Review of "Democracy and Finance", By William O. Douglas

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BOOK REVIEWS


Any hints of the social and juristic premises of a recent appointee to the Supreme Court are significant and interesting, if for no other reason than that they are intimations of such immortality as attaches to ideas which will inevitably be reflected in the opinions of that mighty tribunal. Any utterances by as distinguished a scholar and public servant as the sometime Sterling Professor of Law at Yale and Chairman of the Securities and Exchange Commission must command attention, for they necessarily embody evaluations derived from a rare background of experience. Such links with prophecy and with history are themselves sufficient to recommend the reading of these collected papers apart from their intrinsic merit. But, even if they came from the pen of some humble unknown, they would constitute useful and welcome additions to the literature in the field.

The contents of the book consist of twenty-five lectures and addresses of Justice Douglas in the two or three years before his translation to the Bench. It is no pot-pourri of random reflections on stuff and things, however. This it avoids, in considerable measure it would seem, by reason of the skilful editing of the materials by Mr. James Allen, but principally because there is a basic theme which animates and integrates the lectures. That theme is the exposition of the techniques and devices for promoting the functioning of capitalist democracy in a confused today and an ominous tomorrow, without imperilling either the capitalism or the democracy. Drawing on his background of special knowledge, the author orients his discussion almost wholly with reference to the role of corporate enterprise, corporate securities, and corporate reorganization in the nation's life. He finds in administrative agencies the answer to the question of how this important segment of our economy can be kept a servant of the public good; and he gives some consideration to the sort of education, especially legal education, calculated to furnish the personnel through and with which administration can work with reciprocal advantage. The major divisions of the book reflect in their titles what it deals with—"Democracy in Finance," "Stock Exchanges," "Public Utilities," "Reform of Corporate Reorganizations," "Administrative Government," and "Education in Government and Law." The first four divisions, stressing primarily practices in corporate finance, comprise approximately eighty per cent of the material; the last two focusing more particularly on the special activities of government and law constitute the other twenty per cent. Of course, the invisible strands of business practise and legal principles run together throughout the whole of the work; but the quantitative division noted is fairly indicative of the relative emphasis attached to each of the elements.

The distinguishing characteristic of the work is the level on which it is pitched. Its tone is not that of recondite scholarship on the one hand nor of arrant popularization on the other. For those who have read Landis or Blachly and Oatman, or who have heard Frankfurter or Fuchs, it offers
little that is original or novel in understanding the place and performance
of the administrative, just as for readers of Ripley or Berle and Means
it makes no very conspicuous contribution to their comprehension of finan-
cial practices and corporate enterprise. Conversely it is no primer of rudi-
ments for the man in the street. The vast mass of lawyers and businessmen,
plus other scattered citizens, who possess an intelligent interest in and a
general background knowledge of the developments relating to administra-
tive regulation and/or corporate finance, will find their needs admirably
served.

The manner of writing is well suited to appeal to them. Justice Douglas
has shown elsewhere, notably in his law review articles, that, as a master
of formidable footnote and erudite analysis, he can hold his own with the
best. These addresses are devoid of such ponderous paraphernalia and
schematic subtleties; they are composed in a plain and easy, albeit rather
undistinguished, style. Probably this is because they were originally planned
for absorption through the ear, not the eye; but the happy by-product is
that the great body of readers, which loveth not footnotes nor complexity,
will like the manner of presentation.

In its objective (or at least its achievement) of discussing its subject
matter in terms adapted to the generality of lawyers and businessmen, the
book performs what the reviewer is inclined on reflection to think is the
most immediately important function of writings in this general area (al-
though he confesses to his shame that he had not thought about it very
much before reading the Douglas addresses). The expert and the scholar
have already their copious and intricate literature on both corporation and
administration. The suffragan citizenry would be neither helped nor hurt
by discussions aimed at them, secure as they are in their armor of passive
resistance to the buying or reading of books on serious topics. But the gap
between the two groups has been widening ominously. Those interested
in the continuance of that mystical thing, "the American way," must view
with foreboding the isolation of the problem solvers from those who need
the answers, with corresponding thanksgiving any forces which tend to
break down that isolation. This book is such a force. Pundits of business
and government can skip it without serious loss. Practitioners of law or
business who feel their responsibility as formulators of opinion in a democ-

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