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Statement by

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Blockade Runner Motor Hotel
Wrightsville Beach, North Carolina
April 21, 1969

ON THE PUBLIC INTEREST OF REGULATORY BOARDS, I am grateful for the privilege to talk with a group of public officials who are also charged with protecting the public interest.

To those of you from other states I want to add my welcome that was already expressed by Paul Crayton. I'm sure that if you have already driven through Wilmington you know why we like to refer to our state as "Variety Vacationland."

Since I have served as Attorney General of North Carolina for less than four months, I cannot speak to you today from any great wealth of knowledge gained from experiences in the office. And since I am not a member of the profession that you are charged with policing, I can not shed much light on the manner and way that you should carry out your duties.

But in one aspect, the responsibilities of your various positions and those of my office are the same--that is, we are all charged with the protection of the public's interest. I like to think of government as a cooperative effort.

In the early days of our nation, our forefathers soon realized that by working together they could do for themselves and for each other many things that they were not able to do for themselves.

A government, based upon the principle of personal liberty and freedom and embracing the right of every citizen to the enjoyment of the fruits of their own labor, has, I believe, certain responsibilities to its citizens.

1. To provide for them those services that they can not very well provide for themselves: schools, roads, medical care and facilities, medical care for the mentally ill, and the mentally retarded.

To this responsibility I have devoted my time for the last twelve years in the North Carolina Senate.

2. To guarantee to the citizens of the state PERSONAL LIBERTY AND FREEDOM, which embraces more than protection from the unlawful acts of others, but the right of the individual to be free to enjoy the facilities with which he has been endowed by his creator to live and work where he will, to earn his livelihood by any lawful calling, and to pursue any legitimate business, trade or vocation.

This precept emphasizes the dignity, integrity and liberty of the individual, the primary concern of our democracy.

The right to work and earn a livelihood is a property right that may not be denied except under the police power of the State in the public

interest for reasons of health, safety and morals or public welfare.

In those early days when one usually dealt with his neighbor, and then generally with products and property that he knew and understood as well as his neighbor, the old maxim of the law "LET THE BUYER BEWARE" or the law has no obligation to "PROTECT A FOOL FROM HIS FOLLY" were adequate.

But in today's modern world where there are millions of products in the market and business is solicited often times from afar, we cannot rely upon those old maxim in a free and democratic society.

Bait and switch - sewing machines.

Something for nothing - magazines and home improvements

Referral selling - cosmetics and vacuum cleaners.

However, no matter how desirable it is to protect our people from fraud and dishonesty, we cannot undertake to license and regulate every occupation for there is no business or occupation which is not likely to have its quota of dishonest men. The limits of police power are exceeded when the government undertakes by regulation to rid ordinary occupations and callings of the morally decadent. Resort in this area must be the criminal and civil laws designed to protect the public from unfair and deceptive trade practices. Thus, I have involved my office in Consumer Affairs, restraining orders, etc.

But you are involved in protecting the consumer in another way. In determining who may engage in the Real Estate business, your job is not to protect those already engaged in the business by seeking to keep others out.

The exclusion of others from a common right is a prominent feature of monopolistic action forbidden by our fundamental law. But the occupation and profession which you seek to regulate is clothed with a substantial public interest and must be regulated for the purpose of protecting and promoting the general welfare of the people. Real estate is one of the two great divisions of property rights and bears as clear a relation to public peace and welfare in our civilization as any species of private rights.

The business of acting as intermediary between seller and purchaser in real estate transactions, the business of a real estate broker or salesman, is a lawful business or calling, and any one has a right under the constitutional guaranties of liberty and pursuit of happiness to follow it; but it is nevertheless a business which may be conducted in such a manner as to promote an undesirable state of local, economic excitement and unrest, which may easily result in a degree of public distress analogous to that produced by mismanagement of a banking institution. The real estate broker is brought by his calling into a relation of trust and confidence. Constant are the opportunities by concealment and collusion to extract illicit gains.

We know from our court records that the opportunities have not been lost. With temptation so aggressive, the dishonest or untrustworthy may not reasonably complain if they are told to stand aside.

The broker should also know his duty. To that end, he should have a general and fair understanding of the obligations between principal and agent. Disloyalty may have its origin in ignorance as well as fraud. The real estate broker is accredited by his calling in the minds of the inexperienced or the ignorant with a knowledge greater than his.

We must be careful, however, to always administer licensing of this and other occupations in such a way as to create no special privileges or emoluments except in consideration of public service. We must not seek to create a monopoly but must seek to keep the doors open to all who possess the necessary competency, good character and can pass the examination which is exact of all applicants alike.