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PUBLIC CHOICE AND PUBLIC LAW edited by Maxwell L. Stearns. Cincinnati: Anderson Publishing Co., 1997. ISBN 0-87084-806-2.

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A few months ago, I noticed this volume -- **PUBLIC CHOICE AND PUBLIC LAW: READINGS AND COMMENTARY** -- on a colleague's desk. As I began flipping through it, I remarked that it looked like a "decent" volume, one that I should buy. Fate being what it is, not a week later Neal Tate asked me to review it.

Now, having spent some time reading, rather than flipping, I can tell you that my initial impression was wrong. This isn't a decent book; it's a terrific one.

Why the high opinion? First and foremost, Stearns performs an enormous service. Over the past decade or so, scholarship applying various strands of public choice (defined by the author as "the economic analysis of public, as opposed to private, decisionmaking") to public law has become something of a cottage industry. To take one example, in his seminal 1982 essay, Easterbrook was able to identify only three legal scholars who had considered the implications of Arrow's Theorem for law. By 1994, Stearns found 94 articles invoking social choice approaches—a figure he claims to have doubled in the past three years. Yet, these and other essays are located in a wide range of outlets—from the highly influential, mainstream journals to the far more esoteric. In other words, without a really well stocked law library, it is difficult, if not impossible, to keep up with this burgeoning literature. By pulling together nearly 40 of these articles, Stearns goes some distance toward remedying that.

But Stearns does more than merely bring together a bunch of public choice work. Which takes me to my second point: His choice of essays is impeccable. To be sure, he includes much of the seminal public law/public choice scholarship; yet, for me, it was his incorporation of some of the lesser-known research that makes the volume truly worthwhile. Indeed, there were at least ten articles I had never read (read: heard of) before picking up the volume, thereby reinforcing my point above: all were published in journals I don't regularly pick up; and I have already either used most of them in my current research or kicked myself for not having known about them before publishing some recent work.

Along the same lines is this: While all of the essays in **PUBLIC CHOICE AND PUBLIC LAW** deal, in one way or another, with public choice, they are not monolithic in their enthusiasm. Stearns does not shy away from the writings of those who take issue with the application of theories grounded in assumptions of rationality to courts and law. Nor does he avoid articles that take on the same topic but reach very different conclusions. Two essays on the line item veto make the point: While both invoke public choice

to analyze it, the pieces reach opposite conclusions about whether the "experiment" will be a worthwhile one.

A third reason for my enthusiasm has less to do with Stearns' choice of essays and more with his ability as an editor. In his must-read Preface, Stearns sets out four goals which boil down to this: To provide students and scholars -- even those possessing little interest in or knowledge of math/economics -- with an accessible, clear introduction to the major public choice and social choice concepts, which in turn will enable them to analyze critically applications in the realm of public law. As Stearns puts it, "I have ... used this book to provide students who come to public choice based upon an interest in public law, rather than upon an interest in economics, with the necessary tools for an informed understanding of public choice."

He more than succeeds on all these scores. For one thing, few of the essays require any significant knowledge of math or economics to appreciate. And, for those that do, Stearns masterfully walks readers through the key points. For another, each of the subchapters of the three major divisions of the book -- "An Introduction to Public Choice," "An Introduction to Social Choice," and "Applications of Covered Concepts" -- contain a "Notes and Questions" section that goes well beyond the ordinary. Not only does Stearns raise interesting issues for debate and discussion but he also explicates, in the clearest of terms, the assumptions undergirding the essays -- assumptions that the authors themselves occasionally bury in their analyses.

There is yet one more explanation for my reaction: Stearns' emphasis on substance. An oft-voiced complaint about the application of public choice to public law is that all this math and abstraction provide little insight into law. No one, after perusing this volume, could reach that conclusion. As I just noted, few of these essays use any math; more important, the material on the line-item veto, term limits, equal protection, and so on simply dispels any notion that public choice has little to add to our understanding of some of the most pressing and most public of all public law issues.

In the Foreword to this volume, Saul Levmore of the University of Virginia School of Law provides a laundry-list of law school courses for which the book might be appropriate: Law and Economics, Law and Psychology, Corporate Finance, Feminist Legal Theory, and so forth. I have no grounds to take issue with this list but I would add at least two standard graduate-level political science courses -- Judicial Politics and Constitutional Interpretation. I also have no hesitation in writing that all political scientists who study law and courts would profit from taking a look at PUBLIC CHOICE AND PUBLIC LAW. For the past year or so, these scholars have been engaged in heated debates over the value of public choice for their work. While this volume will not settle those debates, it will help to improve their quality.

REFERENCES

Easterbrook, Frank H. 1982. "Ways of Criticizing the Court," 95 HARVARD LAW REVIEW 802, 813,

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