

REVIEWS

THE GENERAL THEORY OF EMPLOYMENT, INTEREST AND MONEY. By J. M. Keynes. New York: Harcourt, Brace & Co., 1936. Pp. xii, 413. \$2.00.
AN INTRODUCTION TO ECONOMIC ANALYSIS AND POLICY. By J. E. Meade. New York: Oxford University Press, 1936. Pp. 392. \$3.75.

THE call to bring law closer to the economic facts has been one of the strong yeasts in the books and periodicals about law for at least a generation, but on the whole the consequences of the campaign, both in legislation and in legal thought, have been disappointing or worse. One reason for that failure, it may be, is the fact that many of those who most enthusiastically preached More Economics in Law read few books of the type reviewed here, and made no effort to read more. The result has been that much of the legal writing (and legal doing) which impinges on economic issues has remained callow in its economic outlook, and untouched by the development of post-war economic thought. The best of it is dominated by the formulae of Fabian socialism, which can no longer be defended as economic analysis in any terms; much of the rest, by crude phobias against High Finance and Cut-throat Competition which are difficult to isolate because they are rarely written down at length or in order.

When those who contribute to this branch of law think of economics at all, they like to think of it as a literature of competing faiths so full of heterodoxies that no two of the priests ever agree. That conviction serves the comfortable purpose of permitting those who share it to keep on repeating economic slogans learned in youth, without the labor of reading in the field. It is bad medicine for a bar (and bench) whose members feel qualified *ex officio* to pass expert judgment on novel experiments in the public control of business and finance. Actually there is no more — and surely no less — disagreement among economists than should be expected in a healthy, critical, and developing branch of scholarship: no more disagreement, for example, than among professors of mathematics, medicine, or law.

Mr. Keynes' new book, which loudly proclaims that it radically departs from all of economic orthodoxy, illustrates very well how wide the area of agreement among contemporary economists is. Although the book breaks new ground in several directions, and has provoked acres of argument in the economic journals, it seems, to an outsider, closely connected in method, in analysis, and in doctrine with the entire body of contemporary economics; and a reading of "The General Theory" in conjunction with Mr. Meade's up-to-date popular survey of economic opinion confirms the view. Together the books provide a fair introduction to a body of economic thought which has not so far been effectively popularized. Even Mr. Thurmon Arnold, that prodigious enemy of religion masking itself as science, could approve a large part of this literature. The men and women who write it are students of scientific method, as well as economic fact, and are properly scrupulous about eliminating ambiguities from their definitions, and properly tentative in their

statement of conclusions. In the Arnoldian sense, they qualify better than most academicians as detached students of social affairs.

Meade's book states clearly and untechnically what the younger economists think about the scope of their work, especially in its relation to public policy. Chapter by chapter he summarizes and restates current opinion on wages, prices, the trade cycle, competition and monopoly, money, and international trade. He fairly indicates which issues are most controversial and what the terms of such controversies are. What emerges is the detailed portrait of an Idea—in newer dress, not quite so grand, an intellectual offspring of Adam Smith's idea of the Wealth of Nations. The book is half an analytical description of the economic machinery of any modern industrial society, capitalist or communist, and half a prescription for the successful management of such machinery in a capitalist society. For the radical young economists, whose spokesman Meade is, generally share a view which in less sophisticated forms has long been an article of faith among economists of older schools; that The Economic Problem can be solved in capitalist and democratic societies as well as, or better than, in any other. Beyond this general proposition the resemblance between the new and the old in economics fades. Although they write as academicians, and are in the first instance concerned with analysis rather than with policy, so that all would concede (though with different emphasis) the merits and difficulties of a given recommendation of policy, their position can perhaps best be explained to an audience of non-economists in terms of what they conclude are effective measures of governmental action.

Economists in the tradition which Mr. Meade represents, and Mr. Keynes leads, are capitalists, though not laissez-faire capitalists. In certain key places they look to government, and not to the magic harmonies of a free market, for the guidance which may control the worst excesses of the trade cycle. And it is their thesis that capitalist and democratic governments may successfully exert such controls without ceasing to be either capitalist or democratic.

In describing the capitalist economy, they emphasize the fact that it is still an entrepreneur economy, dependent for economic activity on the responses of business men. Since the willingness to undertake risks remains a function of the prospect for profits, economists of this school favor measures which increase profits at the expense of wages and interest. They regard it as socially desirable to weight the scales a little in favor of the entrepreneur, both as a matter of general policy and for the control of the trade cycle. Thus they tend to favor an inflationary monetary policy, for which the only defense is that it forces profits to increase faster than wage or interest payments. This position is by no means so callous or Bourbon as it sounds. These economists are enthusiastic advocates of social services and social insurance, and tend to be liberal—*i.e.*, pro-union—in their attitude towards labor. The burden of their argument is simple. The insistent demand of the day is for a higher standard of living, which can be achieved, as a matter of statistical fact, only by sustained increases in the output of goods: *i.e.*, by long periods of full employment and increased capital accumulation. The great waste of the capitalist system, which bars and delays such increases, in unemployment, which can be cured under capitalism only by reemploy-

