AMENDMENT OF THE TOWN AND COUNTRY PLANNING ACT, 1947

MEMORANDUM BY THE MINISTER OF HOUSING AND LOCAL GOVERNMENT

I was authorised to prepare a draft of the kind of "White Paper" which might be used in connection with the proposed amendment of the Town and Country Planning Act, 1947.

2. Here it is.

3. It has been prepared by me, with the help of my advisers in the Ministry of Housing only.
   If the principles are approved, a revised text will be necessary, in consultation, with other Departments concerned.

4. The object of the draft is to show how the Limited Compensation Scheme might be presented to Parliament and the public.

5. General agreement has now been reached on all but one point.

6. It is agreed that the £300 million shall not be distributed next year.
   It is agreed that compensation for land compulsorily acquired or compulsorily sterilised, shall be at existing use value plus 1947 claim, and shall only be paid as and when each case arises.

7. The only difference is this: I want to abolish development charge. The Chancellor of the Exchequer wants to reduce it to (say) 60 per cent.

8. The arguments for abolition are,
   (a) that it is a hateful and hated tax;
   (b) that it cannot be (like ordinary taxes) accurately calculated, but depends on the judgment of the valuer, and is often a matter for "negotiation";
   (c) that it is a tax on development. The old land reformers used to attack undeveloped land, not development;
   (d) that the developer has to pay out hard cash at the very moment when he is incurring all the costs of development;
   (e) that there seems no logical basis for 60 per cent. more than for 50 per cent., 40 per cent. or any other percentage.

9. The arguments for retaining charge are,
   (a) that it is unfair that some landowners (where land is not compulsorily acquired or compulsorily sterilised) should get the full profits arising from sale for development, while others will only get limited compensation;
   (b) that it is wrong that private owners should pocket "betterment" due to public effort;
   (c) to allow (a) and (b) would offend the public conscience and may become a scandal; lead to much political agitation; and perhaps end in a clamour for land nationalisation.

42941A
10. My reply to this is,
(a) that the wide use of compulsory purchase for re-sale to private owners as part of local authority development schemes will avoid any scandal;
(b) that if you want to keep a tax on permitted development and any profits made, then you should tax the man who sells land (who is receiving cash) not the man who develops land (who is paying out cash). This, of course, is a matter for a Finance Bill, not for an amendment of the Town and Country Planning Bill;
(c) that large scale development for private housing will need to be stimulated rather than restrained;
(d) that if the Government want to acquire all development rights, then they must pay for them, i.e., stick to the present scheme—the £300 million payout;

11. I would present the political case as follows,
(a) Socialists were prepared to pay out £300 million to landowners, however remote the intention to develop. We think this a scandalous waste of public money. Indeed, we propose "compensation as you go";
(b) development charge is a clog on development and falls specially hard on little men, we abolish it;
(c) charge for "change of use" seems indefensible to most people. If "change of use" is undesirable, "planning" stops it. Why should you pay for doing what "planning" says it is in the public interest that you should do.

12. These are the arguments. I hope the Cabinet will have an early discussion and decision. We must make a decision quickly, for Parliamentary and technical reasons.

H. M.

Ministry of Housing and Local Government, S.W. 1,
25th September, 1952.
ANNEX

PROVISIONAL DRAFT OF WHITE PAPER

TOWN AND COUNTRY PLANNING ACT, 1947

AMENDMENT OF FINANCIAL PROVISIONS
TOWN AND COUNTRY PLANNING ACT, 1947

AMENDMENT OF FINANCIAL PROVISIONS

PROVISIONAL DRAFT OF WHITE PAPER

Part I.—Introduction

1. Her Majesty's Government have had under review the financial provisions of the Town and Country Planning Act, 1947.

2. When these provisions were introduced into Parliament they commanded a broad measure of agreement. Indeed, they do not differ very greatly from the proposals contained in the White Paper on the Control of Land Use (Cmd. 6537) which was laid before Parliament in 1944 by the Coalition Government. But in operation they have attracted a great deal of criticism from many different quarters; from local authorities, from representatives of industry and commerce, from professional bodies, from property owners, large and small, and from many private people anxious to build themselves a house or to engage in some other enterprise. Her Majesty's Government think it will be generally agreed that the financial provisions are giving rise to difficulties in practice.

