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## Book Review: Antitrust Questions and Answers

William A. Altonin

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## BOOK REVIEW

ANTITRUST QUESTIONS AND ANSWERS BY EDWIN S. ROCKEFELLER  
*Washington: Bureau of National Affairs, 1974. Pp. 683. \$18.50.*

For the past 13 years, the members of the Advisory Board of the Bureau of National Affairs' Antitrust and Trade Regulation Report have met to discuss important developments in this area of the law. The Board is comprised of many of the most highly respected scholars and practitioners in the field, and analyses of the most significant topics are published in the weekly reports. This book, a compilation of these analyses, rewritten, updated, and put into a question and answer format by the chairman of the board, should prove a valuable addition to any lawyer's library.

*Antitrust Questions and Answers* is not a critique of the antitrust laws or their social or economic impact. It is a practical, objective description of the current application of the Sherman,<sup>1</sup> Clayton,<sup>2</sup> and Federal Trade Commission Acts<sup>3</sup> to various business problems. The economic philosophies underlying these laws and the judicial and administrative decisions thereunder are important only as aids to interpretations of the law. The book contains very little criticism of the cases. However, an attorney representing a client in an antitrust case (not to mention the client himself) is not particularly interested in the validity of the economic theory adopted by the Antitrust Division of the Department of Justice or the Federal Trade Commission—he wants to know if and how he can win his case.<sup>4</sup>

The answers focus, at all times, upon the particular question posed. They are fairly comprehensive, but quite naturally in a single volume covering such a vast area no topic can be treated exhaustively. Yet Mr. Rockefeller does manage to give most viewpoints on open questions, indicating where ambiguities and inconsistencies exist, and attempting to resolve them. In so doing, he does not limit the answers to views held by members of the Advisory Board, but refers freely to works of other groups and individuals.

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<sup>1</sup> 15 U.S.C.A. §§ 1-7 (1973).

<sup>2</sup> *Id.* §§ 12-27.

<sup>3</sup> *Id.* §§ 41-51.

<sup>4</sup> See Bork, *The Supreme Court Versus Corporate Efficiency*, 76 FORTUNE, Aug. 1967, at 92, 158, for a strong criticism of the antitrust bar for its failure to challenge the government's economic assumptions. It is doubtful, however, that any large corporation is willing to be a guinea pig in the public interest.

The book does not deal with antitrust law in general, but only with specific problems. Attorneys and their clients do not want to know, when faced with the antitrust implications of a business decision, what actions may constitute a violation of a particular statute, but whether that particular decision may have any antitrust repercussions. Thus, there is no attempt to cover any topic in this area in a broad sense. Nevertheless, the book covers all aspects of the subject, and its organization adequately permits a comprehensive view of the entire field.

Mr. Rockefeller does not limit himself to a static interpretation of the law. Such an approach would scarcely be adequate in an area subject to such continuous change as antitrust. The possibility of changes in the law is always brought to the forefront. For instance, at the beginning he gives warning that the present lack of any coherent policy of enforcement of the prohibition against interlocking directorates under section 8 of the Clayton Act<sup>5</sup> is no guarantee that governmental agencies will continue to ignore the problem.<sup>6</sup> Similarly, in his discussion of merger guidelines put forth by the Federal Trade Commission<sup>7</sup> and the Department of Justice,<sup>8</sup> respectively, he makes it clear that these are only indications of present thoughts on the subject and will not be binding as to future events. One area in which the author can do little more than identify the issue, is the section covered by the question, "Is a 'combination' different from a contract or conspiracy?"<sup>9</sup> This problem, caused initially by Justice Brennan's rather obscure opinion in *United States v. Parke, Davis & Co.*<sup>10</sup> has been further obfuscated, instead of clarified, by subsequent opinions of the Supreme Court.<sup>11</sup>

Approximately one-third of the book is devoted to an excellent coverage of all aspects of antitrust litigation. All phases of practice in cases initiated by the Antitrust Division and the Federal Trade Commission are covered in detail. Private actions for treble damages are treated comprehensively, with very useful analyses of attorney's fees<sup>12</sup> and class action suits.<sup>13</sup> Because of the

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<sup>5</sup> 15 U.S.C.A. § 19 (1973).

