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The Administration of Rent Rationing and Price Control Legislation

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THE ADMINISTRATION OF RENT, RATIONING AND PRICE CONTROL LEGISLATION

[A SYMPOSIUM CONDUCTED BY LUKE WHITE, ROBERT ORBISON, AND HUGH J. BAKER JR. AT THE MID-WINTER MEETING OF THE ASSOCIATION.]

MR. WHITE: Governor Bricker in his very excellent speech spoke of the growth of administrative law. I suppose there is no branch of administrative government now which has so impressed itself upon the life of every individual in the country as the Office of Price Administration through its rent control, its rationing and its price control program.

It is one administrative agency which I think has a timely interest but I trust a fleeting interest. It is one agency —I might say this—that seems fore-doomed to an untimely end as soon as the war is over. I cannot conceive of this program being continued after the war necessity has passed.

I might say a word of the organization of Price Administration and of the Indiana Division of that office.

The Office of Price Administration has three main divisions: the rent control, the rationing, and the price control. In addition to that in the legal division we have an enforcement section.

The National Office, of course, is at Washington. There is a regional office at Cleveland which has jurisdiction over the State of Indiana except Lake County which is under the jurisdiction of the Chicago Regional office.

There are two district offices in Indiana, one here at Indianapolis and one at South Bend, which has jurisdiction over some fifteen northern counties.

We have today two speakers who are discussing two phases of this program, Mr. Orbison, who will discuss the rent control program, and Mr. Baker, who will discuss the rationing program.

FEDERAL RENT CONTROL

Inevitably in a program of this type, many people expect the impossible. They assume, erroneously, of course, that Area Rent Directors are clothed with full authority to legislate and remedy what they regard as unjust and unfair situations. This is not by any means true as anyone

who examines the regulations carefully will know. The limitations on the right to raise and lower rents are specifically set out, and there is no general power in the Area Rent Director to raise rents whenever he feels the situation warrants it.

The Emergency Price Control Act of 1942 is on the statute books, and the various regulations applicable to rent control have been issued by the Administrator in conformance with the provisions of that Act. The job confronting the various Area Rent offices is the administration of the law as it is, and my particular job today is to point out to you in brief a few points concerning the rent regulations that may help you to better understand them.

SCOPE OF RENT CONTROL

Under the Emergency Price Control Act of 1942, the Office of Price Administration through its Administrator was given authority to regulate rents in defense-rental areas for all housing accommodations in and wherever people live and pay rent whether in houses, apartments, flats, tenements, rooms, hotels, fraternity houses, boarding houses, auto camps, or trailers—it applies to government housing projects, to newly constructed houses, to buildings which are used partially for business and partially for dwellings and extends to services that a landlord may provide—such as furniture, hot water, laundry facilities, janitor services, etc.

Authority is given to regulate and require maintenance of services as an essential part of the control of rents. It extends to houses and housing accommodations under lease and regardless of the terms of such lease and regardless of the time when the lease or contract was signed, rents may not exceed the amount allowed under the regulations. In other words the landlord and tenant may not enter into an agreement whereby the tenant agrees to pay more rent than is permitted by the regulations.

There are certain exceptions, including housing accommodations situated on a farm occupied by a tenant who is engaged for a substantial portion of his time in farming operations; dwelling space occupied by janitors, domestic servants, managers, and caretakers engaged in work on the premises of which the housing accommodations are a part.

SETTING MAXIMUM RENTS BY DATES

In fixing the rent ceiling the Government does not attempt the colossal task of inspecting the living quarters of each of America's sixteen million rent paying families and setting a maximum rent for each place. Instead the Price Administrator selects "a maximum rent date" for rent control areas and directs that as a general principle rents must not exceed the rents in effect on that date.

The maximum rent date in any one particular area is chosen to reflect rental conditions before "defense activities shall have resulted or threaten to result in increases in rent." In selecting this date the Administrator is charged under the statute with ascertaining and giving due consideration to the rents prevailing for housing accommodations within each such defense-rental area and to make "adjustments for such relevant factors as he has determined and deemed to be of general applicability in respect of such housing accommodations in such area, including increases or decreases in property taxes and other costs."

