
Frank Edward Horack Jr.
Indiana University School of Law

Follow this and additional works at: https://www.repository.law.indiana.edu/facpub
Part of the Constitutional Law Commons, and the Social Welfare Law Commons

Recommended Citation

This Book Review is brought to you for free and open access by the Faculty Scholarship at Digital Repository @ Maurer Law. It has been accepted for inclusion in Articles by Maurer Faculty by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact rvaughan@indiana.edu.
is quite out of date, many states having recently adopted permanent registration.

The student, or general reader, will find this book well adapted to acquaint him with the important problems of municipal government. It is superior in several regards to the other excellent texts dealing with the same subject, particularly in its wealth of factual information, its copious references to source materials in the footnotes, its extended treatment of recent developments, and its impartial and scholarly treatment of controversial issues.

JOSEPH P. HARRIS.

University of Washington.


This is the second printing of a volume which was privately printed and originally issued in 1926. In the preface to the second printing, the author explains that it is "the outgrowth of more than fifteen years of experience in legal work for the United States." His thesis is that the power granted the Congress in Article I, Section 8, "to lay and collect taxes, duties, imports and excises, to pay the debts and provide for the common defense and general welfare of the United States; . . .," is what it purports to be, i.e., "a general grant of unlimited power to be utilized by Congress in its own discretion for the common defense and general welfare of the United States." Mr. Lawson boldly asserts that judicial decisions to the contrary are mostly obiter dicta. He looks upon the doctrine of "limited government" as erroneous and fraught with danger to the American people, and declares that "the sole rule of construction adduced to uphold it is rejected by the Court in dealing with its own grant and with the executive power."

The author devotes a long chapter to the proceedings of the Constitutional Convention of 1787, particularly as preserved in Madison’s Notes, and reaches the conclusion that "no fair-minded student of these records can conclude that this clause [the general welfare clause] came into the Constitution as a meaningless generality, or as a limitation upon the taxing power." He answers the Tenth Amendment by saying: "If the power to provide for the general welfare is expressed in the first of the enumerated powers, and not excluded by any other clause, it is a delegated power, unaffected by the Tenth Amendment." He declares that "the powers of Congress are largely concurrent with those of the states, and are given in full expectation that they will be called into operation only after failure of state legislation to accomplish the objects for which the powers are designed."
Although the author does not specifically mention the "New Deal" legislation, he appears to have it in mind in his preface, when he says that since the first printing, "the people of the country have with surprising unanimity turned to the federal government for relief from economic ills, in a movement so momentous as to be revolutionary, and so determined as to outlast any emergency." "New Dealers," grasping for constitutional straws to support their aims, will find much comfort in the author's logic and in the voluminous citations and quotations which he has amassed to sustain his thesis. Perhaps the fears of Elbridge Gerry, Luther Martin, and George Mason that the federal government under the Constitution would be able to do as it pleased are about to be realized under a new interpretation of the general welfare clause.

Frank E. Horack.

State University of Iowa.


Perhaps the most obvious characteristic of this work by Professor Shoup and his associates is its timeliness. The second is its failure to be up to date. The former arises from the character of the undertaking; the latter not from carelessness on the part of the authors, but from the nature of the subject-matter with which the investigation is concerned. There has been so much gross sales tax legislation recently that, although this volume appears to have been revised after being set up, it fails to include a considerable volume of sales tax history of the present calendar year.

The study resulted from a grant made by the Rockefeller Foundation for the purpose of outlining the growth of the sales-tax movement and of analyzing some of its results. The group of scholars to which the study was entrusted has done a magnificent job, and it may be said that the $28,000 devoted to the investigation has purchased at least as much as could reasonably have been expected.

Part I, comprising the first one hundred pages of the volume, constitutes a summary of the results of the entire study, made by Professor Shoup. From the point of view of one interested in the results of the investigation, as distinguished from the research student concerned with both findings and methodology on the one hand and the administrator who needs details on the other, this first part constitutes a sufficiently full statement. In the last chapter of this summary (pp. 100–108 inclusive), Professor Shoup has indicated his own evaluation of the state gross sales tax in explicit terms. In this conclusion, Professor Haig, under