



Winter 1-1-1978

Handbook Of The Law Of Antitrust. By Lawrence A. Sullivan, St. Paul, Minnesota: West Publishing Company. 1977.

Joseph E. Ulrich

Follow this and additional works at: <https://scholarlycommons.law.wlu.edu/wlulr>

Recommended Citation

Joseph E. Ulrich, *Handbook Of The Law Of Antitrust. By Lawrence A. Sullivan, St. Paul, Minnesota: West Publishing Company. 1977.*, 35 Wash. & Lee L. Rev. 339 (1978).

Available at: <https://scholarlycommons.law.wlu.edu/wlulr/vol35/iss1/15>

This Book Review is brought to you for free and open access by the Washington and Lee Law Review at Washington and Lee University School of Law Scholarly Commons. It has been accepted for inclusion in Washington and Lee Law Review by an authorized editor of Washington and Lee University School of Law Scholarly Commons. For more information, please contact christensena@wlu.edu.

BOOK REVIEW

HANDBOOK OF THE LAW OF ANTITRUST. By Lawrence A. Sullivan, St. Paul, Minnesota: West Publishing Company. 1977.

The author states that the goal of his hornbook is to present a "[t]extual treatment of [antitrust] adequate for the needs of the modern student or to the needs of the practitioner in search of an integrated treatment of the major areas of this subject."¹ I think this book achieves its goal better than its predecessors.² All prior single volume antitrust treatises set out to explain how the major cases in each area fit together as well as indicating the interrelationships which exist between these areas. This work, unlike the others, takes all the various aspects of antitrust and integrates them into a coherent whole. Sullivan is not content merely to state the evolution and current status of the law in any area; in addition, he pulls together not only the political, social and economic factors which underlie the rules but also indicates the practicalities of judicial administration which have been significant in the development of antitrust doctrine. This treatise alone deals with the subject at the same level as the casebooks³ now on the market.

The author goes beyond merely summarizing the foundation cases: he gets his readers, particularly law students, thinking about antitrust in the proper way. For example, he gives detailed consideration to the inconsistencies of the leading Supreme Court cases in several areas. In his discussion of price fixing, he emphasizes that such cases as *Chicago Board of Trade*⁴ and *Appalachian Coals*⁵ cannot be adequately reconciled⁷ with

¹ L. SULLIVAN, HANDBOOK OF THE LAW OF ANTITRUST xv (1977) [hereinafter cited as Sullivan].

² The ones with which I am most familiar are E. GELLHORN, ANTITRUST LAWS AND ECONOMICS IN A NUTSHELL (1976); KINTNER, AN ANTITRUST PRIMER (2d ed. 1973); A. STICKELLS, FEDERAL CONTROL OF BUSINESS (1972); A. NEALE, THE ANTITRUST LAWS OF THE UNITED STATES OF AMERICA (2d ed. 1970); ATTY GEN. NAT'L. ANTITRUST COMM. REP. (1955). The American Bar Association has supplemented the 1955 Report of the Attorney General's Committee; see, ABA SECTION OF ANTITRUST, ANTITRUST LAW DEVELOPMENTS (1968) and (1975). Of these books, I prefer Neale's, although his analysis of the cases, particularly their economic aspects, leaves something to be desired. Kintner's book is intended to be a guide for businessmen, not lawyers or law students. Despite the eminence of its members, the Attorney General's Report is quite superficial, providing little support for the rules stated therein. Professor Gellhorn's book is intended to provide an "overview" of antitrust, but I think it is too brief to be of much assistance to anyone. Professor Stickell's work is inadequate for the reasons stated in Shaefer, *Book Review*, 15 WILLIAM & MARY L. REV. 203 (1973).

