

CHAMBER OF COMMERCE OF THE UNITED STATES
WASHINGTON



ALBERT W. HAWKES
PRESIDENT

October 15, 1941.

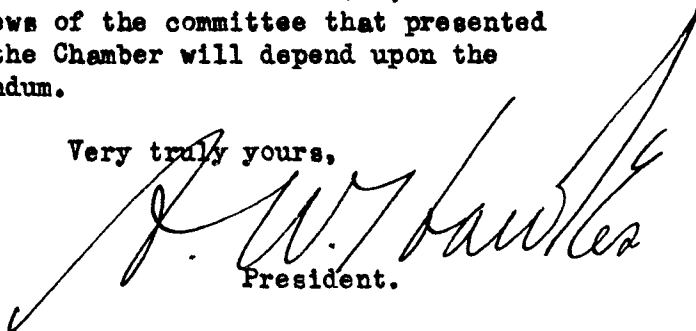
Honorable Marriner S. Eccles, Chairman,
Board of Governors,
Federal Reserve System.

My dear Mr. Chairman:

Because of the attention you have been giving to legislation for the control of prices, I believe you will be interested in a report on this subject submitted by a committee of the Chamber.

In accordance with our procedure, this report is now before the organizations in our membership for a referendum vote. Until this referendum closes, the report expresses the views of the committee that presented it. Any position of the Chamber will depend upon the results of the referendum.

Very truly yours,


President.

enclosure

No.

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

Referendum^{No.} 75

*On the Report of the
Department Committee for Domestic Distribution
on*

Price-Control Legislation

September 30, 1941

BY-LAWS

ARTICLE XIII • Submission of Questions

SECTION 1. All subjects considered or acted upon by this Chamber shall be national in character, timely in importance, and general in application to business and industry.

SECTION 2. All propositions, resolutions, or questions, except those which involve points of order or matters of personal privilege, shall be submitted for action in writing only by the organization members, or by the National Council, or by the Board of Directors: *Provided*, That by consent of two-thirds of the delegates present at a meeting a subject not so presented may be considered.

SECTION 3. When an organization member desires to present a subject for the consideration of this Chamber it shall commit its proposals to writing in the form of a resolution duly adopted by said organization or its governing body and forward it to the Secretary.

It shall be the duty of the Secretary to bring this subject before the Board of Directors by mail, or at its first meeting, whereupon the Directors shall decide whether or not the subject is of national character, timely in importance, and general in application to business and industry. If the Board of Directors decides that a subject submitted by an organization member is not of national character, timely in importance, and general in application to business and industry, and should not therefore be submitted to the membership for consideration, the proposing member may appeal from the decision of the Board to the National Council at any meeting of that body or by mail through the office of the Secretary. If the National Council decides by a majority vote that the subject should be referred to the membership it shall be incumbent on the Board of Directors to order its submission.

SECTION 4. If the eligibility of the subject has been determined the Board of Directors shall decide whether the subject shall be sub-

mitted for consideration by the Chamber in annual or special meeting or by referendum.

SECTION 5. REFERENDUM. A subject to be submitted to referendum shall as soon as practicable be referred to a committee for report. If the report when received is in proper and adequate form for submission to the membership, the Board of Directors shall order it to be incorporated in a referendum pamphlet without committing itself in favor or against any of its recommendations, but if not in proper and adequate form it shall refer it back to the committee or appoint a new committee to report on the subject.

SECTION 6. The referendum pamphlet shall contain in addition to the report itself a brief of the major arguments against the recommendations of the committee and such other matters as the Board may deem advisable. If the subject has been submitted by a member organization, said organization shall have the privilege of incorporating in the pamphlet a brief of such length as the Board may determine. The pamphlet shall also contain a ballot upon which the member organizations may register their votes respecting the questions submitted.

SECTION 7. The pamphlet in the form in which it is approved by the Board shall be transmitted to each member of the Chamber in good standing and simultaneously the Secretary shall mail a copy to the National Councilor representing each organization member.

SECTION 8. The pamphlet shall be accompanied by a notice from the Secretary that each organization member is expected to register its vote on the ballot in writing and mail said ballot to reach the National Headquarters within 45 days from the date of issuance of the pamphlet. Each organization may cast one such vote for each delegate to which it is entitled in the annual meeting. [An organization hav

(Continued on page three of cover)

No.

BALLOT

TO BE DETACHED

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA

WASHINGTON, D. C., September 30, 1941.

TO THE SECRETARY:

Your organization, as a member of the Chamber of Commerce of the United States, is requested to register its vote upon the questions submitted on this ballot, which is to be detached and returned by registered mail *at the earliest practicable date.*


President

This ballot will be counted only if received at National Headquarters, Washington, D. C., on or before November 14, 1941. (See By-Laws, Article XIII, on inside of cover.)

.....1941

TO THE SECRETARY,

CHAMBER OF COMMERCE OF THE UNITED STATES, WASHINGTON.

The.....
(Name of Organization)

a member in good standing, and having a total membership of.....entitling it to.....
votes, desires these votes to be recorded as indicated below:

- 1. Emergency price-control legislation of a different character should be substituted for H. R. 5479—S. 1810, now under consideration by Congress.**

See page 4

	YES
	NO

- 2. The substitute measure should provide that in the emergency, when government diminishes supplies needed for civilian purposes, there should be control of prices for the articles affected during the emergency.**

See pages 6-8

	YES
	NO

- 3. In such substitute measure Congress should provide for a standard of price such as could reasonably be expected to prevail under conditions of production existing at the time if the intervention of the government had not occurred.**

See pages 8-10

	YES
	NO

(OVER)

4. Administration of price-control legislation should be placed by Congress in a body of five members appointed by the President and confirmed by the Senate according to the manner prescribed for all important officials.

See page 12

	YES
	NO

5. The federal agency administering prices should be required always to enter into consultation with a representative committee of the industry concerned and selected by the industry.

See page 12

	YES
	NO

6. The substitute measure should subject the necessary elements in the cost of living to the same controls, and under the same conditions, as industrial materials and products.

See pages 12-14

	YES
	NO

7. The substitute measure should subject wage levels to the same principles of control as are recommended for prices.

See page 14

	YES
	NO

8. In any legislation for control of prices and wages Congress should place definite time limitations, reserving to itself decision as to any extension.

See page 14

	YES
	NO

Signature of President or Secretary

INSTRUCTIONS TO MEMBERS

THE BOARD OF DIRECTORS of the Chamber of Commerce of the United States has adopted the following instructions for members, and directed they be printed in connection with the ballot.

1. Each organization member in good standing may cast one vote for each delegate to which it is entitled in the Annual Meeting.

2. The ballot shall be marked by entering a cross or the number of votes to which the organization member is entitled in the square at the left of the word "Yes" if the recommendation is favored, or at the left of the word "No" if the recommendation is opposed.

3. If the organization member desires to have its vote recorded as divided it may do so by entering the vote to which it is entitled in the squares to the left of the words "Yes" and "No" in such proportion as it sees fit. The total vote in the two squares must not exceed the total number of votes to which the organization member is entitled.

4. Fractional votes less than one-half shall not be entered. If so entered they shall on the canvass be carried to the nearest whole number.

5. The ballots which are so marked as to be clearly intelligible shall be counted. Where the sum of the numbers entered in the squares exceeds the total number of votes to which an organization member is entitled, canvassers shall in no case attempt to divide the votes but shall enter them as "Yes" or "No" in accordance with the majority vote shown on the ballot.

METHOD OF VOTING

THE SECRETARY of the organization is requested to enter in the space provided below a brief description of the method the organization followed in arriving at the vote it files in this referendum. Examples of possible description are by action of the board of directors, by action of the board after it had received a report from a special or standing committee, by viva voce vote at a regular membership meeting, viva voce vote at a membership meeting after receipt of a report from a special or standing committee, by mail referendum to members in which all members received copies of the ballot, by mail referendum to members in which all members received copies of the referendum pamphlet, etc.

-----1941

THE ORGANIZATION whose name appears on this ballot arrived at the vote recorded thereon in the following manner:

Secretary

No.

DUPLICATE BALLOT

NOT TO BE DETACHED

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA

WASHINGTON, D. C., September 30, 1941.

TO THE SECRETARY:

Your organization, as a member of the Chamber of Commerce of the United States, is requested to register its vote upon the questions submitted on this ballot, which is to be detached and returned by registered mail *at the earliest practicable date*.



President

This ballot will be counted only if received at National Headquarters, Washington, D. C., on or before November 14, 1941. (See By-Laws, Article XIII, on inside of cover.)

To THE SECRETARY,
CHAMBER OF COMMERCE OF THE UNITED STATES, WASHINGTON.

The
(Name of Organization)

a member in good standing, and having a total membership ofentitling it to
votes, desires these votes to be recorded as indicated below:

- 1. Emergency price-control legislation of a different character should be substituted for H. R. 5479—S. 1810, now under consideration by Congress.**

See page 4

	YES
	NO

- 2. The substitute measure should provide that in the emergency, when government diminishes supplies needed for civilian purposes, there should be control of prices for the articles affected during the emergency.**

See pages 6-8

	YES
	NO

- 3. In such substitute measure Congress should provide for a standard of price such as could reasonably be expected to prevail under conditions of production existing at the time if the intervention of the government had not occurred.**

See pages 8-10

	YES
	NO

4. Administration of price-control legislation should be placed by Congress in a body of five members appointed by the President and confirmed by the Senate according to the manner prescribed for all important officials.

See page 12

	YES
	NO

5. The federal agency administering prices should be required always to enter into consultation with a representative committee of the industry concerned and selected by the industry.

See page 12

	YES
	NO

6. The substitute measure should subject the necessary elements in the cost of living to the same controls, and under the same conditions, as industrial materials and products.

See pages 12-14

	YES
	NO

7. The substitute measure should subject wage levels to the same principles of control as are recommended for prices.

See page 14

	YES
	NO

8. In any legislation for control of prices and wages Congress should place definite time limitations, reserving to itself decision as to any extension.

See page 14

	YES
	NO

Signature of President or Secretary

INSTRUCTIONS TO MEMBERS

THE BOARD OF DIRECTORS of the Chamber of Commerce of the United States has adopted the following instructions for members, and directed they be printed in connection with the ballot.

1. Each organization member in good standing may cast one vote for each delegate to which it is entitled in the Annual Meeting.

2. The ballot shall be marked by entering a cross or the number of votes to which the organization member is entitled in the square at the left of the word "Yes" if the recommendation is favored, or at the left of the word "No" if the recommendation is opposed.

3. If the organization member desires to have its vote recorded as divided it may do so by entering the vote to which it is entitled in the squares to the left of the words "Yes" and "No" in such proportion as it sees fit. The total vote in the two squares must not exceed the total number of votes to which the organization member is entitled.

4. Fractional votes less than one-half shall not be entered. If so entered they shall on the canvass be carried to the nearest whole number.

