



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 17 June 2015

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**Wednesday 17 June 2015**

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**RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE**  
**22<sup>nd</sup> Meeting 2015, Session 4**

**CONVENER**

\*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

**DEPUTY CONVENER**

Graeme Dey (Angus South) (SNP)

**COMMITTEE MEMBERS**

\*Claudia Beamish (South Scotland) (Lab)

\*Sarah Boyack (Lothian) (Lab)

\*Alex Fergusson (Galloway and West Dumfries) (Con)

\*Jim Hume (South Scotland) (LD)

\*Angus MacDonald (Falkirk East) (SNP)

\*Michael Russell (Argyll and Bute) (SNP)

\*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Christian Allard (North East Scotland) (SNP) (Committee Substitute)

Gareth Baird (Crown Estate)

Rob Booth (Crown Estate)

Alan Laidlaw (Crown Estate)

Richard Lochhead (Cabinet Secretary for Rural Affairs, Food and Environment)

Ronnie Quinn (Crown Estate)

Linda Rosborough (Scottish Government)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Rural Affairs, Climate Change and Environment Committee

Wednesday 17 June 2015

*[The Convener opened the meeting at 09:32]*

### Decision on Taking Business in Private

**The Convener (Rob Gibson):** Good morning everyone, and welcome to the 22nd meeting in 2015 of the Rural Affairs, Climate Change and Environment Committee. I remind those in the gallery and those around the table to switch mobile phones to silent mode, as they can interfere with the broadcasting system. Some committee members are using tablets for the purpose of reviewing their committee papers.

We have received apologies from Graeme Dey, and I welcome Christian Allard to the meeting.

Agenda item 1 is a decision on taking items 3 and 4 in private this morning and on whether to consider our approach paper on the Scottish Government's forthcoming land reform bill in private at future meetings, subject to formal parliamentary referral. Are we agreed?

**Members** *indicated agreement.*

## Crown Estate

09:33

**The Convener:** Item 2 is evidence from Crown Estate personnel on the proposed devolution of the Crown Estate assets. I welcome Gareth Baird, the Scottish commissioner for the Crown Estate; Ronnie Quinn, the head of ocean energy and the energy and infrastructure lead in Scotland; Alan Laidlaw, the rural and coastal portfolio manager; and Rob Booth, the head of legal services. We will go straight to questions, because the ground is well trodden already.

The committee has heard largely positive endorsements of the Crown Estate in its role as a landlord and leaseholder, and some stakeholders have expressed concerns about the transition. What are you doing to reassure your stakeholders at this time?

**Gareth Baird (Crown Estate):** It would be best if I asked Ronnie Quinn to speak about the energy and infrastructure side before turning to Alan Laidlaw on the rural side.

**Ronnie Quinn (Crown Estate):** We wrote to our main tenants back in January, explaining the position to them. Between then and now, I have had a number of meetings with developers, the most recent of which was last week. At the end of last week or the beginning of this week—I cannot remember which—we wrote again to bring people up to date. On the back of that, I have set up further meetings and have had more telephone conversations. There is an evolving and on-going process of keeping everyone advised as well as we can.

**Alan Laidlaw (Crown Estate):** As Ronnie Quinn said, we have spoken or written to all our tenants. The key point is that there have been interactions and informal dialogue through different groups—all the liaison groups are continuing. The aquaculture liaison group met last week, which was a really good opportunity to update people on progress. Last night, I was at the meeting of the cross-party group on recreational boating and marine tourism, which is discussing the process and the future quite a lot.

The engagement that we are currently undertaking is to inform the process with the views of those to whom it matters, whether they be tenants and families on the rural estate or business operators elsewhere. There are many informal meetings and discussions, and a number of stakeholders and customers are coming forward to say that important decisions will need to be taken in the future and that they need to know the direction of travel and have a steer. We are trying to provide as much clarity on the matter as we

can, and we are referring them back to the process. I know that some people have picked up issues and have corresponded with the committee.

**The Convener:** Indeed. In particular, the committee has heard that investments in some of your rural estates are cross-subsidised with the profits from other Crown Estate activities. Is that an accurate picture? How profitable are your rural estates in their own right?

**Alan Laidlaw:** We manage and look after a basket of property assets. As with all portfolios, there are ups and downs at different times and there are different uses.

It is fair to say that some estates have capital-generating periods whereas other estates have periods when they are capital-hungry for investment. I will give a clear example of that. A number of years ago, in 2011-12, there was significant snowfall in Moray and a massive amount of damage was done to agricultural buildings. That resulted in £1 million needing to be committed in one quarter for shed replacements. The Glenlivet estate would never be in a position to generate £1 million in a quarter, so the cost was spread across the portfolio.

Rural estates are capital hungry at times but, equally, a periodic change of land use creates capital. The sale of development plots and land, for example, helps to fund reinvestment in competitive agriculture, tourism or whatever is being done.

Each estate has its capital requirements and cost characteristics, and they all have different flows, so it is quite difficult to take an isolated position at one point on one type of asset. The coastal estate tends to generate revenue more than capital because there are on-going leases rather than sales and they are able to cover different parts of the business.

The fact that there is a portfolio does not mean that all the eggs are in one basket, to use an analogy that the committee will understand; it spreads the risk and allows for smooth management decisions.

**The Convener:** Can you reassure the committee that the level of your resourcing of and investment in onshore and offshore assets will remain unaffected through the transition period?

**Alan Laidlaw:** In relation to agricultural holdings and the onshore side of things, we have a statutory duty to ensure that our assets are fit for purpose. That is familiar territory to the committee. We continue to ensure that all our safety liability obligations and such things are met. We are not able to start big, long-term plans, however. The Glenlivet mountain bike trail was a seven-year

project in which we invested hundreds of thousands of pounds, and we are not able to kick off such projects at the moment. Nevertheless, as I said, we are able to continue with our on-going maintenance and safety liabilities.

**Ronnie Quinn:** On the renewables side, our budgeted spend for the current financial year is in line with—it is probably a little higher than—our spend for last year and the year before. There has been no slackening off in that.

**The Convener:** There is no likelihood of that slackening off in the next year or two, because transition in law usually takes longer than we think it will. Even when acts have been passed, secondary legislation sometimes takes a year or two to apply. Would you be happy with that transition period?

**Ronnie Quinn:** We hope that the transition will take place as quickly as possible, as much for the sectors in which we work as for the wellbeing and peace of mind of the staff. We can only really talk about this year, in which the budgeted spend is in line with the spend in previous years.

**Jim Hume (South Scotland) (LD):** Good morning, everybody. The convener asked about cross-subsidisation with the profits from Crown Estate activities. I am interested to know, if you have the figures, whether there is any cross-subsidisation from the north to south of the border or from the south to the north. Do you have any figures for national profits?

**Alan Laidlaw:** Our annual report on the latest financial figures will be issued next week, and we will send the committee a copy of it. That will give you as good an insight as we are able to give.

At any one time, there will be different flows. The history of the Scottish assets is that, in the past number of years, in rural and coastal assets, there has been a net capital inflow to Scotland—an investment rather than an outflow. That is the most succinct summary of the position over the past eight years or so.

**Jim Hume:** Do you have a rough figure for that?

**Alan Laidlaw:** It will be of the magnitude of a couple of million pounds a year of inward investment, net of other sales, disposals and so on. It has been an inflow of funds.

**Gareth Baird:** I will give a practical example of that. As you know, I am a tenant farmer. My first visit to Glenlivet was after the huge snowfall that Alan Laidlaw referred to. I was struck by both the huge pouring in of capital and the fact that the facilities for the tenant farmers were not just replaced but improved. There was a real investment going into the estate and, from my perspective as a farmer, it was great to see that. That reflected the power of a balance sheet well

north of £10 billion and the various assets throughout the organisation that permit such investment—at times, in a very short period, as Alan said.

**Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** I have a wee follow-up question on that point, Mr Laidlaw. Was that investment made merely to maintain assets, or was it designed to generate future growth?

**Alan Laidlaw:** It was designed to do both. Let us take the example that Gareth Baird used. Everyone knows that, in agriculture, there are many buildings and sets of fixed equipment that are beyond their useful life. A simplistic approach might be to say that, if a 20m<sup>2</sup> facility is lost, it should be replaced with a 20m<sup>2</sup> byre. That would be a fairly short-sighted view, whereas we have always taken the opportunities created by change to look at things. Rather than simply replace a redundant type of building, we ask what we can do, in partnership with the tenant and, quite often, with the Scotland rural development programme and others, to lever in more funding to improve the unit. There is also investment in new enterprises—there is a mixture of both.

**Ronnie Quinn:** On the energy side, the investment is all long term at this stage. The figure for the most recently published accounts was a net investment of about £5 million, and the energy share of that was all long-term, patient capital.

**Dave Thompson:** Do you have any idea of the return that you might be generating five or 10 years down the road, following that investment?

**Ronnie Quinn:** We would like a return to be made, but a lot depends on how the energy market and the offshore renewables market develop over the next few years given the impact of electricity market reform and the contract for difference market. There are a lot of unknowns, and we are working through various models and scenarios. However, it is safe to say that we are a commercial organisation and that we are looking for a return on that investment further down the line.

09:45

**The Convener:** We are going to look at some of the economic assets. Sarah Boyack has the first question on that subject.

**Sarah Boyack (Lothian) (Lab):** Good morning. Have you discussed with Her Majesty's Treasury the position on Fort Kinnaird? I understand that it is a major income generator. Is that asset likely to be devolved to the Scottish ministers?

**Rob Booth (Crown Estate):** We have provided on-going support to the Treasury to ensure that it is fully sighted of what Fort Kinnaird is, regarding

our indirect investment held by the endorsed local provider. We have provided the Treasury with the figures and background information that it needs to make informed decisions about how it treats Fort Kinnaird and how the UK and Scottish Governments treat Fort Kinnaird.

The answer to the question of whether Fort Kinnaird would be devolved under the published legislation is no. It is specifically excluded from the transfer of our functions to the Scottish Government.

