

no. 19

STATEMENT OF

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TO A SUB-COMMITTEE OF
THE SENATE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE

ON S. RES. 241, 80th CONGRESS, 2d SESSION

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Mr. Chairman and Members of the Committee:

A study of the histories of all great nations demonstrates the development of those nations was based on steadfast adherence to a basic political and economic philosophy suitable for the time and place of each. Our American system is based on two fundamental tenets - the liberty of the individual citizen and a free competitive economy. The one is complimentary to and cannot exist without the other. A free competitive economy means in simple language the elimination, if present, of those unfair restraints which hinder the purchase or exchange of goods in a free market.

The problem of price conspiracies and other restraints of trade has been of serious concern to the people of this country since colonial days. Such conspiracies were condemned by the common law. After a constantly increasing number of combinations and conspiracies in restraint of trade and a nation-wide protest against such practices, Congress enacted, with a unanimous vote of the House and only Senator Blodgett, of Rhode Island, dissenting in the Senate, what is generally referred to as the "Sherman Antitrust Act." President Benjamin Harrison approved this legislation on July 2, 1890. The public policy of the United States was

stated in this Act to be that all conspiracies in restraint of interstate commerce are illegal. After public demand expressed in the platforms of both major political parties and otherwise to strengthen the Sherman Antitrust Act, Congress enacted the Federal Trade Commission Act, approved September 26, 1914, and the Clayton Act, approved October 15, 1914.

The Antitrust laws were enacted for the prevention of monopolies and conspiracies in restraint of trade and to preserve and protect free enterprise. They embrace positive expressions of the inflexible will of the American people to preserve freedom of economic opportunity. The national platforms of the two great political parties have repeatedly and recently declared in favor of the strengthening and enforcement of these laws. No platform of either of such parties has declared in favor of the repeal or weakening of the Antitrust laws. There is undoubtedly an overwhelming sentiment among the citizens of this country in opposition to monopolies and conspiracies in restraint of trade.

In regard to the basing point system, the Temporary National Economic Committee, which was composed of representatives of both major political parties, unanimously recommended in part as follows:

"The committee is not impressed with the argument that a legislative outlawing of basing-point systems will cause disturbances in the rearrangement of business through a restoration of competitive conditions in industries now employing basing-point systems. Such disturbances may be costly to those who have been practicing monopoly. But the long-run gain to the public interest by a restoration of competition in many important industries is clearly more advantageous."

The Federal Trade Commission acting in the public interest and after a full and complete hearing found that certain members of the Cement Industry were using the basing point system as a means to effectuate an illegal conspiracy to fix prices. In the words of the United States Supreme Court in its opinion of April 26, 1943, in *F. T. C. vs. Cement Institute, et al*:

"Evidence shows it to be a handy instrument to bring about elimination of any kind of price competition."

In other words, the Supreme Court completely endorsed the action of the Commission in holding that the use of the basing point system by concert of action by members of the Cement Industry was illegal.

As a member of the Federal Trade Commission, I am opposed to any weakening of the Antitrust laws by administrative interpretation. I strongly favor vigorous enforcement of such laws. The Congress may of course enact any legislation within the purview of the Constitution

which the Congress considers proper. I was a Member of Congress for fourteen years. I respectfully recommend against the enactment of legislation which would legalize the basing point system or any other device which is used to restrain competition. Such legislation if enacted into law would undoubtedly seriously weaken the enforcement of the Antitrust laws.