The Administrator has used five maximum rent dates or freeze dates, as I will refer to them in this discussion, viz: January 1, April 1, July 1, October 1, 1941, and March 1, 1942. For example, the date in the Columbus area is March 1, 1942; in the Indianapolis area, July 1, 1941; in the LaPorte and Michigan City area April 1, 1941. Prior to the time the Administrator sets the maximum rent date in a particular area, a sixty day notice is given by the Office of Price Administration for a particular area to bring rents down to levels prevailing on the selected maximum rent date. If the local area has not done this by the time the sixty day period expires then Federal rent control may be established. In this connection it is well to remember that during the sixty day period rent control is not in effect insofar as lowering the rents in that area is concerned. It is a matter of voluntary lowering and nothing more. However, after the sixty day period and after the Administrator has issued a regulation for any particular area, the maximum rent date and other provisions of the regulations are in full force and effect.

Thus the landlord must reduce his rent to the freeze date level, the property must be registered, the restrictions on removal of tenants from housing accommodations must

be followed, and in general any raises in rent made thereafter must only be made after petitioning the Area Rent Director for that area and receiving an order permitting such raise.

ADJUSTMENTS IN MAXIMUM RENTS

To provide some flexibility in rent control, the regulations set up machinery for adjustment of maximum rents where conditions have changed since the maximum rent date. The grounds on which the Area Rent Director may raise or lower the maximum rent are limited. Chiefly they cover substantial alterations in the housing accommodations, substantial alterations in the services or furnishings, lease in effect on freeze date, and cases where a personal or special relationship existed between the landlord and tenant on freeze date as a result of which the rent on the housing accommodations in question was substantially lower than comparable accommodations on freeze date by reason of such relationship. For example:

1. On freeze date the landlord charged $35.00 per month for a four room cottage; shortly afterwards he built a bedroom and bath in the unfinished attic. The Rent Director is authorized, under the regulations, to approve a higher rent due to a substantial change "by a major capital improvement" as distinguished from the ordinary repair, replacement or maintenance.

A major capital improvement may be a structural addition (such as construction of an additional room or new porch or installation of plumbing, heating or electricity where such facilities did not previously exist); a complete rehabilitation program (a general modernization and reconstruction such as would make the property more attractive and in a different rental range); or structural betterment (modernization of existing bathroom, the installation of a modern heating plant replacing an antiquated system, etc.).

2. On the other hand where a landlord simply painted the kitchen and papered the living room that would not constitute a major capital improvement but would be ordinary repair and maintenance.

Not only may the Area Rent Director on proper petition permit an adjustment in rents as above indicated but he may lower rents within the limitations of the regulations. So

if the landlord has always furnished repairs and upkeep and after the effective date of the regulations he is unable or unwilling to make such repairs and as a result the property has deteriorated substantially since the freeze date the Rent Director may reduce the maximum rent. Also where there has been a decrease in the maximum services, furniture, furnishings or equipment provided on freeze date or where the rent on freeze date was materially affected by the blood, personal or other special relationship between the landlord and tenant and as a result was substantially higher than the rent generally prevailing in the defense-rental area for comparable housing accommodations on freeze date, etc., the Area Rent Director may lower the rent in such cases.

SERVICES

All services provided by the landlord are controlled by Federal rent regulations. A substantial reduction in services calls for a comparable reduction in rent. Services include repairs, decoration and maintenance, and the furnishing of light, heat, water and any other privileges connected with the use or occupancy of the housing accommodations. The maximum Rent Regulations require a landlord to provide services which are not substatnially less than those he was providing on the maximum rent date.

For example:

1. If a garage was included in the rental of a particular dwelling on freeze date then the landlord cannot later make a charge for it.

2. If the fuel oil rationing makes it impossible for a landlord to provide the same amount of heat and hot water as he was giving on freeze date, the maximum amount of heat and hot water which the landlord can supply under the rationing order will be considered compliance with the maximum service requirement.

