

BOOK REVIEWS

Land Planning Law in a Free Society: A Study of the British Town and Country Planning Act. By Charles M. Haar. Cambridge: Harvard University Press, 1951. Pp. xiii, 213. \$4.00.

I

One of the inevitable effects of the progressive extension of government control over economic life is that economic problems are increasingly disposed of by lawyers, technologists and experts in "administration." It might be expected that this would lead to an increased understanding of economics in these professions. This expectation has generally been frustrated—it almost seems as if those who ardently believe that they can solve economic problems by central planning in most instances do so precisely because they are unaware of what the economic problems are.

There is no better illustration of this than town planning—a subject which, it must be admitted, has been sadly neglected by economists. And there could be hardly a more telling demonstration of the complete lack of comprehension of the economic problems which the use of land raises for society than the present careful and painstaking study of the new British Town and Country Planning Act of 1947 by an American student of Public Administration. While the book presents a sympathetic interpretation of that experiment, in the sense that Mr. Haar fully shares the outlook which inspires it, it is as devoid of any appreciation of the wider economic issues involved as were the group of architects and administrators who, in the peculiar circumstances of Britain between 1940 and 1947, were almost exclusively responsible for this piece of legislation. The book does not even take notice of the few critical analyses of the Act which appeared when the British economists were at last released from the more important preoccupation of winning the war. In particular the author ignores the masterly analysis of the problem by Sir Arnold Plant¹ and the severe criticism which the measure has received from groups which one might expect to be sympathetic towards it, such as the followers of Henry George.

After reading the book one feels some doubt whether the author, any more than the legislators or the British public at large is fully aware of how completely the Act has changed the whole character of the British economic system. While entirely suspending the operation of the price mechanism with regard to land (outside agricultural uses) it has put nothing in its place except arbitrary decision without even a general principle to guide it. What the Act has decreed

¹ Plant, *Land Planning and the Economic Functions of Ownership*, 29 *J. Chartered Auctioneers and Estate Agents Inst.* 284, 298 (1949).

is nothing less than that all advantage which a private owner could derive from any change in the use made of a piece of land (if it was to be devoted to other than agricultural purposes) shall in future be confiscated by the government, and that, therefore, if the principles of the act can be consistently applied, no private person or corporation will have any incentive to improve economic efficiency, where this involves a change in the use of land.

To anyone familiar with the history of the Act and the effects which it is producing, the most curious aspect of the present book is that it attempts to emphasize throughout the democratic character of the measure and its compatibility with free institutions, while on the basis of the facts provided by the book itself both are at best pious hopes of highly questionable value. If the author is unaware of the threat to freedom involved, this is probably because he seems equally oblivious to the fact that consistent application of the principles of the Act in the long run implies central direction of all economic activity. Characterization of the measure as particularly democratic squares ill with the admitted facts that when it was discussed in Parliament almost nobody understood the practically unlimited discretionary powers it conferred on administrative agencies. "[T]he Opposition often felt in the position of Joseph who was asked not only to interpret the dream, but to say what the dream was" (p. 177). Furthermore, after the Act had placed in the power of a minister unlimited discretion to lay down even the "general principle" on which its most important provision was to be administered, the minister in fact issued regulations which "represent a complete change of mind since the time of the debates of the Act" (p. 111). We shall later have to consider the issue in question. From a lawyer one might also have expected a little more concern about the fact, mentioned like many of the less appealing features of the legislation in the small print of the notes, that "throughout, the Act seems to avoid any recourse to the courts" (p. 188).

The discussion of the economically most important provisions of the Act is compressed almost entirely into a few pages of Mr. Haar's book (pp. 98-117), and in a brief review we must concentrate on these. As is made abundantly clear throughout the exposition, the basic motive behind all legislation of this kind is "the ever-present fear of need to pay compensation which constitutes an ever-present threat to bold planning" (p. 101; cf. pp. 157 and 167). In other words, it is the desire of the town planners to be relieved of the necessity of counting the cost of their activities, and it is freely admitted that many of the things which they regard as desirable would prove impossible if the whole cost, as it is measured in a market economy, had to be paid. The central aim is therefore to enable the planning authorities to acquire control over land below the price it would fetch on a free market. The argument used to justify this aim betrays a complete failure to understand the significance of these costs. We shall not stop to examine at length the arguments used in the present book to show why these costs can in fact not be paid.

