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BOOK REVIEW

ANTITRUST AND MONOPOLY: ANATOMY OF A POLICY FAILURE, Second Edition.[1] By Dominick T. Armentano. New York: Holmes & Meier. 1990. Pp. xiv + 292. Soft Cover. $19.95.

Reviewed by **Jeffrey Franke and Paul Gehrman**

I. INTRODUCTION

Dominick Armentano has two purposes in *Antitrust and Monopoly: Anatomy of a Policy Failure.* Armentano's primary goal is to justify the repeal of all antitrust laws. At the same time, he seeks to challenge any basis for placing limits on free and voluntary exchange agreements.

Ultimately, Armentano succeeds on both fronts. *Antitrust and Monopoly* makes a persuasive case for the repeal of most antitrust laws. Armentano questions the validity of long-held economic premises underlying antitrust law, and demonstrates why important antitrust cases were decided incorrectly. His evidence leads the reader to the undeniable conclusion "that the entire antitrust system–allegedly created to protect competition and increase consumer welfare–has worked instead, to lessen business competition and lessen the efficiency and productivity associated with the free-market process."[2]

In addition, Armentano's discussions of social efficiency and natural rights lead the reader to question governmental restraints on economic action in a free society. Armentano's insights and analysis will prove interesting and informative not only to those who deal with antitrust law, but to anyone interested in a discussion of the proper limits on government.

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1. The first edition of *Antitrust and Monopoly* was published in 1982. The second edition is a reprint, but contains an updated introduction. Armentano notes in his introduction to the second edition that, while enthusiasm for antitrust enforcement has waned over the last ten years, continued support for the antitrust laws justifies continued critical analysis.

2. D. ARMENTANO, ANTITRUST AND MONOPOLY: ANATOMY OF A POLICY FAILURE 271 (1990).

II. THE PURPOSE OF THE ANTITRUST LAWS

At the outset, Armentano considers Congress' intent in enacting the antitrust laws. Conventional thought on the purpose behind their enactment is that the "sole purpose was to protect consumers from monopoly power, and to prevent 'an artificial enhancement of prices' in the market."[3] Armentano asserts, however, that Congress' intent was unclear and that "the purity of the intentions of the men in government and in business at the very birth of the antitrust movement"[4] was questionable. Indeed, the author musters support for the idea that some antitrust laws may have been enacted to protect existing competitors from competition.[5]

For example, Armentano notes that "it is readily admitted that Section 2 of the Clayton Act and its important Robinson-Patman Act amendments were passed in order to protect small, independent business firms from the buying and selling practices of larger corporations."[6] Armentano explains that

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3. *Id.* at 6.

4. *Id.*

5. *Id.* There is an important difference between protecting competitors and protecting competition. For example, consider a city with twenty small grocery stores. If ten of the grocery stores merge into one large firm, either by opening one large outlet or by combining financial, marketing, management, and other resources to gain scale efficiencies, there would be fewer competitors but much greater competition. The single large firm can offer lower prices and improved service by buying goods in large quantities and by financing the addition of bakeries and other additions to the grocery stores through increased credit and cash flows. The number of competitors does not dictate the level of competition. The ability of competitors to aggressively improve on the quality, selection, and price offered by competitors indicates effective competition. Hence, if the antitrust laws are used to break up the ten stores that joined to form one new entity, the laws protect the remaining ten competitors, but in effect limit competition.

While some might argue that having just two large competitors supplying groceries, rather than fifty smaller firms, is a reduction in competition, that is probably not the case. Absent governmental interference or physical coercion, the number of firms in a market reflects the ability of firms to compete. Hence, if one large firm can produce enough better quality goods at a price lower than all other suppliers, the firm will put all others out of business. In that case, the monopoly firm eliminates all competitors by competing more effectively. The monopolist should not only be allowed to continue doing business, it should be encouraged to continue its efficient production. If the monopolist fails to remain efficient, other firms will enter the market and erode the monopolist's market share. Hence, protecting competition and not competitors is the proper role of antitrust laws.