³ P. AREEDA, ANTITRUST ANALYSIS, PROBLEMS, TEXT & CASES (2d ed. 1974) [hereinafter cited as Areeda]; M. HANDLER, H. BLAKE, R. PITOFKY & H. GOLDSCHMID, CASES & MATERIALS ON TRADE REGULATION (1975); S. OPPENHEIM & G. WESTON, FEDERAL ANTITRUST LAWS (3rd ed. 1969) [hereinafter cited as Oppenheim & Weston]; R. POSNER, ANTITRUST, CASES, ECONOMIC NOTES AND OTHER MATERIALS (1974) [hereinafter cited as Posner]; B. SCHWARTZ & J. FLYNN, FREE ENTERPRISE AND ECONOMIC ORGANIZATION (5th ed. 1977).

⁴ *Chicago Board of Trade v. United States*, 246 U.S. 231 (1918).

⁵ *Appalachian Coals, Inc. v. United States*, 166 U.S. 290 (1897).

Trans-Missouri Freight Association,⁸ *Trenton Potteries*⁹ and *Socony Vacuum*.¹⁰ His analysis indicates to students that there are two streams of price fixing cases, and while *Socony Vacuum* represents the main current the Supreme Court keeps the *Chicago Board* channel available for the proper case.¹¹ The point is, of course, that the judges recognize the need to give themselves room to maneuver in the ongoing effort to develop a policy of competition.

Sullivan is also quite willing to criticize cases when this is necessary to improve understanding. Most students are totally nonplussed by Learned Hand's decision in *Alcoa*,¹² especially his holding on the element of conduct necessary to finding monopolization. A specific intent to monopolize is unnecessary; that monopoly is achieved is enough. Judge Hand subsequently tells us that we ought not turn on *Alcoa* just because it was successful, but then proceeds to turn on the defendant for engaging in an efficient and rational business strategy—stimulating demand and subsequently expanding to meet it. A similar point of view seems to underlie *United Shoe*,¹³ the second leading modern case under section 2. Defendants are branded as monopolists because of their "exclusionary"¹⁴ practices, many of which were favored by and requested by their customers. Like Judge Hand in *Alcoa*, Judge Wyzanski seems to be condemning practices which were "exclusionary" because they were successful in obtaining business for the user.¹⁵ Sullivan is of considerable assistance to the students on this question due, in large measure, to his willingness to attack Judge Hand's rationale rather than forcing the facts to harmonize this case with earlier and later cases. *Alcoa*'s "deliberateness"¹⁶ test should be rejected, says the author, since it "does not provide the firm which wishes to obey the law with rational guides to conduct, nor does it leave open the opportunity for a market response which is both rationally self-regarding and

⁷ Sullivan, *supra* note 1, § 66 at 175-82.

⁸ *Trans-Missouri Freight Association v. United States*, 166 U.S. 290 (1897).

⁹ *United States v. Trenton Potteries Co.*, 273 U.S. 392 (1927).

¹⁰ *United States v. Socony Vacuum Oil Co.*, 310 U.S. 150 (1940).

¹¹ Compare Bork, *The Rule of Reason and the Per Se Concept: Price Fixing and Market Division* (Part I), 74 *YALE L. J.* 775 (1965) with Handler, *The Judicial Architects of the Rules of Reason*, in *ANTITRUST IN PERSPECTIVE* (1957). Sullivan would appear to agree more with Bork on this matter.

¹² *United States v. Aluminum Co. of America*, 148 F.2d 416 (2d Cir. 1945).

¹³ *United States v. United Shoe Machinery Corp.*, 110 F. Supp. 295 (D. Mass. 1953), *aff'd per curiam*, 347 U.S. 521 (1954).

¹⁴ The exclusionary test is defined as covering actions "which at the time they were taken could be identified as tending to increase entry barriers." Sullivan, *supra* note 1, § 36 at 100. Sullivan terms Judge Wyzanski's two alternative standards the classic test, since it was based on the judge's reading of *Standard Oil v. United States*, 221 U.S. 1 (1911) and *United States v. American Tobacco Co.*, 221 U.S. 106 (1911), and the prima facie approach, for it would put the burden of proof on the defendant once the plaintiff demonstrated that the defendant possessed monopoly power. Sullivan, *supra* note 1, §§ 35 & 37.

¹⁵ In addition to my students, this view is exemplified by such commentators as D. ARMENTANO, *THE MYTHS OF ANTITRUST* (1973).

