

January 1941

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

Albert Salisbury Abel

Follow this and additional works at: http://openscholarship.wustl.edu/law_lawreview



Part of the [Banking and Finance Law Commons](#)

Recommended Citation

Albert Salisbury Abel, *Review of "Democracy and Finance", By William O. Douglas*, 26 WASH. U. L. Q. 289 (1941).

Available at: http://openscholarship.wustl.edu/law_lawreview/vol26/iss2/3

This Book Review is brought to you for free and open access by the Law School at Washington University Open Scholarship. It has been accepted for inclusion in Washington University Law Review by an authorized administrator of Washington University Open Scholarship. For more information, please contact digital@wumail.wustl.edu.

BOOK REVIEWS

DEMOCRACY AND FINANCE. By William O. Douglas. New Haven: Yale University Press, 1940. Pp. xiv, 301. \$3.00.

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 practise 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 indivisible 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 financial practices and corporate enterprise. Conversely it is no primer of rudiments 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 administrative 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 (although 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 democracy will find it a comparatively painless way of acquiring information of matters which it is increasingly their duty as citizens to understand; or, if they are cold to the tepid blandishments of civic duty, they should at least know that here a matter of tremendous interest to them is treated interestingly, accurately, and not too technically. In short, unless one already knows a great deal about the subject, he will find himself knowing a great deal more after reading Justice Douglas' addresses. If this be not, in the phraseology of graduate school catalogues, "a significant contribution to the sum of human learning," it does at least make ignorance no longer excusable and knowledge no longer difficult.

ALBERT SALISBURY ABEL.†

† Assistant Professor of Law, West Virginia University.