5. The ballots which are so marked as to be clearly intelligible shall be counted. Where the sum of the numbers entered in the squares exceeds the total number of votes to which an organization member is entitled, canvassers shall in no case attempt to divide the votes but shall enter them as "Yes" or "No" in accordance with the majority vote shown on the ballot.

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

Referendum^{No.} 75

*On the Report of the
Department Committee for Domestic Distribution
on*

PRICE-CONTROL LEGISLATION

CONTENTS

	PAGE
How Question Arises	1
Personnel of Committee	2
Report of Committee	4
Arguments in the Negative	5
Committee's Appendix Analyzing H. R. 5479-S. 1810 ..	15
Text of H. R. 5479-S. 1810	18

Explanation

THE BOARD OF DIRECTORS in authorizing submission of a report to referendum neither approves the report nor dissents from it. In order to inform the members as fully as practicable on the subject submitted to referendum a carefully selected committee is appointed to analyze each question and report its conclusions. The purpose of the referendum is to ascertain the opinion of the commercial organizations of the country, not to secure the approval of the recommendations voiced in the report. Only the vote of the member organizations can commit the Chamber of Commerce of the United States for or against any of the recommendations submitted by the committee and until such vote is taken the report rests solely upon the authority of those who have signed it.

Referendum on a Committee Report Respecting Price-Control Legislation

How Question Arises

IN the summer of 1917, a representative committee of the Chamber presented a report with recommendations respecting the controls which should be used for prices during the war in which the United States was then engaged. The referendum which was taken upon the recommendations in this report showed overwhelming support for the principles which were advocated.

To conditions of supply and price the Chamber's Department Committee for Domestic Distribution has been giving close and continuous attention. This committee accordingly was very prompt in taking notice of legislation which was introduced in the House and in the Senate on August 1, 1941, for controls in respect to prices. The Committee assembled in Washington for several special meetings devoted to study of this measure, and of the questions which it involved. On September 19, the Committee presented its unanimous report to the Board of Directors, dealing both with the pending bill and with the principles which the Committee believes should be placed in a substitute measure. The members of this Committee are:

B. F. McLain, <i>Chairman</i> , of Dallas, Tex.	Clem D. Johnston, of Roanoke, Va.
R. E. Campbell, of Lincoln, Nebr.	Oswald W. Knauth, of New York City
A. R. Erskine, of Memphis, Tenn.	Herbert N. Lape, of Columbus, Ohio
Harry C. Faulkner, of New York City	George R. LeSavage, of New York City
Carlyle Fraser, of Atlanta, Ga.	Benjamin H. Namm, of Brooklyn, N. Y.
Kerwin H. Fulton, of New York City	Hunter C. Phelan, of Norfolk, Va.
Robert K. Howse, of Wichita, Kansas	Arthur J. Walker, of Minneapolis, Minn.
C. J. Whipple, of Chicago, Ill.	

This report the Board of Directors has voted to submit to the organization members for a referendum vote, in the manner and for the purposes provided in the Chamber's by-laws.

There are accordingly printed in this pamphlet, with a ballot, and with the by-laws of the Chamber respecting the procedure:

	PAGE
1. The Committee's Report	4
2. Arguments in the Negative	5
3. Committee's Appendix Analyzing H.R. 5479-S. 1810	15
4. Text of H.R. 5479-S. 1810	18

Personnel of Committee

- McLAIN, B. F.**, *Chairman*; Retail furniture dealer, of Dallas, Texas; general manager, Hart Furniture Company; director, Dallas Chamber of Commerce, Retail Merchants Association of Dallas, Liberty State Bank; formerly president, National Retail Furniture Association and Texas Retail Furniture Association; a director of the Chamber of Commerce of the United States.
- CAMPBELL, R. E.**; Department store executive, of Lincoln, Nebr.; president, Miller & Paine, Inc.; director, Omaha Branch, Federal Reserve Bank of Kansas City; secretary, Lincoln Improvement Company; director, National Retail Dry Goods Association; formerly president, Lincoln Chamber of Commerce; formerly a director of the Chamber of Commerce of the United States.
- ERSKINE, A. R.**; Retail jeweler, of Memphis, Tenn.; president, George T. Brodnax, Inc.; director, Memphis Chamber of Commerce.
- FAULKNER, HARRY C.**; Food broker, of New York City; vice president, George A. Mendes & Company; member, Advisory Committee, and formerly president, National Food Brokers Association; formerly president, Association of Food Distributors, Inc., New York City.
- FRASER, CARLYLE**; Distributor of automotive parts, of Atlanta, Georgia; president, Genuine Parts Company; vice president, Southern Life Insurance Company of Georgia, Southern Fire & Marine Insurance Company of Georgia; president, National Automotive Parts Association; director, Atlanta Chamber of Commerce; a director of the Chamber of Commerce of the United States.
- FULTON, KERWIN H.**; Advertising executive, of New York City; president, Outdoor Advertising Incorporated; director, Outdoor Advertising Association of America; member of board, Committee on Consumer Relations in Advertising, Inc.; a director of the Chamber of Commerce of the United States.
- HOWSE, ROBERT K.**; Dry goods wholesaler, of Wichita, Kansas; president, The Johnston & Larimer Dry Goods Company; director, First National Bank in Wichita, Wichita Wholesale Furniture Company; president, The Wholesale Dry Goods Institute, Inc.; director, Wichita Chamber of Commerce.
- JOHNSTON, CLEM D.**; Warehouseman, of Roanoke, Virginia; president, Roanoke Public Warehouse; also president, Bristol Wholesale Grocery Company; vice president, American Warehousemen's Association and Southeastern Warehousemen's Association; formerly president, Virginia Highway Users Association, Roanoke Chamber of Commerce; a vice president of the Chamber of Commerce of the United States.
- KNAUTH, OSWALD W.**; Department store executive, of New York City; president, Associated Dry Goods Corporation of New York; director, National Bureau of Economic Research; chairman of Economic Advisory Committee, National Retail Dry Goods Association; member, Retailers' Advisory Committee to Office of Price Administration.
- LAPE, HERBERT N.**; Shoe manufacturer, of Columbus, Ohio; president, the Julian & Kokege Company; director, Lockwedge International, Inc., Bye Chemical Company; director, National Association of Shoe Manufacturers; a director of the Chamber of Commerce of the United States.
- LESAUVAGE, GEORGE R.**; Restaurant operator, of New York City; assistant to president, Schrafft's; director, and chairman of Legislative Committee, National Restaurant Association; member of Executive Committee, Associated Retail Confectioners of the United States.
- NAMM, BENJAMIN H.**; Department store executive, of Brooklyn, New York; president, A. I. Namm & Son; director, Brooklyn-Manhattan Transit Corporation, Brooklyn City Railway Company, etc.; vice president, Downtown Brooklyn Association; formerly vice president, National Retail Dry Goods Association; chairman, Retail Advisory Committee, Defense Savings Staff, United States Treasury; a director of the Chamber of Commerce of the United States.
- PHELAN, HUNTER C.**; Chain-store operator, of Norfolk, Virginia; president, Colonial Stores Incorporated; director, National Food Products Corporation, Richmond Ice Company, etc.; director, Norfolk Association of Commerce; member of Executive Committee, National Association of Food Chains; chairman of board and director, Southeastern Chain Store Council, Inc.
- WALKER, ARTHUR J.**; Wholesale and retail stationer, of Minneapolis, Minn.; president, Farnham Stationery & School Supply Company; member of Executive Committee, and formerly president, National Stationers Association.
- WHIPPLE, C. J.**; Wholesale hardware dealer, of Chicago, Illinois; president, Hibbard, Spencer, Bartlett & Company; director, First National Bank of Chicago, Mill Owners Mutual Fire Insurance Company, Atchison, Topeka & Santa Fe Railway Company; formerly president, National Wholesale Hardware Association; vice president for transportation, Chicago Association of Commerce.

**Committee Report
and
Arguments in the Negative
on
Alternate Pages**

Committee Report

*To the Board of Directors of the
Chamber of Commerce of the United States:*

Foreword

The bill known as the "Emergency Price Control Act of 1941" which was introduced in the House and Senate on August 1, and which has since been a subject for hearings before the House Banking and Currency Committee, has been studied by us. A description of this bill appears in the Appendix to this report, together with a full text of the bill (H.R. 5479; S. 1810).

The Committee believes that in the present emergency there should be provision for effective price controls. It believes that this control can be provided in accordance with principles well established in our form of government, and suggests methods which would be appropriate to this end.

The Committee accordingly believes that a measure of an entirely different character should be substituted for the bill introduced on August 1. That bill is so sweeping, is so lacking in standards by which its administration can be judged, and has stated purposes so far beyond accomplishment through price control, that it should be opposed. The direct means for attaining some of these purposes is for the government to take measures that will give assurance the government has set its face against inflation.

In the substitute legislation which we recommend Congress would provide for use of price control in the emergency where governmental action, with or without priorities, so diminishes supplies for civilian purposes that there will be price disturbances. To minimize the adverse effects of these price disturbances the standard which Congress should place in legislation is the price that could reasonably be expected to prevail under conditions of production existing at the time if the intervention of government had not occurred.

To administer such legislation we believe Congress should create a board of five members, to be nominated by the President and, like all important federal officials, confirmed by the Senate. Such a board should be composed of men of such experience and standing that they will exert wide leadership. The board should be required always to enter into prior consultation with representative committees selected by the fields of business that are concerned.

These principles of control should, in the Committee's opinion, be applied not only to industrial materials and products, but also to the necessary elements in the cost of living and to wages.

In any legislation for these controls the Committee believes Congress should place definite time limitations, reserving to itself decision as to any extension.

Bill Introduced in Congress

The stated purposes of the bill introduced on August 1 go beyond the possibilities of price controls. They extend even to preservation of the value of the national currency against inflation. In other words, the bill stresses price control as a substitute for measures of altogether different kinds that must be taken if inflation is to be checked and prevented. Without these other measures price control would be futile, however conscientiously carried out and observed.

Perhaps consistently with stated purposes unrelated to the function of prices, the provisions of the bill have such a sweep that limits in applications and effects are not assignable. Any or all parts of the economy could be brought under regulation without standards by which objectives or results could be judged. Such a measure if enacted would in its administration be replete with surprises that would be disconcerting and cause uncertainty and confusion to the detriment of the public interest, —conditions adverse to the paramount need for sustained and increased production. Any legislation in its form and content should carry assurance that the country's economic structure will be preserved and strengthened, not only for the country's success in defense but also in order that the country may be fully prepared to meet all of the new problems of the period following the emergency.

These fundamental considerations and the nature of provisions of the bill obvious even in any condensed description such as we present in the appendix, lead the Committee to *recommend that the bill should be opposed, and a substitute measure of a different character be enacted by the Congress.*

Inflation

In order to make clear our conclusions regarding the proper place for controls over prices under present and prospective conditions, and the ends which should be sought, we (*Continued on page 6*)

Arguments in the Negative

Caution Should be Exercised

Haste in resorting to legislation for price controls should be avoided.