3. The problem which the financial provisions were designed to meet is the dual one of compensation and betterment arising out of the control of land use. This control inevitably inflicts loss on some people, while conferring benefits on others. The resulting problem of compensation and betterment was analysed in the Report of the Uthwatt Committee published in 1942 (Cmd. 6386), summarised in the White Paper of 1944 and fully discussed in the debates on the Bill for the Act of 1947.

4. The solution adopted in the 1947 Act was to vest all development rights in the State, and to make intending developers pay to the State a licence fee (development charge) on being granted permission to carry out development. Three main pillars support the system:

   (i) no development* may be carried out without planning permission and, subject to certain exceptions, when permission is granted a development charge must be paid based on the increase in the value of the land due to the grant of permission;

   (ii) payment is to be made out of a £300 million fund to anyone who can show that his interest in land is materially depreciated by the Act. Claims for this purpose have been made and nearly all have been agreed or settled.

   (iii) as the corollary to (i) and (ii), the price at which land is bought by compulsory purchase is its value for its existing use (i.e., development value is excluded); and all land should in theory change hands at or about this price, though the Act does not make that obligatory.

5. Her Majesty's Government intend to maintain unimpaired the full control of land use provided for in the Act. It is as necessary now as ever it was to prevent building over good agricultural land or over land containing valuable mineral deposits; to restrain the outward sprawl of the great towns; to improve living conditions and industrial efficiency; to preserve the countryside and coast line from further disfigurement and destruction; and to enable public authorities to acquire land needed for public purposes without having to pay inflated prices.

6. The question the Government have had to consider is whether it is possible, while maintaining these powers unimpaired, so to adjust the financial provisions as to reduce or get rid of the difficulties which have arisen in practice; and to do this without materially increasing the burden on public funds or bearing too hardly on private individuals.

7. Her Majesty's Government have come to the conclusion that amendment which will retain the essential features of the Act of 1947, but which will get rid of its worst practical difficulties, is possible. Their proposals, in broad outline,
are set out in Part III below. In order that these may be better understood, the difficulties in the existing system are described in Part II. The legislative programme is outlined and certain transitional questions are discussed in Part IV.


8. Most of the difficulties spring in one way or another from the unwillingness of people to act in accordance with the theory which underlies the financial provisions, or from their inability to understand them, or from a widespread conviction that they are unfair. Perhaps the greatest difficulty has been that people generally do not understand either the principles or the practice of the Act, particularly the separation of development value from the land. But it is to be noted that many of those who do understand the Act believe that it needs amendment.

9. The difficulties may best be described by reference to the main features of the 1947 scheme:—

(i) The £300 million Fund

10. At one time it was suggested that the £300 million might be grossly insufficient to meet claims for compensation for depreciation in values. Most of the claims made by owners to the Central Land Board have, however, now been assessed; and the total will be only about £350 million. Some owners whose land was ripe for development in 1947 have been promised payment in full; their claims amount to about £100 million. Once these “preference” claims have been met the fund would enable the remainder to be paid at the rate of about 16s. in the £.

11. Under the Act as it stands agreed claims on the fund have to be paid before 1st July, 1953. But to pay all these claims in the next twelve months, apart from its considerable inflationary effect, would put a great deal of money into the hands of owners who have no real case for payment: who have no intention of developing their land, or whose land is not, indeed may never be, ready for development, or who can fairly be prevented without any payment from carrying out further development where such development would be contrary to the public interest (e.g., changing the use of a building to the detriment of neighbouring properties). Furthermore, once the £300 million are paid out it would be exceedingly difficult for any future Government ever to alter the financial provisions at all radically, however badly they seemed to be working. For all the holders of claims would have been paid, both those who will be allowed to develop and those who will not.

(ii) Purchase at existing use value

12. As indicated, all land transactions should, on the theory of the Act, take place at or around existing use value; and compulsory acquisitions do take place on that basis. But except where they are forced to do so, owners are, naturally, unwilling to sell land for development at no more than it is worth for its existing use, since a sale on that basis provides no return for the trouble and expense involved. If that is all they are to get they might as well keep the land and one result of the Act has been that little land is being offered for development.

