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Book Reviews

LABOR UNIONS AND MUNICIPAL EMPLOYEE LAW, by Charles S. Rhyne. National Institute of Municipal Law Officers, Washington, D. C., 1946.

The nature and scope of Mr. Rhyne's latest work can be summarized in the few words necessary to state that it is a collection of the few materials available on the subject of labor organization for municipal employes. Despite the impressive length of the work, the materials collected are few in number: Some ten court opinions quoted in full, a number of brief and generally off-hand opinions by various state attorneys general and municipal attorneys, texts of a few government-labor union agreements, a letter by President Roosevelt, and two memoranda from the general counsel of the A. F. of L. and the C. I. O. Some one hundred and fifty-six pages are occupied by text, of which a large part consists of quotations from the materials reproduced in the appendix.

The field, such as it is, is doubtless comprehensively covered, for the problem of the relation of labor unions to government employes is a new one. Although the authorities cited by Mr. Rhyne may be helpful, it is obvious that in a field so supercharged with emotional feeling decisions are not likely to be predicated on mere matters of precedent. In point of fact the opinions of both Joseph A. Padway, General Counsel, American Federation of Labor, and of Lee Pressman, General Counsel, Congress of Industrial Organizations, are obviously the result of at least more careful study than the opinions of the various attorneys general, and perhaps—from a purely legalistic point of view—are the more valid.

But consistency of logic will obviously not carry the day. Despite the length with which the matter is dealt, the questions presented by labor union contracts with municipal governmental agencies will not—and perhaps should not—be resolved solely or even partly on the basis of whether or not an invalid delegation of powers is involved. It cannot but strike the eye, as it struck President Roosevelt, that the techniques of industrial warfare in private business cannot be imported intact into the field of government if effective government is to survive. This is not, however, to say that labor unions have no place among govern-

ment employes. In the same statement in which President Roosevelt made his frequently quoted manifesto against "militant tactics" on the part of "any organization of Government Employes," he also recognized that "organization on their part to present their views... is both natural and logical" and that "Organizations of Government Employes have a logical place in Governmental affairs."¹

Mr. Rhyne and the materials quoted by him do a service, however, in the attempt to determine just what this place should be by breaking the question of organization of government employes into a number of component questions. It is evident that a categorical denial of any right on the part of any employes to organize for any purpose is not apt to be issued by any court. The Firemen's Benefit Association and the Annual Policemen's Ball are too familiar and too harmless to merit censure. On the other hand, it is equally obvious that most citizens and most courts would disapprove a strike of cabinet officials for higher wages. No one embracing principle can cover the field. Therefore, it is well to consider the question in the light of the categories used by Mr. Rhyne:

(1). The Right of Municipal Employes to Organize and Join Labor Unions.

(2). The Power of Municipalities to Contract with Labor Unions Representing Municipal Employes.

(3). The Power to Contract on Specific Questions, such as Wages, Hours, Closed Shop, and other salient features of the usual Collective Bargaining Process in Private Industry, including Arbitration, the Check-off, the Right to Picket, the effect of Civil Service Regulations and Vacations, Holidays, and related matters.

(4). Constitutional and Statutory Provisions.

The right to strike, of course, is a separate problem of major importance. Like the other problems involved, however, it would appear not to be subject to any pervasive legal categorical imperatives. Because Mr. Rhyne's text fails to consider the many non-legal aspects of the problems involved, it may be subject to some criticism. But Mr. Rhyne purports to furnish only a com-

1. Roosevelt, Franklin D., Letter to Luther C. Steward, President, National Federation of Federal Employees, August 16, 1937, reprinted in Rhyne, *Labor Unions and Municipal Employee Law* (1946) 434-437.

pilation and brief analysis of the little legal material presently available. And this he does very well.

It is amusing to note that at least one city has refused a defense plant corporation contract because the provision against discrimination against employes, because of race, color, creed or national origin was held to be an alienation of part of the discretion conferred by law on municipal officials.² It is obvious, if such an attitude can be taken in the light of the Fourteenth Amendment to the United States Constitution, that Mr. Rhyne's carefully compounded materials are apt to serve as little more than pegs for decision handing. As such, however, they may serve many courts and municipal attorneys in good stead.

ALVIN B. RUBIN*

ZACHARY TAYLOR, by Brainerd Dyer, Baton Rouge, Louisiana State University Press, 1946. Pp. x, 445. Illustrated, \$4.00.

Except for a volume published in 1892 by O. O. Howard, Zachary Taylor, for ninety years, was passed over by biographers. Then in 1941 Holman Hamilton published the first of a projected two volume study. In 1946 Silas Bent and Silas Bent McKinley's *Old Rough and Ready* appeared. Now in the same year, comes another biography by Brainerd Dyer. And, if grapevine reports be true, the second volume of Hamilton's work will issue from the press in the not far distant future.

That biographers should steer clear of the twelfth president for nearly a century is not difficult to understand. Despite his catchy sobriquet of "Rough and Ready" won in the Seminole campaigns of the 1830's Taylor was a dull character. Not so easy to explain is this recent rush of writers to record his doings. Could it be that biographers are running out of subjects? Or is the answer to be found in a tendency of moderns to attempt the impossible? Whatever the explanation, "Old Zachary" has profited little by recent excursions into his history. Despite the worthy efforts of Bent and McKinley, Hamilton and Dyer, he remains, in war, in peace and in the hearts of his countrymen, plain, without glamor and unimpressive.

Reared in Kentucky on the Muddy Fork of Bear Grass Creek, Zachary's opportunities were better than those of the average frontier boy. His Virginia father, prospering on the

2. Id. at 91.

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