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JOHN BATES CLARK ON TRUSTS: NEW LIGHT FROM THE COLUMBIA ARCHIVES

BY

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I. INTRODUCTION

Public concern over the so called "trust problem" in the United States between the end of the nineteenth century and 1914, the year of the passage of the Clayton and Federal Trade Commission (FTC) Acts, was reflected in the considerable contemporary literature on the subject. Not surprisingly, professional economists actively participated in this debate. Their thinking directly and indirectly influenced the legislation of 1914 in a way that cannot be said of the Sherman Act of 1890 (Mayhew 1998).[1] A survey of the most important of these professional writings shows that, among the several voices animating the discussion, John Bates Clark's was perhaps the most influential. In this connection, Joseph Dorfman argues that John Bates Clark's second edition of his *Control of Trusts* (1912), co-authored with his son John Maurice, "played a formative historical role in policy making, for it provided the most systematic exposition of the view on trusts, that was embodied in 1914, at President Woodrow Wilson's urging, in the Clayton Act and the FTC Acts." "From this standpoint," continues Dorfman quite emphatically, "*The Control of Trusts* caught the dominant reform interest and in turn became a contributing force in shaping the trend of the socio-economic development of the nation" (1971, p. 17). Apart from the 1912 monograph, John Bates Clark devoted considerable attention to the problems of trusts and industrial combinations during much of his career, both in his professional writings and in his frequent contributions to newspapers and popular reviews.

Dorfman in his introduction to the reprint of the second edition of *The Control of Trusts* provides lengthy evidence of correspondence in 1914 between Clark and

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[1]As early as in 1915, commenting on the passage of the Clayton Act, Allyn Young observed:

> Furthermore, it is significant that in much of the more serious discussion, both the analysis of the problem and the proposals of the specific remedies involved the recognition of certain principles that for some years had been very generally accepted among economists. Specific instances of the direct influence of economic writing and teaching have not been lacking, and it is fair to infer that through a process of gradual diffusion the indirect influence has been considerable (Young 1915, p. 204).

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Senator Francis Newlands, a prime mover in the development of the both the Clayton and Federal Trade Commission Acts. This is of interest because it shows that Clark and Newlands were in contact after 1911, and that Senator Newlands relied on Clark's opinion about "three tentative bills (one of which would become the Clayton Act—LF, JFH) enclosed with your letter" (cited in Dorfman, p. 10).

The aim of this note is to introduce unpublished testimony given by John Bates Clark before the Interstate Commerce Committee of the Senate in 1911.[2] In the first section we offer some introductory considerations on the 1911 antitrust cases which led to Clark's testimony and the reactions they triggered among American economists; the second section deals with the relevance of the unpublished document in connection with the evolution of Clark's position on trusts; the third section briefly discusses Clark's contribution to the Clayton and Federal Trade Commission Acts. The full text of the testimony is reproduced in the appendix.

II. AMERICAN ECONOMISTS AND THE 1911 COURT DECISIONS

The 1911 oil and tobacco cases were the most important pre-1914 cases concerning the legality of combinations brought about by either stock or asset acquisition, and substantially contributed to the demand for the passage of the Clayton Act. The American Tobacco Company was primarily the result of a series of asset acquisitions, although it also involved the acquisition of competitors' stock. The Standard Oil Company of New Jersey was primarily a combination brought about as a holding company by the acquisition of stock. The goverment won both cases, thus demonstrating that under the Sherman Act a combination of manufacturing concerns could be dissolved, whether organized under the corporate form of a holding company or as a single corporation. The most important aspect of these decisions was that the defendants were found to have violated the Sherman Act not because of a restraint of trade, but because of an *unreasonable* restraint of trade. On the basis of the principle of the "rule of reason," the government could establish that restraint of trade had indeed occurred. The defendant could then argue that such restraint was "reasonable." Clearly, in these cases the defendants were unsuccessful in their bid to demonstrate that their activities were of a reasonable sort (see Liebhafsky 1971, pp. 265-69 for an elaboration of this principle with regard to the above cases).

The 1911 Supreme Court ruling against the American Tobacco Company and the Standard Oil Company clarified state economic policy concerning actions of a holding company. Both trusts used the pyramided holding company to control several subsidiary corporations and gain market control. The court held that the pyramided structure of the American Tobacco constituted "unreasonable restraint of trade." These decisions showed that "the state was becoming more concerned about the use of the pyramided corporate structure to gain market control than about market control per se. It was the ability of corporations to control markets by

[2]The transcript of the testimony was found among the John Bates Clark Papers in the Rare Book and Manuscript Room of Columbia University.

controlling the assets of subsidiaries they did not fully own that the state managers found problematic" (Prechel 2000, p. 64).

The relevance of the 1911 cases did not pass unnoticed by prominent economists working in the field of industrial organization. In 1912, *The Journal of Political Economy* devoted two issues, 4 and 5, and much of number 6 to the so-called trust problem. In that same year, the American Academy of Political and Social Science devoted its *Annal* to the topic of "Industrial Competition and Combination." Included in this volume was an essay by Clark on "The Possibility of Competition in Commerce and Industry." Two representative statements follow. According to Henry Seager—a fellow Columbia University economist and personal friend of Clark—"the recent Standard Oil and American Tobacco cases decisions will affect future developments in three different directions. (1) They constitute precedents for future decisions. (2) They should contribute toward that clearer formulation of public policy with reference to combinations and corporations engaged in interstate commerce... (3) They must affect the forms of organization which the business of the country will assume in future years." More specifically:

> The influence which the decisions will have on the forms of business organization to be adopted in the future depends very largely on the promptness and statesmanship which Congress may display in working out a regulative policy for industrial combinations.... Under a wise regulative policy it is probable that many different forms of organization would flourish side by side. At the same time protection from unfair and oppressive methods of competition would be a great encouragement to the small producer and would enable him to regain some of the ground he has lost in the unequal competition he has frequently been compelled to carry on with the unregulated trust (Seager 1911, pp. 611–14).

