

THE ECONOMICS OF OPEN PRICE SYSTEMS

By LEVERETT S. LYON *and*
VICTOR ABRAMSON

Open price systems have been of interest to industrial groups and governmental authorities for the past two decades. They have been lauded as offering industrial groups an open market, an escape from the difficulties of secret pricing; they have been condemned as instruments of collusion and price fixing. Their development has been the concern of trade associations. The Federal Trade Commission trade practice conferences have been concerned with them. They grew rapidly in number and variety under the NRA. They have been the subject of important Supreme Court decisions.

This volume constructively considers open price systems in terms of the economic and social issues which they raise and in terms of the important specific problems which must be examined in considering the application of an open price system to any given industry. Following a significant presentation of the economic setting of the problem, the history of open price systems—under trade associations, the Federal Trade Commission, and the NRA—is reviewed. There is then presented an analysis of the much mooted questions of the effects of open prices on competition, stability, and large and small business units.

A major section of the book is concerned with the problems of constructing socially useful open price systems, in which the types of issues which experience has shown to be significant are presented and analyzed. The volume concludes with a chapter dealing with the applicability of open price systems to specific industries and of possible governmental relationships to the organization and operation of these systems.

Price, \$1.25

PUBLISHED BY

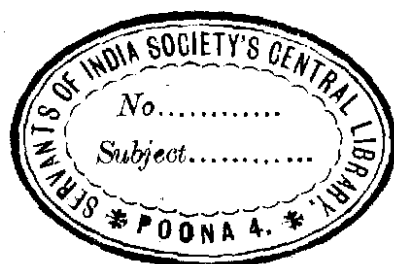
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PUBLICATION No. 71

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WASHINGTON, D.C.
THE BROOKINGS INSTITUTION

1936

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Set up and printed

Published May 1936

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X:76.73

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Printed in the United States of America
George Banta Publishing Company
Menasha, Wisconsin

DIRECTOR'S PREFACE

This study was initiated as one of the series of studies of the National Recovery Administration undertaken by the Institute of Economics under the immediate direction of Leverett S. Lyon. With the passing of the NRA, Mr. Lyon reoriented the study in terms of current conditions in the fields of price policy, trade practices, and self-government in industry, in which he had earlier been working. Two books, *Advertising Allowances* and *The Economics of Free Deals*, had grown out of that work when in the summer of 1933 the center of developments in this field shifted to the National Recovery Administration. As deputy assistant administrator for trade practice policy at the NRA for a period, Mr. Lyon had an unusual opportunity further to study and analyze trade practices and their regulation.

Advertising Allowances and *The Economics of Free Deals* were pioneer expositions of forms of indirect pricing which have recently become of great interest to economists; the present volume adds a third unit in the general field of price and trade practices. It discusses the subject in terms of its development and economic implications but also, with a view to constructive aid to government officials and business men, it analyzes in detail the problems of constructing socially useful open price plans and makes suggestions for co-operation of trade groups and government in building them.

Harold G. Moulton and C. O. Hardy have acted for the Institute of Economics in reading the manuscript. The authors, however, are solely responsible for the analysis and the conclusions.

EDWIN G. NOURSE
Director

Institute of Economics
May 1936

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AUTHORS' ACKNOWLEDGMENTS

In concluding this study the authors are indebted to many persons, chiefly for the opportunity of discussing with them various aspects of the subject. Among those to whom specific recognition is due are the members of the Trade Practice Policy "Committee" of the NRA, which included at the time this subject was under discussion James E. Hughes, Milton Katz, Edwin B. George, A. Howard Myers, and W. H. S. Stevens. Corwin D. Edwards, formerly of the Consumers' Advisory Board of the NRA and later head of the Trade Practice Studies Section of the Review Division of the NRA, and Simon N. Whitney, of the Research and Planning Division and later of the Review Division of the NRA, have both been helpful in many discussions, the former lending specific aid in reviewing that part of Chapter IV which deals with the work of the Consumers' Advisory Board in attempting to analyze the effects of open price plans. Charles J. Brand, executive secretary and treasurer of the National Fertilizer Association, has read the entire manuscript; and out of his unusual experience with open price plans, as a code administrative officer and trade association executive, has offered many pertinent and helpful comments. Blackwell Smith, formerly assistant chief counsel, assistant administrator for policy of the NRA, and a member of the National Industrial Recovery Board, and now of the legal firm of Cotton, Franklin, Wright and Gordon, has also read the entire manuscript and has been helpful with comments, particularly in passing upon the accuracy and balance of Chapter III. Thanks are due also to Helen May Wheeler, formerly of the Brookings staff, to Ernest G. Draper, assistant secretary of Commerce, and to Hammond E. Chaffetz, special assistant to the attorney general of the United States.

