

# LAW AND CONTEMPORARY PROBLEMS

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## FOREWORD

In the space of two years, the problem of low-cost housing has been transmuted by the alchemy of economic emergency from a topic for academic discussion and decorous agitation to the objective of a program for immediate action. This abrupt transition has revealed that while the evils to be attacked and, to a lesser extent, the goals to be attained by such a program are well-defined, the ways and means of achieving the ends in view are far from manifest. Money is available; the architects' blueprints are ready; but action has been slow in forthcoming.

Moreover, it has grown increasingly evident in this period that our legal mechanism is ill-adjusted to the demands which the housing program has made upon it. To divert the private corporation, the mortgage, and the lease, traditional tools of private enterprise, to the task of effectuating a long-term social policy, or, in the alternative, to create public bodies charged with duties which heretofore have never been entrusted to governmental agencies, and, in either event, to devise means of subjecting such instrumentalities to the remote control of Washington, such has been the initial burden which has been imposed upon the lawyer. The improvisation of statutes, the hasty begetting of corporations and authorities, the elaboration of contractual controls, bear witness to our legal unpreparedness, as well as to the energy and ingenuity of counsel who have been pressed into this service.

They have laid the legal foundations for the American housing program; experience alone can disclose whether these will prove equal to their load. In the meantime, that program moves on—to new problems. Land must be assembled. Our clumsy condemnation procedure may crack under the strain. The limits of federal eminent domain power may have to be determined. Eventually, however, the dirt will fly; buildings will rise. One can forecast a host of legal questions which will then arise out of the operation of these projects. Some have been guarded against; the solution of others must await the event.

When housing, as part of the recovery program, comes to an end, the housing problem will not have been solved. The slum and the blighted area will still be with us, and the processes which have produced them will still be at work. It is probable that then a new attack must be begun, perhaps on a broader front, perhaps with different weapons. Here, again, there will be work for the lawyer.

For the immediate present as well as for that not-distant future, it is essential that thoughtful consideration be directed to the legal problems integral to low-cost

housing. And since these problems are not severable from the economic, social, and political questions to which they are linked, they should be the concern of the business man, the property owner, and the student of the social sciences, as well as of the lawyer and the legal scholar. But the responsibility is peculiarly that of the legal profession. Law has too long been merely the wisdom of hindsight, and legal science but its refraction. Conscious planning for the needs of the future is now in order.

The symposium which constitutes this issue of *Law and Contemporary Problems* has for its primary purpose the presentation of the legal problems which those engaged in the housing movement have encountered and must reckon with. In consonance with the policy of the periodical, there has, however, been an attempt to present these problems in historic perspective and to relate them to their current social context. With this end in view, several articles have been included which do not purport to deal directly with matters of immediate concern to the lawyer. There has, however, been no effort to supplement the already extensive literature on the effects of improper housing or on the technological problems in the design and erection of suitable low-rental dwellings.

The plan of the symposium needs little elucidation beyond that afforded by the table of contents. Attention has for the most part been focussed upon the current program, not so much in the belief that it exhausts the possibilities of constructive action as in recognition of the immediacy of its demands. The housing problem leads directly, as Mr. Nelson in his suggestive study points out, to a consideration of the whole problem of the control of urban land use, while Messrs. Draper and Augur, in their contribution, make it clear that the problem does not stop at the city line. Yet if these and other leads had been pursued, the symposium would have grown to encyclopedic proportions. In such a situation, "space" becomes the arbiter.

The authors of the articles which follow are among the leaders of thought and action in this field. Recent developments have subjected them to a multitude of exactions upon their time and energies, and for their willingness to write for this periodical under the stress of such circumstances, the editor and his colleagues are deeply appreciative. The editor is especially indebted to Mr. Harold S. Buttenheim, Editor of *The American City*, and Mr. Charles S. Ascher, Executive Director of the National Association of Housing Officials, for their aid and counsel in the organization of this issue.