**Sarah Boyack:** Is there a paper that sets out the reasoning for that?

**Rob Booth:** We have provided the Treasury with the background information to enable it to make a decision based on what Smith said about whether Fort Kinnaird is within or outwith the scope of the Smith proposals.

**Sarah Boyack:** Is it your view that it is within the scope of the Smith commission proposals? It seems unusual that a major piece of property that generates income would not be transferred.

**Rob Booth:** As a lawyer reading the Smith proposals, I can see that Smith talked about Crown Estate economic assets in Scotland being devolved to Scottish ministers. There is a statutory definition in section 1(1) of the Crown Estate Act 1961 of what the Crown estate is, which is those assets that are managed by the Crown Estate Commissioners. Fort Kinnaird undoubtedly is an economic asset in Scotland, but we do not manage it. The underlying asset is not owned by the Crown; therefore, to my mind as a lawyer, it does not fit the definition of a Crown Estate economic asset in Scotland as described by the Smith report.

**Michael Russell (Argyll and Bute) (SNP):** Would you not describe that as a bit churlish? Fort Kinnaird may or may not be within the scope of the Smith proposals, but it is in Scotland. Does it not create a rather bad atmosphere if, regarding such an enormous and visible economic asset, in some sense the Scottish people are being told, "Oh, no. You are not getting hold of that." Does that not rather sour this process?

**Rob Booth:** I could not comment on the Government's stance and what your constituents would think about that proposition. As far as a technical analysis of where the asset of Fort Kinnaird sits within the devolution process—

**Michael Russell:** You are an official. Let me ask the commissioner. Do you not think that it sours the situation when an obvious economic asset is withheld from the process? Does that not seem like a bit of sleight of hand?

**Gareth Baird:** I understand the tensions surrounding Fort Kinnaird, Mr Russell. They have

been very openly expressed and are very clear. Rob Booth and his team have been asked to help to inform the process on where the legal structure sits around this. It will be for the two Governments to negotiate it.

**Michael Russell:** I accept your point about the Governments, but you will remember that we have been here before with Princes Street gardens and the grounds around Stirling castle. Every time that there is a question of assets being accrued to Scotland—where they sit—there is a “but”. This is another “but”, and it is a very unpleasant “but” given Fort Kinnaird’s value. The Crown Estate Commissioners should think very carefully about whether they really want to be put in the position of looking like dogs in the manger.

**The Convener:** We understand that the partnership was set up under English law through the Limited Partnerships Act 1907. It is, therefore, being dealt with as though the Crown Estate as a whole has gone into partnership with a private entity—an offshore one, by the sound of it. However, given that the asset is in Scotland, is there a possibility of discussing the retention of profits from that asset in this country?

**Rob Booth:** That is a conversation to be had between Governments. It is for the Scottish Government and the UK Government to decide how they wish to deal with those issues. I could talk you through the structure of the Limited Partnerships Act 1907 if that would be helpful, but revenues are a Government issue.

**The Convener:** We are not trying to put you, as practitioners, on the spot. However, it is important to hear how you understand matters when you discuss such issues with the Treasury and so on.

**Christian Allard (North East Scotland) (SNP):** I am told that some of the assets held by the Crown Estate in Scotland have received less attention in this debate. Can you outline what work and associated resource go into the management of your interests in Scotland’s internal waters, salmon fishing, and gold, silver and other minerals? I am particularly interested in gold. There is a gold rush at the moment and gold has been found in Ayrshire. Even in the north-east of Scotland—the region that I represent—there is a gold rush in Towie in Aberdeenshire. What kind of assets are we talking about? What work are you doing?

**Alan Laidlaw:** The assets that you mention are spoken about very little. People focus on renewables, offshore energy and farms, but a number of asset classes such as salmon fishing and gold do not get a lot of attention in public, although they receive attention from my team and our managing agent’s team. Nothing has changed in the management of those assets for a number

of years. We still manage them on a national basis to ensure that they are sustainably worked, if appropriate, and that they are well looked after.

You mentioned a couple of areas where there are active gold interests. The most progressed gold interest in Scotland is at Tyndrum, where there is active exploration. Planning consent is being worked through with Loch Lomond and the Trossachs national park, and a developer is interested in a commercial-scale operation. That is exciting. There are a lot of regulatory hoops to jump through, but it is an exciting opportunity and, economically, it is strongly supported in that area.

Where gold is a non-economic or recreational asset, that can cause problems. A member of my team is working hard with Scottish Natural Heritage, Loch Lomond and the Trossachs National Park Authority and Police Scotland on issues of environmental damage and the concern caused by recreational gold panning. By that, I do not mean standing in a river with a plastic pan on a sunny day; I am talking about scuba gear and pumps, and the erosion of sites of special scientific interest, salmon beds and so on. There is quite a conflict there, and I guarantee that a significant amount of effort goes into quietly managing that. Although there is very limited income from that gold, it is still an important national asset that needs to be managed carefully.

The same is true of salmon fishing, and a member of my team is working hard on the wild fisheries review and the proposed changes to the boards, which I know you are all familiar with. A lot of work is going on with community associations that lease those waters from us, and many difficult issues are arising that tenants are nervous about and want some assistance with. We are working closely with them.

You are right to say that those issues do not always get the headlines in terms of people understanding what is being done, but I assure the committee that those assets are being looked after and that nothing has changed in the post-Smith period. We will continue to look after those assets until the changes go through.

**Christian Allard:** We are talking about very important national assets. From some of the news stories, it seems that the people who are working on those assets and making profit out of them are not always people from Scotland. When the Crown Estate identifies the possibility of developing such assets, does it look for people, organisations and companies in Scotland to work on them or does it just sell them off?

**Alan Laidlaw:** When it comes to salmon fishings, the vast majority of the bodies that lease fishings from us are local associations or local community groups. They act as local custodians

and are a real force for good in the rivers that they operate in.

Interest in gold is split between recreational and commercial interests. The recreational side involves local people coming into an area and spending money, although there are still issues. The UK market's appetite for investing in commercial-scale gold exploration is limited. One of our organisations is Scotland-led, but it has always found it difficult to receive capital and investment from the UK. It has tended to go to countries more familiar with mineral exploitation and investment, such as South Africa, Canada and Australia, where there is more of an appetite for that. That is probably where a lot of the external interest comes from.

The Tyndrum development is very well supported locally, because of the economic impact that it will have on tourism and jobs. I am conscious that there are people here who are far closer to that development than I am and who would be able to give the committee an update.

**Christian Allard:** Can you try to put some figures on those assets? What kind of revenue are we talking about?

**Alan Laidlaw:** The revenue from gold interests in Scotland is very limited, because there are no active agreements that are creating income yet. We will receive a royalty based on output once those are up and running.

Approximately £50,000 per annum is received from salmon fishings interests, but when the amount of work that is done with the team and the investment in time are considered, it is not a big money-spinner.

**Michael Russell:** The problem with gold is, if I may put it this way, that it is a slow burn. I have been down the mine at Tyndrum, and the discussions have been going on for many years. The mine is not capitalised as yet even though capital has been sought on several occasions.

How do you make a longer-term thing of natural assets? Is the big issue for Scotland not so much the transfer of responsibilities but the creation of a modern minerals act, which every other European legislature appears to have?

**Alan Laidlaw:** We are very used to those long, slow burns. People do not invest in farming, forestry, minerals or offshore energy without taking a very long-term view. Ronnie Quinn used the phrase "patient capital". We are very used to putting in patient capital, and all the work that our team does with the sort of gold developments that you are talking about is about enabling that opportunity to be created.

The situation is exactly the same on the coastal estate, where there is a need for activity. As I have

said previously to the committee, we have a symbiotic relationship with our tenants, whereby we receive benefit from their doing well, and that flows around the system.

As far as a minerals act is concerned, there are lots of historical vagaries on different types of minerals and I will leave it to legislators to bring forward a change to the minerals legislation.

We are well used to taking a patient view and helping things to happen, because we realise that how we set up our agreements and deal with companies will have a major impact on whether a development happens. The Tyndrum example is a good one. We have worked very closely with the developer through many years to try to bring the development to fruition; we have taken a very long-term view.

10:00

**Claudia Beamish (South Scotland) (Lab):** I have a general question about investment, following on from other questions that have been explored this morning. I also have a specific question that I will come to if other members do not have further broad questions about investment.

The committee understands that there is scope for the Crown Estate to continue its robust investment in Scotland. Would anyone like to comment on what that investment might look like in future years?

**Ronnie Quinn:** The Crown Estate has a fairly focused set of investment criteria, and it tends to invest in areas in which it can bring a wealth of knowledge and critical mass. Those areas are prime regional retail parks, London's west end, offshore wind, and rural and strategic land. That concentration of investment tends to be funded by the sale of other, non-core assets and the creation of a number of limited strategic partnerships that bring in investment from the UK and overseas.

**Claudia Beamish:** I will follow that up with an issue that the committee has raised with the Crown Estate in previous years. As we move towards the transfer of powers through the Smith commission, is there any scope to explore broadening the responsibilities and remit to include economic and social development, as well as what Ronnie Quinn has already described?

**Rob Booth:** Whichever body Scotland decides should take on Crown Estate functions as the new manager, I cannot see anything in the proposed UK Government legislation that will prevent Scotland from doing what it wants with those more social enterprise-focused activities. In the Scotland Bill, Scotland is given the power to legislate by order in council before the transfer date to set up

those sorts of structures. After the transfer date, it will have full legislative power to do as it wishes with those management-based activities.

**Alan Laidlaw:** It is also worth mentioning the type of activity that Mr Russell asked about regarding the slow burn, and in particular the coastal and rural estates. All the activities that we look after and assist are about enabling things to happen. Our view is that social and economic factors are very important. Some committee members were at the aquaculture awards the other day, at which they heard a lot about the aquaculture industry. Our annual report last year covered a huge amount of upstream and downstream benefits from aquaculture operating in certain areas—I know that the committee has looked closely at the salmon industry, and a lot is going on there.

