

**COLUMBIA UNIVERSITY  
LECTURES.  
AMERICAN CITY  
PROGRESS AND THE LAW**

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**Columbia University Lectures**

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# AMERICAN CITY PROGRESS AND THE LAW

BY

HOWARD LEE MCBAIN

DORMAN B. EATON PROFESSOR OF MUNICIPAL SCIENCE  
AND ADMINISTRATION IN COLUMBIA UNIVERSITY



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## PREFACE

This volume contains the substance of a series of lectures given upon the Hewitt Foundation at Cooper Union in the city of New York during the months of February and March, 1917. It deals with certain of the more important rules of law that are involved in some of the forward-looking movements in American cities. Under our constitutional system nearly every so-called reform movement must reckon with the law; and municipal reforms are especially liable to be called to this reckoning. For of the several important types of unit in our complicated system of government, the city operates under the largest number of restrictions imposed by written fundamental laws. As a subordinate agency of the state it is subject to most of those far-reaching restrictions imposed upon the states by the fundamental law of the nation. It is naturally controlled also by many limitations embodied in the fundamental law of the particular state of which it is a part. And it is further subject to one and all of the usually numerous restrictions imposed by its own fundamental law—its charter.

It cannot be too greatly emphasized that the scope of this volume is limited to an examination of legal principles. In what respects does the law as it now stands facilitate or obstruct the city in its endeavor to apply this or that new policy to the solution of an existing problem? With the policy itself—whether it

be, for example, of home rule, or of billboard regulation, or of zoning, or of municipal ownership of utilities—we are not primarily concerned. Within the limits of this volume it would be manifestly impossible, even if it were desirable, to discuss in adequate fashion the pros and cons of the numerous controversial questions that are suggested by the topics under review. No considerable reference will be made to the theoretical, the fiscal, the political, the economic, the social aspects of the policies under discussion except in so far as the views of the courts have been predicated upon one or more of these aspects. The law is the subject of our attention.

HOWARD LEE MCBAIN

WARSAW, NEW YORK  
August, 1917

## CONTENTS

<i>Chapter</i>		<i>Page</i>
I.	<b>Home Rule by Legislative Grant</b> The chief argument for municipal home rule; home rule by constitutional grant; the legal problem involved in a legislative grant of home rule; the delegation of legislative power to the corporate authorities of cities; the reference of charters to the electors; the delegation of charter-making power to the corporate authorities and the electors; legislative grants of home rule.	I
II.	<b>Breaking Down the Rule of Strict Construction of Municipal Powers</b> <i>Loose v. strict construction of enumerated powers; liberality toward the city in the earlier cases; examples of the rule of strict construction; implied power to grant franchises and to regulate public utilities; implied power to own and operate public utilities; implied power to expand a utility into the commercial field; implied power to furnish a utility service beyond the city limits; implied power to engage in a business of a collateral character.</i>	30
✓ III.	<b>Expanding the Police Power—Smoke and Billboards</b> The common subjects of the police power; the police power in relation to constitutional limitations; the police power distinguished from taxation and eminent domain; the smoke nuisance; billboard regulations.	58
✓ IV.	<b>City Planning—Building Heights and Zoning</b> Limitation on the height of buildings; zones from which offensive trades and industries are	