13. If, however, the developer pays more than existing use value, the effect of the Act is to increase the total which he pays for the land (since development charge has also to be paid and it is in effect part of the purchase price). The Act is therefore increasing the cost of private development. The Central Land Board have indeed power to intervene in order to compel transferences on the existing use basis; and on occasion they have, when approached by a prospective developer, acquired compulsorily on his behalf land for which the owner was asking more than existing use value. But intervention of this kind in the individual case is at best haphazard, and the implied notion that if A has a fancy to build on a bit of B’s land, he can ask the State to get it for him, is not an attractive one. In any event the existence of the power contributes to the reluctance of owners to offer land for development at all.

14. To the extent, therefore, that the existing use basis is effective it has helped to keep land off the market; and to the extent that it has been ignored the cost of development has risen. Local authorities do, of course, buy land at existing use value, and in recent years they have been responsible for a large proportion of
the building which has been done. But private developers, whose activities should be encouraged, have been severely hampered through being unable to obtain land for development at a price which takes sufficient account of their liability to charge.

(iii) Development charge

15. The strongest criticisms of the Act have been levelled at development charge which, if logical and perhaps equitable in theory, has seemed arbitrary and unfair in practice. The theory is that the levy of development charge by the State enables the public (albeit on a basis of rather rough justice) to collect any betterment due to public effort; that it ensures equality of treatment between those who are not allowed to develop their land and those who are; and that while it helps to meet the cost of paying compensation it does not, or should not, add to the cost of development. In practice, however, charge is seen as a straight tax on development—which is bitterly resented; and few people can understand its basis, since it bears no obvious relation either to the cost of the land or to the cost of the development.

16. The great majority of private people who want to build a house or to start a shop or other enterprise are people of small resources to whom the theory of the financial provisions is really meaningless. Sometimes they have no claim, either because they have bought the land without getting the claim, or because the land had in 1947 little or no development value; the charge to them is just an additional burden imposed on their enterprise. Even if they managed to buy the land cheaply they resent charge; indeed some of the bitterest complaints have come from those who did buy cheaply—the very people in whose case the Act is working as it was presumably meant to work. It may be that they would have had to pay more for their land had it not been for the Act; but that they could have understood. They could have bargained; they could have tried elsewhere; they could have been lucky. But charge is everywhere; implacable, inescapable, governmental.

17. For developers who hold claims on the £300 million charge is, for the time being, not so bad. Since it was announced that the sum would be sufficient to meet claims at least up to 16s. in the £ the Central Land Board have been setting-off charge up to 80 per cent. of the relevant claim. In other words where claim and charge equal each other the prospective developer who holds a claim is at present, having to pay down only 20 per cent. of the charge. But very often the charge exceeds the claim. This is bound to happen as the prospects of development concentrate and mature in particular places. So that most people will find, as time goes on, that the charge exceeds, in some cases greatly exceeds, the claim. It is improbable that people will willingly accept this. Also there will be many cases where charge must be paid where no claim was made or admitted; where in 1947 there seemed to be little or no prospect of development, e.g., where the owner merely wants to enlarge, or improve or change the use of his building. This too people will find it difficult to swallow. In short, it will become increasingly difficult to maintain the exaction of charge.

18. Nor is the general hostility to charge by any means the only difficulty. As explained above, land-owners do not in fact sell land for development at its existing use value. There is no obligation on them to do so. The burden of charge accordingly falls in whole or in part upon development. Moreover it has to be paid just at the stage when the developer is least able to meet it, when he is facing the cost of development. The true additional burden may not be very great. But with the cost of developing as high as it is to-day any addition is serious. And sometimes the addition is severe.

19. One criticism widely made is that the basis of charge is uncertain. Since it is assessed on the difference between the value of the land without permission to develop and its value for the development permitted, it is inevitably a matter of judgment and valuation—and therefore for negotiation, just as the price of land is a matter for negotiation. Quite small adjustments made in the two values during the process of such negotiation can sometimes have a very large effect on the amount of charge finally assessed. This is inherent in the nature of charge; but the effect is to destroy confidence in its validity. A tax (and nothing will persuade people that charge is not a tax) should not be negotiated between the official and the subject. It should be certain and as far as possible unchallengeable. This development charge of its nature cannot be.
20. Suggestions have been made in the past few years that in order to reduce some of the difficulties associated with charge, particular classes of development, such as private housing, or changes in the use of buildings, or the extension of buildings beyond the present charge-free limits, should be exempted from charge. The Government have examined the various possibilities, but have come to the conclusion that no substantial exemptions could be made without giving rise to difficulties as great as those from which it is desired to escape. The charge on private housing could not be abolished without upsetting the basis for assessment of charge on municipal housing—and indeed on many other forms of development—and reducing the income from charge to a negligible amount. About 70 per cent. of the charge at present being collected comes from house-building (including municipal housing). The charge on change of use or on extensions could not be abolished without penalising new building by comparison with old. In any event the proposal that certain forms of development should be exempted from charge really derives from the belief that charge is a tax on development. But it is not in theory supposed to be anything of the kind; it is supposed to be the purchase price of the development value, which the owner would get if the State did not.

