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Minimum Price Fixing in the Bituminous Coal Industry

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MINIMUM PRICE FIXING

IN THE BITUMINOUS COAL INDUSTRY

NATIONAL BUREAU OF ECONOMIC RESEARCH

Conference on Price Research

1. Report of the Committee on Prices in the Bituminous Coal Industry
2. Textile Markets: Their Structure in Relation to Price Research
3. Price Research in the Steel and Petroleum Industries
4. Cost Behavior and Price Policy
5. Minimum Price Fixing in the Bituminous Coal Industry

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(Resolution adopted October 25, 1926 and revised February 6, 1933 and February 24, 1941)

FOREWORD

I

PERHAPS the dominant feature of the present economy of the United States is that it is a blend of free and controlled elements. Many of the pressing economic issues of our day, whether of theory, of policy, or of practice, have their roots in this mixed and changing blend. For this reason special interest attaches to the subject of the present monograph on *Minimum Price Fixing in the Bituminous Coal Industry*. Here is the most complete and rounded "case" in minimum price fixing recorded in the industrial annals of the United States. It is complete because it has a definite beginning in the passage of the Bituminous Coal Act of 1937 and a decisive ending with the expiration of that Act and successor legislation in 1943. The problem, it is true, did not have its inception in 1937, nor was it solved by 1943. But the experiment of conscious control, with all the complications of policy and of administration that arose under the Act, is sharply bounded by these dates.

The case has its clear limits, of course. It is restricted to a single industry, albeit one of central importance in the economy of the United States. In this industry the experiment was born of the losses of coal producers, the distress of coal miners, and violent instabilities of supply during a protracted period of disorganization. Again, experience under the Act was restricted to the setting of floors, not of the ceilings that were the primary concern of price legislation in the years of inflationary pressure during and following the second world war. But although the case is industrially restricted and historically dated, the record is one of continuing interest to private producers, governmental administrators, and students of economics. Market pressures will shift again, as indeed they have done in recent months, and we shall again be concerned with the problem of maintaining possible minimum prices, as well as with the setting of maximum prices. Even today governmentally supported price floors play an important role in the marketing of agricultural products. Nor have the fundamental sicknesses of the bituminous coal industry been permanently removed, although the pressures that revealed these sicknesses were relaxed in the expanding economy of the war decade. The lessons to be learned from the working of the Bituminous Coal Act of 1937 bear upon many problems we face today, and shall face.

II

Professor Fisher and Dr. James have given us a detailed, well-documented, clearly organized, and lucidly expounded story of this notable experiment in the setting of guaranteed minimum prices. Their own orderly approach to the problem will be clear from a glance at the table of contents. After a description of the bituminous coal industry under unregulated competition and a brief summarizing of earlier efforts to regulate the industry, the details of the Act of 1937 are set forth. In chronological summary the authors tell the story of action taken under the Act during the six years of its life. They then turn to an account of price fixing under the Act, explaining first the geographic classifications utilized and describing the process by which average costs and sales realizations were determined. Then follows what may be regarded as the heart of the study—the development of proposed minimum prices (Chapter VII) and the development of coordinated minimum prices (Chapter VIII). In these two chapters are given the essential measures taken to implement an experiment which, if not as noble in motive as was that other experiment to which Mr. Herbert Hoover referred, was as daring in conception and as ambitious in scope. Here we have in all its revealing details an account of what was done to translate the general language of the Bituminous Coal Act of 1937 into a rational structure of minimum prices which would, at once, provide for the recovery of designated costs by the producers of all kinds, qualities, and sizes of coal and for the protection of consumers of all types and in all markets. It describes how, by taking thought, the complex and many-sided processes of a competitive market were to be replaced by consciously planned activity in a regulated system.

There is probably nothing in the literature of economics corresponding to Chapters VII and VIII of this study. Much of the substance of the structure of prices existing at any time is like those nine-tenths of an iceberg that lie beneath the surface of the sea. We may observe the externals, the floating part that is made up of the prices quoted in standard markets or paid for the end products by producers or consumers; but the infinitely complex interior, through which countless specific equilibria are established, is seldom revealed to us. Chapters VII and VIII lay bare part of the submerged portion of the bituminous coal price structure and suggest the character of the equilibrating processes that lie behind the end product prices familiar to us. No reader of these sections will fail to be impressed by the variety of factors at work, by the infinite diversity of forces that by one means or another are brought into balance in the customary price setting process. Even though, as the authors point out, the actual procedure was more complex than the one they select for description in these chapters, the reader is given an extraordinary demonstration of the piling of complication on complication in the process of price determination.

The following chapter (IX) deals with enforcement, adjustment, and revision in the actual administration of the system of coordinated minimum prices. Chapter X provides a comprehensive summary of the study as a whole and gives an illuminating appraisal of the Act of 1937 as an instrument for price fixing, of policies and procedures adopted under the Act, and of minimum price fixing as a stabilization mechanism.

