts of the War Manpower Commission and other agencies, the importation of offshore sugars was increased, and efforts were made through primary distributors to assure supplies, if possible, wherever spoilage of perishable fruits, vegetables, or milk might otherwise occur.

Sugar stamp 33 in War Ration Book 4 was made good indefinitely for 5 pounds of sugar beginning September 1.

Home Canning

It is estimated that the 1944 home-canning program will put sugar coupons worth well over 700,000 short tons into circulation and that Sugar Stamp 40, good for 5 pounds of canning sugar through February 28, 1945, will account for 350,000 short tons. This means a total issuance of ration evidence, during the entire sugar program of 1944, for over 1,000,000 short tons. This figure is somewhat higher than actual consumption because some of the ration currency will not be used.

² See p. 74.

The 1943 program, in comparison, used two home-canning stamps, each for 5 pounds, having a total issuance of about 650,000 short tons. Local board issuances of certificates, at a maximum of 15 pounds a person, totaled 300,000 short tons. This made a grand total of 950,000 short tons, of which only 850,000 to 900,000 were actually cashed.

A change on August 1 allowed consumers to receive sugar for home canning for sale, of fruits or fruit juices which carried point values, up to the quantity of sugar so used in 1941 or 250 pounds, whichever is greater. The quantity of sugar for this purpose was formerly limited to 250 pounds per family unit. On September 17, another change allowed consumers to receive sugar for producing for sale home-processed foods having a zero point value. The quantity of sugar obtainable to produce these foods was limited to usage for this purpose in 1941.

Industrial Users

Sugar allotments to industrial users for the October-December period were continued at current amounts except to users of three types. In July sugar was made available on a provisional allowance basis to manufacturers of soups. This paralleled allotments of meat and fats to such users and facilitated greater production.

Additional sugar was also authorized for packers of whole unpeeled apricots. Because of labor shortages in packing plants, many more whole unpeeled apricots were canned than in normal years. Packing this fruit unpeeled requires more sugar, but it saves manpower for peeling and halving.

In August provisional allowances of sugar for freezing mixed fruits, fruit cocktails, and fruits for salads were authorized at the rate of 1 pound for each 5 pounds of fruit, in order to conserve tin by facilitating freezing of fruit for civilian consumption.

Supply Equalization

Sugar zoning was suspended July 14, after being in effect 2 years. It was devised during serious shortage of raw sugars, to provide orderly distribution and to make sugar constantly available in all areas. If a refiner or other distributor sold too far afield, his nearby trade might suffer, while other suppliers better able to satisfy distant demand would accumulate stocks. Zoning was suspended because it was no longer needed for orderly distribution and might thus become burdensome to the trade. Refiners must run to capacity, in any event, to meet demand in 1945; their stocks of raw sugar seemed at that time to be in no danger of being quickly exhausted by trying to cover larger areas. To meet demands from particular areas as they arise, maximum freedom to ship seemed desirable.

INSTITUTIONAL USERS

Few problems developed which required changes for institutional users, and special effort was directed toward obtaining a better understanding of rules already in effect.

Provision was made to promote home-canning activities by institutional users, particularly prisons, jails, and orphanages, which produce and can much of the processed foods they use. In line with the Nation's food conservation program, a schedule was set up specifying the quantity of sugar to be issued for each unit of home-canned food produced by institutional users. The practice of having a uniform point value per pound for all home-processed foods was changed; point values were assigned to such foods on the basis of the processed foods point charts. This permitted periodic changes if necessary and maintained closer relationship to assigned point values for the commercial pack.

The provision for feeding temporary farm employees, such as harvest crews, for periods up to 30 days was amended to cover 60 days, since the shorter period was inadequate in many cases.

In May, when many processed foods were reduced to zero point value, special allotments of processed foods to institutions in isolated areas were reduced to cover canned fruit only. When point values were restored on these items in July, the isolation provisions were revised so that such users could obtain supplemental points for processed vegetables.

In order to take care of baking requirements by institutional users such as prisons and jails, their allowance of sugar was increased in August. Special surveys revealed that practically all institutional users of this type do all their own baking and were seriously limited by their supplies of sugar.

In accordance with the policy of the Federal Government to provide ample feeding facilities for war workers, surveys were undertaken in war plants to determine whether food rationing hampered this policy. It was found that most of the food service rendered was good and that few problems arose from food rationing. In addition to determining the extent and scope of operators' problems, direct contact through these surveys resulted in a better understanding of food rationing and also better compliance. Operators of feeding establishments were most cooperative in the solution of this problem.

• IX •

RATIONING: AUTOMOTIVE SUPPLY

The most severe problem in automotive supply during the quarter was the sharp decrease in available large-size heavy duty tires, and vigorous action was taken to meet the situation. Quotas of synthetic passenger and small-size truck tires also were below ration needs, but the supply of new tubes was sufficiently adequate to warrant their removal from rationing.

In gasoline rationing the Office took several steps designed to circumvent black market operations, and simplified administration by providing ration bank accounts for local boards and other OPA offices.¹

The rapidly dwindling supply of new passenger automobiles brought further restrictions on sales of 1942 cars. At the close of the quarter fewer than 20,000 new cars remained on hand, and the Office faced the difficult task of making these last until resumption of automobile production.

With the concurrence of the War Production Board, bicycle rationing was terminated September 23, 1944. This action was taken because the bicycles remaining in dealers' stocks and those likely to be made available for civilians for some time were both too few to warrant maintenance of a rationing program.

