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SOME OBSERVATIONS ON THE RELATIONSHIP OF LAW AND PLANNING IN THE PLANNED STATE OF BRITAIN

HERMAN FINER *

The general nature and the problems of national planning are interesting apart from any legal aspects, but I limit myself very strictly and focus attention on the legal problems, the questions of public and private law, principally public, that arise where a democracy, as in England, turns from laissez-faire to quasi-socialization.[1]

The first problem is the advent of this planning. How does a democratic state proceed from a condition in which most of the economy is in the hands of private ownership to one in which a large part of it, today, one in five of all the working population, comes under the management, the ownership, control of the state? Now it would be difficult in the United States under the limitations of the Constitution, to move with the rapidity and the assurance that was possible in Great Britain, where no such written constitution exists.[2] It has no Bill of Rights in a constitution, it has no constitutional law which is distinguished from any other kind of law, and, because it has no written constitution with these characteristics, it has no special form of rigid amending clause. An ordinary majority, obtained in an ordinary election, can change the foundations of the whole of Britain's public life and that is precisely what has occurred since July 1945. When you think that the actions of the government have included the expropriation (of course with compensation) of the Bank of England and various credit functions, the whole transport system of the country, including road passenger transport, trains, docks, and so on; when you add to that fuel, like coal, and subsidiaries, the oil industry; when you add to that all telecommunications; when you add to that also the great utilities, electricity and gas; and add moreover the socialization of the medical profession; when you put those together in a nationalized form you can see that there exists nothing short of an economic revolution. In fact, no other country has accomplished so much in so short a time within the democratic system. The only country that has moved further, and one must say has fared badly, is, of course, the Soviet Union whose planned economy was established by revolution and dictatorial government of atrocious character.[3]

Now, in addition to these actual nationalizations, great segments of the Britain economy are regulated strictly by the state. I may mention agriculture.

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1. Finer, *British Planning and Nationalization*, I.L.O. REVIEW, (March, April, 1948).
2. *Cf.* A.V. DICEY, LAW AND CUSTOM OF THE CONSTITUTION (1939).
3. *Cf.* SHORT HISTORY OF COMMUNIST PARTY (1939); A. BAYKOV, DEVELOPMENT OF THE SOVIET ECONOMIC SYSTEM (1947); J. TOWSTER, POLITICAL CONTROL IN U.S.S.R. (1948).

It is not nationalized in the sense that the land is taken by the government who acts as landlord acts and leases it to tenants, or uses it itself, or organizes, as in the Soviet Union, a collective farm system but, instead, while private proprietorship is retained nevertheless various statutes have subjected the use of the land to standards of capable management. Those standards of capable management being established and implemented by county boards representative of the farmers who have the immediate know-how and can say whether or not the land is being well used.[4] Thus regulation is necessary in the interests of the total economy because the country grows only a small part of its own food and cannot afford to buy food from abroad in the same quantity as before, since it cannot get the dollars from the markets of its manufactures. The country no longer has enough money to buy its raw materials. Hence, it is urgent that every acre should be used to the best possible capacity from the standpoint of the whole country; this necessity implies law, in other words, a coercion. It implies some coercion of the farmer who doesn't do a good job; for he may cease to be a tenant if, in the opinion of his fellow farmers, he is not doing a proper job. Someone who is a better tenant will come on that land. This policy holds good for owner-farmer situations also.

Besides nationalization and regulation, there are great social security arrangements. These social services are of an equalitarian type:[5] food subsidies, family allowances,[6] and so on.

Nationalization is designed to get rid of monopoly,[7] to get superior efficiency, in England by injecting into great national assets the investment, owners in the past did not sufficiently plow back into their factories, railway systems and mines in order to introduce advance standards of technology and science and to increase the productivity of those instruments of production. That is a tremendous thing to have proposed and to have completed in the space of four years. Lawyers, trained in the obscure ingenuities of the case books, already know that a great deal of ingenuity is required to make a law, to interpret a law, and to violate a law; hence, we may assume that in Britain there must have been accomplished a vast amount of brain work in establishing the laws relating to planning. And, it is into some of these matters that I now have to inquire.