The member of the recent Temporary National Economic Committee who has given most attention to prices testified at a public meeting of that committee held at the end of February, 1941. Contemplating current and prospective conditions under the defense emergency, he cautioned against oversimplifying the character of remedies for complex economic situations, saying this admonition applied particularly in dealing with prices. He then proceeded to state a series of warnings, of which the first in the series he called the most important. It was:

"Don't tinker with prices any more than is absolutely necessary. * * * Changes in prices exercise a far-reaching effect upon the economy. They slow up production here and speed it up there. * * * Of course, there have been and will be occasions when government must step in directly to do something about this or that commodity. However, price control of any kind should be resorted to only upon the clearest showing of necessity."

Other warnings in the series included:

"In any measure of price control, don't forget that American commodity markets differ very widely from each other. * * * There is no simple, single control system which is equally applicable to all.

"Don't assume that costs form an adequate yardstick in controlling prices. They are only one guide and often not the most useful. In the past, measures of price control have usually been framed in one way or another in terms of accounting costs. * * * Accounting costs can furnish only one, and a very imperfect, guide to problems of price. Cost accounting itself is not a science but an art which is based upon many arbitrary assumptions. * * *

"In dealing with any particular industry or group of industries, don't forget that the economy is an interrelated whole. Changes in the price of one kind of commodity or one kind of service will affect many other commodities and many other services. * * * The effect of fixing prices for one kind of commodity or service does not stop there. It keeps going on.

"Don't forget that price is only one of the very many elements entering into a business transaction. When attempts were made to fix minimum prices under the N.R.A. codes, the result was to divert competition into many other forms, such as changes in terms of sale and methods of delivery, modifications of quality and indirect concessions of other kinds. Price is only one of the ways in which competition expresses itself. * * *

Existing Means for Price Controls

Through executive action there are now in operation administrative means for setting maximum prices for commodities as extensive, and as well supported with legal authority, as those used by the price-fixing committee of the War Industries Board in 1917 and 1918, when price controls were used as to approximately 600 articles. The agency of 1917-1918 existed without special legislation and solely on the basis of executive orders issued by the President. For enforcement of the prices which were established, essentially through agreement with industries, there were available, in the National Defense Act, authority for the President to take over at a just compensation plants which refused to execute compulsory orders placed at prices set as reasonable. This was the so-called "requisitioning power." Moreover, there was power to deny to those who disobeyed price regulations the assistance of the priorities division needed to obtain materials and to prevent their use of railroad transportation through establishment of transportation priorities. That these powers were used in relatively few instances did not prevent their being in the background as sanctions.

The same powers are behind the present Office of Price Administration. The provision for requisitioning contained in the National Defense Act of 1916 has merely been reshaped and sharpened in section 9 of the Selective Service Act of 1940. The provision respecting priorities in railroad transportation of twenty-four years ago still exists.

These statutory authorities are set out in the executive order of April 11, 1941, establishing the Office of Price Administration and Civilian Supply, which by a process of simple amputation performed in August now continues as the Office of Price Administration only. By the executive order the Price Administrator is to recommend to the President that he exercise, as a means of enforcing compliance with price orders, any or all of several statutory authorities. These authorities are contained in section 9 of the Selective Training and Service Act of 1940—which has been mentioned above; section 120 of the National Defense Act of 1916—which section 9 of the Selective Service Act does not replace and which permits, "when war is imminent," the placing of mandatory orders through the head of any department at prices deemed to be reasonable, with authority to requisition in case of default; and the legislation by virtue of which the President, "in time of threatened war," may certify to the Interstate Commerce Commission that the Commission should use its powers to give preference or priority in transportation to certain traffic. (Continued on page 7)

give brief attention to the sources of inflation and the measures that should be taken to check it. Inflation, its causes, and measures that will best deal with it, do not directly fall within the jurisdiction of this Committee, which is here concerned with prices, their functions, and their control during times of emergency. Brief consideration of subjects relating to inflation is, however, a necessary part of the background of our studies.

For inflation, government is responsible. In earlier times governments usually were driven to finance war by printing currency in increasing amounts, and using this paper money to pay their obligations. They thus greatly increased the medium of exchange without adding to the volume of goods for purchase of which the money was usable. As a consequence, prices often rose to dizzy heights, with disastrous effects immediately and when the inevitable collapse occurred.

This is elementary. It is elementary, too, that under our more complex modern conditions the government has the highest obligation in a time of emergency to prevent any of its policies in the monetary, fiscal, and other fields from being inflationary. No governmental restrictions imposed upon the people can counteract governmental inflationary policies.

As government spending is the source of inflation, there is now an urgent obligation on our government to curtail all its spending that does not directly relate to the cause of the economic emergency,—the great requirements for defense.

No schemes of taxation designed to take away the added receipts of individuals from excess government spending can be effective as a substitute for rigid economy in non-defense expenditures.

Defense expenditures themselves should not be inflated through use of public funds where private funds can supply the need for facilities for defense production, if given in fact the protection in connection with taxation that Congress provided.

In meeting defense requirements there should, both in advance preparation and in execution, be constant attention to the ever-present need of maintaining, to the maximum defense requirements will permit, production of goods for civilian use; for so far as the volume of goods available for civilian use keeps pace with increase in media of exchange,—i.e., purchasing power,—there will be no inflation.

In borrowing for defense, the government should seek to meet its needs to the greatest extent

possible from the savings of the people, and to that end should offer incentives for savings by ending its policy of keeping interest rates at depressed levels. No plan of compulsory savings to be taken by the government can be a substitute. As our great medium of exchange is bank credit, the government should avoid to the maximum extent its creation of added bank credit for its own use and should by legislation provide appropriate controls over excessive bank credit. Under earlier and different conditions, legislation conferred authority of an inflationary sort, such as power to issue greenbacks in large amount and power to purchase foreign silver and issue currency against it; all such authorities should be repealed.

Inflation is devastating. It dispenses loss and gain without regard to merits. Eventually everyone loses. In its development inflation is the most potent source of violation of the principle for which the Chamber has always stood,—that a few should not be allowed to profit by war at the expense of the many.

The Committee recommends that every measure should be taken by the government to give assurance that the government itself has set its face against inflation.

Needs for Defense

Needs of armaments and commodities for defense are imperative. They have to be met, whatever the part of the supply of any material or article they take. To assure complete supplies for defense, wherever there is any prospect of shortage for all uses, a priorities system has been placed in operation, based upon the system developed in 1917-1918, and supported by legislation of May 31, 1941, authorizing mandatory priorities for defense needs. The purpose is to determine the sequence of production and delivery according to the relative urgency of each defense need, with all defense requirements met. All that is left for civilian use is apportioned to such uses under a correlative system for civilian supply.

Such a priorities system has importance in stabilizing prices; for opportunity is greatly reduced for anyone by bidding to get supplies to which he is not entitled under the established priorities. Whatever effect the priorities system may have in stabilizing prices, it is not enough. Besides, much government buying will reduce supplies available for civilian uses without (*Continued on page 8*)

Former Advisory Commission for National Defense

The present Office of Price Administration represents the second stage of development of means for price stabilization during the present emergency. The first stage was in the Advisory Commission for the Council of National Defense. The Council of National Defense exists under the National Defense Act of 1916, which also provides for an advisory commission appointed by the Council.

Regulations adopted by the Council were approved by the President on May 29, 1940, and provided that the Advisory Commission should be composed of seven advisers, one of whom was an adviser on price stabilization. The duties of this adviser and the division which he headed were to observe and study prices, particularly of raw materials and the products made from them, with a purpose of promoting price stabilization. This activity began, it will be noticed, simultaneously with adoption of a policy of expanding defense buying on a large scale.

Increase in Production

In the interest of price stabilization, and because prices would not rise if production were increased at least as fast as purchasing power grew under the new program for defense expenditures, the division gave its early attention to adequacy of supplies. According to testimony of the head of the division, cooperation with the other divisions of the Commission led to development of additional sources of supplies. To promote expansion of facilities for defense production through investment of private funds, instead of use of public funds, legislation for special amortization was supported. The division also concerned itself with the terms of defense contracts, keeping out of them such features having inflationary tendencies as cost-plus terms.

The head of the division has repeatedly testified that between the end of May, 1940, and the early spring of 1941, there was the largest expansion in production the country has ever had in a comparable period, and with remarkable stability of price levels.

The statistics published by the Board of Governors of the Federal Reserve System show that in this period industrial production as a whole rose by 30%, that non-durable manufactures, in which some of the defense procurement fell for such articles as food, shoes, textiles, etc., rose by almost 15%, and that durable manufactures in which a great part of defense procurement comes increased by 46%. Meanwhile, the general level of wholesale prices had moved upward by only three points, and the index for the cost of living had risen by less than one point.

Disturbing Factors in 1941

But in the early months of 1941 disturbing elements were appearing. There were increasing labor controversies and strikes, including strikes in defense plants. Shortages in materials were leading to the first priorities for defense production. Dislocations in some prices resulted in the division for price stabilization urging business concerns not to make anticipated cost increases a basis for price advances, to average the cost of new goods with the cost of goods already in their inventories, etc., and to use their earlier mark-ups in terms of dollars and cents rather than apply a percentage for mark-up.

In the early months of 1941 the division for price stabilization went further and issued five schedules of maximum prices—the so-called price ceilings—for second-hand machine tools, aluminum scrap and secondary aluminum ingot, zinc scrap materials and secondary slab zinc, iron and steel scrap, and bituminous coal—the last at the request of the administrator of the Bituminous Coal Act and only during the strike in the mines.

Office of Price Administration

The second and present stage in the development of means for controlling prices was thus reached and was marked by the issue of the executive order of April 11, 1941, creating the Office of Price Administration as it now exists, together with functions as to civilian supply which in August were transferred to OPM, and which are not in point here.

Neither is it particularly in point here that the executive order was expressed as in further definition of the duties and functions of the Office for Emergency Management and that authority for OEM is in an executive order of September 9, 1939, accompanying the proclamation of that date declaring a national emergency. The executive order of September 9, 1939, provided for five divisions within the Executive Office, such as the Bureau of the Budget, and added as to a sixth division, "In the event of a national emergency, or threat of a national emergency, such office for emergency management as the President may determine." On May 25, 1940, an executive order followed giving form to the present OEM, with duties to assist in clearing information as to measures necessitated by the emergency and to maintain liaison for the purpose of securing maximum utilization and coordination of agencies.

In any event, the status of OEM would seem to be immaterial; for executive orders were deemed sufficient for the price-fixing committee of 1917-18, and should be considered sufficient now as a basis for the same activities. It is true that the country was at (Continued on page 9)

need of priorities, and consequently without any stabilizing influences from priorities.

