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practice of the Louisiana lawyer. It contained not only the myriad notarial forms necessary for preparation of the various instruments the practitioner must prepare, but also the applicable positive and procedural law governing the transactions involved. It was not just a guide for the notary, but was useful to the general practitioner. The lawyer was reminded, for example, that acceptance of a succession by one heir does not bind his coheirs; that a nuncupative will by public act is the most formal act required under the Louisiana law, for it must not only be received and reduced to writing by the notary as it is dictated by the testator, but such fact must also be recited in the testament itself; that every marriage contract must be in authentic form; that a discontinuous servitude can be established only by title and never by prescription; that it cannot be presumed that an heir has unconditionally accepted a succession because he has not formally renounced it within thirty days from the death of the *de cuius*.

In his second edition, Mr. Woodward follows this original and unique pattern, bringing his comments and review of the law up to date by references to the latest jurisprudence and, what should prove invaluable to the practitioner, by reference to the new Louisiana Code of Civil Procedure. This feature alone will undoubtedly prove of tremendous assistance in applying the new procedures adopted by the new Code, especially succession matters.

The new chapter on leases, with the various forms the contract takes, adds to the value of the work, as do the tables of statutory material cited or referred to in the text. The 115 pages of index to the law and to the forms will facilitate the use of the work and simplify the task of the researcher.

*Carlos E. Lazarus**

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I

Despite its title this work deals not so much with open space reservations, or urban growth as with the details of English

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planning administration. It is a carefully researched description of English land use licensing and, incidentally, suggests some major differences in the American and English concepts of procedural due process in decision-making.

The Town and Country Planning Act of 1947, superseding earlier statutes, mandates counties and county boroughs to prepare "development plans" covering their entire areas — guided and reviewed by the national Ministry of Housing. But unlike many American planners the English planners are also the licensors of land use, *i.e.* "development control," under the plan. Absent meaningful court review, as Professor Mandelker notes, they are also judges in their own cause. Planning is thus fully integrated into the political system and the development plan at a minimum includes the equivalent of the American master plan, zoning ordinance, subdivision ordinance, urban renewal program, and official street map. Viewed loosely as a "licensing process," however, there is in the system under the act a distinct lack of adequate powers of subsequent supervision of the owner's permitted use.

II

"Green belts" are a mere sub-phase of the development plans, denoting areas encircling urban centers within which there is an especially strong presumption against any new development, even residential. They are the opposite of the American tendency toward city expansion by annexation. The green belt idea can be traced back at least as far as Queen Elizabeth's fear in the sixteenth century that London would starve unless a reasonably close agricultural area were preserved around it. The reaction in the nineteenth century to the drabness caused by the Industrial Revolution is also a contributing element.

Current motivations underlying use of a green belt are varied, but three stand out. First, it involves search for "amenity," that undefinable something which transcends good taste and takes on natural coloration in respect for the simplicity and nearness of the traditional countryside. Second, it involves protection of agricultural land — increasingly of concern in the face of population expansion and lost Empire. Third, it unavoidably involves regulation of urban growth but the content of the regulation is not fully determined. Viewed as a permanent ring the green belt could lead, for a time, to population decentralization

and dispersion. Viewed as a crawling thing it would retard and consolidate urban growth but not block it. Viewed as it is in Scotland as a narrow ring, from 1½ to 2 miles, it would be only a device for preserving some open space near the city center.

Insofar as this study has "lessons" regarding open space reservations and urban growth, it suggests the partial futility of land use planning, given a finite quantity of land, in the absence of reproduction planning, *i.e.*, birth control. For green belts relate to population density, which in turn is a function of land and people, and it is the latter variable, not the former variable, about which something permanently constructive can be done. Although population growth in the green belts may have been retarded, in both the London and Birmingham environs growth and population in the green belt districts have been far in excess of the national average. Professor Mandelker's figures show that despite the theoretical rigidity of land control in the green belts, as many as 50% of all planning (*i.e.*, development) applications will be granted in green belt areas, and perhaps 30% of all appeals will be allowed by the minister. Part of the reason is that green belt areas engulf many villages and even large towns. "Although the minister has been ambivalent on this score, he has usually supported the infilling and rounding-off of existing communities." (p. 137)

III

The major portion of this study is given over to a meticulous description of the administrative process whereby the development plans are formulated and then applied through approval or rejection of particular land use applications. The roles of the sub-county districts, the counties, and the Ministry of Housing are delineated with illustrative statistics, "cases," and interview material gathered by the author during his Ford Foundation year in England.

The most striking thought that emerges from the study is that English land control is not a rule of law, not even a rule of traceable and open administrative discretion, but rather a rule of muddling through by an ad hoc process of partially decentralized confusion. The English obviously either have become far less concerned than their American heirs about the rule of law, or far more trusting of Big Brother Planner. The basic "development plan" itself is very generally phrased and only cre-

ates a broad presumption. In regard to those land use applications which are approved — 85% in general, and 50% even in green belts — there is little provision for protection of interests of third parties, other than the rarely exercised power of call-up by the Minister. Third parties cannot intervene and may not even hear of the proceeding because of inadequate publicity requirements.

Refusals may yield an appeal by the aggrieved applicant but the shaping of the appeal would be a lawyer's nightmare. Refusals themselves are couched in vague standard clauses, which are unreasoned conclusionary allegations. One planning committee has catalogued all of its reasons and simply decides cases "by the numbers." (p. 78) The petition itself may merely test the implementation of the plan in some small detail, *e.g.*, regarding one house, or it may be a proposed major development challenging the basic assumptions of the plan. Although policy-making and adjudicative application of policy are ever interrelated, Professor Mandelker feels that British planning administrators, by obscuring the essential functional distinction between the two, have jeopardized clarity in policy-making and fairness in enforcement. There being no formal "record" or reasoned decision at the sub-county or county level, the "appeal" to the Ministry, if taken, results in a *de novo* hearing before a ministerial inspector. The inspector's findings form the basis for the Minister's decision, also unrationalized and not to be deemed a precedent.

As might be expected this Platonic Guardian process of decision-making has not gone unchallenged. As an aftermath of the investigation and report in 1957 by the Committee on Administrative Tribunals and Inquiries (Frank Committee) some formalization has occurred, and more may be in the offing, as a pre-condition of rationalization and development of a true "craft" of planning. This reviewer would have liked to see less preoccupation with descriptive detail, because the significant is sometimes lost in the petty. Helpful, too, would have been a more critical evaluation of British planning administration within the frame of reference of British and American administrative law precepts and public administration theory. In part this lack may have been due to a desire not to overly criticize one's hosts. But the basic data is here, and Professor Mandelker's reaction is not much concealed:

“None would deny the boldness of postwar English planning legislation. In practice, however, the product has not lived up to its promise. Part of the problem lies in the planning process. Policy remains fuzzy and unclarified. Planning administrators, both national and local, muddle through. Public disenchantment is all too obvious, even to the casual observer. The health of the planning mechanism would benefit greatly from a public stocktaking, increasing policy clarification, and a tightening and improvement in the administrative machinery.” (p. 156)

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