LEVERETT S. LYON
VICTOR ABRAMSON

CONTENTS

DIRECTOR'S PREFACE	vii
AUTHORS' ACKNOWLEDGMENTS	ix
INTRODUCTION	I
CHAPTER I	
THE ECONOMIC SETTING OF THE PROBLEM	3
CHAPTER II	
EARLY HISTORY OF OPEN PRICE SYSTEMS	11
CHAPTER III	
THE NRA AND OPEN-PRICE SYSTEMS	23
Early NRA Policy	23
The Trade Practice Policy "Committee" of NRA	28
The National Industrial Recovery Board	41
Subsequent Developments	47
Business and Governmental Developments	47
The Sugar Institute Case	49
CHAPTER IV	
COMPETITION AND STABILITY UNDER OPEN PRICE SYSTEMS	53
Open Price Plans and Competition	53
Open Price Plans and Stability	78
CHAPTER V	
OPEN PRICES AND SMALL BUSINESS	81
CHAPTER VI	
PROBLEMS OF CONSTRUCTING SOCIALLY USEFUL OPEN PRICE SYSTEMS	92
The Products on which Filing is to be Required	93
Information to be Filed	95
Prices and Price Terms and Conditions of Sale	96
Classification and Identification of Customers	100
Identification of Sellers	103
Identification and Comparison of Products	105
Buyers' Bids	107

CONTENTS

Other Market Information	108
Dissemination to be Undertaken	108
Information to be Disseminated	109
Extent of Dissemination	110
Form of Dissemination	113
The Administrative Agency	115
The Apportionment of Costs	120
Past Prices, Current Price Offers, or Future Price Offers	122
Misrepresentations of Buyers	135
The "Price Raid Problem"	137
Bid Filing Systems	139
CHAPTER VII	
APPLICABILITY AND GOVERNMENTAL RELATIONSHIP	143
APPENDIX	
TABULATION OF NRA OPEN PRICE PLANS	154
INDEX	163

INTRODUCTION

From the point of view both of industry and of government, open price plans as a device in the price-making process are at a particularly important stage. While such plans in one form or another have been in existence for more than two decades, interest in them, greatly stimulated by the NRA, is at a higher level than has been the case for a long period. Certain industries are anxious to continue the open price plans developed under the NRA with such improvements as can be made and such modifications as the expiration of the Recovery Act may make necessary. Others are considering the initiation of such plans. An effort to set forth the general issues of public policy which are involved in the organization of open price plans therefore seems appropriate at this time.

The development of open price plans effective in achieving objectives of public interest requires an analysis of the elements in such plans and a consideration of each of these elements in terms of the economic and social issues which it raises. It is with these general questions and, more specifically, with an attempt to point out certain criteria to be used in considering the economic effects of open price plans, that this book is concerned. Emphasis is directed toward the types of considerations that are important in deciding whether or not an open price plan is applicable to an industry and the factors that determine the precise form of the plan that will be most useful socially.

No attempt is made to apply the criteria set forth to specific industry situations. This task would require de-

tailed industry studies, and the analysis of certain materials concerning American industry not now generally available.

The authors of this volume regard it as a preface to the analysis of specific cases in which open price plans are being considered and to further studies of industries and industrial situations, of which many more must be made before the final word on the economic significance of open price plans and their relationship to the formulation of sound public policy in trade regulation can be written.

