

A PREFACE TO PRICE CONTROL

LEON HENDERSON*

To be quite frank I am no longer worried too much about the economics or the law of price control. I am satisfied that, as a matter of economic analysis, we understand the job to be done. I am also confident that the legal framework under which we operate protects the Constitutional rights of the American citizen. I have read some of the manuscripts which have been prepared for this symposium. They reflect, in part at least, the care with which the problems of law and economics have been considered. I know this to be true, in a far more intimate way, from my working association with the economists and lawyers of the Office of Price Administration.

Inevitably, as a result of the effort to meet first things first, there are other aspects of our assignment about which the same cannot be said. One such—which I do not intend to discuss—is the vast and intricate administrative task which price control involves. Here the contour lines are not so well drawn. Nor have we fully charted that equally important area which has to do with gaining understanding and acceptance of price control by businessmen and the general public.

This latter problem is particularly acute because price restrictions will be a new, widespread and painful experience. Such economic control is not a familiar function of government in the United States and many a real or fancied victim in his personal anguish will be tempted to forget the national necessity from which it arises. I need not argue with the readers of this volume the necessity for price regulation to the effective prosecution of the war and the protection of the civilian population. The public, too, understands this and is broadly sympathetic. But tolerance when the restraint strikes home is sometimes another matter. When prices are fixed, if they are fixed effectively, some individuals or groups lose the full return which they might otherwise have extracted. There is no ducking this fact.

Therefore, while price control now enjoys an amorphous general approval, our real problem is to crystallize public recognition of its necessity and to solidify support for its objectives. Much still remains to be done along these lines. Personally I have

* A.B., 1920, Swarthmore College; post-graduate study in economics, 1920-1922, University of Pennsylvania. Administrator, Office of Price Administration; member, War Production Board; Director of the Division of Civilian Supply, War Production Board. Enlisted as private and rose to captaincy, Ordnance Corps, United States Army, 1917-1919; Director, Consumer Credit Research, Russell Sage Foundation, 1925-1934; Director, Research and Planning Division, and later member of Board, National Recovery Administration, 1934-1935; Executive Secretary, Temporary National Economic Committee, 1938-1939; Commissioner, Securities and Exchange Commission, 1939-1940; Commissioner, in charge of Price Stabilization Division, National Defense Advisory Commission, 1940-1941; Administrator, Office of Price Administration and Civilian Supply, April, 1941-August, 1941.

little sympathy for high pressure information or propaganda campaign partly because I wouldn't know how to run one and partly because the American people have a healthy suspicion of too grandiose efforts to enlighten them. A stable public opinion cannot be built on ballyhoo. The price control agency does, however, have a responsibility to the public as well as to itself to explain its efforts in protecting against the disastrous consequences of inflation and more particularly the part it is playing to further our common and paramount objective—winning the war. I am afraid that under the stress of more immediate problems, we have sometimes neglected this part of our job. Perhaps we shall do better in the future.

Some may ask why acceptance and understanding by those whose prices are being controlled is necessary. The Congress has declared that inflationary prices are contrary to the public interest. The Congress has spoken, why then try to convince anyone that he ought cheerfully to accept that fact? Regulation is, after all, the child of necessity. Let there be grumbling and complaining—the public interest is being served. Thus the argument might run.

I do not hesitate to say that any such approach would destroy our principal objective. Price control does not bring the force of law to bear upon some particular excrescence of private business like corporate buccaneering with holding companies or the mishandling of investors' funds. Rather it is aimed against the very normal practice of pricing goods for the greatest gain, a sound, honest and legitimate business policy in our erstwhile peacetime economy. A law which in effect makes ordinary business policy contrary to the public interest cannot be successfully administered unless its necessity is accepted by those whom it affects.

Naturally, I do not believe that it is ever possible to have the complete and wholehearted support of an industry for a truly effective price regulation. War or no war, there are always some who will resist any move to reduce their prices or curb their profits, and some who will feel very strongly about it. I am always a little doubtful, therefore, when told that one of our price regulations has the wholehearted support of the entire industry. Human nature being what it is, I have the uneasy feeling that the ceiling must be too generous.

But with the exception of those who may be termed the unconscientious objectors, the Price Administrator must strive for business acceptance of his regulations. By acceptance I do not mean a positive preference for restraint as compared with no restraint but I do mean recognition of the basic fairness and necessity for the regulations. The average American will question the necessity for restraint, particularly if it touches his traditional rights or his pocketbook, more carefully than the citizens of most other nations. But once convinced that the restraints are necessary and fair, he can be counted on for thorough cooperation.

You will note that I have referred to both necessity and fairness. The former results from forces outside the control of the price agency. But the latter is our sole responsibility.

The elements of fairness, as I see them, require that all our regulations conform

to a well-defined over-all policy, and that the administration of these regulations be such that no one is justified in feeling he has been discriminated against. I am not particularly perturbed that some people desiring to be excepted from a general restriction may be annoyed at their failure to obtain special treatment. But no degree of vigilance against the converse situation can be too great.

To date I feel that we have been reasonably successful in obtaining understanding and acceptance from those whose prices have been fixed. This may be because we have been in that easy stage in which business profits have been large enough to heal many wounds. I hope that we may be as successful in the more difficult days ahead for, unless we are, there is little chance that price control itself will succeed.