When supplies are reduced by governmental action, whether through direct limitation on quantities available for civilian uses or through governmental buying affecting markets, the forces normally determining prices are disturbed and price controls should be instituted. Disturbance will occur whether or not the government's intervention in the market takes the form of imposition of priorities. For reduced supplies bidding for what is available for any civilian use should not be allowed to disrupt price levels. To express the great importance business men attach to stability in prices we can repeat the language of the Chamber's Committee on Control of Prices in its report of 1917:

"No business can be satisfactorily conducted if it cannot ascertain its own costs and prices in advance. When there can be no reasonable certainty about the future course of costs for material and equipment every business faces unknown elements as soon as it endeavors to determine its scale of operations, the goods it will make, and the prices it should ask for its product."

The Committee accordingly recommends that in the emergency when governmental action diminishes supplies needed for civilian purposes there should be provision through legislative action for control of prices.

This recommendation is made in order that there may be preparation for all future contingencies. Some prices have shown much stability. The impact of defense demand has been particularly heavy upon metals and metal products, but from the beginning of 1941 to September 20 the level of wholesale prices in this critical area has not risen by as much as one per cent, being held in check by voluntary action of producers. The most rapid rise in the period has been in farm products, partly under the stimulus of price-raising legislation which became operative while prices of farm products were relatively the lowest among all groups of prices entering into the general wholesale level.

The recent history of wholesale prices is perhaps seen best when they are cast into index numbers, with the averages for 1926 used as 100, and the index numbers are shown as of the middle of August, 1939,—the bottom of a long decline,—the beginning of January, 1941, and September 20, 1941. These index numbers have been:

	August 19, 1939	January 4, 1941	September 20, 1941	July, 1917
Farm Products	60.4	71.2	91.2	134.9
Foods	66.2	73.2	88.5	105.3
Hides and Leather Products....	92.8	102.5	111.7	122.7
Textile Products	67.4	74.3	89.2	102.7
Fuel and Lighting	73.6	72.6	80.0	107.2
Metals and Metal Products....	93.5	97.8	98.7	178.4
Building Materials	89.5	99.4	106.2	94.4
Chemicals and Drugs	74.2	78.0	87.8	164.4
House Furnishings	87.0	90.2	98.0	77.2
Miscellaneous	73.0	77.1	85.0	124.1
<i>All Above Commodities Taken</i>				
<i>Together</i>	<i>74.6</i>	<i>80.2</i>	<i>91.5</i>	<i>123.0</i>

For purposes of comparison the corresponding index numbers for July, 1917, have been placed in the last column above. They indicate the great difference between conditions in 1917, following protracted price increases in the preceding period, and the much easier price conditions of today, following a period of depressed prices. When the United States entered war, in April, 1917, the all-commodity index was 114.1 and reached 123 by July. Price controls began to be operative soon afterward,—through the Food Administration, the Fuel Administration, and the War Industries Board,—and they were so effective because of the widespread cooperation given by industry and distribution that in the following sixteen months, through November, 1918, the general wholesale price level rose but 6%.

The prices now paid by the government for defense articles are under much control, as through use of negotiated contracts. There is also authority, if necessary, to place compulsory contracts to be performed for prices determined by the Secretary of War or the Secretary of the Navy to be reasonable.

Legislative Policies Regarding Prices

Congress should itself include in its legislation the principles to be followed in the controls of prices within the limits we recommend. Governing policies which should be made unmistakably clear in legislation can be formulated more readily than standards which are to be of applicability in all fields, and should include:

Maintenance of the fullest possible functioning of our productive economy;

Increase in all production needed for defense purposes, and also in non-defense fields the very maximum of production that fulfillment of defense needs will allow; the full use of maximum capacity of non-defense facilities should be a constant goal never to be lost sight of; (*Continued on page 10*)

war in 1917 when the first executive order on this subject was issued, and it is not now at war. But a period of intense preparation for defense in war is not, with respect to the appropriateness of the powers in question here, different from a period of actual war.

Status and Duties of OPA

The executive order of April 11 placed the Office of Price Administration in OEM, and thus on a basis of equality with the Office of Production Management and its priorities and other divisions, and independent of OPM. The Administrator of OPA, however, is now both a member of the seven-man Board for Supply Priorities and Allocations which was set up on August 28 to fix priorities and allocation of the supply of materials, fuel, power, and other commodities of all kinds in the United States, and is head of the division of civilian supply in OPM. Thus, there is interlocking, with a function of allocation of production in important directions, as for automobiles, but the Office of Price Administration keeps its independence.

The duties given to the Administrator by the order of April 11 are to take all lawful steps necessary or appropriate in order to prevent price spiraling, rising costs of living, profiteering, and inflation resulting from market conditions caused by the diversion of large segments of the nation's resources to the defense program, by interruptions to normal sources of supply, or by other influences growing out of the emergency.

In performance of these duties the Administrator is to determine and publish, after proper investigation, such maximum prices, commissions, margins, fees, charges, or other elements of cost or price of materials or commodities, as the Administrator may from time to time deem fair and reasonable, and take all lawful and appropriate steps to facilitate their observance.

In performing these duties the Administrator is not only subject to such policies, regulations, and directions as the President may prescribe, but he is to act with the advice and assistance of other federal agencies and he has, as a committee to make recommendations to him, the Secretary of Treasury, the Secretary of Agriculture, the Federal Loan Administrator, the Chairman of the Tariff Commission, the Chairman of the Federal Trade Commission, and the Director and Assistant Director of OPM, or such alternates as each may designate.

Schedules of maximum prices have now been issued and are in force with wide scope, extending to iron and steel products, pig iron, copper, tin, many cotton textiles in the grey, combed cotton yarns, rayon grey goods, raw sugar, many kinds of lumber, hides, and formaldehyde.

The Administrator of OPA estimates that the influences of price controls now reach at least 20% of the total value of manufactured and mining articles.

Additions Made by Bill

The bill which was introduced in Congress on August 1 would in many ways merely incorporate in legislation the system of price control now administered by OPA, adding a statement of further purposes for which price control is to be exercised, provisions for appeals, ultimately to the courts, from price-control orders, and penalties for violation of orders.

Question of Need of Any Legislation

The need for penalties has not been demonstrated. The Administrator has recently testified that there is at least 80% compliance with his orders, a percentage that is sufficient for stabilization purposes and that can be increased only by procedures that will attract increased public support. Besides, the Department of Justice has given assurance of its readiness to proceed under the anti-trust laws against any combinations in regard to prices, receiving any evidence the Administrator has to present.

As for the procedure for appeal, there has appeared no demand. The desire has been rather to obtain an opportunity to present data to the Administrator to show that his decision was erroneous, either as to the price ceiling or with respect to differentials for grades and kinds. This opportunity has been freely accorded, and there have been numerous adjustments, and rescissions of some orders. Increasing use of industry committees for conference may be expected to lead to price schedules that will be in accordance with the situations existing in industries and the nature and variety of their products.

Selective Price Controls v. Ceiling over Whole Structure

The present OPA, the bill introduced in Congress on August 1, and the report of the Chamber's Committee contemplate price control of materials and commodities as conditions may indicate control should be extended to one and then to another. The Chairman of the War Industries Board of 1917-18 condemns such controls as piece-meal and wholly inadequate to restrain price levels. He considers the price controls of 1917-18 as inadequate and believes that at the time of the Armistice in 1918 they faced large expansion. He urges that price control cannot be considered as a separate effort but that it should be intimately tied up and move in step with all other controls—wage and rent controls, priorities, conservation, commandeering, war trade, war finance, and so forth.

He urges the necessity of (*Continued on page 11*)

Stabilization of prices and assurance against unpredictable fluctuations due to any event or condition growing out of the emergency, or any speculative operations for which the emergency provides opportunity, in order that there may be reasonable knowledge as to costs and prices when production that is undertaken will be completed through processes requiring time;

Fairness in prices both to seller and buyer.

Legislative Standards

The function of Congress does not end with the laying down of such policies, but includes establishment of standards according to which the agency it selects for the purpose of administration may be guided and limited in activities in support of the policies declared by Congress. Extraordinary conditions may call for extraordinary remedies, the Supreme Court has pointed out, adding that extraordinary conditions do not create or enlarge constitutional power. Without standards any price legislation may, when most needed, collapse under test, and thus produce chaotic conditions.

A very simple standard has been proposed, in the form of freezing all prices as of a particular date. To this proposal there are numerous objections, some of which are suggested by considerations already mentioned in this report. There are others. For instance, there is no justification for dealing at once with all prices with creation of tasks of enforcement beyond the powers of any federal agency, however huge its staff. A glance at the price indices we have presented demonstrates that at no one time are prices in balance among themselves; some are always relatively depressed. Besides, the freezing process would ignore the circumstance that, according to all experience during the World War and to recent experience of the Office of Price Administration, successful price fixing is always dependent upon agreement reached through consultation with the industries concerned. Studies of all of the experience in the previous World War period cause us to believe that too much emphasis cannot be placed on this point.

Neither is the standard of the Bituminous Coal Act for maximum price acceptable for general application; for it adopts the price needed by the highest-cost producer whose production of an article is required,—i.e., the price necessary for

the so-called marginal producer. Such a standard means too large profits for low-cost producers. Like the proposal as a standard of the price necessary for "bulk-line" producers, it would involve enormous activities in ascertainment of costs,—activities which during the World War the Federal Trade Commission performed for the Price-Fixing Committee of the War Industries Board, and which the present Office of Price Administration seems to intend to perform for itself with a fast-growing staff. No adaptation of the cost-plus formula, long discarded in government contracts because of the incentive to increase costs, can avoid the faults of that formula.

Bearing in mind the circumstances under which we believe price controls have their proper place,—i.e., where government interventions in the emergency have taken part of the supply and it is necessary to replace the market influences of the withdrawn part with action that will prevent abnormal prices for the portion of the supply remaining free,—*we conclude the logical standard for Congress to place in legislation is the price that could reasonably be expected to prevail under conditions of production existing at the time if the intervention of government had not occurred.*

This standard for price fixing Congress can place beyond any possibility of misunderstanding by adding definitions of the extent and conditions under which control is to be imposed. These definitions could be in terms of price relationships as shown by the price data comprehensively collected and published weekly and monthly, by a federal agency of long experience, the Bureau of Labor Statistics, and now utilized by other federal agencies such as the Board of Governors of the Federal Reserve System. Such data will show immediately any price within a group, and any class related to any other classes, that should have attention. If any prices that are needed are not being collected, they should be most speedily obtainable through this agency. There should always be opportunity for those who are interested to show that other price data are more pertinent.

The standards which we propose would confine price control to its proper function and prevent it from being used for a variety of ulterior projects sometimes advocated, and which, if undertaken, should be accomplished by other measures that are frank and direct in their approach.

(Continued on page 12)

keeping the price level down, not only to facilitate and enlarge the defense effort, but also in order that in the post-defense period the United States may be in a strong economic position, with price levels as low as possible. Total defense must contemplate survival when the war is over. A low price structure in the post-defense period is essential if, after the war is won, we are not to lose the peace to countries with low price levels.

