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BOOK REVIEWS

Admiralty Law of the Supreme Court, 2d ed. By Herbert R. Baer. Charlottesville: The Michie Company. 1969. Pp. 653. \$25.00.

The leitmotif of Professor Herbert Baer's Second Edition of *Admiralty Law of the Supreme Court*, as in the first, is that the Supreme Court has demonstrated a marked proclivity for confusion and change in its treatment of maritime law.

The major strength of the book, apart from its very easy readability, is the precision, care and thoroughness with which the opinions have been examined. The emphasis is on reporting and analyzing, with little criticism of the philosophy of the court on a particular issue. The reader is forewarned, in the Preface, that he is to draw his own conclusions, but Professor Baer's development of the majority and minority theses is skillful enough to make most critical conclusions obvious. This volume, more than the first, contains many references to other works, treatises, studies and authorities where further analysis can be found. These references have been artfully worked into Professor Baer's exposition of the opinions.

Practicing maritime lawyers will find especially helpful the book's in-depth examination of the litigation that produced the opinions. Often the reported facts in an opinion do not reveal the flavor of the litigation and the competition that produced the result, and the background material is frequently difficult to obtain. Professor Baer usually gives a full recitation of the facts and then traces the issues and their resolution through the lower and intermediate courts. Throughout the entire process he manages to make the names represent people and the issues almost as alive.

Apart from examining the reported opinion, Professor Baer also develops the thinking of the individual Justices as expressed in their majority and dissenting opinions. This approach is epitomized by a chart representing the lineups in the *Tungus*, *Hess* and *Goett* cases with the interesting observation that *Tungus*, as authority, is less tenable by reason of the realignment of the Justices in the later *Hess* and *Goett* opinions. Professor Baer's treatment of some of the Court's *per curiam* opinions, notably *Mascuilli v. United States*, is a rational explanation of

a phenomenon that frequently bewilders practicing lawyers and lower court judges.

Professor Baer's style is remarkably free and easy. Personal comments added to classroom and historical anecdotes render the volume a pleasant companion. To the extent that any serious study of maritime law can capture the charm and flavor of the nautical world, then and now, this volume has accomplished it.

Finally, the scope of this edition is much broader than the first. The emphasis is still on the personal injury area principally because there the law is the most dynamic or, in Baer's words, "everchanging." The treatment in the cargo sections is more than adequate, with historical background added to keep the reader's interest. The sections on general average and salvage, both uniquely maritime in nature, are new to the current volume, as are the sections on collision and charter parties. Also, several shortcomings of the earlier volume have been eliminated. "Foreign Flag Shipping and United States Labor Legislation" is a timely addition, and Professor Baer suggests that the next edition will probably include a section on pollution of the sea by oil, a topic now being given considerable attention by maritime interests but unexamined by the Supreme Court.

The principal limitation of the work is implied by its title; where the Supreme Court has not fully expounded a cohesive body of substantive law, neither does Professor Baer. To some extent this would be true of any study based solely on case law. The limitations are more severe, however, because the work deals only with the decisions of a single court. Nevertheless, this volume offers an excellent reference point for a better understanding of lower court opinions.

The other limitation is not of Baer's making and will no doubt be lessened by a cumulative supplement: the rate of change is rapid. For example, the indemnity rights of shipowners are well treated; yet a revision is now necessary due to the Court's opinion in *Federal Marine Terminals, Inc. v. Burnside Shipping Co.*¹ The reasoning expressed in *Burnside*, however, proves the validity of Professor Baer's thesis that maritime practitioners can never be completely certain of what the law of the moment really is.

All in all, this book is recommended reading for every admiralty lawyer and student. It is much broader in scope than the first edition; it is a clear, thorough and excellent exposition of the Supreme Court opinions

¹ 37 U.S.L.W. 4271 (U.S. April 1, 1969).

and it is enjoyable reading. It is a valuable addition to the literature of the maritime field.

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Dollars and Deficits. By Milton Friedman. Englewood Cliffs: Prentice-Hall, Inc., 1968. Pp. 279. \$6.95.

Subtitled "Living with America's Economic Problems," *Dollars and Deficits*¹ deals with inflation, monetary policy, and the balance of payments. Any book on these subjects by a knowledgeable economist should be of interest because of their current importance. The author of this book, a University of Chicago professor and a past president of the American Economics Association, is a knowledgeable economist who has extensively researched and studied his subjects and written about them professionally² and popularly.³

Professor Friedman is "the chief intellectual adversary"⁴ of the Federal Reserve System and its handling of national monetary policies, and he is becoming popularized as "the towering iconoclast of U.S. economics."⁵ Whether his views gain wider acceptance intellectually within⁶ or without⁷ the Federal Reserve System, they are certain to be considered in the new Nixon Administration, for unlike 1964, when he was an economic adviser to an unsuccessful presidential candidate, in 1968 he was such an adviser to the successful one. At least partial acceptance of his views by key Administration officials, including Chairman of the Council of Economic Advisers Paul McCracken and Counsellor to the President Arthur Burns, has been reported.⁸

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¹ M. FRIEDMAN, *DOLLARS AND DEFICITS* (1968) [hereinafter cited as FRIEDMAN].