The significance of the market value of land as an indicator of the social cost of its use for particular purposes is a more fundamental issue. In town planning literature generally, as in the present book, this question is generally represented as a purely fiscal problem: How these costs are to be met. It is regarded as solved if the burden can be placed on a particular group, by a partial expropriation of the landowners. But this is not at all the main social problem involved. The crux of the matter lies in making sure that generally, and in every particular instance, the advantages derived from planning exceed the losses of the developments which the planning restrictions prevent. Paying the owner less than the full value of the land uses which are taken from him does not reduce the cost to society one whit. It merely makes it possible to disregard them and go ahead with planning schemes regardless of whether they repay their total cost. Unless it can be shown that the market prices of land reflect more than the value of the alternative services to the consumers which the land would render if allowed to be put to its more profitable use, the direction of the land to other public purposes can be justified only if it can be demonstrated that it will make a contribution to public welfare which is greater than the value lost. This is what the planners can so rarely demonstrate. But, like most planners, the town planners, while pretending to take a more comprehensive view, are usually interested only in a limited range of values and wish to escape the trammels of considerations which they neither understand nor care for, and which probably no central plan could adequately take into account. As the present book characteristically puts it, their hope is that in the future the "decision on the proper use of a piece of land will not be distorted by either the excessive cost of high development value or of the need of avoiding the payment of compensation, but will be taken strictly on planning merits" (p. 102).

The only serious attempt to justify this approach was made by one of the British commissions of inquiry which preceded the 1947 legislation, the "Uthwatt Report" on Compensation and Betterment of 1942. This report developed a curious theory of "floating" and "shifting" values which, though I doubt whether it is taken seriously by a single reputable economist, appears to have made a considerable impression on town planners and administrators. It is based on the assumption that the total value of all the land in a country is a fixed magnitude, independent of the uses to which the individual pieces of land are put, and that, in consequence, the control of the use of land has only "the effect of shifting land values: in other words, it increases the value of some land and decreases the value of other land, but it does not destroy land values" (p. 99, quoted from the Uthwatt Report). Now this is not merely, as Mr. Haar suggests, a theory which "may be open to question on the ground of lack of empirical proof" (*ibid.*). It is sheer nonsense which empirically could neither be proved nor disproved. There is no useful meaning of the term value of which it could possibly be true. The situation is not much better with regard to the theory of "floating value": the assertion that as a rule the expectation of im-

pending development will affect the value of more land than will in fact be developed and increase it by more than the value of the actual developments. Yet even though it may occasionally be true that the market value of land on the margin of a town may be based on expectations which cannot all be valid, this surely is a difficulty which could be met by appropriate principles of valuation and which does not justify complete disregard of market values.

All this does not mean that we want to belittle the difficulty caused by the fact that while the cost of planning through reducing the value of some land is not too difficult to recognize and the bearers of the loss certain to claim compensation, the "betterment," i.e., the increases in the value of land due to the same planning measures are much more difficult to ascertain. Nor can there be much question that, so far as specific betterments of this kind are ascertainable, it is desirable that the beneficiaries should be made to contribute to the cost of planning in proportion. There is much to be said for taxing away increments of land value which are demonstrably due to public activity. Indeed, of all kinds of socialism, the nationalization of land would have most to recommend itself if it were practicable to distinguish the value of the Ricardian "indestructable and permanent powers of the soil," to which the argument alone applies, from that value which the efforts of the owner have contributed. The difficulties here are essentially of a practical nature: the impossibility of distinguishing between these two parts of the value of a piece of land, and the problem of so adjusting rent contracts as to give the user of the land the appropriate inducements for investment. However, though "only" practical, these difficulties have nevertheless proved insuperable.