We have completed investments and worked with communities on marine leisure. Yesterday, there was an important debate in the chamber about marine leisure and some great figures were brought forward on the opportunity that exists in that area, in which I know that Stuart McMillan and Fergus Ewing have been heavily involved.

Yesterday, we spoke to one of our operators from a community group on the Western Isles. He said that the direct capital investment that we made a couple of years ago has made £1,000 a week difference to the income of the local shop. The hotel is doing far better, and even under our current mandate—which people have criticised in the past—a huge amount of socioeconomic benefit flows from the areas that we operate in and the work that we undertake. Rob Booth has made it clear that there is an opportunity for that issue to be looked at in the future.

**Claudia Beamish:** Thank you. I also have a specific question—it is complex, so I hope that I understand it correctly. We are seeking clarification on this process as we move forward on the Smith commission and the Scotland Bill. What is your understanding of the transfer of powers and assets?

Some concerns have been raised with the committee that, because the Crown Estate Act 1961 is not to be repealed as it relates to Scotland, all income will have to be paid to the Scottish consolidated fund even if local communities or local authorities have been receiving income and have had control of assets. If that is the case, do you think that there is scope for change? I hope that I have portrayed the situation appropriately.

**Rob Booth:** You have expressed it very well. The position after the transfer date will be that the Crown Estate Act 1961 will be applied as a fallback, to fill a potential vacuum. At the transfer

date, if no Scottish legislation has been brought forward to set up the structure to take on the new role, a modified version of the 1961 act will be applied as an interim measure until Scotland has had an opportunity to pass that legislation.

In my reading of the Scotland Bill, it is not anticipated that there will be an on-going application of those 1961 act principles to management in Scotland. After the transfer date, as things stand, the 1961 act will apply only to the Crown estate in the rest of the UK, so Scotland will have freedom as far that particular aspect is concerned.

On the point about the consolidated fund, there is an amendment in the UK legislation that says that Crown Estate revenues, as they would have been characterised in Scotland, would flow to the Scottish consolidated fund. It will be a matter for the Government to decide whether that really works as far as delivering what Smith asked for. I will not presume to comment in relation to that.

**Michael Russell:** You said that, in your reading of the Scotland Bill, this was a temporary measure until the legislation came into force. I have clause 31 of the Scotland Bill in front of me. Can you point me to where that is implied or stated?

**Rob Booth:** There are two points to note. The first point is that subsection (7) of clause 31—the clause that inserts new section 90B into the Scotland Act 1998—sets out a power for provision to be made by order in council for the—*[Interruption.]* I am sorry—it is subsection (7). It talks about Her Majesty being able, by order in council—in effect, on behalf of the Scottish Government—to pass a secondary piece of legislation ahead of the transfer date to ensure that the infrastructure has been set up.

The other point—

**Michael Russell:** I am sorry, but you will have to direct me. Where exactly is that provision? I am looking at clause 31.

**Rob Booth:** It is clause 31(7). It says:

“Her Majesty may by Order in Council make such provision as She considers appropriate for or in connection with the exercise by the transferee under the scheme under section 90B”—

**Michael Russell:** Okay. I see it now.

**Rob Booth:** That effectively allows the Scottish Government to pass—

**Michael Russell:** But it does not really imply that that is going to happen, does it? It allows it to happen. It is really important that we understand what is happening here. With your permission, convener, can I just probe this matter a little?

**The Convener:** Of course.

**Michael Russell:** The issue is very important, and now that it has been raised by Claudia Beamish, we need to treat it very seriously.

Essentially, what we have here is the transfer of a function. What is the function of the Crown Estate that is being transferred? Can you tell me that?

**Gareth Baird:** It is the management of the Crown estate itself.

**Michael Russell:** Can you not express it as it is expressed in the Crown Estate Act 1961? It is important that we understand this. Only one thing is being transferred here, is it not? Just one thing is being transferred because the Crown Estate has just one function, which is set out in section 1(1) of the 1961 act.

**Rob Booth:** The function is  
“managing and turning to account”  
the Crown estate.

**Michael Russell:** It is indeed. Section 1(1) of the 1961 act refers to

“the function of managing and turning to account land and other property, rights and interests, and of holding such of the property”—

although I note that “holding ... property” does not count here. In those circumstances, is that the only thing that is being transferred?

**Rob Booth:** That is the core function of the commissioners, but there are other activities, powers, restrictions and obligations in the 1961 act that will transfer at the same time. You are right to say that the Crown Estate’s core function is the  
“managing and turning to account”  
of Crown land.

**Michael Russell:** So that function will be transferred, but clause 31 suggests that what will happen is that the functions of the 1961 act will apply to Scotland and to the actions of those who have taken over the Crown estate. However, that is not the current situation. If a small harbour in my constituency wants to invest in its own future, it will now have to take on some very complex functions, including paying moneys to the consolidated fund, that it never had to take on before.

As the Crown Estate in Scotland, why did you not say to the Treasury or others, “Why don’t we just put a sign on the door to say that we are now out of business and the Scottish Government can take over lock, stock and barrel and get on with it?” You seem to be tying up the matter in the detail of the 1961 act, which means that not much has changed.

**Rob Booth:** I will address a few of those points. Once the transfer of functions has occurred under

the statutory transfer scheme envisaged in the Scotland Bill, the assets that we are talking about will no longer form part of the Crown estate, because they will not be managed by the commissioners. Those assets will no longer be reserved under the Scotland Act 1998 and Scotland will have the full ability to legislate in relation to those functions.

With regard to Mr Russell’s analogy, it is open to Scottish ministers to have a complete refresh and move on with the new body on that basis. The only underlying principle that one could characterise as being a constraint is that those assets are owned by the sovereign in right of the Crown. The fundamental founding principle of the Crown Estate and the transfer of those functions is that the underlying property and the capital generated from it is owned not by the Crown Estate but by the sovereign, and that principle is reflected in what the UK Government has sought to do in the bill. Other than that, Scotland has a power, either by order in council ahead of the transfer date or by full legislation after the transfer date, to set the destiny of those assets for Scotland in the future.

**Michael Russell:** Do you accept that what we are seeing in the bill as it is currently drafted and as it is currently being considered by the House of Commons is something that could be called merely a transfer of function rather than a devolution of competence? If the bill’s provisions were to come into effect tomorrow morning, the situation would be more restrictive in Scotland than it currently is, particularly for those to whom the function is transferred.

**Rob Booth:** Once the transfer has occurred, the functions that we are talking about will no longer be a reserved matter under the Scotland Act 1998, so they will be fully devolved.

**Michael Russell:** I am not saying that. What I am saying is that, as the clauses stand, if the transfer were to take place tomorrow, next week or the week after that, it would result in something that is more restrictive than the current situation.

**Rob Booth:** The resulting position in your scenario would be as restrictive as it is at the moment, but I repeat that that would come to pass only if the Scottish Government had not already passed legislation for the discharge of those functions in Scotland. That is the only scenario in which the 1961 act provisions will apply to Scotland.

**Michael Russell:** Do you understand why some people regard this as over-complex and think that there should be a simple system that says, “Those are the assets, that is the management, that’s it handed over, cheerio”?

**Rob Booth:** I cannot argue against the fact that it is complex, but it is complex for a reason, which

is that the Crown Estate itself is complex. It is not just a function; it is also a business, and it is also about land and the interaction with all our customers. The Crown Estate also has staff who need to be protected as part of the process. Reading the Scotland Bill as a lawyer, I would say that UK-based legislators are seeking to put into the bill a structure to ensure that those very important interests, whether they be defence, oil and gas, our customers in Scotland or our valuable and highly professional staff based in the Bell's Brae office, are protected. That is why it looks complicated.

10:15

**Michael Russell:** Nobody is criticising your staff, but your staff are but one sentence—not the burden—of clause 31. It is my contention, and the contention of many, that the burden of clause 31 is overly complex and seeks to perpetuate a situation that would be difficult and cumbersome to change. The clause requires some critical examination, which is what it is getting at the moment.

**The Convener:** Thank you for that. Given that the cabinet secretary is coming before us and that, I presume, ministers will come before the Devolution (Further Powers) Committee, we will be able to ask both the Scottish Government and the UK Government for their take on that particular point. It seems that, despite the explanations that we have been given, which have been lucid and to the point, the point is moot.

We must move on, and we will continue with a question about the transfer of management to Scottish ministers.

**Angus MacDonald (Falkirk East) (SNP):** We are all well aware that the interests of the Crown Estate are complex. Are there any areas where particular work is required of either the Scottish Government or the Crown Estate to ensure the smooth transition of responsibilities?

**Ronnie Quinn:** I will set out what has happened so far to facilitate the transition. The Crown Estate has established a project steering group and a working group, which are meeting regularly. We have set up regular meetings between the Crown Estate and representatives of the Scottish Government, particularly from Marine Scotland, and we have appointed a programme manager, Roy Evans, who meets those officials. In March, we had a wider kick-off meeting at which we introduced the mechanics of running the portfolio to Scottish Government colleagues, and we went through all of that in what was a full-day session.

We have delivered drafts of heads of terms for our management transfer protocol, a transition memorandum of understanding and an outline

briefing on how the Crown Estate manages its assets in Scotland. We have set up a virtual data room and have identified more than 100,000 documents and records in hard copy that will have to be physically transferred, and we have identified an additional human resources resource and have appointed someone to work at our Bell's Brae offices to help us through the transition period. We have also established protocols to enable the identifying and ring fencing of revenue from Scottish assets for accounting and budgetary purposes going forward.

A fair bit of work has been done, and it is an on-going scenario. We met Scottish Government officials last week and, as I have mentioned, we are working to make the transfer as seamless as it can be for the benefit of the industries in which we work. The last thing that we want is to have a hiatus or some long, drawn-out process. Some fairly crunchy decisions will have to be made by our tenants, and we need to ensure that the transfer is not on the critical path for anything.