² See FRIEDMAN & SCHWARTZ, *A MONETARY HISTORY OF THE UNITED STATES, 1867-1960* (1963).

³ Friedman is a *Newsweek* columnist. See, e.g., Friedman, *The Inflationary Fed*, *NEWSWEEK*, Jan. 20, 1969, at 78.

⁴ Cameron, *The Fed on the Firing Line*, *FORTUNE*, Dec. 1968, at 118, 120.

⁵ *TIME*, Jan. 10, 1969, at 64.

⁶ See, e.g., Cameron, *supra* note 3.

⁷ See, e.g., *Wall Street Journal*, Jan. 30, 1969, at 13, cols. 4-5.

⁸ See *Wall Street Journal*, Mar. 3, 1969, at 1, col. 5. See also *id.*, Jan. 10, 1969, at 12, cols. 4-5; *id.*, Feb. 18, 1969, at 2, cols. 3-5.

The essence of his views on inflation, monetary policy, and the balance of payments is expressed in these essays, some published individually as long ago as 1953 and some as recently as 1968, now collected in *Dollars and Deficits*. In an introduction written especially for the book, Professor Friedman proposes that economists disagree on these topics not because of differences in values but because of differences in scientific judgments and that "differences in scientific judgments about economic effects center primarily on the role of money in economic affairs."⁹ He explains economic effects, including the "Great Contraction" of 1929-33, as resulting from changes in the quantity of money in supply. It has been widely thought that these effects can be explained not in terms of monetary policy but only in terms of fiscal policy. Professor Friedman notes that John Maynard Keynes and other economists of that period thought that it occurred despite what they regarded as expansionary monetary policies of the Federal Reserve System. In their view, expanding the supply of money could do nothing to counter the contraction because it would not effect spending. Keynes and his followers prescribed government spending to make up for insufficient private spending. Professor Friedman's studies¹⁰ reveal, however, that the monetary authorities followed highly deflationary policies and that the supply of money in the United States fell by one-third during the "Great Contraction." He states that he could not hold his views on the role of monetary policy had the facts "been as Keynes apparently assumed them to have been . . . Had Keynes recognized that the facts were what they were, he would have had to modify his views."¹¹

What Professor Friedman regards as laymen's "conventional wisdom" that government taxing and spending policies can control economic fluctuations and achieve full employment, stable prices, and balance of payments equilibrium¹² is challenged throughout the book. Because he views inflation and economic fluctuations as monetary phenomena, his basic prescription for these ills is monetary: end the discretionary powers of the Federal Reserve System to change the money supply and require it by law to expand the supply at a steady annual rate. Balance of payments

⁹ FRIEDMAN at 10.

¹⁰ See FRIEDMAN & SCHWARTZ, *supra* note 1.

¹¹ FRIEDMAN at 14.

¹² *Id.* at 12.

problems would be cured by free exchanges allowing free market prices for gold and the dollar.

To the question, "Does Prof. Friedman's formula offer salvation, or only snake oil?"¹³ this lawyer defers to economists and history. The book is not intended for economists alone, however, for the author intended that it "be intelligible to the public at large."¹⁴ He is successful to the extent that his prose is clear and concise and sometimes refreshingly simple in questioning complex arrangements ("Why should you be free to make any deal you want with a used-car salesman—but not with a Frenchman offering francs?"¹⁵). Some of the subject matter is admittedly difficult for this reviewer, and the public at large may not be as sophisticated as Professor Friedman compliments it as being. Lawyers interested in economics and those who feel that they should know something about these subjects will manage nicely enough with the book, however, and it is recommended to them. They will find some repetition, for which Professor Friedman is duly apologetic,¹⁶ and they may lament the lack of an index, an item to which they are accustomed in legal publications.

The book reveals that Professor Friedman is concerned with more than the economic aspects of the subjects discussed. For example, his questioning of the independence of the monetary authorities includes concern for the effects of concentrations of power on individual liberty.¹⁷ His broader concern is individual liberty, and he states in the introduction that he "regards freedom as the major objective in relations among individuals and . . . believes . . . that the preservation of freedom requires limiting narrowly the role of government and placing primary reliance on private property, free markets, and voluntary arrangements . . ."¹⁸ He articulately expressed his views on freedom and its relationship to economics in *Capitalism and Freedom*, published in 1962.

Professor Friedman has much to say, whether it be about the subjects discussed in *Dollars and Deficits* or about negative income taxation as an alternative to current welfare programs.¹⁹ He is worth reading, if only for the shock effects on "conventional wisdoms." Those interested

¹³ Wall Street Journal, Mar. 3, 1969, at 1, col. 5.

¹⁴ FRIEDMAN at iii.

¹⁵ *Id.* at 246.

¹⁶ *Id.* at 19.

¹⁷ *Id.* at 173-74.

¹⁸ *Id.* at 7.

¹⁹ See M. FRIEDMAN, CAPITALISM AND FREEDOM 190-94 (1962).

in his writings should be pleased to know that *Capitalism and Freedom* is available in a paperback edition and that *Dollars and Deficits* is similarly promised.²⁰

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²⁰ FRIEDMAN at ii.