In effect, this was recognized by the Uthwatt Report which, by a "bold departure from precedent" on which the authors specially prided themselves, started a new development which in the end perverted that reasonable but impracticable idea of the taxation of betterment values into its opposite: instead of using the taxation of land values as a means of forcing the owners to put their land to the best use, the Town and Country Planning Act of 1947, under the name of the Development Charge, in effect imposed a penalty amounting to the whole gain to be derived from it, on any one putting land to better use. This transformation of the initial idea began with the Uthwatt Committee's decision "to cut the Gordian knot by taking for the community some fixed proportion of the whole of any increase in site values without any attempt at precise analysis of the causes to which they may be due" (p. 98, quoted from the Uthwatt Report). The further steps leading from this to the 1947 Act were that this principle, which the Uthwatt Report intended to apply only to yet undeveloped land, was extended to include all redevelopment of land already used for non-agricultural purposes; that, instead of making the value at a fixed date the basis for determining the increment, the value of any piece of land in the particular use to which it was devoted at any given time became the measure of the "gain" due to a change in that use—apparently even if the "existing use value"

had fallen to zero; and finally that, after the measure had been passed by Parliament in the general belief that some 75 or 80 per cent of the difference between the value in the old use and the value in the new use would be taxed away, the minister empowered to fix the percentage decided that it should be 100 per cent. The result is that, as the law now stands, the Central Land Board, entrusted with levying the Development Charges, is instructed to make it a condition for permitting any development on land that the whole gain derived from it be handed over to the government. It would not seem unfair to sum up this curious evolution by saying that, since what might have made sense theoretically proved to be practically impossible, and since we must have planning whatever the cost ("even only fairly good planning is to be preferred over the past chaos"—p. 169), even the most nonsensical principle, if it is only administratively feasible, must be adopted.

It will now be clear that what the British government has undertaken is no less than to remove the incentive from practically any changes in industrial and commercial activity which involve any substantial change in the use of land (the exceptions are so insignificant that we can disregard them for the present purpose). This is a task which cannot rationally be consummated unless the government takes responsibility for practically all investment decisions. If it were to be consistently carried out, land planning would in the end mean central direction of all commercial and industrial activity. No private person or corporation would have any interest in putting a piece of land to better use or in starting anything new on British soil, because the gain, which can only be obtained by using some British land for new purposes, would have to go to the government. Even worse is the fact that since the prospective value of the development must be paid for in cash before the development can be started, the risk of any uncertain venture will be greatly increased. Sir Arnold Plant, in the address already mentioned, put it mildly when he concluded that the Act, in its present form,

threatens to ossify our industrial and commercial structure at the very points at which flexibility and speed of redeployment are the indispensable requirement of successful enterprise in a competitive system.²

The illustrations which Sir Arnold offers demonstrate, perhaps better than general discussion, just what the act means in practice:

Thus the ground floor of a commercial building cannot be changed over from use as an office to use as a shop, a retail shop cannot undertake new wholesale business, a wholesale warehouse cannot be used for light industry, or *vice versa* [i.e. without previous planning permission and payment of development charges]. You will be pleased to know, if you have not yet caught up with Statutory Instrument No. 195 of 9th February, 1949, that although a shop cannot begin to serve its customers with a meal cooked on the premises, a restaurant may now be turned into a shop. The managements of our great department stores may not yet all be aware that if they increase the propor-

² Ibid.

tion of their floor space devoted to the restaurant by more than 10 percent, without first securing the permission of the local planning authority and paying any development charge demanded by the Central Land Board, they are apparently breaking the law.³

