THE LORDS AND THE PLANNING ACT

On November 16, in the House of Lords, Lord Llewellin rose to call attention to the administration of the Town and Country Planning Act and to move for Papers. The operation of the development charge came under heavy fire. We give here some of the many examples that were cited, and follow them with other extracts from the speeches both of the critics and of the Ministers, who were driven to agree that a thorough inquiry was necessary.

Instances Cited

By Lord Llewellin:

An industrial firm wished to erect a new factory. It was to have some 40,000 sq. ft., with permission to increase that later to 80,000 sq. ft. A site had been found in the County of Middlesex, five miles north of Marble Arch, London. Prospective development could not proceed before the firm could ensure that planning permission would be granted, and that the purchase price of the site was reasonable, bearing in mind the liability to development charge. Planning permission had to be preceded by a certificate from the Board of Trade that this " industrial development " would be allowed in that area. Application for such certificate was made on February 17, 1949, which was not received till after the lapse of four months. With that certificate application was made to the borough town planning officer for the planning permission, but he could not say definitely whether any industrial building would be allowed, nor could he give an indication of the building lines that would be permitted. Then the County Council engineer was approached, but he could give no more information because building lines were decided by the Ministry of Transport, which had not yet determined them. An official application was, however, made and was acknowledged in August by the Borough Council, which stated that if no decision had been communicated to the firm by October 23 the application could be regarded as refused. Since the building of the factory had been approved by the Board of Trade it must have been considered necessary. These people waited, but by October 26 they had still heard nothing from the borough planning officer. Even so, during that long period of delay the firm could not have worked out their quantities or their building plans, which cannot be prepared until permission is given to start the work. Furthermore, they would not have had the development value ascertained, so that obviously it could not have been paid; and the building licence still remained to be procured. The firm had waited all that time and in disgust had abandoned their scheme.

Village Post Office. In a small town a man wanted to start a sub-station for a post office in the front room of his house, to give extra postal facilities for his neighbours, who would otherwise have to walk to the other post office some distance away. Nothing was to be done to the house. It would remain the same except that the front room, instead of being unused except on Sundays, would be used for the sale to people of the village of postal stamps, postal orders and things of that sort. He was told he would have to pay a development charge of £20, which, though not a large sum, annoyed him so much that he gave up the project and the villagers have the further to walk for their postal facilities.

Three examples from Southampton of small building plots. One bought in 1938 for £150 on which there is now a development charge of £290; another bought in 1941 for £160—development charge £210; another bought in May, 1948 (which was before the appointed date of the Act) for £225—development charge £375. Therefore before these people can start building their houses one had to pay £440 for his building site; another £375, and the third £500.

In Liverpool, the case of Mr. V. M. Crook, chemist and sub-postmaster at Parkgate. For his customers' convenience he wished to move next door to rather bigger premises. The Central Land Board demanded £100 development charge for changing the uses of those premises into a post office. The General Post Office took up the matter, said it was imperative that the post office should be transferred to more suitable accommodation and asked that the £100 charge should be waived. The C.L.B. said there were no provisions by which that could be done, and so far as he (Lord Llewellin) knew, the post office is continuing in the small accommodation next door.

Local authority housing schemes. Consider what is happening. At Beaminster, Dorset, houses are being built at Great Mosterton on land which cost £110. Now, in addition, they are asked by the C.L.B. to pay a development charge of £50. At Solway Ash, in the same area, a piece of land bought for £125 and sufficient for eight houses, is subject to a development charge of £75, which is levied against the rural district council. This is for houses which one department of the Government, the Ministry of Health, is subsidising in order to keep rents down and on which another department of the Government, the Ministry of Town and Country Planning, through the Central Land Board, exacts the development charge (raising rents or compelling an increased subsidy? —Editor, L. & L.). " It is a mad sort of world in which we are living when that kind of thing takes place."

