
Mandelker: Green Belts and Urban Growth

John R. Sheaffer

Follow this and additional works at: <https://via.library.depaul.edu/law-review>

Recommended Citation

John R. Sheaffer, *Mandelker: Green Belts and Urban Growth*, 13 DePaul L. Rev. 186 (1963)
Available at: <https://via.library.depaul.edu/law-review/vol13/iss1/23>

This Book Reviews is brought to you for free and open access by the College of Law at Via Sapientiae. It has been accepted for inclusion in DePaul Law Review by an authorized editor of Via Sapientiae. For more information, please contact digitalservices@depaul.edu.

Green Belts and Urban Growth. By DANIEL R. MANDELKER. Madison: The University of Wisconsin Press, 1962. Pp. 176. \$5.00.

The preservation of open space in metropolitan areas has become a topic of national concern. This concern is triggered, in part, by the continuing flow of population from rural and small town areas to the large urban centers. This migration has helped to generate the urban sprawl which is plaguing our metropolitan areas.

The application of the English green-belt concept is often heralded as an effective means of controlling urban sprawl. The flowing generalities which are used to describe the success of the English green belts produce an illusion. Americans are led to believe that the problems of urban sprawl and open space can be readily solved if they adopt one simple program—English green-belt controls. Professor Mandelker's analysis of the English green-belt controls points out the shortcomings of the program and suggests, in general terms, possible changes that would strengthen the planning process without destroying its advantages of flexibility and simplicity. Therefore, the book will be of benefit to officials who have the responsibility for developing similar programs in the United States.

Green Belts and Urban Growth focuses on the development of planning policy within the legal framework of English planning laws using green-belt controls as an illustration of that policy. Green-belt controls were chosen because they start with a strong policy that is evident.

A historical sketch of the evolution of the concept of green-belt controls is presented and is followed by an adequate discussion of the administration of the green-belt controls. This discussion outlines the procedure by which English planning policies are determined and is followed by sections that discuss the role of the local government, the role of the inquiry (*de novo* hearing) and the role of the ministry (Ministry of Housing) in administering the green-belt controls. Throughout this discussion casual references are made to American experience but there is no attempt to systematically compare and contrast the English and American courses of action. The boundaries of the green belts are portrayed as arbitrary decisions that are difficult to justify on appeal. "No two planners gave the same explanation of the underlining rationale behind green-belt policy."

In analyzing the administration of the green-belt controls, the author concluded that the dominant note is flexibility. A number of case records were analyzed to make quantitative statements concerning approvals and refusals for development plans. The results showed that fifty per cent of all planning applications for development in the green-belt areas were approved and that of those that were refused, thirty per cent of the appeals were allowed by the Minister of Housing. Green-belt controls typify the *ad hoc* characteristic of English planning administration. Further analysis showed that the refusals appeared to be arbitrary and were backed by vague generalities. The same situation was found when the results of the appeals were analyzed. Here again it was concluded that the reasons were arbitrary or generalized and, in addition, were highly inconsistent.

This careful analysis of the English system sets forth the need for developing green-belt boundaries which are based on variations in the physical environment. The author concludes that, "the product of English green-belt controls has not lived up to its promise, and public disenchantment is all too obvious."

For example, population growth in the London green belt increased at a rate which was 4 to 6 times the national average.

Reference to the increasing interest of American planning in the green-belt concept was likened to the English experience, in that the motivations of the American program are not entirely clear and the ideal has not been precisely defined. As American open space programs develop that are based upon variations in the physical environment, perhaps the challenge that American planning authorities develop green belts without inviting all the complicating effects of a permanent green girdle is already being met. The increasing use of flood-plain regulations to realize urban open spaces shows that American planning and zoning is becoming less arbitrary and, therefore, moving away from the English practice. In any event, an understanding of the administration of English green-belt controls as presented in this book would be beneficial to American land-use planning and zoning officials who are contemplating open space programs that would be patterned after the English system.

JOHN R. SHEAFFER*

* Resources Planning Officer, Northeastern Illinois Metropolitan Area Planning Commission.

Jurisprudence, the Philosophy and Method of the Law. By EDGAR BODENHEIMER. Cambridge: Harvard University Press, 1962. Pp. 402. \$8.75.

In the present volume, the author has presented most of the material of his *Jurisprudence* (1940) as a historical introduction, describing, without criticism, most of the recognized legal philosophies from the early Greek discovery that religion and philosophy could be separated to the twentieth century revival of the Natural Law. Arrangement is chronological and the treatment of each era is such that the individual philosophies then current come alive as an integral and inevitable part of it.

While criticism has been left for the classroom, the concluding chapter of this section points out that each philosophy, in turn presented a different, but inadequate, view of the whole. The Law has never been autonomous, but in reality has reflected the necessities as well as the habits, morals and customs of its time. It cannot be explained in terms of any one factor or cause, or in terms of any one legal ideal.

Law can only be explained in terms of its relation to the historical, political and sociological climate in which it exists and of which it forms a part. The author has attempted to formulate his own approach in terms of present conditions while avoiding past errors. Of necessity he has chosen a selective approach to the issues properly falling in the field of jurisprudence which need attention in our time.

The "Nature and Functions of the Law" in a less dramatic, but more erudite manner than that expressed by Max Radin in his "Law and Mr. Smith," describes the "Need for Order" and the "Quest for Justice" as basic and perennial and the Law as a synthesis of the two. "Law as Distinguished from Other Agencies of Social Control" such as power, administration of the state, customs and morals are also presented, as well as the benefits and drawbacks of the Rule of Law.

The section on the "Sources and Techniques of the Law" is used to present the authors own philosophy of Law and its sources, and is not intended as a