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Review of “State and National Power over Commerce,” By F. D. G. Ribble

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BOOK REVIEWS

STATE AND NATIONAL POWER OVER COMMERCE. By F. D. G. Ribble. New York: Columbia University Press, 1937. Pp. 241.

The purpose of this volume is "to trace the course of judicial interpretation of the commerce clause, so far as it relates to commerce among the several states."¹ Little effort is made "to consider the interacting forces, social, economic, political, merely human, or whatever they may be, which have shaped the law, but rather the effort is to consider the law which they have shaped."² A broad view is taken of the subject, however, and what one gets is no *vademecum* for practicing lawyers, but an enlightening account of *judicial trends and concepts* in one of the most important fields of constitutional interpretation.

The introductory chapter stresses the individualistic background of American constitutional interpretation. Chapter II summarizes the guidance which Marshall imparted to interpretation of the commerce clause, while Chapter IV sketches the work between Marshall's time and the decision in *Cooley v. Board of Wardens*. Then follows a chapter which treats the application of the commerce clause as a restriction on state power on the basis of doctrines and formulae current between 1850 and 1890, the story being resumed and brought down to date in two later chapters. Meantime, other chapters have summarized law and doctrine respecting positive action by Congress—chapters which are strongly critical of such decisions as those in the Sugar Trust Case, the Child Labor Case, and the *Schechter* Case.

If the book may be said to have a text it is that supplied by Marshall's statement in *Gibbons v. Ogden*, that there are certain powers "which can be most advantageously exercised by the State." "Advantageously" for what or whom? The states, the nation, or commercial interests? What the Court has been doing, as Mr. Ribble shows, is to arbitrate among these interests and sometimes it has appeared to favor one, sometimes another, albeit in the main commercial interests have had the lion's share of its favors.

In other words, Mr. Ribble has given us *a study of judicial legislation* in the most important field of national power; and in his concluding paragraphs he sets forth certain of the salient characteristics of the Court's methodology and achievement.

This volume came out before the recent decisions in the Wagner Act Cases, but this circumstance is unfortunate chiefly as depriving us of Mr. Ribble's views regarding those decisions and their probable effect on the Court's future rôle in this field of judicial review. Thanks to his generous conception of his task and his intelligent execution of it, his volume is assured against substantial obsolescence for a long time.

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1. P. 4.
2. P. 5.