SUBMISSION FROM ANDREW ANDERSON

INTRODUCTION

I am an individual with an interest in land issues and land reform in Scotland. I think that the Scottish Parliament should be looking in a more serious way at land reform and at addressing the large amounts of land which have been obtained by illegal or corrupt means in the past, however, I accept that this is beyond the scope of the current Bill.

LAND REGISTRATION BILL

I want to support the submission of Andy Wightman in its entirety but I have a particular interest in the issue of Common Land. I was born and bred in the Royal Burgh of Selkirk which I am pleased to say has managed to maintain, even if in somewhat reduced form, a substantial area of Common Land. However, I am concerned that the responsibility and accountability of Borders Regional Council with regard to Selkirk's Common Land does not inspire confidence.

I would like to support Andy Wightman's submission regarding Common Land:

“The Bill is relevant here for the simple reason that the law of prescription and a non domino titles have been (and continue to be) responsible for the theft of our commons. As the Bill stands, those devices can continue to be used to appropriate commons. The central problem is that in Scotland there is no means to register common land and it stands vulnerable to prescriptive claims. A means needs to be devised to protect them by assertive action by citizens to register them. What is needed is a simple solution that provides a statutory mechanism for members of the public to submit an application for recording titles to areas of common land. This could take the following form.

The Land Register recognises commons as a class of property and admits applications for registration from any member of the public residing in the civil parish in which the land is situated. For so long as the application is pending, no other private claims will be entertained by the Keeper. The application will advertised publicly on the Registers of Scotland website for a minimum period of six months and circulated to the local authority, community councils and published in local newspapers. The publicity should include the name of the claimant and their grounds for the claim, the extent of the land being claimed, a report on investigations into its legal history, and an invitation to lodge rival claims.

The Lands Tribunal shall adjudicate on any contested claims but if none are made, then the Keeper shall record a title and the land shall be registered as a common. Statutory power for their management would be vested in local authorities.”

I would add that local authorities should be obliged to maintain an accessible register (preferably on a free to access website) of all the common lands for which it is responsible. I would also add that the statutory power which should be vested in local authorities should be clearly specified in such a way that they must consult with
the specific local community about the management of the land and that such land may not be disposed of without the agreement of the specific local community through the mechanism of a local referendum.

Andrew Anderson
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