¹⁶ Sullivan, *supra* note 1, § 34.

lawful.”¹⁷ On the other hand, Judge Wyzanski’s “exclusionary” test satisfies this objection. Since it focuses on conduct which tends to raise entry barriers and for which firms will be able to find alternatives, this decision sets forth a standard which judges can administer and “does not strain against the realities of the market place.”¹⁸ Yet, while he personally favors the “exclusionary” test, the author stresses that the Supreme Court has not placed its imprimatur on the exclusionary standard and that the exact state of the law on this point is uncertain.¹⁹ Once again, his treatment clearly indicates to the student the fluid character of antitrust. Even on a question as fundamental to section 2 as this, the law has not been settled. In addition the author’s treatment effectively emphasizes the fact that antitrust rules can never be reduced to simple single paragraph solutions.

A significant difference between this book and its predecessors is the author’s emphasis on the process considerations which bear so heavily in antitrust decisions.²⁰ What is required, Sullivan asserts in several places, are standards which judges can employ to decide cases. On this point, he clearly sides with the Harvard School rather than the Chicago School. In another place the author more fully explains the basis for their disagreement on this matter:²¹

It [the Harvard School] sees a need to mediate in deliberate and rational ways between the ideal, and the attainable, which requires attention to both empirical issues and to the limits of judicial and administrative process. It seeks to fashion rules which can be applied to the kinds of facts which can be ascertained judicially and administratively. The objective is to achieve results through the judicial and administrative processes which approximate those that would be attainable if it were feasible to do more rigorous and complete empirical studies and then prescribe the ideal intervention [The Chicago School] assumes instead that a problem cannot be dealt with at all if the law cannot get hold of all facts which theory suggests are relevant.²²

This accent on process runs throughout the book. It serves as a partial basis for Sullivan’s preference for Judge Wyzanski’s “exclusionary” test noted above. Two other examples seem noteworthy. In discussing the problem of

¹⁷ *Id.* at § 28, 102. Sullivan also criticizes Judge Wyzanski’s classic test as stating too narrowly the rule of the old cases *id.* at § 35.

¹⁸ *Id.*

¹⁹ *Id.* at § 38.

²⁰ Process considerations are crucial in all areas of law. See Green, *The Duty Problem in Negligence Cases (Part I)*, 28 COLUM. L. REV. 1014, 1035-45 (1928).

²¹ Sullivan, *Book Review*, 75 COLUM. L. REV. 1214 (1975). This difference in the point of view of the two schools is not explicitly set forth in the book. Since it is so crucial to Sullivan’s exposition, I think that he should have stated the dichotomy more clearly.

²² *Id.* at 1216-17. See also Sullivan, *Economics & More Humanistic Disciplines: What Are the Sources of Wisdom for Antitrust?* 125 U. PA. L. REV. 1214 (1977).

defining the relevant market,²³ Sullivan carefully indicates why economics will not necessarily resolve all difficulties in this area. The Supreme Court's use of the concept of cross elasticity of demand as an aid to defining the relevant market in the *Cellophane*²⁴ case demonstrated that a little scientific knowledge may lead to a wrong result. Lack of knowledge, however, might be cured. The difficulty involved, however, is inherent in the way the judicial system operates.

It concerns whether our adjudicatory institutions—the judge, jury, advocacy system, rules of evidence, expert testimony, cross examination, argument and instructions—are appropriate and adequate for processing the materials and making the judgments involved in the kind of analysis which an adequately sophisticated use of economic theory demands.²⁵

What is demanded, the author suggests, is the development of judicial norms which will permit the courts to make better use of economic doctrine. Defining the relevant market calls for an act of judgment. Economic theory can be of assistance to the judge only if the norms are fashioned with this goal in mind.²⁶