3. If the war makes it impossible for a landlord to replace the equipment or maintain certain services, within ten days after the decrease in such services the landlord must petition the Area Rent office for approval of such a decrease and the order by the Area Rent Director granting approval may or may not specify a decrease in rent.

4. After a landlord had rented an apartment furnished to a tenant and later upon renting to a new tenant does

not want to rent the apartment with furniture, he must notify the Area Rent office of the change within 10 days of renting to the new tenant. The rent for the changed accommodations will then be decreased by the Area Rent Director.

LEASES

Two clauses in the ordinary lease are affected by Federal rent regulations. One of these is the rent payment clause. If this clause calls for a higher rent than that fixed by the Maximum Rent Regulations then the clause is changed and the rent figure lowered to comply with the Regulations. In no case can the rent exceed the amount permitted by the regulations regardless of any provision in the lease or of any understanding between the landlord and tenant.

The other is the "vacating" clause contained in leases under which the tenant agrees to surrender his accommodation at the expiration of the lease. Under Federal rent regulations this clause is no longer in force.

EVICTIONS

Broad powers for the control and restraint of evictions were incorporated in the Emergency Price Control Act. Specifically, the Act states: "It shall be unlawful for any person to remove or attempt to remove from any defense area housing accommodations the tenant or occupant thereof * * * * because such tenant or occupant has taken, or proposes to take action, authorized or required by the Act or any regulation order or requirement thereunder."

The Act also states ". . . the Administrator may, by regulation or order, regulate or Prohibit . . . renting or leasing practices including practices relating to recovery of possession . . . likely to result in rent increases . . . inconsistent with the purposes of this Act."

Before evicting a tenant the landlord must notify the Area Rent Director's office and the tenant at least 10 days before starting eviction proceedings. This notice must set out the grounds under section 6 of the regulations upon which the owner relies. There are various circumstances whereby a tenant can be evicted, among them are the following:

1. Failure to pay legal rent;
2. Violation of a substantial obligation of his rental agreement;

3. Creating a nuisance or using the dwelling unit for an immoral or illegal purpose;

4. When the landlord in good faith wants to get his house or dwelling unit back for his own occupancy; but in such case before rerenting the house within six months after the eviction the landlord must file a written report in the Area Rent office.

5. When the landlord wants to get his property for extensive remodeling or alteration which cannot be done while the tenant is occupying the property.

6. If a landlord sells his house a tenant in possession may not be evicted immediately. Three requirements must be met in such case:

a. A certificate of eviction must be issued by the Area Rent Director authorizing the landlord to proceed under local state law.

b. Payment of one-third of the purchase price must be made before a certificate authorizing eviction will be issued by the Area Rent Director. Money borrowed for the purpose of making this one-third payment will not be considered as satisfactory requirement.

c. Three months must pass after the issuance of the certificate before the present tenant can be forced to vacate.

SPECIAL RELATIONSHIP BETWEEN LANDLORD AND TENANT

Occasionally, because of unusual relationship between the landlord and tenant the rent on the freeze date may be substantially out of line with that charged for comparable housing acommodations in the area. In such a case the Area Rent Director may adjust the rent upwards. For example:

1. The owner of a six room house rented the house to his son, and, wishing to help him financially, charged only $18.00 per month. This rent was in effect on freeze date. Later the son moved out. The landlord is entitled to petition the Area Rent Director for an adjustment in this rent in line with what similar houses were bringing on freeze date.

2. In a similar case the tenant wished to aid his father who owned the property and paid $75.00 per month for a house when similar houses on freeze date were renting for around $40. When a new tenant moves in, he may apply to the Area Rent Director for an adjustment downward.

PENALTIES

Under the Emergency Price Control Act, civil and criminal penalties are provided for those who violate or attempt to evade the maximum rent regulations. The Act provides a maximum fine of $5,000 and imprisonment for one year.

The tenant may sue the landlord for $50 or treble the amount by which the rent exceeded the maximum rent which ever is the greater plus attorney fees and costs as determined by the court.

The Rent Director may obtain a mandatory injunction to prevent collection of more than the maximum rent or to prevent other violations of the regulations.