**Angus MacDonald:** Are you confident that the transfer will be seamless?

**Ronnie Quinn:** We will try very hard to make it as seamless as possible.

**The Convener:** Let us move on to the transfer of management to local authorities and others.

**Jim Hume:** What do you consider to be the advantages and disadvantages of the devolution of management to local authorities and communities?

**Alan Laidlaw:** Let me be clear: there is a political decision to be made about where the responsibility will go. The other week, the committee took evidence from a number of tenants and stakeholders, and several local authority representatives were present. We have really good working relationships with local authorities, which differ throughout Scotland. There are 28 local authorities with coastal interests, and you have heard evidence from three or four of them. Some of them are very engaged in the process, while others are not.

We need to ensure that our customers have clarity around any further decisions in that respect and that there is still a strategic understanding of the type of assets that we look after. I would not want to comment on future recommendations or on the comments that some people have made about further devolution, but we need to be clear about where that applies and how it is worked through. A lot of representations have been made to us—and, I think, to you—to ensure that there is clarity on that matter. At last night's meeting of the cross-party group on recreational boating and marine tourism, there was quite a bit of interest in trying to establish where things were headed in

that regard, but that is not necessarily a matter for us to comment on.

**Jim Hume:** Thanks for that, Alan. However, it was more of a high-level, strategic response, what with the references to clarity and all that stuff, and I wonder whether we can get down to more of the meat. Political decisions will be made on further devolution, but can you identify some of the opportunities and threats if that further devolution happens, as I am sure it will in some form or other? What might be the benefits or disadvantages?

**Gareth Baird:** I will come in here with a Scotland plc viewpoint. Coming back to the Scottish food and drink industry, I point out that it has identified for the next five years some searching targets that it is determined to achieve. Speaking personally as a primary producer of food, I can tell the committee that one of the great pleasures that I have had in my post has been to see the forward-looking attitude of the primary producers who are Crown Estate tenants. As a director of Scotland Food & Drink, I would say that, whatever structure is arrived at post transfer, there is real concern about the primary production sector's ability to keep delivering and to hit Scotland Food & Drink members' targets, which have been completely backed up by Government and indeed supported heavily.

Much of that production—and the wherewithal to hit those figures—depends on the high-quality primary production coming out of Scotland. To ensure that, we need a forward-looking industry. The pleasure that I get from speaking to our tenant farmers frequently lies in the fact that they have had a landlord who is prepared to go forward with them, to take risks, to invest and to move in a forward, positive direction, and my concern is to ensure that, post transfer, there is a structure that allows those forward-looking businessmen, businesswomen and families to maintain that upward trajectory. It is for the Scottish Government to determine the pathway that is taken, but it will be of crucial importance for the food and drink industry.

**Dave Thompson:** Some of the evidence that we heard just the other week indicated that certain functions would probably be better carried out at a Scotland-wide level. Certain aspects of what you do operate best at that level, whereas other functions might operate much better at a very local level. Can you envisage a system in which both things could operate at the same time—some kind of hybrid system, as I would call it—and in which certain of your roles would be carried out across Scotland but with a presumption in favour of local management arrangements?

**Alan Laidlaw:** The sort of position that you talk about is quite similar to what happens at the

moment. For example, the management of moorings is much better done at the local level. We agree the strategic boundaries within which people can operate, and then local committees and groups carry out the management. We have been doing work with communities on local management agreements to take forward projects and interests at the most grass-roots level.

At the same time, we support communities with positioning and policy matters and with connectivity. A good example is marine leisure tourism, in which delivery on the ground, as carried out by small development trusts, is truly local. Indeed, a few weeks ago, you took evidence from Elgar Finlay, who is looking to do some exciting projects with the Glendale Trust, and we are working very closely with such trusts to understand the connectivity to other projects at a strategic level. We are also involved in the national research project on marine tourism opportunities to ensure that we can inform that work. There is a lot going on at the moment in that respect.

With the Community Empowerment (Scotland) Bill and the direction of travel in that regard, there will be more opportunities for communities to get involved in the kinds of activities that I have outlined. The Scottish Parliament and Scottish ministers can, if they wish, put in place a structure that will be flexible enough to involve communities in managing assets that are currently managed by the Crown Estate. I see such flexibility as an opportunity to ensure that the process works; we believe that it works at the moment, and we would hate that to be lost.

I do not know whether that answers Mr Thompson's question. Certainly, a paper by Community Land Scotland, which was written by someone who might have been a former member of this committee, looks at that side of things.

**The Convener:** I think that Alex Fergusson wants to ask a question on the same area.

**Alex Fergusson (Galloway and West Dumfries) (Con):** Actually, I was going to say that I do not know whether what Mr Laidlaw said answers Dave Thompson's question but it certainly answers mine, because it was exactly what I was going to ask about.

**Alan Laidlaw:** I am glad that I could be so helpful.

**Alex Fergusson:** It is not the first time that Mr Thompson and I have been thinking along the same lines.

I will just expand a bit on the issue. Alan Laidlaw quite rightly mentioned the two stakeholder evidence sessions that we had in committee. I have to say that we were given a very positive view of the relationship that the stakeholders have

with the Crown Estate. It is fair to say that that positivity is based on two main reasons: first, in the form of the Crown Estate there is a single entity that people can deal with, as opposed to the possibility of having to deal with a multiplicity of local authorities or other organisations; and, secondly, there is the level of expertise that is available through the Crown Estate.

I picked up from your answer to Dave Thompson's question, Mr Laidlaw, that you believe that it is possible to devise a structure that would be able to devolve a number of responsibilities to further down the chain—if I can put it that way—but still maintain the single entity that people clearly like to work with and the expertise that goes with it. Is that roughly what you were saying?

**Alan Laidlaw:** Yes. Looking at things afresh would give a great opportunity to pick up all the bits that work and make the bits that people have more concerns about work better. My simple approach would be to ensure that we get that benefit from the process of change. It will not be simple but would be eminently possible through a bit of thought from people who are engaged in the discussion, such as the members of this committee, the communities and the stakeholders. I know that there has already been discussion about public consultation, for example.

**Michael Russell:** It is fair to reflect, as Alex Fergusson has reflected, that from marine leisure stakeholders—for example, Tobermory Harbour Association in my constituency—some of the aquaculture stakeholders and others, there has been a strong response to any threat to the existing expertise and talent base of the Crown Estate in Scotland, because they want to see that base retained. It is to the credit of the Crown Estate in Scotland that that is the case.

There is also an issue about the appropriate level for making decisions. Without doubt—there is unanimity in my constituency about this—that level is not at local authority level. There might be a variety of good reasons in Argyll as to why that is felt to be the case but, more widely, the required expertise does not exist at local authority level. It does not exist in marine planning at that level, for example.

Certainly, what I would be looking for—I would be interested in your comments on this—is how you can build on the success that you are beginning to have in devolving some of your activities to a lower level. For example, in Tobermory, although the deal is not done and the discussion about it has been quite lengthy, there is the possibility of the harbour association using the powers of the Crown Estate to benefit the local community and acting, in essence, in place of the Crown Estate in that area. The discussion about

that has been very positive and the potential is good.

How do you replicate that approach, and how can you bring it forward a bit faster so that when this business is over and done with, and these unnecessarily complex provisions have been sorted and resolved, we might have something on the ground on which to build?

10:30

**Gareth Baird:** Perhaps I can explain the overarching picture. Much is talked about Crown Estate assets in Scotland being passed to the Scottish ministers, and we will do everything we can to accelerate that process as transparently as possible. As Alan Laidlaw said, we will seek to include any involvement from the current team, so that on day 2 post transfer the management of the estates will be up to speed and delivering for Scotland.

The committee has already heard about the success of local management agreements that I hope have been beneficial to the communities—it has been a pleasure to get investment with a businesslike transaction and to see the immediate rewards for the community involved. How the management of those assets is devolved and engaged on is a matter for the Scottish ministers, and we will seek to progress that transfer as quickly as possible.

A lot has been said about the assets in Scotland, but there is another asset, which has already been generously referred to: the team at Bell's Brae and its expertise. My concern as a non-executive member of the Crown Estate is to ensure that, after the transfer, the expertise and experience continues to work on behalf of Scotland. That asset, which is seldom referred to, is important.

**Michael Russell:** With all the debate on this issue, and all the criticisms that have come from a variety of directions, I have yet to hear—indeed, I do not think I will—any criticism of your team's expertise and expert base. That most precious asset needs to be carried forward. I am trying to find out how it can best be carried forward and dug into local communities so that it is even more effective.

**Alan Laidlaw:** The example given when Brian Swinbanks gave evidence to the committee was about community capacity and the appetite and skill set. The development at Tobermory is at planning phase 5 and 6, and there has been a good long-term working relationship between the Crown Estate team, managing agents and Brian. Whatever decisions are made about structure, that shows that this process is open for business and

that communities with well-considered plans should come forward.

We engage with a lot of communities at different stages, from the micro-idea to the fully fledged business plan. Mull and Iona Community Trust handed us a fully thought-through, peer-researched document last night that my team is busy looking at this morning, and that is genuinely a pleasure. Morven Gibson from that trust was in Parliament last night at the cross-party group, because we met her at the Community Land Scotland annual general meeting, where one of our other stakeholders from Stòras Uibhist stated, “If you are entertaining the start of this project you must speak to Paul Bancks and the team at the Crown Estate because they helped us on our project.”

It is a question of openness for business and for local management agreements. For example, in Gigha in your constituency, Mr Russell, there was a clear, quick win when the community said, “We’ve got an idea and we need help to develop it”. As long as that openness for business and engagement with communities that have ideas exists, and as long as there are good communities, good capacity and ideas, things will happen. A lot is going on in the legislative process with community empowerment and so on that will enable that to happen. We must ensure that, when organisations are hit by requests, the opportunities are there to be taken.

