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TRADE ASSOCIATIONS IN LAW AND BUSINESS, by Benjamin S. Kirsh, in collaboration with Harold Roland Shapiro. Central Book Co., New York, 1938. Pp. 374. \$5.00.

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govern," and Dean Landis adds that they are not "the only agency moved by the desire for justice." These are propositions which lawyers, schooled in the tradition of judge-worship (in the abstract), are prone to overlook. Further, lawyer-publicists tend to ignore the fact that only a minute fraction of administrative cases ever reach the stage of formal hearing, let alone the stage of appeal to a court. This single circumstance suggests the unwisdom of current efforts to extend the scope of judicial supervision over the adjudications of the administrative. For the possibilities of abusive action are fully present long before adjudication; and incalculable injury can be done, as Mr. Landis notes, merely by the institution of proceedings regardless of their outcome. Lawyers who are interested in the assurance that the administrative will function well and wisely should turn their attention from the courts and focus it instead on the administrative itself. It is there that "professionalism in spirit, the recognition that arbitrariness in the enforcement of a policy will destroy its effectiveness, and freedom from intervening irrelevant considerations," will produce the results that the sporadic, inexpert intrusion of the courts is unlikely ever to achieve. To such lawyers Dean Landis' lectures will give stimulation and insight, for they reflect the thought of an outstanding legal scholar who is now as well an experienced administrator. The volume should be on the required reading list of those whose thinking starts, rather than stops, when they hear the word "bureaucrat."

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In recent years there has been a plethora of treatises dealing with the application of legal principles to specific situations rather than particular branches of the law. For example, the rules of the law of negligence that govern an impact between two motor vehicles, are the same as those that are applicable to a collision between two horsedrawn carriages. Yet books have been written on the application of the law of negligence to automobiles. While works of this type may not contribute to the development of the law as a science, they, nevertheless, have a mission to perform. At times they serve as reference books. Then again such a work

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may act as a critique in assisting to solve the problem whether changes in social and economic life require a readjustment of some rule of law.

Mr. Kirsh's well-documented monograph *Trade Associations in Law and Business* performs the latter function. It is timely in view of the fact that the creation of The Temporary National Economic Committee has directed attention to the problem of monopoly.

It is generally recognized that one of the questions of the day is the extent to which the competitive system is hampered by aggregations of capital, and to devise a remedy, if it is determined that they seriously throttle competition.

Mr. Kirsh is of the opinion that there are two practical alternatives, neither of which he deems desirable. The first is "further trustification," while the second is a policy of governmental regulation. He dismisses cavalierly the suggestion that the remedy may be found in a restoration of competition, which after all is the purpose of the anti-trust laws. He offers trade associations as a solution. One may be pardoned considerable skepticism whether the evils of monopoly can be reduced by implementing trade associations and whether such a course would be desirable, even if practicable. The author makes no effort to discuss the extent to which it is advisable to confer coercive powers on persons without Governmental status. Moreover, in addition to other implications of such a course, there is also a question whether it is desirable to subject the individual to supervision by other members of his group. Surely a trial by one's competitors is not a trial by one's peers, such as must have been contemplated by the Barons at Runnymede, and is guaranteed by the Constitution of the United States and most of the State Constitutions.

The book is an Apologia for trade associations. It is an advocate's plea, rather than an attempt at a judicial consideration of legal and economic principles. If the reader makes due allowance for the author's approach, he is likely to find a considerable amount of useful information on matters relating to trade associations. Limitations of space necessarily lead to rather cursory treatment of some topics. At times conclusions are assumed as though they were premises. Some of them seem to be subject to challenge and perhaps should not have been advanced without proof.

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