In a more critical vein, Jeremiah Jenks—perhaps the most noted industrial organization economist of his day—acknowledged the relevance of the recent decisions, but lamented the neglect of economic considerations by the courts in shaping their decisions:

> The essential purpose of this paper, however, is not to suggest remedies, but rather to call attention to what seems to be the fact, that the Supreme Court in these two decisions has failed to take sufficiently into account the economic benefits that come from the saving of industrial energy and the promotion of industrial efficiency by industrial combination ... It is submitted that a method of procedure should be found, either by the legislative departments of by the courts, that, while protecting the public interest from direct harm, shall serve the public interest by keeping the benefits of combinations (Jenks 1912, p. 357).[3]

[3]Two years later, still in connection with the 1911 courts decisions, Willard E. Hotchkins in the *American Economic Review* observed, with a more optimistic attitude:

> Perhaps the greatest of all the specific services to business which the Sherman anti-trust law and the decisions under it have rendered is found in the progress toward a definition of legitimate competition. This has given an effectual impetus to efforts directed toward raising the moral level upon which competition and all the business of the nation in the future will be carried on (Hotchkins 1914, p. 172).

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In general, following Anne Mayhew (1988), we can affirm that the 1911 court decisions and the consequent debate leading to the passage of the Clayton and FTC Acts, had the consequence of narrowing the range of inappropriate behavior by trusts with which economists concerned themselves: "[t]he focus was now largely on price and on the relationship among firms [while] concerns about political power had faded from the economic literature" (Mayhew 1998, p. 192). The emphasis in the discussions shifted from considerations relating to the mere size of trusts to their behavior and the form of their legal organization (most notably, the holding corporation and the related problem of interlocking corporate directorates). In particular, economists directed their attention to certain predatory practices by trusts—price discrimination, tying contracts, exclusive sales contracts, localized price contracts—which were considered to be attempts to eliminate rivals or discourage potential entry into markets.

Not surprisingly, reactions to the 1911 court decisions were not limited to the economics community: these cases had important consequences in the larger political arena as well. The Interstate Commerce Committee of the Senate, of which Democrat Senator Albert Cummins was chairman, called for an inquiry into the whole of antitrust law, an inquiry whose hearings lasted from November of 1911 into the following spring. In his insightful and well-documented historical reconstruction of the events prompted by this inquiry, William Letwin tells us that lengthy testimony was taken from over one hundred experts in the field, including leading businessmen such as the steel tycoons Andrew Carnegie and James A. Farrell; lawyers who had been serving as consultants in previous antitrust cases such as Victor Morawets and Louis D. Brandeis; labor leaders and public affair specialists such as Samuel Gompers and Lyman Abbott; and eminent economists such as J. Lawrence Laughlin and John Bates Clark:

> From these men the Senate Committee had taken testimony on all the many particular proposals for amending the antitrust law. It had heard suggestions ranging from the total abandonment of the Sherman Act to the strenghtening of the act by attaching to it long lists of prohibited practices and long glossaries defining for the courts its essential terms (Letwin 1965, p. 268).

III. THE PLACE OF J. B. CLARK

J. B. Clark was arguably the most prominent U.S. economist by the turn of the twentieth century. Best known for his 1899 *The Distribution of Wealth*, Clark was also one of the more important authorities on issues associated with "the trusts." Writing in some of the popular outlets of the day, as well as in the professional journals, Clark also wrote for *The Independent*, a religious monthly associated with the Social Gospel movement. As well, he contributed two books, *The Control of Trusts* (1901), which was revised in 1912 with his son, John Maurice Clark, as co-author, and *The Problem of Monopoly* (1904), based on a Cooper Union, New York, lecture series. By the time of the 1911 testimony, Clark was a well known industrial organization economist and was well placed to add to the information being compiled by the Senate Committee.

Clark was not a "trust-buster" in the tradition of Theodore Roosevelt and the Progressive Movement that was so prominent in the first two decades of the century. While Clark's position on competition and monopoly underwent significant change over the years, particularly if one compares his argument of his early, "Christian socialist" period where a moralistic element figured prominently (see Morgan 1993, pp. 570-72), in his mature period he took the position that trusts (or oligopolistic organizations in general) were a "natural" phenomenon and were simply the outcome of technological change coupled to increasing returns to scale that could be captured by large industrial organizations (Clark 1900). The contest was not between big and small business but "honest" and "dishonest" capital. Honest capital secures gains through advancing technology, thus increasing productivity and reducing costs—a benefit to consumers—while dishonest capital is garnered through speculation, financial manipulation, and assorted other nefarious activities. Proper policy, then, is to assure that the efficiency gains based on scale are preserved, while pricing power based solely on size is reduced or eliminated (for all this and what follows, see Henry 1995, pp. 117-26; Morgan 1993).

In the final analysis, Clark generally saw government policy as largely ineffectual, mainly because of bureaucratic problems, but also because it would be difficult, if not impossible, for officials to discover the true, competitive price based on costs of production that would be necessary to establish the "correct" price large firms should charge. Moreover, if government were to intervene in the pricing decision, this would no doubt stifle technological change as it would interfere with firms' search for profit. His fundamental solution to the problem of monopoly was "potential competition," a concept developed as early as 1890 in his "The 'Trust': A New Agent for Doing an Old Work" (and a modification of a similar argument first enunciated in John Cairnes's *Some Leading Principles of Political Economy* of 1874). Essentially, potential competition is that which would develop if monopolies actually used their economic power to raise prices much above the competitive level. Were this to happen, new competitors would appear to take advantage of the higher profits associated with monopoly pricing and this would force price down to the near-competitive level. In other words, if we do not observe entry into a particular industrial field, existing large corporations are not unduly exercising pricing power:

> A quarter of a century ago, when the power of the trusts was beginning to show itself, and the natural limits on the exercise of that power had not appeared, the public had a period of positive alarm. It knew then that the trusts were greedy, but did not know that it was fatal to themselves to be too greedy. The monopolies quickly found this out to their cost. . .and everyone now knows that "potential competition" . . . the competition of the mill that is not yet built but will be built if the trust becomes too extortionate—holds these commercial monsters in check.
>
> If the trust raise prices too much, new mills are actually built and prices go down; therefore it does not put the prices high enough to call the new mills into being. It is deterred from much extortion which. . . it would otherwise practice by the competitors who do not now exist (Clark 1904, pp. 955–56).

