Local development law, a survey of the powers of local authorities in regard to housing, roads, lands, buildings & town planning

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LOCAL DEVELOPMENT LAW

A SURVEY OF THE POWERS OF LOCAL AUTHORITIES IN REGARD TO HOUSING, ROADS, LANDS BUILDINGS & TOWN PLANNING

BY

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SWEET & MAXWELL LTD.
3 CHANCERY LANE, LONDON, W.C.
First published in 1919

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TO

THE RIGHT HONOURABLE LORD BIRKENHEAD
LORD HIGH CHANCELLOR OF GREAT BRITAIN
THIS SURVEY OF PUBLIC CONTROL
OVER THE DEVELOPMENT
OF THE COUNTRY IS
DEDICATED
PREFACE

There are at present in England and Wales about eighteen hundred local authorities charged with the business of housing and town planning and the control of local development. This means that there are about eighteen hundred council clerks, many thousands of officials, and tens of thousands of councillors more or less responsible in the matter. But I have often wondered how many of these thousands have had time and opportunity, although they may have had the inclination, to make a systematic survey of their various powers bearing upon this problem—a problem upon the solution of which so much of our welfare depends. Any who have attempted the task will know that it involves the study of a vast number of Acts of Parliament and the perusal of massive volumes in the presence of which even a professional lawyer sometimes affects more confidence than he really feels.

It is, however, a matter of public importance that these multitudinous powers should be surveyed as a whole and comprehended and co-ordinated to the solution of what is in fact a single and undivided problem, namely, the improvement of
the country upon the most convenient, healthy, economic, and agreeable lines.

The following pages are intended to cover the whole ground, but they do not profess to deal exhaustively with the matters of which they treat; I have often crossed out what I had written when it seemed on second thoughts to enter into too great detail; my object has been to emphasize the points which would be generally regarded as important and to give references by which any one can find out more fully whatever he wants to know.

I hope, therefore, that this book may be useful, not only to the public and to county and borough and district councillors, but also to those who are professionally concerned in these matters. As regards the latter I may claim some experience, and have at least had every opportunity of forming an opinion as to what it is that many of them want to know and cannot find out.

The subject here treated is not, of course, the whole sphere of local government, but the group of powers bearing on the laying out and development and improvement of towns and country districts, and no attempt is made to deal with the subject except in its legal aspect.

After a chapter introducing the whole subject there follow three chapters—on Housing; on Roads; and on Public Grounds and Buildings—in which are set forth the powers of a local authority to control and promote the convenient development of a town without a town planning scheme. Then follows a chapter on Town Planning under the Town Planning Acts. Lastly—because
private Act of Parliament has been the pioneer of everything that has been achieved in this department of local government, and supplements all other powers, and will no doubt in the future, as in the past, show the way to further development—I conclude with two chapters on private Act of Parliament and the Lands Clauses Acts which are so closely related to the whole subject.

As there is no one who does not happen to be ignorant of one elementary fact or another, I have not hesitated to state whatever is necessary to my purpose, however elementary it may be. A further justification for this course lies in the truth that familiar facts acquire new values according to the context in which they are placed. I have, on the other hand, been frugal in the use of words, and the labour involved has been inversely proportional to the length of the book. It would not be difficult to enlarge it into a very big volume, but this would defeat the object with which it is written.

In the most important matters of housing and town planning the powers of the London County Council and the Metropolitan Borough Councils have been specially referred to, but as regards many incidental powers of control and improvement it has not been possible to discuss in detail the special conditions obtaining in London. Speaking generally the London County Council enjoys in the County of London the powers of a County Borough Council as regards the laying out of new streets, street improvements, building lines, building by-laws, parks, and schools; whereas
the Metropolitan Borough Councils are the local authorities for libraries, baths and wash-houses, open spaces, and burial grounds.

There are five Acts, passed only a few weeks ago, which bear intimately on the matters under discussion and bring them into the first rank of urgency. Two of these—the Ministry of Health Act, 1919, and the Ministry of Transport Act, 1919—are substantially constitutional measures. The placing of almost unprecedented powers in the hands of ministers and the central government is sure to have far-reaching effects, but the legal change, so far as this book is concerned, can be expressed in a few words; and the same is true to a great extent of the Housing and Town Planning Act, 1919, and also of the Acquisition of Land Act, 1919.

The Ministry of Health Act transfers the powers of the Local Government Board to the Minister of Health as from a date, July 1st, fixed by Order in Council, but provides that any of such powers may be retransferred to other Government Departments. It does not repeal section 2 of the Local Government Board Act of 1871, which established the Board under that name. In these circumstances I have followed the example of the Housing Act, passed July 31st, and have used the expression "Local Government Board," and not "Minister of Health."

The Ministry of Transport Act transfers to the Minister all the powers of the Road Board, the Development Commission and other Government Departments, in so far as those powers