Any number of similar illustrations could be given from the actual decisions of the Central Land Board. It is one of the most serious defects of Mr. Haar's book that it gives scarcely any idea of what the application of the new law means in concrete terms. The fact is that it would no longer be worth while to make any changes in the use of land if the law were followed literally and the development charges so fixed as to absorb the whole advantage of the change. But it is scarcely more reassuring for the prospects of preserving a free society that in fact all future "developments" will depend on the Central Land Board authoritatively so fixing the Development Charges in each particular instance that those developments it wishes to proceed will still remain profitable while all others become impossible. We cannot attempt to demonstrate here in detail that the two magnitudes whose difference is to determine the Development Charge, the "refusal value" (i.e. the value of a piece of land for which permission for *any* development is refused) and the "consent value" (the value of this land after permission for a particular development has been granted) are not objective magnitudes, ascertainable, as the legislator believed, by "normal processes of valuation." As there can be no longer a market for development values there will also exist no basis for their valuation. The fixing of the Development Charges of necessity becomes an arbitrary affair, exempt from any objective test, and is bound to degenerate into a process of bargaining. The American observer will have no difficulty in seeing where this is likely to lead when he reads the following remarkable paragraph from the preface to the pamphlet called "Practice Notes," in which the Chairman of the Central Land Board announced the "principles" which the Board proposed to follow in fixing development charges:

The State now owns the value of all development rights in land. We are the managing agents and have to collect the additional value given to a piece of land by the permission given to develop it for a particular purpose. My colleagues and I are very conscious of the responsibilities of this new task. A study of these Notes will show that "value" has many meanings and that to adopt one common meaning for all cases must produce absurd results in some. We have been given the discretion to decide which is the fairest to adopt in each case, and have stated some of our present views in these Notes. Each case, however, must depend on its own facts and a general working rule must always be variable if it does not fit a particular case. We have given instructions to our staff and to our advisers to suggest the fairest value possible for the case in question and to consider with care the views of any developer who takes an opposite view. We promise to try to give our own decisions with these points always in mind.⁴

³ Ibid.

⁴ 1 Series, Central Land Board, Practice Notes (1949) at III.

Could the invitation to bargaining be stated in much plainer terms?

There is indeed much that must be explained both to the British and to the American public about this "daring experiment in social control of the environment" (p. 1) into which the British people appear to have stumbled even more unknowingly than into any of the undesigned institutions which grew up as the result of free development. If Mr. Haar's prediction be true, "that the 'fifties in the United States will be marked by a struggle over land planning in much the same fashion as public housing was the issue in the 'forties," certainly the British experiment should be carefully studied in this country. Mr. Haar has faithfully presented the legislative foundations. Perhaps, as the book appears to be based on a single visit to Britain in 1949, when the Act had only just come into force, we should not expect more than a descriptive account of its provisions and antecedents. We ought to be grateful to Mr. Haar for offering, in readable form, the essence of "the massive document of 10 Parts, 120 long and involved sections, subdivided into 405 subsections [which] runs to no less than 206 pages in the King's Printers copy" and which still left "many of the more important provisions for Regulations, Directions and Orders to be issued by the Minister of Town and Country Planning" which, even at the time of the writing of the book, had become more voluminous and complex than the Act itself (p. 8). Yet, convenient as it is to have available an intelligible account of the British arrangements, the concern with the administrative detail tends to obscure rather than point up the wider significance of the measure. Where a definite goal is set the technique of achieving it is a matter of legitimate interest. But where, as appears to be true in the present case, administrative expediency and the narrow considerations of a group of specialists have been allowed to decide one of the most general issues of economic policy, exclusive concern with machinery has little value except as a warning. Few readers will derive from the present book the main lesson the British experience has to teach: the acute danger that a small group of technical specialists may, in suitable circumstances, succeed in leading a democracy into legislation which few of those affected by it would have approved if they had understood what it meant.

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II

Our institution of land ownership was inherited from England. Frequently American lawyers are surprised to discover that legislation, beginning even before the Law of Property Act of 1925,¹ has made English land law deviate as strikingly as our own from the description of historical English land law contained in law school teaching materials. The British Town and Country Plan-

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¹ 15 & 16 Geo. 5, c. 20.

ning Act of 1947² is the latest in a series of acts³ which compare in stature with such milestones as *Quia Emptores*, the Statute of Uses and the Abolition of Military Tenures Act.