While Clark relied generally on competitive forces to keep monopoly power in check, he was not a strict *laissez-faire* economist (though certainly not in favor of nationalization or socialism).[4] He did see limited scope for government intervention, in particular in those cases where monopolies sold below cost to drive out a rival, where monopoly firms producing various types and qualities of a good would charge a lower price for a particular variety sold by the smaller firm, and where "factors agreements," in which firms forced merchants to refuse to purchase a rival's product, were in effect. The one area where Clark did call for fairly strenuous government regulation was railroads. As railroads serve all industries and no close substitutes for their services existed, government should exercise its regulatory hand in administering prices, though in a rather interesting fashion. At that time, railroad corporations were notorious in using their monopoly power to reward and punish firms through a pricing policy that featured different prices to different firms for carrying the same tonnage over the same distance. These prices were not public knowledge but, rather, arranged unilaterally and secretly. Firms doing business with a particular railroad line were advantaged, while those seeking alternative transport arrangements were punished. Through varieties of price discrimination, companies attempted to increase market share and profits through such cutthroat competition. Clark opined that pools should be organized under government sponsorship in which the various companies would agree upon a single, common price, divide markets among themselves, and eliminate competition. The cartelized price would be higher than that of a competitive industry, to be sure, but it would be public knowledge. Secret price agreements, the bane of consumers of railroad services, would be eliminated and government would then have a much simpler job in regulating that price to a closer proximity of the competitive standard.

In his 1911 testimony, one can observe all the above arguments represented, but there is one subtle difference from his previously articulated positions. In the then-current period, the force of potential competition had lessened—"dishonest" capital has grown stronger. What Clark advocates is government promotion of *actual* competition, largely through dissolution of the "*perilous*" trusts (distinguished from those labelled "harmless") and the development of a common pricing policy where all producers face the same price regimens in both the output and input markets. Clark advocates what he terms "tolerant competition." Tolerant competition is not the perfect competition of the neoclassical model, nor the rough-and-ready competition of the pre-1870 era. Rather, it is a live-and-let-live form of competition where big firms and small firms face the same pricing conditions and only efficiency determines the profit outcome. While the honest trust may well win this contest, such an outcome is not assured. Both large and small producer would face the same external constraints and both (or either) would succeed based upon their ability to advantage themselves through gains in efficiency.

In this testimony, Clark advances four main points that later appear in the 1912 version of *The Control of Trusts*: potential competition is now a weak force, vitiated by the ability of large firms to use "unfair" means to "club," "bully," and "slug" the

[4]In 1928, Clark was invited to participate in New York Governor Alfred E. Smith's campaign for the presidency. In a letter sent by Franklin D. Roosevelt on behalf of Smith, the appeal to Clark is made largely on the basis of Smith's humanitarian impulses (equated to those of Woodrow Wilson) against the "crass materialism" of Herbert Hoover and his associates. John Maurice Clark, in a letter to Dorfman, notes that his father, while clearly not a socialist, was a believer in a "new deal, welfare capitalism" (J. M. Clark to Joseph Dorfman 1958).

potential competitor into submission; the need for a new and different regulatory commission to “rescue” “actual competition” from the power of monopoly (as distinct from the regulation of pricing behavior by extant monopolies); the total elimination of holding companies; and the argument that the degree to which a firm is harmful is not its total capitalization, but the “fraction of the entire capital of an industry” which it holds. For the benefit of the reader, those portions of Clark’s testimony addressing the above are highlighted.

It is observed that Clark continued to hold to a competitive standard, the “economic ether” within which the economic agents carry out their activities (Morgan 1993, p. 588), and this competitive standard is equated to an ethical, just arrangement as in his pre-1886 writings (Henry 1995, pp. 146-49), but the competitive environment, sorely weakened by dishonest capital, now requires a much more active government if it is to perform its salutary tasks. Previously, “potential competition” was seen as a sufficient force to prevent significant abuse by monopolies: the “market” worked well enough. Now, government is called upon to impose a competitive order though the extra-market force of a powerful regulatory agency. This represents a new stage in Clark’s position on trusts, competition, and the long-run outcomes of business enterprise.

IV. A NOTE ON CLARK AND THE CLAYTON AND FEDERAL TRADE COMMISSION ACTS

In the early part of the century, there was much concern in various quarters regarding the uncertainties and vagaries embodied in the Sherman (antitrust) Act of 1890. In particular, large business concerns desired much firmer guidelines as to what constituted restraints on trade and on the determination of what sorts of activities were legal. Various bills, sponsored by business organizations and designed to promote greater federal regulation of the economy in business interests were brought before Congress, but to no avail. On January 20, 1914, President Wilson, speaking before both houses of government, articulated the issue very clearly:

> The business of the country awaits also, has long awaited and has suffered because it could not obtain, further and more explicit legislative definition of the policy and meaning of the existing anti-trust law. Nothing hampers business like uncertainty . . . And the businessmen of the country desire something more than that the menace of legal process in these matters be made explicit and intelligible. They desire the advice, the definite guidance, and information which can be supplied by and administrative body, and interstate trade commission (in Kolko 1967, p. 260).

As noted above, J. B. Clark had long been active in the theoretical debates surrounding the “trusts.” By the second decade of the 1900s, he became involved at the political level. Indeed, following his 1911 testimony, he co-authored a 1913 Bill sponsored by the National Civic Foundation, the leading big business organization of the day, proposing a seven-person interstate trade commission with fairly broad powers, including the fining of corporations (minimally, to be sure) for violations of existing law. This bill was a precursor of the 1914 Federal Trade Commission Act that was passed in concert with the Clayton Act of that year, and this Act contains several points made in Clark's testimony.

What is thus demonstrated is that Clark was important in the development of anti-trust legislation in the U.S., not just at the theoretical level, but also at the practical, political level. This is in keeping with his ongoing concern with the major issues of his day and his application of the leading theoretical principles to these practical concerns.

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(Note: the most relevant parts of Clark's testimony have been italicized.)

Control of Corporations, Persons, and Firms Engaged in Interstate Commerce Hearings before the Committee on Interstate Commerce United States Senate, Sixty-Second Congress

Pursuant to S. RES. 98: A Resolution Directing the Committee on Interstate Commerce to Investigate and Report Desirable Changes in the Laws Regulating and Controlling Corporations, Persons, and Firms Engaged in Interstate Commerce

December 11 and 12, 1911

Statement of Professor John Bates Clark, Professor of Economics, Columbia University, New York.

THE CHAIRMAN. Prof. Clark, you may state your name, residence, and occupation for the record.

PROFESSOR CLARK. My name is John Bates Clark; I am professor of economics in Columbia University, New York.

I suppose I ought, Mr. Chairman and gentlemen of the committee, to say at the outset that I am utterly incapable of discussing this subject from a legal point of view, and that what I have to offer must on necessity be on the economic side. And it is one of the great privileges of the economist, and I think also one of his duties, in confining himself to his own field, to neglect, for the time being, the legal difficulties which may arise in the carrying out of his plans. Persons of legal attainment may find a way to overcome them, and in any case that is not his particular mission. Looking at the question solely from an economic side, I may be altogether too bold, and yet I shall have to say that I think there is a clear course of action before the American people in regard to combinations—clear in so far as the economic needs of the case go.