The Rent Director is empowered to inspect premises and examine records to detect evasions and in addition the Administrator may require the owner or his agent to submit books and records for inspection.

APPEALS

1. Protest against an order of the Area Rent Director. This is filed with the regional office in the region in which a particular area is located.

2. From there it may be taken to the Emergency Court of Appeals which is a court of the United States created by Subsection 204 (c) of the Emergency Price Control Act of 1942. This Emergency Court of Appeals has the exclusive jurisdiction to determine the validity of any regulation or order issued under Section 2 of the Act and of any provision of any such regulation or order. This same subsection deprives other courts, including the state courts of the jurisdiction, or power to consider, the validity of any such regulation, order, etc.

3. The Supreme Court of United States may review the decisions of the Emergency Court of Appeals.

There are a number of other legal issues involved in any discussion of the Emergency Price Control Act but time will not permit a review of any of the court decisions.

MR. WHITE: Mr. Hugh J. Baker, Jr., of Indianapolis, will discuss the rationing program in Indiana.

MR. HUGH BAKER, JR.: President Newkirk, Members of the State Bar Association: I had a speech prepared, but

although Mr. Orbison did very well in about twenty odd minutes, I am going to see if I can keep under that, and accordingly I am going to ignore my prepared remarks.

This is by way of being an anniversary. Seven months ago I left my private practice and cloistered office to enter for the first time in my life government employ. I did that largely by reason of the fact that the person who approached me with the suggestion that I seek the position as a rationing attorney had known me for quite a while and had heard me discuss bureaus and bureaucrats, red tape and delay. He came to me and said, "Here is a chance to do something a little different. We are going to try to operate the State Office of Price Administration with a minimum of red tape and a maximum of efficiency."

I do not wish to discuss the question as to whether we have succeeded in doing something a little different or not, but I do feel that we have made an honest effort, and I have enjoyed the work immensely.

On June 16, when I took up employment with the Office of Price Administration, I found that there were five ration orders in effect. Tires, new automobiles, sugar, typewriters and bicycles were rationed. Whereas Mr. Orbison is blessed with one regulation and a few amendments, we have those that I have mentioned, and several others that have come along since that time, all with varying amendments and rationing guides. But in truth and in fact, it has been a fascinating job.

Now, we have added to those commodities that I have mentioned gasoline, space heaters, fuel oil, coffee, and a meat restriction order which affects slaughter and delivery of so-called controlled meat, and coming is the processed foods order which is certainly going to affect everybody in this room.

When I met with the program committee and agreed to come and say a few words about rationing, I tried to find out what they thought would be most interesting.

It was suggested that I might say a few words in going over the different regulations as to the need for the particular regulation.

The first ration order descended rather suddenly upon the country and addressed itself to the subject of tires. In other words, we woke up one morning and found that the

tire stocks throughout the country were frozen and you could not pry one loose for love nor money.

Since that time, after a good bit of discussion in the public press, the Baruch Committee was appointed, held hearings and then reported to the nation that in truth and in fact we were very short of rubber. As a result of that report the gasoline program which was instituted in the East in the early spring, was expanded to cover the entire country and become what we call mileage rationing.

I don't think that there is very much doubt that the Baruch Committee was not very happy with the conclusion it was forced to, any more than the rest of us are happy about it, but the fact remains that the biggest stockpile of rubber in the country is on the passenger cars going about the highways.

If those cars were taken off the highways overnight, we would indeed be faced with a very unhappy transportation problem. Accordingly it behooved us to take such steps as we could to conserve that rubber so as to maintain the country's transportation system which has certainly been geared to the automobiles, busses and trucks in this country for some years.

As to new automobiles, typewriters and bicycles, I think it is obvious that the War Production Board arranged that shortage of necessity, by ordering the plants which produce those commodities to convert to the manufacture of munitions and war supplies. Obviously you can't produce automobiles and tanks and guns at one and the same time with the manpower and materials that are available to us.

Sugar and coffee present a transportation problem. We raise no coffee at all, to my knowledge, in this country. It must all be brought in by boat. We raise some sugar, of course, but we have never raised enough to supply our needs so that here again transportation difficulties required a sugar rationing program.

