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BOOK REVIEWS

Legal Control of the Press. By Frank Thayer. Chicago: The Foundation Press. 1944. Pp. vii, 608. $4.50.

Professor Thayer has written what must have been conceived primarily as a textbook for journalism students and a handbook for practicing newspapermen. Lawyers should find it an informative and authoritative accession to their libraries. Assuredly, editors and publishers will find it invaluable.

Every newspaper editor worthy of his hire must be something of a lawyer. He must have a fairly adequate knowledge of the legal controls that apply to the press. In the course of each day's work, he must make many decisions involving the legal accountability of his paper. The very urgency of time under which the modern newspaper is produced prevents leisurely consultation of the publisher's attorney on any save the most difficult issues. The editor must act quickly and surely, and if his decision is faulty, his company may find itself involved in a troublesome, even disastrous, lawsuit. It must be mournfully recorded that many solvent newspapers have been financially wrecked by heavy judgments obtained against them because their editors did not reckon wisely with the terrors of the libel law.

Professor Thayer is singularly qualified for the difficult task which he has undertaken. A member of the Chicago bar, he is a specialist in newspaper law. For many years, he has lectured on press law to the journalism classes of the University of Wisconsin. Before he became lawyer and professor, he was employed on the editorial staff of several metropolitan newspapers. He has a talent for clear and convincing expression for which his journalistic experience must be partly responsible. Above all, he possesses an intimate, workaday knowledge of newspaper problems and practices which makes his exhaustive and informed discussion of legal questions extremely practical.

The legal status of the American newspaper is highly paradoxical. The press is the only business whose basic freedom is singled out for special warranty in the Constitution of the United States and of each of the forty-eight states. But this liberty is not absolute. It is severely qualified by the responsibility to which the newspaper is held for the truthful and unprejudiced exercise of its freedom.

Most of the state constitutions make clear the conditional character of the liberty guaranteed to the press. The language of the North Carolina Constitution is perhaps typical: "The freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be

restrained, but every individual shall be held responsible for the abuse of the same."[1]

The most effective restraint on press abuse is, of course, the accountability of the individual newspaper for any libel which it may commit against an individual or a business or an institution. The newspaper is free only to report the truth or to indulge in fair comment on matters that are appropriate subjects of published discussion. The law very properly demands that malice shall not enter into reporting or editorial-writing.

Virtually, one-half of the space in Professor Thayer's volume is devoted to a discussion of the law of libel in all of its ramifications and implications. Such emphasis does not exaggerate the libel law as a discipline of the press or as a protection of the individual against irresponsible, prejudiced journalism.

Professor Thayer's treatment of the libel law is, by all odds, the most satisfactory which has come to this reviewer's attention. It appears to cover every important libel issue which has been raised and adjudicated in this country. Not the least of its merits is the fact that it is strictly up-to-date, reporting the most recent cases.

Libel suits in the United States are definitely diminishing. For this happy circumstance, many factors are responsible, but the newspapers are justified in taking some of the credit to themselves. They have improved their manners and methods during the past forty years. Yellow journalism which was willing to play fast and loose with the reputations of individuals to create a sensation is virtually extinct in this country. Gone is the editorial swashbuckler who felt that he could advance his own convictions only by writing at the top of his voice. Reporting is vastly more objective. The modern newspaper rarely regards itself as a political organ which must hurl billingsgate for the glory of its party.

But the libel hazards are so real that they still prey on the thoughts of the conscientious and cautious editor. He knows that the chances of unwitting error are so great that despite the utmost care he may draw litigation on his paper's head. Many of the states have libel statutes that afford every reasonable protection to innocent journalistic mistakes. Furthermore, American courts usually extend to defendant newspapers all of the consideration to which they are entitled under a socially wise interpretation of press freedom. For all that, there are still libel suits resulting in heavy costs to the American press.

Newspaper editors and publishers who wish to minimize the libel risks can do no better than read carefully and understandingly Professor Thayer's LEGAL CONTROL OF THE PRESS. This work points the way

[1] N. C. CONST. Art. I, §20.

from trouble. Newspaper attorneys who are intent on keeping their clients out of libel litigation will find his treatment of the subject astonishingly complete and exceedingly useful. Lawyers will be particularly pleased by the generous citations of important cases.

There are, of course, other legal controls to which the American press is subject. There are the copyright laws. There is the much vexed question of contempt. Professor Thayer handles all of these controls with erudition and clarity. Particularly interesting is his recital of the long struggle which culminated in the freedom which the press of the United States and of Great Britain now enjoys. It is a spirited story which can stand much recounting. Certainly, it loses nothing of its interest from Professor Thayer's graphic narration.