6. *Id.* at 167. Section 2 of the Clayton Act, as amended, makes price dis-

Section 2 of the Clayton Act serves no rational purpose other than protecting competitors. He also explains that small business interest groups (representing businesses often too inefficient to compete with large rivals) were behind the Act's passage.

While Armentano makes a strong case for the proposition that Section 2 of the Clayton Act, as amended, was enacted to protect competitors, he offers little proof that the Sherman Act was adopted to protect existing businesses. Unquestionably, at times the courts have enforced the Sherman Act to protect competitors. Armentano suggests that Congress has tacitly approved of the courts' anticompetitive interpretation by failing to revise the laws. The thrust of Armentano's argument amounts to nothing more than a bald assertion because he fails to analyze the issue in sufficient depth. Nevertheless, there is no legitimacy in the idea that the Sherman Act was enacted to protect competitors and break up economic concentrations.

Throughout his work, Armentano demonstrates the destructiveness of protecting competitors or breaking up economic concentrations without some justification. For example, in *United States v. Von's Grocery Co.*,[7] the Supreme Court prohibited a merger of two supermarkets by relying on essentially irrelevant data which proved nothing more than that the number of grocery stores in the Los Angeles area was shrinking over time. There was no proof whatsoever that competition or consumers were adversely affected by the merger. In his dissent, Justice Stewart criticized the Court's "counting-of-heads" game and noted bitterly that the Court's decision was "hardly more than a requiem for the so-called 'Mom and Pop' grocery stores," and an indirect attempt to "roll back the supermarket revolution."[8]

The outcome in *Von's Grocery* resulted from a mistaken desire to prohibit economic concentration for no other reason than that the concentration exists. The larger, more efficient Von's and the increase in competition resulting from the merger would have benefitted consumers in the form of lower pric-

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crimination on goods of like grade and quality illegal when the effect may be to substantially decrease competition or create a monopoly.

7. 384 U.S. 270 (1966).

8. *Id.* at 288 (Stewart, J., dissenting).

es and better selection. Congress could not have intended to arrest economic concentration when no legitimate reason exist to do so.

III. NATURAL RIGHTS

One of the most thought provoking ideas presented in the book concerns the relationship between natural rights[9] and antitrust laws. In discussing natural rights, Armentano seeks to questioned the legitimacy of any government limitations on voluntary exchange agreements. He leads the reader to question the appropriateness of the government imposing paternalistic laws.

Natural-rights theory, generally speaking, holds that every individual has a right to life and the right to engage in any life-sustaining action. In order to preserve these rights, individuals have a corresponding duty to refrain from infringing on the freedom of action of others. The role of government in such a social order is simply to protect individual rights and provide a forum for the resolution of disputes among individuals. The goal of a social system based on natural rights is to eliminate the use of force from human interaction, including government force, to the extent it is not directed at protecting individual rights.

Because they restrict voluntary agreements among individuals to trade goods and services freely, antitrust laws are inconsistent with a social system based on natural rights. Under a natural-rights perspective, individuals have the right to dispose of their property and their labor as they see fit, without government interference.

Although the natural-rights perspective is appealing, it does not provide an adequate basis to win the antitrust debate because the natural-rights theory is still a minority position, particularly with respect to private-property rights. In addition, the natural-rights perspective is thought by many to be a doctrine with serious limitations when applied to the real world. Some argue that irrational individuals, allowed virtually unrestricted freedom of action, will engage in activities which are

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9. While Armentano does not specify the branch of natural rights theory upon which he bases his discussion, it appears to be the branch often associated with libertarianism.

detrimental to a social system requiring rational action. Armentano limits his discussion of natural rights and antitrust law to a few pages, due to the impossibility of fully addressing the issue without adding an extremely extensive discussion. Still, Armentano's discussion of natural rights provides the intellectual backdrop for further consideration of the issue of the proper role of government in a free society.