The guess-work development charge. Three examples from Reading. In one case the development charge asked was £2,300 which, after very little bargaining, was reduced to £1,600. Another was originally £300 and was settled for nil. Another was a development charge of £875, which was reduced to and settled at £300. What happens, and somebody must have told them to do it, is that district valuers begin in almost every case by assessing an unduly high value that they may have some elbow room for bargaining. It is going on all over the country. It is bad for the reputation of this highly respected body of men that they should put on a figure which they do not expect to get and reduce it when they are pressed. The man benefits who can employ the right kind of solicitor or estate agent to do the bargaining for him; whereas the man who cannot afford it or does not know to whom to go probably has to pay the high figure.

Another amazing case. Corner premises used as a chemist's shop were wanted by a bank for use as one of their branches. No structural alterations were required, even though the premises were put to a different use. The district valuer agreed that the rental value was identical whether the premises were used for a bank or for ordinary retail purposes. Nevertheless, he claimed a development charge of £6,000, representing two years' purchase of the agreed rental value on the grounds that a bank had a higher value than a chemist had (more reliance could be placed on a bank because there was less likelihood of its defaulting, than an ordinary retail trader!) The

district valuer subsequently reduced his figure to £1,000, which the owners, after so much argument and costly delay, thought they might as well pay and get their rent.

A nimble-witted interpretation. In the provisions of the Act there is the so-called 10 per cent. "tolerance"—that is to say that if a man increased the size of his house by only 10 per cent. he could do so without paying any development charge. But see what is happening now. This illustration is absolutely true; the facts are authenticated. A man put up a new building. A development charge of £x if the building was erected was agreed with the district valuer. But the district valuer said that with his permission to erect, the man automatically obtained the right at some future time to have the 10 per cent. "tolerance" and that therefore he was going to charge £x plus 10 per cent. A man proposes to erect a new building and he has to pay an extra 10 per cent. because of the prospect that some years hence he may extend the building. (The facts may be as stated, but the distortions to which the so-called development value lends itself can be responsible for all sorts of fatuity, such as this arbitrary prediction, for payment of a charge, of an alleged increase in land value presumed to arise by the enlargement of a building, no matter when. Valuation, in these hands, is reduced to a complete farce and the Act is made an atrocity.—EDITOR, L. & L.)

By Lord Halifax:

A converted coach-house. Lord Halifax had occasion to abandon a fairly large house in which he and his family had been accustomed to live. He proposed to construct a dwelling out of a derelict coach-house in a stable-yard. He obtained the permit for the work. The valuer came and said that the site-value of the coach-house would now be greater, but Lord Halifax's advisers said, "Stop talking nonsense." Nevertheless the valuer said, "What about £150 or £200" as a development charge. There was "a friendly exchange of argument" and the matter was settled for £20. The converted coach-house had released for dwelling purposes (by another) the cottage in which Lord Halifax had been living. He was doing at least something to meet the housing shortage in the district. 'The Ministry ought to push me with both hands to convert my coach-house instead of trying to fine me £150 or £200 to do it; I cannot begin to understand it."

Converting a house into a shop. The shop was to be for the sale of fish and chips. The district valuer assessed the development charge at about £750; objection was taken and the charge was reduced to something over £300. 'It is pure guesswork; you bandage your eyes, take a pencil and point at a figure. The administration have no firm canons of judgment, but are feeling their way and trying to probe the tolerance of individuals to see how much they can get away with."

By Lord Buckmaster:

Extension of a woollen mill. A small firm, a private company working to capacity, wished to extend. When they attempted to build they found themselves exposed to the crushing blow of a penal development charge which, added to the existing burden of taxation, made the proposal unremunerative, and it was given up. Thus the export trade, which it is H.M. Government's declared business to foster, is being restricted.

The Valuer a laughing-stock. (Obviously he doesn't know where he is.) A recently reported case was that of a district valuer who produced figures to justify a development charge of £9,700. At a second interview the figure was reduced to £4,700. Further figures reduced the charge to £185. Then the valuer said he would accept £150 and finally he agreed there should be no charge whatever.