The attitude of people in late years has been one of discouragement with regard to the preservation of any system of effective competition. The view, in the first place, has been that the Sherman law would not be enforced except sporadically; that if it were not enforced we would have a régime of private monopoly; and that if it were enforced it would necessarily lead to ruinous competition, to desperate efforts to form secret agreements, and if those were thwarted by the law, to a very strong pressure on the Government to induce it to permit agreements under close restraint. That close restraint could scarcely mean anything but price regulation, as the less radical of the measures in view, with governmental ownership and management as the more radical. A hybrid of these two has been more or less favored in foreign countries.

The evil which, as an economist, I see in governmental regulation of prices goes beyond the mere difficulties which are apparent on the face of the measure. These are great and probably insuperable. Charging any commission with a duty so comprehensive and intricate as that of fixing prices would in itself involve grave dangers; but if all of these were surmounted, what I think would remain would be a certain protection to the public as against extortionate prices, but no protection whatever as regards the repression of technical progress. Such repression is the greatest evil which can possibly result from monopolies. Unless price regulation were managed with a degree to scientific insight which it would be overconfident to expect, it would increase the tendency which adheres in a monopoly of causing industrial progress itself to stagnate.

It is owing to the spur of competition, which has existed until very recent times and still exists to a goodly degree, that producers have engaged in the race for improvement, making larger quantities of goods with the same amount of labor or using less labor for a given amount of goods. That is a product-multiplying operation which has gone far to enrich the country and is a perfectly essential condition of anything approaching comfort for laboring people in the future. We are facing an increase of population which, in itself, in the absence of technical improvement would mean disaster to the working people; it can be counteracted by the product-multiplying process. Granted the existence of effective competition, we can expect a régime of greater and greater productivity and wage-paying power, but without it there is no such outlook possible. Monopoly with or without governmental regulation of prices means increasing poverty.

With any regulation of prices, which should make them conform to the cost of the goods plus a fixed amount of profit, even the limited incentive which a monopoly has to make improvements would be lessened. If they can make no more profit with good appliances than they can with old and worn-out ones, why should they inflict upon themselves the losses involved in throwing out their worn appliances and putting in better ones?

In my view, therefore, the greatest evil that could possibly come from a régime of legally regulated prices would be the check which would be imposed on technical improvement.

On the other hand, there now seems to be under the Sherman Law the possibility of sufficient competition, both where the law causes the dissolution of a corporation and where it is not so applied. In many cases it will not be necessary to apply it. Without this we can secure a guaranty of technical progress and of reasonable prices as well. For that which guarantees progress also guarantees technical progress; that is, the survival of effective competition.

Within my own recollection when trusts were first formed on a large scale in the United States, there was an era of discouragement as to the survival of competition. This, however, was followed by an era of encouragement, which dates from the middle eighties, about the time when a considerable number of trusts and some of them large ones, got into difficulties in consequence of charging too high prices. This invoked a large amount of new competition, which broke the prices and forced certain of the trusts into new forms of organization. It came then to be the policy of trusts to be moderate in raising prices, lest new competition should be evoked; and the phrase "potential competition" applied to the act of a competitor who is not now in the field, but will surely be called into the field by unduly high prices, came to be the common term to express what, for a few years, was the chief protector of the public.

During the more recent periods the public has had less confidence in the efficacy of potential competition; and while I would not for a moment give the opinion of other economists than myself, my judgment is that economists have somewhat less confidence in it. What it might do under a different set of conditions can certainly be created; but what it can do under existing conditions is less than it was at an earlier time.

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The fact is that this potentiality of competitors was neutralized by another potentiality, namely, the power of the great consolidation to drive the competitor out of the field by unfair means whenever he actually made his appearance. It was the swing of the club in the hands of the trust which terrorized the competitor and prevented his actual appearance. It was bullying on the threat of "slugging" which means attacking the competitor unfairly, and using weapons which the competitor does not possess.

Without going into details as to any of these measures, it may be said that the leading ones are not numerous or excessively difficult to deal with. I understand that they are all prohibited under the present interpretation of the law. Whether they should be defined and prohibited by statute is one of those legal questions I have professed an intention of avoiding. It would be an enormous comfort, however, to an economist to know in some way they would be prohibited, and that some body of men were charged with the duty of seeing to it that they were not done. As an outsider in legal matters I should suppose that it would strengthen public confidence to have some of these practices defined by statute, and some commission appointed having, among its duties, that of suppressing them.

One thing is the local competition that goes into a territory occupied by a smaller producer and lowers prices in that territory while keeping them up everywhere else.

Another thing is the singling out of a particular brand or variety of goods produced by a small competitor, but constituting only a small part of the goods of the great producer, and making it the object chosen for price cutting.

SENATOR NEWLANDS. For what?

PROFESSOR CLARK. For cutthroat competition in the matter of prices.

There is the so-called factor's agreement; that is, the boycotting of dealers who refuse to sell exclusively the products of the trust.

As a matter of course special favors of transportation fall in this category, and so does the command of the supply of raw material, or motive power, or needed facilities for shipping.

Back of all these things and often in a way sustaining them all is the very dangerous power which inhered in a holding company. Economically it would be a source of great encouragement to have this menacing institution repressed altogether. A discussion of this, however, would take me out of the direct line of the facts and principles which I would like to talk about.

During all this period when by unfair means the potential competitor has been prevented from becoming an actual one and monopoly has been pretty firmly seated, it would, conceivably, have been possible, by statute or otherwise, to take effective action against the specific acts which have thus repressed the potential competitor; and certain economists have not failed to call for action of that sort. Each one of these things is susceptible of definition and repression. They now come, however, under the general prohibitions of the Sherman Act; and if we can assume that they will in the future actually be repressed we shall have an economic situation which we have never had in the world, and it is a thoroughly encouraging one.

I encounter persons whose views not only on legal subjects but on economic subjects I respect in the highest degree who say that it has been demonstrated that competition is dead, that you can not bring it to life, and that there is nothing you can do but reorganize the existence of monopoly and proceed with price regulation. And the thing that seems perfectly evident on the face of the historical facts is that competition has never been proved dead. It has been terrorized largely out of existence in certain quarters. There has not been a year when, even under this régime of bullying of independent producers, potential competition has not assisted in putting some limit on the increase of prices made by monopolistic companies. This limitation, however, has not been as close as it should have been. Of course the smaller the probability that a competitor will appear the greater is the combination's power to raise its prices. With the possibility of having to compete with the independent producer on more or less even terms, with a severe repression of the weapons which it has been accustomed to use, the trust will find that both potential competition and actual competition will be very different things from what they have been.