RUBBER TIRES

Shortages of large-size truck and bus tires became so acute during the quarter, due to heavy military demand, that emergency measures had to be taken to assure distribution to the most essential users. Applications for such tires were diverted from local war price and rationing boards to 137 newly established emergency truck tire boards. At the same time vehicles were classified into preference rating groups based upon essentiality to the war effort, and certificates dated prior to July 15, 1944, were invalidated for tire delivery or replenishment. As a further step, retail tire dealers were required to post their inventory of large truck tires daily so they would be available to all essential purchasers. In addition, manufacturers were authorized

¹ See Currency Control Program, pp. 72-73.

to deliver tires to dealers without OPA replenishment certificates, if the manufacturer had more tires than unfilled certificates. Such shipments had to be reported to the OPA each week, and were limited to 50 per establishment in each of two tire-size groups.

Other steps in conservation of large-size tires were the limitation of used truck tires for use on farm equipment to those vehicles which could use no other type of tire, and extension of the central truck tire inspection station plan,² which was made mandatory in designated areas. Taxicab tires were also made subject to central inspection. Central truck tire inspection stations have to re-inspect all tires to be replaced for commercial vehicles, after they have been certified by OPA tire inspectors.

In order to expedite delivery to consumers, permission to transfer new passenger tires from manufacturer to dealer without ration certificates was extended 15 days after July 15. The original provision covered only a 45-day period from June 1,³ but more time was needed, especially by the smaller manufacturers, to take full advantage of the increased allocations made possible by increased synthetic rubber production.

Passenger tire inspection records were discontinued during the quarter. These were vital at the beginning of the mileage program and had served to establish a basis for serial number control and to make operators tire-care conscious. With the discontinuance of periodic passenger-car tire inspection,⁴ however, they were no longer necessary.

AUTOMOBILES

The small number of new cars remaining on July 1 made it necessary to tighten eligibility even more than in preceding quarters. All 1942 hard-top cars with a factory list price of between \$1,500 and \$2,500, and convertible 1942 soft-top cars with a list price up to \$2,500 were brought under the same strict eligibility rules governing other 1942 cars. These cars normally are in less popular demand than other makes and models, and heretofore it was possible to release them to anyone gainfully engaged in work contributing to the war effort or public welfare, provided the applicant did not have a serviceable car.

The shrinking supply of automobiles frequently made it difficult to purchase a car even with a certificate of eligibility. In order to exercise tighter control over inventories, the Office placed a time limit on obtaining permission to clear from inventory cars set aside by dealers for personal and business use before January 2, 1942. Cars

² First authorized in December 1943 in areas where trucking is heavy, these stations had saved thousands of tires by double-checking. See Eighth Quarterly Report, p. 50.

³ See Tenth Quarterly Report, p. 54.

⁴ See Tenth Quarterly Report, p. 55.

for which such permission had not been obtained by October 18 were to be considered as held for sale. A further step in aiding certificate holders to locate cars was the preparation of an amendment requiring dealers to keep an up-to-date inventory posted in their places of business.⁵ Jurisdiction over the rationing of cars to exempt Federal agencies such as the War and Navy departments, and the Maritime Commission, as well as over releases for export, was transferred during the quarter from the War Production Board to the Office. The rationing of all new passenger cars was thus brought under the jurisdiction of the Office.

GASOLINE

Increased use of nonhighway gasoline was largely responsible for failure to keep within the quota of 1,250,000 barrels a day set for the quarter by the Petroleum Administrator for War. Although seasonally below the preceding quarter, nonhighway use was extremely high as a result of the expanded farm program and of weather difficulties which necessitated duplicate planting in some areas.

The continued scarcity of gasoline necessitated further limiting the use of nonessential boats. The ceiling for inboard motor boats was reduced from 125 to 24 gallons for 3 months. This is equal to the A ration for motor vehicles. The outboard motor ceiling was reduced from 20 to 10 gallons.

Extensive counterfeiting of A-12 coupons made it necessary to order issuance of new ration books in the East, to be accomplished before November 9. All A-12 coupons, which normally would have been valid in the East from November 9, 1944, to February 9, 1945, were canceled. Outside the gasoline shortage area, basic A rations were renewed during the quarter.

In a further effort to plug leaks in supply, the Office permitted large commercial fleet operators to use ration bank checks instead of coupons for the purchase of gas. Experience had shown that many coupons entrusted to the drivers of commercial and passenger fleet vehicles had been diverted into the black market. The deposit of coupon books at selected retail outlets had proved unsatisfactory. Under the new procedure, fleet operators who acquire 960 or more gallons of gasoline per month may surrender ration checks in exchange for gasoline purchased on credit at designated stations and delivered directly into the fuel tanks of official and commercial motor vehicles clearly identified as units of their fleet. Large operators had urged this action upon the Office.

Restrictions on transfer of R coupons, introduced during the first quarter of the year⁶ in order to reduce their possible illegal use

⁵ This amendment became effective November 4, 1944.

⁶ See Ninth Quarterly Report, pp. 51-52, and Tenth Quarterly Report, pp. 53-54.

were lifted during the quarter under review. Despite the success of a preliminary test plan, the limitations had caused discrimination among dealers since many ration holders preferred to change dealers rather than to exchange their R coupons for E coupons which were universally valid.

To meet the needs of the November elections, special gasoline rations, not to exceed the B ceiling, were made available to both compensated and uncompensated campaign managers. The issuance of these special rations was limited to the principal campaign manager of a duly qualified and bona fide candidate for Federal or State office.