From this point of view legislation for comprehensive control of all prices is the greatest single necessity of the emergency—for efficiency in defense, for protection of the people of the country from unnecessary suffering, and for safeguarding the economic system against dissolution.

This control, it is argued, must be a ceiling over the whole price structure, including wages, rents, and farm prices up to the parity level, but no higher. The date for this ceiling should be placed as early as is practicable—say, at January 1, 1941—in an endeavor to reach a time when the normal operation of supply and demand can be said to have controlled prices. After the ceiling has been set, separate price schedules might be adjusted upward or downward by a competent tribunal to cure incidental injustice or undue hardship, or to increase production.

Since every price is a resultant of the combination of all other prices it is both unjust and impracticable to regulate a segment of the industrial fabric while exempting or providing special concessions for other segments. As a matter of basic principle, all citizens should be treated alike as part of one nation joined in a great emergency and every segment of our economy—agriculture, labor, business—should be treated as parts of a single, living, sensitive whole.

Under an overall ceiling fixed by Congress the goal of a stable, balanced, relationship among all prices is attained and kept. The price level is treated as an organic whole with only exceptional adjustments here and there. In a time of great preparation for war, when sacrifices are demanded of everyone, all are entitled to equal government protection. There should be no tampering with labor's or agriculture's gains, or with the status of industry. The status quo of all should remain until the war is ended.

Such a general ceiling will be easier to police than piece-meal price-fixing, especially if both buyers and sellers are punished for violations. Voluntary cooperation will go far toward providing all of the policing that is needed. With fair price-control legislation, with organized committees of industry, and with state and local councils of national defense—all of which operated in 1917-18—everyone will know what he has to do and everyone will do it or be reported.

The above is the tenor of the arguments made for an overall ceiling.

Other Systems of Price Control

Various systems of price control exist today in many countries. In differing degrees they embody principles of selective control and overall control of prices, and some keep down prices of food to the public by the government absorbing part of the costs—i.e., by government subsidies.

Sweden, which is in a difficult economic position, has variations in its newest legislation, which went into effect on July 1. Voluntary agreements to keep down prices are encouraged, and to that end cartels are viewed with favor. A price-control board is authorized to require that all prices be notified to it, and it may set a period of advance notice to it of intention to change a price—a notice of a week or a month, as it may consider appropriate. The board may then permit an advance if it finds that there is justification in an increase in variable costs, provided the level from which the advance is to be made is found reasonable. But increased scarcity of an article nor increased unit cost by reason of restricted production does not appear in itself to justify an increase in price.

Inflation

The first purpose stated in H. R. 5479—S. 1810 is to preserve the value of the national currency against the consequences of price and credit inflation. Inflationary tendencies began to appear in some prices in the spring of 1941. It was to these prices, especially for basic raw materials, that OPA turned its attention. These tendencies have increased, and without controls they will increase at an accelerating rate as the great expenditures for defense grow in scale and at the same time the goods available for civilian purchase are curtailed or at least do not increase proportionately with the increased purchasing power in the hands of the public by reason of the defense expenditures. Defense expenditures are now running over a billion dollars a month, and are on the way to a peak of at least two billion dollars a month. These expenditures will largely appear in wages, salaries, dividends, and other receipts available for spending.

As OPA has pointed out, this great increase in available purchasing power cannot be matched under emergency conditions by a proportionate increase in the output of goods for civilian uses. Consequently, it is reasoned, the task of control in the succeeding months will lie in three areas,—1) the basic raw materials already under control, 2) many other raw materials where shortages will develop, and 3) a host of semi-finished and finished goods made from an ever-widening list of materials with shortages.

That means of enforcement of controls are needed is insisted by OPM on the ground (*Continued on page 13*)

Price at Source

The price control which we advocate should be applied at the place at which the government's intervention occurs. Whether the application is to a material or a finished product, the control will thus relate to wholesale prices. This is the point of efficient price control, both because of the effect and because of the ease of administration. With such a control, the distributive processes themselves can be counted upon to keep retail prices in line because of the necessity of maintaining volume of business through competition for the patronage of customers. This was well demonstrated during the World War.

Any attempt to fix prices along the channels of distribution to retail outlets becomes also a task of such dimensions as to be forbidding. This task would not be lessened through use of a licensing system, with its widespread intricacies and burdens and the scope of bureaucratic activities inevitably involved without any corresponding public advantage. No legislation relating to prices should provide for licensing of retail outlets.

Agency Used

To administer price controls Congress should provide an agency that is capable of acting with speed and likewise with deliberation. It should at all times have the widest possible knowledge of conditions. This combination is usually found in a body composed of several members, enough to bring in wide experience and understanding and to assure deliberation, and not too many for prompt decisions once the facts are in hand. World-War experience demonstrates that the agency should be essentially judicial in its attitude.

We accordingly recommend that Congress provide for a body of five members, to be appointed by the President and confirmed by the Senate, according to the manner prescribed for all important federal officials. Members of this board should be men of such experience and standing that they will exert wide leadership.

Industry Committees

As we have repeated several times, successful price controls require consultation with representatives of the industries the prices of which are to be fixed, as they alone know all of the differentials that have to be observed in any price. Otherwise, an improperly designed price system may stop all sales instead of producing stabilization. To be

successful, prices fixed in accordance with the policies and standards contained in the law must be accepted by the industry as possible for its operation in accordance with the policies of the statute. When prices are reached in this way their observance is so generally assured that enforcement activities by government agencies need be only on a minimum scale. Advance consultation always removes difficulties.

Committees representative of an entire industry and acceptable to the agency which deals with prices seem to come within the ruling made by the Attorney General in April, 1941. If there should be found anything in that ruling, or in the anti-trust laws, preventing an industry from selecting a representative committee, acceptable as such to the agency administering prices, Congress should include in its legislation a specific correction of the law.

The Committee recommends that the federal agency administering price controls should always enter into prior consultation with a committee representative of the industry and selected by it.

Cost of Living

The cost of living should be stabilized through subjecting its necessary elements to price controls of the same kind, and in the same manner, as the prices we have been considering above. In order that the cost of living may have a definite meaning, it should be taken as the cost of living for wage earners and for persons receiving salaries in the lower range. Even for such persons there are considerable differences, according to place of residence and area. On the basis of data collected widely and regularly, index numbers, however, show the general level of the cost of living, and for its main components. For months that are especially pertinent, and a month in 1917 for purposes of comparison, these index numbers, with averages for 1926 as 100, have been:

	June, 1939	January, 1941	August, 1941	December, 1917
Food	68.1	71.2	78.1	91.3
Clothing	83.1	83.5	87.8	85.6
Rent	69.2	69.7	70.5	61.2
Fuel, Electricity and Ice.....	83.2	86.0	88.0	65.5
House Furnishings	84.7	84.2	91.0	74.9
Miscellaneous	97.8	99.3	101.2	69.7
Index for All Items	78.0	79.7	83.8	77.4

In comparing some of the figures of 1917 with those of recent years it should be remembered that, for example, rentals of 1917 did not include all of the conveniences of 1941 (*Continued on page 14*)

that, otherwise, at least half the articles on which there are now controls will in the next few months break through their price ceilings. The position is accordingly taken that the task of preventing severe inflation can only be achieved if every price increase is forestalled until it can be shown to be necessary to promote defense production.

Other Measures

Taking the point of view that the danger is in general price distortion caused by the enormous defense expenditures in sight, the Chairman of the Board of Governors of the Reserve System has supported taxation as the most important instrument of government in preventing price inflation, by taking away excess purchasing power. He accordingly argues that the most direct way to attack the inflation problem is through heavy corporate income and excess-profits taxation, as the surplus funds will thus be reached "at their source" and before distribution. Individual income taxes, and high excise taxes on durable goods that compete for materials, also serve to reduce purchasing power, as well as savings which go into defense bonds. From this point of view, price controls are next in importance, followed by monetary and credit measures.

A Board for Administration

The Chamber's Committee recommends a board instead of an administrator to exercise powers granted in any price-control legislation. Supporters of H.R. 5479—S. 1810 advocate an administrator on the theory that the duties to be performed will often require speedier and more clear-cut action than can be expected from a board. They argue, too, that there should not be any doubt as to the person who is responsible for any action that is taken.

Controls for Wages

The Chamber's Committee advocates controls for wage levels as for prices. Advocates of H.R. 5479—S. 1810 contend that controls for wages should not be included in legislation for price controls. They point to other countries in all of which they find prices and wages are dealt with separately, and on different principles. Wages they appear to believe should be stabilized through voluntary agreements reached through collective bargaining.

In fact, in the course of about seven months the Labor Division of OPM has succeeded in bringing about agreements in shipbuilding yards, first on the Pacific Coast and successively in such yards on the Gulf Coast, the Atlantic Coast, and the Great Lakes, that there will be wage stabilization and no strikes for two years. There are intimations that agreements of a similar kind may be reached for areas.

In 1917-1918 prices and wages were treated separately. At the time of the Armistice plans for wage standardization were being considered, labor priorities were coming into operation, and control of occupations was in prospect.

The usual theory that rising costs of living lead to increases in wages does not seem to hold good today. According to available indices, average weekly earnings in manufacturing industries, reflecting both longer hours and higher wage rates, have risen much faster than the cost of living. Besides, in strikes and threatened strikes for increased wages the cost of living is seldom mentioned.

That these demands for higher wages are continuing appears in the data of the War Department that bring down to a recent date the man-hours lost in work on its defense contracts through strikes. In August, 504,000 man-days were lost, a figure that was exceeded only by the 522,000 for June and the 527,000 for May. For the first twenty-two days of September the figure was 266,000.

Termination of the Legislation

The provision in H.R. 5479—S. 1810 undertaking to keep the legislation in effect for one year after a proclamation by the President or a concurrent resolution of Congress is described by supporters of the bill as an effort to have the benefits of price controls during the transition to the post-defense period, and to avoid the consequences of the abrupt dropping of controls that followed soon after the Armistice of 1918. On the other hand, use of a definite date for termination, with need for new Congressional action for extension, is said to involve repetition of all the difficulties attendant upon enactment of any legislation for price controls, as well as the dangers of a period without controls between the expiration of legislation and its reenactment.

and that the weights given to such items as electricity and refrigeration in the two periods were different. Wage levels in the later years were also much higher than in 1917. For example, the union hourly rates in the building trades were in 1939 more than 245% of the average rates of 1917.

Wherever government intervention has disturbed, or is likely to disturb, prices entering into the cost of living, there should be corresponding offsets through price controls applied at the place where the intervention occurs. As one element of the cost of living, rent of real property, is within the jurisdiction of the states when emergency conditions affect rents with a public interest, the federal agency administering price controls can, after consultations corresponding to those with industry committees, make recommendations to state and local agencies, which will usually be already concerned with situations needing attention.

