

TYTHROP HOUSE

ON 11th December, 1950, the Minister of Town and Country Planning confirmed The Building Preservation Order on Tythrop House. As our Society was in part responsible for the Inquiry on which Mr. Dalton's decision was based, some account of the present legal position as well as of the house may be of interest to our members. The case may also serve as a guide and precedent, and perhaps also an encouragement for others. It will be best to start with some account of the house.

Tythrop House, Kingsey, formerly in Oxfordshire, passed to Buckinghamshire in 1933. For this reason it is not described by the Historical Monuments Commission. The best available description appears in *Country Life*, 27th February, 1904. The importance of the house lies in the very fine 17th-century staircase and in the plaster-work there and in the adjoining hall. It is on these that the case for preservation rests.

HISTORY OF THE ESTATE.—About 1620, the property passed by marriage from the Dormer family to Sir Robert Spiller of Laleham, Middlesex. In 1646, on the marriage of his daughter and heiress to James Herbert, sixth son of the fourth Earl of Pembroke, Tythrop passed to him and his descendants. In 1800 the estate went by inheritance to William Richard Wykeham of Swalcliffe, and remained in his family until 1927. Lady Wilson, wife of Field-Marshal Lord Wilson, now living at Kingston Blount, Oxon, is a daughter of the last Wykeham owner and was brought up in the house.

In 1927 the estate, consisting of some 3,000 acres with ten farms, was sold to Magdalen College, Oxford, for £60,000. The house was requisitioned and used by troops during the war. In 1948 Magdalen College sold the house and 180 acres for £8,600 to Mr. J. H. Hughes. It was soon afterwards purchased from him by Mr. W. H. Deeley, of Ambrosden, Bicester, and Mr. Pennington, of North Aston, Oxon, who are now the owners. Early in 1950 Mr. Deeley, who appears to be the principal partner, sold 160 acres, with the home farm, to Mr. Walker of Longwick for a considerably larger sum. Mr. Deeley retains the house and twenty acres.

THE HOUSE.—The house is of red brick which a rather unattractive covering of grey plaster has kept in good condition. A 17th-century print shows that it is structurally much as it was then, including the top story on the east side, but with the exception of a 19th-century porch and a kitchen wing, now largely derelict. There are a pleasing porch with Corinthian columns and a carved pediment on the garden side, an overmantel of the Kent period in one of the rooms, and 18th-century stables to the west. Some twenty yards in front of the entrance side of the house are two rows of concrete huts built by the Army during the war, and still occupied. The main building has not been occupied privately since 1937, the lawn and gardens are overgrown, but the structure is sound and needs only relatively small sums for its upkeep. A responsible owner will of course keep the roofs in repair.

THE STAIRCASE AND THE PLASTER-WORK.—The staircase leading to the first floor consists of a very finely carved balustrade in a flowing naturalistic foliage along three flights and on the landing above. The newels are also carved, in panels of a Grinling Gibbons type, and there is a narrow frieze with charming figures and animals in low relief below the openwork balustrade. The whole, though covered with an unpleasing brown paint, is in excellent condition, the military having wisely encased it with boarding and covered the treads with duck-boards.

In the balustrade may be seen a wyvern, the crest of the Herberts, and a hawk, that of

the Spillers. We may therefore be sure that it was made after 1646, when James Herbert married Jane Spiller, and probably before the death of James Herbert in 1676. This discovery, which we owe to Mr. P. S. Spokes, President of the Oxford Architectural and Historical Society, confirms the impression which Mr. W. H. Godfrey had formed on stylistic grounds in his book on the *English Staircase* (1911).

Mr. Godfrey classed it with the other examples in the country which are to be found at Ham House, Tyttenhanger, Stratton Park, Thorpe Hall, and Forde Abbey, all before 1660, and more closely with Durham Castle, Eltham Lodge, Sudbury Hall, Wentworth Castle, Cassiobury, Dunster Castle, and Tredegar Park, all *c.* 1660–70. These are the best staircases in England in the style of the later Renaissance, whose characteristics are the reduction of the newel to a subservient place in the design and, above all, the exquisite naturalistic carving. There are, it will be seen, not so many examples in the class that we can afford to let one of them perish or be sold abroad. It must be recognized also that once removed from its setting a work of this sort loses its character. The plaster ceiling, panels, and delicate reliefs, though mostly later in date, are in perfect harmony with the stairs and their carving.

The plaster has in part been attributed to the Franchini brothers, *c.* 1730, and it is contended that it merits a much closer attention and recognition. There are some good allegorical figures and little classical heads. Four medallions, of poets, in the centre of each side of the ceiling in the hall are excellent pieces of work, particularly those of Milton, and of Pope or Dryden. Except for two small areas, all these also are in good condition. It must be remembered that while the staircase, if removed, might remain relatively intact, it is unlikely that the plaster would survive the demolition of the house.

THE INQUIRY AND THE LEGAL POSITION.—The house has been endangered since its acquisition by the present owners two years ago. In April 1948 they obtained leave from the Aylesbury Rural District Council to convert the house into eight flats, but then decided not to carry this out. In August 1949 they applied to the County Council for permission to demolish the mansion and half the stable block, and to convert part of the rest into a dwelling-house and pleasure garden. It was at this stage, January 1950, that a Preservation Order was made by the County Council. This Order, which under the 1947 Act needs confirmation by the Minister, in effect forbids the owner to demolish or materially alter his house without the permission of the County Council. After submission of the Order for confirmation the Council, seeing that the house was still empty and unused, began to doubt whether their Order should in fact be confirmed. The Minister, hearing that there were differences of opinion on the subject, and that certain societies wished to make representations, decided to hold a public Inquiry.