ment on terms profitable to the capitalists. It seems to follow, therefore, that if a government wishes to secure large social improvements and still to preserve the vitality of capitalist institutions, it should seek in the first instance to secure full employment, and to see to it that it achieves social progress in the form of a more equitable distribution of income and amenities should be secured without paralyzing the economic machinery: concretely, that social services should be financed by income taxes and not by payroll taxes, or general minimum wage legislation. These latter measures add to direct costs, thereby reduce profits and the prospect for profits, and make new investment unattractive—and without new investment there is no way to achieve re-employment. They find it difficult to see how a profit system can be conducted without profits, and their position is that the same social ends can be better secured (and the golden goose preserved) when profits are earned, and then taxed, than when social legislation or high money wages prevent profits from being earned.

Two kinds of legal controls are discussed as available for the job of achieving such objectives. The first and the more important can be described as the class of Remote Controls which can influence and even direct the volume of investment. It includes functions which in their opinion the state should be able with some effect to attack directly and positively: the active management of taxation, monetary policy and interest rates. Government bodies like the Treasury, the Federal Reserve System, the Securities and Exchange Commission, and the government budget are the classic agencies of action in this field. Their work may now be supplemented by the direct investment of semi-public bodies like the Federal Housing Authority. The second class of controls consists of administrative agencies, like the Interstate Commerce Commission and the Federal Trade Commission, whose nominal function is to enforce negative rules for policing monopoly, and for obviating the effects of size and combination on competition. These economists regard competitive pricing as on the whole more efficient than any known alternative pricing system, and tend therefore to resist experiments like N.R.A., which they regard as uneconomic, and a cruel method of punishing the consumer.

Under the lead especially of Mr. Keynes' new book, the notion of what state control can do effectively and how it can be exercised is becoming more realistic. It used to be said that the trade cycle was a monetary phenomenon, and for a considerable time it was discussed in terms of banking policy, government budgets, interest rates, and the flow of new securities issues. Without in the least denying that these are vital factors, of special importance from the point of view of policy because they can be controlled more easily than most economic forces, more attention is now being devoted to the relation between monetary and non-monetary factors—between real wages and money wages, as they bear on employment, modern forms of modified competition as they bear on the possibility of economic progress. The world has watched several relatively successful monetary attacks on the trade cycle—Roosevelt's cheap money, public works and budget deficits, for one—being strangled by what these economists regard as hopelessly mistaken and inconsistent price and wage policies: if cheap money stimulates investment and is good for Business, dear wages must and do have the opposite

effect. As the history of the Great Depression shows, a successful trade cycle policy necessarily involves the consideration of every kind of economic policy and every branch of economic analysis. Keynes' book, which starts from the intellectual position admirably described in Meade's, is of special novelty, against that background, in its discussion of wage policies and its reformulation of trade cycle theory. Keynes takes the position that during a down-swing decreases in wages will aggravate a deflation, in their tendency to reduce the total of available income; since a rise in money wages during a depression will also make the depression worse, he defends the paradoxical thesis that the best thing for a government to do to wages during a depression is to leave them alone, and work on other aspects of the economic situation which promise bigger dividends.

Since law is, among other things, an agency for implementing social policy, the publication of books like these should be an event of some moment among lawyers, for these are exercises in economic theory packed with lessons of politics and policy. Keynes has in his time touched events more forcefully than all but the greatest and luckiest of intellectuals. He has helped formulate the point of view of the prevailing body of economic thought; and has with considerable popular success dramatized — perhaps over-dramatized — some of the more conspicuous suggestions for action implied in that literature. If lawyers are to continue, as they must, to deal with economic problems, and to have opinions about economic policy, they would be well advised to follow the development of ideas among these lively practitioners of economics. What they say often seems to bear fruitfully on problems which lawyers cannot avoid.

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JOURNAL OF THE COURTS OF COMMON RIGHT AND CHANCERY OF EAST NEW JERSEY, 1683-1702. Edited and with an Introduction by Preston W. Edsall. New York: American Legal History Society, 1937. Pp. xi, 356. \$3.50.

THE COURT of Common Right of East New Jersey was for nineteen years, 1683 to 1702, the supreme court of the province. Bearing the title Court of Common Right and Chancery it possessed a jurisdiction as wide as that of the common law courts at Westminster Hall and the English Chancery Court combined, and in the exercise of its functions met all the demands, within its sphere, of ultimate colonial justice. Its predecessors, at first a prerogative or proprietary court under Governor Philip Carteret and then for a few years a court of assize, had not proved satisfactory, so that with the coming of Deputy Governor Thomas Rudyard in 1683 the assembly exercised its constitutional right, based on the Concessions of 1665, of erecting a series of courts by legislative enactment. From 1683 to 1702, when the proprietors surrendered their rights of government, the system thus established consisted

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