III

The primary purpose of Congress in framing the Act, as the authors see it, was to protect the standards of living of those dependent on the bituminous coal industry for a livelihood. The establishment of a floor for prices, it was hoped, would prevent the destructive competition that had marked the history of the industry and, by preventing operating losses, enable producers to support the wage structure that would be developed through collective bargaining. This central purpose was to be served through the establishment of a relationship between the demand for bituminous coal and the industry's productive capacity consistent with the prices guaranteed under the Act. Conservation of coal resources, the provision of reasonable prices for consumers, and stability of operation were also sought, but with somewhat less emphasis than was placed upon the avoidance of poverty among miners and financial distress among operators.

Appraisal of the Act of 1937 and its consequences is rendered difficult by the change in the "climate" of the economy of the United States that occurred soon after the Act was put in operation. The central condition of deficient demand, at prices conforming to an acceptable wage and profit structure, was removed by the swelling need for coal with the outbreak of the war in Europe.[1] Neverthe-

[1] This change is clearly revealed by the statement of grounds on which the Ways and Means Committee declined, in July 1943, to extend the Act. In the view of the Committee the Act was no longer necessary because conditions in the industry had improved; it was undesirable because it had failed to prevent strikes and because it established a system of regulation inimical to free competition.

less, much can be learned from an intensive study of the Act itself and from a rigorous scrutiny of the record of the industry during the six years of the Act's life. What the authors have thus learned makes up the solid substance of their illuminating chapter of appraisal.

There is high tribute in these pages to the integrity, the ingenuity, and the zeal of those who framed and those who administered the Bituminous Coal Act of 1937. Taking over a demoralized industry, these administrators were able to set up a structure of coordinated minimum prices that was geared to average mine costs (as reported), that protected wages, and that moved coal to markets. The product of this herculean undertaking worked, for a time at least. Yet the reader of the authors' balanced judgments must conclude that it worked because of a fortunate conjuncture of circumstances. That the painfully erected structure could have withstood the strains of adversity, could have been adapted to the uneven impact of technological change, to the competition of other fuels, and to the play of other market forces is most doubtful. Had the situation not permitted the lifting of the regulations imposed by the Act, strong pressures would have been felt for intensification and deepening of controls over coal mining, and for the extension of controls over related fuels.[2]

The difficulties involved derive in part from the Act itself. Fundamental was the failure of the Act to allow for the effect of the established price level on consumption and rate of utilization, and so on costs. Both the Act and the administrative policies adopted under the Act were most inadequate in providing for substantial shifts in average costs and, even more, in cost differentials. There is little reason to believe that the structure of guaranteed minimum prices established under the Act would have been adjusted promptly to the cost changes and demand shifts that occur weekly, monthly, and yearly in a dynamic situation. The whole pressure of the system of regulation was toward freezing the economic relationships of a past period.

In a final appraisal of minimum price fixing as an instrument for achieving stabilization in the bituminous coal industry, the authors name certain positive gains to be expected from it, at least in the short run. Drastic price cutting could be diminished; the profit posi-

[2] The authors report that Secretary of the Interior Harold Ickes, in a statement to the National Coal Association in 1939, pointed out that the objectives of the Coal Act could not be attained without Federal regulation of oil and gas prices.

tion of investors could be improved in depressed periods; wages could be protected and, given labor union strength, wage advances could be facilitated. But in the judgment of the authors these gains on the producing side would be accompanied by serious adverse consequences. The support of prices at guaranteed levels, geared to reported average costs, would in fact exert an upward push on prices over longer periods. (Indeed, strict adjustment of prices to average costs could lead to substantial advances in coal prices even during business recessions and depressions.) This would work against the interests of consumers and, by reducing demand and stimulating overdevelopment of the industry, reduce employment opportunities and breed further troubles of the very type the Act was designed to remove. This last statement suggests the most significant single conclusion drawn from the study, namely, that minimum price fixing in the bituminous coal industry would in the long run tend to widen the gap between capacity and demand.

The Fisher-James study, which was sponsored by the Committee on Government Price Regulation of the Conference on Price Research, is an illuminating distillation of experience. Here, prepared with meticulous care, is a revealing description of a single ambitious and extensive experiment in the planned determination of a structure of guaranteed minimum prices. It provides economists with a detailed account of an episode of rare interest in the history of price regulation. It furnishes a rich compendium of information for the guidance of legislators who may be framing laws to establish minimum prices and for those who may be charged with the administration of such laws, and it gives clear warning of the infinite complexities of both tasks. All this the authors have done with scrupulous accuracy and complete objectivity. The document they have produced, one may hazard, will occupy a distinctive and enduring place in the literature of political economy.

FREDERICK C. MILLS

PREFACE

THIS analysis and appraisal of minimum price fixing in the bituminous coal industry was initiated by the Conference on Price Research.[1] It followed the completion of a study also inaugurated by the Conference which set forth for this industry the forces and conditions that influenced price levels and price problems, designated and appraised available price and related data, and outlined areas and subjects in need of further research.

