

# THE ART OF SELECTING AND EXPLOITING HALF TRUTHS: A REPLY TO "GIANTISM AND BASING POINTS"

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THE art of selecting and exploiting half truths to sustain a thesis or rationalize a position is doubtless as old as the art of making friends and influencing people. No case better illustrates this practice of semiveritudenism than the findings of the Federal Trade Commission in the *Cement* case; and no discussion of it better shows the consequences of misrepresentation and injustice to the men who labor to make and sell cement and to the public who are concerned with their behavior, than the article entitled *Giantism and Basing Points: A Political Analysis*,<sup>1</sup> by Earl Latham, Chairman of the Department of Political Science at Amherst, published in the February, 1949 issue of the *YALE LAW JOURNAL*. We have no concern with the thesis or the political propositions stated by Dr. Latham in his article. We are concerned only with the art he practices in his endeavor to sustain them.

The presumption of respect for truth and nothing but the truth, supported by care to ascertain it and intellectual integrity in dealing with all the facts, attaches to the publications of those who have the honor of membership upon the faculty of an old and respected institution of higher learning. But Dr. Latham has his own thesis and the findings of the Federal Trade Commission in the *Cement* case, amplified in important respects by his active fancy, fitted his thesis like an old shoe. Perhaps this is why his article discloses no evidence suggesting that he looked into the record, examined the digest of the evidence<sup>2</sup> or even read the 36 page opinion<sup>3</sup> of the Court of Appeals for the Seventh Cir-

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1. 58 *YALE L. J.* 383 (1949). See the political propositions stated in the footnote to the title of his article.

2. The record in the *Cement* case taken before a Federal Trade Commission's trial examiner, covered approximately 49,000 pages of testimony and as many of exhibits. For the convenience of the appellate courts, attorneys for the Institute prepared from this record a topical digest of 3600 pages, which is available in many libraries to any serious inquirer. There the student will find in full all the evidence cited by the Commission in its findings, as well as the rest of the evidence bearing upon the findings, with reference to the record pages and exhibit numbers, so that every fact stated may be verified. This digest was designated as an Appendix to the brief for The Cement Institute. It was printed in four volumes, distinguished by Roman numerals, and will be cited here, for example: App. I, pp. 62-7.

3. *Cement Institute v. FTC*, 157 F.2d 533, 537-74 (7th Cir. 1946). To the extent that we quote from the opinion of the Court of Appeals, we quote only statements that are in no way controverted by the opinion of the Supreme Court.

cuit, setting aside the order of the Commission. All of these inquiries would seem to be required before any serious "political analysis" may be made.

The Commission set out to make good its charge of a combination among cement manufacturers throughout the country to use a multiple basing-point pricing method. To reach this goal the Commission made findings upon almost every point involved in the marketing of cement and then used the sum total of these points as its evidence of combination. Naturally the findings do not reflect any aspect of the truth inconsistent with the purpose of the Commission. Conceding, *arguendo*, the truth of each finding of the Commission, the findings obviously did not disclose the full truth concerning the industry, and certainly are not a basis for any inferences beyond the inference for which they were compiled. They were not compiled with Dr. Latham's political propositions in mind.

Every trial is, after all, a contest in which all the evidence adduced by the accuser is aimed to prove the essential fact to which the alleged guilt attaches. But when the accuser also presides at the trial and drafts the findings and the verdict, the odds against the whole truth and nothing but the truth by this compounding of antithetic functions are truly heavy.

Findings of fact drawn solely with regard to their proof of guilt scarcely furnish a reliable foundation of fact for an inquiring student of government armed with Dr. Latham's thesis. More than this is required if the student is to do more than practice the art of semiveritudenism. This is plainly so when even casual inquiry beyond the limits of the Commission's findings will reveal undisputed facts of significance and relevance that leave the political propositions that make up Dr. Latham's thesis without significant factual support.

Neither the legal standing nor the economic merits of the multiple basing-point system are here in question nor were they with Dr. Latham. Neither the merits of giantism in a giant country nor the relative welfare of the people at the hands of big business or big government are here at issue. But if these issues are to be wisely resolved, the public must have the truth, and toward that end the practice of semiveritudenism by men who wear the badge of academic disinterestedness and the privileges of academic freedom must be exposed.