During the quarter, also, the furlough ration provisions were amended to provide gasoline on the basis of 1 gallon per day up to a limit of 30 gallons. The previous standard allowance of 5 gallons of gasoline for furlough travel had resulted in discrimination against members of the armed forces who were granted extended leave, particularly men who had returned from overseas service.

At the request of the Petroleum Administrator for War, a program was prepared during the quarter for the rationing of naphtha. Ration-free sales of naphtha for use in the fuel tank of a motor vehicle in violation of the regulations had for some time constituted a serious problem in some Midwestern States. The Petroleum Administrator for War was first of the opinion that the problem could be solved by means of a limitation order, and this was issued in October 1943. The order did not bring anticipated results, however, and the problem became particularly acute in PAW District 2. The plans for rationing naphtha were completed, and at the close of the quarter needed only the necessary directive from the War Production Board to be put into effect.⁷

⁷ Rationing of naphtha became effective Nov. 20.

. X .

RATIONING: FUEL OIL AND OTHER PROGRAMS

The fuel oil program operated with a minimum of change except for the usual adjustments for the new heating season. At the end of the quarter, at the request of the Petroleum Administrator for War, provision was made to allow consumers who had converted from oil to other fuels to reconvert.

In stove rationing the first two steps were taken toward removing stoves from rationing. The Pacific Northwest firewood program was seriously handicapped by manpower and trucking shortages but an intensive educational program resulted in much greater consumer stockpiling of solid fuels than in previous years.

No substantial changes were made in the shoe or rubber footwear programs.

Several adjustments were made in the currency control program in the interests of simplified operation, and the verification centers established in eight regional cities began functioning.

FUEL OIL

The renewal of rations for the 1944-45 heating season was substantially completed by the local boards, and the plan for issuing rations to new applicants was installed September 1. Work on the procedure for issuing additional rations to consumers whose needs increase or who are threatened with hardship was expedited so that it would be ready for the boards by the first of December. Other changes were made in simplification of forms and procedures for both consumers and industry.

The procedure for issuing rations to new applicants was not installed until September 1, in order that the boards might be free to complete issuance of renewal rations. The largest single group of consumers were thus enabled to fill their tanks during the summer, relieving the industry of the winter storage and distribution problem. Only minor changes were made in the established formula for determining these rations. Provision was made for new and renewal applicants alike to apply for rations at any time during the remainder of the heating season.

Boards were permitted to issue space heater rations for short periods to migratory workers and other consumers who are unlikely to need

a ration for the full year. Procedures were also completed simplifying the issuance of additional rations to relieve hardship and to take care of consumers whose circumstances change during the season or who have sickness or other special needs.

Improvement in the supply of residual oil permitted liberalization of these rations. At the request of the Petroleum Administrator for War, it was provided at the end of the quarter that any consumer of residual oil for heat or hot water might receive an additional ration which would allow him the full amount of oil he normally requires. Such consumers need merely present to their local boards a certification from their dealer that the heating equipment uses residual oil. The relaxation affected principally industrial plants and large apartment houses or hotels whose heating equipment is designed to use residual oil. Few private home owners were affected.

A new and simplified one-page form was prepared and distributed to cooking and lighting consumers. At the same time a revised procedure was installed to permit simplified renewal of cooking and lighting rations. Planning was completed for a new and simplified application form for industrial, commercial, and agricultural uses. A new form was provided for dealers to prepare and file statements from which it can be determined whether they are out of balance. Evidences on hand, with some exceptions, must be equal in gallonage value to unfilled storage capacity. Where evidences exceed this value, the dealer must surrender the excess.

Validity of all period 4 and period 5 unit value coupons and all definite value coupons issued for rations during the 1943-44 season was extended until August 31, 1945.

Provisions were made for dealers and suppliers to report to OPA district offices, after a reasonable period, consumers who are delinquent in furnishing ration evidences for deliveries received. This action relieved the trade of the responsibility for determining whether transferees have sufficient evidences on hand to cover deliveries.

PACIFIC NORTHWEST

During the quarter some 3,000 Northwest firewood and coal dealers further demonstrated their ability to cooperate effectively in carrying out this industry-operated rationing program by their accomplishments in connection with the program's winter storage consumer fuel program. Fuel dealers spent tens of thousands of dollars in advertising, radio, and direct mail publicity urging consumers to stockpile within limitations of the ration order, and cooperated with all the procurement agencies in ordering coal and firewood supplies in advance of their normal buying season. Additional publicity and support of the winter storage program was secured from chambers of com-

merce, mayors, and other Government agencies in the Northwest. All this, despite severe labor shortage and trucking handicaps, resulted in much greater consumer fill-up of solid fuels than the previous year.

The first group of contracts with Pacific Northwest solid fuel dealers was completed during July in connection with the Defense Supplies Corporation program sponsored by the Office of Civilian Requirements. Through stockpiling insurance and financial aid, this program stimulates purchase of solid fuels from surplus production areas to supplement the deficit supply in important northwest war production areas. The volume of supplementary firewood supply secured by the use of DSC program by September 1 was less than anticipated in July because manpower shortages at sawmills throughout the area made it difficult to recover wastewood for fuel purposes. The manpower shortage plus a shortage of serviceable trucks in many communities also seriously handicapped the handling and distribution of incoming solid fuel shipments.

STOVES

Rationing restrictions were removed during the quarter from coal-wood laundry stoves and gas ranges with nonmetallic outside back or side panels. This step was taken in cooperation with the Office of Civilian Requirements of the War Production Board. Removal of the laundry stoves from rationing was made possible because the supply of these stoves was sufficient to meet demand. Gas ranges with nonmetallic outside backs or sides were removed to prevent them from clogging dealers' stocks when models preferred by the consuming public became available.

