in respect of which to judge such matters."[7] They might have added that careful consideration was given by the Government, as the debates in Parliament disclose, to the limits which comity and international law impose upon extra-territorial attempts to apply antitrust laws. The British approach to this aspect of territoriality is sensible and pays due regard to considerations of good international behavior which are unfortunately at times disregarded by courts in the United States.

The provisions of this new British law are ably summarized and explained by Messrs. Alberry and Fletcher-Cooke. In the preface they say that their book was written during the passage of the act as a bill through Parliament and that "as each new sheaf of Government amendments was unloosed stage after stage . . . the book was duly rewritten."[8] This "exhausting race with the legislators" may have, as they feel, produced "inevitable imperfections." It is true that there are three misprints in the last paragraphs on page 20, where in the second and third sentences references to sections 8 and 7 should be transposed. These misprints will no doubt be eliminated in the next edition. Otherwise, no imperfections are apparent in this readable and intelligent guide.

Any exposition of a new law which appears almost simultaneously with its enactment must necessarily be limited in scope. In this case, however, there are many helpful comments on particular sections, many references to decisions of British and even American courts on the practice in this field and many interpretations of particular words and phrases. Moreover, not only the 1956 Act and the 1948 Act as amended are set out in full, but the authors have included also summaries of the fifteen Reports of the Monopolies Commission up to July 1956, and an interesting chapter on the effect of this act upon the tort of conspiracy and the doctrine of restraint of trade.

GEORGE WINTHROP HAIGHT†

BARRIERS TO NEW COMPETITION. By Joe S. Bain. Cambridge: Harvard University Press, 1956. Pp. xi, 329. $5.50.

ALL too frequently in the past the market structure of a given industry has been appraised solely on the basis of the existing firms and their behavior in relation to each other. In *Barriers to New Competition* Professor Bain calls for building into the analytical framework of market behavior the effects of "potential competition." He suggests that the roster of factors determining the competitiveness of a given industry is incomplete unless one considers entrepreneurial behavior in the light of possible entrants into the industry. Furthermore, there is feedback to this behavior since motivation exists to erect barriers to new competition; hence, the "height" of these barriers may

7. P. 30.
8. P. v.
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well be, in and of itself, an indicator of the degree of competition. For if firms within the industry can and do erect effective barriers to new competition, then they must have some degree of monopoly power.

Bain approaches the empirical material in his study only after carefully presenting the assumptions and hypotheses which suggested the study and guided him in his choice of industries and method of approach. He indicates that "the condition of entry may be evaluated by the extent to which established sellers can persistently raise their prices above a competitive level without attracting new firms to enter the industry."[1] He specifically considers entry as entailing both the establishment of an independent legal entity new to the industry and the concurrent introduction of productive capacity not in use within the industry prior to the establishment of the new firm.

In presenting a format against which actual behavior might be examined, the author elaborates the conditions that must be simultaneously fulfilled for there to be so-called "easy" entry. First, established firms must have no absolute cost advantages over potential entrants. Next, firms already producing must have no advantages arising from their ability to differentiate their product. Finally, economies arising from large-scale production must be negligible; *i.e.*, the output of a firm operating under optimal conditions must represent a relatively small part of the total output of the industry. This analysis provides a basis for characterizing the barriers giving rise to limited entry. Where an establishment has a price or other advantage in purchasing inputs or enjoys preferred access to some productive technique, or where additional entrants would increase the going price of input factors, entry is impeded. Likewise, the access of newcomers to an industry is hindered when an established firm, because of its differentiated product, has a unique price-cost condition or benefits from the economies of its production scale.

Bain's approach involves selecting a sample of industries to determine the relationship between market performance and conditions of entry. Because of limitations on empirical material, he was more restricted in his efforts to tie performance with entry patterns than in his presentation of the specific conditions of entry in those sectors examined. Such a result is to be regretted, in view of the potentially fruitful analytical framework he sets forth. Nevertheless, in accomplishing the latter task, Bain presents for a cross-section of some twenty industries the particular barriers to entry characteristic of each of them. For example, Bain concludes that very important plant economies occur only in the automobile and typewriter industries; he further observes that "in neither case do we have any definite estimate of the added importance of economies of multiplant firms."[2] When attention is turned to the possible effect of entry conditions on the degree of competition in the industry, the findings become more tenuous. This seems to be the pattern in the sections on product differentiation advantages and on absolute cost advantages of established firms as barriers to entry. The delineation of the characteristics of the

1. P. 5.
2. P. 90.

industry is drawn clearly; it is where linkage of entry conditions to market performance is sought that something is left to be desired.

Conclusions are drawn that may serve as a point of departure in policy formation. For example, Bain finds that "industries with very high barriers to entry tend more toward high excess profits and monopolistic output restriction than others."[3] Where there is also great product differentiation, there is a tendency toward high—and possibly excessive—costs of sales promotion. When the barriers to entry are lower, though still substantial, "competition seems . . . 'more workable' than in the first group—apparently or possibly because of the greater force of potential competition."[4] Bain also concludes that "the main culprit in establishing excessive or very high barriers to entry would appear to be product differentiation. It is a strong contributing factor in 2 cases where such barriers are found (automobiles and typewriters) and the dominant factor in the other 3 (cigarettes, liquor, quality fountain pens)."[5] Finally, he notes that "extreme scale economies pose a serious problem in perhaps only 2 of the 20 industries studied."[6]

In some concluding observations regarding the implications of his findings for public policy, Bain laments the inability of existing legislation to deal with the crucial product-differentiation barriers to entry. Acknowledging that "bases for action are shaky, and remedies . . . not apparent,"[7] the author asserts that a novel reorientation in government regulation is probably required to cope with some of the most serious obstacles to entry.

Without intending to criticize Professor Bain—for the problem is faced almost universally by individuals attempting research in this area—one cannot help but comment on the relatively limited scope of the source material on which the study (perforce) was based.[8] On the one hand, there is ample reason for being grateful that the study was undertaken and that establishments did cooperate through interviews and questionnaires. Yet, one might also express reluctance to accept policy formulated largely on the basis of the evidence.

The foregoing, perhaps tangential, point is not meant to detract from this admirable work. Professor Bain has developed and presented his study with great care. He has focused on an aspect of market behavior which had not previously been subjected to searching empirical study. In providing perspective on the significance of conditions of entry, he has suggested an additional dimension for analysis in this area. This volume should be of value and of considerable interest to individuals concerned with problems of market behavior and public policy.

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3. P. 203.
4. *Ibid.*
5. P. 204.
6. *Ibid.*
7. P. 220.
8. *Cf.* pp. 51-52.

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JOHN MARSHALL HARLAN

ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT, 1877-1911

(From a photograph, 1906, in the *Illustrated Sunday Magazine*, Harlan Papers, Author's Possession.)