21. Another possible approach would be to reduce the rate of charge for all development—say to 75 per cent. or even 50 per cent. This has considerable attraction, particularly if payment of claims on the £300 million fund is deferred, and such charge as has to be paid can be set off against the claim where one applies. (Indeed, it would be difficult materially to reduce charge unless the payment of claims were deferred—see paragraph 11.) This might provide the owner—particularly the owner with a claim—with an incentive to sell land at a price which would be low enough for the developer to be able to pay the reduced charge without any burden on the development.

22. Her Majesty's Government have examined at length the possibility of a solution along these lines. It seems to them, however, that there can be no certainty that land would, even with a heavy reduction of charge, normally change hands at a price that took account of the developer's liability to pay whatever charge is levied. The vendors of land, like the vendors of any other commodity, will get the best price that they can and the charge, however small, would in effect be passed on, in whole or in part, to the developer. Moreover, the problem is not merely one of easing the market in land: there is an urgent need for developers who already own suitable land to be put in a position to make use of it. Charge even at a reduced rate would act as a deterrent, and one that would be specially resented at a time when there is an urgent need to encourage desirable development like housing, not place obstacles in its way. To the extent that charge can be set off against claim it may be tolerated; but even a reduction of 50 per cent. will not avert the difficulties which must arise when charge begins to be much greater than claim. Nor, if charge be reduced to 75 per cent. or 50 per cent., is there any clear principle why it should stand at any particular figure: the process of reduction, once begun, will be difficult to stop. From the point of the revenue, a heavily reduced charge becomes hardly worth collecting when allowance is made for the cost of collection.

23. Development charge is thus too weak an instrument to act as the lynch-pin of a permanent settlement. Accordingly the Government have reached the conclusion that a mere adjustment of the existing financial provisions is unlikely to provide a stable solution; and they have decided that a more radical amendment must be made.

Part III. — The Limited Compensation Scheme

24. In the barest outline. Her Majesty's Government propose—

(1) not to pay out the £300 million fund, but to retain the once-for-all reckoning of the 1947 Act by limiting the compensation payable on any piece of land to the full agreed value of the appropriate claim on the fund;

(2) to pay compensation for planning restrictions only as and when the development of land is prevented or seriously restricted;

(3) to fix the compensation payable on compulsory acquisition at the current existing use value of the land plus the full amount of the agreed claim, both to be paid by the acquiring authority;

(4) to abolish development charge altogether.

These proposals may conveniently be called the Limited Compensation Scheme and are set out in the following paragraphs.
Compensation at 1947 Values

25. The essence of the Government's proposals is to turn the "depreciation payments" of the 1947 Act into compensation payments. They believe that there will be general agreement that the once-for-all reckoning of compensation effected by the Act of 1947 must be maintained. Unless that is done effective control over the use of land cannot be maintained, for the cost of compensation, if it always had to be paid at the peak value, would be crippling. It would also include a large element of value created by public effort. The Government will be prepared to pay compensation for loss of development value created in the past—up to the point where the 1947 axe fell—but not for the loss of development value created in the future.

26. The limit within which it is proposed that compensation should be paid is 100 per cent. of the claims admitted and agreed by the Central Land Board. Since the basis is now to be admittedly a compensation basis it would not be fair to pay less than 100 per cent. of the admitted claim where the owner is deprived of all development value. This principle will be subject to certain modifications (see paragraph 30).

27. It may be argued that it is unfair to limit compensation in this way. Land which now has a very small claim upon it may at some future date acquire considerable development value. Values will tend to follow the plan and the land which acquires this high value will normally be land on which development will be permitted; but there will be exceptions, and some may feel that to limit compensation in these cases will inflict hardship on the owners. But such hardship, if it is hardship, is inherent in the Act of 1947 as well as in the Limited Compensation Scheme: if the pay-out were made now owners would receive nothing for these distant and prospective values. All transactions in land over the past five years have taken place in the full knowledge that the 1947 development value was the most that anyone could hope to receive by way of compensation from the £300 million fund; indeed, most claimants expected to receive only a fraction of that value. For the future no one should pay more than current existing use value plus 1947 development value for land without first making sure of permission to develop. The value to be placed on the land with the benefit of that permission will be a matter for private judgment.