First, let me repeat what I said at the beginning: no constitutional obstruction to the planning of the whole of the economy exists in England. There is no Fourteenth Amendment, there is no Fifth Amendment. There is no need to seek amendments. The only difficulty is to persuade a majority of the people to vote for your party and, if you become a government with a

4. Agriculture Act, 1947, 10&11 Geo. 6, c. 48.
5. Education, housing, socialized medicine, etc.
6. Family Allowances Act, 1945, 8 & 9 Geo. 6, c. 41.
7. A Commission of Inquiry before which monopolies may be called for examination was also established in 1949.

majority in the House of Commons, that will give you what is tantamount to sovereign power.[8] Under British public law Parliament is supreme, which virtually means the House of Commons is supreme. No judge can invalidate a statute or an executive action in Britain on the grounds that it is unconstitutional providing the law is clear. Providing the intention of Parliament is put in unmistakable language, there is not very much more for a judge to do than to say, "In this particular controversy, this is the interpretation of the law it is as Parliament wanted it, and there is nobody superior to Parliament to quash that law on the grounds that a superior instrument, namely, the constitution invalidates it." [9] A tremendous power therefore rests in the hands of the majority, but, of course, since there is such tremendous power, it behooves them to be careful in the use of it. The freedom under British conditions to go ahead and experiment is the freedom to make mistakes, and it is also the freedom to return and amend those mistakes, because no Parliament can bind a successor.[10] Thus, the British method of planning is flexible. The way back is open just as well as the way forward: whereas, in any other system, dictatorial or with a rigid constitution, an amendment may be passed, a plan may be instituted, but society might find it very difficult to get back. Remember the great American experiment of prohibition? It was obtained by the Eighteenth Amendment, during wartime, when the temper was propitious for providing the two-thirds majorities and three-fourths ratifications necessary to amend but, afterwards, not until 1933 was the time so propitious for repeal.

The British government does not have to wait for a constitutional interpretation; no British government has to fear injunctions, as in this country, to which many of the agencies in this country are constantly subjected. The British government can train their brains and wills mainly on the specific objectives and the real substantial merits and demerits of the particular measure at issue. However, you may appreciate that behind this process (since we will assume that the people of Britain have a certain sobriety in their political activities) is the fact that if the British electorate has no caution institutionalized in a written document, there is still caution in the way the British arrive at making their laws. If you may do what you like once you are a majority, you are influenced to be careful what you do to obtain a majority; comparatively sober persuasion becomes a settled and expected practice.

Hence, it is interesting to ask what is the nature of the majority? What are the problems involved in the rule of the majority principle in Britain in this matter of planning? The first interesting thing to note is the size of the majority, because this involves certain very important constitutional consider-

8. *Cf.* A.V. DICEY, *op. cit.* Chapter one.
9. *Cf.* D. L. KEIR and F. H. LAWSON, CASES IN CONSTITUTIONAL LAW, 1-13 (1928).
10. A. V. DICEY, *op. cit.* Chapter One, citing *Blackstone's Commentaries.*

ations. Now, the Labor Government, which has carried through this process of planning, was elected roughly by a majority of twelve million votes against the next nearest party, the Conservative, casting 8.7 million votes. Then there is a Liberal Party which carries with it say another 2.24 million votes that are not socialist, though they are not absolutely anti-socialist, nor are they Conservatives. That totals nearly eleven million people who are not fully socialists with most of them anti-socialists. Other smaller splinter parties contribute a total of votes making up almost as many non-labor as labor. It is by a narrow majority that the whole of this economic revolution has occurred.[11] This has excited controversies in Britain whether it ought not to be considered as an accepted constitutional principle, or a convention, and not a written rule, that no changes of this magnitude ought to be instituted by a so simple and close majority as exists. This, again, raises the interesting question of the immediate versus the permanent will of the people in the conduct of constitutional innovations. The question has arisen in two forms and has been raised by the opposition. The people with twelve million votes are never likely to deny the validity of twelve million votes. But it certainly becomes a part of the opposition's occupation to try to denigrate, to shake the government, and to worry it to death urging that its authority is not as sound as it should be. The Conservative opposition with that great parliamentarian, Mr. Churchill, in the lead submits that if a legislature is elected for five years [12] by twelve million votes, then in the first and second year of office, or say for two and a half years out of five, a government might have a good substantial validity as representing the will of the people. If necessary, the opposition must bow to this will. Of course, the opposition will try to instruct the government, so that the bows of opposition are not too painful to it. The first post-war elections must be deemed to have been conducted with understanding, and debate, and plenty of literature so that the people knew what they were doing. In the third, fourth, and fifth years there is a kind of vaporizing of the mandate. The opposition suggests the majority party ought to wait until the people are again consulted, before it undertakes great reform which, though theoretically and formally reversible, are in practice very difficult to reverse. When the government has bought the coal mines, bought out the agents, made the miners quasi-state servants, it is very difficult to return to free enterprise. It could be done; the coal mines could be leased just as governments lease their rail lines or streetcar tracks. However, the actual reversal is a difficult process.