Dr. Latham writes of The Cement Institute as a powerful body, as a "private government organized to protect an economic security system" against hostile groups on all sides. It was "a confederation" that exercised legislative and executive powers, that levied taxes, operated through committees, divisions, bureaus, agents and field representatives, fought off "divisionist influences," disciplined and chastised the customers who were in its grip, maintained a ministry of information and propaganda, charged monopoly prices, overreached governmental agencies, engaged in cold political calculation, etc. Characterizations only serve to warm up a cold thesis. Significant and relevant facts alone can give the thesis integrity and the importance of a living reality. A sharp dose of facts here will dispel the characterizations into the mists of imagination whence they came.

Following now Dr. Latham's statements which most sharply reveal his method, and employing the sub-titles of his article for easier reference to those statements, we proceed.

*"The Cement Confederation"*

The striking point about the Institute is that the impulse that led to its organization came from government, but that it languished within the first year of its existence; that the impulse that led to its revival came again from government; that again on the verge of collapse, the necessity for the existence of a convenient vehicle for unifying the defense of the industry when attacked by government led to its continued life; and it passed out of existence when that necessity ended almost two years before the decision of the Supreme Court of April, 1948.

The evidence is that the Institute was born as a result of an address by Federal Trade Commissioner W. E. Humphrey, who, at a gathering of cement manufacturers in May, 1929 encouraged them to form a trade association, draft a set of trade practice rules, and seek a trade practice conference with the Commission. The Institute was organized in August, 1929 and its Code of Ethics prepared as a basis for conference with the Commission by 14 eastern manufacturers.<sup>4</sup>

At that time the industry numbered some 80 companies operating about 150 mills in at least 35 states.<sup>5</sup> The market served by each of these mills was seldom more than a few hundred miles from the mill.<sup>6</sup> There is no national market for this heavy product. The Institute increased to 40 members representing about 55% of the total capacity of cement manufacturers in the United States by June, 1930.<sup>7</sup> The Institute negotiated for a trade practice conference with the Commission. It developed, however, that there was a difference of opinion between members of the Federal Trade Commission and the Department of Justice as to the Commission's trade practice conference procedure and pending the composition of this difference, the matter was not pressed. As a result resignations were sent to the Institute and its members declined from 40 in September, 1930 to 28 as of January 1, 1931. By July, 1931 the members had dropped to 20.<sup>8</sup>

From that date until May, 1933, a period of almost two years, the Institute held no meetings. The only activity was the publication of freight rate books and the collection of money to pay for the books from those who bought them.<sup>9</sup>

Then came N.R.A.; government again. In May, 1933 the National Industrial Recovery Bill was under consideration. It seemed necessary to cement manufacturers, as to other manufacturers, that they have a trade association

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4. 157 F.2d 533, 543 (7th Cir. 1946) ; App. III, pp. 1797-1800.

5. In the Matter of The Cement Institute, 37 F.T.C. 87, 140-1 (1943).

6. App. I, pp. 87-96.

7. 157 F.2d 533, 543 (7th Cir. 1946) ; App. III, pp. 1799-1800.

8. 157 F.2d 533, 543 (7th Cir. 1946) ; App. III, pp. 1800, 1808-10.

9. App. III, p. 1811.

to function under the Act and since a skeleton organization was already in existence, the natural thing to do was to revive it and employ it. Members flocked in as they did to associations in other industries. As a result, by December 7, 1933, the effective date of the N.R.A. Cement Code, or immediately thereafter, the total membership reached 79 out of 85 manufacturers and these 79 controlled about 98% of the total productive capacity. Several members testified to some sense of compulsion in joining the Institute at that time for the purpose, not of protecting themselves against competition or the pressure of customers, but against the demands and regulations of the federal government.<sup>10</sup>

Within four months after the declared unconstitutionality of the National Industrial Recovery Act, four companies had resigned.<sup>11</sup> In May, 1936 the members debated a suggestion that the Institute be dissolved. The matter was laid over a month and of a total of 28 votes cast on the subject, 25 were opposed and 3 in favor. The majority did not bother to vote by proxy or otherwise. However, the activities of the Institute were drastically curtailed in September, 1936. In January, 1937 the Institute had 10 employees consisting of a manager and one clerk at each of its two freight rate offices, a statistician and one assistant, and a general manager and three employees in the general office.<sup>12</sup>

The progress of dissolution was halted by the commencement of the Federal Trade Commission's action in July, 1937. For nine years thereafter the Institute lived as a convenient vehicle for unifying the defense of this case and collecting money to finance it. Its only other significant activity, as in the earlier two year period, was the publication of freight-rate books. In June, 1946, after argument but prior to the decision on appeal to the Court of Appeals for the Seventh Circuit,—a decision that set aside the Commission's order—the Institute was dissolved and the government was so notified.

