

HECTOR WILKS

Mr. Hector Wilks, B.Sc., FRICS (Dip Rating), FRVA, FIARb, is senior partner of Mark Wilks and Company, part of a consortium of four firms which together cover every aspect of urban estate management throughout the United Kingdom. He is a past president of the Rating Surveyors Association and conducted the two land valuations at Whitstable.

MR. WILKS said he would like to deal briefly with one or two points before he got on to matters of some general principle. He instanced the circumstance where an owner came to a valuer asking what the position generally was under the proposals. He would have to be told that consequent on his putting in a planning application he would get existing use value and 20 per cent of the development value. However, if the existing use value happened to be more than it was in 1965 he would have to pay capital gains tax, even on the existing use value as well. So when, after a few years, we have a 100 per cent development land tax we were going to get a rather nice position of almost a negative total taxation which must, he thought, add to the "general gaiety of nations" when the owner was served with a compulsory purchase notice. Having researched the grounds applicable in the past it was clear how such a notice could be avoided, or not confirmed. Under the new proposals, however, he could not find any means of avoidance, not even one,



save that it was based either on the grounds that it was unnecessary or that it was inexpedient. Both of these grounds are now to be statutorily ignored. However,

faced with a little human ingenuity he thought there was probably one argument which the owner had left and that was if he could show that what he wanted to do with the land was more valuable to the community than whatever it was disclosed that the community wanted to do with it. That, he thought, was the only ground on which it was now possible to successfully oppose a compulsory purchase order.

If the local authority had got to buy the land, and it had got to provide, in effect, a ten year land bank at current interest rates, had we thought about the "on cost", so to speak, on the original purchase price? He worked it out that 15 per cent compound interest over ten years multiplies the original principal by 4.04. In other words, by holding their land as advised for the land bank, with current rates of interest, then in order to see back their principal plus interest alone, local authorities had to charge at least four times the original price of the land. Over and above that, of course, there was all the administrative on-costs of the local authority. If one looked at the

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manpower problem alone, he thought it was estimated that the annual salary bill was going to be of the order of £50m. over the country. This had to be divided, of course, over every acre of land and so on, but nevertheless, supposing one had a biggish house standing in an acre of ground. In ten years' time the house could be demolished and ten houses could be erected. So one bought the house today for, say, £40,000. In ten years' time that has become £160,000. Even if one added nothing for the administrative on-costs it meant that one had to start with a plot value of £16,000 before starting to build the houses and that was just not on. He thought there was going to be enormous fiscal pressure on the purchase of what was at the moment the very cheap

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land. In other words, there would not be the demand by the local authority to buy obsolescent development land with a view to future redevelopment because it would simply end up with a loss. The authority would instead be forced into buying land with a very small existing use value, such as the fringe land and agricultural land. This was the land they would be buying in order to show a profit so that the Government could get their 40 per cent share of the development land tax. This was the reason why so many smaller and fringe development companies had gone broke in the last few years. It was simply the effect of high rates of compound interest on the purchase of the development land and local authorities were not going to be immune from that pressure. There was going to be no profit in this unless they bought the totally undeveloped land at prairie value.

The *ratio decidendi* of the whole fallacy of this "Communist" Land Bill as it had been called in the House, was allegedly the better control of land for planning purposes. Indeed, if one looked at paragraphs 1-14 of the original White Paper, this was quite clear. If the purpose of the Bill was to nationalise land, well there were much less cumbersome ways of doing it than by this Bill. The least cumbersome Bill of all would simply say that, as from the first appointed day all land would, without compensation, belong to Her Majesty's Government. But quite apart from that there were much simpler ways, ways much more administratively easy, of nationalising land. If one of the ideas was to give fiscal teeth to the planners to make planning become a reality on the ground, then there was a far better and far less cumbersome way of doing it and less painful. If one read the White Paper again, paragraph 15 is a total *non*

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sequitur in which it is said that the lesson to be learned from paragraphs 1-14 was that good planning depended on the ownership of land. Not at all. The only "*sequitur*" that followed from paragraphs 1-14 was that some fiscal control over the development of land was

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required and, of course, site value rating, in taking an annual impost on the annual value of development land which would be used for revenue expenses, at least makes good economic sense in this context. But the taking of a capital value and a capital impost once and for all and using *that* capital impost for revenue purposes was the rosy path to financial suicide.

The whole Bill was based on economic fallacies from start to finish. Its whole concept was wrong and what was going to happen was the total sterility of the market. Unless the local authorities were going to become the only developers of land in the country, development would cease.

W. H. DEAKIN

Mr. W. H. Deakin, MA, FRTPI has been engaged in planning with the Kent County Council since 1960. He was appointed Deputy County Planning Officer in 1964 and became County Planning Officer in 1974.

SUPPOSE a man owned three or four acres of land in a village and it was obviously land capable of being developed and suitable to be developed. The man decides under the provisions of this Bill

when it becomes an Act that he does not wish to sell. Maybe he would rather wait for a change of government. At all events he decides to wait. A developer or builder sees that land and decides to make a planning application and the planning application is granted. The local authority if it acquired that land must then consider whether it gives first option to the builder/developer who has made the application. It seemed, said Mr. Deakin, that there were at least the possible appearances of corruption, the possibility of allegations of corruption in that situation. He was anxious to stress that he was not dealing with *actual* corruption. He was sure there were a lot of local government people present who, like himself, did not see corruption but if the suspicion of corruption existed in the minds of the public then the damage was done. He feared there were great prospects for those kinds of thoughts and allegations arising in this situation.

He then turned to one or two general comments about the Bill as they appeared to him. The Bill was being trumpeted as a major devolution of power to local government, at least in England and Scotland. Now it might be just that and, maybe, he was being too suspicious. Certainly it had challenges in it and opportunities for local government but it also, he suggested, contained a threat, a threat which could mean the erosion of local government powers and their transfer to Whitehall.

