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Book Review: Handbook of Local Government Law, By Osborne M. Reynolds

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BOOK REVIEW

Handbook of Local Government Law, by Osborne M. Reynolds. St. Paul, Minn.: West Law Pub. Co., 1982. Index, \$19.95.

The *Handbook of Local Government Law* is one of the newest additions to the West Publishing Company's Hornbook Series and provides the student and practitioner with a useful reference for challenging legal questions growing from the complexity of urban and suburban life. Large portions of the United States have rapidly developed into clusters of contiguous and adjacent local government units, which have in turn fragmented political power among these constituent bodies.¹ These swelling metropolitan areas, inhabited by two-thirds of the United States' population, have left local governments unequipped to deal with complex political, economic, and social problems, including: police and fire protection; traffic regulation; garbage disposal; sewage; water supply; health regulation; prevention of water, air, and noise pollution; establishment and maintenance of airports and other transportation facilities; the creation and protection of recreation areas; and financial crisis.² While there has been much written on these formidable problems facing local governments by experts in the fields of political science, sociology, and urbanology, it is the legal profession, in many instances, that has implemented new laws to deal with this changing urban landscape. The *Handbook of Local Government Law* brings together recent legal responses to these problems and sets forth fundamental legal principles in an area of the law that is bringing about dramatic changes to modern American jurisprudence.

While legislatures and city councils attempt to solve the present and future problems of local governments, it is the judicial system that must ensure these changes preserve constitutional safeguards. As Dr. Reynolds points out, there has always been an implicit conflict between the search for individual freedom and happiness and the desire to unite with others for mutual security and well-being.³ This precarious balance between independence and interdependence requires those who implement new law to preserve constitutional safeguards without sacrificing effectiveness.

Among the recent fundamental changes in the forms and structures of local government are the following: (1) the creation of metropolitan governments; (2) intergovernmental collaboration; (3) city-county consolidation; (4) consolidation of smaller municipalities into larger ones; (5) annexation of smaller contiguous municipalities by central cities; (6) county government of municipalities within its borders; (7) local councils of government; and (8) the expansion of the familiar governmental device of special purpose districts

1. E. McQUILLIN, *MUNICIPAL CORPORATION* iii (3d ed. 1971).

2. *Id.*

3. O. REYNOLDS, *LOCAL GOVERNMENT LAW* 1 (1982).

and authorities.⁴ In dealing with the various levels of local government and their laws, numerous reference tools have emerged to aid lawyers in their task: (1) multivolume treatises on local government law; (2) local government casebooks; and (3) specialty books dealing with specific areas of local government law. Drawing from these books and other sources, the *Handbook of Local Government Law* stands as an up-to-date, single-volume reference textbook explaining the general and fundamental principles for the attorney or student facing this complex field of law. As Dr. Reynolds notes, an attorney may be drawn into dealing with modern municipal problems in at least four ways:

(1) Some attorneys work within a local government themselves, as where they work in the city attorney's office, as attorney for a school district, etc. (2) Even the private practitioner who does not have any local government for a client may frequently encounter problems of Local Government Law zoning matters, tort actions against a city, etc. Private citizens can seldom escape from some dealings with various units of local government, and many of these dealings require the help of an attorney. (3) Lawyers often become involved quite aside from their law practice, in local politics and government as officeholders or candidates for office, or simply as concerned citizens. (4) Lawyers, whether or not dealing at all with local government can hardly avoid contact, as lawyers and as citizens, with some levels of government.⁵

Dr. Reynolds' first chapter, "The Study of Local Government Today," examines the explosion in urban growth and its accompanying problems, labeled by some writers as an "urban crisis."⁶ With the onset of widespread crime, water and air pollution, congested traffic, and problems in garbage disposal and health regulation, many large cities are on a downward slide, resulting in a large decline in population. This exodus from cities to suburbs and small towns has created a loss in the tax base of large cities. As financial crisis sets in, these cities struggle to maintain basic services without the means to undertake new construction or even substantial repairs to existing facilities.⁷ Moreover, they face the dilemma of whether to raise taxes in an attempt to solve their problems, at the risk of losing more residents and businesses to the surrounding suburbs and small towns. Dr. Reynolds concludes, "[t]hus, a city may be caught in a vicious cycle of rising costs and shrinking tax base."⁸

4. E. MCQUILLIN, MUNICIPAL CORPORATIONS iv (3d ed. 1971).

5. O. REYNOLDS, LOCAL GOVERNMENT LAW 8 (1982).

6. *Id.* at 1.