At a special meeting of the Council of our Society on 7th October, it was resolved to take action to preserve the house, to co-operate with the other cultural bodies concerned, and to engage Counsel to appear at the Inquiry. Mr. E. C. Hohler generously undertook to defray the legal expenses. The other bodies concerned were the Society for the Protection of Ancient Buildings, the Georgian Group, and Regional Group 9 of the Council for British Archaeology. The Inquiry, which was held at Aylesbury on 18th October, was conducted by Mr. J. D. Hossack of the Ministry of Town and Country Planning. Evidence was heard in the morning and the house was visited in the afternoon. Mr. R. N. D. Hamilton spoke for the County Council, the owners did not appear and were not represented, and Mr. A. C. Goodall, instructed by Messrs. Horne and Birkett, appeared for the organizations mentioned above. Mr. Hamilton maintained that, so long as a use was not found for the house, a Preservation Order would do nothing to preserve it. There was no legal obligation on the owner to spend a penny for this purpose. If the owners, after an application, were then prevented by the County Council, in consequence of the Preservation Order, from demolishing or developing the property in a reasonable way, they might serve a purchase notice on the County Council, who, after investigation by the Ministry, might be compelled

to buy the property. The County Council, while appreciating the merits of the house and wishing to see it preserved, did not feel justified in putting this expense on the ratepayers. Mr. Hamilton maintained that the County had done everything possible to find a use for the house.

This, however, was denied by Mr. Goodall, who showed that inadequate steps had been taken to advertise the property, that none but the owners could be expected to do this, and that it was not the task of a public body. As their chief wish appeared now to be to demolish their house, they had not tried to find a tenant. Counsel called on Mr. A. K. Wickham for the Buckinghamshire Archaeological Society and on Mr. D. E. Nye, the architect who had examined the house on behalf of the Society for the Protection of Ancient Buildings, to give evidence on its merits and condition. They reported as above, and Mr. Nye conducted the party round the house in the afternoon. Counsel read a letter from the American Embassy opposing the destruction of the house—it was buildings such as this which attracted American visitors to this country—and also from the National Trust, who, while unable themselves to acquire property which is not self-supporting, hoped that it would be wholly preserved. Counsel opposed the suggestion that the staircase should be saved by its removal elsewhere; it would lose much of its value if taken from its proper setting. He urged that while it was true that a Preservation Order did not automatically preserve the house, nothing irrevocable should be done until decisions had been taken on the recommendations of the Gowers Report. If the Order were not confirmed, an irrevocable step could be taken; the house might be demolished or the staircase sold to-morrow. This would be nothing short of a scandal.

Two months later, as has been said, the Minister confirmed the Order, and it would therefore seem to the uninitiated public that without his leave the house cannot be destroyed. This, however, is not the case. The County Council still remains the legal authority, and may legally at any time, without reference to the Minister, grant permission to the owner to alter or destroy his house. The Minister did not, as he might have done under the Act, reserve the case to himself; he merely confirmed the County's Order to the owner not to destroy his house without their leave. The owner may still ask leave, and obtain it.

The Minister considers that only in exceptional circumstances should he exercise this power, and that normally the final decision should be left in the hands of the County Councils, who are the statutory planning authorities. What is happening at Rufford Abbey, where the process has now reached a stage further than at Tythrop, illustrates the situation very well. Here, too, the Minister confirmed a Preservation Order, made by the Nottinghamshire County Council. The owner then served a Purchase Order on the County Council, with the result that the County is now acquiring the property. Next, the Minister has indicated publicly that the County Council can, if it wishes, pull down all the house except the 13th-century undercroft, which is scheduled as an 'ancient monument'. At present (January 1951) this has not been done, and the fate of the Abbey depends on the County Council.¹

It will be seen from this account that the present position of the law in this matter is complicated and probably widely misunderstood. It is also far from satisfactory. For the public are virtually without rights. About Tythrop we have no grounds of complaint: the control, both central and local, has been administered intelligently and liberally, but it must be recognized that the Minister was under no obligation to hold an Inquiry. Public opinion might at least be sure of a hearing if an Inquiry were obligatory, say, on the demand of a certain number of petitioners or of such recognized cultural bodies as took action in this case.

Further, as we have seen, while Mr. Dalton may be congratulated on an encouraging and

¹ It should be explained that, under the 1947 Act, when a County Council acquires a property under a Purchase Order in this way, the Ministry becomes the planning authority, and its leave is necessary for demolition or alterations.

broadminded decision about Tythrop, the legal situation at Rufford gives no ground for complacency. The purchasers, also, of Rufford made a much greater profit than has been made or can be made at Tythrop, for the estate was larger, but it must be realized that in both cases the profits were perfectly legal. Until the County Council imposes a Preservation Order the law makes no difference, except for buildings which have been scheduled as 'ancient monuments', between one type of property and another, between a mansion of the 17th century and a bungalow of the 20th. Even when the Order is made, the law still imposes no obligation on the owner to keep the building in repair. In the present state of the law, we have no right to expect that men who invest in landed property which happens to have on it objects of national or aesthetic importance should therefore voluntarily forgo their profits. But those of us who appreciate our national heritage will not be content until such things are raised above the risk not only of private speculation but also of ruin and decay from public indifference.

A. K. WICKHAM.