It is necessary to concede that without a fair amount of actual competition merely potential competition is not practically worth very much. There must be some actual competitors in the field. When prices are high many a man would like to enter the field, if he could safely do it. If then no one actually enters it, it is fair to infer that they are all under terrorism. The presence of actual competition on that ground alone is quite essential. But it is also essential that there should be some competition in order to produce a direct effect on prices, and in this connection small local producers perform a valuable function. Department stores compete with each other, but are also affected by another type of competition, that of the local store, which runs cheaply, and is found all over the city, surviving and making a modest livelihood for its owner in spite of its great rival. It is protected by its locality. It caters to a traffic of convenience, and, moreover, has a personal hold on its customers. The department store is not able to repress it. That is only an imperfect picture of what might exist all over the United States. In some department of industry there are local producers, each one catering to a limited district and well able to supply its needs, though none of them can cater to the general or national market. Their presence wherever they are found is important.

Nevertheless, it is desirable that there should be some competition of a more general kind. There should be some concerns equipped with such excellent facilities for production that they can boldly enter the national field and compete with the trusts without fear and without favor. Now, the point I am trying to make is, first, that there is a strong probability that a severe repression of unfair practices by the trusts would insure exactly that. There may be some branches of industry which tend so strongly to natural monopoly that you could not trust this regulator, but in most cases there would be a goodly amount of real and active competition and a very dominant amount of potential competition if the unfair means of terrorizing a rival, wherever he appears, were no longer in the hands of the trust.

Just a little as to the possibilities after radical action shall have been taken and trusts dissolved. Suppose them broken up into fragments, each one of which is an absolutely large and efficient company, and all of which are supposed to be competing with each other. Even now in the common view what will follow from such a division as that is a régime of ruinous competition. I may safely express the opinion that that conclusion is by no means well taken in advance of the actual experiment. On the contrary, with certain conditions which we can create, there is more likely to be a tolerant competition, competition of the normal sort, more nearly akin to that which existed long before the trusts were formed in the days when competitors were numerous and fairly efficient.

In the first place, the great incentive to the cutthroat policy is to get possession of the competitor's business, either by making him consent to a consolidation or by driving him out and taking possess of his field. If those things are rendered impossible under the law, why should any one of these powerful corporations attack another? Why should it try to drive the other out? The two would not be allowed to consolidate and one would not be allowed to drive the other out by any unfair means. It would be a doubtful undertaking to try to drive him out in any other way.

Again, the thing which chiefly facilitates competition of the ruinous sort is the lack of a one-price régime—the easy possibility of asking one price here and another price there. It is what chiefly prevents the department stores from going into violent competition with each other. They can not single out a part of their constituency and favor them. They live under a one-price system, and though they may cut prices on a certain line of goods, even this is too costly to be often worth while and the cutting of prices on everything would be ruinous. It is a wholesome respect for competition which can not be confined to any specific part of a business that keeps them from being drawn into a very dangerous sort of rivalry. Now, nobody can predict in advance the efficiency of these two influences in the industrial field. The impossibility of consolidating with a competitor would be one real and powerful influence and the peril involved in trying to drive him out would be another. No gain would be in sight which would seem to justify a competitor entering upon a price-cutting war with rivals as well equipped as himself.

My personal conviction is that, in the case of those trusts which shall be divided into smaller corporations under the action of the Sherman law, we are likely to see a régime of tolerant rather than intolerant competition. I do not refer here to the fact that what is called "community of interest" will prevent it. Suppose there was none of this. Suppose they were completely independent, each having its own stockholders and none of them being common to the two. They would have a goodly degree of respect for the disaster of a general rate war which could not be confined to a particular territory, but would have to be waged throughout all the territory at once. It seems more likely than otherwise that this will prevent them from being drawn into a cutthroat type of competition.

What seems, therefore, to be in sight from a purely economic point of view is an amount of efficient competition which will regulate prices even in the case of the many trusts, which shall never be divided at all; and, secondly, a règime of tolerant rather than intolerant and perilous competition in case of the minority, which shall be divided.

This involves some discrimination as to what ones should be and what ones should not be divided, and perhaps an economist must convict himself of belonging to that class of people who tread boldly "where angels fear to tread" if he offers a confident opinion as to where that line should be drawn. Nevertheless he has no great difficulty in drawing a fairly clear line, on one side of which consolidations are harmless, while on the other side they are perilous to the public. The test which he would always apply would be the test of efficiency of the surviving competition. If it does insure an adequate supply of goods, and if it does keep the prices of the goods as near as they should be to the cost of producing them, then that competition is adequate to protect the public. It will further be adequate to insure industry against that stagnation as to methods and that check upon general progress, which would be the gravest of all disasters.

Those, Mr. Chairman and gentlemen, are my grounds for thinking that, apart from these legal difficulties, with which I have no ambition to try to wrestle, there is a fairly clear route before us leading to an economic condition which is eminently desirable and affords a most encouraging outlook into the future.

THE CHAIRMAN. Senator Cummins, do you wish to make any inquiries?

SENATOR CUMMINS. Professor, if I understand your general conclusions correctly, you are of the opinion that whatever is done by the Government should be directed toward the preservation, possibly the creation, of reasonable competition as a price regulator rather than an interposition of the Government itself as a price regulator?

PROFESSOR CLARK. Yes, sir.

SENATOR CUMMINS. And your view is that the Government may do something—possibly it can do something—to prevent that ruinous and unreasonable competition, which is obviously carried on only for the purpose of suppressing competition.

PROFESSOR CLARK. Yes, sir.

SENATOR CUMMINS. I will not [sic] direct your attention to the difficulties of interfering with existing corporations or trusts, but, assuming that we are not confronted with problems growing out of allowing these institutions to come into existence, I want to ask you whether, in your opinion, a limitation, a fair and proper limitation, upon the amount of capital which any one corporation can employ would not be a stop toward the preservation and maintenence of this helpful competition of which you have spoken?

PROFESSOR CLARK. I may say, sir, that this is one of the cases in which I have found myself demanding a thing on economic grounds and being opposed on legal grounds. I think it is desirable to treat the capital of one company, as compared with the total capital engaged in the industry, as an element in shaping a policy in dealing with it. On economic grounds no fixed amount of capital would apply to the wide range of different cases. Between a little yeast-cake monopoly which once existed and the Steel Trust there is such an enormous range of difference that what would be an excessive capital in one case would not make an impression at all on the necessary capital in the other case.