The Committee recommends that the necessary elements in the cost of living should be subjected to the same price controls, and under the same conditions, as have been recommended for industrial materials and products.

Wages

Because of the importance of wages in all costs of production and distribution, rapidly rising wages can be disruptive of any controls over prices for industrial products and any controls of the cost of living. Defense necessities that must be met should be no more an excuse for the government bidding higher and higher to obtain workers for its construction and for operation of its arsenals and plants than its following the same course in obtaining its supplies of defense articles, where such a course should not be, and is not, tolerated. There should, of course, be proper allowance for hardships and inconvenience often associated with defense work.

With the stabilization of industrial prices and the cost of living we are urging should go corre-

sponding stabilization of wages. In other words, the government has an obligation to the public to provide offsetting regulation for all disturbances it causes in wage levels. Wage levels should, like controlled prices, be at the point where they would stand if, with other present conditions as they are, the government's interventions and demands for defense had not occurred.

Increasing rates of turnover among employees by reason of shifts in employment induced by prospects of higher wages elsewhere are becoming so threatening to efficient production as to point to a growing need for wage stabilization. In the last 12 months, there has been a steady increase in the number of workers changing their employment, the rate now being more than three times the rate of a year ago.

The Committee consequently recommends that wage levels should be subjected to the same principles of control as prices.

As a corollary the government has a corresponding obligation to discontinue all of its activities that encourage increases in wage rates and to suspend for the emergency all of its limitations that prevent hours of work that are reasonable and will add to the production the country so greatly needs.

Limitation in Time

Any legislation of the kind we have discussed should have a specified limitation in time. It should expire at a stated date. If as that date approaches emergency conditions persist, Congress can extend the legislation to a later expiration date.

The Committee recommends that in any legislation for controls of prices and wages Congress should place definite time limitations, reserving to itself decision as to any extension.

DOMESTIC DISTRIBUTION DEPARTMENT COMMITTEE,

B. F. McLAIN, *Chairman.*

Appendix

H. R. 5479—S. 1810

Provisions of the Bill

Subjects of "Price" Orders

ORDERS may be issued respecting any commodity or material, whether or not related to defense, and any service in connection with processing, distribution, storage, installation, repair, or negotiation of purchases or sales, or in connection with any service establishment. An order may deal with margins, commissions, fees, or any other charges, or any allowances. The two express exemptions from orders,—compensation paid by an employer to any of his employees and rates charged by a common carrier or other public utility,—indicate that orders may be issued as to any of the other elements in the cost of production and distribution, and in prices. Any existing law respecting prices, such as the legislation regarding maximum prices for bituminous coal and the manner in which they are determined, could be superseded.

Services covered by the bill are undefined, and consequently the term can be construed as extending to credit obtained by distributors or extended by them to customers, insurance services, storage services, use of advertising, accounting services, brokerage services, and any other service except those received from regulated sources, such as common carriers and public utilities.

To subjects other than those expressly mentioned, other subjects may be added through exercise of power to issue regulations, including interpretative regulations, to which no limits are set.

Other Orders

The subjects of orders other than "price" orders suggest the extent to which regulation may be carried; for orders may be directed at—

- Any selling practice,
- Any marketing practice,
- Any inventory practice,
- Any change in form, or
- Any change in quality.

Still more general regulations and orders may be issued, too, if deemed proper to carry out any purposes or provisions of the bill, or to prevent circumvention or evasion.

Occasion for "Price" Orders

Whenever any price or charge for any thing or service covered by the bill threatens to rise in a manner inconsistent with any one of the stated purposes of the bill an order may be issued. Stated purposes include:

- Prevention of price or credit inflation,
- Prevention of unwarranted increases in prices and the cost of living,
- Prevention of economic disturbances,
- Prevention of labor disputes,
- Prevention of interference with long-time commitments for production,
- Maximum necessary production without undue profits to low-cost producers.

Direction of Price Orders

Orders respecting prices, charges, and services may be below the general market, at the general market, or above the general market. They may contain differentiations and classifications on any basis.

Standards

Prices that are fixed are to be maximum, being in the nature of "ceilings." In addition to effectuating any one of the stated purposes of the bill, they are to be generally fair and reasonable to buyers and sellers. Beyond these general objectives, there are no standards fixed by the bill, although to an extent left discretionary consideration is to be given to the

- Price prevailing on July 29, 1941,
- Speculative fluctuations,
- General increase or decrease in costs of production and transportation,
- General increase or decrease in profits earned by sellers in the year during and subsequent to the year ending July 29, 1941,
- Other factors deemed of general applicability to the commodity or service.

Notice may be taken of any economic or other facts.

Respecting agricultural commodities minimum standards are set, in that there is a prohibition

against a price ceiling for any such commodity being placed below 110% of its parity price, as published from time to time by the Secretary of Agriculture, or below the market price prevailing on July 29, 1941.

Each regulation or order is to be accompanied by a statement of the considerations involved in its issuance.

Government Buying and Selling

Reliance is not placed only in orders and regulations. There could be purchase and sale of any commodity in any market, including organized markets and, by virtue of the definition of "commodity," this could extend to buying and selling insurance, storage space, advertising, etc. There could be entry into any market and its dominance. This authority could also be used for subsidies, as in food distribution, through sale at lower prices than at the prevailing prices at which purchases were made. There could be pooling through purchases of the whole supply of an article, with payment to each producer according to his cost of production, whether low or high, and sale at the weighted average, with quantities rationed to users. There could also be duplication of the operations possible to such government corporations as the Metals Reserve Company of RFC, in buying the needed production of high-cost producers at a price over the stabilized price, with absorption of the difference at public expense.

Licensing

A license may be used as a condition of engaging in any transaction with respect to which an order or regulation has been issued. A license may not contain any provision that cannot be prescribed in an order, etc., under the terms of the bill, and no licenses may be required in connection with selling or distributing newspapers, magazines, books, or other printed or written material.

If there is violation of a license, warning is to be sent by registered mail. If there is subsequent violation, the license may be suspended or revoked after hearing on ten days' notice. Within 30 days thereafter, the licensee may file an appeal with the special court of appeals mentioned below, with jurisdiction, etc., much as in the case of a protest against an order or regulation.

New or Existing Agencies

Any of the authorities or discretions may be delegated to any present agency or officer, or any

new ones that may be appointed. Authorities may be distributed among agencies, bureaus, administrators, or officers, few or many, new or old.

Post-Emergency Period

All powers that can be found in the bill would continue throughout the emergency, however long, and would extend for a year beyond the termination of the emergency, in this post-emergency period being available for new, undefined, and unlimited purposes,—“to facilitate readjustment to normal conditions.”

Pre-Existing Contracts

An order could be issued under which it would be unlawful to sell or deliver a commodity according to the terms of an existing contract.

Confidential Information Obtainable

For use in considering orders and regulations, any person could be required to supply such information as is asked, appear to testify and produce documents, keep records, and make reports.

Any information so obtained may be kept confidential or published as the administrative agency may in its judgment decide as being in accordance with the interests of national defense and security.

Protests

Within 60 days any person subject to an order or regulation may file a protest, specifically setting forth objections, with supporting evidence in writing. After the expiration of 60 days, protest can be filed only on grounds arising thereafter. There is no provision for oral argument. Within 30 days there is to be a decision upon the protest.

Review

In the event a protest is denied, or partly denied, the protestant may appeal to a special court of appeal, composed of three or more federal judges designated by the Chief Justice of the United States from district courts and courts of appeal. The written record made upon the protest will be filed in this court, including a statement of materials of which official notice was taken. No objections not contained in the protest will be entertained, and any offer of new evidence that could not be presented in the protest, and is found material, is to be ordered submitted at the point of protest. The special court of appeal is to have exclusive jurisdiction to set aside, in whole or in

part, or remand. The court may set aside an order or regulation only as not in accordance with law, or arbitrary or capricious.

The effectiveness of a judgment setting aside an order or regulation is to be postponed for 30 days. Within this period either side may petition the Supreme Court for review. There will thus be further postponement until the Supreme Court takes action, in denying the petition or upon review of the case.

Prosecutions

Prosecutions for violations of orders and regulations are to be in the federal district courts. As the special court of appeal is given exclusive power to consider the validity of any order or regulation, there is a question if it is intended to prevent a defendant prosecuted for a violation from raising an issue as to validity of the order or regulation.

Injunctions

Application may be made to "the appropriate court" for an order enjoining violation of any order or regulation, or for enforcing compliance.

Civil Suits

Any person buying a commodity from a seller that violates a price order may bring suit, in federal or state courts, for \$50 or treble the excess in price, whichever is the greater amount, plus reasonable attorneys' fees and costs. If the buyer does not bring suit within six months, suit may within the next six months be brought on behalf of the United States. Any such suit will bar any subsequent suit based on the same transaction.

Exemptions

Any buyer bringing suit as above is to be excused from any liability on account of the transaction.

Any person who buys a commodity for use or consumption other than in the course of trade or business is not to be held to have violated any of the terms of the bill.

Nothing in the bill is to be construed as requiring any person to sell any commodity.

Quarterly Reports

Not less frequently than each 90 days a report on operations under the terms of the bill is to be sent to Congress.

Rents

For purposes of simplicity the above analysis has been confined to "commodities." The bill deals with rents in "defense-rental areas" in much the same manner as prices of commodities so far as rents were, subsequent to August 31, 1940, at a rate of \$15 a month or less and which, at the time action is taken, are at least 10% higher than the figure on August 31, 1940.

For the purpose of control of such rents, a defense-rental area may be designated within any state, and recommendations made for stabilization or reduction. If within 60 days the recommendations have not been put into effect by state or local regulation, a federal order or regulation is to be issued. In this procedure, recommendations of state and local officials concerned with housing or rental conditions are to be considered, so far as practicable.

H. R. 5479

In the House of Representatives

August 1, 1941

Mr. Steagall introduced the following bill; which was referred to the Committee on Banking and Currency

A BILL

To further the national defense and security by checking speculative and excessive price rises, price dislocations, and inflationary tendencies, and for other purposes.

TITLE I—GENERAL PROVISIONS AND AUTHORITY

Purposes: Time Limit

SECTION 1. (a) It is hereby declared that it is in the interest of the national defense and security and the purposes of this Act are (1) to preserve the value of the national currency against the consequences of price and credit inflation; (2) to stabilize prices and to prevent speculative, unwarranted, and abnormal increases in prices and rents; (3) to prevent economic disturbances, labor disputes, burdens upon interstate and foreign commerce, interference with the effective use of the Nation's resources for defense, and impairment of national unity and morale, which would result from unwarranted increases in prices, rents, and the cost of living; (4) to eliminate and prevent profiteering, hoarding, manipulation, speculation, and other disruptive practices resulting from abnormal market conditions or scarcities caused by or contributing to the national emergency; (5) to prevent prospects of price rises from encouraging the accumulation and withholding of materials needed for national defense, and from impeding long-term commitments for production; (6) to assure that defense appropriations are not dissipated by excessive prices; (7) to obtain the maximum necessary production without undue profits to low-cost producers; (8) to protect persons with relatively fixed and limited incomes, investors, and persons dependent on life insurance, annuities, and pensions, from undue impairment of their standard of living; (9) to prevent a post-emergency collapse of values, and the reappearance of price and cost disparities for farmers and other primary producers; and (10) to provide procedures for administration and review which will fairly protect the interests of those subject to this Act, without endangering the dominant public interest in the accomplishment of the foregoing purposes.