Sullivan also strongly underlines process considerations in his section on price fixing.²⁷ The per se rule against price fixing is justified, in large part,²⁸ on the grounds that it leads to efficient use of judicial resources by simplifying cartel litigation, precludes courts from engaging in extended regulation of entire industries, a task for which they are ill-suited, and creates a bright line prohibition which is more likely to be obeyed than if the rule were stated with less clarity.²⁹ For similar reasons Sullivan would limit the number of defenses which can be raised for arrangements which have the requisite affect on price to two, those which make markets more competitive and those which are ancillary to a partial integration of assets of competitors.³⁰ Neither of these can be raised in most cases, and both are easily recognizable when they do exist. Creation of bright line defenses are a natural corollary to the bright line prohibition of the per se rule. This repeated emphasis on process seems most appropriate given the Supreme Court's propensity to amplify this consideration.³¹

²³ Sullivan, *supra* note 1, §§ 12-21.

²⁴ *United States v. E. I. Dupont De Nemours & Co.*, 351 U.S. 377 (1956).

²⁵ Sullivan, *supra* note 1, § 18 at 63

²⁶ Sullivan, *supra* note 1, § 21.

²⁷ Sullivan, *supra* note 1, §§ 59-82. Sullivan's approach is rather similar to Areeda's in this area. See Areeda, *supra* note 3, at 260-380. How Sullivan differs from the Chicago School is evident when one compares Posner, *supra* note 3, at 33-137.

²⁸ Of course, Sullivan also details the economic arguments against cartels. See Sullivan, *supra* note 1, § 75 especially.

²⁹ Sullivan, *supra* note 1, §§ 68-72. Compare analysis suggested by Areeda, *supra* note 3, at ¶ 318.

³⁰ See Sullivan, *supra* note 1, §§ 76 & 77 respectively.

³¹ See, e.g., *United States v. Topco Assoc., Inc.*, 405 U.S. 596 (1972); *United States v.*

Another strong point of the book is its extended examination of remedies. Many commentators have asserted that antitrust remedies are commonly inadequate.³² One criticism of the monopoly cases, for example, has been that the courts have mandated only conduct remedies where structural changes in the industry were required. The complaint is then made that the judges are timid. As Sullivan views the matter, the problem often lies more with the antitrust plaintiff, especially the Government.³³ Judge Wyzanski implied in *United Shoe*³⁴ that the Government's efforts on the remedy issue were inferior to the presentation of the rest of its case. As Sullivan wisely observes:

[S]urely a judge, with little guidance other than broad statements of economic theory; will hesitate before entering upon the unaccustomed judicial business of disrupting myriad existing relationships in an effort to make over the structure of an entire industry.³⁵

Before the plaintiff can request that an industry be restructured, he should thoroughly understand the operation of the industry itself and its connection with related industries. If this pattern were followed, the very theory of the case would suggest the remedial proposal.³⁶

While the good aspects of this book predominate, there are some parts which might not call forth uniform praise. At many points Sullivan does not attempt to state the law neutrally: instead he is an advocate for his own point of view. In his treatment of exclusive dealing, for example, he concentrates too much attention on his own system for solving problems of this kind but does not indicate the present state of the law.³⁷ While he does analyze *Standard Stations*³⁸ and *Tampa Electric*³⁹ in detail, he totally

Container Corp., 393 U.S. 333 (1969); *United States v. Pabst Brewing Co.*, 384 U.S. 546 (1966); *Standard Oil of California v. United States*, 337 U.S. 293 (1949); *United States v. Trenton Potteries*, 273 U.S. 392 (1927).

³² See, e.g., Adams, *Dissolution, Divorcement, Divestiture; The Pyrrhic Victories of Antitrust*, 27 IND. L. J. (1951); Elzinga, *The Antimerger Law: Pyrrhic Victories?* 12 J. LAW & ECON. (1969).

³³ See Sullivan, *supra* note 1, § 55.

³⁴ *United States v. United Shoe Machinery Corp.*, 110 F. Supp. 295 (D. Mass. 1953), *aff'd per curiam*, 347 U.S. 521 (1954).

³⁵ Sullivan, *supra* note 1, § 55 at 145.