Although LEGAL CONTROL OF THE PRESS is textbookish in character, it is not a primer written for those who do not know the meaning of legal terms. The author has assumed that his readers—even the incipient editors—have some understanding of legal phraseology and has wasted no space in explaining technical words. For this reason, lawyers need not shy away from the volume. This reviewer is no lawyer but he has read virtually every standard work on press law. In our unprofessional opinion, Professor Thayer has written certainly the most modern and understandable and perhaps the most authoritative work on newspaper law.

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Injury and Death under Workmen's Compensation Laws. By Samuel B. Horovitz. Boston: Wright & Potter Printing Co. 1944. Pp. xxxii, 486. $6.00.

The writer who contemplates a handbook on workmen's compensation faces a disheartening prospect. The difficulty arises from the necessity of coping with subject matter which rests entirely on legislative foundations. Due to many striking dissimilarities on fundamentals in the various state compensation statutes the writer on the subject finds himself in a dilemma. He must either confine his text to a discourse on common factors or plunge into a morass of legislative cross purposes. There can be no happy middle ground. With full appreciation of this handicap Mr. Horovitz has delivered himself of a text which is commendable within its limited sphere of usefulness.

The author seeks to combine a fairly comprehensive survey of the decisions of courts and administrative bodies with an admittedly liberal critique of present day administration of workmen's compensation. Obvious limitations of space make the book inferior to Schneider's ex-

haustive treatise on the law,[1] and an unfortunately biased perspective tends to impair its usefulness as a critical study. This is not to say that the book is without substantial merit, but simply that it suffers badly when compared with more ambitious and better things in the field.[2]

Part I is devoted to the history, theory and growth of workmen's compensation acts in conjunction with an excellent discussion of federal supremacy in five workmen's compensation problems. This latter is perhaps the high spot in the book and constitutes its best claim as an original contribution. The eighteen pages devoted to admiralty problems contain material which is not easily found elsewhere, although one is tempted to doubt whether the detailed consideration of this subject is warranted in the light of the spare treatment which is accorded many more elementary topics.

One common characteristic of all compensation acts is a legislative purpose to define and limit the operative boundaries of workmen's compensation. These restrictions are drawn along several lines. Limitations as to the types of business to be affected are often imposed, and these have given rise to much litigation in those states where they exist. The distinctions between hazardous and non-hazardous businesses and employments are seldom adequately drawn by the courts. Nor is it often clear whether the nature of the employer's business or the employment of the workman at the time of the injury shall control. Yet because of diversity of state policies on such matters, the author has been content to accord these problems only scant recognition.[3] At the same time he devotes more than a hundred pages (the whole of Part II) to the ambiguous phrases "arising out of" and "in the course of" employment. Conceding that these problems are difficult and important, yet the great disparity in treatment can hardly be so accounted for.

The material on the concepts "arising out of" and "within the scope of" employment is voluminous and well organized. The breakdown is both appropriate and helpful. Unfortunately, here, as elsewhere in the book, the crusader's zeal tends to overshadow the dispassion of the scholar, and even those readers of liberal predisposition will observe a lack of sound perspective. The author's quixotic eagerness to measure swords with an unholy alliance which is supposed to bind courts to industrialists detracts much from the serious import of what he has to

[1] SCHNEIDER, WORKMEN'S COMPENSATION (1939-1944) (12 vols., 7 now in print).

[2] Notably the Schneider text, and DODD, ADMINISTRATION OF WORKMEN'S COMPENSATION (1936).

[3] The topic of non-hazardous employments is dealt with in a seven line paragraph (p. 187). The entire subject of the employer-employee relationship, including the respective rights and liabilities of independent contractors and their employers, agricultural labor, public employees, and casual employees, is allotted a little more than fifty pages.

say. Similarly, his refusal to acknowledge an honest conflict of interests prevents his bringing the problems involved into sharp focus.

