

LAW AND CONTEMPORARY PROBLEMS

VOLUME 36

SUMMER, 1971

NUMBER 3

FOREWORD

Public officials and private preservation groups have recognized the need for more comprehensive legal controls to prevent the destruction of historic buildings and neighborhoods. While early preservation efforts relied on adaptations of private land use control devices and occasional public regulation, the recent emphasis has been on greater awareness at the governmental level to insure that future land use planning is undertaken with deference to the heritage embodied in historic properties. Recent evidence of public concern in this area is found in legislation which facilitates private preservation projects and in administrative structures which invoke governmental authority for the protection of landmarks. This symposium focuses on the issues which have emerged as the law of historic preservation has been increasingly formalized.

Legislative developments affecting historic preservation have occurred at all levels of government. Professor Oscar S. Gray outlines the expanding role of federal legislation in preservation efforts. Professor Paul E. Wilson and H. James Winkler II comment on state legislation affecting historic preservation. Russell L. Brenneman's treatment of the use of common law interests in land to control the surroundings of historic sites includes a discussion of two recent state statutes authorizing the creation of conservation and preservation restrictions.

A comparative perspective is provided by Graham Ashworth's article on the British statutory structure. Federal legislation in this country has given rise to a controversy about the right of individuals and preservation groups to contest federal projects which adversely affect historic properties. John W. Vardaman, Jr. discusses recent developments concerning this issue.

In his discussion of architectural controls for individual landmarks, John S. Pyke, Jr. reviews the basis of municipal regulation of historic properties and discusses the manner in which various ordinances attempt to balance public and private interests. The treatment in this symposium of governmental activity at a local level also draws upon developments in two major municipal preservation programs. The preservation legislation of New York City provides the focus for four short articles by authors directly involved in the implementation of that city's program. The structure and operation of the Philadelphia Historic Commission is described by Margaret B. Tinkcom.

Two articles deal with the broader implications of the preservation effort. Michael deHaven Newsom concludes that past preservation activities have operated to the detriment of racial minorities. He suggests methods that can be employed to insure that minority concerns for housing and racial identity have an impact on future restoration efforts. The relationship between historic preservation and the more general concern for environmental quality is analyzed by Malcom F. Baldwin.

The articles in this symposium were selected from papers originally given at a conference on historic preservation law sponsored by the National Trust for Historic Preservation in May, 1971.¹ The Trust's sponsorship of the conference is a further example of the active role which it has played in preservation efforts. A private organization chartered by Congress in 1949, the National Trust has been singularly instrumental in providing the impetus for a coordinated national effort for preservation. It has developed extensive publication and technical assistance programs for local projects. Its importance, however, extends much beyond the technical expertise of its staff. Its national stature has in large part been achieved by its effectiveness in generalizing the concern of local preservation groups. The Trust has served as national spokesman on legislative matters and has taken an increasingly active interest in judicial developments. Recognition of the significance of the role of the Trust is given in the National Historic Preservation Act of 1966 which designates the Chairman of the National Trust as a member of the Advisory Council on Historic Preservation and provides for a program of matching grants to the Trust.² Its Office of Field Service has recently expanded its program for involving the Trust in matters of legislation, litigation, and legal research.

April, 1972

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¹ A separate publication is planned for much of the conference materials not included in this symposium. These may be secured from the National Trust for Historic Preservation, 748 Jackson Place, N.W., Washington, D.C. 20006.

² 16 U.S.C. § 470 (1970).