Fuel Oil: As to fuel oil, that is a matter that is certainly the subject of a good bit of comment in these parts.

I feel from all that I have been able to find out that the rationing of fuel oil is essential not only in the east where the transportation problem is particularly acute, due to the loss of the tankers that we all know about, but also in this part of the country, for the reason that with the tankers at the bottom of the Atlantic or transferred to carrying ship-

ments of oil and gasoline to our forces in North Africa, and in the Southwest Pacific, it is obvious that there are certain basic requirements in the eastern section of the country which must be met. There are many plants which use fuel oil in their industrial processes and for heating their premises. There are many homes and public buildings heated with fuel oil, and it is a case of trying to shorten the haul from the available supply to the eastern seaboard. In other words, we have so many tank cars, and we have so many miles that must be traveled to transport the oil from where it is to where it is needed.

Now, without the materials to build more tank cars, or to lay more railroad tracks, or to build more locomotives, it is obvious that one quick method and potential source of increasing our transportation facilities is to shorten the haul which must be made by these tank cars. In other words, if the tank cars available are loaded in Illinois and Indiana and then shipped east, it takes a great deal less time than it does to transport oil in those tank cars from the fields in Texas and Oklahoma.

I might add just one other word on this point. I have it on good authority that not so many weeks ago a tank car train stood empty for some days in Lake County, Indiana, because a load of fuel oil wasn't available to put into the tank cars.

Now, the oil companies have agreed that the situation is acute in this section of the country, and that the program does make sense. It certainly does to me.

The meat restriction order comes about because of the necessity, in view of the type of war we are fighting, that we not only feed ourselves and our armed forces, but also that we feed our Allies. Too, the plan for the future is to win friends by feeding the populations of countries as they are released from the yoke of Messrs. Hitler, Mussolini and Hirohito.

The restriction order places a limitation upon the amount of controlled meat, which is merely another way of saying beef, pork, veal, lamb, which can be transferred or delivered by the slaughterers.

At first it included only the large so-called slaughterers —I mean by that Kingan's, Armour's, etc. Then it was amended and now it includes every one who kills an animal, although while the large slaughterers have been reduced as

to the number of pounds that they can slaughter, the small, so-called non-quota slaughterers, are permitted at least through the peak period to slaughter a hundred per cent of what they did in the base period of 1941.

I think it is telling no secret, I believe it has been in the public press, that eventually there will be some form of consumer rationing of meat. Just what form that will take is not entirely clear, but it will probably follow the point system which is to be put into effect in connection with the rationing of processed foods.

Now, I would like in just a few minutes to give you a little idea of what our problems are.

I have found in the main that these rationing regulations are quite well thought out. They are not too flexible. One reason for that I think is that they are designed to carry out the fundamentals of rationing, that is, that every person should be treated equally. I believe that there is nothing that makes a person quite as unhappy as to have his neighbor down the street get something that could be construed as a special favor, as for example a supplemental ration of gasoline to which he feels his neighbor is not entitled, unless he too gets a supplemental ration. For that reason it makes sense that the regulations should be comparatively rigid.

However, the rationing regulations are constantly being amended and there is a continual attempt to take care of problems that arise and which are shown to need treatment which will enable us to carry out the fundamentals of rationing and still create no more hardship cases than are absolutely necessary.

We have in the rationing orders an appeal procedure. The keystone of the Office of Price Administration, so far as the rationing program goes, is the local War Price and Rationing Boards. I must say that the members of those boards have a tremendous task in administering these various programs. They have done a splendid job in Indiana.

However, for the protection of the public, a method is provided whereby a person who has been denied a ration by his board can secure an appeal form which he files in duplicate with the local board; the board then has five days in which to reconsider its action. If at the end of that time, it feels that its original determination is correct so far as the board is concerned, it then forwards one copy of this

form to our office, together with a copy of the person's original application, and it then becomes the duty of the state director to review the case, and to consider any additional facts that either the board or the person applying for the ration may wish to present.