SENATOR CUMMINS. I do not mean a capital fixed by Congress, but a capital limited by the act of some governmental board which would survey the field and determine what amount of capital could be employed without unduly restraining trade.

PROFESSOR CLARK. I am perfectly free to say that that is what I do believe in. I should not appreciate the difficulty arising from the fact that the total capital in an industry is a changeful amount. Of course it is. It does not change so rapidly that, if a govermental bureau had a record of the real capital of each of the various corporations of which it takes cognizance in a certain year, this might not properly be made the basis of action for a short term of years following that date. *In my view, the amount of capital which one corporation can have without danger to its rivals varies in different cases, but may always be defined as the fraction of the entire capital of an industry which experience shows that it may have without unduly restraining competition. It might be a large part of the whole, but it would become too large a part whenever we should discover that actual competitors were being unfairly crowded to the wall, so that potential competition could not do what we expect of it.*

SENATOR CUMMINS. The limitation of capital which I had in mind was one which might be increased from time to time under the order or permission of the commission, having regard for the development of the business. For instance, we have had a good deal of evidence here with regard to the steel business, and you have mentioned it. I will use that as an illustration. In a broad way, there is something like, probably, two billion and a half dollars of capital employed in the business of producing and selling what is known as tonnage steel. Now, if it were true that with $200,000,000 of capital any corporation could utilize all the advantages which grew out of a big business—that is, could employ all the economies that will make it efficient—if a corporation were thus limited, there would necessarily be in that business, in order to supply the demand, 10 or 12 other corporations of practically the same size and employing the same advantages. Now, among them, I ask you whether you think it would not be possible to preserve that reasonable and healthy competiton of which you have spoken much more easily than between a corporation with a billion and a half of capital and the remainder distributed among much smaller concerns?

PROFESSOR CLARK. I certainly live in the hope that that will be the experience; that the large fragments of a great corporation after division—or the large independent corporations and the original trust, in case there never has been a division—may compete reasonably with each other. I think that to that end it is very essential that all corporations in both cases should come under the rule forbidding all unfair acts of competition and, particularly, that there should be a uniform price régime.

SENATOR CUMMINS. Precisely. I think that must always be taken into account. But, of course, there would be no motive for one of these corporations to destroy the other simply with the object of taking it in, inasmuch as it could not increase its capital to accomplish that object.

PROFESSOR CLARK. Yes, sir.

SENATOR CUMMINS. And, therefore, whatever competition would be necessary to get the business, to do the business, it could do within the limits of its capital?

PROFESSOR CLARK. Yes, sir.

PROFESSOR CLARK. It certainly would to a very large degree. If I may add, my conclusion has been that it might not prove necessary to divide a great many corporations. It might not prove necessary to have a number of large and more or less equal corporations in the field if experience shows that the remaining competition between the large one and the considerable number of small ones and the potentiality of other large ones should prove sufficient.

SENATOR CUMMINS. But the potential competition, of course, in any particular industry is affected somewhat by the amount of capital that it is necessary to invest in order to bring a new rival into the business.

PROFESSOR CLARK. Yes, sir.

SENATOR CUMMINS. And, therefore, when you get a situation in which you must get together a billion and a half of capital in order to come in, the corporation that is already in does not fear that interruption as much as if it were a lesser amount, I take it?

PROFESSOR CLARK. Certainly.

SENATOR CUMMINS. You referred to, I think, a very important phase of this subject in the matter of a common price at the factory for the same thing or sort or whatever it may be. You regard that as one of the methods by which unfair, ruinous competition could probably be restricted, if not wholly prevented?

PROFESSOR CLARK. The discriminating prices which that measure would prevent have always seemed to me to constitute the chief club that the combination wields, although there are others, of course, that are efficient.
SENATOR CUMMINS. And you favor some regulation that would require any company or corporation or association engaged in interstate commerce to make the same price to all localities and to all persons for the same article?
PROFESSOR CLARK. Yes, sir.
SENATOR CUMMINS. At the factory, so that you take into account the difference in the cost of transportation?
PROFESSOR CLARK. Yes, sir.
SENATOR CUMMINS. That is all.
THE CHAIRMAN. Senator Newlands, you may inquire.
SENATOR NEWLANDS. Professor, you favor the regulation that would compel factories to fix the common price for all purchasers?
PROFESSOR CLARK. Yes, sir.
SENATOR NEWLANDS. In that you apply the doctrine that is applied to public utilities.
PROFESSOR CLARK. I beg pardon?
SENATOR NEWLANDS. In that you apply the doctrine that is applied to public utilities generally, that a commodity or a service should be given to all at the same price, and an additional requirement that they should be supplied at a reasonable price.
PROFESSOR CLARK. Yes, sir.
SENATOR NEWLANDS. Now, if you propose to apply only one of these principles to the general trade, why should not you apply the other; that you should not only require them to charge the same price to all, but a reasonable price to all?
PROFESSOR CLARK. My distinction, Senator, would be that in the case of public utilities—which, for the most part, are natural monopolies—it is necessary for the public to say what is a reasonable price; whereas if we can rescue competition, we have a guaranty that the price will be reasonable, if it is a common price to all. Therefore, it was not a part of my scheme to look to any direct regulation of price by the State, but rather to trust to the fixing of the price by the play of economic forces.
SENATOR NEWLANDS. And in that connection you would recognize a tolerant competition but condemn an intolerant competition? That is an excellent phrase, and it is the first time I have heard it.
PROFESSOR CLARK. Yes, sir.
SENATOR NEWLANDS. Now, can you divide competition into two branches—tolerant competition and intolerant competition?
PROFESSOR CLARK. I should say we could.
SENATOR NEWLANDS. Do you think it can be done?
PROFESSOR CLARK. I think it can.
SENATOR NEWLANDS. Where do you find the dividing line?
PROFESSOR CLARK. I should say the only way in which you can practically draw the line is to prohibit certain things which naturally involve the intolerant kind of competition. You can not easily say that cutting prices 10 per cent is tolerant and cutting them 20 per cent is intolerant; but you can say, if one corporation, which is large and doing a general business, invades a territory of another corporation which is small and doing a local business and puts prices below the costs of production, that that is an

intolerant sort of competition. It is calculated to induce a similar cut on the part of the local producer, but that will be ruinous to him.

SENATOR NEWLANDS. Well, suppose a big corporation should determine to invade the field of another big corporation and should seek to get its customers by real competition, which means really a lower price or a quicker service, would you have your rule apply there?

