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Trade Associations: The Legal Aspects

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ligations. The divisions, as will be observed, might well be made by an English jurist. Their subdivisions deserve the same comment.

This third part is subject in large measure to the same praise or blame mentioned above for the entire work. It is quite simple reading for a lawyer; yet so much is compressed into so short a space that a desultory perusal will benefit no one. For instance, the nature and the suppression of mortmain are set forth in two and a half pages. It is admirable in its conciseness; yet the difficulty of remembering all one may gather from a reading will be apparent.

The work of Professor Register has not stopped with translation. The original work ended with the unification under the older constitution of Charles Albert of Savoy. Professor Register and Professor Calisse have both added an outline of the subject to the present time—rather to the appearance of Mussolini. The final chapters on the private law of United Italy were likewise specially prepared for this translation. Just how far we may be indebted to Professor Register is hard to estimate. Certainly we are indebted to him for a readable book and for clarity of style.

As everyone knows, this series is not intended for browsing. It is a serious work for the scholar or the student. Properly used, it may well be doubted if any other work published so well equips a lawyer to avoid the imputation contained in the quotation from Guy Mannering, "A lawyer without history or literature is a mechanic, a mere working mason; if he possesses some knowledge of these, he may venture to call himself an architect."

—J. H. BRENNAN,

Judge of the 1st Judicial Circuit,
Wheeling, W. Va.

TRADE ASSOCIATIONS: THE LEGAL ASPECTS. By Benjamin S. Kirsh. New York: Central Book Company. pp. 271. (1928.)

There can be no doubt that business may be carried on much more efficiently by a monopoly than by competitors. But the danger of oppression which is ever present where combination begins

has led to the establishment of the principle in our legislation that free competition must be maintained.

The opportunity to secure much of the efficiency of business concentration without losing the safeguard against oppression that the maintenance of free competition affords may perhaps be found in the activities of trade associations. The organization of such associations has continued at a very rapid pace in recent years. In certain fields their activity has been held by the courts to go beyond what may be considered proper under the various anti-trust acts. There remains, however, a very large field of endeavor in which such organizations may remain active without incurring judicial censor.

This book attempts to mark out broadly the limits of proper action by trade associations. The author believes that such association may contribute greatly to the general business welfare. In this view, he is supported by many prominent observers of business conditions, including the President-elect. The majority opinions of the United States Supreme Court in the *Maple Flooring*¹ and *Cement Cases*² reveal a kindly attitude toward the work of such associations. The exchange of statistical information by the members relating to past prices and costs of production, credit bureau functions, the collective development of foreign markets, and co-operative buying may be productive of efficiency and within limits, may be proper.

It must be recognized that the point at which such activity becomes oppressive cannot be defined with any precision. The paucity of case law on the subject makes it impossible to foretell with any assurance what the attitude of the courts will be toward many lines of activity. In the *Maple Flooring Case*, the broad principle is laid down that anything is permissible short of "concerted action" which has a necessary tendency to stifle competition. That formula is sufficiently vague to leave a large amount of freedom to the courts in determining whether the actions of any particular trade association reach the point where they have become oppressive.

The author has analyzed exhaustively the cases on the subject and has drawn conclusions that we believe are sound. The assurance is given that there is a very broad field of activity in

¹ 268 U. S. 563 (1924).

² 268 U. S. 588 (1924).

which trade associations may engage without fear of judicial interference. The scope of such activity and the great value which may come from it in the business life of our country is the theme of Mr. Kirsh. The book will be useful to trade association officers and to their attorneys. It may be read with interest by all lawyers who care to follow the legal aspects of important economic developments.

—HAROLD C. HAVIGHURST.

FACTS ABOUT BANKRUPTCY. By Max Isaac. New York. American Bankruptcy Review. pp. xi, 332 (1928).

The author of this book was formerly referee in bankruptcy of the Southern District of Georgia. The book contains a directory of bankruptcy laws, the complete bankruptcy laws of the United States and an abstract of the laws concerning conditional sales exemption, mortgages of each state in the Union, complete bankruptcy laws, partially annotated, the general orders in bankruptcy and abstracts of laws of interest to creditors such as conditional sales, bulk sales law, mortgages and exemptions in each state. It is a useful book of superficial reference, although it does not pretend to be anything further than a desk book for a busy credit man.

—T. W. ARNOLD.

HOW TO PROVE A PRIMA FACIE CASE. By Samuel Deutsch and Simon Balicer of the New York Bar. New York. Prentice-Hall, Inc. pp. 21, 602 (1928).

This book is not a treatise on the subject of trial work. It is an attempt, however, to aid the young practitioner in framing his questions in order to prove the necessary elements of any cause of action. The lawyer in a hurry before trial may open this book at the kind of an action which he is bringing and refresh his mind as to the formalities which must be proven. Before examining an expert or a witness he may turn to the questions necessary to qualify the witness. A very large number of usual situations are collected in question and answer form. These situations cover cases from common law forms of action to cases