(b) The provisions of this Act, and all regulations, orders, and requirements thereunder, shall terminate upon the expiration of one year from the date of a declaration by the President, or the Congress by concurrent resolution, that the further continuance of the authority granted by this Act is not necessary in the interest of the national

defense and security; except that as to offenses committed, or rights or liabilities incurred, prior to the expiration of one year from the date of such declaration, the provisions of this Act and such regulations, orders and requirements, shall be treated as still remaining in force for the purpose of sustaining any proper suit, action, or prosecution with respect to any such right, liability, or offense. During such one-year period the authority granted by this Act to the President shall be exercised in such manner as to facilitate readjustment to normal conditions.

Prices, Rents, and Market Practices

SECTION 2. (a) Whenever in the judgment of the President the price or prices of a commodity or commodities have risen or threaten to rise to an extent or in a manner inconsistent with the purposes of this Act, he shall by regulation or order establish such ceiling or ceilings as in his judgment will be generally fair and equitable to buyers and sellers of such commodity or commodities and will effectuate the purposes of this Act. So far as practicable, in establishing any ceiling for any specified commodity, the President shall ascertain and give due consideration to the prices prevailing for the commodity on or about July 29, 1941, and shall make adjustments for such relevant factors as he may determine and deem to be of general applicability in respect of the commodity, including the following: Speculative fluctuations, general increases or decreases in costs of production and transportation, and general increases or decreases in profits earned by sellers of the commodity, during and subsequent to the year ending July 29, 1941. Every regulation or order establishing any ceiling under this subsection shall be accompanied by a statement of the considerations involved in the issuance of such regulation or order.

(b) Whenever in the judgment of the President such action is necessary or proper in order to effectuate the purposes of this Act, he shall issue declaration designating defense-rental areas and defense-area housing accommodations, and setting forth the necessity for, and recommendations with reference to, the stabilization or reduction of rents for defense-area housing accommodations within

each area so designated. If within sixty days after the issuance of any such recommendations rents for any such accommodations have not in the judgment of the President been stabilized or reduced by State or local regulation, or otherwise, in accordance with the recommendations, the President shall by regulation or order establish such ceiling or ceilings for such accommodations as in his judgment will effectuate the purposes of this Act. In designating defense-rental areas or defense-area housing accommodations, in prescribing ceilings for such accommodations, and in selecting persons to administer such ceilings, the President shall, to such extent as he determines to be practicable, consider any recommendations which may be made by State and local officials concerned with housing or rental conditions in any defense-rental area.

(c) Any ceiling or ceilings may be established in such form and manner, may contain such classifications and differentiations, and may provide for such adjustments, as in the judgment of the President are necessary or proper in order to effectuate the purposes of this Act. The President may establish a ceiling or ceilings below the general market prices for the commodity or commodities, or below the rent or rents, as the case may be, in effect at the time of the establishment of such ceiling or ceilings.

(d) Whenever in the judgment of the President such action is necessary or proper in order to effectuate the purpose of this Act, he may, by regulation or order, regulate or prohibit, with respect to any commodity, speculative or manipulative practices, selling, marketing, or inventory practices (including practices relating to changes in form or quality), hoarding or other practices, which in his judgment are equivalent to or are likely to result in price increases inconsistent with the purposes of this Act.

(e) Whenever in the judgment of the President such action is necessary or proper in order to effectuate the purposes of this Act, he may, on behalf of the United States, without regard to any provision of law requiring competitive bidding, buy, store, or use, or sell at public or private sale, any commodity, upon such terms as he shall deem necessary to obtain the maximum necessary production of marginal or high-cost producers, or to prevent price increases inconsistent with the purposes of this Act. The proceeds of any sale under this subsection shall be used as a revolving fund for carrying out the provisions of this subsection.

(f) No power conferred by this section shall be construed to authorize any action contrary to the provisions and purposes of section 3.

Agricultural Commodities

SECTION 3. (a) No ceiling shall be established for any agricultural commodity below (1) 110 per centum of the parity price or comparable price for such commodity, as determined and published by the Secretary of Agriculture, or (2) the market price prevailing for such commodity on July 29, 1941.

(b) For the purposes of this Act, parity prices for agricultural commodities shall be determined and published by the Secretary of Agriculture as authorized by law.

(c) The provisions of section 2 of this Act shall not be construed to authorize any action contrary to the provision and purposes of this section.

Prohibitions

SECTION 4. (a) It shall be unlawful, regardless of any agreement, lease, or other obligation heretofore or hereafter entered into, for any person to sell or deliver any commodity, to demand or receive any rent, or otherwise to do or omit to do any act, in violation of any regulation, order, or other requirement, under this Act, or to offer or agree to do any of the foregoing: Provided, that nothing in this Act shall be construed to require any person to sell any commodity or to offer any accommodations for rent.

(b) It shall be unlawful for any officer or employee of the Government to disclose, otherwise than in the course of official duty, any information obtained under this Act, or to use any such information for personal benefit.

TITLE II—ADMINISTRATION AND ENFORCEMENT

Administration: Personnel

SECTION 201. (a) The President may, from time to time, issue such regulations and orders as he may deem necessary or proper in order to carry out the purposes and provisions of this Act, and to prevent the circumvention or evasion thereof.

(b) Wherever reference is made in this Act to the President, such reference shall include, in addition to the President, any department, agency, officer, or employee, designated or appointed by the President for the execution of any power, authority, or discretion vested in the President by this Act. Industrial, price, and other experts appointed under this Act may be appointed without regard to the civil-service laws.

Obtaining Information

SECTION 202. (a) The President may make such studies and investigations, and obtain or require the furnishing of such information under oath or affirmation or otherwise, as he deems necessary or proper to assist him in prescribing any regulation or order under this Act, and in the administration and enforcement of this Act, and regulations and orders thereunder. For such purposes the President may administer oaths and affirmations, may require by subpoena or otherwise the attendance and testimony of witnesses and the production of documents at any designated place, may require persons to permit the inspection and copying of documents, and the inspection of inventories, and may, by regulation or order, require the making and keeping of records and other documents and the making of reports. No person shall be excused from complying with any requirement under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (U. S. C., 1934 edition, title 49, sec. 46), shall apply with respect to any individual who specifically claims such privilege.

(b) The President shall not publish or disclose any information obtained under this Act that he deems confidential unless he determines that the withholding thereof is contrary to the interest of the national defense and security.

Procedure

SECTION 203. (a) Regulations or orders establishing any ceiling or ceilings may be issued after such inquiry as the President deems necessary or proper. Within a period of sixty days after the issuance of any such regulation or order any person subject to the provisions thereof may, in accordance with regulations to be prescribed by the President, file a protest specifically setting forth objections to such regulation or order and affidavits or other written evidence in support of such objections. At any time after the expiration of such sixty days any person subject to the provisions of such regulation or order may file such a protest based solely on grounds arising after the expiration of such sixty days. Statements in support of any such regulation or order may be received and incorporated in the transcript of the proceedings at such times and in accordance with such regulations as may be prescribed by the President. Within a reasonable time after the filing of any protest under this subsection, but in no event more than thirty days after such filing or ninety days after the issuance of the regulation or order in respect of which the protest is filed, whichever occurs later, the President shall either grant or deny such protest in whole or in part, notice such protest for hearing, or provide an opportunity to present further evidence in connection therewith.

(b) In any proceedings under this Act the President may take official notice of economic and other facts, including facts found by him as a result of action taken under section 202, and may limit such proceedings to the filing of affidavits or other written evidence, or the filing of briefs.

Review

SECTION 204. (a) Any protestant who is aggrieved by the denial or partial denial of his protest, may, within thirty days after such denial, file a complaint with the emergency court of appeals, created pursuant to subsection (c), praying that the regulation or order protested be set aside in whole or in part. A copy of such complaint shall forthwith be served on the President who shall certify and file with such court a transcript of the proceedings in connection with the protest which shall include a statement of the materials of which the President has taken official notice. Upon the filing of such transcript the court shall have exclusive jurisdiction to affirm or set aside such regulation or order, in whole or in part, or to remand the proceeding: Provided, that the regulation or order may be modified or rescinded by the President at any time notwithstanding the pendency of such complaint. No objection to any regulation or order, and no evidence in support of any objection thereto, shall be considered by the court, unless such objection shall have been set forth by complainant in the protest or such evidence shall be contained in the transcript. If application

is made to the court by either party for leave to introduce additional evidence which was either offered to the President and not admitted, or which could not reasonably have been offered to the President, and the court determines that such evidence is material, the court shall order the evidence to be presented to the President. The President shall promptly receive the same, and such other evidence as he deems necessary or proper, and thereupon he shall certify and file with the court a transcript thereof, and any modification made in the regulation or order as a result thereof, except that on request by the President, any such additional evidence may be presented directly to the court.

(b) No such regulation or order shall be set aside, in whole or in part, unless the complainant establishes to the satisfaction of the court that the regulation or order is not in accordance with law, or is arbitrary or capricious. The effectiveness of a judgment of the court setting aside in whole or in part any such regulation or order shall be postponed until the expiration of thirty days from the entry thereof, except that if a petition for a writ of certiorari is filed with the Supreme Court under subsection (d) within such thirty days, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the case by the Supreme Court.

(c) There is hereby created a court of the United States to be known as the Emergency Court of Appeals, which shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of United States district courts and courts of appeals. The Chief Justice of the United States shall designate one of such judges as chief judge of the Emergency Court of Appeals, and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court. The court shall have the powers of a district court with respect to the jurisdiction conferred on it by this Act, except that it shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases of which it has jurisdiction under this Act. The court shall have a seal, hold sessions at such places as it may specify, and appoint a clerk and such other employees as it deems necessary or proper.

(d) Within thirty days after entry of a judgment, interlocutory or final, by the Emergency Court of Appeals, including a judgment under section 205 (c) (2), a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment shall be subject to review by the Supreme Court in the same manner as a judgment of a circuit court of appeals as provided in section 240 of the Judicial Code, as amended (U. S. C., 1934 edition, title 28, sec. 347). The Supreme Court shall expedite the disposition of all causes filed therein pursuant to this subsection. The Emergency Court of Appeals, and the Supreme Court upon review of judg-

ments of the Emergency Court of Appeals, shall have exclusive jurisdiction to determine the validity of any ceiling regulation or order, and of the provisions of this Act authorizing such regulation or order. Except as provided in this section, no court, Federal, State, or Territorial, shall have power to consider such validity, or to stay, restrain, enjoin, or set aside, in whole or in part, any such provision of this Act, or any provision of any such regulation or order.

