

Rhyne: Municipal Law

Frank M. Opeka

Follow this and additional works at: <https://via.library.depaul.edu/law-review>

Recommended Citation

Frank M. Opeka, *Rhyne: Municipal Law*, 7 DePaul L. Rev. 288 (1958)
Available at: <https://via.library.depaul.edu/law-review/vol7/iss2/24>

This Book Reviews is brought to you for free and open access by the College of Law at Via Sapientiae. It has been accepted for inclusion in DePaul Law Review by an authorized editor of Via Sapientiae. For more information, please contact digitalservices@depaul.edu.

sistency and direction of judicial growth can best be gauged by a frequent examination such as this.

Another contribution lies in an examination from a particular point of view, such as pressed by this writer. The several opinions are also measured against Berns's own concept of the low position of the first amendment and the rights there concerned. In this phase, however, the study cannot rank as a profound examination of the court or even of the first amendment. Berns maintains throughout a flippant and superficial attitude toward the several justices by name, and to many students, such as Zacharich Chafee, whose works rank high in American literature on the subject. Without a pause for definition, he cavalierly identifies Justices Black and Douglas as "libertarians" and "liberals," and then uses the term as one of casual derision, without at any time thinking himself called upon to establish basic definitions for his terms and premises. While he has competently studied major findings in a limited area of judicial constitutional examination, he attempts to draw from his study sweeping conclusions from which no basis in the study exists for support. He fails to bring perceptive thinking on his own part to sustain the theory that constitutional guarantees are intended to be less than stated by the words of the framers. No more so, does he bring valid argument to sustain his premise that the court today holds freedom of speech in an unduly preferred position. Aside from being repugnant to much that is part of American constitutional heritage, these concepts offer no constructive precepts to replace those they would destroy.

MARK J. SATTER*

* Member, Chicago Bar Association.

Municipal Law. By CHARLES S. RHYNE. Washington, D.C.: National Institute of Municipal Law Officers, 1957. Pp. xxi, 1125.

This single volume on Municipal Law consisting of 980 pages is difficult to appraise primarily because of the great divergence of statutory law on the material covered. The subject of municipal law is vast and complex so that the approach of an analysis of this book necessarily becomes at best, subjective. The volume in question is, in fact, as its name implies, a restatement of municipal law containing a new approach and summary of the law as it exists today.

The author's approach to the subject is satisfactory. The study is along traditional lines, introducing the subject matter with searching text analysis and differentiating the text with the often conflicting decisions of the courts of the various jurisdictions. The Table of Contents and the Index are both excellent; however, the author neglects to include in this volume a Table of Cases so necessary to professional use of such a text. It is also to be noted that while the volume contains many citations from the several states, it does not afford a sufficient digest of the opinions to apprise the municipal attorney of the rationale of the case. While general principles of law are sought to be given, in most instances they might have been qualified to the extent that there is not a unanimity of holdings by our several courts with respect to the text matter.

The volume does contain excellent chapters on several topics which are new, such as Housing, Slum Clearance, Urban Redevelopment, Urban Renewal, Extraterritorial Powers and Relations, Parking and Parking Facilities,

City-State Relations, Federal-City Relations and Airports. These are timely topics and are well defined by the author.

The volume contains an excellent statement of the law pertaining to zoning under the heading of Zoning and Planning. It is regrettable, however, that so little text information is given on planning and subdivision control. Particularly is this true in view of the fact that such planning and subdivision control are of great moment and concern not only in the metropolitan areas where the subjects predominate, but in the other urban areas as well. The same may be said in connection with the chapter on Extraterritorial Authority. Most of the states have delegated such jurisdiction in connection not only with zoning, but with respect to other areas of municipal powers, subdivision control in particular. An analysis of subdivision control legislation indicates that it is one of the great problems affecting municipalities which should have been given more consideration.

It cannot be doubted that the author has compiled a scholarly book on the subject of municipal law and there is but little question that it will be of great assistance to municipal attorneys who may use it as a ready text for the many problems confronting them. However, an examination and analysis of the many decisions of the courts as they pertain to the problems peculiar to each state is still necessary.

It certainly could not have been an easy task to restate and rewrite a volume of this kind but because of attempting to include all of the text material into one volume the author may have tried to accomplish too much.

FRANK M. OPEKA*

* Member of the Illinois Bar.