³⁶ "[D]issolution is not a self-defining remedy. To restructure an industry sensibly one must deeply understand it and the interrelationships of its various parts The ideal preservation in a monopoly case would be one in which the remedial proposal arose organically out of the theory of the case. The government, through the staff work of its economists and lawyers (and utilizing discovery as extensively as necessary) would develop a dynamic conception of the industry in question, a conception which would both identify the loci of excessive power, the media through which that power was obtained or maintained, and the means through which excessive power could be terminated." *Id.* at 146.

³⁷ Sullivan, *supra* note 1, §§ 163-71. See especially § 165 in which the author analyzes the television manufacturing industry and proposes a standard based on the Justice Department guidelines for vertical mergers, modified for requirement contracts.

³⁸ *Standard Oil Co. v. United States*, 337 U.S. 293 (1949).

³⁹ *Tampa Electric Co. v. Nashville Coal Co.*, 365 U.S. 320 (1961).

ignores *Brown Shoe II*,⁴⁰ a quixotic decision⁴¹ which does not seem consistent with either of its two earlier decisions.⁴² To a lesser degree this criticism applies to his discussion of boycotts.⁴³ In a similar manner when Sullivan turns to what was known as the *Schwinn*⁴⁴ problem, his unabashed advocacy of the old per se rule may get in the way of understanding.⁴⁵ Despite the numerous lower court decisions⁴⁶ distinguishing *Schwinn* and law review articles attacking it,⁴⁷ Sullivan gives the reader the impression that no bona fide issues as to *Schwinn's* correctness could be raised. At no place does the author set out the arguments against *Schwinn* in sufficient detail to permit the reader to judge their validity for himself.

It is understandable that Sullivan had some difficulty maintaining his objectivity with regard to *Schwinn*. He was counsel for the plaintiff in *Continental T.V., Inc. v. GTE Sylvania, Inc.*,⁴⁸ a fact he points out to the reader,⁴⁹ during the time he was writing this book. In his brief⁵⁰ to the Supreme Court in *GTE Sylvania*, Sullivan relied heavily on *Schwinn*. Although the forum is different, the hornbook reflects the position the author took as counsel before the Supreme Court. While I may sympathize with his difficulty (and even agree with his position), I must criticize the writer of a hornbook aimed primarily at students for his failure to set forth the arguments on this controversial question more evenhandedly.⁵¹

⁴⁰ *FTC v. Brown Shoe Co.*, 384 U.S. 316 (1966).

⁴¹ See, e.g., Pearson, *Section 5 of the Federal Trade Commission Act as Antitrust, A Comment*, 47 B. U. L. Rev. 1 (1967); Areeda, *supra* note 3, at 575-76.

⁴² Sullivan characterizes *Brown Shoe II* as a tying case. Sullivan, *supra* note 1, § 16. While the case can certainly be fitted into that pigeonhole, the Supreme Court seems to treat it as an exclusive dealing case. Because everyone will not read the book straight through, Sullivan ought to put the reader on notice of the way in which he has decided to treat this case.

⁴³ Sullivan, *supra* note 1, §§ 83-92.

⁴⁴ *United States v. Arnold, Schwinn, & Co.*, 388 U.S. 365 (1967).

⁴⁵ See Sullivan, *supra* note 1, §§ 142-45, especially § 145 in which the author reviews and evaluates "the arguments which are pressed in favor of these kinds of restrictions." *Id.* at 412.

⁴⁶ See, e.g., *Good Inv. Promotions, Inc. v. Corning Glass Works*, 493 F.2d 891 (10th Cir. 1974); *Colorado Pump & Supply Co. v. Felaco, Inc.*, 472 F.2d 637 (10th Cir. 1972); *Janel Sales Corp. v. Lenvin Perfumes, Inc.*, 396 F.2d 398 (2nd Cir. 1968); *Carter-Wallace, Inc. v. United States*, 449 F.2d 1374 (Ct. Cl. 1971).

⁴⁷ See, e.g., *Continental T.V., Inc. v. GTE Sylvania, Inc.*, 97 S. Ct. 2549, 2557 n.13 (1977) (citing numerous articles).

⁴⁸ 97 S. Ct. 2549 (1977).

