

BOOK NOTES

Death by Tariff: Protectionism in State and Federal Legislation. By Raymond Leslie Buell. Public Policy Pamphlet No. 27. Chicago: University of Chicago Press, 1939. Pp. 40. \$0.25.

The author of this forceful little pamphlet traces the disquieting "extension of protectionism inward." Self-seeking pressure groups representing industry, labor, and agriculture alike, fresh from federal lobbies, have trained their guns on state legislatures. State trade barriers in the form of port-of-entry laws, quarantine and inspection laws, special commodity and use taxes, and liquor and beer tariffs have sprung up to impede the stream of interstate commerce in a fashion reminiscent of the conditions under the Articles of Confederation. The prospect of "forty-eight little nations," each with border custom houses and regiments of duty collectors engaged in economic war presents most pernicious consequences for the American Union, which constitutes the largest free market in the world. While the author suggests several broad economic and political palliatives for the restoration of the free market, of particular interest to the lawyer is the role of the Supreme Court in checking this dangerous emergence of new states rights. In the interstate commerce and privileges and immunities clauses the Court has the instruments for rewelding the national economic unity that the fathers of the Constitution intended. The recent over-ruling of *Swift v. Tyson*,¹ however, and such decisions as *Henneford v. Mason Co.*,² and *Gregg Dyeing Co. v. Query*,³ indicate that the Court is unfortunately bent upon abetting rather than thwarting the new states rights movement.

S. Z. K.

Trade Associations in Law and Business. By Benjamin S. Kirsh in collaboration with Harold Roland Shapiro. New York: Central Book Co., 1938. Pp. 399. \$5.00.

By describing their work as a "critique,"¹ the authors invite their audience to expect an analytical examination of the legal and economic problems of trade associations. But the reader for whom analysis implies originality and incisiveness is disappointed. For such a reader the conclusion that "in the last analysis, the anti-trust laws will best serve the purpose for which they were enacted, if they can succeed in preserving for the public the benefits of the growth and progress of American business, and in reducing to a minimum their attendant abuses,"² has a familiarity that breeds contempt. And where verbalism is added to familiarity, contempt gives way to positive annoyance: "When standardization . . . interferes with competitive rivalry, and artificially throttles the normal action of competitive bargaining by thwarting economic reward for individual initiative . . . there is a concerted interference with the de-

¹ 16 Pet. (U.S.) 1 (1842). *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938).

² 300 U.S. 577 (1937).

³ 286 U.S. 472 (1932). See also *Indiana Brewing Co. v. Liquor Control Comm'n of Michigan*, 59 S. Ct. 254 (1939); *Finch v. McKittrick*, 59 S. Ct. 256 (1939).

¹ P. 5.

² P. 273.

termination of price according to economic laws, which constitutes a violation of the Sherman Act."³ On the other hand, so attractive an analytical possibility as the application of Chamberlin's theory of monopolistic competition to trade association activities is completely ignored.

But the hope of the authors "that the book will be of practical value"⁴ will doubtless be realized. As a compendium of legal and economic materials, their work is remarkably thoroughgoing, well balanced, and lucid. An excellent chapter on foreign trade functions, a topic relatively neglected by writers on trade associations, especially demonstrates a skillful compression of great masses of scattered information. Nor is it a solitary instance. The main problems of basing point systems, for example, are cogently set forth in the short space of nineteen pages; and the discussion of patent interchange is one of the few brief treatments of that subject known to the reviewer that produce more enlightenment than confusion. The copious footnotes further commend this volume to trade association researchers and lawyers by making them the beneficiaries of an intelligent sifting of the voluminous literature of the field.

M. S. ISENBERGH*

³ Pp. 151-2.

⁴ P. 7.

* Research Fellow, Harvard Law School.