The nearest approach to organized discipline in the industry was during the N.R.A. but the members of this industry took to discipline in such fashion as to prompt the judge who examined the record on this subject to remark that to him "they were a queer lot of conspirators."<sup>13</sup> The Code Authority wrote letters to members drawing attention to complaints of Code violations. Enforcement rested with the N.R.A. Administrator but the record shows that he did little in the enforcement of the Code.<sup>14</sup>

Dr. Latham has drawn so freely on his fancy that it becomes necessary to note, in the words of the court of appeals, some of the things the Institute did not do:

"Except for open price filing under the N.R.A. Code and for three months thereafter, there was no exchange of prices or price data

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10. App. III, pp. 1799-1800, 1812-17.

11. App. III, p. 1800.

12. App. III, pp. 1818-24.

13. Judge Major, 157 F.2d 533, 548.

14. App. III, pp. 2123-4.

among the members through the Institute or otherwise, and the Institute did not receive from members or send out to them any reports as to prices, either daily or otherwise. Even in the specific job contract reports, prices were omitted, although the old Cement case held that inclusion of prices in such transactions was lawful. The Institute did not receive or send out any information as to basing points, base prices, change of mills from non-base to base, or vice versa. Even the freight rate books were not limited to rates from basing points, although under the old Cement case they might have been so limited. The Commission does not find that any pricing practice of the industry generally or that any pricing practice or policy of any respondent was developed or changed by or through membership in the Institute or by or through any act of the Institute. Most important of all perhaps is that there is no finding that the Institute either had or exercised any power or authority or could or did impose any restriction upon the activities of its members."<sup>15</sup>

As an instrument of government, The Cement Institute was singularly impotent.

*"Devices of Control"*

Dr. Latham describes the three principal control devices of the industry as "patent control, dissemination of price and cost data, and the administration of a formulary price system through The Cement Institute."

The patent control we ignore. The doctor admits that it ceased in 1911 and inquiry will show that its duration was short and its effectiveness never wide.<sup>16</sup>

There has never been dissemination of cost data in the history of the industry.

There has never been dissemination of price data or prices of any sort by any trade association in the history of the industry.<sup>17</sup> There was no finding by the Commission that any price data or prices were circulated except by the N.R.A. Code Authority acting with the consent and under the direction of the President of the United States.<sup>18</sup> This lasted for less than two years. We have noted already what the court of appeals stated on this subject.

Dr. Latham is persistent. When he comes to his point about the formulary price system administered through the Institute, he hurls himself against the record, the findings, and the courts. He says, "The focal point of control was multiple basing-point pricing. Under this system, sixty basing-points were

15. 157 F.2d 533, 545 (7th Cir. 1946).

16. It began in 1907, not 1900 as Dr. Latham states, App. III, p. 1791. The parties to this patent agreement were 16 manufacturers with mills in the Lehigh Valley and Hudson River districts. At that time there were over 108 cement mills throughout the country, App. I, p. 357 and Chart II-C, p. 360.

17. The only possible exception to this statement is that members of the Cement Manufacturers Protective Ass'n., in reporting specific job contracts, also reported the contract price. See Cement Manufacturers Protective Ass'n v. United States, 268 U.S. 588, 596 (1925). The Institute's specific job contract reports, however, did not show the price. See 157 F.2d 533, 545 (7th Cir. 1946).

18. 37 F.T.C. 87, 178 (1943); App. II, pp. 617-19, 692-6.

established in the United States, each with its base price for cement. . . . Control of the location of basing points and of the basing-point prices was in the hands of the Institute. . . ." This is a direct contradiction of the findings of the Commission that "a base mill may, for reasons its management considers sufficient, become a nonbase mill, and, similarly, a nonbase mill may become a base mill."<sup>19</sup> As for the number of base mills, there were 31 four years before the Institute was formed and there were 112 when the record before the Commission closed late in 1940.<sup>20</sup> The Institute had no more to do with the determination of basing-points or the price at any basing-point than did Dr. Latham.

