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Brandeis

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BOOK REVIEW

BRANDEIS. By Alfred Lief. New York. Stackpole Sons, 1936. Pp. 487.

A curse to "big business", an inspiration for reform, a beacon light to those who cling with rugged faith to the ideal of a buoyant democracy—such in short is Mr. Lief's interesting characterization of the famed dissenter, Louis D. Brandeis.

The amazing skill with which Brandeis, lawyer and judge, forged his tools of combat and directed his deadly rapier thrusts finds its base in an assumption that somewhat resembles a phase of Newtonian physics transposed to the social realm, *i. e.*, for every action there *can* be a reaction—the significant difference lying in the teleological aspect of the italicized word. Thus, every social evil can be counteracted by a social remedy, granted the will and the development of the proper technique.

The Brandeis technique does not belie the democratic form. Rather it takes root and sustenance in its heritage. Thus, the abounding faith in the process of common education, the tireless expeditions in the complicated realm of fact, and the fearless publicity given these facts through the channels of speech and the written word. To him a democratic society was resolved into antithetical groups, each striving for self-realization, *e.g.*, industry *versus* labor, and "big business" *versus* "small business". The problems likewise took on antithetical form, *e.g.*, monopoly *versus* competition, organized capital *versus* organized labor, governmental centralization *versus* decentralization.

His careful investigation led him into neither extreme of the dichotomous groupings. As Mr. Lief describes it:

"Neither camp would claim him; neither could readily understand him. Deep in his marrow he was an old-fashioned Jeffersonian democrat".

He pitched his tent near the middle ground, distilling and synthesizing the good features of both in order to eliminate the evils of the extremes of each. His was and is the search for the median between the polar categories of constancy and change—the endless charting of a zig-zag course within the flux of time. Thus as against the evils of unbridled monopoly he suggests the force of competition; as against the evils of competition, regulation through licensing. As against the power of industry he pits the strength of the labor unions; as against the strength of labor he proposes

a limitation upon the "closed shop" policy. To him such balancing makes "liberty of contract" an actuality, rather than a fetich for those who desire the maintenance of the *status quo*. To him this represents an abounding faith in the process of rational compromise, without which the strong seams of democracy would be torn asunder.

Mr. Lief's narrative ability seems marred by what on occasion appears to be sections of hastily-pieced newspaper clippings. But from the standpoint of the student of law as well as the layman, the information that he gathers offers invaluable insight not only into the activities of a great man but also into the nature of the forces that he fought. Being the attacker, Brandeis cast a relentless spotlight upon their aims, methods and secrets. The famous struggle in Boston over the control of the transportation service, the Ballinger affair, the Pujo investigation, the bitter conflict with the monopolistic power wielded by the United Shoe Machinery Company, the minimum-wage brief, the inauguration of the Massachusetts savings bank system of insurance reflect not only the extraordinary achievements of this public crusader, but also the fighting tools of his opponents.

But hardened skeptics point to Brandeis as a challenge, whose technique, at the most, has caused a mere ripple on the surface of troubled waters. The attainment of a high degree of social justice, however ambiguous that term may seem, has certainly not been realized. Perhaps it is a necessary condition of our social order that granted a "public" there shall be no effective "defender".

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