I said earlier that I felt the boards have done a good job in Indiana. I also said that we had tried earnestly to do a good job. We have had docketed, as of the time I left the office, slightly over 225 gasoline appeals from the entire state of Indiana, and I think that compares very favorably indeed with the number of appeals which they had in the east, under the earlier gasoline program, when the appeals in some of the states ran into the thousands. In fact, when I say thousands, I mean eight, ten or twelve thousand appeals. So I am confident, as I have said, that the boards have done a splendid job in Indiana of administering the rationing program.

Now, when these appeals come to our office, the state director examines them, and then it is the duty of the legal department to draw the decision in each case for the state director. Originally the procedure was somewhat simpler than it is now, the decision merely taking the form of a letter. Now it has been provided that there shall be a finding of the facts, a statement of the applicable sections of the regulations, and the state director's reasons for reaching his decision. That is briefly the appeal procedure from the local board to the state director.

There is a further appeal from the state director. Should he sustain the board in its decision, the applicant may appeal to the regional office and in turn from that office to the Washington office, if he so desires.

In addition to handling appeals, we have the matter of interpreting the regulations. We have ninety local boards in seventy-four counties under the jurisdiction of the state office, and they can think up more situations that no one in the world dreamed of when the regulations were drawn than I ever thought possible. That is what makes life so very merry and so very interesting, and gives us such a tremendous work load trying to keep up with those boards so as to give them the benefit of our advice in particular situations.

We have, I think, managed to do a pretty good job of prevention. In other words, I viewed this job in the beginning and have ever since, as offering an opportunity to keep the public and the boards out of trouble, and within the

bounds of the regulations. So far as I know we have succeeded in this task pretty well.

In conclusion, I wish to say that I hope that the members of this Association, recognizing the need for rationing, will encourage these local boards in the work that they are doing, and encourage their clients to take the attitude of cooperation. I will assure you that we at the state office are always glad to discuss with attorneys the problems of their clients, and will try to settle matters, if there is a matter of disagreement, under the regulations, in a manner that will be satisfactory to everybody concerned.

MR. WHITE: Before I throw this open for discussion, I would like to emphasize one point Mr. Baker touched on.

I think it is the attitude of all of us when we go into a bureau to get something we want, that we are dealing with a bunch of young attorneys just out of law school — probably came from another state and we don't know them.

Most of the attorneys of OPA are young, primarily I suppose because you are not going to get established lawyers of fifty or sixty to quit their private practice and go into a temporary job; but I can say this in their defense: that with one exception they are all native Hoosiers, that without exception they have all been engaged in the private practice of law, some of them in Indianapolis, and some of them in county seat towns over the state.

John Scott, who is the chief attorney, has been practicing here I think about ten years — in Indianapolis.

When you write in, we may not be able to give you what you want, but whether we give you what you want or not, at least you will be dealing with Indiana attorneys who understand the situation in Indiana.

With that one explanation, I am going to open up the discussion, and throw these boys to your tender mercy.

SIDNEY GREGOR (Gary, Indiana): Our problem up there is this ten-day notice for non-payment of rent. With all the money they are making up there, the rent is supposed to be payable in advance according to the month-to-month lease, and the Supreme Court of Indiana has decided we don't have to give them any notice. Then the OPA comes in and says we have to give formal notice and give ten days, and we find they all run to the OPA and don't pay their rent until after we give them ten-day notice. Then if we thereafter file

suit for non-payment of rent we have the same expenses as before, cost of notice, etc.

Is there any way we can remedy this?

MR. ORBISON: I will say this: It is distinctly a local area problem. There are some defense rental areas where, as a practical matter, this provision cannot be used and in such cases the regulations for that area have been amended. In the Indianapolis Area we feel that a notice is necessary, but whether or not a ten-day notice is necessary is questionable. This section of the regulations pertaining to the ten-day notice in non-payment of rent cases may be amended to take care of the problem you have suggested.

MR. WILDE: The rent administrator doesn't have the right, as I understand it, to correct an inequality in rent. For example, let's take this particular case. He owns a house in a neighborhood where houses are bringing $45. He is getting $35 because at the freeze date he had a tenant that had been in a long time, and he hadn't wanted to raise the rent. As I understand, under the regulations, the rent administrator doesn't have the right to correct that?