APPENDIX
TABULATION OF NRA OPEN PRICE PLANS

NRA CODE PROVISIONS RELATING TO OPEN PRICE AND BID FILING SYSTEMS*

Classified According to Code Division and Subject Matter Covered

Subject Matter	Food Division	Textile Division	Basic Materials Division	Chemical Division	Equipment Division	Manufacturing Division	Construction Division	Public Utilities Division	Finance, Graphic Arts, Amusement Division	Professions Division	Wholesale and Retail Division	Total
Speed of Dissemination Required of Agency:												
By mail.....	—	—	2	1	2	2	—	—	—	—	1	8
"Immediately" or "promptly".....	7	13	36	37	86	68	1	1	2	—	11	262
No provision.....	14	9	19	—	25	6	—	3	1	3	10	90
Prohibition of Release to One Member before All.....	5	1	8	5	13	17	—	1	1	—	4	55
Identification by Central Agency of:												
Seller:												
Mandatory.....	5	1	8	4	13	13	—	1	1	1	5	52
Optional.....	4	—	1	1	1	1	—	—	—	—	—	8
Prohibited.....	—	1	—	—	—	—	—	—	—	—	—	1
No provision.....	12	20	46	41	98	60	1	3	2	2	17	302
Buyer:												
Prohibited (past transactions)....	—	2	—	—	—	1	—	—	—	—	—	3
Waiting Period Requirements:												
None:												
Effective upon receipt by agency.....	6	5	15	8	18	17	—	2	1	—	10	82
Effective upon agency's acknowledgment.....	—	—	2	—	—	3	—	—	—	—	1	6
Effective even before filing.....	1	9	5	2	4	—	1	—	—	1	5	29
Code authority may establish.....	3	—	9	1	6	4(1s)	—	1	—	—	—	23(1s)
Before any revisions (no. of days)....	12(12s) ^b	3(1s)	14(7s)	3(1s)	61(55s)	33(27s)	—	—	—	—	—	140(112s)
Before decreases only (no. of days)....	—	11(9s)	21(9s)	37(28s)	31(11s)	26(14s)	—	—	2	—	5(2s)	134(74s)
Before increases only (no. of days)....	—	—	—	—	—	—	—	—	—	—	—	—
Alteration of Waiting Periods:												
Shortening:												
To meet competitor's reduction effective upon same date:												
Whether or not below.....	1	8	5	10	44	10	—	—	—	—	2	80

154

If not below	2	3	20	23	34	37	—	—	—	—	3	122
If filed before certain time	—	—	4	2	5	2	—	—	—	—	—	13
Code authority may shorten	—	1	5	2	15	4	—	—	—	1	1	29
No provision	9	3	10	5	13	13	—	3	2	3	8	69
Code authority may lengthen	—	—	1	1	1	—	—	—	—	—	—	3
Minimum Period Between Revisions:												
Before any changes (no. of days)	—	—	—	—	—	1	—	—	—	—	1	2
Before increases only (no. of days)	5	1	8	5	13	14	—	1	1	—	4	52
Before decreases only (no. of days)	—	—	—	—	—	—	—	—	—	—	—	—
Limitation on number of changes	—	—	—	1	—	—	—	—	—	—	—	1
Filed Price and Effective Price:												
Must sell at filed price	20	8	38	10	80	48	—	5	1	4	20	234
May sell above filed price	1	18	27	39	38	34	1	—	2	1	9	170
May meet lowest filed price	5	2	1	—	2	8	—	1	—	1	2	22
May sell special goods below	2	5	1	—	4	1	—	1	—	—	2	16
Area of Price Uniformity:												
Regional variations permitted	3	—	6	6	2	4	—	—	—	—	4	25
Code sets up regions for price reporting	—	—	7	1	—	1	—	—	—	1	4	14
Code authority may set up regions for price reporting	3	—	—	4	—	—	—	—	—	—	5	12
Code requires uniformity in all regions	—	—	3	—	—	1	—	—	—	—	—	4
Prohibition of Comments by Agency in Dissemination	8	—	—	—	—	—	—	—	—	—	1	9
Destruction of Agency's Price Records Prohibited	5	1	8	5	13	15	—	1	1	—	4	53
Adjustment of Bids when Prices Increased:												
Bids must be increased	—	—	1	—	1	—	—	—	—	—	—	2
Must be registered but not increased	—	—	4	—	4	3	—	—	—	1	—	12
Substitutes for Central Filing:												
Members must post prices	1	1	1	—	—	—	—	—	—	1	—	4
Members must exchange prices directly	1	—	—	—	—	—	—	—	—	—	—	1
Prices must be sent to customers	—	—	—	—	—	—	—	—	—	—	—	—

^a This table is, in rearranged form, a reproduction of one presented in *Report on the Operation of the National Industrial Recovery Act*, Research and Planning Division, NRA, February 1935. The authors collaborated with the Research and Planning Division in planning the categories for this table. The count is entirely the work of the Division.

^b The letter *s* indicates that the provision was stayed by administrative order.