PROFESSOR CLARK. I have not gone to the length of saying that the law should say, in terms, that such a struggle must not take place. The most I have tried to claim is that a certain condition must be created under which the probability is rather against its being done. But even then I would not say with a certainty that it would not be. I am not prepared at all to say that when 10 corporations or 20 corporations enter a field in a certain line they will not be drawn into ruinous competition. Nobody can know that till the experiment of creating the condition favorable for the normal and useful type of competition shall have been tried.

SENATOR NEWLANDS. Assuming that we intend to restore competition as a means of establishing fair prices, how can you place any restraint upon that competition without practically determining what a fair price is? Competition means an endeavor to secure your rival's customers.

PROFESSOR CLARK. Yes, sir.

SENATOR NEWLANDS. And it means the accomplishment of that by offering your goods at a lower price or furnishing them more quickly, or perhaps giving a little better quality than the standard. How can you measure to an exact degree? If it is a worthy purpose to get your neighbor's customers away from him, how can you say that it is unworthy to resort to every method that is necessary in order to get those customers and to reduce your price to a standard that will secure what you have in view?

PROFESSOR CLARK. I might say, Senator, that my scheme would certainly allow a perfectly free reduction of prices by the large corporation in competition with the smaller one, provided they were uniform, provided the large company's entire output of that particular commodity which is the subject of competition shall be subject to the cut. A belief in the efficiency of that rule is based on what I suppose to be the fact, namely, that new competitors who enter a field intending, as the common expression is, to "fight a trust," are pretty sure to be equipped with very recent and efficient appliances, to be well located, and, as a rule, probably well managed. On the whole, up to the present time, they are better off, so far as facilities for producing go, than the average of the plants belonging to the trusts; and they can stand the competition which applies to the entire output of the trust perfectly well. That is, if the corporation having $100,000,000 chooses to compete by putting the price of its product pretty low, the chances are that the corporation having $10,000,000 will be able to hold out even longer than the $100,000,000 corporation.

SENATOR NEWLANDS. Well, then, if that is the case, why can we not trust to those factors as the best method of accomplishing the reform that we wish?

PROFESSOR CLARK. Personally, I do believe that we can rely upon it.

SENATOR NEWLANDS. The new factory has to get business, after having a large capital?

PROFESSOR CLARK. Yes, sir.

SENATOR NEWLANDS. There is but one way of getting that business, and that is to sell for less than the old factory?
PROFESSOR CLARK. Yes, sir.
SENATOR NEWLANDS. Now, then, we will assume that the price is lowered below the standard price charged by the old factory, and the old factory, in order to hold its business, goes still lower, and then the new factory goes still lower. Now, at what point would you stop?
PROFESSOR CLARK. I do not think the law could draw the point.
SENATOR NEWLANDS. At what point would you stop that competition which is admittedly destructive in its character?
PROFESSOR CLARK. The point at which economic forces will compel it to stop is the point when the price reaches the level of cost of the less efficient of the two producers. If that is the trust, then the efficient competitor of the trust will have his part of the field in perfect security and still make a little money. If it is the smaller competitor, he will have to stop if the trust so elects. But the thing I should hope for as a practical outcome although no one could predict it, would be that almost any trust would be willing, if it were a superior producer and really could make a considerable margin while selling at what it would cost to another producer, to accept that margin as a profit rather than to try to go below that in order to get further business.
SENATOR NEWLANDS. Yes, but the new competitor reaching out for more business would be constantly lowering the price. How is it possible then to stop that destructive competition without some agreement between those competitors or some understanding?
PROFESSOR CLARK. It would be difficult unless there were a natural tendency to stop at a certain point.
SENATOR NEWLANDS. The inevitable result would be, would it not, if that constant cutting goes on, that the new factory will in time, with its cheaper production, take the business of the old factory and have practically a monopolistic control of the field, would it not?
PROFESSOR CLARK. I should suppose that because of its superior facilities, as compared with the average of the trust plants, it would make a considerable impression on the business of the trust, but that it would encounter a difficulty in carrying that policy so far as to shut up the really efficient plants belonging to the trusts. It is only of the average of the trust plants that one may assume that the new competitor is the more efficient. That can only be assumed of the average of the trusts at present, because some of the trusts have continually been bringing up the standard of their equipment.
SENATOR NEWLANDS. Well, now we will assume that the new competitor lowers the price in order to get the business of the old factory, or as much of it as he can, and that the operations of the new factory are within the comparatively limited field—would you compel that old factory not only to lower the price in the field of competition so as to meet the rate of the new competitor but also to lower the price throughout its whole field of custom not affected by such competition?
PROFESSOR CLARK. I am afraid I should, Senator. I am afraid that I see that is a very essential condition of keeping competition alive.
SENATOR NEWLANDS. Now, another thing. You say you favor a limitation of capital, but that limitation must vary according to the kind of business?
PROFESSOR CLARK. Yes, sir.

SENATOR NEWLANDS. That that limitation of capital would be all right as applied to the yeast-cake industry, for instance, but would not be all right as applied to the steel industry.

PROFESSOR CLARK. That was my meaning, sir.

SENATOR NEWLANDS. Would it not be better to meet that by prescribing not the amount of capital that should be invested in every business, but the proportion of the total business in a certain industry that a single corporation can engage in?

PROFESSOR CLARK. If I may explain a little more than I did the view which I happen to hold that point—it would not seem to me wise to prescribe a fixed fraction of the total capital of the business which any corporation might be allowed to have. My idea was more nearly that which, as I understood, was expressed by Senator Cummins, that the commission should use its experience as a guide. A corporation having, say, a full half of all the capital there is, is still not restraining competition unduly, if competition is sufficiently active and adequately protects the public. Then that would be a safe fraction to allow in the case of that particular industry. If, however, there were a prospect in some industry where 50 per cent had proved a safe limit, that one company would have 75 or 80 or 90 per cent, the commission might not deem that a proper amount to allow.

SENATOR NEWLANDS. If there were one corporation already in existence that had control of half the business of the country and another corporation should come into existence that wished to capitalize to an equal extent, would not your rule then compel the commission to allow the new corporation to capitalize to the same extent as the old?

PROFESSOR CLARK. Without taking any other consideration into account, I should suppose that the natural conclusion of the commission would be to permit it; but if the commission has rather extensive powers in the matter it might be well to consider whether the welfare of the country would, in a general way, permit twice as much capital as had up to a certain date been engaged in the business. That would look like an increase which might have effects not favorable to the country.