IV. NEOCLASSICAL ECONOMIC THEORY

The fundamental basis for Armentano's rejection of antitrust law is his denial of the legitimacy of neoclassical microeconomic principles as a benchmark to evaluate business practices. He begins by noting several objections to neoclassical competition theory. For example, he points out some of the problems of "the internal logic of the competitive model itself, and specifically [problems with] the logic of the horizontal demand function that is the hallmark of competition and its welfare implications."[10]

Ultimately, for Armentano, neoclassical perfect competition theory is totally irrelevant in analyzing the effects of a firm's business practices. Since the neoclassical theory "starts with equilibrium assumptions, it must assume away the significant aspects of a genuinely competitive process."[11] The perfect competition model assumes that markets are in a state of static equilibrium, as the result of actors working from perfect information. Yet observation alone proves that the competitive process is dynamic and that competitors do not act on perfect information. Armentano states that the competitive process represents entrepreneurial action, constantly shifting in response to new information.[12] Hence, attempting to attain a static equilibrium through antitrust enforcement is pointless because such an equilibrium simply does not and cannot exist.

Armentano's argument for analyzing competition as a dynamic process is fundamental to evaluating the validity of the antitrust laws. Many antitrust proponents support the laws in an effort to bring about a desirable competitive equilibrium. However, since attaining a competitive equilibrium is impossi-

10. D. ARMENTANO, *supra* note 2, at 22-35.
11. *Id.* at 25-26.
12. *Id.*

ble, proponents who support antitrust to bring about such an equilibrium have no sound basis for their position.

Still, Armentano does more than just attack neoclassical competition theory to undermine the very basis for antitrust law, he also attacks the neoclassical concept of efficiency. For example, he argues that while product differentiation is considered inefficient under the neoclassical perfect competition model (which assumes a homogeneous product), consumers, through voluntary choice, have shown that they place value on product differentiation. From Armentano's perspective, product differentiation is not inefficient, because the goal and the natural result of free market economies is to provide the goods and services that consumers demand. Hence, if consumers demanded product differentiation, product differentiation is not inefficient. Efficiency can only properly be judged by how well consumer demand is satisfied.

Armentano's theory of efficiency, which he terms "social efficiency," rests on the idea that efficiency must be judged with reference to consumer demand and the decisions of economic actors. He theorizes that "individual human action [is] purposeful and aim[ed] at accomplishing selected ends by adopting patterns of resource use (plans) consistent with those ends."[13] An individual's actions are efficient because they represent explicit evidence of what the individual determines to be the appropriate action to achieve his or her goals. For example, Armentano deems any agreement to produce at a given level efficient, because the parties to the agreement have decided that producing at that output would be the most likely way to fulfill their goals. Social efficiency relates only to the means employed to reach goals. Social efficiency does not address the question of whether the goals (ends) pursued by economic actors are efficient, because there is no objective basis for making judgments about the goals. Goals are seen as subjective: they are based on each individual performing his or her own cost-benefit analysis. Since the antitrust laws restrict many agreements among producers, the laws are inefficient by definition.

While Armentano's social efficiency argument has some merit, he implies that the social efficiency theory is an ade-

13. *Id.* at 29.

quate basis on which to condemn all antitrust law. Admittedly, from a technical or accounting standpoint, it is impossible to make an objective valuation of the costs and benefits to society with respect to any particular economic arrangement. Nonetheless, some monopolistic arrangements impose costs on consumers which would not be borne if an alternative market structure existed. For example, consider a situation where someone controlled all of a critical resource for which there was no substitute and either charged an exorbitant price for it or arbitrarily refused to sell it. Such a situation would clearly impose substantial costs on society without any identifiable benefits to society. Some economic arrangements are detrimental to the competitive process and cannot be dismissed merely by saying that they are "socially efficient" and therefore justified. Armentano's argument for the repeal of the antitrust laws on the ground that the costs and benefits cannot be precisely quantified is unwarranted.

