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TRADE AGREEMENTS: A STUDY IN
DEMOCRATIC METHODS, by John Day
Larkin. Foreword by Eugene Staley. Columbia
University Press, New York, 1940. Pp. ix, 135. \$1.00.

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aspirations in that direction, the reviewer hereby declares without any qualification whatever that this little book of less than a hundred pages contains some of the most astute and penetrating comments on modern juristic thought which have come to his notice. Perhaps because it was first presented in the form of lectures to an audience of lawyers and laymen as well as students, the book is, for a book in this field, uncommonly readable. The style is vivid, the comments shrewd, barbed. As a former student of Pound's, familiar with his vast but heavy learning, the reviewer was startled to find this book stimulating in the same fashion as a lithe buggy whip. Occasionally the reader strikes such a snag as the description, "an absolutist theory of law on a basis of philosophical relativism."⁶ This sort of verbiage comes of reading too much jurisprudence. But if the reader will slide over such exceptional rough spots as these, he will have no difficulty picking up the thread of the discussion. Pound even departs from more abstract reasoning to do a little tanning of a few realist hides,⁷ thus providing entertainment for the lay reader. He proves over and over that he has been keeping a searching, inquisitive eye on the doings of his fellows in the field of jurisprudence. Those erudite gossips in academic cloak rooms who have for years been hopefully announcing the decline and fall of the great Pound will discover, on reading this book, that their announcements were premature. The book weighs a few ounces. But if anyone were to swap for it a hundredweight of the mine run of books in this field he would still have made a good trade.

FRANK HANFT*

TRADE AGREEMENTS: A STUDY IN DEMOCRATIC METHODS, by John Day Larkin. Foreword by Eugene Staley. Columbia University Press, New York, 1940. Pp. ix, 135. \$1.00.

The author of *Trade Agreements*, which is number one of the International Economic Handbooks edited by Eugene Staley for the Carnegie Endowment for International Peace, presented his book in February, 1940, when international trade was quickly becoming primarily a battle for war materials. There is irony in

6. P. 1.

7. P. 52.

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the sub-title of this book on Trade Agreements: it is "A Study In Democratic Methods." However, every student of the history of trade agreements and the legislative record of tariffs knows the temper of combat is an integral part of the story.

It was a commonplace to say, after the war of 1914-1918, that the years of post-war experience demonstrated the fact that the actual material destruction of the war was much less important than the dislocation and disorganization which the war caused. This view was clearly stated as early as 1920 by the Brussels Financial Conference. Sir Arthur Salter, Director of Allied Shipping during the war, gave this idea brilliant form in his book *Recovery*.¹ The International Economic Conference held at Geneva in May, 1927, unanimously reached the conclusion that the enduring effects of the war's dislocation and disorganization—trade barriers and fluctuating currencies—menaced the prosperity of the world. The economic conflicts and the divergence of economic interest arising from them have menaced the trade of nations since Versailles. The wages and the standards of living of hundreds of millions of people have been affected by the continuing guerrilla tactics of economic nationalism. The United States, seeking world trade, felt the full impact of bankrupt international economic relations.

The Fordney-McCumber Tariff Act of 1922, containing the so-called flexible tariff plan, was a bid for world trade. This act and the Hawley-Smoot Tariff Act of 1930 were passed by the traditional logrolling methods of legislation. World trade declined. Secretary Hull began his peace time plan of creating favorable conditions for the United States in world markets.

The Trade Agreements Act, passed by Congress on June 12, 1934, provided that the President might "enter into foreign trade agreements." For purposes of bargaining, the Chief Executive was authorized "To proclaim such modifications of existing duties and other import restrictions . . . as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder." He was also authorized to provide a "*continuance . . . of existing customs or excise treatment of any article covered by foreign trade agreements.*" That is, he was allowed to guarantee to the other contracting party that for the duration of the agreement, not only would certain import duties be reduced, but also excise taxes, import quotas, and other trade

1. Salter, *Recovery—The Second Effort* (1932).

restrictions would be "bound" or continued at the level existing at the time the agreement was concluded.

The procedural side of the reciprocal trade agreements policy is fully discussed, and Mr. Larkin raises the general question—is the trade agreements process constitutional? The attack of the critics is considered along with the constitutional checks and balances provided in the act. It is pointed out that the Federal government's attorneys have met the legal attacks that have been made against the Trade Agreements Act. The author maintains that the trade agreements organization and procedure is democratic, stressing the representative character of the trade agreements organization and public participation in trade agreements procedure. In this discussion, the two principal questions raised under the Constitution appear to the author to be: Are the trade agreements *treaties* which require ratification by two-thirds of the Senate to make them valid? And, has Congress delegated legislative discretion to the President without properly prescribing a plan to guide him? It is well to point out that Senator Borah to the last opposed practically all delegation of discretionary authority to the President. The study concludes with comments on the trade agreements and previous methods of tariff making and ends with a review of the congressional method of setting tariff rates, the cost-equalization formula and administrative rate-making.

It is likely that the United States in this century will be a determining force in the decisions of the governments which will decide international economic policy. Perhaps no President will again be so audacious as President Coolidge when he lowered the rates of duty on live bobwhite quail from Mexico. Nor, may undue concern be given to the fear, as the author suggests, that a political tariff will contain excise taxes on the importation of everything from aalii lumber to zymasterol. If democratic governments survive, it is likely that common sense will be used by the greatest industrially productive nation of the world in the use of democratic methods in trade agreements.

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