**Sarah Boyack:** When you mentioned the Community Empowerment (Scotland) Bill earlier, you made a good point that we have new powers and a new sense of energy with regard to supporting communities. My comments follow on from Mike Russell’s point about making national expertise completely available at a local level and ensuring bottom-up access to new resources. That is what we are looking for, and I think that Dave Thompson made a good point about taking a hybrid approach and having something that is neither a national organisation nor completely at a local level but a combination of both. Some thought needs to be given to that in your consideration of how the powers might be transferred and the expertise retained, because I think that everyone on the committee is keen to see that.

**The Convener:** I think that the point has been made. Alex Fergusson has another question related to expertise.

**Alex Fergusson:** I just wanted to ask a practical question with regard to the point that Gareth Baird quite rightly made that one of the Crown Estate’s biggest assets is its expertise, the people it employs and its existing staff base. Is it possible to say how many of the staff work on Scotland-only Crown Estate issues and how many

work on UK-wide issues? What would be the implications for staff of the Crown Estate’s possible devolution?

**Gareth Baird:** We have 38 people in Bell’s Brae in Edinburgh who are directly involved in Scottish issues. As for the energy and infrastructure side, there is a huge resource that comes up from our headquarters in New Burlington Place. Ronnie Quinn might wish to comment on that.

**Ronnie Quinn:** Up to now, the Crown Estate’s energy and infrastructure portfolio has been managed on a functional rather than geographical basis. For example, I have UK responsibilities for ocean energy and other people in Bell’s Brae have other UK responsibilities—and vice versa at New Burlington Place.

We have about 12 or 13 staff in Edinburgh who deal with energy and infrastructure, but we also pull on a significant resource in New Burlington Place. Although there is a large degree of uncertainty about what new business model will be put in place or what direction will be taken, we are trying to find out the best way of identifying and drawing on assets in the wider Crown Estate that can be transferred. That work is not complete, and it will largely depend on how the Scottish Government wants to take the issue forward and how it wants it to be resourced.

**Rob Booth:** Just to add a legal overlay, I note that the current draft of the Scotland Bill contains a clear statement that the sorts of people we are talking about—the fine staff of Bell’s Brae—will be protected in connection with any transfer and will not have their terms and conditions impacted on. We expect that the transfer will incorporate the sorts of protections that we see in the Transfer of Undertaking (Protection of Employment) Regulations 2006 or the Cabinet Office statement of practice, which are legal mechanisms to ensure that people who are in scope and who deliver their activities in Scotland are effectively protected and their terms and conditions are transferred at that point in time.

**Alex Fergusson:** Thank you very much.

**The Convener:** As Crown Estate commissioner, as staff and as lawyers, you must have played some role in developing the provisions in the Scotland Bill. It would be interesting to find out how much you have been consulted on or involved in creating them.

**Rob Booth:** The starting point is to point out that the bill itself was drafted by parliamentary counsel on the instructions of the Cabinet Office and the Treasury. We along with other interested stakeholders have played a role in relation to clause 31 and in ensuring that any decisions are made in an informed way, show an awareness of what we are as an entity, and recognise and work

into any approach that is taken all of our organisation's technical complexities, which we have already mentioned.

**The Convener:** Have you had any dealings with the Scottish Government in the process?

**Rob Booth:** I have had no direct involvement with the Scottish Government on the legal aspects, which probably reflects the fact that we are one level beneath the level at which that conversation is taking place. We are a stakeholder informing the process. To date, our Scottish Government focus has been very much on the practical aspects, and it is all about the good work that Ronnie Quinn, Alan Laidlaw and the team are doing on engaging with their Scottish Government counterparts and focusing on transparency and clarity in the transition process.

**The Convener:** I presume, then, that the commissioners have been dealing directly with the Treasury in the creation of the clauses.

**Rob Booth:** We inform the Treasury, yes.

**The Convener:** Has the commissioner himself been involved in the process?

**Gareth Baird:** No.

**The Convener:** So the process is not taking place at your level, either.

**Gareth Baird:** We have been informed about progress of the process but, as Rob Booth has said, our major job is to inform both Governments about the Scottish assets and their complexity to ensure that their decisions are made on the back of that information.

**The Convener:** That is fine. Thank you.

**Michael Russell:** Can I just be clear about that? Mr Booth, you said that the organisation at your level had had no contact with the Scottish Government on the detail of this.

**Rob Booth:** Do you mean in relation to the drafting of the Scotland Bill?

**Michael Russell:** Yes, specifically in relation to the legislation.

**Rob Booth:** I think that that is right.

**Michael Russell:** What is your level?

**Rob Booth:** My level is the provision of technical input.

**Michael Russell:** Do you work in London?

**Rob Booth:** Yes.

**Michael Russell:** So at a technical level in London any contact that you have had about the drafting of clause 31 of the Scotland Bill has been with the UK Government, by which I mean the Treasury.

**Rob Booth:** Yes.

**Michael Russell:** Not the Scottish Government.

**Rob Booth:** No.

**Michael Russell:** Okay.

**Jim Hume:** Has the Scottish Government at any point contacted you about the Scotland Bill?

**Rob Booth:** Speaking for myself, I have to say no, not personally.

**The Convener:** We have gone round a lot of the houses; we have looked at baskets that, I am glad to say, are not basket cases; and we have looked at the whole set of the Crown Estate's interests in Scotland in what I hope has been a positive way. Obviously we are interested in teasing out how we can transfer the assets easily and ensure that they work, and I think that the witnesses' answers help us in that direction.

It is very good of the witnesses to have come along this morning. I am sure that we will see more of you in future as some process—we hope—is accelerated and we get on with the job of earning money and developing the economy.

We will now have a short suspension.

10:42

*Meeting suspended.*

10:46

*On resuming—*

**The Convener:** We continue with evidence on the proposed devolution of Crown estate assets. I welcome the Cabinet Secretary for Rural Affairs, Food and Environment, Richard Lochhead; Linda Rosborough, who is the director of Marine Scotland; and David Mallon, who is head of marine environment for the Scottish Government. Good morning to you all.

Have there been any tripartite or bilateral meetings between the Crown Estate, the Scottish Government and the UK Treasury on devolution of powers since the Smith commission reported?

**Richard Lochhead (Cabinet Secretary for Rural Affairs, Food and Environment):** There have been several meetings: colleagues alongside me have been dealing directly with the Crown Estate over a long time, and the Deputy First Minister and First Minister have met the UK Government in the wider context of the Smith commission, of which Crown estate devolution is a key part. Many of the meetings so far have been at official level, but the Deputy First Minister and First Minister have also clearly engaged directly.

**The Convener:** It seems that the Scotland Bill has not taken on board any of the recommendations in the Devolution (Further Powers) Committee report. That may be a timing issue, but members are concerned and would like to explore what the Government's view is. Do you believe that the Scotland Bill delivers the Smith commission outcomes in relation to the Crown estate?

**Richard Lochhead:** No, I do not. A number of complex questions are posed by devolution of the administration of the Crown estate. The Scottish Government has made a clear case for devolution of the administration and that has been supported by the Scottish Parliament. Most important is that that is also supported by the people of Scotland in order that there is accountability and transparency and to prevent leakage of valuable revenues from Scotland to the UK Treasury.

What the people of Scotland expect from the Smith commission's proposal is that we will modernise management of our key assets to ensure that they deliver benefits for our country and are managed in the public interest.

We are pleased that the Smith commission recommended transfer of the Crown estate management revenues to the Scottish Parliament, but I have to say in response to the question that, unfortunately, the Scotland Bill goes against the spirit and intention of the Smith commission's proposals. I honestly believe that we have been presented with a dog's breakfast by the UK Government. The bill is too complicated and includes clauses on reserved activities that should, in the terms of the Smith agreement, be for memorandums of understanding. It also limits the ability of the Scottish Parliament to establish a completely new framework in some of the areas where we want to do that in relation to the Crown Estate's assets. We do not believe that the proposals that are before us are anywhere near satisfactory.

**Jim Hume:** You seem to be dissatisfied with the Scotland Bill and how it is going forward. However, we have just heard from Rob Booth, the head of legal from the Crown Estate, who has, in his own words, been working with the UK Government on that bill with regard to further devolution of the Crown estate. I asked him whether the Scottish Government itself had been in touch with him or his department and he said, "No". I am wondering why not.

**Richard Lochhead:** The Crown Estate is in regular meetings with the Scottish Government at official level. The more appropriate question is whether the UK Government and the Scottish Government are speaking to each other about the Smith commission. This is about negotiation to fulfil what was promised by the Smith commission

and what was expected would be delivered through those proposals. Therefore, the conversations about the future of the Crown estate in Scotland need to be between the UK Government and the Scottish Government. Those conversations and negotiations are taking place at the highest level, with the Crown Estate's future being at the heart of them.

The First Minister and the Deputy First Minister—who is, I believe, about to meet the Crown Estate again shortly—have been at the heart of the negotiations; that is the right and proper level at which they should take place. The Crown Estate is non-political and it has a job to do, which is management of its assets. The negotiations and discussions about devolution are between the two Governments.

**Jim Hume:** You are stating that it would have been inappropriate for the Scottish Government to have discussions with the legal team at the Crown Estate regarding the Scotland Bill and what the Government would want in it.

**Richard Lochhead:** With all due respect, that is a bit of a red herring. This is a discussion and negotiation between two Governments—the Scottish Government and the UK Government—about the Scotland Bill that is going before the House of Commons, and which we would like to see delivering what was promised and agreed in the Smith commission. That is the right and proper place for those discussions to take place.

As I said before, there are many meetings between all the various teams within the Crown Estate and our officials about devolution of the Crown estate. However, the negotiations are at ministerial level.

**Michael Russell:** Clause 31(7) of the Scotland Bill gives the Scottish Government the opportunity to put in place a scheme of activity or management for the Crown estate in Scotland, if it chooses to do so. According to Mr Booth, that could be prior to devolution of the Crown estate. I raised with Mr Booth the matter of the monumental complexity of the clause, which is utterly unnecessary in most reasonable people's opinion. Mr Booth's answer was to draw attention to clause 31(7) to say that the Scottish Government is now entirely free to put in place its own arrangements. Has the Scottish Government started the process of drafting a scheme of arrangement after devolution of management of the Crown estate has taken place?