The 1947 Act without changing the form of fee simple ownership goes to the very root of that ownership. Although sponsored by the Labor government it represents a bi-partisan British decision that all future land use and development is to be guided along communally predetermined channels and not left to the individual decision of private owners. In effect, it goes a long way towards transmitting fee simple ownership into ownership of use.⁴ The "oughtness" of planning is no longer a matter for debate in England; the English people have decided to plan. In England "planning" is not merely the production of "model" programs representing the futuristic dreams of the professional planner; the plans have prescriptive effect on landowners. It is more than mere coincidence that in this country the *Zoning Digest*, a journal on planning law, is edited and published by the American Society of Planning Officials and that in England the *Journal of Planning Law* is edited by a conveyancer and published by a standard law book publishing company. This difference in sponsorship is symbolic of the effect of planning legislation on the life of the two countries.

Mr. Haar's book accordingly is unique in the growing body of literature in this country on the Town and Country Planning Act in that it is an analysis of that act by an American practicing lawyer. Mr. Haar does not merely describe the objective of this legislation in the high level generalities customarily used by planners. Instead he has given himself a concrete lawyer-like objective: a description for the American reader of two important aspects of the new English planning legislation. He first describes the fundamental administrative machinery, and then goes on to demonstrate just how individual citizens—home-owners, developers, builders, architects and even planners (they too are under the law)—are affected by the operation of the Act. Mr. Haar has attempted not only to analyze the British Act, but also to give perspective to our own system of land planning. All too frequently the American planner ignores the problem of providing machinery sufficient to put a plan in operation or assures his readers that he has been told by lawyers that the "legal tools" are "available."⁵ This book describes in detail the "legal tools" developed by the English and the problems wrestled with in determining how to use them. Mr. Haar's analysis should dispel any belief that the problem of administration is simply the prob-

² 10 & 11 Geo. 6, c. 51.

³ See also the Agriculture Act of 1947, 10 & 11 Geo. 6, c. 48 which, a commentator in *12 Conveyancer and Property Lawyer* 3 (1947-48) sadly suggests, in effect repeals the Statute of *Quia Emptores*!

⁴ For an argument that fee simple ownership now is "title to the use" see Potter, *Caveat Emptor or Conveyancing under the Planning Acts*, *13 Conveyancer and Property Lawyer* 36 (1949).

⁵ McDougal, *Municipal Land Policy and Control*, 242 *Annals* 88 (1945) is frequently referred to by planners for the conclusion that a variety of legal tools are available for planning.

lem of deciding which device is the most "efficient" or that the debate about planning can be conducted on the assumption that the legal tools are available.

Chapter I describes the history of planning legislation in England as a progression from the early multiple dwelling laws regulating safety, then to public housing and slum clearance legislation, next to public housing legislation with a planning "rider" and finally to independent planning legislation divorced from the emphasis on housing and slum clearance. Title I of the United States Housing Act of 1949⁶ would seem to indicate that perhaps we in this country are in the "rider" stage of development. Large scale planning still requires housing and slum clearance if it is to have popular support. Chapter I also describes the administrative machinery for making the act function. This part of the Chapter may come as a shock to enthusiasts who see in the British Act the "ideal" for which planners should work in this country. The Chapter indicates that the British are not much closer than we to solving two basic problems of planning administration: (1) the relation of the planning agency to operating departments of the same government and (2) planning a geographical or economic area which is governed by a number of local governmental units whose political boundaries do not correspond to those of the economic area. Mr. Haar's book would seem to indicate that even under the new planning act the Transport Ministry can ignore the roads projected so beautifully on charts or maps by the planners and locate them elsewhere, and that the Ministry of Defense can build a fuel depot in an area planned for residential development. The only solution to this problem of division of responsibility which the British Act offers is the "interdepartmental coordinating committee" found a failure in our Federal government by the Hoover Commission.⁷ While some progress is made in the British Act with respect to "planning" a larger area, little "progress" is made in reducing the number of local governments which must carry out the plan.