V. ANTITRUST, COMPETITION, AND THE JUDICIARY

Because the only legitimate goal of the antitrust laws is to protect competition (rather than competitors),[14] the courts should examine relevant economic data to determine whether a business activity hinders the competitive process. Unfortunately, as Armentano demonstrates repeatedly, courts often ignore relevant economic data or rely on nothing more than neoclassical assumptions about market structures when condemning a business's actions. Even more outrageous, many courts have concluded that a firm's actions were illegal by relying on data which clearly vindicated the firm's activities.[15]

In relying on neoclassical assumptions of competition and failing to consider data which show antitrust violations to be rational and beneficial business practices, the judiciary fails to adhere to Congress' intent. For example, in *Brown Shoe Co. v. United States*,[16] Chief Justice Warren acknowledged that Congress' intent was to protect competition, not competitors. Nonetheless, he declared Congress had also determined that

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14. *See supra* note 5.

15. *See infra* note 26 and accompanying text discussing the case of Standard Oil Co. of California and Standard Stations v. United States, 337 U.S. 293 (1949).

16. 370 U.S. 294 (1962).

small businesses should be protected, even if doing so imposed social costs. Reasoning that competition would be protected by judicially mandating the existence of competitors who, by his own admission, were failing to compete effectively, Warren demonstrated either a misunderstanding of the law or an inability to apply it properly.

Unfortunately, the outcomes of many cases mirror the economic nonsense and misapplication of antitrust law found in *Brown Shoe.* Society could benefit greatly if the judiciary understood and applied Armentano's microeconomic theory and analysis.

VI. ANTITRUST VIOLATIONS

Having explained how microeconomic principles work in a competitive marketplace, Armentano considers how antitrust applies to tying agreements, price discrimination, price fixing, mergers and monopolies. Armentano's analysis of each area begins with a description of the illegal practice, such as price fixing. He then analyzes the theory underlying the law, and he concludes each discussion with an examination of how courts have applied the law governing that area.

Armentano's discussion of tying agreements exemplifies his examination of the application of different areas of antitrust law. Tying agreements, Armentano explains, require a consumer to purchase or lease one commodity on the condition that the customer also purchase or lease another commodity.[17] Tying agreements are prosecuted as illegal restraints of trade or for substantially decreasing competition, depending on the circumstances. Armentano dispells any notion that tying agreements lead to either decreased competition or a restraint of trade. As Armentano explains, sellers use tying to "differentiate their products and create consumer preferences ('market power') for one brand over another."[18] Armentano's criticism of prohibitions on tying rests as much on common sense as upon economic analysis. As Armentano notes, "buyers can compare the price and quality of the tied package with the price and quality of the separate purchases

17. D. ARMENTANO, *supra* note 2, at 198.
18. *Id.* at 199.

combined."[19] If the value of the two products for sale are not worth the price, consumers will purchase other products or refrain from making a purchase. If consumers are "unhappy with certain tying contracts, sellers of alternative products will enter the market to offer more favorable terms."[20] Ultimately, if the tied products fail to offer consumers sufficient value, the seller will lose business. As Armentano notes, "[t]here [is] certainly no reason to assume that buyers voluntarily injure themselves under such circumstances."[21] Armentano's analysis shows how applying neoclassical competition theory distorts the otherwise innocuous nature of tying agreements.

Armentano then looks at such famous antitrust cases as *International Salt Co. v. United States,*[22] *Standard Oil Co. of California and Standard Stations v. United States,*[23] *United States v. Arnold, Schwinn & Co,*[24] and *Continental T.V. v. GTE Sylvania.*[25] Armentano's review of *Standard Stations* typifies his consideration of the cases he relies on to prove his point. Armentano begins with a brief discussion of the facts and the background of the case. He then considers the Supreme Court's reasons for condemning the tying arrangement. Weaving the Courts' use of facts and reasoning into his analysis, Armentano shows the absurdity in condemning the defendant's actions.