Dr. Latham next turns to the freight-rate books and says that "In cases of conflict between the published freight rates of the ICC and those set out in the freight-rate books distributed by the Institute, the members of the industry were disciplined to conform to the Institute's figures." And, when the ICC approved a change in rate, the manufacturers used the old rate "until they were told by the Institute that they could calculate them at the new rates." The Institute told nobody anything about the use of the books and the Commission made no finding that it did,<sup>21</sup> least of all that the Institute "disciplined" anybody. In fact the record shows that the Institute did not even compile rate books for the territory covered by 21 companies on the Pacific Coast and in the Rocky Mountain area. Six companies in the Middle West did not use Institute books, but used only their own. There was no evidence as to seven other companies east of the Rockies ever receiving freight-rate books. Three companies who received the books did not use them, but used only books they each compiled; 11 companies used them for checking against their own books and for looking up points not shown in their books; 38 companies receiving the books used them regularly in one or more of the following departments—sales, traffic, shipping—and a few of them gave the books to salesmen for their convenience in computing prices on the road.<sup>22</sup>

As Dr. Latham says, freight rates are "distressingly complex" and a manufacturer must either employ an expert to compile them and to keep track of all changes, or he must pay for having this done on the outside. It costs less to have the Institute's rate experts compile one book for the use of a number of manufacturers than for each to do it himself. The smaller the manufacturer, the greater was the value of this service.<sup>23</sup>

So much for Dr. Latham's "Devices of Control." We turn now to his "hostile environment" in which the Institute conducted its affairs. Even the customers were a part of that environment and so they, too, had to be disciplined and chastised. It took "force" to do it.

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19. 37 F.T.C. 87, 148 (1943); App. I, p. 363, Chart II-F, p. 366.

20. 157 F.2d 533, 555 (7th Cir. 1946).

21. Invidiously, Dr. Latham has confused complaint and findings. In support of his statement he cites 37 F.T.C. 87, 109 (1943), but that is where the Commission's complaint is set forth.

22. App. II, p. 1064.

23. App. II, pp. 1112-21.

*"Security by Force"*

*"Truckers."* Dr. Latham says that customers frequently wish to take delivery by truck at the manufacturer's plant and "such a practice breaks the basing-point formula by changing the freight rate factor" and various restrictive steps were taken to discourage trucking by customers. He says "It is interesting that this policy coincided with the appearance of the Cement Institute and is another indication that the Institute was a superior form of private government . . ."

On the contrary, the interesting point to a student of private government is that during the period 1931 to 1933 when the trucking problem was acute in the industry, the Institute was more dead than alive. In those two years its 20 members held no meetings. Its trustees held no meetings. Its president (a vice president of a cement company) was titular head of an Institute that conducted two freight-rate bureaus. That is all the Institute did during those two years.<sup>24</sup>

The trucking problem of the industry is an interesting one to a student of marketing and careful study of this record will be rewarding.<sup>25</sup> Even a casual look will reveal nothing for the political scientist.

*"Dealers."* Some 30,000 building material dealers are by far the most important customers of the cement manufacturers.<sup>26</sup> The manufacturers sell at wholesale, the dealers at retail. There is little point in separating dealers from customers, as Dr. Latham does, but these are the people who had to be disciplined and chastised—and it was the Institute that did it, according to Dr. Latham.

Dr. Latham would have found interesting materials had he studied the forces let loose in the days of N.R.A. and W.P.A. The Government itself was there not only with the Blue Eagle but with the biggest peacetime spending program ever undertaken by the Government up to that time. Throughout industry and trade, associations of all kinds were more active than ever. In the cement industry, the Institute had come to life after two years of bare existence. The building material dealers, too, were busy with their Code and their Code Authority. Their associations were so numerous and scattered that a National Federation of Building Supply Associations was required to bring order and control into their dealings with their Government and many other groups, for these dealers sold all kinds of building materials—lumber, bricks, gravel, sand, wallboard, roofing materials, etc., etc.<sup>27</sup>

The point that Dr. Latham discusses is the question of a differential in price between sales to dealers who have to warehouse and resell, and sales to contractors taking delivery at the railroad siding closest to the job. This question has frequently disturbed the cement manufacturers. The dealers have wanted a dealer's discount and the manufacturers have not wanted to give it.

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24. App. III, pp. 1811-12.

25. App. III, pp. 1401-1705.

26. 157 F.2d 533, 541 (7th Cir. 1946).

27. App. IV, pp. 2522-8.

The problem has been dealt with in different ways at different times. But when Dr. Latham says that "The Institute . . . abandoned the trade discount to dealers but then found it necessary to devise other methods for controlling the competition between dealers and manufacturers and among dealers," he writes out of the reservoir of his own fancy.