Deferment of payment

28. There will probably also be general agreement that payment of compensation should not be made until damage is actually inflicted. This proposal has in substance been made in several quarters, notably by the Royal Institution of Chartered Surveyors. The intention is that compensation should not be paid until there is a real proposal to develop, which is prevented by the refusal of planning permission, or a real need to establish that permission will not be granted. (The Royal Institution of Chartered Surveyors contemplated that claims would also have to be paid when charge was levied; but as Her Majesty's Government propose to abolish charge that does not arise.)

Payment on basis of full agreed claim with interest

29. As explained, payment will be on the basis of the full agreed claim. The Act provides that interest should accrue on any sums due to be paid as from the Appointed Day (1st July, 1948). The underlying assumption was that the payments would be made within five years; and since payments are now to be deferred Her Majesty's Government propose that interest should be allowed to accrue for a further, though limited, period. The duration of this further period is one of the several points to which further considerations will be given; but it will certainly run to the point at which claims which have already become due—where development has already been prevented or land has been compulsorily acquired—are paid.

Exclusion from compensation

30. It is not intended that compensation should be payable in every case in which permission to develop is refused or conditions are attached to a permission. For example, compensation will not be paid for a refusal to allow a change in the use of a building,* or refusal to allow one type of building rather than another; or refusal to allow development which would place an undue burden on the

* With the general abolition of charge there will, of course, be nothing to pay in future when a change of use is permitted.
community, e.g., in the provision of public services; or refusal to allow development which would endanger public health or safety. It seems reasonable that development of this kind should be prevented without compensation on the general principle of good neighbourliness and public interest; and there is precedent for doing so in the Town and Country Planning Act, 1932. The precise limits of the exclusions have still to be worked out.

31. Her Majesty's Government intend that the scrutiny of claims for compensation and the payment of compensation, should be the responsibility of an agency of the central Government; but provision will be made for appeal to an independent tribunal against a decision by the agency that a particular case falls within the exclusions prescribed by the Regulations, and against the assessment of the amount of compensation to be paid on any particular decision, subject always to the maximum of the agreed claim.

Basis of compensation for compulsory acquisition

32. Her Majesty's Government propose that the basis of compensation for compulsory acquisition should be the current existing use value of the land plus the full value of the agreed claim (if any) on the fund. This will mean that an owner whose land is required for a public purpose may receive something less—perhaps in some cases a great deal less—than its current market value; but he will be no worse off than if his land were to be bought under the original Act. To pay an owner on compulsory acquisition something less than he might get if he sold privately can be criticised, and no doubt will be criticised, as being harsh. On the other hand, if public authorities were required to pay full market value for land needed for public purposes they would, in many cases, have to pay a price enhanced by the plan itself or by public improvements made at public expense. It is not possible to separate the value due to these elements from the value due to chance or to the general trend of development. The owner whose land is compulsorily acquired, like the owner of land which is not allowed to be developed, only loses his chance of making a profit. He will receive full value for the existing use and also his claim for 1947 development value (plus accrued interest) which should fully cover—in most cases more than cover—anything he has actually paid for development value. Where a public authority finds that it has to buy land for which permission to develop has already been obtained and something higher than 1947 development value paid, they will be required to pay to the owner any additional expenditure which it can be shown that he has incurred on the strength of the planning permission.

Use of Powers of compulsory acquisition

33. One result of the changes which Her Majesty's Government propose will be a free market in land. This will make it easier for developers to secure the land they want but there is a danger that the market price of land on which building is to be allowed will rise, perhaps steeply, especially where such land has to be limited by planning (because of agricultural or mineral values, or the desire to restrict the growth of towns) in relation to the demand. Whether this will in practice happen must be uncertain. But it might; and if it did the cost to private developers would be serious, the difference between the price paid by public authorities for their development and the current market price might become too great, and the fortunate owners whose land was allowed to be developed privately would attain a privileged position which would offend the public conscience.