It will not be denied that in the incipiency of the movement for workmen's compensation most employers were opposed to the new paternalism, which they feared would prove to be very expensive. However, the experience in those states which were tardy in adopting compensation measures has usually served to convince the most skeptical members of the employers' group of their misapprehension. The old employer defenses either disappeared or were emasculatd by the courts, and the purses of industrialists were generously opened by sympathetic juries.[4] It was not long before these bad men scampered for the modest shelter of compensation acts with their sharp limitations on the amounts of recovery and their comparative freedom from the tender ministrations of juries. The growing industrialist class in Mississippi has persistently sought to convert the legislature of that state to the compensation principle, though as yet without success; and the reviewer is informed that pressure from the same source was largely responsible for the recent workmen's compensation act of Arkansas. There is little reason to believe that any subsequent efforts to restrict the operation of the compensation principle have met with much success. Continuous legislative expansion of the compass of the acts seems to refute any such notion. The source of much obstruction to the progress of compensation must be laid at the doorstep of the attorney, whose professional interest is threatened by the simplified procedure and the fee restrictions which are characteristic of progressive compensation acts. But this wing of the opposition has largely escaped the author's aggression.

Part IV deals with important provisions common to all compensation laws. Here again, differences among the various acts make impossible anything but a superficial treatment. But the material here is well assembled and is useful for purposes of comparison and for a study of trends. This leads comfortably to the last division on administration and the future of compensation. The respective merits of court and administrative tribunal operations and the relationship between these two bodies come in for their fair share of attention. The author's observations and suggestions on administration are, to this reviewer, sound and constructive. A short bibliography and an adequate index are provided, although there is no table of cases.

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[4] The unfolding of the situation in Mississippi is described in Comments (1939) 12 MISS. L. J. 237-252, 454-464.

Questioned Document Problems. By Albert S. Osborn. Revised and edited by Albert D. Osborn. Albany: Boyd Printing Company. 1944. Pp. 546. $6.00.

"Dot handwriting is the worstest thing against me," said Bruno Richard Hauptmann to the lawyer he was seeking to employ for his appeal after he was convicted of kidnaping and murdering the child of Colonel Lindbergh, then an American idol. And behind that statement lies a story.

Enough newsprint was devoted to that famous case to have gone a long way in solving the present paper shortage. But perhaps our national curiosity, frequently described as morbid, sometimes has a beneficial effect. As a direct result of the publicity given the Lindbergh case, (1) the Federal kidnaping law, usually referred to as the Lindbergh law, was enacted, and (2) a new profession was born.

Albert S. Osborn and Albert D. Osborn, author and editor, respectively of QUESTIONED DOCUMENT PROBLEMS, had charge of the handwriting investigation in the Lindbergh case, and the American public first became conscious of the work of questioned documents examiners in general, and of Albert S. Osborn in particular in that case.

Although "hand-writing experts" had been practicing their trade in the courtroom for a number of years, and writing books on the subject of hand-writing comparisons almost since hieroglyphic days, the average citizen had only a scanty notion of the ways in which they went about their work and of the fact that lives and fortunes were almost daily being won and lost on the testimony of these experts. And, although the work of Albert S. Osborn was of sufficient merit to warrant Dean John H. Wigmore's writing the introduction to Osborn's monumental work, QUESTIONED DOCUMENTS, in 1910, which is credited with first bringing scientific method and the possibilities of convincing demonstration in the field of questioned documents to the attention of the legal profession and the judiciary, his name did not become a household word until those long, weary days of the Hauptmann trial.

Until 1854 the English practice forbade the introduction of *independent* standards of comparison in handwriting cases, either for witness or jury use. Only if another sample of the questioned writing were *incidentally* in the case (a writing introduced for some other purpose) did the decisions allow comparisons between the sample and the questioned writing. Obviously, this completely prevented comparisons or allowed only a risky comparison with one or two standards, usually of a different date and type of writing and very effectively ham-strung the scientific handwriting witness.

This practice was changed in England by statute in 1854. The American practice had followed the English in excluding the standards;

but, as has been the case in many instances, the reform did not follow through immediately. According to Mr. Osborn, it took the persistent and determined efforts of distinguished law-writers, particularly Professor Wigmore, over a period of years to trace the history of this practice, along with certain other unwarranted prejudices concerning handwriting testimony, and bridge the hiatus, opening the way for the scientific handling of problems in questioned writings in America.

As the way opened for the expert to bring to the witness stand his findings and the reasoning and techniques he had used to arrive at those findings, Mr. Osborn and a few other pioneers in this field were working out and perfecting the techniques and methods of approach in dealing with questioned documents; they were making an exact science of what had hitherto been mainly superficial guesswork. They devised special instruments, measures, test plates, comparison microscopes, and chemical processes for testing ink, paper, and age of documents. The invention and universal adoption of the typewriter opened entirely new lines of document investigation for them. Osborn followed his QUESTIONED DOCUMENTS with PROBLEMS OF PROOF in 1927 and a second edition of QUESTIONED DOCUMENTS in 1929.