In *Standard Stations,* the government alleged that Standard Stations' contracts violated the Sherman and Clayton Acts because the contracts substantially restrained commerce. The courts agreed. After dissecting the lower court's decision, Armentano concludes:

> While the court grants that the exclusive supply contracts lower costs and benefits the industry and the public, it finds that they restrain trade. But how do they restrain trade? They simply exist. But why do they exist? Because, apparently, they lower costs and benefit the industry and the public. In short, economic benefits are not just irrele-

19. *Id.*
20. *Id.* at 200.
21. *Id.* at 199.
22. 332 U.S. 392 (1947).
23. 337 U.S. 293 (1949).
24. 388 U.S. 365 (1967).
25. 433 U.S. 36 (1977).

> vant and immaterial in this case. Here they are positively damaging to the defendant since by the court's own logic, the contracts would not have existed but for their benefits. Firms restrain trade, therefore, when they economize on scarce resources, the exact opposite of the truth.[26]

The defendant was not "allowed to show that its contracts did not do what the government said they must do,"[27] and "[t]he evidence that was admitted concerning 'beneficial economies' was either immaterial or . . . positively damaging to the defendant's case."[28] Armentano's analysis not only shows that neoclassical economic theory fails to support any basis for condemning tying arrangements as decreasing competition or restraining trade, but also shows that the judiciary has often concluded that tying arrangements were harmful even where the evidence strongly suggested otherwise. In the final analysis, Armentano's position is irrefutable: tying arrangements do not harm consumers by lessening competition or restraining trade.

The core of *Antitrust and Monopoly* details the history of antitrust enforcement against monopoly and its many failings. However, unlike the other sections of the book, Armentano pursues a different approach in addressing this topic. Rather than give a simple discussion of the flaws of antitrust enforcement, Armentano provides a detailed background of the industry in which each alleged monopolistic firm operated. He also provides a thorough explanation of each firm's development within the industry to leave the reader with a sense of the competitive process facing each alleged monopolistic firm.

Armentano uses industry data to show that, at the time the alleged monopolistic firms were prosecuted by the government, the firms were often in the process of losing market share to other competitors. In *Standard Oil Co. of New Jersey v. United States,*[29] for example, Armentano explains that while Standard Oil was able to gain a commanding market share of the petroleum industry in the late nineteenth century, their position was subsequently eroded by aggressive competitors such as Gulf and Texaco. By 1911, the year the Supreme Court

26. D. ARMENTANO, *supra* note 2, at 207.
27. *Id.* at 209.
28. *Id.*
29. 221 U.S. 1 (1911).

ordered the break-up of Standard Oil, vigorous competition in the industry made the government's victory pyrrhic.

Armentano also argues that social welfare costs associated with monopolies have never been a problem in the United States. He supports this proposition by detailing several antitrust enforcement actions against alleged monopolistic enterprises, including the *United States Steel*,[30] *Alcoa*,[31] and *American Tobacco*[32] cases. Armentano examines relevant economic data and concludes that the alleged monopolistic firms are simply engaged in an intensely competitive process. He also argues that there is no evidence that the firms were acting detrimentally to the public interest, even in the neoclassical sense, by restricting production and raising prices. For instance, in *United States v. American Tobacco*, the evidence demonstrated that American Tobacco had not raised prices or restricted output, even though they held a commanding market share. The Circuit Court explicitly found that American Tobacco had not raised prices or restricted output, but still ruled that American Tobacco had violated the law.[33] The Supreme Court affirmed the lower court's decision, yet it neglected to even examine the relevant data and engage in a reasoned analysis.

