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Book Review (reviewing Max J. Masserman, L'Oeuvre de la Federal Trade Commission (1925))

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ELEMENTS OF PRACTICE IN THE NEW YORK COURTS UNDER THE CIVIL PRACTICE ACT AND THE RULES OF CIVIL PRACTICE. By Edwin D. Webb. Albany: Matthew Bender & Company, 1926. Pp. xlvii, 549.

This short and much condensed treatise on New York pleading and practice is obviously intended to meet the great and increasing demand on the part of law students for some work on this subject which shall cover substantially the whole subject and at the same time be sufficiently short for thorough examination and study in a reasonable period of time. From this standpoint the book should be distinctly successful. Practically all of the important rules are fully set forth, together with a brief statement of the leading decisions interpreting the various rules and sections of the Civil Practice Act. The arrangement of the subject matter is logical and the statements of law, accurate and authentic.

If one considers the subject in a perhaps less practical but broader and more fundamental aspect, it seems that much would be gained by a return to the form of old-fashioned treatise. The two things which are necessarily lacking in such a book as this are: First, a smooth and interesting style; and, second, a discussion of the various principles as a matter of legal theory. The result of the very plain effort at condensation and brevity is to make the style seem cramped and somewhat dry. As the object in the mind of the author was undoubtedly to state accurately the various important rules of New York pleading and practice in as short a space as possible, there was, of course, no room for extended theoretical discussion. And yet, it would seem that much more could be accomplished in the long run by making the law books, and particularly the law books on the subject of pleading and practice, a trifle less practical.

Columbia Law School, New York City.

HAROLD R. MEDINA.

L'OEUVRE DE LA FÉDÉRAL TRADE COMMISSION. By Max J. Wasserman. Paris: Marcel Giard, 1925. Pp. xliii + 582.

This volume is the second one in a few months' time published by the Institute of Comparative Law of the University of Lyons, which is of interest to American readers. It is a study of the genesis of the Federal Trade Commission, its organization and powers, the work it has done, and the views actually held by its proponents and opponents regarding its value. Despite the language and place of origin of the book, its author is an American and is now a member of the department of economics of the University of Illinois. Taking the successive divisions of the work in succession, the first with its history of the economic background of the Commission will be more useful to the foreign than to the American reader. The latter will, it may be assumed, be already acquainted with the broad outlines to which the treatment is confined. The next chapters, dealing with the Commission's powers and its make-up, are based largely on the acts creating it and assigning its work

to it and on its annual reports. Having disposed of these important but somewhat preliminary matters, Mr. Wasserman passes on to what makes up the bulk of his book, the work which the commission has done. So far as this consists of decisions made by it on unfair trade methods and restrictions tending toward monopoly, the treatment closely parallels Gerard Henderson's recent book, "The Federal Trade Commission," to which reference is constantly made. It follows that for anyone having this book available, it will generally be more convenient to go to it directly. Occasionally, too, one finds statements which it is difficult to understand or wholly agree with. Thus¹ after having pointed out that action by the commission often merely duplicates another alternative method of redress wholly independent of the commission, the author states, as an instance, that certain other federal bureaus are "charged with controlling the quality of merchandise offered for sale." This would clearly justify the French reader in supposing that our central government normally and generally saw to it that goods sold came up to the seller's warranties, a surprising conclusion. A quarrel might also be picked with the statement² as to what the Beech-Nut Packing case stands for. The author says that it simply forbids resale price maintenance by co-operative means. Perhaps, but then why was the Beech-Nut Company forbidden from so marking its boxes that it could without outside co-operation discover violators of the resale price agreement? The case presents more of a riddle than that, if indeed it is solvable at all.

Other chapters on the work of the commission deal with activities not touched on in Henderson's study, and hence are probably of more importance to readers in this country. These are on its activities in aid of export trade (under the Webb Act), its war work, and its influence on legislation by means of its studies of the packing industry and the marketing of grain. Much space is given to these two studies and to the situations that they dealt with, so much that one tends to forget that the subject of the book is the investigating agency itself, and not the activity which is being investigated. Mention should also be made of a well-written and interesting chapter describing the Commission's invention of the device of trade practice submittals.

In conclusion there is an outline of the hostile or adverse criticism that has been directed against the commission, notably Mr. Henderson's and Commissioner Gaskill's, as well as the less unpartisan ones coming from various bodies which had previously been in collision with the commission. Appendices contain translations of the statutes referred to in the text, a bibliography, etc. Clearly, the book should be a valuable means toward acquainting French students with an American administrative experiment that may be of no little importance to them also.

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E. W. PUTTKAMMER.

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1. At page 162.
 2. At page 185.