By Lord Clydesmuir:

Roof for a steel-rolling mill. A Scottish case. The roof was too low for the comfort of the workers. Before the Act was passed a scheme was prepared for raising the roof, not altering the mill nor increasing its earning capacity. But the intended higher roof would have increased the cubic content of the building by more than 10 per cent. and that would incur a considerable development charge. Owners were told that the charge could be avoided if the roof was raised by a much smaller amount or left as it was.

Penalty on enlarging a store. It had been destroyed by fire. The owner wished to rebuild and make improvement by enlarging. He was told that doing so would incur a development charge, but he would avoid it if he rebuilt the store exactly the same size as the old one.

GENERAL CRITICISM

LORD LLEWELLIN: There is no incentive whatever to an owner to sell a piece of undeveloped land. You can only get its present use value and you can probably make more by continuing land in its present use than by selling it for the user value. The development charge has also discouraged many would-be developers from continuing with projects they had in mind. Public opinion is rightly rising against this Act because it causes far too much delay in the necessary industrial development; because it places unfair and unnecessary charges on our industrial undertakings at a time when we must produce cheaply or go under.

LORD MESTON: Let me ask what is the cost of the Ministry of Town and Country Planning and the Central Land Board. What is the cost to local authorities of their duties and functions under this Act? How do such costs compare between to-day and 1938? The enormous amount of money which is being spent to-day on expensive offices and staff for this Ministry would be far better employed in building houses.

LORD HALIFAX: I have always supposed that the broad principle which the supporters of the Act had in view was to ensure that no individual should reap a benefit of increased value that he had done nothing to create. Those of us in the political world have known for some time that though it has always been a matter of sharp argument, the broad case has generally been made. I would have supposed that the principle so laid down had, on the whole, established its victory in the political field irrespective of Party. Although I appreciate the difficulty of interpretation in hard cases, I, personally, would not quarrel with that principle. If this Act had contented itself with that, half the present complications that are embarrassing the country would have been avoided.

LORD BUCKMASTER: The Act is a mass of ill-considered and ill-digested legislation. It comprises 200 pages and, in addition, there have been 33 regulations covering a further 200 pages; also there have been 39 letters to local authorities. Rather more than 50 clauses and 6 of the Schedules were never even partially discussed in Committee or on Report stage in the Commons; they were never even looked at. The Government are lost in a legis-

lative maze from which there is no escape. Even if a developer is not deterred by the penal charge there is much else that may well daunt him. There are many actors in this play: the sanitary officer, the planning officer, the surveyor. There are consents, permits and licences to be obtained. In such circumstances he is a bold and courageous person who embarks on development.

LORD CLYDESMUIR: The collection of the development charge is no exact science. The Central Land Board has issued for guidance a booklet called *Practice Notes,* and it is on these that the officials up and down the country are endeavouring to work. They have been left such a wide latitude that they have the task, extremely difficult and distasteful, of bargaining and haggling in an almost Oriental manner, quite alien to normal practice in this country.

LORD HYLTON: In the *Practice Notes* issued for the guidance of valuers, it is clearly stated that the Central Land Board view their own functions as those of a seller. [The Board is monopolist of the development value of land and the price at which it "sells" any development value is the "development charge."—EDITOR, L. & L.] They have something to sell and they propose, no doubt with the sanction of the Treasury, to sell at the highest price. The result, of course, is that the district valuers have a tendency to start their negotiations many hundreds of pounds above the figure that they will finally accept. That may be all right in dealing with developers who are able to employ highly trained surveyors, to take legal advice, and so on, but it operates hardly and harshly against people of small means who have not the knowledge of how to tackle a district valuer when he comes and says he wants £500 development charge.

LORD GAGE: The Central Land Board, armed with an almost unintelligible formula and also with a theory that they have something to sell, are in fact making law—law which affects the ordinary person to a considerable degree and which has none of the usual Parliamentary safeguards.