NRA CODE PROVISIONS RELATING TO OPEN PRICE AND BID FILING SYSTEMS* (Continued)

Subject Matter	Food Division	Textile Division	Basic Materials Division	Chemical Division	Equipment Division	Manufacturing Division	Construction Division	Public Utilities Division	Finance, Graphic Arts, Amusement	Professions Division	Wholesale and Retail Division	Total
Must publish prices in trade periodicals.....	1	—	—	—	—	—	—	—	—	—	—	1
May not sell below reported prices.....	2	1	1	—	—	—	—	—	—	—	—	4
Filing of Sealed Bids:												
Establishment of system:												
Code provides details.....	—	—	2	—	2	4	12	—	—	—	—	20
Code authority to set up rules.....	—	—	2	—	—	—	7	—	—	—	—	9
Depository with which filed:												
Code authority.....	—	—	2	—	2	1	1	—	—	—	—	6
Impartial agent named by code authority.....	—	—	—	—	—	1	9	—	—	—	—	10
Estimating bureau.....	—	—	—	—	—	2	—	—	—	—	—	2
Some other agency.....	—	—	—	—	—	—	2	—	—	—	—	2
Time of filing:												
Before closing date (no. of days in advance).....	—	—	1	—	1	3	6	—	—	—	—	11
After closing date.....	—	—	—	—	—	1	—	—	—	—	—	1
No provision.....	—	—	1	—	1	—	6	—	—	—	—	8
Information to be filed:												
Notification of intent to bid.....	—	—	1	—	2	—	1	—	—	—	—	4
Exact duplicate bid.....	—	—	2	—	2	3	12	—	—	—	—	19
Lump sum bid only.....	—	—	—	—	—	1	—	—	—	—	—	1
Itemized quantities.....	—	—	—	—	—	1	1	—	—	—	—	2
Other data.....	—	—	—	—	—	—	—	—	—	—	—	—
Time of opening by depository:												
Upon receipt.....	—	—	—	—	1	2	—	—	—	—	—	3
After closing date (no. of days after).....	—	—	1	—	1	1	12	—	—	—	—	15
No provision.....	—	—	1	—	1	1	—	—	—	—	—	3
Time and extent of dissemination:												
When opened before closing date:												
Released before closing date.....	—	—	—	—	1	—	—	—	—	—	—	1
Released after closing date.....	—	—	—	—	—	2	—	—	—	—	—	2

When opened after closing date:	—	—	—	—	—	—	1	—	—	—	—	1
Available for bidders' inspection	—	—	—	—	—	—	11	—	—	—	—	14
Sent to all bidders.....	—	—	1	—	1	1	—	—	—	—	—	3
No provision.....	—	—	1	—	1	1	—	—	—	—	—	3
Code authority to investigate bid upon complaint of member.....	—	—	—	—	—	1	8	—	—	—	—	9
Total Number of All Codes.....	29	97	87	70	164	123	23	14	16	8	78	709
Office Memo No. 228 Incorporated.....	5	—	8	5	11	13	—	1	1	—	4	48
Establishment of System:												
Mandatory.....	19	26	60	29	74	63	—	6	2	5	20	304
At discretion of code authority.....	3	3	6	22	45	18	1	—	1	—	7	106
By majority vote.....	—	2	4	—	37	10	—	—	1	—	2	56
Abandonment of System:												
At discretion of code authority.....	—	2	—	7	10	—	—	—	2	—	1	22
By majority vote.....	—	—	—	—	1	—	—	—	2	—	—	3
Degree of Compulsion on Members to File:												
Obligatory.....	22	31	65	51	121	82	1	6	3	5	27	414
Optional.....	—	—	—	—	—	1	—	—	—	—	2	3
Optional—lowest filed price imputed.....	—	—	2	21	1	—	—	—	—	—	2	26
Certain members exempted.....	—	1	1	—	1	—	—	—	—	—	—	3
Agency with Which Information is Filed:												
National code authority.....	13	20	46	40	99	50	1	3	2	3	14	291
Regional code authority.....	2	—	7	—	—	1	—	2	—	2	8	22
Trade association.....	1	8	4	6	6	2	—	—	—	—	3	30
Impartial agency:												
Named by code.....	—	—	—	—	—	8	—	—	—	—	—	8
Named by code authority.....	6	1	9	5	19	27	—	1	1	—	4	73
Named by administrator.....	5	1	8	3	10	12	—	1	1	—	3	44
Buyers Concerning Whom Members Exempted from Filing Information:												
By implication.....	—	—	2	6	4	3	—	—	—	—	1	16

NRA CODE PROVISIONS RELATING TO OPEN PRICE AND BID FILING SYSTEMS* (Continued)

