RURAL AFFAIRS COMMITTEE

Tuesday 28 March 2000
(*Afternoon*)

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RURAL AFFAIRS COMMITTEE
8th Meeting 2000, Session 1

CONVENER

*Alex Johnstone (North-East Scotland) (Con)

DEPUTY CONVENER

*Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)

COMMITTEE MEMBERS

*Alex Fergusson (South of Scotland) (Con)
*Rhoda Grant (Highlands and Islands) (Lab)
*Richard Lochhead (North-East Scotland) (SNP)
*Lewis Macdonald (Aberdeen Central) (Lab)
*Irene McGugan (North-East Scotland) (SNP)
*Mr John Munro (Ross, Skye and Inverness West) (LD)
*Dr Elaine Murray (Dumfries) (Lab)
Cathy Peattie (Falkirk East) (Lab)
*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Dr Maurice Hankey (Scottish Landowners Federation)
Robin Haynes (Scottish Executive Rural Affairs Department)
Mr Jamie McGrigor (Highlands and Islands) (Con)
Alistair McNeill (Scottish Landowners Federation)
Sue Sadler (Rural Employment Inquiry Team)
Professor Mark Shucksmith (Adviser)
Michael Smith (Scottish Landowners Federation)
Camilla Toulmin
Mr Andy Wightman

CLERK TEAM LEADER

Richard Davies

SENIOR ASSISTANT CLERK

Richard Walsh

ASSISTANT CLERK

Tracey Hawe

LOCATION

The Chamber

Scottish Parliament

Rural Affairs Committee

Tuesday 28 March 2000

(*Afternoon*)

[THE CONVENER *opened the meeting at 14:06*]

The Convener (Alex Johnstone): It is my pleasure to welcome you all, ladies and gentlemen. I apologise to witnesses for the delay in starting. The committee wanted to discuss another item in advance of the public part of the meeting and our discussion overran slightly. I am sorry that you had to wait.

I have received no apologies, so we shall move straight to item 1.

European Documents

The Convener: Papers SP470 and SP484 were circulated to members of the committee and discussed briefly at a previous meeting. It was the view of the committee that we wanted further information from the Scottish Executive rural affairs department. One of the papers was circulated only this morning. Everyone should have that paper; it is a copy of a fax, which is headed "Update summary for European Committee on draft proposals for beef labelling legislation."

Robin Haynes and Marion Baldry from the Scottish Executive rural affairs department have been nominated to explain the details of the beef labelling legislation. I invite Mr Haynes to explain the document to us.

Robin Haynes (Scottish Executive Rural Affairs Department): I will begin by talking broadly about the context of the legislative proposal from the European Commission, before focusing on the document in question.

The labelling of beef is largely covered by three distinct legislative areas. First, there are what are called protected geographical indications, of which Scotch beef is an example and protected denominations of origin, of which Orkney beef is an example. Those denominations are enabled under EC regulation 2081/92, which sought to define and protect regional foodstuffs, which are considered more important in continental Europe than they are in the United Kingdom.

Foodstuffs that are accredited with those denominations are permitted by that legislation to use a specific logo. For example, the limited amounts of Scotch beef that are being exported are packaged with a small flag symbol that I am led to believe is widely recognised in Europe. However, the regulations do not cover only beef. Other foodstuffs that are covered include Jersey potatoes, Newcastle brown ale, Parma ham and a host of French and Italian cheeses.

The second relevant sphere of legislation stems from EC regulation 820/97, entitled "Establishing a system for Identification and Registration of Bovines and Regarding the Labelling of Beef and Beef Products". That is the key piece of legislation that has given rise to one of the documents that is now before the Rural Affairs Committee. The legislation was created in response to the BSE-related events of 1996. The thinking behind it was that the legislation should increase consumer confidence and stabilise the European beef market by defining a system for the traceability of bovines and by defining a specific set of rules for labelling beef throughout the European Community.

That regulation provides a set of rules that must be adhered to by any operator or retailer—covering all parts of the chain from abattoir to retail butcher—who wishes to make a claim regarding the origin, characteristics or production conditions of fresh and frozen beef and veal. Regulation 820/97 included an exemption for beef that is labelled according to the regulations for protected geographical indications or protected denominations of origin. It also committed the European Commission to submit to the Council of Europe a report on the implementation of beef labelling systems in member states. That is the second document that is before the committee.