The second place in which this matter arose related to reform of the House of Lords.[13] It is probably known to all here that England is graced by a great anachronism, namely, the House of Lords. The House of Lords is an

11. *Cf.* FINER, THEORY AND PRACTICE OF MODERN GOVERNMENT 552 (2d ed. 1949).
12. Parliament Act, 1911, 1 & 2 GEO. 5, c. 13.
13. *Cf.* House of Commons *Debates*, November 10 and 11, 1947.

hereditary chamber of some seven hundred people most of whom are there and have legislative authority by reason of the fact that they are an accident of an accident. It sometimes occurs that the accident produces a man of great public spirit, a man of great ability, but no private egoisms for his class. I will not deny this; but he still, and the house still, lacks popular representative authority. And so over the years the powers of that House which used to be practically tantamount to those of the House of Commons have been attenuated. In 1911, it lost the power to destroy a House of Commons' bill, but secured the power to hold up a bill passed by the lower house for as much as two years if the House of Commons went through a certain procedure, and passed the bill three times within the space of two years. Then the Royal signature would at once follow. Now the Labor Party tolerated this two year delay, but said in their 1945 election campaign that if the House of Lords broke the will of the people, it would reform the House of Lords and withdraw from it this power of obstruction. They did nothing about this until 1947. Then [14] they introduced a bill to nationalize the iron and steel industries. The electoral mandate was supposed to be waning. Opposition was particularly strong, as the iron and steel industries had been producing more than ever before and at rather lower cost. The argument of inefficiency in the industry was not very strong. It was rather a doctrine of Socialism than a doctrine of efficiency. Therefore, it began to be suggested by the opposition that this would be a proper occasion for the House of Lords to interpose its veto and to embarrass the government by amendments inacceptable to it. It would take the House of Commons a long time to pass the bill, usually until the fifth year, which is the last year of the Parliament. A major constitutional issue was raised in the cabinet: What are we to do with the House of Lords? A monkey-wrench of two years for each bill could be thrown into the legislative process and embarrass a reforming government's whole program. The government, therefore, introduced a bill into the House of Commons for the reform of the House of Lords cutting down the latter's suspensive veto from two years to one. What were the arguments of the Conservative side? Some had said that the House of Lords is the watchdog of the constitution. Opponents, like Lloyd George, had said that the House of Lords was only the private pooch of the Conservative Party. The Conservative Party has a vast steady, loyal majority among the aristocracy. The Conservative leaders in the House of Commons could tip off the leaders in the House of Lords to delay the iron and steel bill.

Of course, the Conservative Party raises the question of the constitution. We have no written constitution, they argued, but all Englishmen have a constitution written into their minds and consciences, that violence must not be done to the minority. This thought happens to be a well-supported idea which

14. It became a statute in December 1949. Iron & steel.

prevails throughout the country. The Conservative Party claimed that it wished to insure that the permanent will of the nation shall triumph over the Labor Government's making of law by the immediate transient will of the people. Now, nobody who loses an election can publicly admit, or will publicly say, that he deserved to lose it, and no opposition is going to admit that the government deserved the twelve million votes they obtained. They, therefore, preferred to argue that twelve million votes were simply the transient will, and that it is unfair to make a permanent change in the fundamental economic structure of the country without support of the permanent will. The place of the House of Lords in this context is simple. If the House of Lords can obstruct, it can give pause to the immediate will of the House of Commons and the majority there, hold it up for two years, by which time another election may be due. Thus, it can force the government to put its legislation to the people, and to ask for a review of its authority. I presume, then, the Conservative leaders would say that if the people of Britain, to the extent of twelve million votes, said "Yes," twice, so be it. But to say "Yes" only once is to express only the immediate and transient will. Parliament under guidance of the Labor Government curtailed the suspending power of the House of Lords to one year. To be fair to everyone concerned, the government makes its iron and steel nationalization statute law in this form: it sets the date of its effectiveness, which in British law is called "the appointed day," on a day *subsequent* to the next election. Consequently, if the Labor government doesn't get in, they will not be there to implement the law on the appointed day, and a Conservative government could take that same statute to Parliament and simply have the appointed day wiped out or repeal it altogether.

