

BOOK REVIEWS

MUNICIPAL LAW. By Charles S. Rhyne. Washington: National Association of Municipal Law Officers, 1957. Pp. xxi, 1125. \$22.50.

Twenty-two years ago Charles S. Rhyne became general counsel for the National Institute of Municipal Law Officers. Last July, at the age of forty-five, he was elected president of the American Bar Association, the youngest lawyer to head that organization since its founding in 1878. Recognized as one of the nation's top authorities on municipal law, Mr. Rhyne has written over 144 research articles, pamphlets and books dealing with the legal problems that are faced by American cities and towns. In his capacity as general counsel of NIMLO, he has served in effect as a municipal attorney's attorney. He has drawn upon this long period of day by day experience with the legal aspects of local government to write an exceptionally presentable one-volume work on municipal law.

Municipal Law is not a treatise on the theoretical aspects of local law. It makes no attempt to analyze critically the developments in this field or to contribute to a deeper understanding of the nature and processes of municipal law. It is simply a summary or restatement of the law as it exists today—it makes no pretence of being anything else. The volume is designed primarily as a handbook for the legal officers of cities and towns. Their needs and interests were determining factors in shaping the approach and contents of the study. As the author states in his preface: "In writing this volume as a handbook for their daily use the municipal attorneys' ideas of scope and utility have been followed insofar as possible." Few will question that the author has attained his objectives. *Municipal Law* should prove a helpful working tool both as a handy reference and as a point of beginning for more detailed research.

It is interesting to note the unique research advantages that the author enjoyed in the way of source materials. Available to him in NIMLO's library and files were (1) one of the largest and most complete collections of municipal legal material in existence, (2) opinions of municipal attorneys in most of the major cities, (3) one of the largest collections of city codes and ordinances ever assembled in one place, (4) copies of all court decisions reported in the field of municipal law for the past 22 years, and (5) an extensive collection of research reports prepared by city attorneys on various aspects of local law. This material has been constantly drawn upon by the Institute in preparing its many research reports, its model ordinances, its yearly *Municipal Law Review*, and its three monthly publications, *Municipal*

Law Journal, Municipal Law Court Decisions and Municipal Ordinance Review.

The phenomenal population growth of recent decades has brought new needs and new problems to urban America. Cities and towns have been compelled to enlarge their activities in order to cope with governmental problems that have multiplied in number and complexity. This explosive growth is reflected in the changing character of the laws governing municipalities. New law is constantly being made to meet the increasing needs and problems of local government. The present study recognizes these new conditions. Its thirty-two chapters bring together for the first time a comprehensive and up-to-date treatment of legal developments in the field of public housing, urban redevelopment, off-street parking, planning and zoning, municipal airports, and federal-city relations. The volume by no means neglects treatment of topics such as tort and contractual liability, normal police powers and eminent domain. Full coverage is given to all traditional phases of municipal law. However, the distinct—and to this reviewer the most valuable—characteristic of Mr. Rhyne's volume is the emphasis that it places on the new functional areas of city government.

Perhaps the most perplexing problem in the field of local government in recent decades has been the growth of metropolitan areas with their numerous political jurisdictions. As the population of the central cities have spilled over into the suburbs, new municipalities together with fire districts, water and sewage districts and other special units have been created. These units have brought into existence a whole new series of intergovernmental relations at the local level. They have also engendered many legal problems which have resulted from overlapping territorial jurisdictions, the efforts of cities to exercise some control over adjacent fringe areas as a matter of self-protection, and the contractual agreements among local governments for public services. The author outlines the major legal difficulties involved in each of these interrelationships. During the course of his treatment he discusses the legality of the methods utilized by the cities in their efforts to solve metropolitan zoning, traffic, sewage, sanitation and similar problems.

Intergovernmental relations involving the federal government and the cities present another topic of inquiry. Many new relationships between federal agencies and local municipalities have developed since 1930. The federal government presently by-passes the states in making financial assistance directly available to cities for airport construction, low rent housing including housing for the aged, slum clearance and urban redevelopment, and certain public works programs. In addition to direct aid, the federal government since 1930 has established many new agencies handling social security and other

programs that operate at the local level. These new relations have given rise to legal problems involving federal-local powers and responsibilities that were unknown until recent years. Questions pertaining to contractual transactions between the two governmental levels and to immunity from taxation and regulation for the new federal agencies operating within municipalities have been particularly significant. The author devotes a separate chapter to these matters. His summarization of the extent to which federal agencies are subject to the building codes, zoning laws and general police powers of the cities is most helpful.

A full chapter is also devoted to public housing, slum clearance and urban renewal, fields that are assuming increasing importance in city government. The discussion concerns itself primarily with the constitutionality and validity of statutes dealing with these functions. Unfortunately, the treatment is too general and abbreviated to be of much practical assistance. Citations to cases, statutes and other reference sources are nevertheless extensive and valuable and help to supplement the text material. A similar observation might be made about the author's discussion of off-street parking. This subject, which is only briefly treated, is of considerable interest and concern to the modern municipality. The difficulties caused by traffic congestion have forced cities to assume control over the development of off-street parking facilities and even to enter into the parking lot business. Again, this increased activity on the part of local government has brought new legal questions.

Municipal officials have come to recognize that the control of land use is one of the most important functions of city government. Without proper planning for roads, public utilities, schools, parks and playgrounds, and for residential, commercial and industrial construction, orderly community development is not possible. The city of today is paying the price for the lack of planning of yesterday. Inadequate recreational facilities, slums, traffic strangulation, and unsatisfactory mixtures of residential and commercial properties are largely the product of improper land use. Through planning, a community attempts to anticipate future developments, prepare for them and guide them into desirable patterns of growth. To be effective, municipal planning must be implemented by zoning laws, building codes, subdivision regulations, and by a realistic program of public improvements. Mr. Rhyne is well cognizant of the importance of this whole field to satisfactory urban living. His chapter on zoning and planning is by far the longest (170 pages), the most thorough, and the most rewarding chapter of the entire book. No phase of zoning is left untouched; building regulations, setback lines variances, special permits and subdivision control are carefully discussed and documented. This

chapter might well be made into a separate volume for the use of members of zoning and planning commissions and of local lawmaking bodies.

Any criticism of *Municipal Law* would have to rest largely on the author's failure to treat certain aspects of the field more fully. But the limitations of space obviously require that some topics be slighted. What to include and what to omit are matters over which reasonable minds (and surely those trained in law) might well differ. Mr. Rhyne's judicious selection and his emphasis of subject matter should meet general acceptance. Where he has been brief in his discussion of a particular topic, his copious annotations should be of assistance. One mild protest might be raised in this connection. It would have been helpful from the standpoint of ready reference if the author had cited law journal articles wherever pertinent. While he refers to NIMLO publications, only on one or two occasions does he cite any of the legal periodicals.

The subject matter of law does not readily lend itself to brilliant literary expression. *Municipal Law* does nothing to dispel this belief. It is, however, written in an easy and readable style that generally avoids the "brief-writing" quirks, the redundancy, the pedantic and stilted language, and the obsolete expressions that seem to be part of the traditional working tools of the lawyer. Mr. Rhyne's carefully planned, ably presented, and concisely stated volume should win wide acceptance among municipal attorneys, city officials, law school students, and citizens who are interested in learning more about the laws governing municipalities.

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