

THE ECONOMICS OF A DISASTER: THE *EXXON VALDEZ* OIL SPILL. By Bruce M. Owen, David A. Argue, Harold W. Furchtgott-Roth, Gloria J. Hurdle & Gail Mosteller. Westport, Connecticut: Quorum Books, 1995. Pp. xii/200. USD 59.95. ISBN 0-89930-987-9.

On March 24, 1989, the supertanker *Exxon Valdez* smashed into a reef in Prince William Sound off the south coast of Alaska and gushed eleven million gallons of crude oil into the water and onto the land. Many lawsuits ensued. One of the most important was the Fishermen's Case, in which Alaskan fishermen sought damages for lost profits. As a general rule, one may not proceed upon a negligence theory for purely economic loss. A major exception to this rule is fishermen.

The plaintiff sought \$895 million for lost profits, including \$550 million for depressed salmon prices. Exxon paid \$130 million and offered another \$113 million to settle the case. In the end, the jury awarded \$287 million, including \$130 million for depressed salmon prices in 1989. The jury found no decline in salmon prices in 1990 or 1991.

This book argues, in effect, that everyone was wrong. The thesis of this book is that the *Exxon Valdez* disaster had no impact at all on the price of Alaskan seafood. Prices did decline after the disaster, but for a variety of reasons unrelated to the wreck. The world started 1989 with an extraordinarily high inventory of frozen salmon in the Japanese market. There was a record-setting harvest of salmon in 1989. The U.S. dollar strengthened relative to the yen during the relevant time interval, and so drove up the price of Alaskan salmon in Japan. During the 1980s, there had been a substantial increase in the availability of farmed salmon. It constituted only one percent of the world's supply in 1980, but 30 percent by 1990. During the period 1980-1990, world production of farmed salmon doubled.

The authors marshal considerable and diverse evidence that consumer behavior was not influenced by the disaster. They discuss two surveys at some length. One indicates that there was no change in consumer behavior. The other suggests that there was no change in the behavior of traders, processors, and wholesalers in response to publicity following the spill. Moreover, few fisheries closed for the whole 1989 season.

The book also subjects a variety of quantitative data to sophisticated statistical analyses. In the end, it concludes that prices for salmon, and other seafood, in oil-touched regions tended not to be different from what prices would have been, had there been no disaster.

The authors also provide evidence tending to show that this disaster has not had any long term economic effect on the Alaskan fishing industry. They rely upon the price of commercial fishing permits. Those have not declined in value to any appreciable degree at any time since 1989. Assuming the

rationality of the market, if the cognoscenti genuinely believed that Alaskan fishing were deteriorating, the price of permits would drop.

This book has a number of virtues. It is both succinct and clear. It contains many helpful tabulations and charts. Mercifully, the technical mathematics is confined to appendices. At the same time, the book has a number of vices. The prose is woefully academic: intransitive, passive, colorless, and dull. In short, the book lacks personality. This situation is exacerbated by the presence of a number of useless supply-and-demand graphs. The fact that we have come to expect these dreary doodlings in economic writings about law is not redemptive in the slightest.

The book also exhibits substantive difficulties. It provides no reasoned indication as to the reliability of the data sources upon which it relies. Worse, the book seems to misconceive itself. The first and last chapters discuss broad issues in law and economics. The authors emphasize the cliché, for example, that if society is to construct a sound policy regarding accident avoidance, it must take into account *all* of the costs (as well as the all the benefits) of any accident. Of course, disasters are nothing but big accidents. Unfortunately, the broader themes of the "envelop" chapters are pretty much disconnected from the main body of the work. The main body of the work is an instance of a group of authors trying to figure out the economic consequences of a large disaster. Nothing discerning is said about the larger issues. The book does not even wonder if there is an economic justification for the fisherman exception to the rule of negligence law barring recovery for purely economic loss.

From a lawyer's point of view, this book is about something completely different from its ostensible topic. It is really about how the damage calculations in the Fishermen's Case should have been done. By implication, the book is a critique of how they were done. Basically, the theme of this book is that the fishermen-plaintiffs should not have recovered anything from Exxon. Maybe this fisherman or that fisherman who was out of business for an interval should have recovered something, but there should have been no massive damage award to the group as a whole.

This latent thesis, which fits squarely into the iconoclastic tradition of law-and-economics scholarship, is a hard fish to swallow. In order to make it more palatable, the authors should have compared and contrasted their results with the damage proofs presented in the Fishermen's Case. Instead, they rely upon superficial newspaper accounts of the case and completely fail to delve into what evidence and opinions the experts actually presented in the proceeding, what the lawyers did with the expert testimony and reports, the rulings of the judge, and how the jury responded.

The Economics of a Disaster is really a study in how to think about economic damages in disaster cases. Lawyers defending businesses who are

accused of having caused disasters would be well advised to consult with the authors here as to the economic components of the loss. The authors virtually invite such consultation when they point out that their methods are easily adaptable to other situations. On the other hand, the book announces that it is "based on research conducted by Economists Incorporated on behalf of the Trans-Alaskan Pipeline Liability Fund." Of course, the source of one's funding does not, necessarily, impeach the soundness of the result. Nevertheless, it often presents rhetorical problems in the context of trying lawsuits.

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