Now, the whole process of legislative reform on such a scale, as the British had between 1945 and 1950, not being inhibited by constitutional limitations, deserves a careful process of debate before a government ever gets into the position where it can act. In fact, the whole of the program under discussion was not the invention of a single month or a year, or even five; but, in fact, it has taken over 30 years to elaborate and to formulate itself to a point where the ideas were almost the complete blueprint of a statute. These drafts have been submitted from time to time to the electorate and have been debated in various ways for over 30 years. In Britain there is a kind of instrument of legislation or pre-legislation which I call the "social microscope." Just as a microscope analyzes any particular part of matter in great detail, in order that we may the better know and control cause and effect, so Britain conducts "microscope inquiries" called Royal Commissions of Inquiry.[15] They are like Congressional investigations except that they are not as sensational. They are not scandal-mongering; they are not intended as a hunting down of bureau-

15. *Cf.* FINER, *op. cit.*, 447-448.

crats. They are sound, sober investigations with experts invoked to find the relationship of cause and effect in social matters. Since the year 1832 there seldom has been introduced into the House of Commons a piece of legislation of any importance without a previous great inquiry of this kind. They are more than bi-partisan; they mingle experts with politicians. These reports, majority and minority, are reservoirs from which the government and opposition can draw arguments. Every one of the socializing statutes mentioned came out of such a process of inquiry. So that it was possible for the political parties that possess research bureaus; and these political parties, which never cease their job, do not come into operation only at campaign times, but are on the job all the time to put out their literature transcribing the various inquiry reports from an academic form to one which can be understood generally by the masses of the people.

It happens that Britain is a country which has certain geographic and geopolitical advantages in the making of law. The ideal law is one which would be a full consensus; where people did not feel coerced; where all minds have come together and admitted a reasonableness of principles on which all can live together in free fellowship. Nature makes a capital contribution to such a political fellowship where a very small compact area of government prevails, densely populated, in which all the people can move in together and understand each other. Britain's 80,000 square miles of England can go nearly one hundred times into the area of the United States. There is hardly a place in England which is not reached every day, the same day, by the metropolitan newspapers from London. They carry a heavy proportion of parliamentary legislative news. Year after year, day after day, a widespread understanding of political things develops. Now, this planning program was never put to the people in all its statutory details. When you consider that the coal industry statute consisted of around one hundred clauses with sub-clauses, written in the way that the lawyer must write them, with a special jargon and significance to each word, clearly, no mass population of today could read or understand it, and dispense with lawyers and others who might explain it to them. But the principle of it, the main drift, the idea, all this was filtered down in the newspapers, party literature, the rest in considerable particularity, so that in 1945 the electorate had a very good idea of what they were doing,[16] in those respects in which the people had to make a decision as to what will be the main advantage, as to what will be the main sacrifices that they will have to accept, and as to what will be the broad methods by which their purposes can be carried out. A process of this kind, honestly conducted by political parties with a high degree of probity, admits of less need for constitutional obstruction when the parties, as men of integrity, have fulfilled the electoral task

16. MacArthur and Readman, The British General Election 1945 (1947).

incumbent on them, and have been returned to office; nothing can stop them. In the absence of a written constitutional limitation, a constitutional limitation develops within their own political understanding and character. In a sense the populace is freer than when men are subjected to the rigidities of a written constitution.

A vital problem arises. Is it easy to go back? In a flexible democracy we would desire that the people should be able to go back if they find they have made a mistake. This action is, indeed, as possible formally in the British system as going forward. The only issue is that where you have nationalized four or five of the basic industries of the country, each one by a statute of articles ingeniously contrived, with a new type of public financing, it would be difficult for a Conservative Party to change the law. In fact, the Conservative Party, recognizing, I think, the essential need and righteousness of this legislation, has already said that it will not reverse the situation.[17]

I would like to discuss the law and custom of Parliament itself. This sort of thing cannot fail to be interesting to Americans because the first manual of procedure of the United States House of Representatives was Thomas Jefferson's manual, and Thomas Jefferson modeled his concepts on the procedure of the House of Commons which was the best type of legislature that the founders of the Constitution knew. National planning involves the need for controls over the planners. Where are we to find our chief set of controls except in the legislative body? In private enterprise, control over efficiency is conducted by the consumer because he will not pay the price to an inefficient producer. This economic action is the theory of the matter. The inefficient producer, who doesn't produce the things which the consumer desires, being the described quantities at the lowest cost of production, will be beaten out of business. This kind of control is almost abolished in the nationalized industries. Something else is needed to represent the consumer. Under the British constitution, it is the House of Commons. Therefore, the House has problems involved in its own position and function in what is called "the grand inquest of the nation." Thus, the power of the House of Commons to ask questions of ministers has been revised; special days of debate for economic planning have been initiated; the control over what is called "executive orders" has been reformed.