In order that his sales policy be consistent, each manufacturer had to have his own idea of a dealer and the classes of cement sales which should be made by the dealer as a retailer, as distinguished from other sales made by the manufacturer as a wholesaler. Otherwise he was in constant conflict with his best customer.<sup>28</sup>

N.R.A. presented the first opportunity to the manufacturers to attempt to codify the procedures that prevailed at that time. The N.R.A. Code did that. It contained a definition of a dealer and an article providing that "except as otherwise specified, Portland cement shall be marketed in each community through the building material dealers regularly serving such community." It then listed as exceptions sales to the federal, state and county governments for public improvements or maintenance; contractors on public work except where the work was located entirely in cities, towns and villages; railroads, power developments, flood control, etc., and concrete products manufacturers. It was these exceptions that aroused the dealers and at their insistence, through their Code Authority, this article was suspended early in 1934 by the order of the National Recovery Administrator.<sup>29</sup>

The dealers wanted all cement sold through them. They wanted no exceptions. They were opposing every direct sale by manufacturers.<sup>30</sup> They won, because as the former Chairman of the Cement Code Authority testified: "There are 90 cement manufacturers in the United States, and there are 30,000 dealers. And they had a lot more influence than we did. And the Administrator after this hearing just ordered that it be suspended."<sup>31</sup>

When Dr. Latham tells about the Institute's "declarations of policy" after the N.R.A. Code provision was stricken (there were none), how "the dealer arrangement was established as an Institute policy" (it was not) and how the Institute made arrangements "to police the new rule and to report violations of it" (nothing like that was done), we can only say, The Cement Institute had nothing whatever to do with what he is telling about.

"*Customers.*" Under this heading Dr. Latham discusses the use of specific job contracts and diversions of cement in transit by purchasers.

A contractor or dealer requiring cement for a given job upon which a bid had presently to be made, while the cement was to be bought at some future date or over a period of time, wanted a chance to predicate his bid on the current price of cement without the risk of later having to pay a higher price. To protect dealers and contractors in that situation, the manufacturers made

28. App. IV, pp. 2285-96.

29. App. IV, pp. 2298-2307; 2257-84.

30. App. IV, pp. 2305-7, 2334-51.

31. App. IV, p. 2306.

specific job contracts agreeing to sell the cement necessary for a specific job over the period of its construction at the current price in force when the delivery was made but in no event at a higher price than that stated in the contract. Thus the contractor might get the benefit of a lower price but did not run the hazard of a higher.<sup>32</sup> It was soon discovered that a dealer would make the same contract with two or three different companies or make a contract for much more cement than he needed for the specific job for which it was sold so that if the price of cement rose he would have an opportunity to obtain cement at a lower price than his competitors were currently paying for it. In such a case the manufacturers were protecting that particular customer in an advantage which he had obtained by deception and the misrepresentation of his actual needs. The manufacturers affected took measures from time to time to stop this and for a short period after its formation the Institute employed field men to gather the information as to the duplication and misrepresentation of these contracts.<sup>33</sup> Dr. Latham speaks of customers as buying from a number of sources for the same job and "stock piling this commodity as an insurance against price increases." But all the stock piling they were doing was in the manufacturers' bins. Cement is a perishable product which cannot readily be stored and is therefore produced and purchased as needed.<sup>34</sup> There is no evidence that any manufacturer refused to sell a customer all the cement he would take for immediate delivery.<sup>35</sup>

Diversion of cement in transit would be effected under certain conditions which permitted one dealer at a given destination to procure cement at a lower price than cement offered to another dealer at the same destination by the same manufacturer. When the manufacturer's customer found his competitor selling the same brand of cement at a lower price than he could afford to sell it, he naturally protested to his manufacturer and the manufacturers were unanimous in their objection to this practice. The Institute publicly

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32. Dr. Latham is quite mixed up about this. At 58 YALE L. J. 390 he writes of how customers tried to escape "from the iron grip of a rigid price system by making long-term contracts with dealers at the price determined at the time of the contract." There was no such practice in the industry. The only long term contracts were specific job contracts, a practice of long standing in the industry. They are described in detail in *Cement Manufacturers Protective Ass'n v. United States*, 268 U.S. 588, 594-7 (1925). Dr. Latham writes that in effect the long term contract "was an engagement by dealers to absorb such increases [in price] in return for the advantage of a long-term order." On the contrary, under the specific job contract the dealer absorbed nothing. It was the manufacturer who absorbed any price increase and the dealer gained the advantage of any price decrease.