Plans for permitting certificate-free transfer of coal and wood heating and cooking stoves after October 15 were announced during the quarter, in accordance with an agreement with the Office of Civilian Requirements. Probable production of heating stoves, combined with favorable inventories due to rationing, appeared to be sufficient to meet unrestricted demand for the balance of the heating season. The cooking stoves were made certificate-free because the Office of Civilian Requirements feared that production, already critically short, would be impaired if both stove types were not freed from rationing at the same time.

At the request of the Petroleum Administrator for War, the Office extended the oil shortage area from the 28 States included in the fuel oil rationed zones to the entire country. This move was made to save scarce kerosene and lighter oils by restricting purchases of oil heaters to replacements and to those cases wherein the burning of other types of fuel is not feasible.

To facilitate the handling of stoves damaged in transit to dealers, the procedure was changed to permit certain certificate-free transfers.

SHOE RATIONING

Announcement of the validation of the fifth shoe ration stamp on November 1, 1944, was made during the quarter. Airplane Stamps 1 and 2 continued to be valid for the purchase of shoes.

Shoes made with rubber soles and with uppers other than leather were declared ration-free due to continued increase in the over-all production of rubber soles and heels as well as the improved outlook for synthetic rubber production.

Dealers with factory-damaged shoes on hand were permitted to sell them ration-free by applying to their district OPA office during a designated period, providing the price charged did not exceed a stated price limit: \$1.20 for sales within the trade and \$1.80 for sales to consumers. A number of these shoes had been accumulating since the beginning of rationing, as consumers were unwilling to pay a ration stamp for damaged goods even though they had walking mileage.

A nation-wide shoe inventory was taken July 31, the third since the start of the program. Dealers were required to furnish information on their shoe stocks and ration currency as well as on the number of shoes released from rationing since the filing of the second inventory September 30, 1943. The inventory will furnish data on the existing shoe supply, needed to determine future shoe rationing policies and the length of future rationing periods.

A nation-wide compliance program was started in connection with the third shoe inventory. The inventory responsibility of every dealer was to be checked by the district offices to see whether each dealer understood how to operate under the Shoe Ration Order and whether the required records were being kept. Appropriate enforcement action was to be taken in cases where dealers were found in violation of the order.

A number of steps were taken during the quarter to simplify procedures. Chief among these was the removal of expiration dates from all special shoe stamps, except those issued to Mexican border residents. Making these stamps valid indefinitely, like war ration book stamps, relieved the trade of a good deal of ration bookkeeping.

An amendment was issued clarifying eligibility for shoe rations. All persons in this country for 60 days or more and not in the armed forces or institutions of involuntary confinement must have obtained a War Ration Book 3 and have used all the valid shoe stamps in it before applying for a supplemental ration. The one exception to this rule is for persons brought into the continental United States by a Federal

agency for the sole purpose of performing agricultural or other labor. In such cases no ration book is to be issued but an equivalent ration in stamps may be given. The exception was made because of the administrative difficulties involved in tailoring ration books for the large number of laborers who entered the country for short periods and in collecting the books when they left.

RUBBER FOOTWEAR

Supplies of men's rubber boots and rubber work shoes continued low during the quarter and the outlook for immediate improvement in the situation was not encouraging. The small volume of production for civilian use had made steady inroads on inventory, manpower shortages persisted, and needs of the armed forces for this type of footwear increased. In order to adhere to the policy of issuing certificates to all persons engaged in essential occupations who need boots for the protection of their health and safety, and not remove anyone from the eligibility list who has real need, the local boards were requested to adhere strictly to eligibility standards in issuing certificates.

During the quarter, rubber riding boots, which have no industrial utility and are designed for sport use, were released from rationing. These boots had not been selling, as consumers are not eligible to obtain certificates for boots to be used for sportswear.

CURRENCY CONTROL PROGRAM

The use of ration currency is the central control feature in a rationing system. Simply stated, it consists of issuance by the Office of Price Administration of ration evidences such as tokens, coupons, or certificates, which indicate the extent to which the individual may buy rationed goods, and which constitute the authority he must present to a dealer when the goods are bought. The dealer in turn uses these evidences to replenish his supply. This exchange is repeated up through all the levels of the trade until the level of processors, refiners or primary distributors is reached. At that point the top level of the trade reports its sales to the Office of Price Administration and returns with the report a corresponding amount of ration evidence.

The sheer volume of paper involved is too great to permit the original currency to be handled through all levels of the trade. It is necessary to transform the paper into some form of credit. For this purpose the Office created the ration banking system under which the retailer deposits ration evidences in a bank where credits are set up in his favor against which he draws by check in a manner comparable to regular commercial banking.¹

¹ See Sixth Quarterly Report, pp. 16-17; Seventh Quarterly Report, pp. 34-37.

The operation of such a currency system also requires that in some transactions the parties be permitted a period of time within which to settle their ration debts. A system which requires a banking plan and which creates the possibility of debt necessarily must have controls to prevent the abuse of the banking privilege and of the credit privilege. These controls were for some time widely scattered under rationing. Early in 1944 steps were taken to bring them together for coordinated handling in the interest of simplicity and more effective control. All activities having to do with the design, production, distribution, issuance, flow-back, accounting for, and disposition of ration currency were brought under a new division of ration currency control in the national office.

