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Editor's Preface

William B. Lawrence

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EDITORS' PREFACE

Perhaps no area in antitrust law has provoked as much controversy as that created by the conglomerate merger. In his lead article in the second issue of Volume 21, Arthur D. Austin examines recent developments in the area and discerns the emergence of a distinctly new and disturbing approach to the problem. In view of the non-antitrust tensions created by the recent takeover attempts of many large conglomerates and the methods employed by the target companies to thwart such takeovers, Professor Austin believes that the judiciary is being thrust even deeper "into a vast labyrinth of value judgments." The effect may be to enlarge the government's power by giving rise to a unique coalition in antitrust litigation between target company management and the government which will result in increased "administrative control of the marketplace." Continued development of this pattern may make legislation a necessary solution. In the event that the enactment stage is reached, Professor Austin gauges the range and the character of the options available to Congress. Reasoning that the foreseeable prospects for legislation are not bright, the author contends that the trend "will continue inexorably uninterrupted" unless the courts hasten to return to an application of traditional merger standards. Given the judiciary's failure to reorient its approach, Professor Austin concludes that "statutorily decreed acquisition determinism is preferable."

In his article entitled, "Judicial Review of School Discipline," Paul G. Haskell discusses the recent judicial tendency to apply constitutional standards to the decisions of school administrators in disciplining students. Analyzing the constitutional doctrines of "void for vagueness" and "procedural due process," Professor Haskell examines how the courts have applied these standards to school conduct rules and regulations and student disciplinary proceedings. He then considers those areas of the law where the courts have sought to protect various forms of student expression. Finding many of the recent developments in the school haircut and button and armband cases unpalatable, the author favors enlarging the discretion of school administrators in areas where they possess peculiar expertise, and he presents the case for judicial restraint.

