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Main content

Article Preview :

THE WARREN COURT AND AMERICAN POLITICS. By Lucas A. (Scot) Powe, Jr. (1) Harvard University Press. 2000. Pp. 566. \$36.95.

Scot Powe has written a marvelous book--every page challenging, provocative, stimulating, and just a pleasure to read. Its great strength is that it works from bedrock--the Court's opinions, the approximately 1750 the Warren Court handed down over sixteen years. But this is far more than a tour of the Court's leading cases or 'best hits.' (3) "My job," Powe writes, "is neither to cheer nor boo; it is to understand and explain ... not whether the[se] changes [the Warren Court] wrought were good or bad, but how they came to be, how far they reached, and how they eventually encountered limits." (p. xv) He has two related goals:

The first is to help revive a valuable tradition of discussing the Supreme Court in the context of American politics. The second seeks to replace stereotypes with information by synthesizing the numerous books and articles on the Supreme thesizing the numerous books and articles on the Supreme Court, its decisions, and its justices during Warren's tenure.... The approach I have taken has rarely been seen in over a quarter century. (pp. xi, xiv)

It is the method of Princeton's successive McCormick Professors of Jurisprudence--Edward S. Corwin, Alpheus T. Mason and Walter F. Murphy--of Harvard's Robert G. McCloskey and, although Powe does not mention it, also in so many ways of Professor Felix Frankfurter--an eminently cultivated, historically-based tradition of scholarship that is nearly moribund today. Serving as an inspiration to Powe were the work of McCloskey and Murphy, especially the former's *The American Supreme Court* (4) and the latter's *Elements of Judicial Strategy*. "This is what scholarship is all about," Powe recalls feeling when he read them three decades ago. (p. xvi) This book, like the best of those he emulated, will last. Not the least of those reasons is Powe's refreshing, if occasionally sardonic, prose. (Who says a book can't reflect its author?)

Powe has an enviable knack of shifting smoothly between the Court and the political environment in which it works. This is a history of an institution--a mix of narrative history and doctrinal analysis with biographical snippets interspersed, all well-conceived, sensitive to the interplay of myriad cross-currents and, considering the mass of material available which Powe has deftly synthesized, blessedly concise. More has likely been written about the Warren Court than about any other "Court"; the volume happily shows no sign of abating. For some people there can never be too much of a good thing. "The history of the Victorian Age will never be written: we know too much about it," wrote Lytton Strachey. (5) Powe has put the lie to this about the Warren Court. He includes everything of importance down to mid-level details, but no more. I may have a quibble here and a question there over Powe's interpretations, but to an extent this is, as it always has been and likely will always be, a matter...

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- Supreme Court -- History, Law -- Political aspects. Publisher. Belknap Press of Harvard University Press. The liberal Warren court's decisions on race, crime, religion, free speech and obscenity startled, delighted or outraged contemporaries and had a far-reaching impact on American politics and society."—The Economist. "In an important book, Lucas A. Powe, Jr. argues that the familiar debate about the merits of the Warren Court is, in fact, wrong.