His present book is intended as a supplement to QUESTIONED DOCUMENTS, conforming more to the idea of a desk manual than a weighty reference volume. The main purpose of the book is to assist the trial attorney and the document expert in discovering the facts in cases involving questioned documents and proving these facts in court. It can be of service to any person interested in questioned documents, whether or not he intends to pursue the matter to a conclusion in court—for example, the documents examiner for an insurance company or merely the interested layman.

Pursuant to this purpose, QUESTIONED DOCUMENT PROBLEMS presents the steps that the attorney and the expert should take in a questioned document case, whether it involve a will, a note, a contract, or an extortion threat. Tests and instruments to be used on writings, a list of the infinite information that a bit of typing can reveal to the expert, questions to be asked the documents expert on direct and on cross examination to bring out a case or test an opponent's case, citations to outstanding decisions in the field of questioned documents, problems to be worked out to acquire familiarity with documents work —these and a variety of other practical directions and suggestions are available to the lawyer, the expert, or the layman.

Not strictly pursuant to that stated purpose, but apparently justifiable in view of the qualifications of the author, who seems to be something of a Dr. Johnson of the court room, the book presents the reflections and observations of Albert S. Osborn on the "law in action" as he

has seen it during his many years as an expert witness in the courts of a majority of the states and some foreign countries. Mr. Osborn decries the jury system, particularly as it affects documents cases, attacking most stringently the prohibitions against comment on the evidence by the judge. He pleads for "Arbitration Boards," and makes potent argument for the reference of many more cases than now receive that treatment.

Perhaps the strongest appeal that Mr. Osborn makes—to lawyer, documents examiner, judge, doctor or day laborer—is to keep studying, keep training. He preaches the sort of self-training that Benjamin Franklin and Abraham Lincoln, perhaps more than any other Americans, put to best use. Osborn himself is a fair example of what such continued training can accomplish. Dean Roscoe Pound, in his introduction to the book, credits Mr. Osborn with creating the profession of examiner of questioned documents; in 1938, Colby College, of Waterville, Maine, conferred upon him the degree of Doctor of Science.

It cannot be said that Mr. Osborn has a happy gift with the pen. Better composition would improve his work. And QUESTIONED DOCUMENT PROBLEMS suffers from a lack of organization. Many of the chapters are reprints from professional periodicals or papers delivered at professional meetings, and the beads are not always well strung.

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The Task of Law. By Roscoe Pound. Lancaster, Pa.: Franklin and Marshall College. 1944. Pp. 94. $1.50.

This book is the publication of the North Lectures delivered by Dean Roscoe Pound at Franklin and Marshall College, in the year 1941. The three lectures are entitled "Why Law?", "What Is Law?", and "What May Be Done Through Law?"

In dealing with the first question, Dean Pound observes that the history of civilization has been a gradual movement toward a systematic application of the force of politically organized society through a scientifically organized body of authoritative guides to and grounds of decision developed and applied by an authoritative technique. The cause for the effect is the incompatibility of justice without law and human psychology. He lists as objections to justice without rule, the human repugnance to subjection to the arbitrary will of others; the impracticability of harmonizing and compromising the conflicting and overlapping human desires and demands; and the demand of the economic order for certainty, uniformity and stability in the administration of justice.

Because aggressive self-assertion is potential in every man, it runs counter to the social instinct of the individual. "The task of social control and hence of the highly specialized form of social control which we call law, is to control the individual tendency to aggressive self-assertion to satisfy individual desires," says Dean Pound. The desires and demands of man to have or use things and to do things exist whenever he comes in contact with others. The legal order has the task of determining which of the desires and demands are to be recognized and secured, and to what extent, so that there shall be a minimum of friction and waste.

Dean Pound says that four ideas must be kept in mind: Justice, force, security, and balance. Justice must be administered by an impartial authority. Force must be an instrument of justice and not something which can justify itself. "The general security is historically the first social interest to be recognized and secured by law." And security depends upon balance.