This study, like its predecessor, was to be undertaken by a research committee of the Conference. The scope, function, and approach to the problem were developed as a committee project. It soon became clear, however, that the intensive research involved in describing and evaluating a price-fixing experiment of such magnitude could not be done by a committee. The authors were persuaded to undertake this task under the general direction of the Committee. This relationship prevailed until the Conference on Price Research was terminated in 1947. Thereafter, the National Bureau of Economic Research graciously but persistently prodded the authors until the manuscript was completed.

In carrying out this project, the authors incurred heavy obligations which they wish to acknowledge. They are expressly indebted to the Committee on Government Price Regulation of the Conference on Price Research to whom this project was initially assigned. In addition to the authors, who served as Chairman and Secretary respectively, the membership of the Committee consisted of Dr. John Bauer, the late Dr. Stephen B. Burke, Professor John Maurice Clark, the late Dr. Howard N. Eavenson, Mr. Wayne P. Ellis, Mr. O. E. Kiessling, Professor Frederick C. Mills, the late Dr. Donald H. Wallace, and Dr. Ralph J. Watkins. The Committee furnished wise counsel, and many of its members read substantial parts of the original manuscript and made many helpful suggestions. In addition, Dr. Eavenson made available his extensive technical knowledge and his wide experience in this industry. Warmest

[1] The Conference was established in 1935 by representatives from universities, governmental agencies, and private research organizations interested in stimulating and coordinating research dealing with the nature and behavior of costs, prices, and related topics. The membership of the Committee, when this study was sponsored, included the Universities of Chicago, Columbia, Cornell, Harvard, Minnesota, and Pennsylvania; the American Institute of Accountants; the National Association of Cost Accountants; the Bureau of Agricultural Economics, the Bureau of Labor Statistics, and the Central Statistical Board; the Brookings Institution; the Food Research Institute of Stanford University; and the National Bureau of Economic Research.

thanks are due to Professor Mills and Professor Clark, whose searching questions and constructive suggestions and advice have been of inestimable help. Since most of the Committee members have not had the opportunity of reading the appraisal chapter, it should be made clear that no responsibility should be assigned to them for the judgments and findings set forth in the study.

The authors are also indebted to their colleagues in the Industrial Research Department of the Wharton School, University of Pennsylvania: to Doctor Anne Bezanson, whose research in this industry had enabled her to give invaluable criticism and suggestions; to Miss Miriam Hussey for editing the manuscript and for her advice and interest in preparing it for publication; and to Mr. Hiram S. Davis for constructive comments on the appraisal chapter. In particular, they wish to express their gratitude to Mrs. Norma W. Soffer for gathering and computing considerable statistical data for the appraisal chapter, for assistance in paraphrasing and summarizing sections of that chapter, and for many valuable suggestions. Acknowledgment is also made to Mrs. Marjorie C. Denison of the Department for help in drafting the charts, and to Mr. H. Irving Forman of the National Bureau for final drafting; also to Miss Mary C. Wing of the National Bureau for a final editorial review.

The authors are grateful to the National Bureau for financial assistance and most cordial cooperation in all matters relating to this undertaking. They wish to thank the Executive Director, Dr. William J. Carson, for the courtesy and thoughtfulness he has shown in handling all arrangements involved in carrying out this project, and to Professor Solomon Fabricant for his helpful comments on the appraisal chapter. They are especially indebted to Professor George Stigler for his critical reading of the entire manuscript and for his many valuable comments and questions.

The authors also are under obligations to Mr. Phillip H. Hollar, Mr. Robert L. Ireland, Mr. John C. McBride, Dr. C. J. Potter, and especially Dr. W. H. Young, either for making available much material that was not readily accessible or for pointing out errors and giving helpful advice and criticisms. Finally, they wish to express their thanks to Dr. Mary Effie Cameron, who collaborated with them in the writing of Chapter II.

This study is an attempt to describe and appraise, forthrightly and objectively, the experiment in minimum price fixing in the bituminous coal industry under the Coal Act of 1937. It presents and evaluates the various criteria and many procedures used in establishing minimum price schedules. It also calls attention to the innumerable difficulties and complex problems which confront administrators who would substitute government-determined prices for those established by the interplay of the forces that operate in competitive markets.

The authors are, perhaps, too close to this analysis and appraisal to see it in its proper perspective. This proximity, however, makes them aware of numerous shortcomings, many of which have arisen because their primary qualification for this task was their knowledge of the coal industry rather than competence in theoretical economics, particularly in the theory of prices.

It is recommended that the reader begin with Chapter X unless he desires a broader background in the economics of the industry and some knowledge of prior attempts to establish bituminous coal prices (Chapters I and II). The over-all summary and appraisal will orient the reader and make more meaningful the purely descriptive chapters on the intricate procedures and mechanisms used by the price-fixing agencies. Because this chapter was written to provide those readers who are not interested in the details of price determination with the essential mechanisms, findings, and conclusions pertaining to this experiment, some duplication of material has been unavoidable.

WALDO E. FISHER
CHARLES M. JAMES

Philadelphia
March 1954

CONTENTS

TABLES

CHARTS

MAPS

FIGURES

EXHIBITS