Enforcement

SECTION 205. (a) Whenever in the judgment of the President any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of this Act, or of any regulation, order, or requirement thereunder, he may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with this Act or such regulation, order, or requirement, and upon a proper showing a permanent or temporary injunction, restraining order, or other order shall be granted without bond.

(b) If any person selling a commodity violates a regulation or order prescribing a ceiling or ceilings, the person who is the buyer of the commodity may either bring suit to rescind the sale, or bring an action for \$50 or treble the amount by which the consideration exceeded the applicable ceiling, whichever is the greater, plus reasonable attorneys' fees and costs as determined by the court. No person who in good faith brings suit or action under this subsection within six months after delivery is completed shall be subject to punishment, with respect to the transaction constituting the basis of such suit or action, and no person who buys a commodity for use or consumption other than in the course of trade or business shall be subject to punishment, for conspiracy to violate, or for aiding and abetting a violation of, any provision of this Act or any regulation or order thereunder. If the buyer fails to bring such suit or action in good faith within six months after delivery is completed, the President may, within the succeeding six months, bring such action under this subsection on behalf of the United States. Institution of such action by the President within such succeeding six months or institution by the buyer of a suit or action in good faith, shall bar subsequent institution of any suit or action with respect to the same transaction. Any suit or action under this subsection may be brought in any court of competent jurisdiction, and shall be instituted within one year after delivery is completed. For the purposes of this subsection and subsection (c) the payment or receipt of rent shall be deemed the buying or selling of a commodity as the case may be.

(c) (1) Whenever in the judgment of the President such action is necessary or proper in order to carry out the provisions and purposes of this Act, he may by regulation or order issue or require a license as a condition of engaging in any transaction with respect to which a regulation or order may be issued under this Act. No such license shall contain any provision which could not be prescribed by regulation, order, or requirement under

this Act: Provided, that no such license may be required as a condition of selling or distributing newspapers, periodicals, books, or other printed or written material.

(2) Whenever in the judgment of the President a person has violated any of the provisions of a license issued under this subsection a warning notice shall be sent by registered mail to such person. If the President finds, after opportunity for hearing upon at least ten days' notice, that warning notice has been sent and that a violation of any of the provisions of a license has occurred subsequent to the receipt of such warning notice, he may by order suspend or revoke such person's license. Such suspension or revocation shall not confer any immunity from the other provisions of this section. Within thirty days after issuance of such order of suspension or revocation the licensee may file a petition to review such action in the Emergency Court. Thereupon the President shall certify and file with such court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript the court shall have exclusive jurisdiction to affirm or set aside, in whole or in part, the suspension or revocation of the license, or to remand the proceeding: Provided, that the President may modify or rescind the requirement of the license or the suspension or revocation at any time notwithstanding the pendency of the petition to review. The court may, upon good cause shown, stay the effectiveness of the suspension or revocation. The revocation or suspension shall be affirmed if the finding of violation after receipt of warning notice is supported by substantial evidence in the record.

(d) Any person who willfully violates any provision of this Act or any regulation, order, or requirement thereunder, and any person who willfully falsifies in any material respect a document or report required to be kept or filed thereunder, shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned for not more than one year, or both. Whenever the President has reason to believe that any person is liable to punishment under this subsection, he may certify the facts to the Attorney General, who may, in his discretion, cause appropriate proceedings to be brought.

(e) The district courts shall have jurisdiction of violations of this Act and of regulations, orders, or requirements thereunder, and concurrently with State and Territorial courts, of all civil proceedings to enforce any liability or duty created by, or to enjoin any violation of, this Act or any regulation, order, or requirement thereunder. Such civil proceedings and any criminal proceedings may be brought in any district in which any act or transaction constituting the violation occurred. Any such civil proceedings may also be brought in the district in which the defendant resides or transacts business, and process in such cases may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found. No costs shall be assessed against the United States Government in any proceeding under this Act.

(f) No person shall be held liable for damages or penalties in any Federal, State, or territorial court, on any grounds for or in respect of anything done or omitted

to be done in good faith pursuant to any provision of this Act or any regulation, order, or requirement thereunder, notwithstanding that subsequently such provision, regulation, order, or requirement may be modified, rescinded, or determined to be invalid. The President may intervene in any suit or action wherein a party relies for ground of relief or defense upon this Act or any regulation, order, or requirement thereunder.

TITLE III—MISCELLANEOUS

Quarterly Report

SECTION 301. The President from time to time, but not less frequently than once every ninety days, shall transmit to the Congress a report of operations under this Act. If the Senate or the House of Representatives is not in session, such reports shall be transmitted to the Secretary of the Senate, or the Clerk of the House of Representatives, as the case may be.

Definitions

SECTION 302. As used in this Act—

(a) The term "sale" includes sales, dispositions, exchanges, leases, and other transfers, and contracts and offers to do any of the foregoing. The terms "sell," "selling," "seller," "buy," and "buyer," shall be construed accordingly.

(b) The term "price" means the consideration demanded or received in connection with the sale of a commodity.

(c) The term "commodity," in addition to commodities, articles, products, and materials, includes services rendered in connection with the processing, distribution, storage, installation, repair, or negotiation of purchases or sales, or a commodity, or in connection with the operation of any service establishment: Provided, that nothing in this Act shall be construed to authorize the regulation of (1) compensation paid by an employer to any of his employees, or (2) rates charged by any common carrier or other public utility.

(d) The term "defense-rental area" means any area designated by the President as an area where defense activities have resulted or threaten to result in a shortage of rental housing accommodations.

(e) The term "defense-area housing accommodations" means housing accommodations within any defense-rental area which are designated by the President, and (1) which were, subsequent to August 31, 1940, rented or offered for rent at a rate of \$15 per room per month, or less, and which at the time of such designation are being rented or offered for rent at a rate of 10 per centum or more, in excess thereof; or (2) which are comparable in rental value to any accommodations referred to in clause (1).

(f) The term "person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing: Provided, that no punishment by fine or imprisonment provided by this Act shall apply to the United States, or to any such government, political subdivision, or agency.

(g) The term "ceiling," as applied to prices of commodities means the maximum consideration which may be demanded or received for such commodities, and as applied to rents, means the maximum consideration which may be demanded or received for the use of defense-area housing accommodations. Ceilings may be formulated in terms of prices, rents, margins, commissions, fees, or other charges, or allowances.

(h) The term "documents" includes records, books, accounts, correspondence, memoranda, and other documents, and drafts and copies of any of the foregoing.

(i) The term "district court" means any district court of the United States, and the United States Court for any Territory.

Separability

SECTION 303. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

Short Title

SECTION 304. This Act may be cited as the "Emergency Price Control Act of 1941."

ing 25 members or less is entitled to one delegate and for each 200 additional members in excess of 25 one additional delegate, but no organization is entitled to more than ten delegates.] No vote shall be valid unless received by the Secretary within 45 days of the date of the mailing of the pamphlet. In connection with its vote each organization member may file such explanation, comment, or opinion as it may desire.

In forwarding the pamphlet it shall be the duty of the Secretary to advise each organization member of the date on which the right to register votes expires.

SECTION 9. If before the expiration of 45 days from the date the pamphlet was sent out votes representing more than two-thirds of the voting strength of the organization membership are registered in favor of the propositions submitted or any of them, the Secretary shall immediately certify that fact to the Board of Directors. Thereupon, the propositions so approved shall be recorded as having been adopted by the Chamber and it shall be the duty of the Board of Directors to take such steps as may be necessary to make effective the action taken.

If at the expiration of 45 days one-third of the voting strength of the Chamber has been recorded and two-thirds of the vote thus cast representing at least twenty (20) states is in favor of the propositions submitted or any of them, the Secretary shall so certify to the Board of Directors. Thereupon the proposition so approved shall be recorded as having been adopted by the Chamber and it shall be the duty of the Board to make effective the action taken.

SECTION 10. On a question submitted to referendum no organization member found to have voted with the minority shall be deemed to impair its standing in this Chamber by adhering to its position or by continuing its efforts in support thereof.

SECTION 11. Upon approval by the Council or Board of Directors a member may be permitted by petition to place upon the program

for consideration at the annual meeting a question which has not been submitted in advance by mail as hereinbefore provided for, but such a question shall not be considered if one-third of the delegates present object thereto, and its submission by mail as hereinbefore provided for shall be ordered on the recording of a two-thirds vote in favor of that method of procedure.

SECTION 12. ACTION AT MEETING.

(a) On all questions before a meeting of this Chamber on which a vote is taken viva voce, or by division, each duly accredited delegate from an organization member shall be entitled to one vote in person. A yea and nay vote may be ordered on any question upon demand of one-fourth of the delegates present officially representing such organization members and on such ballot only the votes of said members shall be counted. On all yea and nay votes each organization member shall be entitled to as many votes as there are delegates present representing said member, subject to the provisions of Article VI, Section 3. All yea and nay votes shall be fully recorded and published in the proceedings. An affirmative vote of two-thirds shall be necessary to carry the approval of the Chamber of Commerce of the United States of America upon any proposition or resolution which may appear upon the official program or be added thereto as provided for by these By-Laws: *Provided*, That such a vote shall be void and of no effect unless the attendance registered at the meeting shall represent one-third of the voting strength of the Chamber from at least twenty (20) states.

(b) The list of questions to be considered at each annual meeting shall be mailed to each member at least 30 days in advance of such meeting.

(c) No question shall be received from an organization member for submission to the Chamber at the annual meeting within 40 days of the date of said annual meeting, except in case of emergency and unless by a two-thirds vote of the Board of Directors.

October 25, 1941.

Mr. Albert W. Hawkes, President,
Chamber of Commerce of the United States,
Washington, D. C.

My dear Mr. Hawkes:

This is to thank you for your letter of October 15 enclosing a copy of the referendum which the Chamber of Commerce is sending to its constituent organizations in connection with the pending price control legislation. I was interested to have a copy of your referendum and appreciate your courtesy in sending it to me.

It seems to me that there will be no difficulty in forecasting the unfavorable reaction that such a referendum will almost certainly elicit, since it is cast in a way to bring out opposition to the pending measure, which I supported in my testimony before the Banking and Currency Committee of the House. Similarly, I do not agree that price control legislation should be administered by a board of five, and would infinitely prefer to place the responsibility in one administrator, giving him considerable discretionary latitude, rather than attempting to fix too rigidly the scope and terms of his authority. To include within this authority power to fix wages, however, seems to me to be totally unrealistic and impractical.

I cannot help but feel that an impartial referendum would in the end add to the Chamber's prestige.

Sincerely yours,

M. S. Eccles,
Chairman.

ET:b