In his second lecture, "What Is Law?", Dean Pound says that it is a term of many meanings, including the laws of physical and natural sciences, the laws of the social sciences, as well as the lawyer's idea of law. He traces the development of law from its beginnings when its aim was to restrain private war and preserve order, through kin-organized society and religious organizations of society, to the developed society of today. He explains principles as authoritative starting points, precepts defining legal conceptions, and precepts establishing standards. There is a comparison of the conception of law by the analytical jurist, who conceived of law as an authoritative pronouncement of the law-making organ of a politically organized society; the historical jurist, who conceived of a law as a formulation of experience; and the philosophical jurist, who conceived of a law as an expression of reason. Dean Pound says:

"It is only laws which can meet the test of reason which endure. It is only pronouncements of reason founded on or tested by experience which become permanent parts of the law. Experience is developed by reason and reason is tested by experience. Nothing else maintains itself in the legal system. Law is experience organized and developed by reason, authoritatively promulgated by the lawmaking or law-declaring organs of a politically organized society and backed by the force of that society."

"What May Be Done Through Law?" The expansion of our economic order and the increasing problems of organized society have continuously called for more laws, resulting in multitudes of statutes, administrative regulations, and decisions. "Out of this condition," says Dean Pound, "has grown a serious problem of enforcement." There is no

better or more effective way to review this lecture than to quote the concise and brilliant statements of Dean Pound.

"We come to see that the exigencies of the general security and of the individual life require us to prescribe many things the reason for which are not upon the surface and the justice of which, clear as it may be to the expert, will not appear at once to every reasonable and conscientious citizen.

"Hence we have to deal with the subject of enforcement in new ways. We have to look into the limits of effective legal action. We have to determine what we may expect to do through and what we must leave to other agencies of social control.

"After the legal order has recognized and delimited certain interests which it seeks to secure and has conferred or recognized certain rights, powers, liberties, and privileges as means of securing them, it has now to provide means of making those rights, powers, liberties, and privileges effective. The means which the legal order employs for that purpose are punishment, i.e., penalty to prevent by deterrence, specific redress, substituted redress, and prevention.

"Three important limitations of law as an agency of social control have to be borne in mind in determining what interests the legal order may secure and how it may secure them. These limitations grow out of (1) the necessity which the law is under, as a practical matter, of dealing only with acts, of dealing with the outside, not the inside, of men and things; (2) the limitations inherent in the legal sanctions—the limitations upon coercion of the human will by force; and (3) the necessity which the law is under of relying upon some external agency to put its machinery in motion, since legal precepts do not enforce themselves."

For effective enforcement of a legal precept it must be backed by social-psychological efficiency and power. Dean Pound says that there are two sorts of law-making which are futile—one which has behind it nothing but the sovereign imperative, and the other which is intended to "educate," to set up an ideal of what men ought to do instead of imposing a rule as to what they shall do.

We must not allow our faith in the efficacy of effort to blind us to the limitations upon the efficacy of conscious effort in shaping the law so as to do the whole work of social control.

This book is what might be expected from one of Dean Pound's superior learning and outstanding ability. It should be read and studied by every lawyer who loves his profession and who recognizes the myriad problems of legal philosophy.

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Cartels: Challenge to a Free World. By Wendell Berge. Washington. Public Affairs Press. 1944. Pp. vi, 266. $3.25.

The Sherman Act empowered the Justice Department "to direct" the district attorneys of the United States to institute proceedings in order to prevent and restrain violations of the act. For many years, it has been assumed that this "directing" power implies discretion on the part of the Justice Department to prosecute or not to prosecute and to choose between civil and criminal proceedings. Such an interpretation has been applied not only to the Sherman Act but to all antitrust acts. Because of this discretion, the vague text of the Sherman Act, and, last not least, the fluctuating judicial interpretations of the antitrust acts, it is of capital importance to learn how the executive power looks upon business coalitions of private entrepreneurs.

The author of the volume reviewed here is an outstanding expert in the cartel field and also the executive officer in charge of administration of the antitrust acts. This gives particular significance to Mr. Berge's book. It not only discusses evils legally prohibited *(mala quia prohibita)* but also expresses the author's opinion as to what is an evil apart from positive legal prohibitions *(mala per se)*.