Subject Matter	Food Division	Textile Division	Basic Materials Division	Chemical Division	Equipment Division	Manufacturing Division	Construction Division	Public Utilities Division	Finance, Graphic Arts, Amusement Division	Professions Division	Wholesale and Retail Division	Total
By code:												
Governments.....	1	—	—	3	—	—	—	—	—	—	1	5
Certain large buyers.....	—	—	—	—	2	—	—	—	—	—	—	3
Others.....	1	1	—	2	1	1	—	—	—	—	2	7
Products Respecting Which Information Must be Filed:												
All products.....	12	15	27	13	27	27	—	6	—	2	17	146
Code authority to prescribe.....	3	1	—	22	49	11	1	—	2	1	4	94
Determined by majority.....	—	1	—	—	37	6	—	—	1	—	—	45
Standard products only.....	1	3	4	5	19	11	—	—	—	1	2	46
Standard and selected non-standard products.....	3	1	9	2	12	14	—	—	1	—	3	45
Code specifies certain products.....	1	1	3	1	1	4	—	1	—	—	1	13
Code excludes certain products.....	2	1	1	2	3	1	—	—	—	—	2	12
No provision.....	2	7	22	8	14	20	—	—	—	1	4	78
Information Which Must Be Filed:												
Prescribed by code:												
Prices only.....	1	4	5	4	7	3	—	2	—	1	3	30
Items in addition to prices:												
Terms and/or conditions of sale.....	19	21	47	45	95	64	—	3	3	4	24	325
Discounts.....	15	18	40	43	104	71	1	2	1	2	16	313
Allowances.....	5	7	22	15	25	25	—	—	1	1	12	113
Rebates and/or commissions.....	3	4	16	6	22	22	—	1	1	—	4	79
Other items.....	2	5	13	12	23	22	—	2	2	1	7	87
Names of customers.....	—	—	9	—	6	3	—	—	—	—	—	18
Past prices only.....	—	2	—	—	1	—	—	—	—	—	—	3
Code authority may alter data required.....	1	—	2	—	2	—	—	—	—	1	—	6
Code authority prescribes data required.....	3	—	—	—	—	—	—	—	—	—	—	3
Code authority prescribes reporting form.....	1	1	1	28	7	19	—	—	—	—	2	59
Number of Price Lists to be Filed:												
Enough for all members.....	—	3	9	3	15	14	—	—	—	—	—	44
Enough for members and customers.....	—	—	—	—	2	1	—	—	—	—	—	3

INDEX

INDEX

- Adherence to filed prices, 17, 38, 43, 51-52, 97, 136-37
- Administrative agency, 30, 34-35, 40, 43, 115-20
- Allocation of productive resources, 4-10, 36, 53, 111, 128, 135-36
- American Hardwood Manufacturers' Association, 16
- Anti-trust laws, 11, 12, 14, 45, 122n
- Application, 44-45, 143-48
- Asphalt shingle and roofing industry, 72-73
- Baird, Enid, 55, 72
- Bid filing, 23, 39, 107-08, 139-42
- Bid shopping, 141n
- Business groups, 42, 151
- Buyers' bids, 107-08
- Buyers' misrepresentations, 14-15, 38, 135-37
- Caesar, A. H., 55, 67-70, 94-95, 118n, 131n
- Cement case, 18-19
- Coercion, 25, 26, 27, 31, 37, 38, 42, 61, 68-69, 71, 112, 127-28
- Collusion, 25, 36, 45-46, 54, 61, 64-66, 74-75, 89-90, 104-05, 112, 127-28, 134, 141, 144
- Commercial research agencies, 48, 89
- Competition, 29, 34, 41, 42, 46, 53-78, 148
- Confidential agent, 31, 35, 43, 118. *See also* Administrative agency
- Consumers' Advisory Board. *See under* National Recovery Administration
- Cost apportionment, 35-36, 120-22, 145
- Current price offers, 30, 50, 131-35
- Customer classification, 69, 100-03
- Darrow Board. *See* National Recovery Review Board *under* National Recovery Administration
- Discrimination, 36, 38, 39, 66, 69, 78, 88, 96, 101-02, 135, 137-39
- Dissemination, 31, 35-36, 40, 44, 49-50, 108-15
- Donovan, William J., 16n, 17n
- Eddy plan, 11-15, 19
- Electrical manufacturing industry, 67-70, 94n, 118n, 131
- Elements of open price plans, 93
- Epstein, R. C., 83
- Federal Trade Commission, 15-16, 19-22, 46, 48-49, 54, 57-58, 59, 79, 116, 130, 144n
- Fertilizer industry 63n, 70-72, 88, 112n, 120n, 127n, 146n
- Follow the leader. *See* Price leadership
- Future price offers, 122-31. *See also* Waiting period
- Gary dinners, 12
- Government relationship, 3, 30, 31, 35, 42, 43, 48, 94, 105-07, 109n, 118-19, 143, 146, 148-51
- Grading, 92, 106n
- Group I and II rules. *See* Federal Trade Commission
- Handler, Milton, 149n
- Hardwood case, 16-17, 20, 56, 88
- Identification of, buyers and sellers, 23-24, 29-30,