Chapter II deals with government supervision of land use and development. It describes the system of formulating plans for land use and development and the restrictions on future private development. In this Chapter and Chapter IV the author describes how the British legislation has reoriented the basic philosophy of planning law. The act is not formulated in terms of negative restrictions on land utilization. Rather it provides a mechanism whereby the landowner may be directed towards a use chosen by community officials.

In Chapter III the author deals with another major innovation of the Act—nationalizing all development value so that henceforth a developer must buy the right of development from the government. Here and in his tentative conclusions in Chapter V the author swallows a little too easily the delightfully simple explanation of the "development charge"—as merely a change of payees. It is argued by the sponsors of this scheme that formerly a developer

⁶ 63 Stat. 414 (1949), 42 U.S.C.A. § 1451 (Supp., 1951).

⁷ The Task Force Report on Natural Resources, Commission on Organization of the Executive Branch of the Government 26 (1929)

paid a landowner a price consisting of existing use value plus potential use value and that now it pays the same amount but to two payees instead of one—existing use value to the landowner and the potential use value to the government. This explanation ignores the factor of full knowledge by the only seller (i.e. the government) of the buyer's intended use, and it also ignores the fact that part of a developer's incentive to change from one land use to another arises from his ability to obtain for his own advantage part or all of this "development value" by acquiring the land at its old and less profitable use value.

Mr. Hayek's assertion, in his review of this book and in other writings, that under a "free market" system all advantage of a change in use of a piece of land goes to the developer of the new use and that under the British Planning Act all such advantage will go to the government is unsound in both aspects. While it is true, as Mr. Hayek suggests, that lawyers and other administrative professions need a little more understanding of economics, Mr. Hayek's sweeping generalizations demonstrate that the "principle riding" economists likewise need a little more understanding of the operation of legal and economic institutions.

Lawyers have used the term "market value" for centuries, and its legal meaning probably does not depart widely from the conventional meaning of the term. Public or private agencies with the power of condemnation usually have been unsuccessful in convincing a trier of fact that Mr. Hayek's theory means that the "market value" payable to a landowner on condemnation is solely existing use value. Few landowners (none in the United States) resisting a valuation made by the tax assessor have been successful in establishing that Mr. Hayek's free market means that the "market value" on which taxes are payable is a capitalization of the land's earnings. Valuation proceedings in mortgage foreclosures, rate making, damage actions, security issues, arbitration proceedings and in hosts of other legal proceedings produce the same conclusion about the operation of the institution of "market value." In each instance, the trier of fact, aided and abetted by economists acquainted with the institution of the urban land market has insisted that "market value" includes to the seller something representing prospective use value.⁸

To the extent that market value does include for the seller something representing its prospective use value, Mr. Hayek is wrong in saying that the seller receives from a purchaser converting from one use to another only its existing use value in the free market. Too much consideration of the institution of the free market in land has gone into this legal and practical conclusion to permit acceptance of Mr. Hayek's ancient but untested generalization. In any event, the British Act takes from the existing landowner this element of market value and now requires the developer to buy this part of value from the state instead of the former owner.

Neither am I as certain as Mr. Hayek seems to be that the development

⁸ See Bonbright, *Valuation of Property* (1937); Orgel, *Valuation under Eminent Domain* (1936).

charge results in taxing all of the gain on the change of use to the benefit of the government and that it leaves none of the gain for the developer. The development charge is, as Mr. Hayek says, the difference between "refusal value" and "consent value." But it is not clear that "consent value" makes no allowance for the developer's profit or his risk taking on changing uses. See, for example, the calculation made in (1951) *J. of Planning Law* 706 at 709 where such an allowance was made: To the extent that "consent value" is adjusted to allow for developer's profits he has "incentive" to make the development. This calculation of developer's profit may mean that "consent value" becomes a sum approximately equal to the sum which, under the free market system, the present owner receives over and above any existing use value. If so, Mr. Haar and the British Planners are right in saying that the new developer pays no more than before for developing a piece of land, but now he pays two payees instead of one.

Before praising or condemning the British Act American commentators ought to read Mr. Haar's careful description and analysis of the provisions. More than that, this book is a must for American planners who would evaluate our own system.