The regulation also specified that it would apply only until the end of 1999, when it would be superseded by a compulsory labelling system for beef and beef products from 1 January 2000. The proposed EC compulsory beef labelling regulation is the first of the two documents before the committee. As members might be aware, the compulsory system never made it through the required European legislative process in time to start on 1 January 2000. To fill the legal void created by the text of the earlier voluntary regulation 820/97, it was agreed that 820/97 would continue until 31 August 2000.

The third legislative sphere that affects the labelling of beef is place-of-origin or country-of-origin labelling legislation. That is covered by a number of bits and pieces of legislation, such as EC directive 79/112, which is implemented in Great Britain by the Food Labelling Regulations 1996, the Food Safety Act 1990 and the Trades Descriptions Act 1968. Those regulations state that country-of-origin labelling is not compulsory unless failure to provide such information would be

misleading. They also state that the indication of place of origin must not be misleading to the consumer or purchaser. Following consultation last year, the Scottish Executive has tightened the guidelines on enforcement of that legislative area by local authority trading standards officials.

I have tried to set out the relevant areas of legislation. We will now consider the two European documents that are before the committee. SP484 (EC Ref No 12030/99 COM(99) 487 final) is the report from the Commission to the Council on the operation of the voluntary beef labelling scheme in member states. I suggest that the document is of peripheral relevance and that the Commission's legislative proposal for a compulsory beef labelling system is of more concern.

14:15

The best way to describe the legislative proposal might be to walk quickly through its main elements. The document is split into three titles. Title 1 concerns the system of traceability and registration of bovines. That is largely non-controversial, as the proposed regulations would not alter their predecessors, as described in Council regulation 820/97.

Title 2 describes a compulsory labelling regime for beef and that is rather more contentious. In autumn 1999, the Scottish Executive embarked on a consultation exercise on proposals for such a regime and received a number of responses. Title 2 proposes that in the first instance—we must assume that that means from 1 September 2000—the labelling on all beef sold should contain

"a reference number or reference code ensuring the link between the meat and the animal or animals. This number may be the identification number of the individual animal from which the beef was derived or the identification number relating to a group of animals".

That is, essentially, a public health measure. The idea is that if there is point-source contamination, such as there was in the Belgian dioxin crisis, beef can be traced and recalled.

The second indication that is suggested is:

"the approval number of the slaughterhouse at which the animal or group of animals was slaughtered and the region or Member State or third country in which the slaughterhouse is established. The indication shall read: 'Slaughtered in [name of the region or Member State or third country] [approval number]'."

The message that the Scottish Executive received in its consultation exercise was that—not surprisingly—the British consumer did not like the word slaughter—they might prefer something like "laid gently to rest".

The third proposed compulsory indication is:

"the approval number of the de-boning hall at which the carcass or group of carcasses were de-boned and the region or Member State or third country in which the de-boning hall is established. The indication shall read: 'De-boned in: [name of the region or Member State or third country] [approval number]'."

There are three further indications:

"- the category of animal or animals from which the beef was derived,

- date of slaughter of the animal or animals from which the beef was derived,

- ideal minimum maturation period of the beef."

The proposed regulation then states:

"As from 1 January 2003, operators and organisations shall indicate also on the labels:

- Member State, region or holding, or third country, of birth,

- all Member States, regions or holdings, or third countries, where fattening took place,

- Member State, region or slaughterhouse, or third country, where slaughter took place,

- Member State, region or de-boning hall, or third country, where de-boning took place.

However, where the beef is derived from animals born, raised, slaughtered and de-boned;

- in the same Member State,"

that can be truncated to

"'Origin; [name of Member State]'"

and so on.

The proposed regulation then suggests some largely practical derogations that would relate to minced beef or beef trimmings. Producers of mince, especially in mainland Europe, may source the input as beef trimmings from any of a number of sources. The Commission's proposal makes the scheme operable; otherwise the list of animals might have to be rather larger than the pack of mince.

The proposed regulation then moves on to an additional voluntary labelling system. The compulsory proposals are geared towards traceability and country of origin. The voluntary labelling system is in place so that, if a retailer wants to describe any further aspect of the production of the meat, or special attributes of the meat, rules are set out that are not dissimilar from the voluntary labelling system for beef that is in force in Scotland. That proposal is generally uncontroversial, as it largely replicates the current system that is described in EC regulation 820/97.

Title 3 of the regulation is "Common provisions", and sets out the ways in which the regulations relating to the traceability and registration of bovines, and the labelling of beef, should be enforced in member states.