Mailing and Verification Centers

In the interest of greater protection of ration currency and more efficiency in issuing rations, central mailing centers were set up in a number of metropolitan areas for the issuance of ration currency authorized by the local boards.² This development relieved the boards of a considerable clerical burden involved in preparing rations for delivery to consumers, and thereby freed more time for attention to the adjudication of applications. Each board retains a small supply of ration currency to meet emergency demands. Aside from this small store, however, all other stocks of ration currency were withdrawn from the boards served by the mailing centers. Loss of currency through theft was reduced markedly in areas where these mailing centers operate.

After ration currency has been exchanged by the consumer for rationed goods it is typically deposited in a ration bank account by the retailer. The banks were at first responsible for opening a small percentage of the envelopes in which ration coupons were deposited to be sure that the number therein was as declared by the depositor. This task, however, proved burdensome to the banks, and the Office therefore set up in each regional office city a central point for the verification of ration deposits.³ The function of these centers is to receive from the ration banks all deposited ration evidences, to check the totals of these evidences against the bank reports of transactions, to verify the contents of individual deposits, and to detect counterfeit or stolen documents.

During the quarter under review, the verification centers went into full operation in each of the eight regional cities. Owing to difficulties in getting adequate staffs in the early stages of organizing these centers, they did not produce the results desired of them until

² See Ninth Quarterly Report, p. 31.

³ See Ninth Quarterly Report, pp. 31, 32.

the closing days of the quarter. It was anticipated, however, that the centers would before long well justify themselves in gaining more effective control over ration currency and in saving many hundreds of thousands of dollars previously paid to banks for doing a less satisfactory job of verification.

Modifications of Program

All local boards were provided with ration bank accounts during the quarter. This was a step toward simplifying OPA and bank procedures, eliminating several forms of ration currency, and providing more effective control over the issuance of ration credit. This program was initiated in gasoline alone with the objective of extending it soon to all other programs. The plan provides that where local boards have issued rations to certain users on various types of certificate forms, they may make the issuance by use of a ration check. The check ultimately clears back to the local board and thus provides a means by which the board can be sure that all issuances are used for the purpose for which they are intended and that none is raised by any person through whose hands they pass.

Plans were made during the quarter to withdraw blue tokens when many of the items rationed under the processed food program were withdrawn from the ration list.⁴ The plan of withdrawal consisted of invalidating the tokens in the hands of the consumer after a given date and encouraging their use by the consumer up to that date. The retailers to whom the tokens were given in exchange for goods, in turn deposited them in their bank accounts. The banks returned the tokens to the Office where they were to be disposed of beyond the possibility of their getting back into circulation.

The decision to withdraw the blue tokens was in line with a commitment made by the Office to the Congress that tokens would be withdrawn before or at the termination of rationing programs. The commitment arose out of discussion in Congressional committees, when the token plan was inaugurated, of the possible difficulty that the transit industry and the vending machine industry might encounter when the tokens were no longer of value for rationed goods.

⁴ Blue tokens became valueless for consumer use September 30, 1944.

. XI .

ENFORCEMENT

A substantial degree of compliance at manufacturing and wholesale levels characterized the third quarter of 1944. Violations that were brought to light indicated a tendency to resort to undercover transactions and to more evasive practices. At the retail level compliance was not as successful due chiefly to the very large number of small units involved. Securing compliance at this level has since the fall of 1943 been the task mainly of the price panels¹ but experience has shown that price panel operations have been powerless to prevent profiteering in many retail fields. Increased emphasis upon the enforcement aspects of price panel operations, however, and delegation during the quarter of authority to the panels to negotiate and recommend settlement of the Administrator's consumer claim² were expected to result in improved retail compliance.

At the close of the quarter it could be stated that the 10-point program for enforcing gasoline rationing, which was described in the two preceding reports, had finally given the Office the tools necessary to break up the gasoline black market. The black market was still a real menace, but with the verification centers steadily increasing in operating efficiency and the further development of the debiting program, the counterfeit racket was rapidly losing its attractiveness. As the pressure against counterfeiting grew, the racketeers were turning their attention increasingly toward theft and robbery of gasoline coupons. They were being met, however, by increased vigilance in safeguarding coupons and also by improved techniques for the detection of stolen coupons.

Approximately 80,000 violations were uncovered during the period, in the great majority of which administrative rather than court action was taken. Thus, nearly 50,000 violations were closed out by conferences or by warning letters; district offices and local boards revoked nearly 10,000 rations during the three months; suspension order proceedings were instituted in nearly 3,000 cases; and license warning notices were issued in an additional 3,200.

¹ See Seventh Quarterly Report, pp. 83-84.

² Made possible by the Stabilization Extension Act of 1944. See Tenth Quarterly Report, p. 3.

In the field of litigation, the summer quarter was one of the busiest since the inception of wartime price control, owing largely to the numerous new legal issues created by the Stabilization Extension Act.

Court proceedings were instituted in almost 6,000 cases, consisting of more than 3,700 injunction suits, 900 Administrator's treble damage suits, and 1,200 criminal cases. In the 3,279 civil and criminal proceedings which were completed during July, August, and September, 3,175 decisions, or 96.9 percent of the total, were in favor of the Office of Price Administration. The proportion of decisions favorable to the Office was about 97.4 percent in civil cases and 95.1 percent in criminal cases.

ENFORCEMENT PROGRAMS

Enforcement operations are conducted on a commodity program basis. Since these programs are drawn up only after the inflationary pressures present in an industry have been carefully analyzed, the programs have in general been successful in meeting the enforcement problems that arise over a period of many months. Most of the commodity programs have been described in previous quarterly reports to the Congress. A few significant developments in various commodities during the quarter are set forth herein.