The Supreme Court's approach in *American Tobacco* is typical of the approach taken by courts when passing judgment on alleged monopolies. The courts have frequently failed to assess the conduct of the firms being prosecuted under the antitrust laws to determine whether they were restricting production or raising prices. Furthermore, instead of applying reasoned economic analysis based on actual data, the courts have engaged in unwarranted reliance on neoclassical assumptions about market structures to conclude that defendants have violated the law.

Finally, Armentano notes that the true perpetrator of monopolies and other exclusionary practices has been the government. Tariffs, licensing systems, import quotas, and other legal restrictions have served to create artificial barriers to free market competition. Predictably, these restrictions result in adverse consequences to consumers and businesses.

30. United States v. United States Steel Corp., 251 U.S. 417 (1920).
31. United States v. Aluminum Co. of America, 148 F.2d 416 (1945).
32. United States v. American Tobacco Co., 221 U.S. 106 (1911).
33. United States v. American Tobacco Co., 164 F. 700, 702-03 (1908).

Armentano surveys the historical development of the petroleum industry to illustrate how industry leaders and government have frequently colluded to enact laws that stifle the competitive process and protect existing businesses.

Armentano's discussion of price conspiracy, like his discussion of monopolies, raises important concerns about antitrust enforcement. The harm of price fixing results from firms agreeing to "restrict output and raise market prices."[34] Alternatively, "a collusive agreement might bind the participants to submit noncompetitive bids at a public letting; one of these firms would be preselected to get the business."[35] In discussing the invalidity of attempting to limit price conspiracies through antitrust laws, Armentano puts forth three arguments.

First, Armentano analyzes the "appropriate conditions for effective collusion,"[36] as well as the circumstances under which "these conditions are likely to be fulfilled."[37] Armentano proposes that "[t]he dominant presumption for some time has been that successful price collusion would be common in the American business system without antitrust prohibition."[38] Armentano believes otherwise, however, and contends that "there [are] inherent economic factors which would tend at all times to limit the success, and hence the significance, of price fixing agreements in a free market."[39] According to Armentano, substitute goods, changes in demand, incentives to cheat, and several other factors are likely to undermine the effectiveness of a price conspiracy. He considers each factor in detail to sway the reader to his conclusion.

After an exhaustive consideration of the factors likely to undermine a price fixing agreement, Armentano surveys some of the most important price conspiracy cases to demonstrate that such agreements have not worked in the past. To justify his position, Armentano discusses *Addyston Pipe and Steel Co. v. United States*[40] and *United States v. Trenton Potteries,*[41] as well

34. D. ARMENTANO, *supra* note 2, at 134.
35. *Id.*
36. *Id.*
37. *Id.*
38. *Id.*
39. *Id.*
40. 175 U.S. 211 (1899).

as the so-called "Great Electrical Equipment Conspiracy."[42] In each case, the evidence shows that the parties were unable to maintain effective price or output agreements. For example, in *Trenton Potteries* the defendant companies were charged with conspiring to fix a noncompetitive price for their goods. The firms were being prosecuted because they had agreed upon uniform price lists which were reflected in bulletins sent to their customers. Armentano explains that the firms' goods were not sold at the bulletin prices most of the time. In addition, customers of the pottery firms testified that there was active price competition among the firms and that the bulletin prices were largely irrelevant. In short, "the Trenton Potteries conspiracy was not able to fix uniform, arbitrary and noncompetitive prices."[43]

Second, Armentano rebuts the idea that an effective price conspiracy imposes costs justifying its prohibition. Armentano makes it clear that he is not arguing that price conspiracies are not feasible or that successful price fixing agreements will not result in higher prices or a reduction in outputs. Indeed, Armentano concedes that both price fixing and output restrictions, if successful, can result in the colluding firms earning extraordinary (monopoly) profits. Instead, Armentano again argues that all agreements or decisions of economic actors are to be considered socially efficient because they represent explicit evidence of what the parties to the agreement or decision consider to be the appropriate action to further their goals. In addition, he argues that it is impossible to quantify precisely any social costs imposed by any particular economic arrangement. However, Armentano fails to recognize that when a price fixing agreement amounts to a monopoly, the possibility of social costs arises as a result of restricted outputs and increased prices.[44] Of course, Armentano rejects the idea that monopolies impose identifiable social costs. Nevertheless, to the extent that price fixing agreements impose social costs,

41. 273 U.S. 392 (1927).