<sup>6</sup> ANTITRUST QUESTIONS AND ANSWERS 3-10 (1974).

<sup>7</sup> *Id.* at 210-13.

<sup>8</sup> *Id.* at 213-18.

<sup>9</sup> *Id.* at 35.

<sup>10</sup> 362 U.S. 29 (1960).

<sup>11</sup> *Albrecht v. Herald Co.*, 390 U.S. 145 (1968); *United States v. Arnold, Schwinn & Co.*, 388 U.S. 365 (1967); *Simpson v. Union Oil Co.*, 377 U.S. 13 (1962).

<sup>12</sup> ANTITRUST QUESTIONS AND ANSWERS 614-26 (1974).

<sup>13</sup> *Id.* at 626-44.

objective approach throughout the book, this last part may make it more valuable to potential antitrust victims than to possible offenders. A useful aid to businessmen, as well as to practicing attorneys, this volume's practical approach to the impact of antitrust law on everyday business decisions should render it almost indispensable to any corporate executive whose area of responsibility extends beyond the walls of his place of business.

*William A. Altonin\**

### BOOKS RECEIVED

**BEFORE THE LAW.** By John J. Bonsignore, Ethan Katsh, Peter d'Errico, Ronald M. Pipkin, and Stephen Arons. Boston: Houghton Mifflin Co., 1974. Pp. xii, 388. \$6.95.

**CHOOSING THE PRESIDENT.** Edited by James D. Barber. Englewood Cliffs: Prentice-Hall, Inc., 1974. Pp. 208. \$7.95 (hardcover), \$2.95 (paperbound).

**CRIMES AND VICTIMS: A REPORT ON THE DAYTON-SAN JOSE PILOT SURVEY OF VICTIMIZATION.** By Law Enforcement Assistance Administration. Washington, D.C.: United States Dep't of Justice, 1974. Pp. viii, 191.

**CRIMINAL SENTENCES.** By Marvin E. Frankel. New York: Hill & Wang, 1973. Pp. xi, 124. \$5.95.

**DIVERSION: THE SEARCH FOR ALTERNATIVE FORMS OF PROSECUTION.** By Raymond T. Nimmer. Chicago: American Bar Foundation, 1974. Pp. xiv, 119. \$7.00 (clothbound), \$3.50 (paperbound).

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**JUDICARE: PUBLIC FUNDS, PRIVATE LAWYERS AND POOR PEOPLE.** By Samuel J. Brakel. Chicago: American Bar Foundation, 1974. Pp. 145. \$7.00 (clothbound), \$3.50 (paperbound).

**LAWYER AND CLIENT: WHO'S IN CHARGE?** BY DOUGLAS E. ROSENTHAL. NEW YORK: RUSSELL SAGE FOUNDATION, 1974. PP. XI, 228. \$8.95.

**LEGAL PROTECTION FOR THE CONSUMER.** By Stanley Morganstern. Dobbs Ferry, New York: Oceana Publications, Inc., 1973. Pp. 122.

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\*Professor of Law, University of Denver.

**POLITICS OF THE PURSE: REVENUE AND FINANCE IN THE SIXTH ILLINOIS CONSTITUTIONAL CONVENTION.** By Joyce D. Fishbane and Glenn W. Fisher. Urbana, Illinois: University of Illinois Press, 1974. Pp. xv, 199. \$3.45 (paperbound).

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**SUMMARIES OF LEADING CASES ON THE CONSTITUTION.** By Paul C. Bartholomew. Totowa, New Jersey: Littlefield, Adams & Co., 1974. Pp. xxxi, 407. \$8.50 (clothbound), \$3.50 (paperbound).