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WRECK OF THE PLANNING ACT

TESTIMONY accumulates that the Town and Country Planning Act as a fiscal and financial instrument is a blunder of the greatest magnitude. Confusion and frustration are not lessened by the continuous outpouring of the statutory instruments, regulations, orders and amended orders which the Ministry issues to lead a way through the intricate and baffling provisions. There is a growing demand for a drastic revision of the Act or for its complete repeal. The Act in the first instance made a false approach to the problem it was set to solve and that mistake has been enormously aggravated by the bungling attempts of a baffled officialdom to play their part in the execution of their delegated powers. It is, in fact, designed legislation run riot, so much is left to bureaucratic interpretation and decree.

Head and front of the financial administration of a law which was offered to ensure (but in performance is holding up) the better use of land, which pretends to appropriate land values for the benefit of the community but does something entirely different, is the Central Land Board presided over by Sir Malcolm Trustram Eve. He has insistently and impetuously proclaimed his intention to make the Act work, but with all his protestations and his powers to rule by regulations, he has had to admit that there will be much of case-made law in it; there are many difficulties which his Board cannot resolve and they will have to be decided in the courts. Not alone in that respect but also in all that is involved in a mystifying set of valuations, estimating different values for the same properties, at this date and at that date, under actual and imagined circumstances, for distinct purposes or conflicting reasons, for levy of charge or for compensation, with far-fetched and even impossible assumptions as guide to the valuers—the ultimate fate of the Act is placed out of doubt.

Substantially, subject to certain tolerances that are condescendingly given (allowing operations of a minor order) the Act has created a State monopoly in the right to build upon or change the use of land. This right must be bought from the State for what it is deemed to be worth in the estimation of the Central Land Board, against whose decision there is no appeal. The position is thus. Save for the tolerances already mentioned, and some concessions to special interests, all building construction, be it a new building or an enlargement, and any change in the use to which premises are put, requires the permission of the planning authorities. If that is granted, the developer must come to terms with the Central Land Board as to the price it exacts for the permission. In other words he has to pay the "development charge" about which there is now so much foment, recognised for what it is—a charge that cannot but be arbitrary, and including not only a monopoly value of land but also a fine and penalty upon the capital expended upon development. It cannot be otherwise, having in view the bases on which the Central Land Board, the District Valuers acting for them, are ordered to make their computations. It is important to observe in this connection that the Act defines land not in its economic sense but in its legal meaning—the land together with the buildings and improvements upon it. The formula is then this: (1) What price could be obtained in the open market for the land, supposing it was condemned to remain *permanently* in its existing state? (2) What would be the price supposing that the purchaser had the benefit of the permission to develop or change the use? Conception (1) is dubbed the "existing use value" and conception (2) the "unrestricted value" and the difference between them is the "development value" which the Central Land Board would capture by means of its development charge.

The scheme is patently capricious. The "existing use value" is a pure invention, corresponding to nothing that has happened in the open market or could conceivably take place. Valuers may quite well act upon its impossible assumptions under interpretation of the law and say what this "existing use value" ought to be and, of course, the Central Land Board has every interest and incentive to have it made as low as possible. As for the "development value," since it will affect every individual case taken in isolation, that will vary according to what is permitted to be done and what the developer can or will do within the compass of the permission. All is reduced to an attempt to measure by a rule which nobody can read, something that nobody has ever measured before. It involves not only an exact knowledge of the business previously operating but also an exact forecast of the profits to be earned by a business operating under conditions that can only be guessed.

The development charge is bound up with the gift to landowners as a body in the voting of £300,000,000 of the public funds to compensate them for the loss of their so-called development rights, the potential speculative value of their land holdings. It was an outrageously wicked transaction compelling the people to purchase from the landed interest a value that arises alone from the presence and activities of the community, public treasure squandered in ransom to the land monopoly.

We need not go into the details of how this fund is to be shared. Briefly, the landowners who can prove that their land had a " development value " on the day the Act took effect, on claim made by the owners concerned, a special valuation will be made to ascertain the " development value " in each case, and when the aggregate is known, whatever it may be, the £300,000,000 will be distributed pro rata. But there are sundry concessions to special interests which will receive out of the fund as much as they are required to pay in the form of the development charge; and lately, the Central Land Board, with Ministerial approval, has bowed to the violent protests, on the part of home-seekers, against the development charge by promising them an amount out of the compensation fund equal to the amount of the development charge leviable. But the proviso is that the house must be built for their own occupation; and as with farm cottages, where the development charge is suspended so long as they are occupied by " members of the agricultural population," new duties are thrust upon the Police State to watch comings and goings and see that there is no trickery.