33. This activity followed precisely the pattern approved by the Supreme Court in 1925 in *Cement Manufacturers Protective Ass'n. v. United States*, 268 U.S. 588 (1925), except that the price at which the cement was sold was not reported. See the quotation from the Court of Appeals p. 1071 *supra*.

34. 157 F.2d 533, 539 (7th Cir. 1946).

35. See the evidence as to Specific Job Contracts generally, App. III, pp. 1878-1926.

opposed it, but there is no evidence of the "disciplining and chastising purchasers" of which Dr. Latham speaks.<sup>36</sup>

Dr. Latham's pages about what he calls the Institute's "ministry of information and propaganda" take on great interest to him because here he has found something to bite into. Here was "cold political calculation" as shrewd as that of "underground movements in Europe." The political scientist is at home with this sort of thing. Dr. Latham's praise is, however, praise of the advertising man who made the cold calculation and drew up the plan. It does sound like a powerful plan. It reads well. However, the Institute trustees would not appropriate a penny to carry it out!<sup>37</sup> They had spent \$30,000 on a series of advertisements that had been criticized in industry circles.<sup>38</sup> They would spend no more.

It is idle to pursue further Dr. Latham's rugged fancy as applied to a nationwide industry operating amid a state of facts of which he has taken no pains to inform himself. On page 391 of his article, however, Dr. Latham makes a serious charge of a different sort. He speaks of the policy of the industry "to fix high prices and to ration low production." The manufacturers tendered evidence before the trial examiner of the Commission to show the cost of making cement, cement prices and cement profits which throughout the industry averaged, from 1928 to 1937 inclusive, 3.56% on the capital invested before federal income taxes.<sup>39</sup> The trial examiner refused to receive this evidence. There was, however, ample evidence incidental to the discussion of bids that over those same years cement sold, less the freight cost, at between \$1.25 and \$2.10 for 376 lbs. packaged in four bags.<sup>40</sup> To make these 376 lbs. of cement, 625 lbs. of rock must be quarried and fetched to the mill, plus 100 lbs. of powdered coal and between 75 and 80 operations must then be performed in grinding the rock, in roasting it in kilns and in grinding the resulting clinker to a fineness that will pass through a 200 mesh screen (40,000 openings per square inch), finer than a silk handkerchief.<sup>41</sup> It takes a more trustworthy imagination and careful consideration of fact than Dr. Latham displays to be able to take 725 lbs. of coal and rock, put it through these processes, and offer the 376 lbs. of cement that result for sale at less than the price of one bushel of wheat during the war, and make any profit at all. But when that has all been done for him, a personal "economic security system," of the sort that he has imagined for an industry, is awaiting Dr. Latham if he can show any one of the manufacturers how he can sell the product at any destination at a higher figure than the lowest price which any competitor is willing to offer, or how he can maintain for himself alone a price

36. See the evidence as to Diversions of Cement in Transit generally, App. III, pp. 1739-78.

37. Commission's Exhibit 621 G.

38. App. III, pp. 2050-3, 2056; 37 F.T.C. 87, 247.

39. App. I, pp. 61-2.

40. See App. I, p. 350 and App. II, pp. 732-3 for examples.

41. App. I, pp. 51-6.

below the lowest price offered by competitors which will so increase his sales that he will increase his net profit.

Much is heard today about academic freedom. Certainly everyone who has a true appreciation of the functions of scholarship and of teaching believes in the freedom of the scholar and the teacher to give voice to his own convictions. But academic freedom, if it is to justify itself, must meet the obligation of care, sincerity and respect for truth. The contractor can safely build upon the cement he receives from the manufacturers; but can Dr. Latham's students safely build upon the materials submitted to them by him?

The cement industry is but one industry and Dr. Latham but one professor. This reply may, to some extent, balance Dr. Latham's misrepresentations of the men who labor to make and sell cement but that, though reason enough, is not the chief reason for this reply. Dr. Latham has posed an issue of private power against public power in his article. His written words are power, too; power that derives from the position which he holds and the dignity which impliedly attaches to utterances from such a quarter. Power carries with it responsibility for its exercise. No greater responsibility attaches than to those who hold and exercise academic power, for when they exercise it they do so with the confidence that students and public alike will accept it as a product of scholarly effort, intellectual integrity and disinterestedness. Failure in meeting that responsibility corrupts the academic freedom in which we take so high a degree of pride. It is important, therefore, that this reply be made.