**Richard Lochhead:** The focus of the negotiations with the UK Government just now is on the draft clauses that the Scottish Government has proposed on devolution of the Crown estate, to make it more simple and effective, and to

deliver what was promised in the Smith commission proposals.

We believe that tabling an amendment that would remove the reservation of management of Crown Estate assets, which we hope will be agreed by the UK Government, is the simplest and easiest way to devolve that responsibility to the Scottish Parliament. The clause to which Michael Russell refers is, as he said himself, monumentally complex and should be replaced with a simpler clause.

**Michael Russell:** Do you accept that if that does not take place, some of the things that are presently not subject to the Crown Estate Act 1961 will become subject to that legislation? For example, payments into the consolidated fund on a wide range of matters would become subject to legislation that does not at present apply in Scotland. That will make the situation worse rather than better in certain circumstances. With that in mind, I presume that you have—I am sorry to use these terms—a plan A, a plan B and a plan C to ensure that people are not adversely affected.

**Richard Lochhead:** There are various stages to the negotiations that are taking place. You are right that we will have to respond to each stage as we enter it. The stage that we are at just now is about the fact that the UK Government's clauses contain a very complex arrangement that does not devolve the management of the Crown Estate assets in Scotland—

**Michael Russell:** Do you accept that that will make things worse, in certain circumstances?

**Richard Lochhead:** There are potential complexities that would indeed make things worse. Looking at the restrictions that are placed on devolution by the UK Government's current proposal, one can see that there are so many checks, balances, restrictions and carve-outs built into what has been proposed that it does not amount to anything close to what we regard as being the spirit and intention of the Smith commission, which is proper and full devolution of management of the Crown estate in Scotland.

**Michael Russell:** So, you will be ready for any eventuality, as I know you always are.

**Richard Lochhead:** I am sure that we will be ready for any eventuality, but we are trying to prevent some things from occurring in the first place.

**Alex Fergusson:** Good morning, cabinet secretary. I have a brief supplementary to Mr Russell's question.

I want to go back to the point that Mr Russell made when he referred to what Mr Booth said in the previous evidence session about the Scottish Government's ability to put in place a structure

that would allow—as I understand it—effective management of Crown Estate assets before transfer took place. With respect, I do not think that you answered that part of Mr Russell's question.

I hope that whatever complexities exist will be ironed out—I do not know what the chances of that are, but one hopes for the best—but it seems that it would have been somewhat irresponsible had the Scottish Government not already begun to look at what it has the power to do before transfer if it is not to be caught on the back foot when the transfer comes.

**Richard Lochhead:** I did not hear the evidence from the Crown Estate this morning; I will reflect on what its witnesses said to the committee.

There is a lot of work going on between the Crown Estate and the Scottish Government, just as negotiations are taking place between the Scottish Government and the UK Government over the scale of devolution of the Crown estate.

Of course, there is, within the existing clauses from the UK Government, some devolution of the management of the Crown Estate's assets in Scotland. The key issue from the Scottish Government's point of view—which I believe is supported by the people of Scotland—is that that is only partial devolution of the Crown Estate to Scotland, which is not what was agreed in the Smith commission or what is expected by the people of Scotland. Some proposals will give some devolution—we do not have any devolution of responsibility for the Crown Estate at present. However, we cannot accept only partial devolution of the Crown Estate assets. There are so many powers in the draft clauses—powers for the Treasury, powers of direction and powers to add further restrictions over and above those that are already in the draft clauses. There are, everywhere we turn, more checks, balances and restrictions on what is actually being devolved to Scotland.

**Alex Fergusson:** I have one final point. I accept your arguments, and I accept that those matters are for negotiation between Government and Government. However, as a member of this committee, I am slightly concerned that, if there exists—or if there will exist—a power for the Scottish Government to act to remove some of the criteria and constrictions that have been mentioned, the Scottish Government does not appear to be exploring the potential in that.

**Richard Lochhead:** Discussions are taking place with the Crown Estate about operation of the Crown estate in Scotland, irrespective of the scenario. I am trying to explain that our focus is on a very clear chain of events that are taking place in relation to devolution of the Crown estate. There

is a debate on the Scotland Bill 2015-16, which is going through the UK Parliament at present. Our focus for the coming weeks is to ensure that those events deliver the Smith commission proposals. Thereafter, we will have a Scotland Bill that has been agreed.

Prior to that, I intend to set up within the next few weeks a stakeholder forum for all relevant parties to consider the interim steps that we wish to introduce to provide continuity and stability as the transfer is prepared. We will in due course consider what the overall framework and model for a Scottish organisation will be. Interim arrangements must be put in place while we wait for the bill to go through the House of Commons and for final devolution of the Crown estate to Scotland.

11:00

**Alex Fergusson:** Thank you. We will come on to some of those aspects later.

**The Convener:** I guess so.

**Claudia Beamish:** I raised this issue with the Crown Estate earlier. You will be aware that even if management of assets is transferred to local government or communities, as things stand their income would still go back to the Crown Estate. It would be helpful to understand—if not today, then in the near future—what the likely timescale will be for the introduction of Scottish Government legislation prior to enactment of the Scotland Bill, in order that we can progress appropriately the issues that have been raised. When might we know about that? There is serious concern about where we will be with the Scottish consolidated fund and a range of other complex issues if that does not happen.

**Richard Lochhead:** We are seeking clarity from the UK Government about the impact on the consolidated fund, and at the point of transfer we expect that fund to be affected in terms of revenues from the Crown estate in Scotland. We will pin that issue down and ensure that we get absolute clarity about what will happen with future revenues.

On the timetable, we expect the passage of the Scotland Bill to be completed by early 2016. We expect there to be secondary legislation relatively soon after that, but I cannot give a date because that is in the hands of the legislative process of the House of Commons. After that we will be able to introduce legislation in the Scottish Parliament.

**Claudia Beamish:** My understanding from evidence that was given earlier today is that legislation could be introduced in the Scottish Parliament before the Scotland Bill is enacted—if it is—so that things become more seamless and the

transfer process does not present difficulties for the people of Scotland.

**Richard Lochhead:** That is right. In response to Alex Fergusson I said that we need an interim stage in the process. Long-term decisions will be taken in Scotland about management of Crown Estate assets, so there must be an interim stage. We want transfer of the Crown estate to be a going concern and to maintain an entity that provides stability and continuity to businesses in Scotland—particularly the offshore renewables sector. As that takes place, we will, as I said, set up a stakeholder forum within a few weeks. If any issues need to be addressed through amendments to the 1961 act, we would do that as an interim measure to slightly change the remit of the Crown Estate in Scotland, or whatever, while the Parliament makes long-term decisions about how to manage the assets. There will still be a Crown Estate in Scotland.

**The Convener:** What amendments to the Scotland Bill does the Scottish Government think are necessary to make your case?

**Richard Lochhead:** As I said in response to Michael Russell, we propose removal of the reservation of the Crown Estate in Scotland, which is the simplest and clearest way of devolving that responsibility to the Scottish Parliament. I also said that what we have in the Scotland Bill is a dog's breakfast. The provisions are full of restrictions and powers that are left with UK secretaries of state, and there are various carve-outs, whereby some things that should be devolved to Scotland, which we believe are Scottish assets, would remain reserved. The only way round that is to be clear-cut and to remove the reservation.

**The Convener:** We will probably come on to some of those economic assets in the near future.

Angus MacDonald has a question about stakeholder interests.

**Angus MacDonald:** Good morning, cabinet secretary. We heard from a few stakeholders that there are some concerns about the transition period. What is the Scottish Government doing to reassure Crown Estate stakeholders through that period?

**Richard Lochhead:** We share some of those concerns, which is why we think that it is vital that there is an interim stage for however long we need it, which will be a considerable period of time.

We have a number of Crown Estate staff based in Scotland who are managing the assets in this country. We also have staff in the Crown Estate in London who work on Scottish issues. Discussions are taking place on what will happen with the roles of the people who are based outside Scotland who

work on Scottish assets. We have to come up with a solution, because we want continuity for the foreseeable future to provide stability for business and communities. Therefore, that interim stage is extremely important.

**Angus MacDonald:** Do you have any plans to engage with stakeholders? We heard from the tenants on the Glenlivet estate, who had some concerns. Is any engagement process planned during the transition period?

**Richard Lochhead:** It so happens that I met about 70 tenant farmers in my constituency from the Crown Estate's rural estate, so I am well aware of their views on the issue.

In a matter of weeks, I will announce a forum for everyone who has an interest in the future of the Crown Estate's assets in this country, particularly the business community and the communities themselves. I will hear at first hand their views on the way forward. I intend to set up that forum soon.

Within a few weeks, I hope that we will have a slightly better idea of the direction of travel on devolution. We will then begin to discuss stakeholders' concerns, how we can ensure that we address them and how we can have the Crown Estate continue as a going concern in Scotland to provide the necessary continuity.

**Angus MacDonald:** What plans do you have to ensure that the voices of stakeholders across the onshore and offshore interests of the Crown Estate will continue to be heard?

**Richard Lochhead:** I want to involve them and their representatives in the forum, but my message to them is that we fully recognise the need for continuity and certainty. That is why we will minimise disruption in the foreseeable future until we understand the long-term direction of travel on how to manage the estates in Scotland in the public interest.

**Angus MacDonald:** I am sure that that will give stakeholders some comfort.

**The Convener:** Sarah Boyack wants to ask about the economic assets that have been touched on.

**Sarah Boyack:** Earlier, we took evidence on the issue of economic estates and assets. You mentioned that, under the Scotland Bill, there are reservations and carve-outs. What is your view on the issue of economic asset transfer from the Crown Estate?