American planning enthusiasts continue to chafe at judicial review of the merits of a planning scheme.⁹ Have they thought about judicial review of the merits of a planning scheme in relation to the type of legislation and administrative action they advocate? Under the British Act, a British landowner is compensated in many instances for loss of value due to planning restrictions; our planners often ask a court to sustain, without compensation to the landowner, a restriction which makes it impossible for a landowner to develop his land profitably.¹⁰ Under the British Act planners are compelled to revise their plans periodically and are directed in many instances to limit their look into the future to development reasonably foreseeable within five or ten years; our planners support legislation with no such provisions for flexibility and for limited crystal-gazing into the future and complain when courts upset old plans which have turned out to be erroneous.¹¹ Under the British Act, planning is done by locally elected policy-making officials whose planning dreams are tempered by the realization that costs will come out of the voters' pockets; some of our planning legislation permits planning decisions to be made and put in operation without approval of the local legislative body.¹²

Mr. Haar's book is a useful contribution to our thinking about planning

⁹ See, e.g., McDougal and Haber, *Property, Wealth and Land* 820 (1948): "Consider the difficulties that decisions of this type place in the way of long range planning and the need they suggest for an integration of powers."

¹⁰ See, e.g., *Barney & Carey Co. v. Town of Milton*, 324 Mass. 440, 87 N.E. 2d 9 (1949).

¹¹ See, e.g., *Arverne Bay Construction Co. v. Thatcher*, 278 N.Y. 222, 15 N.E. 2d 587 (1938).

¹² See, e.g., *Ayres v. City Council of Los Angeles*, 34 Cal.2d 31, 207 P. 2d 1 (1949).

whether the reader interprets his remarks about the economics of land use as an "erroneous" view personal to Mr. Haar or as a description without too much critical analysis of the "erroneous" views of the British sponsors of the act.

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The Federal Bureau of Investigation. By Max Lowenthal. New York: Sloane Associates, 1950. Pp. 559. \$4.50.

The Bureau was young when I first met it in 1917. Its official title was, "The Bureau of Investigation of the Department of Justice." As such it had no place in the public mind. The newspaper men took its stories but balked at its title. Perhaps they called it "The Secret Service," which made the staff of that ancient and honorable organization unhappy, or perhaps they called it the "Department of Justice," which made uncomfortable those who thought this derogated from the dignity of the United States Attorney. More often, perhaps, the stories would be credited merely to a government or Federal agent. The Bureau was anonymous.

William J. Flynn, head of the Secret Service, became Chief of the Bureau in 1919. He was widely known and had a magazine named after him which published stories appropriate to its title. In 1921 William J. Burns succeeded Mr. Flynn. He was a private detective with a country-wide reputation. In the popular mind he was Mr. Detective himself. But neither Mr. Flynn nor Mr. Burns succeeded in personifying the Bureau's title. Mr. Hoover took over in 1924. The title of the Bureau was changed to "The Federal Bureau of Investigation." Mr. Lowenthal places the date of the change in 1935. Thereafter, under its initials FBI, the Bureau has become a household name and has gathered a popular following that rates it a place in the herd of politically sacred cows.

Mr. Lowenthal raises several questions relative to the Bureau, of which the most significant in his analysis, may be stated thus: "What is the impact of a central police force on American Society, a police force which may be and is dedicated to political purposes?"

He strikes his key note in the opening chapter, where the Bureau's history begins.

It was 1908; Charles J. Bonaparte was Attorney General, Theodore Roosevelt, President. Mr. Bonaparte urged upon Congress the importance of creating a bureau of investigation in his Department. Congress, however, was leery. One member said that it "would be a great blow to freedom and to free institutions if there should arise in this country any such great secret service bureau as there is in Russia and was in France under the Emperor, and one time in Ireland." A contemporary newspaper viewed the proposal in the light of the "Hated Black Cabinet of St. Petersburg" and of Fouché, who was the reservoir of everybody's secrets and intimidated Napoleon himself. It expressed the

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