First, the British executive, designated the prime minister, does not sit and live one mile away from the capitol at the other end of Pennsylvania Avenue as in Washington. The British Parliament controls the executive by having the executive in front of it in the same seats. By a process of inference the Parliament can guess inefficiency on his part should his tongue shy at the full truth. The members ask some one hundred questions every day from a

17. INDUSTRIAL CHARTER, May 1947.

quarter to three to a quarter of four, the first business of the house after prayers.[18] Mr. Speaker always prays for the House of Commons (just as the House of Representatives is prayed for) after which follow the hundred questions! These inquiries consist of any questions regarding public policy. The questions are very keen and there are supplementary questions; a very searching, brief interrogatory of a terrifying impact. Now, the more activities the state conducts, the more important is the question hour, because people tend to divert their attention from the more trivial questions to those that concern the planned economy. Hence, the problem arises: supposing you allow questions every day about the planned economy, the coal corporation, the railroad corporation, the railroad hotels corporation, the electricity corporation and the rest, the problem arises, are the twelve managers and the twelve workers going to be harassed to a point whereby the responsibility of a public answer coming every day would be so onerous that their business initiative and discretion would be paralyzed? All government officials live in a "goldfish bowl," and if people peer in too far, seeing that the particular fish in this bowl is not a fish but human being who loves to hide, who loves to believe or make other people believe that he is a little more noble and efficient than he really is, will he still take business risks? Will he not cease to be an entrepreneur? Will he not prefer to go easy in order not to make mistakes? If he is to be discredited in office by the number of mistakes, he will never get as much credit as discredit, for where credit is deserved there will always be a reason for withholding some of it. The process will slow down, make bureaucratic endeavor of the industries. The British government, therefore, attempted to shield the everyday internal operations as the "business" operations of the corporation from questions. And so the parliamentary minority appealed to the Speaker of the House of Commons, who is the guardian of the rights of the minority, for the right to question. As guardians of the country, they had already advanced a doubt about the permanent validity of the mandate of the government. Now, they asked questions about the way the mandate was used. It is in the authority of the Speaker, unless the House otherwise directs him, to decide the width of permissible questions. After debate he proposed to be generous in permitting questions to be asked; *but* he told the minority that whether the government answers them for you or not is another question. It is the minority's business to question the government. The Speaker of the House is but the impartial presiding officer. The issue is between minority and majority.[19] So if the government does not wish to answer, no doubt it will be punished in the course of some debates, or it will be open to the minority to go to the country and to urge that these men be not returned to office again be-

18. FINER, *Op. cit.*, 530.
19. *Cf. Commons Debates*, 1649. June 7, 1948.

cause they are not frank and are not candid when asked about the management of the nation's property.

Secondly, there have been conducted on two or three occasions during the parliamentary session three-day debates on the economic state of the nation. In the past, the introduction of the budget, the debates on the budget, the struggles over appropriations and ways and means have been the classic controls of the liberal democracies of the 19th century. Today, if a planned system is to remain both efficient and legal, daily task questions are not quite enough nor are financial debates only. A regular lengthy debate of efficiency is essential in efficiency audit. The government has instituted in the procedure of the House two or three three-day sessions for debate of the whole economic and social policy of the government.

Thirdly, of interest is the problem of rules and orders. Those who have studied the public law of the United States of America know that one of its most controversial topics today is the extent to which the executive, through the administrative departments, is permitted in one way or the other to write rules and orders based upon the statutes. Congress devolves, however, to an extent determined by various Supreme Court opinions, and so determines the extent to which discretion is vested in the departments to fill in the details of the law.