**Richard Lochhead:** I want to make sure that I understand your terminology correctly. What economic assets are you referring to? Are you talking about the general economic assets of the Crown Estate?

**Sarah Boyack:** It would be useful to know your views on Fort Kinnaird.

**Richard Lochhead:** Okay—I thought that you might be going there.

Needless to say, we are very unhappy—and I would expect the committee to share some of our concerns—with the definition of the Scottish assets that would be transferred under devolution. We could be forgiven for thinking that some kind of exercise is going on in concealing assets so that they do not have to be transferred to Scotland.

It is our view that Fort Kinnaird is a Scottish asset and that it should therefore be included in those assets that are transferred through devolution. We are unhappy with the complicated arrangements that appear to be being put in place to be used as a hook whereby Fort Kinnaird can be defined as not being a Scottish asset. My understanding is that the Crown Estate's share of the Fort Kinnaird assets is around £100 million, and that about £30 million of revenue has been generated in the past eight years. Those are our estimates; I cannot guarantee that they are exact figures. You would have to get the exact figures from the Crown Estate, which is not always easy, because of a lack of transparency on some of these issues. Fort Kinnaird is a substantial asset and it should be included in the assets that are devolved to Scotland.

On a supplementary point, one reason why that is important is that the committee may want to ask questions on cross-subsidy between different assets within the Crown Estate's Scottish portfolio. Clearly, if a major asset such as Fort Kinnaird were taken out of the Scottish basket of assets, that removes a major source of income that could otherwise help plans for the future management of estates in Scotland.

**Sarah Boyack:** We need more information on the detail. Jim Hume asked a question about UK transfers to Scotland. I asked one of the Crown Estate officials in the margins of the meeting for the detail on Fort Kinnaird so that we could see the numbers in front of us. As I understand it—and you are right, cabinet secretary—it is part-owned by an English limited partnership, which the Crown Estate has an interest in, and part-owned by a Jersey-based unit trust. It would be interesting to get more detail on that.

Have you had discussions with either the Crown Estate or the UK Government?

**Richard Lochhead:** We are feeding that issue in among many others. It has been raised and we will continue to raise it.

**Michael Russell:** It is important to put this on the record, not least because historical perspective is sometimes quite good.

At the time of devolution, when the original assets of the Crown Estate were passed to the Scottish Parliament, a number were left untransferred, including a sizeable piece of ground near Stirling, some of which was in the environs of Stirling castle, and what might best be called a ransom strip in Princes Street gardens. It took considerable time, effort and, in the case of Stirling, I believe, substantial sums of money to resolve the issue.

We are back at this extraordinary reluctance of the Crown Estate, or whoever is responsible for the Crown Estate—and the Treasury looms large in all the drafts of the clauses—to transfer assets. It is essentially trying to hold on to as much as possible. People should recognise that this is a *modus operandi* when we are discussing the Crown Estate in Scotland.

**Richard Lochhead:** That is a fair summary of what we are facing. It is clearly unreasonable for the Crown Estate to start categorising Scottish assets in different groupings because of different financial arrangements.

**Michael Russell:** And using highly convenient definitions.

**Richard Lochhead:** Some assets are Scottish and some are not Scottish—

**Michael Russell:** Exactly.

**Richard Lochhead:**—despite the fact that they are in Scotland. Clearly, from the public interest point of view, and the public of Scotland expects this, the Crown Estate's activities in Scotland should be devolved.

**The Convener:** Is there a case for looking at the Limited Partnerships Act 1907, under which the Gibraltar Limited Partnership, which is the partnership structure involving the Crown Estate, was formed, and considering a version for Scotland or looking at part of that act in terms of the asset created under it?

**Richard Lochhead:** I respect your knowledge of the 1907 legislation and therefore have no reason to question the point that you make, convener.

We should have a rational negotiation with the UK Government and these games are unhelpful. We should not have to fight for every inch of devolution, when it comes to something that was agreed in the Smith commission.

**The Convener:** Indeed.

**Michael Russell:** I do not think that one needs the Limited Partnerships Act 1907 to know when someone is at it.

**The Convener:** Indeed. At least it is more recent than the battle of the standard, which the

committee discussed in another context with the cabinet secretary.

The views on that point are perfectly clear. Claudia Beamish has a further point.

**Claudia Beamish:** Could we explore a bit further what the Scottish Government's view is on the proposal that the Crown Estate will be able to invest in Scotland after the scheme for transfer has been exercised, and that revenues generated from such activities will flow to the UK Treasury?

**Richard Lochhead:** Our view on that issue is that, although we clearly cannot prevent anybody outside Scotland from investing in Scotland, for the purposes of our negotiations with the UK Government we think that it would be far simpler that the Crown Estate in Scotland is the Crown Estate body that is active in Scotland and the remaining Crown Estate is active in the rest of the UK. That is clear-cut and proper devolution. As I said, we cannot prevent outside organisations from investing in Scotland and we would not want to do that but, in the negotiations over the devolution of part of a UK body, we think that it is right and proper that the activities of each of the new bodies are confined to the area of the Administration in which they work.

11:15

**Claudia Beamish:** In evidence to the committee in previous years, the Crown Estate has argued that a lot of investment in marine renewables, for instance, has come into Scotland from other parts of the UK. Where would that sit? I have listened carefully to your answer, but can we have clarification of the Scottish Government's view on money coming from the Crown Estate in other parts of the UK to support activity here?

**Richard Lochhead:** The current arrangements are that the revenues from Scotland go to the UK Treasury and therefore any subsidy that comes back is funding that has gone from Scotland in the first place. As you will imagine, it is difficult to untie that because, over the years, there has been a lack of transparency in the Crown Estate's finances and arrangements. It is therefore difficult to give answers on those issues. One reason why we want devolution of the Crown Estate is to give transparency and accountability, which are not there just now. There are all kinds of complicated arrangements but, at the moment, we know that Scotland pays a surplus from our assets here into the UK Treasury. Clearly, under devolution, that will stay in Scotland.

I am not saying that we do not want to cooperate. If the Crown Estate in Scotland and the Crown Estate in the rest of the UK wish to cooperate or work together on certain issues, there might be a case for that. However, in the

arrangements that are put in place for devolution, it is important that the activities of the Crown Estate in Scotland are focused on Scotland and that the rest of the UK's Crown Estate is focused on the rest of the UK.

**Claudia Beamish:** I understand and respect what you say; I just recall from previous years the argument that was made by the Crown Estate that, to kick-start certain industries, such as offshore renewables, money was brought in from the Crown Estate assets in other parts of the UK. I am trying to tease that out.

**Richard Lochhead:** That argument is perhaps put forward by the Crown Estate and the UK Government, but we would like to see it backed up with all the relevant figures, including figures on what Scotland has paid into the pot over many years. The accounts go back only a few years, but we have had the Crown Estate for many years. Until those who make that argument give us the exact accounts and financial arrangements that have been in place, setting out where the money has come from and where it has been invested, going back many years, we cannot really answer that argument properly.

**The Convener:** We will move on to transfer of management.

**Christian Allard:** I first want to ask about the point that the cabinet secretary made earlier about the forum of stakeholders. It would be good for the committee to have an idea of how wide the remit will be and who will be involved in the forum.

**Richard Lochhead:** I am giving thought to that, and I will make an announcement in a matter of weeks on who we will invite to the first stakeholder forum. Any ideas that the committee has, following its evidence sessions, would be most welcome. There are some obvious stakeholders we want to speak to and have input from. There was mention of tenant farmers, of whom there are many on rural estates. There are also the offshore renewables sector and various other organisations that have a close link to the existing activities of the Crown Estate in Scotland.

**Christian Allard:** On the transfer of management to the Scottish ministers, how is the Scottish Government ensuring that implementation of marine planning takes into account the management of the Crown Estate's marine assets?

**Richard Lochhead:** The Crown Estate has had input in Scotland to marine planning, as far as I can recall. It has been a partner in that, because of its obvious interest in the sea bed. Local government also has a lot of input in aquaculture. Marine planning is a partnership between the various authorities, such as the Crown Estate, local government and central Government. The

Crown Estate has been involved in the process up to now, and the marine plan is there. Post-devolution we will look at the remit of the Crown Estate in Scotland, and our priority will clearly be to support Government policy and the public interest. All public authorities will be expected to support the marine plans on the future use of our seas, and we will ensure that that is a responsibility of the Crown Estate in Scotland.

**Linda Rosborough (Scottish Government):** Perhaps I can make a technical point. We are discussing a number of operational issues with Crown Estate staff, including the marine resource system—MARS—marine planning information technology system. We are looking across the whole IT spectrum to ensure that IT can continue to operate with Crown Estate functions, which include that capability on marine planning.

**Christian Allard:** That is interesting. Is Marine Scotland starting to phase in some of the partnership that it will have with the Crown Estate?

**Richard Lochhead:** Devolution of the Crown Estate in Scotland means that we have more influence over its remit and can take into account the Scottish Government's social and economic objectives.

**Dave Thompson:** It is obviously in everyone's interest to have a smooth transition—Angus MacDonald has already asked about discussions with Glenlivet farmers. What have you been discussing with the wider stakeholders—those working in aquaculture and offshore renewables—to ensure a smooth transition?

**Richard Lochhead:** We have done our best through our discussions and communications with those stakeholders to signal that we want a smooth transition. We recognise that we must take into account the impact on offshore renewables and existing plans of any future arrangements that are introduced in Scotland post devolution. The two-stage process that I have already referred to is important. The Crown Estate in Scotland will be devolved to Scotland and continue as an entity. That will give the Parliament and the Government the opportunity properly to map the future management of assets in Scotland. We do not want to rush into this, although there are some changes that we can make quickly to the Crown Estate's remit. A collection of assets comes under the responsibility of the Crown Estate and we must carefully manage those and not cause disruption that could damage business interests, Scotland's renewable energy ambitions and tenant farming activities.

**Claudia Beamish:** Will the Scottish Government consider the remit and aims of the Crown Estate after—or before, if appropriate—the transfer takes place? In past years some

committee members have raised the possibility of the Crown Estate having a wider social and economic development remit. What is your view on that?

