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# REJOINDER BY MESSRS. McALLISTER AND QUIGG

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## REJOINDER BY MESSRS. McALLISTER AND QUIGG

### 1. *Trucking*

Dr. Latham has answered, "Whether the Institute held any meetings or not in the 22 months after July, 1930 is unimportant in the light of the evidence that it continued to exist and its bureaucracy represented the Institute in negotiations with railroad companies and the National Builders Supply Association.<sup>19</sup> It is, therefore, a misstatement that the only activity was the publication of freight-rate books and the collection of money to pay for them."<sup>1</sup>

Footnote 19 takes us to Paragraph 11, subsection (e) of the Commission's Findings which in part are as follows:

"While the trucking problem was acute in 1931, W. W. Campbell, president of the National Builders Supply Association, promoted a conference of interested parties . . . attended by D. H. McFarland, then president of the Institute, and officials of various railway companies and railway associations."

There is one other reference in this subsection to "D. H. McFarland, president of the Institute." In seven and one-half pages of Findings relating to trucking, the Commission makes no other mention of the Institute. The Finding does not even state that McFarland acted in this matter on behalf of the Institute. In fact, he testified that he acted only on behalf of his own company.

### 2. *Dissemination of Prices*

When it comes to the dissemination of prices under the N.R.A. Code, Dr. Latham<sup>2</sup> points to the Commission's Finding that "the Code did not specifically provide for such dissemination."<sup>33</sup> Footnote 33 takes us to the Commission's Findings, Paragraph 8 (j), reading in part:

"Under the Code, Respondents filed their destination prices with the Code Authority and these were systematically disseminated among Respondents by the Code Authority, although the Code did not specifically provide for such dissemination."

The "Code of Fair Competition for the Cement Industry, as approved on November 27, 1933 by President Roosevelt" provided

"Article IX—Open Price—Market Stabilization.

1. Each member of the industry shall file its prices and all terms and conditions of sale with the Code Authority within five (5) days after the effective date of this Code and make same public by broadcast quotations to the trade so that competitors, the trade, and the buying public may at all times have accurate information relative thereto and no member of the industry shall deviate therefrom except in the manner hereinafter provided."

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1. P. 1083 *supra*.

2. P. 1085 *supra*.

Whether price quotations are broadcast by the Code Authority or by each member of the industry seems completely immaterial.

### 3. *Basing Points*

In his answer to our statement that whether a mill was or was not a basing point was decided by its own management, Dr. Latham diverts the subject to so-called "punitive bases"—a form of retaliation against a mill which is found cutting prices, as distinguished from reducing its published prices. He writes,<sup>3</sup> "The chastisements involved in the use of punitive base were under the control of these corporate members of the Institute."<sup>40</sup> His reference takes us to Paragraph 10 of the Findings, dealing with punitive bases. There is not a word in these Findings which suggests that the Institute took any action in respect of any punitive base, but that, on the contrary, when the matter was brought forward by some companies when the N.R.A. Code was being written the Institute refused to take any position, but left the matter where it stood. There is no Finding whatsoever that the Institute actually had anything to do with the matter.

The foregoing are outstanding misstatements that appear in Dr. Latham's Answer. The Answer is no better than the original article.

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3. P. 1085 *supra*.

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