

Washington University Law Review

Volume 22 | Issue 1

December 1936

Review of “Handbook on the Law of Corporations,” By Robert Stevens

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Recommended Citation

Harry W. Kroeger, *Review of “Handbook on the Law of Corporations,” By Robert Stevens*, 22 WASH. U. L. Q. 145 (1936).

Available at: https://openscholarship.wustl.edu/law_lawreview/vol22/iss1/6

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BOOK REVIEWS

NEITHER PURSE NOR SWORD. By James M. Beck and Merle Thorpe. New York: The Macmillan Company, 1936. pp. xiii, 210.

Appearing, as it did, during an election year marked by the revival of political pamphleteering, this melancholy treatise on the decline of American constitutional morality has been dismissed as a Republican special pleading. But *Neither Purse Nor Sword* is not, in the full sense, a campaign document. The political doctrines expressed in its pages are far different from those on which Candidate Landon staked his chances of election. For the late James M. Beck was no mere guardian of the *status quo*. Rather, his constitutional writings expressed a deep nostalgia for the *status quo ante*.

In his best seller, *The Constitution of the United States*, Mr. Beck reserved his praise for the members of the Constitutional Convention. He had only condemnation for the political pragmatism of contemporary politicians. Those who have seen in the New Deal the first steps in constitutional immorality should be aware that Mr. Beck, in 1922, was able to see heresy on the march. In terms which would have been suited for the campaign just completed, Mr. Beck at that time denounced the tendency towards submergence of the states, the impairment of property rights by "socialistic" measures, the utilization of the commerce power for the attainment of unconstitutional ends, and, above all, the perversion of the taxing power, since the Sixteenth Amendment, to redistribute wealth. But, whereas Mr. Beck's *The Constitution of the United States* was able to command a preface written by President Calvin Coolidge, *Neither Purse Nor Sword* must go without the mark of executive sanction. Although Mr. Roosevelt is named only once in its pages, the implication is clear that the Chief Executive is the field marshal of the Philistines.

Neither Purse Nor Sword is not, as its title might indicate, concerned altogether with the role of the Supreme Court in American constitutional government. In fact, perhaps its clearest message is that the citizen must not regard the Supreme Court as the omnipotent guardian of constitutional rights but must recognize that "its moral authority still remains the bulwark of the Union only if it is sustained by the political conscience of the individual citizen." The chapter on the Supreme Court is a good popular statement, done with a realism which might well have been used elsewhere in the book. The authors point out, for example, that the effect of the Court's refusal to give advisory opinions has made many of its decisions on constitutional points seem to have the effect of locking the barn after the theft of the horse. It is recognized, however, that the granting of advisory opinions by the Supreme Court might draw the Court into party controversies even more dramatically than at present, with the possible result of undermining its moral influence.

The chief items of constitutional distintegration which are singled out for special indictment are the usual ones. Subjected to adverse criticism

are the "centripetal tendency" towards centralization of power in Washington at the expense of the States, the diminishing respect of the government for property rights, the expansion of governmental functions, the incurring of vast public indebtedness, and the utilization of income taxation as a share the wealth device. That these are not mutually exclusive items perhaps explains the undue repetition of identical material which mars the organization of the volume.

To many, however, the chief defect of *Neither Purse Nor Sword* will be what can be described as a want of realism, particularly with reference to the super-heroic light in which the Constitutional founders are presented and with reference to the amount of data for prophecy within their control. The most conservative economist would find a considerable understatement in such remarks as the following:

"The economic problems now made the pretext for political innovation are not altogether new, *although they may be somewhat different** from those which the builders of the Republic faced. . ."

Neither Purse Nor Sword is frankly a popularization of the constitutional issue, and it makes no pretense to exhaustive scholarship. It should be judged, primarily, as to its popular effectiveness. If it had little influence upon the outcome of the campaign, that is not because the authors had not done acceptably the job which they set out to do. Rather it is because the political views which Mr. Beck espoused, and to which Mr. Thorpe remains constant, are no longer widely entertained, even by the more conservative elements of the American citizenry. Constantly recurring through the pages of this book is the widely-quoted Jeffersonian quotation: "Eternal vigilance is the price of liberty." However apt that quotation might be, it would have been more revealing had the authors, in their preface, said with the bard:

"Come one, come all! This rock shall fly
From its firm base as soon as I."

St. Louis, Mo.

HARRY WILLMER JONES.†

HANDBOOK ON THE LAW OF CORPORATIONS (Hornbook Series). By Robert S. Stevens. St. Paul: West Publishing Company, 1936. pp. xvi, 946.

Some subjects in the law, such as real property and contracts, change their pattern only slightly as the old landmarks recede through time. Other subjects, and among them belong many phases of the law of corporations, change their aspects rapidly as new objects spring up in their landscape, partly building into and partly obscuring the landmarks of two or three decades before. We think of the Hornbook method of treating the law as particularly adaptable to the former class of subjects, and we approach with a great deal of curiosity a Hornbook which would neatly categorize the dynamic and changing principles of the law of corporations. Yet Mr. Stevens has accomplished the doubted end. A comparison of his chapters

* Italics are the reviewer's.

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