Now, businessmen in this country have been particularly grieved by the wide scope of such departmental legislation; for it is a discretion vested in career officials whom it is difficult to call to account. In the United States the executive can escape largely from Congressional control because it possesses its own sphere of executive activity as set down in the constitution. When the President does not want certain files to be disclosed to Congress or a Congressional committee, he merely orders or authorizes the Attorney General simply to declare that under his responsibility to the Constitution they cannot have the files.[20] The Senate can do nothing about it. But all rules and orders made under statute in Britain carrying out the work of the planning agencies are submissible to the House of Commons for their validity. They lie there for thirty or forty days, and they either require an affirmative resolution of both Houses to give them validity, or their validity may be negatived within a certain time.[21] This means that there is more than a judicial *control* over the statutory validity of rules and orders made by the executive. That exists because an action in the courts rests not on *constitutional* grounds (as does the American) but on the ground that an official is doing something that the statute does not allow him to do. In addition, there is the process of going to Parliament to find out whether the members are satisfied that the rules or

20. N.Y. *Times*, March 16, 1948.
21. *Cf. Third Report*, House of Commons, Select Committee on Procedure, 1946, p. X2ivff., Memorandum by the Clerk of the House.

orders as drafted are within the main principles set down by the law. For this process, a special committee of the House of Commons was created with the function of watching these rules and orders by reporting to the House of Commons if it thinks that some controversial items or principle has been included, whereupon the House of Commons, if it desires, may debate the matter and require the government to quash or vary the order. Otherwise the order obtains validity. Here is another way of securing general popular control.

Now, I finish on the note of liberties within planning. The English are a libertarian people. They would not coerce any minority except after most anxious consideration and after minimizing the amount of coercion necessary for the public welfare. In no sense by this legislation have the basic human rights, that is to say freedom of opinion, of writing, of association, and of the rest, been touched. The government has been most careful to secure the elements of freedom in the interstices of each statute. For example, and I take one only, socialized medicine. Some doctors will say that the freedom of relationship between doctor and patient is abolished; and a patient might have said he is losing his freedom of relationship with the doctor. What is the legislative answer to that? The legislative answer took about three years of negotiation with the doctors to discover, and is an ingenious permission of the patient to go to whatever doctor he likes without explanation, to put himself down on the doctor's list which entitles the doctor to a certain fee per year, and to ask for his card and to walk over the road to another doctor if he becomes dissatisfied with the doctor's care. No explanation is needed. If a patient thinks the doctor has not given him proper treatment, he may appeal to a local body composed of a majority of doctors, but with some laymen also, on a plea of insufficient attention. He may have given him a cursory lookover when he needed a thorough examination; he might not have prescribed the correct kind of drugs; or he might have been careless in not certifying the right of his absence from work some day; he might have been careless in not recommending the proper clinic, hospital specialist. To all of these circumstances, there is a right substantiated for the patient under the British law. The doctor himself has one appeal after another right up to the top institutions of the country in order to establish his professional reputation and services if these be challenged by a patient. The patient equally has the right to leave that doctor and above all to make a complaint against him before this public body.

These socializing statutes of some one hundred clauses each, consist of an ingenious attempt to combine the needs of planning with a transcendent care for the freedom of the individual.

It might have been thought that in a planned economy it would be necessary to limit the right to strike. In fact, the Labor Government did the reverse by an act of 1947;[22] it reversed a situation which had been set up by the Con-

22. *Trades Disputes and Trade Union Act*, 1946, 9 & 10 GEO. 6, c. 52.

servatives in 1927 by setting severe limitations to the right to strike.[23] No country is freer regarding the workers' right than in the planned economy of Britain; however, this manifestation has thrown a responsibility on the workers themselves. The workers can no longer claim that they are fighting a capitalist—there isn't any capitalist for the miner—and the workers come to realize that their contest is not with a capitalist, but with a government representing the entire consuming body of the country and, above all, maybe with other occupations of their fellow workers. If a coal miner strikes for more money and gets it, that increases the cost of the production of transport and the transport worker has no capitalist to fight either. So we now come to see the occupational tension in modern societies, and the result is that they have limited their own right to strike by saying that that, for us, is antiquated. The worker will keep the right to strike, but will exercise it with a new responsibility. The strike is a final means of pressure against maybe an irresponsive society as a whole, or against other occupations that are organized and which are oppressive to us. But the unions can get together in their Trade Union Congress and work out the inter-occupational problems among themselves, without the need of striking, and without the damage, therefore, by interruptions of work of reducing the standard of living for all.

I regret that time does not permit me to discuss certain matters in this relationship concerning the state of the law and the state of planning; but what I have said so far, would, I think, lead you to suppose that, in the main, the rule of law to which we all, as democratic individuals and lawyers, are devoted and the rule of law under British planning is not only intact but beneficent.

23. *Trades Disputes & Trade Union Act*, 1927, 17 & 18 GEO. 5, c. 22.