Meat

The shortage of beef, especially of the better grades, which began to develop in earlier months, was accentuated during this reporting period. Prices of quality cattle rose to record levels as slaughterers throughout the country competed for the small supply that was available. The program inaugurated during the preceding quarter of reporting purchases of cattle at excessively high prices was continued. Chief violators of the beef regulation became known before the end of the quarter, and investigations were instituted to uncover the violations. Because of the extreme cunning with which many of the illegal transactions are consummated, however, investigation was difficult and time consuming.

In the Southwest, meat violations for some time had taken the form of upgrading. By use of Department of Agriculture meat graders, hundreds of these violations were uncovered during the quarter, and many sanctions were imposed.

Upgrading had long been prevalent also at the retail level, frequently resulting in overcharges of 50 percent or more. Although enforcement at this level was generally the responsibility of the price panels, at the end of the quarter a nation-wide enforcement program designed to combat this type of violation was being prepared.

The excess-pork-fat cases against certain leading packers, mentioned in the preceding report,³ were tried during this quarter. The refusal of the court to issue injunctions, despite the great many violations proved, illustrates the difficulty of trying to control a broad field with a small amount of manpower. Although many man-days were spent in making the investigation in these cases, the court nevertheless was of the opinion that the investigation had not been extensive enough to warrant issuance of the injunctions. The Office was encouraged, however, by the fact that as a result of institution of the actions, the packers adopted means of controlling the amount of fat on pork cuts. Compliance with the regulation thereupon improved greatly.

Other Food Programs

Dairy products.—The butter grading program instituted by the Office during the spring quarter continued throughout the summer with very good results. Over 60 injunction actions were filed and about 400 settlements were made for upgrading violations. Reports from the trade indicate that the program was highly successful in curbing butter upgrading. Despite the serious shortage of butter, violations were generally limited to upgrading and there was no general black market in this commodity. One dealer who resorted to a cash-on-the-side transaction was prosecuted criminally and promptly given a jail sentence.

Processed foods.—The enforcement program prepared for the 1944 pack of processed foods had to be scrapped during the quarter because the act granting OPA operating funds for fiscal 1945 specifically prohibited use of AMA grades as a standard for fixing prices. Efforts of the Office to prevent upgrading, the most common and most difficult type of violation to detect in processed foods, thus received a second major set-back, the first being the prohibition against grade labeling.

Before the close of the quarter a revised enforcement program was prepared and put into operation. This program was designed to discover whether packers were pricing in accordance with the applicable formula and also to uncover upgrading insofar as it is possible to establish upgrading with the use of undefined commercial grades. Since much of the 1944 production had been packed before the enforcement program could be put into operation, however, it was expected that the 1944 pack would be subject to very loose controls.

Corn, Feed, and Seeds

Corn and feeds.—Enforcement activity in this field during the quarter was directed primarily at violations by commercial mixed feed

³ See Tenth Quarterly Report, p. 64.

manufacturers. Because of the great number of mixed feed formulae and the continual changing of formulae by various manufacturers, opportunities for price violations are almost infinite, and detection is extremely difficult. Despite these handicaps, some cases against violators were developed and compliance in the industry was greatly improved. A 3-million-dollar treble damage action was brought against the largest manufacturer in the industry.

Seeds.—Coincident with the revision of the legume and grass seeds regulation in July, an enforcement program was instituted. Since these seeds are in short supply and are vital to the production of hay, many evasive practices had developed. One common violation, the understatement of dockage (i. e. foreign matter in the seed), was diverting the supply of these seeds to certain unscrupulous processors. Results of enforcement action in testing samples of these seeds were apparent during the quarter, with the beginning of resumed normal distribution of the seeds.

Apparel

While the enforcement program on women's and girls' outerwear continued to uncover many significant violations, increased emphasis was placed throughout the quarter on other apparel items, including men's cotton shirts, shorts, and pajamas. In these items, as well as in the apparel field generally, quality deterioration has been the most common and troublesome problem. A program designed to expose this deterioration through the use of technical experts was commenced during the quarter.

The Office also initiated during this period a program to check the rationing operations of shoe dealers. Shortages disclosed by analysis of reports derived from the national shoe inventory taken July 3 led to investigation of shortages in a number of instances. The dealer in each case was afforded an opportunity for explanation. In those cases where it appeared that the shortage was occasioned by violation of the regulation, however, enforcement action was taken. A number of sanctions, usually suspension orders, were imposed during the quarter, and it was expected that disclosure of additional violations would result in further sanctions in subsequent quarters.

Used Cars

With the used car price regulation effective as of July 10, OP ran headlong into another black market. Violations ran the gamut from cash-on-the-side to forced trade-ins and forced financing.

The enforcement program, which had been prepared in advance, got under way promptly. The first step in the program called for preliminary panels to check certificates of transfer for evidences of violation. The

second step called for enforcement action against violators. The price panels did a thorough job of checking certificates, and enforcement action was taken promptly against numerous violators.

Many violators, however, adopted the practice of filing false certificates which show the correct ceiling price rather than the illegal price which was charged. A pilot drive was made in Kansas City during the quarter to develop techniques for uncovering this fraudulent type of transaction. The experience gained in this drive was incorporated in an enforcement program which was to be put into general operation in the following quarter. One of the most significant findings of the Kansas City drive was that violations were far more frequent on sales by dealers than on sales between individuals.

Services

The Office put into operation during the quarter a plan to compel compliance in this field. Despite a broad educational program conducted by the Office for more than 2 years, many thousands of shop owners in the service trades had not yet fulfilled their first obligation under price control, that of filing their base-period prices with OPA.