In his preface, Mr. Berge touches upon the core of cartel discussions when he says that it is a simple matter "merely to make assertions about the evil effects of cartels." He rightly recognizes that useful generalizations can be made only on the basis of a "fairly detailed explanation of the operation of particular cartels." That is why he cites extensive case material from antitrust proceedings pertaining to medicines, synthetic hormones, vitamins, quebracho extract, titanium, optical instruments and miscellaneous products. The author also takes into account the results of the investigations of the Temporary National Economic Committee. It is a matter of opinion whether this factual material may be regarded as sufficient fundament to make all-embracing conclusions about the future operation of marketing control organizations of private entrepreneurs. I believe that the material assembled is enough to conclude that there is danger that private economic power may be abused, and has been abused in certain respects. A much more comprehensive empirical investigation, however, would be necessary to ascertain whether marketing cooperation among private enterprises on the international scale is almost always socially undesirable. Mr. Berge is not responsible for the very unsatisfactory status of economic research in the field of international trade. As a matter of fact, the Justice Department and Congressional investigating committees (and parliamentary agencies in other countries) have been instrumental in conducting marketing research which should have been the primary task of professional economic research agencies. There is a great difference be-

tween marketing research as carried on by the Justice Department and Congressional investigating committees on the one hand and that performed by agencies on the other, whose professional task should be to assemble empirical material about the international markets of *all* significant commodities and services. The difference is the following: the Justice Department and congressional investigating committees are, of course, principally attracted to commodities and marketing situations which are significant because of a particular political situation, or because of actual abuses of economic power. Whereas agencies in charge of general investigation of markets should investigate all significant markets and services on international markets, whether abuses have occurred or not. On certain problems, such as patents, trademarks, and secret technological processes, indeed, general conclusions can be drawn on the basis of the material available. Furthermore, there is little doubt that the available empirical material is sufficient to consider measures against German methods of economic penetration. Many people working in this field, however, are reluctant to form general conclusions concerning all problems surrounding marketing cooperation among private entrepreneurs in international markets before acquiring a larger mass of case material related to many more significant commodities and services.

The necessity of complete suppression and prevention of German economic warfare, cartelized and uncartelized, is self-evident. So is the responsibility of a large class of German entrepreneurs for their open or tacit approval of these methods of transacting business. This aspect of the cartel problem, although immensely important, does not answer the principal question whether conditions could be created which would foster patterns of international marketing leading to socially desirable results. If I am not mistaken, Mr. Berge assumes that the absence of cartel agreements probably would ensure *active* competition. He furthermore assumes, if my impression is right, that the rational self-interest of entrepreneurs induces them to compete actively. As far as the interpretation of the law is concerned, Mr. Berge's position is almost unassailable. As far as future public policy is concerned, a few crucial problems need to be clarified.

First, the compulsory absence of cartel agreements on international markets may result in non-competitive situations which may be even more oppressive than open cartel relationships. The prohibition of combination "agreements" and the enforcement of such prohibitions is a difficult but not impossible task of legal technique. The problem of commanding and enforcing *active* competition is, however, an unexplored item of legal and political research. The enforcement of active competition in democratic governmental frameworks would require

mechanisms never yet envisaged in public policies. To consider this problem with reference to international markets would require bold assumptions about the intimacy of international political cooperation of the major industrial nations. Second, it may be questioned whether the rational self-interest of entrepreneurs motivates as a rule for active competition. Adam Smith expressed considerable scepticism in this respect. "The interest of the dealers, . . . in any particular branch of trade or manufactures, is always in some respects different from, and even opposite to, that of the public. To widen the market and to narrow the competition, is always the interest of the dealers." Although this proposition of Adam Smith is considerably over-simplified, one may rightly ask whether the entrepreneur should be required to compete actively on international markets in order to further the public interest, if (in his opinion) not to compete would serve his private interest. Third, the available alternatives to private cartellization are not always (a) active competition, (b) intergovernmental marketing controls. Available alternatives should be investigated from case to case, from market situation to market situation.

One of the main propositions of Mr. Berge's study is that publicity as to the existence of international cartels and as to their marketing practices will in itself prevent many abuses. No serious student would deny or qualify that proposition. Neither could it be denied that private market organizations must not engage in practices which carry political implications. Furthermore, no sound national or international regime could tolerate private marketing organizations whose operation results (or could result) in undesirable restrictions of the volume of production, trade or in blocking technological progress.

The author is right that it is not a justification for advocating entrepreneurial cooperation "that we must join hands with cartels if we are to engage in foreign trade." Such a formalistic justification by-passes the essence of the issue. However, serious investigation might be directed toward ascertaining under what conditions cooperation of private entrepreneurs in those international markets in which workable competition is improbable, might serve a balanced expansion of production and consumption.

An adequate review of Mr. Wendell Berge's thought-provoking study would require considerably more space. His book, indeed, is an excellent and well-timed contribution to research on future forms of economic intercourse. The professional jurist, economist, political scientist, statesman and man in the street, whether or not he agrees with all his views, will read his pungent arguments with profit and delight.

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