**Richard Lochhead:** My view is that it is a big opportunity. The people of Scotland, the Parliament and the Government do not want devolution of the Crown Estate for the sake of it—they want to do things differently and better and to ensure that these assets work in the public interest of this country. One opportunity, as you say, is considering the social and economic remit of the Crown Estate in Scotland, and that will be a priority. It is important that the debate takes place in Scotland and, over the coming months, we will ensure that that happens. I have tried to outline to the committee that it is vital that we get proper devolution to enable that debate to take place. Otherwise it will be half-cocked—we will not have all the powers that we expected to have, and the debate will not be a proper debate.

We have to persuade the UK Government to make things simple and clear, and to deliver what was promised by the Smith Commission, agreed and signed up to. Then the debate will be a proper debate on what the role and functions of the Crown Estate in Scotland should be.

**Dave Thompson:** Cabinet secretary, you expressed some concern earlier about knowing exactly what was in the books—how much money comes and goes and what the bottom line is over a period of time. Given that there is some doubt about that, can you give assurances to both the onshore and offshore interests that investment will be maintained into the future?

**Richard Lochhead:** It is Government policy to support that investment and to support offshore renewables activities. We will use every avenue that we have to move that forward, to ensure that we can achieve our renewable energy targets and to take advantage of the massive resource that we have. That will apply to the Crown Estate in Scotland as it will to every other agency and Government body involved in making offshore renewables a reality. That will be our policy direction.

**Dave Thompson:** I will move on to ask you about the relationships that have been built up by the Crown Estate with local communities, local development trusts, private interests and so on. How do you see that aspect moving on as the transfer occurs, and will those relationships be maintained?

**Richard Lochhead:** I know that I am speaking today as the cabinet secretary, but it is relevant that as an MSP I met 70 or so tenant farmers on Crown Estate land in my constituency. As I said to them, one big advantage of devolution will be that

we will be able to ensure that they have direct input to their own futures.

Of course there are some good relationships, but I also know as a constituency MSP that there have been issues with the Crown Estate as a landlord over a long period of time. Some of the issues are now better than they were in the past, perhaps because change was seen on the horizon. There is a big opportunity for tenant farmers and commercial and business interests to have more of a say over their own futures.

**The Convener:** That is very helpful. In the next set of questions we are thinking about the transfer of management to local authorities and others. Jim Hume will lead on that.

**Jim Hume:** How does the Scottish Government see the process of further devolution to local authorities and communities working, and how long will that take?

**Richard Lochhead:** We envisage a two-stage process. The first stage is to ensure that we have the transfer of the Crown Estate in Scotland through devolution. The next stage will be to map out the framework in which that operates within Scotland and the future management of those assets.

As part of Government policy we have already given a commitment to the islands in this country that we will devolve to them the income from the sea bed out to 12 miles from the island and control over the foreshore, which is clearly a big issue for island authorities with many ports and harbours. That is part of our islands agreement, which has been well publicised. Over and above that, we have said to the coastal local authorities in Scotland that the income from the sea bed off their coasts would be passed to them.

**Jim Hume:** You mentioned the island authorities. I know that an amendment to the Scotland Bill has been tabled at Westminster that states that the Treasury and the Scottish ministers must agree a scheme transferring all the existing Scottish functions and rights of the commissioners relating to those parts of the Scottish zone surrounding each of the island authorities—Shetland, Orkney and the Western Isles councils—on the transfer date. Is that something that your 56 MP colleagues support?

11:30

**Richard Lochhead:** No, because our policy is to have the transfer of the Crown Estate to Scotland as an entity and after that to devolve to local authorities.

There are still discussions going on about what other powers should be devolved to local authorities. As I said before, we have given a

commitment that certain powers will be devolved to the island and coastal authorities. We do not want devolution to stop at the Scottish Parliament; we want devolution to go down to communities, and we want to have a debate about whether there should be more powers, over and above those already pledged by the Scottish Government.

This should be a smooth, clear process: devolve to Scotland and Scotland devolves to the local authorities—a proper flow of devolution and a proper debate. I expect that Alistair Carmichael would not have tabled that amendment if there had been a Liberal Democrat Government in Scotland—let us just be frank about that.

We welcome any support for devolution to local authorities; it is something that we are already committed to, and we believe in a very smooth process to get there.

**The Convener:** Mike Russell has a supplementary question on that point, before Jim Hume comes back with his second question.

**Michael Russell:** On the point about devolution to islands and island authorities, commitments have obviously been made, but there is also the issue of ability and expertise.

Shetland Islands Council, for example, is involved in marine spatial planning. It has been one of the first authorities to take on those responsibilities, and it has developed an expertise that everybody admits works pretty well. Other local authorities, such as that in Argyll and Bute, have no such expertise. There is substantial expertise within the Crown Estate itself, but at local level in Argyll—for example in the harbour association in Tobermory—there is a substantial ability and a track record of working with the Crown Estate.

I therefore presume that there is a flexibility about the next stage of devolution. Where it is to the benefit of the coastal communities, those involved and Scotland more widely, devolution would be the right way to go forward, but there should not be a doctrinaire view of the matter that there should be devolution to every affected local authority. That would end up in a complete guddle in some places.

**Richard Lochhead:** I could not have put it better myself. Michael Russell has just summed up exactly why we have to be careful in how we move forward.

We have an aspiration to devolve further to local communities and authorities, and we will certainly deliver that. However, as Michael Russell quite rightly says, Scotland is a very diverse country with diverse coastlines and we may need flexibility; there may be different levels of demand

for devolved powers in different parts of the country. It is much better to put in place a flexible system than to pre-empt the devolution of the Crown Estate to Scotland.

**Jim Hume:** What is the Scottish Government's view on the assertion that providing lease-giving powers to local authorities may replicate a historical position within the Crown Estate in the past, in that an authority will be both the planning authority and the authority that will make money from leases? I ask the question in relation to aquaculture.

**Richard Lochhead:** As I said, the second stage of devolution of the Crown Estate will be to map the framework in which the Crown Estate operates. That will also include further devolution to local communities and authorities, where appropriate.

The sea bed is a strategic asset for Scotland. We have to be careful about how that is managed and what powers are devolved in relation to it. We have said that there is a good case for the net income generated from the sea bed out to 12 miles to be devolved to local authorities. There is still a debate to be had about what other powers are relevant or appropriate. The benefit of having devolution of the Crown Estate is that we can actually have that debate for the first time, because we will have the power in this Parliament to devolve where appropriate.

You have highlighted a very important part of the debate, but it is premature to take decisions on who is responsible for leasing and other such decisions at the moment.

**Jim Hume:** It is, however, good to note it at this point. Thank you.

**The Convener:** We will look at the retention of expertise now, with Alex Fergusson.

**Alex Fergusson:** This is a question that I put to the Crown Estate earlier. It arises out of the two stakeholder evidence sessions that we had, at which the committee was given a very positive view of the relationship of all the stakeholders with the Crown Estate.

There are two reasons for that. The first is the benefit in having a single entity to deal with in the form of the Crown Estate, particularly in relation to the marine sector—an entity that stakeholders are used to dealing with and with whom relationships have been built up over a number of years. The other aspect is the high level of expertise available within the Crown Estate. Because of that, some witnesses suggested that some functions, such as management of offshore renewable energy and research, might be better retained at a national level.

What is the Scottish Government's view on retaining that expertise? How can that be done while devolving to the islands and some local authorities? How can the positive sides of the Crown Estate that have been highlighted to us be retained?

**Richard Lochhead:** You have highlighted one of the practical challenges that we face. We recognise that it is very important to maintain the expertise in the Crown Estate at that high level, so it is certainly an objective to ensure that we do what we can to retain it. That is why we are giving as much certainty as we can to Crown Estate staff by saying that we support the Crown Estate as an entity remaining in Scotland through the whole transfer process and for the foreseeable future. We want to give that certainty and continuity to the staff.

There is, of course, an issue in that some staff who deal with Scottish issues and have that expertise are based outside Scotland. It is clear that addressing that issue and seeking transfers of staff where appropriate or implementing whatever other solution is identified will have to be part of our discussions and negotiations. We very much value the expertise and recognise why business and the various sectors that rely on it also want to see it continue.

**Alex Fergusson:** Are you optimistic that a structure can be achieved that allows further devolution where that is required while retaining that expertise? Further devolution will diminish the assets that come to the central body in whatever shape it might be. Do you remain optimistic that you can retain all the expertise, including all the management expertise, and the level of research while you devolve where that is appropriate?

**Richard Lochhead:** We could turn that on its head and say that devolution will enhance the assets and that we will build up a proper bank of expertise in this country, given that we have the vast majority of the offshore renewables potential. Therefore, that expertise should have always been based in Scotland in any case. The Crown Estate decided to base those posts outside Scotland, but we will now have the opportunity to do what is right and base them in this country. As a result, we will, I hope, build up the expertise and the assets here even further.

**Alex Fergusson:** I admire your optimism, cabinet secretary, and I hope that it is not misplaced.

**The Convener:** Indeed.

I think that that covers the ground as we currently see it. We are well aware that the Government processes in London mean that the matter may be rapidly taken through the committee stage and so on. If that is the case, we

do not know whether we will be able to question the cabinet secretary again on it, but that might be necessary at the beginning of September. We will have to see. In the meantime, I thank him very much for his evidence. We will keep an eye on the issue, as it is very complex; we hope that it will become much simpler.

In our next meeting, which will be tomorrow morning at 9 o'clock, we will take evidence from the European Union Commissioner for Agriculture and Rural Development, Phil Hogan.

As agreed earlier, we will go into private for the next items. I close the public part of the meeting and ask for the public gallery to be cleared.

11:38

*Meeting continued in private until 12:19.*



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e-format first available  
ISBN 978-1-78568-888-1

Revised e-format available  
ISBN 978-1-78568-902-4