

## BOOK REVIEWS

PUBLIC AND PRIVATE ENTERPRISE IN MIXED ECONOMIES. By W. FRIEDMANN. [London: Stevens. 1974. xi + 410 pp. £6.50]

This is a companion volume to the earlier publication by Professors W. Friedmann and J.F. Garner on 'Government Enterprise', published in 1970. Unfortunately, it marks the last work of a vibrant legal scholar who was very much in tune with the nature of the changing legal world.

The phenomenon of public enterprise, i.e. state owned commercial enterprise operating coequally in the private sector and organised in private legal structures has been comparatively surveyed in the earlier volume. The mixed economy in this work represents those economies in which the role of government as owner and regulator is large enough to belie the appellation 'Capitalist' or 'free enterprise' but not large enough to justify the description 'Socialist'. In brief, this involves non-centrally planned economies. Thus the economies that are studied here range from the United States, United Kingdom and France, to Turkey and Nigeria; and span developed and developing countries, as well as civil and common law legal systems.

The editor has been sufficiently liberal to permit each country study to reflect its unique legal bias within the broad outlines of the project. Thus in the case of France, the major areas include the problem of competition between the public and private sectors, economic regulation and the impact of EEC regulations. In the case of Nigeria on the other hand, the problems of public corporations, state owned companies and mixed companies in relation to the development plan are examined.

The above study is of some interest in Singapore, which provides a unique backdrop in which state enterprise in all its usual forms i.e. departmental government enterprise, public corporations and commercial companies have operated with a marked degree of financial success. It has been the usual observation of opponents of public enterprise, that nationalisation means invariably turning a profit making venture into a loss incurring one as witness the U.K. nationalisation experience. Indeed the current Labour Government's financial assistance by way of non-equity loans to British Leyland and Chrysler represent the highwater mark of governmental assistance to 'lame duck' companies without the compensation of public ownership, purely on grounds of otherwise inevitable unemployment. The Singapore experience on the other hand abjures nationalisation but embraces public corporations and commercial companies which are run on purely commercial objectives i.e. profitability and the rewards available to management and labour are wholly pegged to market conditions.

Thus the absence of civil service terms and conditions of employment, and the direct relationship between the enterprise's profits and the rewards of management and labour are designed to prevent the emergence of a bureaucratic style of management. In fact, even the Public Utilities Board manages to show a profit annually, a feature which is remarkable and which underlies the Singapore Government's reluctance to enter the field of public transportation, a hitherto unprofitable sector. The focus in Singapore on profitability is perhaps lopsided in that the social costs have not been extensively studied. A cost benefit analysis beyond commercial terms but inclusive of social welfare objectives like standards of environment, housing and employment must be made as a matter of political decisionmaking and evaluation. Contrast the Nigerian approach, studied here, in which public utility and social service corporations which incur losses are subsidised by the government. Does Nigeria's resource wealth permit or encourage this approach?

How do state enterprises perform? What is the legal environment in which they operate? How does it affect its functions? How is competition between state and private enterprise balanced? What are the accountability mechanisms that operate? This volume raises these and other questions and provides a tentative structured analysis of these pervading questions. One of its inherent weaknesses is that the subject in relation to developing countries is superficial. Thus the analysis of the Nigerian and Turkish experience is expository and descriptive and does not receive the same depth as the United Kingdom and United States experience. The key factor perhaps that accounts for this is the common difficulty in conducting empirical research in developing countries caused by the absence of publicly available data and a tendency to classify the most trivial of information. The value of this work would have been enhanced with the addition of more developing country studies, particularly that of either India, Sri Lanka or Singapore in the economies of which state enterprise is very significant.

What is the underlying philosophy of state enterprise in mixed economies? The dramatic impact of the Tennessee Valley Authority and the failure of Amtrak to sustain itself in the face of intensive competition from highways and airline companies, raises different problems from those faced by other countries. The record of public housing in the United States is dismal, but the record in Singapore is phenomenal. The Singapore Government exerts some form of pressure to maintain this achievement. Thus admittedly land acquisition profit made by the Government is used to finance subsidised buildings in the form of hawker centres and markets—an indication that even in profit—obsessed Singapore the social welfare motivation exists. This approach finds no parallel in the West (where constitutional protection of the right to property is jealously guarded); nor is it mentioned in the two developing countries studied here. What prevents the management potential available in the United States from being directed towards the problem of the decay of its cities? These questions demonstrate that a purely legal analysis is inadequate for it only provides the structural basis upon which further interdisciplinary studies have to be made.

The key contribution of this work therefore is (together with Professor Friedmann's 'The State and the Rule of Law in a Mixed

Economy' and 'Government Enterprise') that they provide a legal framework and philosophy which will enable and indeed invite further doctrinal and empirical studies of the 20th Century phenomenon of the state and entrepreneur. It thus marks a fitting tribute to the legal scholarship of the late Professor Friedmann, that his last work should be, characteristically, one which is a pathfinder pointing the way to further and future research of a new legal animal — the state enterprise.

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