

The Law of Zoning and Planning (2nd ed.)(Book Review)

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The whole man possesses will as well as reason. Liberal scholarship is too often disdainful of man's will. It is not conducive to move man to action. This book is no exception; it is avid, with but the quietist call for action. Indeed, it is extremely difficult to be sure Millsbaugh really means to sound this call; perhaps, he will be satisfied with merely having made a learned contribution to the library of political literature.

JAMES ANTHONY O'CONNELL.*

THE LAW OF ZONING AND PLANNING (2nd Ed.). By Charles A. Rathkopf.
New York: The Grosby Press, 1949. Pp. xii, 667. \$15.00.

The body of law covered in this well organized book is not treated in most law school curricula. Most lawyers, therefore, come to the Bar with scanty awareness of the numerous difficult and important problems here treated with the most thorough and copious documentation. For this reason alone, this compact volume is a priceless source of information for brief writers and judges whose task it is to interpret the statutory schemes of municipal zoning and planning across the country.

With increasing urgency, the felt necessities of the times are dictating greater and greater care in the formulation of both zoning and city planning. Not only considerations of health and safety, which in the past were almost the sole criteria of legislative and judicial action in this field, but a keener interest in aesthetics, as well as intra-city transportation, have assumed vast importance in municipal affairs. In New York City, for example, the post-war overcrowding of people and vehicles in congested areas has led to popular demand for reform. Nor are other large urban centers in any better condition. It was inevitable, therefore, that these hard facts should lead to a new judicial approach to the problems involved, to a broadening of the scope of administrative discretion, and to a tightening of the individual rights of property to which former generations had grown accustomed.

The present volume shows ample appreciation of these developments. It contains not only a reasonably complete restatement of existing rules of law, but, in addition, the citation of countless authorities, and careful analysis of many leading cases. It will probably surprise many lawyers to learn that the table of cases cited in this book occupies 67 printed pages. It is almost a certainty that most lawyers who are required to give opinion in this field will not find it necessary to go beyond this volume and then read the cases cited by the author under the many headings treated.

The author distinguishes carefully between problems of zoning and problems of city planning, pointing out that the former deals with the essential

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features of progressive handling and adequate future development, while the latter has in mind the making of a general scheme or plan for future physical development of a city. The problems raised are, of course, the same where the purpose of the municipality is to provide a general future plan for long-term city growth or where it is to deal with present necessities. In each case, it is established that the limitation on the right to use property in any way that may seem to the city in the best interests of the growth of the municipality does not involve a violation of the rights of the individual under the Fourteenth Amendment. It will seem strange to many lawyers that prior to the decision of the Supreme Court in the *Euclid* case¹ this proposition was not generally accepted.

The general plan of the volume is, first, to consider the constitutional problems affecting all forms of zoning and planning. The essential elements of constitutional requirements are listed state by state, with appropriate reference and quotation from decisions of the Supreme Court of the United States.

Having settled the constitutional problems, the author then turns to the specific interpretation and administration of zoning, giving comprehensive analysis of cases on each of these matters and treating in detail specific types of zoning regulation and their interpretation by the courts of the various states.

An appendix dealing with the New York Planning Commission is set forth at the end of the book, giving its history, organization, the kind of work it has been doing, and a general description of its activities.

Added to all this, there is an appendix of useful forms which almost every practitioner will find invaluable in the institution of litigation testing problems of zoning and planning.

Busy practitioners who have specific problems before them are apt to be impatient with text books which set forth long and involved theoretical discussions. Practical guides to cases and a speedy but logical analysis of the decisions make a law book useful on the lawyers' desk. This volume amply fulfills these requirements. Moreover, it is well gotten up, with a good table of contents, complete table of cases, and a most helpful index. It is the *sine qua non* of intelligent research in this field.

ROSE LADER,*

¹ *Euclid v. Ambler Realty Co.*, 272 U. S. 365 (1926).

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