42. This was a price fixing case involving several large electrical equipment manufacturers including General Electric, Westinghouse, Allis-Chalmers, and Carrier.

43. D. ARMENTANO, *supra* note 2, at 147.

44. *See supra* note 13 and accompanying text discussing the limitations of Armentano's social efficiency theory.

whether they are identifiable or not, price fixing agreements are objectionable and prohibiting them is justified. Armentano's case for the repeal of all laws making price conspiracy illegal is unpersuasive to the extent that it is based on his social efficiency argument. Just because the costs resulting from a successful price conspiracy cannot be quantified does not mean that the costs do not exist.

Third, Armentano notes that there are possible benefits which flow from price fixing or output restriction agreements. For example, independent firms may be saved from bankruptcy or merger; colluding firms may be able to cut information costs; or firms may cooperate to save scarce resources.

VII. The Future of American Business: The Implications of Antitrust Law

Antitrust and Monopoly not only shows how antitrust policy fails to advance causes it purports to further, but how promoting antitrust laws hurts American businesses and consumers. Armentano's work explains how competition leads to optimal efficiency, and the greater the efficiency, the greater the benefit to consumers. By restricting effective competition, antitrust laws limit efficiency and, hence, consumer welfare. Armentano's analysis of the business practices deemed to be anticompetitive leads to the conclusion that "the business organizations under indictment in the classic antitrust cases were expanding outputs, reducing prices, improving technology, and engaging in an intensely competitive process."[45] Armentano's analysis reveals that antitrust law has inhibited the United States' economic growth and has played an important role in the steady decline of American business productivity. American government can foster economic success and consumer welfare by, as Armentano's work makes clear, encouraging efficiency, not attacking it.

VIII. Conclusion

Armentano's *Antitrust and Monopoly* provides an excellent analysis of the antitrust laws, despite a few minor flaws. His arguments for the repeal of antitrust law in the area of monop-

45. D. ARMENTANO, *supra* note 2, at 3.

oly are not entirely convincing,[46] and his social efficiency theory does not adequately address the question of possible social costs resulting from monopolies.[47]

Ultimately, however, *Antitrust and Monopoly* delineates the analysis necessary to implement laws designed to bring about advantages to businesses and consumers, as well as the type of scholarship necessary to eliminate senseless laws that impede America from attaining the benefits of market forces. Armentano's work proves that legislators and judges should keep in mind that business practices that seem unfair or harmful to consumers may serve as a form of competition that benefits consumers. In the final analysis, Armentano teaches us that laws should be enacted and enforced only after considering relevant microeconomic principles and engaging in a detailed analysis of relevant data.

46. With the possible exception of monopoly, Armentano justifies the repeal of all other antitrust law. However, throughout his work, Armentano relies on the proposition that economic freedom is, in and of itself, sufficient justification for the repeal of all antitrust law. Without first justifying why economic freedom should reign supreme as a societal principle, Armentano's position carries no weight. Neither the Constitution nor any other law mandates or protects any particular economic system or the principle that Americans have the right to freedom of economic action.

Nonetheless, Armentano's discussion of social efficiency and natural rights, and his assumption that economic freedom should, in some form, be a right of all Americans, serves as the most interesting and thought provoking aspect of his work. What is economic freedom? What is the basic principle on which society should be organized? What is the future of American competitiveness absent a recognition of relevant economic principles? Armentano's work raises these and numerous other questions worth considering. Works such as *Antitrust and Monopoly* are worth reading for no other reason than that they provide important information and analysis which provoke thought on issues crucial to the evolution of American society.

47. *See supra* note 13 and accompanying text.