MR. ORBISON: Mr. Wilde, under the regulations, simply for non-comparability, or for the reason that other houses renting in the area have higher rents than you were getting on freeze date, is not a ground in and of itself for adjustment. You must bring your case within one of the six or seven grounds set out in the regulations permitting an adjustment.

Answering you specifically, the answer is no.

MR. WILDE: Now, let's take a situation where some man in that neighborhood has raised his rent prior to freeze date and it is high. The rent administrator, by the same token, has no right to lower it?

MR. ORBISON: That is correct. The rent director does not have such right in cases of housing accommodations other than hotels and rooming houses. In hotels and rooming houses he does have such right.

MR. WILDE: Now, the first situation is not due to the law, it is due to the present regulation. I mean there is nothing in the law that would prevent regulations being made that would permit equalization of rentals, is there?

MR. ORBISON: Yes, there is. The administrator in determining the maximum rent date has in theory taken into consideration all factors set out in the Act. He has taken into consideration increased cost. He has taken into consideration the fact that some people are charging more and others less. He has taken into consideration the fact that rents increased at a certain time as a result of the shortage of houses due to the war, and in setting the date he has in effect said that rents in that area are fair as of freeze date. He has, in short, followed the dictates of the Emergency Price Control Act and I don't believe that he could establish a new method of rent control such as you suggest. That would have to come from Congress.

MR. WILDE: He would have the right to change the freeze date, that would be in his power?

MR. ORBISON: I suspect that is correct.

MR. WILDE: I would like to add to what Luke White has said. It so happens that the attorneys in the OPA here are attorneys I have been associated with in cases, or they have been practicing in bankruptcy cases, and I know them that way. I assure you lawyers who don't happen to know them that they are not the starry-eyed type, they are all level-headed Indiana lawyers, all Indiana men except the one Mr. White referred to, and they are doing their level best at what must be at best an unpleasant job.

MR. SANSBURY: I have three questions that are all directed to the dwelling house regulation. The first is: In the event that an opinion is obtained from the local rent director and afterwards that opinion should be in conflict with some further decision, either from the regional director or from some other source, is there any protection offered to the landlord who proceeds in his actions based upon that opinion?

MR. ORBISON: In answer to that question, I will say that any answer or any opinion given through the area rent office, through its chief attorney in writing and relied upon by the landlord is official until that interpretation is changed or modified by the regulations or by an interpretation from Washington or the regional office. The landlord is protected in relying upon that particular opinion.

MR. SANSBURY: He would be so notified?

MR. ORBISON: He would be notified of any change in the opinion itself. We notify the landlord in such case. We do not notify him every time there is a change in the law or the regulations. It is only in the case of a written interpretation given through the office.

MR. SANSBURY: The second question I have in mind concerns the position of the landlord in the event of abandonment of premises by a tenant — do notices have to be given to the rent director before he takes possession? Does he have the right to protect his property if the tenant moves out and leaves it?

MR. ORBISON: It is not necessary to give a notice in such case. He must, however, notify the area rent office when a new tenant moves in.

MR. SANSBURY: The third question I have is the question of the status of all Indiana laws concerning the landlord and tenant, where they are in conflict with the regualtions?

MR. ORBISON: They are superseded by the regulations when in conflict with them.

For example, if the Indiana law provided for a five-day notice for possession and if you go ahead under the Indiana law and give five days' notice without the ten days required by the Maximum Rent Regulations, you have violated the regulations. Insofar as the state law is inconsistent with the act, then it is superseded to that extent.

MR. SNETHEN: Where a suit has been brought and the allegation is non-payment of rent, and tenants haven't paid their rent for, say, a period of two months is the landlord obligated to take that rent if tendered after they have become delinquent?

MR. ORBISON: That is a matter of state law. There is nothing in the present Federal Rent Regulations that would force the landlord to accept the rent under such circumstances.

QUESTON: You mean even though you give them the ten-day notice, you won't have to accept if tendered within that time?

