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Book Note

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BOOK NOTES

MARKET POWER: SIZE AND SHAPE UNDER THE SHERMAN ACT. BY G. E. and ROSEMARY HALE. Boston: Little, Brown & Co., 1958. Pp. xix, 522. \$17.50

ANTITRUST POLICIES. BY SIMON N. WHITNEY. New York: The Twentieth Century Fund, 1958. Vols. 2, pp. xxiii, 560, x, 541. \$10.00

These latest volumes dealing with the enforcement and effectiveness of our antitrust laws are welcome additions to the great body of material dealing with the statutes designed to curb monopoly power.

Market Power: Size and Shape Under the Sherman Act is the third volume in the Trade Regulation series edited by S. Chesterfield Oppenheim. The volume's purpose is to analyze and criticize the various economic theories utilized by courts in an attempt to give content to the broad provisions of the Sherman Act. To this end, the authors present analyses and criticisms of the "abuse" and "structure" theories of monopoly, the approaches which have met with the most judicial favor. In a separate chapter, the authors deal with other theories which have received treatment from the courts, e.g., the "performance" test of monopoly and the theory of workable competition. Passing to various problems of "shape" under the Sherman Act, the authors deal with vertical integration, diversification, and dispersion, concluding that many of the charges against various shapes are invalid. The final chapters of the book deal with corporate size and the remedies decreed by the courts when a violation of the Sherman Act has been proved. The various topics are discussed ably and are documented fully.

The work is largely negative in character. Only in the last chapter do the authors offer concrete recommendations and thereby give us the full benefit of their prodigious research. They suggest that the most effective way to deal with monopoly power is to limit the "over-all size of business enterprise." At least, they say, this approach "should bring into the open the criterion which courts are actually applying in the guise of enforcing the antitrust laws." This proposal is asserted mainly on the "belief" that rational antitrust enforcement is impossible and hence "abandonment of the effort would constitute no loss." In an earlier chapter the authors cogently discuss the many social and economic reasons against size as such (e.g., the antithesis between large size and democratic government, and the resem-

blance of large size to the "feudal system"), but they do not convince this reviewer that limitation on size is the universal solvent or even that it is the preferred method for dealing with monopoly power. As the authors themselves are quick to point out, even small firms may enjoy monopoly power; but presumably they would retain section 1 (although not section 2) of the Sherman Act to prevent the abuse of that power. We are not told, however, just how the adoption of this policy would promote or stimulate competition. In fact, this reviewer is left with the impression that the proposed policy, pursued without any enforcement of traditional antitrust policies, would soon lead to many small local monopolies instead of a few large ones.

Simon Whitney's *Antitrust Policies* takes an altogether different approach. This study deals with antitrust enforcement and experience in twenty selected industries. The treatment given each is necessarily brief and general, although Mr. Whitney's gift for summary and succinct statement should make the study a valuable addition to any lawyer's library. In the steel industry, to take one example of the author's technique, we find discussed, among other things: the stages of steelmaking; "Pittsburgh Plus," its abandonment for a multiple basing point system, and finally the adoption of f.o.b. mill prices in 1948; the *Columbia Steel* case, 334 U.S. 495 (1947); the industry's attitude toward the antitrust laws; and the competitive status of the industry. The chapter dealing with the aluminum industry includes discussions of Alcoa's patent monopoly, the 1912 consent decree between the Government and Alcoa, Judge Learned Hand's famous 1945 opinion holding that Alcoa had violated the antitrust laws, and the aftermath of that decision. In brief, the author is content mainly to describe the origin and development of industry practices in each of the industries he discusses. His final chapters are devoted to a statement of the general principles gleaned from the case studies, and finally to an appraisal of the effectiveness of the antitrust laws. The author passes few judgments, but concisely presents various arguments (pro and con) on this most important topic.

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