- 31, 35-37, 40, 44, 45, 100-03, 103-05, 109, 139
 products, 44-45, 105-07, 145
 Imperfect markets, 63-64
 Indirect pricing, 14-15, 21-22, 34, 40, 96-99, 117-48
 Industrial Advisory Board. *See under* National Recovery Administration
 Information to be filed, 95-108
 Integration, 83-87
 Iron and steel industry, 11-12
 Labeling, informative, 92, 145
 Legal Division. *See under* National Recovery Administration
 Legality of open price plans, 16-21, 49-52, 122, 148-50
 Linseed oil case, 17
 Lumber industry, 11, 55-56, 57
 Lyon, Leverett S., 96n, 98n
 Maple flooring case, 18-19
 Misrepresentations, buyers'. *See* Buyers' misrepresentations
 Monopoly, 28, 54, 74, 102, 139n, 142n, 144n
 National Industrial Recovery Board. *See under* National Recovery Administration
 National Recovery Administration, 1, 3, 23-52, 116, 118n, 122-23
 code provisions, 23-24, 39-41, 101n, 104n, 110n, 111n, 118n, 124n, 139n, 140n, 154
 Consumers' Advisory Board, 25, 26, 27, 29-30, 31, 55, 59-66
 early policy on open prices, 23-28
 field days, 24-27
 hearings, 24-28, 41-42
 Industrial Advisory Board, 26
 Legal Division, 26
 National Industrial Recovery Board, 41-46
 National Recovery Review Board, 27-28
 Office Memorandum 228, 31-39, 42, 138
 Research and Planning Division, 26, 29, 30, 31, 55, 66-67
 Review Division, 55, 67-78
 Trade Practice Policy "Committee," 28-41, 137-38
 National Recovery Review Board. *See under* National Recovery Administration
 Nelson, Milton Nels, 12, 13, 14, 15, 16, 20, 54, 55-56, 88
Office Memorandum 228. See under National Recovery Administration
 Open markets, 8-10, 43, 63, 67
 Open price associations, 3, 11-20
 Open prices,
 definition of, 3
 economic significance of, Chaps. I, IV, V
 in co-ordination of specialization, 5
 Organized exchanges, 9-10, 11, 35, 107n, 127
 Past prices, 19, 50, 131
 Paton, W. A., 83
 Price leadership, 53-54, 69, 71
 Price raid, 39, 137-39
 Prices,
 control of, 11, 14, 15, 16, 20, 24, 27, 31, 41, 42, 60
 flexibility of, 68, 70, 71, 98.
 See also Stability
 rigidity of. *See* Prices, flexibility of
 rôle of, 4, 8, 146
 stability of. *See* Stability
 uniformity of, 25, 42, 56-57, 59, 61-62, 64-65, 70, 71, 72-73
 Product standardization. *See* Standardization
 Production control, 31, 41
 Production stability. *See* Stability
 Products, 34, 40, 44, 93-95

- Research and Planning Division.
See under National Recovery Administration
- Review Division. *See under* National Recovery Administration
- Sherman Act, 11
- Small business, 41, 81-91
- Social utility, 92
- Stability, 57, 59, 67, 72, 78-80
- Standardization, 69, 92, 105-07
- Statistical associations. *See* Open price associations
- Steel case, 12
- Steel castings industry, 73
- Sugar Institute case, 49-52, 59, 99, 101n, 110n, 117n, 136-37
- Summers, H. B., 83
- Supreme Court decisions, 16-21, 49-52, 88, 99, 101n, 110n, 117n, 122, 136, 149-50
- Thorp, Willard L., 55, 67-70, 94-95, 118n, 131n
- Trade associations, 47-48, 115. *See also* Open price associations
- Trade practice conferences, 20-22, 48-49, 116
- Trade Practice Policy Committee. *See under* National Recovery Administration
- Uniform accounting, 92
- Waiting period, 23, 25-30, 31, 37-38, 40, 43-44, 122-35
- War-time growth, 15-16
- Whitney, Simon N., 55, 59, 66-67, 120n, 127n, 147n

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