SENATOR NEWLANDS. Do I understand that you favor a regulating commission?

PROFESSOR CLARK. I certainly do.

SENATOR NEWLANDS. Similar to the Interstate Commerce Commission?

PROFESSOR CLARK. Somewhat on the lines of the Interstate Commerce Commission.

SENATOR NEWLANDS. And with similar powers as to trade?

PROFESSOR CLARK. In a general way, yes, sir; I should think so.

SENATOR NEWLANDS. That is all.

THE CHAIRMAN. Senator Watson, you may inquire.

SENATOR WATSON. I understand you, Professor, to say that you think it is not proper for an individual to hold stock in two concerns doing a like business.

PROFESSOR CLARK. I do not know that I have a fixed opinion that an individual should not hold stock in two concerns out of a considerable number. Perhaps I have not matured my views efficiently to say exactly that. But it has been my view that a sufficient amount of community of interest to be a factor in the situation must in some way be prevented, and if that does involve the extremely radical and drastic regulation that no man shall have such ownership in two competing corporations, then we should have that.

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SENATOR WATSON. Take the steel trade that has been referred to, with practically every investor in the country to-day holding stock in some steel concern. If you wanted to organize a large concern with a sufficient capital it would be very difficult unless you could sell to some of the present investors, would it not?
PROFESSOR CLARK. Yes; it would be. There would be certain difficulties encountered.
SENATOR WATSON. I understand you to favor a uniform price at the factory?
PROFESSOR CLARK. Yes, sir.
SENATOR WATSON. Of all manufactured articles?
PROFESSOR CLARK. Yes, sir.
SENATOR WATSON. Can you apply that practically to products on which the freight rate is a large factor?
PROFESSOR CLARK. Uniform prices at the factory give delivery at the places of use at different prices.
SENATOR WATSON. Take steel rails. The freight rate on those is not a factor in that product.
PROFESSOR CLARK. Not the dominant one.
SENATOR WATSON. But in other lines of business it is, much more than the price at the factory?
PROFESSOR CLARK. Yes, sir.
SENATOR WATSON. Would not that, in the case of a great many products, have the effect of dividing the country into zones controlled by certain factories or certain districts?
PROFESSOR CLARK. When the freight rate is, as in many cases it certainly is, a very large item of cost to the ultimate consumer, that of itself would afford a goodly degree of protection for the local factory. If there were facilities in that part of the country which would enable it to produce advantageously, then giving the territory to it would, as I should suppose, create an eminently desirable condition.
SENATOR WATSON. Assuming that there are no local conditions that would allow that competition?
PROFESSOR CLARK. If, for instance, a certain section of the country is not a favorable place to start a certain industry on account of the lack of raw material or what not, then in the nature of the case I should suppose that the trust, even with its freight charges, would have an advantage over the local competitor, and he would not appear. But if he had those facilities and could produce with a less outlay than the trust, from my point of view, it would be eminently desirable that he should do it.
SENATOR WATSON. Take a natural product—limestone or coal. You could not open a coal mine around Washington because there is no opportunity.
PROFESSOR CLARK. No, sir.
SENATOR WATSON. Now, a uniform price at the mine would have the effect of dividing or distributing the territory into zones in a case of that kind, would it not?
PROFESSOR CLARK. It would, in so far as the sources of supply for different places are to be found in one place.
SENATOR WATSON. Do you think that would be a wise condition—a favorable condition to the purchaser?
PROFESSOR CLARK. That, of course, brings up the possibility of a special low rate of freight for an article for which the railroad is desirous of making a market which does not already exist. It is a very complicated problem, to which I do not think a

categorical answer can exactly be given. But it is clear that there are certain principal rules in the matter. If, with the rate which it is desirable and permissible for the railroad to make, it is cheaper to carry the coal to a point right beside somebody else's coal mine, then it is desirable that it should be gotten in that way. But if otherwise, the local proximity of the coal mine is a decisive advantage, it is in every way desirable that both producers should have the right to gain the market if they can.

SENATOR WATSON. The freight rates are now regulated by zones, practically, and you would have to upset all that practice of rate if it exists.

PROFESSOR CLARK. It would not be a part of any scheme which I am endeavoring to advocate to interfere with the system of freight charges as they now exist. I consider that the system of freight charges is working out gradually to something quite desirable.

SENATOR WATSON. That is all.

THE CHAIRMAN. Senator Brandegee, you may inquire.

SENATOR BRANDEGEE. In answer to Senator Newlands, I understood you to say that the commission that you would approve of creating should, in a general way, have similar powers to the Interstate Commerce Commission?

PROFESSOR CLARK. Yes, sir.

SENATOR BRANDEGEE. I simply want to make it clear. Of course the Interstate Commerce Commission has authority to set aside an excessive rate?

PROFESSOR CLARK. Yes, sir.

SENATOR BRANDEGEE. You would not have any similar power to that existing in the commission that you want created which would result in the fixing of prices?

PROFESSOR CLARK. There, of course, I shall have to recognize a difference, because the Interstate Commerce Commission does deal with what has become a monopoly, and does require regulation; whereas the commission which I have in mind would deal with what we are trying our best to rescue from the condition of monopoly.

SENATOR BRANDEGEE. In order to be perfectly clear in my mind, do you or do you not recommend that the commission which you are proposing should have any authority at all in the relation of regulating prices?

PROFESSOR CLARK. I do not propose that. There is an ultimate contingency in which, after years of experience, I should suppose that a very limited price regulating power might be given to it. I had not thought of going into that now. I think I can count on the fingers of one hand all the cases in which it would be necessary to apply that measure.

SENATOR BRANDEGEE. And the commission that you have in mind would have powers as to corporations to be formed as well as corporations already formed?

PROFESSOR CLARK. That was the plan.

SENATOR BRANDEGEE. You have no exact draft of any law that you would like to see put into operation, as I understand it?

PROFESSOR CLARK. That is one thing in which I shelter myself behind the fact that I am not a lawyer, and that others can do much better than myself in that field.

SENATOR BRANDEGEE. But you are an economist, as I understand it.

PROFESSOR CLARK. I am supposed to be, sir.

SENATOR BRANDEGEE. I understand that you are a very distinguished authority, and that is what I wanted to bring out.

That is all.

THE CHAIRMAN. I want to say, Professor Clark, that we are very much obliged to you for coming here.
PROFESSOR CLARK. You are very welcome, Mr. Chairman and gentlemen of the committee, and I thank you for your kind attention.

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