⁴⁹ Sullivan, *supra* note 1, at 404 n.10.

⁵⁰ Brief for Petitioners.

⁵¹ Nonetheless, this section of the book is most interesting, for the author has carefully marshalled all the pro *Schwinn* arguments in one place. Sullivan, *supra* note 1, § 145.

At least the author's treatment of vertical restraints is internally consistent. This is more than can be said for the Supreme Court's decisions in the area through *G.T.E.* See Posner, *Antitrust Policy & The Supreme Court: An Analysis of the Restricted Distribution, Horizontal Merger & Potential Competition Decisions*, 75 COLUM. L. J. 282 (1975) in which the author criticizes the Court for its failure to develop a coherent theory dealing satisfactorily with the various kinds of vertical restraints manufacturers place upon their own dealers for the purpose

I have two other adverse comments about the book. First, Sullivan states the law of tie-ins⁵² with greater certainty than actually exists.

In short, tying violates Sherman . . . whenever a quantatively substantial amount of commerce is affected by the tie and when the tying product is either patented, copyrighted, or in some other way significantly differentiated in the view of some buyers. Moreover, if a substantial number of ties have been imposed, the existence of power can be inferred from that fact alone.⁵³

While the leading cases might be read this way and this may indeed become the rule in the future, it seems to me that *Fortner II*⁵⁴ precludes this statement of the rule. *Fortner II* teaches that the tying product must be more than significantly differentiated; it must be unique.⁵⁵ Further, defendants are entitled to show justification for a substantial number of ties.⁵⁶ Second, while I found the author's treatment of monopoly excellent, his section on attempts to monopolize is superficial.⁵⁷ With regard to most areas, Sullivan carefully shows how the law evolved to its present state, often noting arguments which the courts had considered and rejected, and in some places he includes an essay on what he and other commentators think will be the problems in the next decade.⁵⁸ Since the law of attempts to monopolize has been developing rapidly in recent years, I would have expected Sullivan to do more with it. Yet, he has little to say about the implications of *Otter Tail*⁵⁹ and other recent cases involving attempts, nor does he call to the reader's attention analysis offered by other writers who have made recent contributions to the thinking in this area.⁶⁰

In addition, I would suggest increased coverage for two areas—The state action exemption and the Robinson-Patman Act. The state action exemption is discussed in a catch-all chapter which the author describes as "something of a miscellany, deal(ing) briefly with several loosely related topics"⁶¹ This is a technique employed by several casebooks: full treatment

of restricting intraband competition. For a general discussion of the *G.T.E.* decision, see Carstensen, *Annual Survey of Antitrust Developments*, 35 WASH. & LEE L. REV. 1 (1978).

⁵² Sullivan, *supra* note 1, §§ 150-62.

⁵³ *Id.*, § 142 at 440.

⁵⁴ *United States Steel Corp. v. Fortner Enterprises, Inc.*, 97 S. Ct. 861 (1977).

⁵⁵ *Id.* at 866.

⁵⁶ *Id.* at 867 n.10.

⁵⁷ Sullivan, *supra* note 1, § 50-52.

⁵⁸ See, e.g., §§ 101-07 in which the author considers various types of joint activities involving competitors including joint research, joint advertising, joint activities making a market and his chapter on oligopoly markets §§ 115-29.

⁵⁹ *Otter Tail Power Co. v. United States*, 410 U.S. 366 (1973).

⁶⁰ See, e.g., Cooper, *Attempts and Monopolization: A Mildly Expansionist Answer to the Prophylactic Riddle of Section Two*, 72 MICH. L. REV. 373 (1974); Blecher, *Attempt to Monopolize under § 2 of the Sherman Act: "Dangerous Probability" of Monopolization Within the "Relevant Market"* 38 GEO. WASH. L. REV. 215 (1969).