Perhaps that is a digression but it is only one of the many illustrations of what happens in the attempts to compel obedience to unnatural law. The Ministry and the Central Land Board see before them a complete breakdown in the refusal of landowners to part with land at the price of the " existing use value " which it is the purpose of the Act to fabricate and set low in order that the development value should be correspondingly high. In consequence the calculated development charge, which the Board essays to impose, added to land prices owners are demanding, cannot possibly be borne. Impotently and with a flourish of bravado, it issues its warnings and its threats to end this deadlock and smash the blockade against access to land, which has been so deliberately tightened by the folly of Parliament. Sir Malcolm Eve would " make the Act work," forsooth, by the exercise of the powers of compulsory purchase. Thereby it is thought to force that " existing use value " down to the fictional level, make sure of the full development charge and, incidentally, obtain the wherewithal to liquidate a landlord ransom of £300,000,000.

The development charge is fitly named. It is a levy and tax upon development. It falls only when and where development takes place, and while it is fashioned to collect an increment in land value it does so only there and then, under rules and conceptions that are both arbitrary and absurd. Running through the ramshackle ramifications of the Act is the extraordinary notion, taken as basis of action and assessment, that when a shop or house or factory is erected on any site or when there is any " material change " in the use of any premises, the value of the site is thereby increased. " The value of a site is created by placing an improvement upon it," we hear the sponsors say. We need not waste time in exposing the fallacy or showing how it has led in a direction precisely opposite to an economic understanding of the land question, as well as to policies as disastrous as that under consideration. In this development charge which inescapably takes the nature and extent of the improvements upon land as its measure, there has been superimposed a burden and penalty in no respect different in incidence from that inflicted under the present rating and taxation system. It acts as a barrier to building enterprise, narrowing the field of opportunity, switching demand upon such room as is available in existing buildings and putting a premium on them. In a word it is a powerful contributory factor to the maintenance of congestion and high rents—a planning gone astray into the production of future slums.

We speak again for a reversal of this whole course of action, no matter what difficulties or humiliations may have to be faced in overcoming vested interests and vested prejudices alike. We should expunge the Act from the Statute Book and undo the mischief that has been done. Frankly, it means the demolition of the painfully built structure, the annulment of the obligation to pay the landlord ransom, and the refund of the development charges. It is to start afresh and with the least possible delay give effect to the Taxation and Rating of Land Values to the relief of all buildings and improvements. Ours may be a counsel of perfection, but for the solution of what the Act posed as a problem, there is none other.

A. W. M.

KING CHARLES AND LANDLORD PARLIAMENTS

CURRENT interest in the tercentenary of Charles I's execution centres, of course, around the dramatic highlights of the dispute between the rival power-seekers of the XVII Century. There are, however, some slight signs of a growing understanding that the monarchy might have been at least as interested as the Members of the Long Parliament in the welfare of the great mass of the people. In relation to the most important aspect of English history, and the most neglected: the robbery of the people's right to land, it is useful to remember that to read the names of the members of that Parliament is like reading a list of the existing county families. During all the disputes between Charles I and his Parliaments the common people were probably more interested in the controversy concerning Enclosure, and many pamphlets written at that time still survive. Such titles as *The Humble Petition of Two Sisters* (1604), *Depopulation Arraigned* (1636), *Inclosure Thrown Open* (1650), all of them protests against the encroachments of the squirearchy, suggest that divine rights of kings or parliaments was not the only subject of discussion. Charles I appointed Commissions of Enquiry, and the Star Chamber instituted proceedings against enclosures on the ground that depopulation was an offence against the Common law. Charles actually annulled the enclosures of two years in certain Midland counties. The headsman of Whitehall seems to have struck down, together with some bad things, some check on the powers which under the Commonwealth and Charles II gave an added impetus to the movement since constituting the greatest crime in our history.

If Charles I had beaten his enemies he would probably have imposed a bureaucracy upon them, and upon his people, in the same way that his contemporary, Louis XIV, buttressed his authority after an analogous contest. As Louis ruled through men like Mazarin and Colbert, so Charles might have ruled through men like Strafford (the Stafford Cripps of the time), who, in fact, consciously followed the methods of Colbert. England would have suffered a kind of Town-and-Country-Planning-Bill type of bureaucratic landlordism instead of the almost undiluted landlord power which ruled England first under Whig and then under alternating Whig and Tory, Liberal and Conservative domination until Socialism arose to graft bureaucratic upon private monopoly.