The enforcement program was centered about a new provision in the services regulation which permits the fixing of in-line prices for tradesmen who have not filed base-period statements. The first step in the program was carried out by price panels who surveyed the field to find all nonfilers. In those cases where the failure to file was shown to be unintentional or due to ignorance of the requirement, the price staff fixed in-line prices and no further action was taken. In other cases, appropriate enforcement action was taken along with the fixing of prices. While the program had not yet been fully completed in all areas, by the close of the quarter substantial reductions in charges for services had already been reported.

Two other service programs were initiated during the quarter. One was directed against contract petroleum carriers who were found to be charging the Army exorbitant prices for transporting gasoline. The other was planned to prevent overcharging for repair of buildings which had been damaged by the September hurricane along the Atlantic coast.

Rent

The new damage claim given the Administrator in the Stabilization Extension Act proved valuable during the quarter in the many rent cases where violations do not require the issuance of an injunction or a criminal proceeding. As a result of the new provision, the total number of sanctions applied in rent cases during the quarter was nearly double that of any preceding quarter.

One of the major enforcement activities during the period was the program to stop the collection and compel the return of illegally obtained security deposits. Many owners of priority-constructed housing had adopted the practice of compelling tenants to put up a security deposit in addition to paying the maximum legal rent. Frequently these deposits were equivalent to several years' rent and entirely disproportionate to any risk taken by the owner. The regulation was clarified on the point that such transactions were illegal, and by the end of the quarter many thousands of dollars of refunds had already been obtained for tenants who had been forced to make such deposits.

LITIGATION

OPA litigation has never passed through the inactive stage, experienced by most other Government agencies, during the summer court vacation season. This year in particular the summer quarter witnessed no slackening in the demands made upon the Office by nationwide litigation needs. On the contrary, the quarter was an unusually busy one, partly due to the numerous new legal issues created by the Stabilization Extension Act. Of the numerous significant decisions in both Federal and State courts—almost uniformly favorable to the Government, as have been well over 95 percent of the decisions in OPA cases down to the present time—a few of those involving issues of wider interest are described in the following pages.

New Stay Procedure

Foremost among the new legal issues created by the Stabilization Extension Act were those which grew out of the new procedure permitting the Federal district courts to grant stays of OPA enforcement actions at the behest of defendants who display "good faith" and can show proper "excuse" for their failure to seek review of the price regulations under the regular statutory review procedure.⁵

When this provision was adopted, the Administrator conveyed to the Congress his very earnest fears lest the procedure develop into a means for the indiscriminate thwarting of all or a large portion of OPA enforcement actions. The matter was put to the Senate by Senator Wagner, manager of the Senate conferees on the renewal act, as follows:

The Price Administrator has expressed great concern lest the right accorded by this procedure be abused by defendants resorting to protests and leaves to complain as a means of deferring or even avoiding the trial of criminal cases and of staying the execution of judgment in civil proceedings. But the procedure

⁴ See also Rent, p. 51.

⁵ See Tenth Quarterly Report, p. 4.

procedure provided in the amendment does not represent a regular method to be followed in enforcement cases. Rather, it is an exception procedure which has been made available to avoid the risk of injustice that existed under the original act under which a defendant who had excusably failed to file a protest within the strict time limits the act allowed, might be denied any opportunity to question the validity of the regulation which he was charged with violating. The remedial procedure prescribed by the conference committee is available only to defendants whose objections the courts find have been made in good faith, and not primarily for the purpose of delay. The committee is confident that the courts will be vigilant in administering the standards of good faith to deny stays to defendants who have not previously availed themselves of the unrestricted opportunity to protest but who have been violating the regulations on the gamble that, if caught, they could then protest and secure stays of proceedings which would afford them a good chance to avoid the trial or the execution of judgment.⁶

It was evident that the fate of future OPA enforcement measures would depend on the spirit in which the Federal district courts might apply the new stay provisions. It was essential that the new procedure be applied sparingly, on a closely selective basis, and only at the behest of the most deserving defendants. The Office felt that the Congress could not have intended the new procedure to be available indiscriminately to all defendants who might take the trouble of filing an application setting forth mere pro forma grounds for a stay. The strictly conditional terms of the statute itself seemed to indicate unmistakably the congressional intent that the new procedure be applied by the courts with the greatest care. The duty seemed to rest upon the district courts then, to insure that persons who are brought into court by the Government for violation of the present wartime inflation control measures should not be encouraged to regard the new stay procedure as an instrument for mere obstruction and delay or as a means of thwarting the just processes of the law.

The Office was gratifyingly successful during the quarter in fostering this conception of the new stay procedure before the Federal district courts. District judges in various parts of the country responded favorably to the view that the new stay procedure should operate in such a way as to give just treatment to deserving defendants, rather than in such a way as to cripple the Government's efforts to enforce these vital wartime controls. The first of the new stay cases was decided by District Judge Baltzell at Indianapolis in July. Judge Baltzell denied two stay applications before trial in criminal cases on the ground that the defendants had failed to bring themselves within the statutory requirement for the granting of this special relief. Later, one of these defendants succeeded in obtaining a stay after trial and conviction, the Government not interposing any opposition to the renewed application.

Judge Baltzell's lead was followed by Federal district judges in various other parts of the country, notably in Los Angeles, New York

⁶ Cong. Rec. (Senate), 78th Cong., 2d sess., June 21, 1944, p. 6451.