7. *Id.* at 2. Dr. Reynolds cites the reader to: "Race Against Ruin in Budget-Strapped Cities," U.S. NEWS & WORLD REP., May 18, 1981, at 84. On financial problems of U.S. cities, see generally chapter 15 of Dr. Reynolds' book. On the effect on city planning—sometimes, perhaps, too great an effect—that has been exerted by proponents of the view that the financial plight of the central cities is the most serious problem facing urban America, see Comment, *Urban Redevelopment and the Fiscal Crisis of the Central City*, 21 ST. L. U.L.J. 820 (1978).

8. O. REYNOLDS, LOCAL GOVERNMENT LAW 2 (1982).

Dr. Reynolds, however, emphasizes the continued importance of the metropolitan areas as exemplified by two recent trends: (1) There has been a long-run tendency of large cities and their suburbs in some areas of the country—such as that between Boston and Washington, D.C.—to blend into one another, forming a single “supercity” or “megalopolis.” (2) There has been a *recent* trend in many cities toward movement back into the city-center, away from suburbs and rural areas—a process sometimes called “reverse flight” or “reverse exodus.”⁹

Recent changes in the growth pattern in the United States have brought problems not only to the large cities that have been, for the most part, losing population, but also to the suburbs and small towns that have, generally, been experiencing unprecedented growth.¹⁰ While this growth has provided small towns and suburbs with an adequate source of revenue, it has left them faced with the problem of providing adequate services for the great influx of new residents and businesses. “American municipalities of all sizes,” concludes Dr. Reynolds, “are thus encountering formidable challenges.”¹¹

The topics covered in the *Handbook of Local Government Law* are those most often dealt with in a basic law school course on the subject and can be broken down into three broad categories: (1) the basic makeup of local governments; (2) the activities of local governments; and (3) the means for holding local governments liable and/or making them more responsive to their citizens.

The material begins with an exploring historical discussion of the various local government units. Next is a discussion of the local government’s powers and limitations as first prescribed by the state and federal government, followed by an examination of the municipal charter as a source of power. The author then turns to what he considers are the three most important ingredients in local government: (1) territory over which the government has some control, (2) people to perform the functions of government, and (3) money with which to pay the costs of activities.

The middle chapters concentrate on the activities of local governments and begin with a discussion of the efforts and wisdom of a local government encouraging business and industry into the community or entering into business itself (most often through the operation of utilities). Then, after a look at the local government’s active role in land-use control and planning through its zoning laws, right of eminent domain, urban renewal, and public housing, six other important municipal activities are discussed: regulating trades, business, and commercial activities; controlling public gatherings; alleviating poverty; providing cultural and educational facilities and services; and controlling traffic and providing means of transit.

The concluding chapters are an exegesis of the different areas of local government liability and the various means for making a local government more

9. *Id.* at 6.

10. *Id.* at 7.

11. *Id.* at 8.

responsive to its citizens. This section of the book begins with a comprehensive look at a local government's contractual obligations and potential liability in tort and includes thorough documentation of recent case law. The author finishes with a discussion of the exceptional remedies available to bring about the passage, amendment, or defeat of legislation, to oust persons from local office, and to compel or prevent particular action by municipal agents.

It is important to note that the citations in the *Handbook of Local Government Law* are not limited to cases, statutes, and other "legal" authorities, but include newspaper and magazine articles, providing the student or lawyer with insight into today's urbanization. Dr. Reynolds concludes that "laws on municipal matters can only be effectively studied and analyzed if considered in light of the real-life urban situations with which they deal. The laws are, after all, only *one* part of a multi-faceted attempt to deal with human problems."¹²

The *Handbook of Local Government Law*, by Dr. Reynolds,* is another fine addition to the West Publishing Company's Hornbook Series. The book is an excellent source of study for a local government law course, providing the student with not only a review of the current law but also an explanation of the problems in local government as viewed by those both within and outside the legal profession. It is also a useful addition to the legal library of any practitioner, who will be faced more and more with challenging legal questions arising from the growing complexity of urban and suburban life. Dr. Reynolds should be commended for the fine organization and presentation of a volatile area of the law in his thoroughly researched single-volume text.

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12. *Id.* at 11.

* Dr. Reynolds is currently a member of the faculty of the University of Oklahoma College of Law where he teaches local government law, torts, regulated industries, and international law.