LORD SALISBURY: The present state of affairs really cannot go on. It is causing cases of injustice such as have not been known in this country for a very long time. We believe in town and country planning if it means real planning; but this is not a Planning Act at all. It is merely a method of extracting taxation, irrespective of its effect on real planning. I beg the Lord Chancellor to promise a searching inquiry into all the cases that have been raised and similar cases that are known to exist in many parts of the country, and not to close the door to drastic amendment if the enquiries showed it to be necessary.

The Paymaster-General, Lord MacDonald of Gwaenysgor, and the Lord Chancellor, Lord Jowitt, spoke in defence of the Government.

LORD MACDONALD: With regard to the question of excessive charges, looking at the experience of the 16 months since the Act came into operation, I should like to refer to two facts. The first is that in over 50 per cent. of the applications for assessment of development charge it has been found that no charge at all is payable. Secondly, where development charge is payable the amount has been agreed by the developer in over 95 per cent. of the cases. While no one could deny that there may be minor imperfections in the administration of planning control these are not of serious character and are mostly curable by minor amendments in subordinate legislation, which is already under consideration. The necessary action to make the Act work as smoothly as possible is receiving constant and daily attention.

THE LORD CHANCELLOR: It has been said that this (the development charge) is holding things up so badly that no one can develop land. I only regret to say that at the present moment there is little substance in that contention because, owing to the difficulties and the stringency of our financial position unfortunately we cannot build anything like so much as we should wish. The Central Land Board sent out a notice last autumn asking anyone who had permission to build, or who wanted to build and could not obtain permission, and who found it difficult to get the land required, to come to them for help. They would secure that he obtained the land at existing use value, if necessary using their powers to prevent him being squeezed and making him pay twice over. [How ingeniously this is stated. Anyone who could get land in that roundabout way would find it cost him no less than the price he would have had to pay before the Act was passed. The Central Land Board may buy the land at its "condemned price," but it adds the development charge, so that, in effect, the would-be developer is as much the victim of monopoly as ever. The old barrier against house building, the monopoly price of land still stands. The Act cheapens no sites, and by that failure it must be judged.—EDITOR, L. & L.] In the 12 months there have been 11,000 applications over the whole of Great Britain. It was discovered that in many of those cases the applicants stood not the slightest chance of getting a building licence for many years to come. [Why?]. So they could not build even if they bought the land at once. The Board went into every one of these 11,000 cases and came to the conclusion that only in eleven cases was it desirable for them to act and secure the land at the existing use [i.e., the condemned] value. It is rather idle in the light of those facts to tell me that people are desperate about the inability to get land. It may be that there are cases which need looking into. I particularly hope that I shall obtain further information about the case of the bank and the shop of which Lord Llewellin spoke. These matters that have been raised will be looked into most carefully. I am not going to attempt to answer them on the spur of the moment, but I will see that they are all carefully considered. And if we come to the conclusion that some alterations are necessary, whether in administration or legislation, we shall not hesitate to deal with the matter.

(*The motion for Papers was by leave withdrawn.*)

THE GEORGEISTS (LONDON)

The Annual General Meeting was held at 4 Great Smith Street, Westminster, on January 14. The retiring committee's report and financial statement were adopted. Officers elected for the ensuing year were as follows: President, Mr. Wilfrid Harrison. Vice-President, Mr. W. E. Fox. Chairman, Mr. Charles Aitken. Secretary, Miss Betty Walden. Committee: Messrs. E. Baush, V. H. Blundell, R. Blundell, W. J. Cadman, A. W. Madsen, E. Miller, P. O'Keefe, and P. Stubbings, and Mrs. Joan O'Leary and Mrs. M. Whitehouse.

The meeting was followed by the Second Anniversary Dinner, held at the Empire Restaurant, Victoria Street, S.W.1. Special guest for the occasion was Miss Margaret E. Bateman, former Director of the Henry George School, New York. Miss Bateman spoke on "Georgeism—a World Movement," and her talk was augmented by coloured film photos of personalities at the 1949 International Conference, Swanwick.