MR. ORBISON: I am not saying you have to. I am saying the Federal Rent Regulations don't make you take it.

MR. WILMER FOX: Mr. Baker, if you know the answer can you tell me on the proposed meat rationing, why we don't draw on the supplies of South America at least for those branches of our armed services that are nearer to the South American countries; that is, the men in Africa and Persia.

MR. BAKER: I can't answer. I am sorry—I just haven't the information.

QUESTION: A question for Mr. Baker. Here is a situation that came up before gas rationing: there was a small grocery store that was delivering their groceries with a pleasure car, and while a truck was entitled to retread tires, a pleasure car didn't come under the classification. The local board had no way of remedying the situation.

Now, is that situation remedied by this gas situation and tire regulation?

MR. BAKER: We are still short of tires, but every passenger car is now eligible for some type of tire. However, it has been necessary to continue the quota system. In other words, each board has a quota of tires against which it may issue certificates each month, and in doing that, the board is charged with the very heavy responsibility of deciding as among the several applicants for tires, which will be granted certificates and which will not. It would depend I would say entirely upon the quota as to whether a man will get tires for his car.

QUESTION: What does this owner do to remedy that?

MR. BAKER: Under the old regulation there was nothing the board could do nor could the owner do anything. There was nothing to be done in that case, but a very interesting change and a very satisfactory change insofar as I am concerned, has taken place in connection with the new mileage program. Originally we were not rationing gas in this part of the country. The classifications of eligibility for tires were quite closely drawn. There has been a relative easing of that situation in connection with the mileage program, and as I have indicated, every passenger car is now eligible for some type of tires.

We still have to have the quota system, but within the

limits of the board's quota, the situation you have described would never arise.

MR. SIDNEY MILLER: Assuming there was no provision in the mileage rationing regulations how could you get the price administrator to alleviate such a situation as that all over the United States? I have heard other cases similar to that. There are a lot of grocery stores that deliver that way.

MR. BAKER: That would call for a change in the regulations.

MR. MILLER: How can you bring it before the administrator?

MR. BAKER: There is no method except the old American method of writing a letter. You can appeal, but that appeal is only addressed to the question as to whether the regulation has been followed, but there is no provision whereby you can seek a change in the regulations. That isn't quite true, I should make this one statement: there is a procedure, now in effect under General Rationing Order No. 1, whereby a person can seek an administrative exception, but frankly, so far as I know, no one in the state has availed themselves of it. Under that order you can apply for an administrative exception, in case of hardship. But it has to be a pretty good case, because after all, the whole system is based on a shortage and exceptions would soon break the thing down.

QUESTION: Is it possible under regulations to enter into a matter at least without a purchase contract?

MR. ORBISON: We must consider three different situations, viz:

(1) On lease with option to purchase contracts entered into on and after October 20, 1942, the payments under the lease may not be in excess of the maximum legal rent. For the purpose of the regulations, a down payment, insurance, interest and payment of taxes are all classified as a payment of rent. That means this: that in a lease with option to purchase contract, 1/36 of the down payment on a three-year lease, 1/12 of the yearly taxes, 1/36 of the insurance on a 3-year policy, plus the monthly payment — the total of that amount must not exceed the maximum legal rent. So if you have a maximum legal rent of $35 a month, the total of those

payments could not be in excess of the $35.00 maximum rent. Any provisions to that effect would be invalid.

(2) On leases entered into prior to October 20, 1942, and after July 1, 1941, you may provide for payments in excess of the maximum legal rent, but before accepting payments under the lease with option to purchase contract, you must obtain the permission of the Area Rent Director to make or accept those payments. For example, if, on freeze date, the lease with option to purchase contract was not in effect but there was a regular rental agreement, which did not provide for the tenant on freeze date to pay the taxes or upkeep or insurance, then you could not enter into a lease with option to purchase contract providing for such payments, or continue such payments without the consent of the Area Rent Director.

Now, there is a third: If the lease with option to purchase contract was in effect on freeze date, then the terms thereof become the maximum legal rent and are valid under the Regulations.