It seemed to him that the whole of local government was under a serious threat from the provisions of the Bill as they stood. The threat was not in the powers given to the Secretary of State to set up joint boards. They were rather, he thought, in those which gave power to the Secretary of State to transfer functions to himself or to another body and taken together it could be seen that that power enabled him to set up regional bodies, not merely when they were needed but in *case* they are needed. In other words, he could set them up now, he could build them up in embryo and have them waiting in the wings to take over if such a decision should be taken.

The Government attached great importance to the Bill and he thought they would see it through, whether changed or not. If local authorities failed to meet the expectations he thought local authorities would become mere agencies for regional bodies in planning as well as land. The whole basis of the Bill was that the land account would move into surplus but would it? Or would the market go flat? Would we find that owners were not willing to sell, and that we were to be engaged on a massive compulsory purchase exercise? Would we then find, having got the land, that certainly in S.E. England, we would need to spend a lot of money on infrastructure in making it ready for development? Would we find builders knocking on our door wanting to buy the land from us? Would there *be* a market? Would we run into a critical period when local authorities were pressed to buy land, service it, and then have great difficulty in disposing of it at any realistic value? If that happened would the Government provide financial support for local authorities? Prop them up in fact? He did not know. These were difficult questions. He had no answers to them and the more he thought about this Bill the more he was convinced that the Bill told us very little.

CHARLES GOODWYN

Mr. Charles W. Goodwyn, LLB, FRICS, FRVA, is Chairman of the Chiltern District Council Buildings and Town Planning Committee and is a partner of Messrs. George Head and Company. In particular he deals with legislation, taxation and law.

HISTORICALLY the right to do what one liked with land was regarded as sacrosanct and every freeholder, of course, held his title from the Crown. This had been gradually eroded over the years and the position today was that the freeholder was expected not to use his property adversely to the public good. There were, however, proposals in the Bill that struck, in his opinion, at the very root of our constitution.

The basic blow was that the acquiring authority need no longer say why it required land for compulsory purchase. A further serious blow to freedom was that the act of the executive in making an

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order without saying why the land was required probably made it impossible to object to that order, particularly if one did not know as an objector, why it was being taken away.

A further nail in the coffin was the right of the Secretary of State to exercise his discretion as to whether a public hearing need take place at all. The 4th schedule to the Bill set out in very clear terms that the Secretary of State might disregard any objection on the grounds, as quoted before, that the objector regarded the whole procedure as unnecessary or inexpedient. If we did have an unfortunate objector and he had somehow managed to think up a ground of objection that was not caught by what had been mentioned before, or the question of compensation or the hardship tribunals, even then the Secretary of State had the power to dispense with the hearing.

The Secretary of State was going to be given enormous powers without precedent. Quite clearly the confirmation of compulsory purchase powers would not be left to him but to his department. Similarly the power which would be held by the 300 odd planning committees and the effective power held by the chief planning officers and chairmen of those committees was enormous. Corruption ultimately was the abuse of power and the opportunities that would exist did not, he thought, need any amplification. There was further, a far nastier matter contained in the Bill and he quoted directly from a circular from the Department which said "under the scheme the making of a planning application may leave the authority to make a compul-

sory purchase order and when the full duty is in operation purchase will automatically follow if planning permission is granted, but legislation will require local authorities to give prior consideration to applications for purchase from those making planning applications with the intention of developing the land themselves whether or not they own the land when the application is made." As chairman of a planning committee he was well aware of the better use of land made by developers assembling land for a comprehensive scheme but he was not so naïve that he was not also aware from certain requests that had been made in the past to his authority to exercise compulsory purchase powers where a freeholder owner-occupier has declined to sell his house. He regarded that part of the Bill as nothing more nor less than a rogues' charter.

REX HUDSON

Mr. Rex Hudson, FRICS, FALPA, FRVA, is senior partner to Chamberlaine Brothers and Edwards of Cheltenham. He qualified for membership of the Royal Institution of Chartered Surveyors in the Agriculture and Land Agency division.

AT PRESENT we have a situation under which material development is, if undertaken at all now, subject broadly to Development Gains Tax on current use value if disposed of by a private person, the Development Gains Tax really being an extension of Capital Gains Tax anyway. Material development was defined in Schedule 3 of the Finance Act, 1974, being the making of any



change of the state, nature or use of land with the exception of improvements, alterations or enlargement (with a 10 per cent ceiling)

and it is perhaps worthwhile refreshing our memory on the effects of that tax, for development gains



are, you will recall, taxed as income, instead of the straightforward 30 per cent Capital Gains Tax rate. Accordingly, an individual can be charged at the normal graduated income tax rates of up to 83 per cent (52 per cent in the case of companies). It has been illustrated that a total tax charge on a development gain realised by a company is up to 75.2 per cent if its business is continuing or up to 98.6 per cent if it ceases its activities on or within a short period of selling the property.

I think that most private individuals are going to gamble on the proposed legislation being amended or repealed. Whilst builders will equally gamble on the possibility of proposed legislation favouring them if they are owners or under contract to buy development land when the machinery breaks down, this is surely not a particularly healthy climate for either would-be vendors or prospective purchasers as there is far too much left to guess-work. The period of stagnation will extend from December 1973 to December 1975, a two-year back-log of little or no development which must by its very nature have a very marked effect upon prices as and when fresh starts are made.

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Editor's Note

These extracts are printed for information and interest and while we share with the contributors to this discussion, their disapproval of the Community Land Bill our own reasons for doing so run very much deeper as regular readers of this journal will be aware. The Bill however is bad from every conceivable point of view as these extracts show.