34. Her Majesty's Government propose, therefore, that local authorities should be empowered and encouraged to buy compulsorily land which is earmarked in their plans for early development, in order to make it available to private developers on reasonable terms. Wide powers of acquisition in order to bring land into development in accordance with the plan already exist in the Act of 1947; but these powers need some simplification to enable local authorities to engage, as necessary, on wide-scale acquisition for the purpose of disposal to any person willing to develop in accordance with the provisions of the plan. The usual procedure for compulsory acquisition with the customary safeguards will of course apply.

35. The power of the Central Land Board to acquire land will disappear with their function of collecting charge. The type of acquisition now contemplated by Her Majesty's Government is very different, in that it will originate in the planning proposals and not in the desire of particular individuals to get particular plots of land.
Abolition of Development Charge

36. From a date to be fixed by legislation no further development charge will be collected. Her Majesty's Government have considered whether this could be achieved by Regulation under the existing Act, but they do not think that that would be a suitable method of introducing so big a change. The legislation for this purpose is being introduced immediately. Legislation will also be required (see Part IV below) to deal with some of the cases in which charge has already been paid.

General

37. The new scheme is by no means a wholesale reversal of the old: it is an adaptation of it in the light of experience. Indeed, it could not have been devised had the Act of 1947 never been passed. Under that Act the control of land use has been firmly established and local planning authorities have been able to make plans for the future development of their areas, which they could not have done except in the confidence given by the compensation settlement.

38. But Her Majesty's Government believe that the need to make radical amendments now is established by the practical difficulties outlined in Part II. And they think that their proposals will retain the essential features of the 1947 settlement, while restoring the free market in land (except for land needed for public development, or which it is desired to encourage private persons to develop) and getting rid of one of the obstacles at present inhibiting private persons from building or similar enterprise. There will no doubt be criticism of the scheme; in this sphere there is certainly no perfect solution. The main criticisms which Her Majesty's Government have considered are as follows.

39. The new scheme makes no attempt to be self-balancing and does not seek to extract betterment, or anything approximating to betterment. It does not seem to Her Majesty's Government, however, that there is really any necessary connection between the payment of compensation and the collection of betterment; although in the past there has been a tendency to think so. The whole community benefits from the control of land use, not merely those who are allowed to develop. Some may argue that for this reason the proper course would be a tax on increments in site values. But, if so, it should surely be so designed that it is paid by the man who cashes in on the benefit at the moment of sale and not, like development charge, by the man who initiates the development at the time when he has to bear all the costs involved. The merits and practicability of such a levy may be disputed: what is certain is that it is no essential part of the arrangements required for effective control of the use of land and for the payment of fair compensation to those who interests are affected.

40. It may be suggested that to make payment of compensation turn on planning decisions is a retrograde step which will adversely affect the quality of planning decisions. The reply to this is that the mischiefs and inadequacies of planning arrangements before the war arose not from the connection between planning and compensation but from two vital facts: first, that compensation was a local authority responsibility, second, that it was unlimited. The Act of 1947 made it, in effect, an Exchequer responsibility and limited the total liability. Both these essential features remain.

41. Her Majesty's Government do not pretend that the Limited Compensation Scheme will provide equality of treatment as between owners who are allowed to develop and those who are not, or those whose land is bought compulsorily. The present system does not produce equality in practice and Her Majesty's Government do not believe it to be attainable. In any event, it seems to them an illusion to suppose that equality is synonymous with equity. The terms of compensation proposed are in themselves reasonable, and whilst the man who is refused permission to develop, or whose land is bought compulsorily, will perhaps feel envious of his neighbour who is left free to realise the current development value of his land, there will be safeguards in the powers of compulsory acquisition.

42. Finally, there is the question of cost. It is impossible to estimate, with any accuracy, the cost of the Limited Compensation Scheme or to compare it with the cost of carrying out the Act. The Scheme, on one hand, involves the loss of revenue from charge. This had, up to 31st August, 1952, brought in £18½ million. It is accruing at the rate of about £8 million a year and that figure would increase as the special categories of land which are free of charge are exhausted. But it
would, of course, be a very long time indeed before the revenue began to meet the cost of paying out the £300 million fund with accrued interest. Under the Scheme, although there will be a loss of revenue from charge, nothing like £300 million will ever have to be paid out because permission to develop will be given for a good deal of the land covered by claims on the fund, and some claims will not now be paid (e.g., those applying to existing buildings and those applying to land which the owners never propose to develop). A good deal of money will have to be paid out in the first few years for land which has already been compulsorily acquired and for land where development has already been prevented; but this will not amount during those years to anything like the net cost of paying out the whole £300 million even if charge were maintained at 100 per cent. A true comparison of the cost of the two schemes would depend on the rate of development and, if the Act were to be maintained, on the future of charge. Neither can accurately be estimated.