City, and Newark, N. J. An exhaustive and definitive opinion carefully analyzing the new stay procedure, and emphasizing its strict and limited operation, was handed down by District Judge Leamey of Vermont, visiting in the Southern District of New York, in the case of *U. S. v. Aronin*, a criminal prosecution involving alleged forgery of records and alleged cash-on-the-side overcharges totaling tens of thousands of dollars on the part of a lady's fur garment manufacturer. Judge Leamey denied a stay. The defendant later pleaded guilty to the indictment. A significant opinion was also delivered by District Judge O'Connor at Los Angeles in the case of *United States v. Vern U. Ayres*.

The new procedure was still in its infancy at the close of the quarter, and its effect on continued efficient functioning of OPA enforcement could not be predicted. If the picture becomes more discouraging, it may be necessary, as the President suggested in his statement at the time of signing the Stabilization Extension Act, to ask the Congress to reconsider its action in establishing a procedure which, it must be admitted, contains within itself such grave possibilities of danger to the war effort. These dangerous possibilities had not materialized by the end of September, and with continued care on the part of the district courts in applying the new provisions, they may never materialize.

Exclusive Jurisdiction Provision

In *Rosensweig v. U. S.*, the Circuit Court of Appeals for the Ninth Circuit affirmed the conviction of two defendants for overceiling wholesale sales of beef. The court held that the exclusive jurisdiction provisions of the statute, which channelize exclusively into the Emergency Court of Appeals all issues as to the validity of OPA regulations (and which were unaffected by the Stabilization Extension Act) constitute a bar to the defense, in a criminal suit, that a regulation is void and unenforceable for lack of prior approval by the Secretary of Agriculture.

The Government acknowledged in this case that the regulation had not been approved by the Secretary of Agriculture since the statutory requirement in this regard was inapplicable. The court was urged, however, to decide the case on the basis of the exclusive jurisdiction provisions, and the fact that it did so, displayed an encouraging tendency on the part of the courts to follow the principle laid down by the Supreme Court in *Yakus v. U. S.*⁷

State-Federal Collaboration

In *People v. Mailman*, the Appellate Division of the Supreme Court of New York upheld a conviction for violation of the State War

⁷ *Yakus v. U. S.*, 64 S. Ct. 662, March 27, 1944.

Emergency Act and of the Resolution of the New York State War Council which promulgated OPA price regulations and made violations punishable as violations of the laws of the State. The court upheld the constitutionality of the State legislation, declaring "that the State has undertaken to put itself on a war basis in support of the United States and its allies in the pending struggle against the Axis powers."

A rather less favorable situation, as regards State-Federal collaboration in the wartime inflation control program, developed in the State of Washington. A difference of views arose between the State Land Department and the Office over the question whether sales of State-owned school-land standing timber is subject to Federal price control. The issue was first presented to the Washington State courts in a case to which the Office was not a party. The lower courts held that the State timber was subject to Federal price control (OPA's Western Timber Regulation expressly so provides), but the State Supreme Court reversed and held that State sales must be made in accordance with the provisions of State law, at public auction, to the highest bidder.

In view of the great importance of the question, not only as a matter of law, i. e., as a matter of clarifying the extent of Federal authority in wartime to control the prices of sales by State agencies, but also in view of the extremely scarce supply of standing timber and the skyrocketing prices obtained at uncontrolled State auctions, the Administrator instituted an injunction suit in the Federal district court at Tacoma, Wash., naming as defendants the successful overceiling bidder and the State Land Commissioner.

The matter was heard by Judge Leavey, and the ruling made by him was that the Price Control Act should be construed as not applying to sales of State owned school-land timber. It was pointed out to the court that this ruling was in literal effect a finding that the OPA regulation which explicitly covers the timber in question was invalid as being unauthorized under the statute; and that in making such a ruling the court was acting in direct defiance of the exclusive jurisdiction provisions of the statute, which exclusively confine to the Emergency Court of Appeals the authority to make such determinations of invalidity.

The Office is appealing the decision to the Circuit Court of Appeals for the Ninth Circuit. The State authorities in the meantime have consented to maintain the *status quo*.

Different Prices for Same Services

A significant victory for the Office was scored in *Bowles v. Nu Way Laundry Co.*, decided by the Circuit Court of Appeals for the Tenth

Circuit. A number of important OPA regulations, in particular those dealing with service fields such as laundry services, established a pattern of control which depends in part on a differentiation between the prices charged by a seller during a particular base period to different classes of customers. That is, if a seller customarily sold the same services to different customers at different prices, the regulations of this type provide that these different prices themselves constituted a demarcation of the customers into separate classes for the purpose of the regulation, and, accordingly, a customer who paid a lower price in the base period should have the right to continue obtaining the service at such lower price rather than being obliged to pay prices charged for the same service to higher paying customers.

The district court in the *Nu Way* case had rejected the interpretation of the regulation urged by the Office. The circuit court of appeals in a lengthy and exhaustive opinion adopted the Office interpretation of the regulation, and thus immeasurably strengthened the entire pattern of price control under the base-period type of regulation.

STATISTICAL SUMMARY

A statistical summary of enforcement activity for the months July, August, and September 1944 is shown in the following table which gives in detail the number of investigations and violations, the number of defendants whose cases were settled by administrative enforcement action and the number in whose cases civil and criminal proceedings were instituted.

Investigations and violations (cases) :

Investigations completed.....	74,28
Violations found on investigation.....	42,67

Administrative enforcement (defendants) :

License warning notices.....	3,21
Ration revocations by district offices.....	60
Ration revocations by local boards.....	9,30
Suspension proceedings instituted.....	2,94

Monetary settlements.....

4,17

Civil and criminal proceedings :

Injunction suits.....	3,73
Administrator's treble damage suits.....	94
Criminal actions.....	1,21
License suspension suits.....	4