⁶¹ Sullivan, *supra* note 1, § 232 at 708.

is limited to the major substantive areas of the law.⁶² Yet, Sullivan himself describes *Cantor v. The Detroit Edison Company*⁶³ as a decision which "may prove to be one of the most important antitrust decisions in recent years."⁶⁴ Fuller treatment of this burgeoning area seems appropriate even if it would destroy the symmetry of the concluding chapter.⁶⁵ The author's consideration of the Robinson-Patman Act⁶⁶ is very sketchy. He frankly admits as much.⁶⁷ One gets the impression that he did not wish to consider this statute at all since its underlying policy and the decisions interpreting it so often conflict with the other antitrust laws.⁶⁸ He tells his readers to consult the earlier texts of Rowe⁶⁹ and Edwards⁷⁰ if they are interested in the technical aspects of this highly technical statute. If the price discrimination law did not merit the consideration devoted to the other substantive parts of antitrust, I think this chapter should have been omitted entirely.⁷¹ No reader could follow the text unless he or she were quite familiar with the Act already.

Despite these criticisms, I would recommend this book to my students in Antitrust. Overall, it is an excellent treatment of the field. On the other hand, I doubt that it would be as valuable to the practicing attorney. Much of its content is too basic to be of assistance to the specialist in antitrust. Those parts of the book, however, in which Sullivan considers questions on the frontiers of antitrust could be used like any sophisticated law review article, as a source for ideas and authority. This book may be more helpful to the attorney who does not specialize in this field. It is a good place to begin ones self-education about antitrust. Yet, because the book is aimed primarily at students, there is a lot of material which the attorney probably will not want. My guess is that the non specialist would want a more definite statement of the rules and less about the possibilities than Sullivan ordinarily gives him.⁷² Furthermore, the book is not a good source for authority. In most chapters the author cites only the leading Supreme

⁶² See especially Areeda, *supra* note 3, at ch. I; Oppenheim & Weston, *supra* note 3, at ch. 1.

⁶³ 428 U.S. 579 (1976).

⁶⁴ Sullivan, *supra* note 1, § 238 at 736.

⁶⁵ See, for example, the numerous cases cited in Handler, *The Current Attack on the Parker v. Brown State Action Doctrine*, 76 COLUM. L. REV. 1 (1976) at footnotes 4 & 3 respectively.

⁶⁶ Sullivan, *supra* note 1, ch. 8.

⁶⁷ "This chapter is a brief introduction to major issues under the law [Robinson-Patman Act] and stresses their relationship with antitrust policy." Sullivan, *supra* note 1, § 217 at 677.

⁶⁸ See Sullivan, *supra* note 1, § 218.

⁶⁹ F. ROWE, PRICE DISCRIMINATION UNDER THE ROBINSON-PATMAN ACT (1962).

⁷⁰ C. EDWARDS, THE PRICE DISCRIMINATION LAW (1959).

⁷¹ Compare S. OPPENHEIM & G. WESTON, THE FEDERAL TRADE LAWS (1968) with S. OPPENHEIM & G. WESTON, UNFAIR TRADE PRACTICES (1974). The editors put the Robinson-Patman Act case, and materials in the latter volume on the ground that this statute does not fit into the antitrust scheme.

⁷² This technique is precisely what makes this such a good book for students.

Court cases and totally ignores decisions of the lower federal courts. While I feel this is acceptable practice in a student hornbook, this may not fill the needs of the bar. Finally, the book loses much of its excellence if one reads only a part of it rather than going straight through. In his introductory chapter Sullivan sets forth his general approach to the subject, especially the role of economics in antitrust.⁷³ In the Chapter on monopoly he sets out much of the economic material which serves as background for the development of subsequent chapters.⁷⁴ One who merely reads the chapter on Mergers, for example, misses this economic background necessary to appreciate all that Sullivan has to say. An "integrated treatment of the major substantive areas" necessarily suffers if used in this way. Notwithstanding these possible defects, I think that the practicing lawyer who intends to buy an antitrust book does best by choosing Sullivan.

JOSEPH E. ULRICH*

⁷³ Sullivan, *supra* note 1, especially §§ 1 & 2.

⁷⁴ Sullivan, *supra* note 1, §§ 22-32.

*Professor of Law, Washington and Lee University