Part IV.—Miscellaneous

Technical Difficulties

43. Claims under Part VI of the 1947 Act were intended to provide a basis for the distribution of the £300 million fund: they relate not to depreciation in the value of land itself but to depreciation in interests in land existing in 1948.* Under the Limited Compensation Scheme, as under all schemes for deferred payment (e.g., that put forward by the Royal Institution of Chartered Surveyors), the title to compensation must run with the land. This gives rise to a number of technical difficulties. There may be changes in the interests concerned between 1948 and the date when payment has to be made. Again, some claims cover wide areas: as and when these are split into smaller holdings it will be necessary to apportion the claim in order to provide each with its appropriate compensation quota. The detailed provisions necessary to meet these difficulties are being worked out.

44. A difficulty of a more general character arises from the need, under any scheme which provides for compensation to be paid as and when planning permission is refused, to defeat applications for permission made with the sole purpose of securing compensation. Sometimes the proposal will be merely premature—development would not naturally have taken place until later; sometimes, as where the land is held for recreation or to protect the amenities of adjoining property, it may be wholly fictitious. Intention can seldom be proved or disproved and cannot therefore be made the test of a "genuine" application. In some cases, particularly where the land is held to safeguard the amenities of a dwellinghouse, the answer may be to grant the permission which is ostensibly sought. For the rest, provision will be made to ensure that no claim for compensation shall lie when planning permission is refused solely on the grounds that development would be premature. Her Majesty's Government are considering what further steps should be taken to ensure that payment is only made as and when loss is sustained. It may be desirable to provide that in specified circumstances payment of the claim in full shall confer an option to acquire the land.

45. Provision will also have to be made for the registration of claims for compensation; for repayment of compensation if a planning decision is altered and development is after all allowed; for scrutiny of decisions by local planning authorities which involve payment of compensation where the Government—who have to pay—do not feel able to accept the decision; and for a variety of other matters.

Transitional Arrangements

46. Her Majesty's Government propose to repay to anyone holding the relevant claim on the £300 million fund any development charge he has already paid, whether the charge exceeded the claim or vice versa. This will, in the normal case, extinguish so much of the claim as related to the land which was developed. They also propose to pay in full with accrued interest all claims (apportioned where necessary) relating to land which has been compulsorily acquired. Immediate payment in full would also be appropriate where permission to develop the land

* Thus there may be two or more claims in respect of the same piece of land, representing freehold and leasehold interests.
has been revoked (as has happened in the Green Belt around London), or where land has already been sterilised by the refusal of permission.

47. Difficult cases arise where the person who paid the charge does not hold the claim, generally because the land has changed hands since the Act came into force. Here the equity of the matter depends entirely on the price paid for the land. If this was no more than existing use value there is no case for repaying the charge to the developer: payment ought to be made to the owner who sold. Where the developer paid the full unrestricted value for the land he has a case for repayment, even though what he did was contrary to the intention of the Act and the advice given by the Central Land Board: certainly the owner who has already received full value has no case even though he holds the claim. These, however, are the extreme types of case: in the majority of cases the price paid has been somewhere between restricted and unrestricted value. Here the fair course would be to divide the payment between developer and claim-holder according to the price at which the land changed hands. To do this would involve an enquiry into the facts of individual transactions and may not prove administratively practicable. Her Majesty's Government do not therefore feel able at this stage to give any undertaking as to how they will deal with these cases. They are also considering what adjustments would be appropriate where a vendor has sold land without the benefit of the claim and no development incurring charge has taken place.

Legislation Programme

48. Owing to the pressure of Parliamentary business and the intricate drafting which some of the provisions may require it will not be possible to introduce the main Bill embodying the Limited Compensation Scheme before the autumn of 1953. Meanwhile, as already stated in paragraph 36, Her Majesty's Government propose to introduce immediately a Bill to relieve the Central Land Board of the duty to collect charge. This Bill will also suspend the obligation laid on the Treasury by the present Act to distribute the £300 million fund by 1st July next year.