

Anglo-American Securities Regulation: Cultural and Political Roots, 1690-1860. By Stuart Banner. (Cambridge, England: Cambridge University Press, 1998. xviii, 318pp. \$74.95, ISBN 0-521-62231-X).

Stuart Banner's *Anglo-American Securities Regulation* provides a well-written, informative, and entertaining treatment of a complex subject. Banner draws on a range of sources, including poetry, fiction, and contemporary political and economic discourse, to describe how people thought about trading in stocks and bonds and how such trading was regulated. He begins with the South Sea Bubble and remains in England through the eighteenth century, shifting to the United States in the late colonial period. His analysis of the historical origins of contemporary securities regulation convincingly demonstrates that the choices made by late seventeenth-century Englishmen and late eighteenth-century Americans have framed subsequent debate over what constitutes wise or reasonable securities regulation.

Banner uses this study of the evolution of securities law to argue that the debate over whether legal changes reflect external social and economic forces or internal professional logic is misdirected. Internal and external forces interact. Pre-existing law shaped the response to the South Sea Bubble. But powerful economic forces also shaped the laws that were enacted and how they were enforced. In periods of relative stability, Banner argues, laws evolve largely as a result of forces internal to the legal establishment and to the law itself. But during periods of economic and social change, external forces shape law and the parameters within which internal forces will operate in the future.

Banner takes on the difficult task of trying to establish what “popular” attitudes were toward securities trading. He discusses the criticisms of securities trading that emerged. These included the ideas that securities trading was likely to be plagued by deceit, that securities trading diverted resources from more productive activities, and that securities trading was socially, politically, and morally corrupting. Banner argues that the re-emergence of these themes reflected the influence of pre-existing ideas on people’s reaction to securities trading. While this is true, it also may reflect the re-occurrence of similar problems in different places and times.

One element missing is a political economy of securities regulation. Banner alternates between chapters demonstrating widespread criticism of securities trading and chapters describing policy responses to such criticism. Regulation usually occurred in response to crashes, when criticism was strongest. But the policy responses enacted were narrow and often ineffective. They focused on limiting particular kinds of trades – options, futures, short selling – seen as easily infected with deceit. While the legislation establishing the U.S. Treasury Department did (and does) prohibit the Secretary and others from “directly or indirectly ... carrying on the business of trade or commerce ... or be[ing] owner ... of any public ... property,” other limits on insider trading were rejected (p. 161). Broader prohibitions on trading as either usury or gambling were considered, but rejected. Banner does not attempt to explain why those who favored stricter regulation were so unsuccessful. There are brief references to the backgrounds of those arguing for stronger regulation (small London merchants in eighteenth-century London; labor, Southerners,

non-New Yorkers in nineteenth-century United States), but Banner does not generally associate ideas with particular groups or attempt to explain their relative political effectiveness. That task remains for another scholar, who will have a formidable challenge achieving the standards of this study.

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