Subsequent to the publication last year of the Commission's proposal, it was discussed in

Council working groups. Given its legislative basis, the European Parliament has also been actively scrutinising the proposed regulation through a procedure called co-decision. Common positions have emerged from the Council working groups—which have been drawn together by the Portuguese presidency—that are, by and large, quite favourable to the Scottish position, by which I mean the position that was identified over the past year through our consultation exercise.

Several significant developments emerged from that common position. First, there has been the dropping of the last three indications of the first phase of the compulsory scheme. Those are:

"- the category of animal or animals from which the beef was derived,

- date of slaughter of the animal or group of animals from which the beef was derived,

- ideal minimum maturation period of the beef."

Those three indications were deemed rather superfluous, and I am pleased that there seems to be no will in other member states to persist with them.

A further useful element seems to be emerging from the strands that the Portuguese presidency is bringing together, for example, the inclusion of an explicit clause that states that the compulsory labelling shall operate "without prejudice" to other relevant legislation.

That is key. Scotch beef—beef that is eligible for the protected geographical indication—by and large trades at around 5 or 10 per cent above the price for the equivalent English beef or non-eligible beef produced in the United Kingdom.

There is a slight anomaly: a proportion of the beef that is entitled to be called Scotch is from animals that are born outwith Scotland. The industry has expressed strongly to the Executive that that could threaten the Scotch beef label. However, the Portuguese amendment about operating without prejudice means, in effect, that a label will have the country of origin—for example, "Country of origin: UK"—and another label that says "Scotch beef" with a small PGI flag.

That is not yet cast in stone because, under the co-decision procedure, the European Parliament has still to vote on this matter in plenary. I understand that, following that, a common position between the Parliament and the European Council will have to be sought.

That is all that I would like to say at the moment, but I will happily field any questions from members of the committee.

The Convener: You have probably covered many areas of concern that have been raised with members, but I am keen that members should have the chance to seek clarification.

Lewis Macdonald (Aberdeen Central) (Lab): What is the timetable for the co-decision procedure?

Robin Haynes: The best information that I have is that the European Parliament will vote in plenary on 12 April on a series of amendments that have been suggested by its Committee on Environment, Public Health and Consumer Policy and its Committee on Agriculture and Rural Development.

Lewis Macdonald: Do those amendments impact directly on the issues that you have described?

Robin Haynes: I have seen drafts that have been produced by the rapporteur to the environment committee and something like 100 proposed amendments, some of which were self-contradictory. To be frank, I am unsure of the way in which those will be reconciled into a common position that the Parliament can adopt and bring to its negotiations with the council.

The Convener: I would like you to confirm one or two things. I may also ask you to make judgments that you may wish not to make.

You described the Portuguese proposals as being especially favourable to the Scottish position. What is the likelihood of those proposals being accepted? What is the danger if they are not accepted?

Robin Haynes: I am afraid that I cannot speak for the European Parliament. However, having attended working groups in the Council, I feel that the emerging common position that the Portuguese have identified will probably stick. That is only a feeling; I hope that I am not proven wrong.

The Convener: The widely held opinion in the industry in Scotland is that it is extremely important that the current position is not prejudiced by any new legislation in the near future. What would be the effects on the Scottish beef industry if legislation was put in place that marginalised labels such as the Scotch beef label or the Orkney beef label that exist at the moment?

Robin Haynes: By marginalised, I assume you mean—

The Convener: Pushed to the edge of legality.

Robin Haynes: Pushed to the edge of legality.

The Orkney beef position is rather more secure. Orkney beef is a protected denomination of origin and the specification for that product is tight. It says:

"The produce is derived from cattle born, reared and slaughtered in Orkney."

If the regulation that we ended up with were to compel not just a country of origin indication but a region of origin indication, I would suggest that the Orkney position was secure. If that were to be made compulsory, the industry would have to reflect on whether it wished to be driven down the line of having a long list of regional indications; for example: born in England; fattened in England; finished in Scotland; slaughtered in Scotland; and de-boned in Scotland. The industry may wish to reflect on the best course of action, should those circumstances arise.

14:30

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): From what you are saying, the industry's major concern seems to be beef that is finished in Scotland but not born in Scotland. Are there any other concerns that you would consider significant?

Robin Haynes: That is the most significant message that we have received from most sectors of the industry. By most sectors, I mean the National Farmers Union of Scotland, the Scottish Association of Meat Wholesalers and the Scottish Quality Beef and Lamb Association. Their main concern was that a regulation that undermined the status of the Scotch label could also undermine the price premium that they enjoy. The main concern arising from the legislative proposal was that the Scotch label could be undermined if regional labelling became compulsory for all stages in the production chain relating to birth, fattening and so on.

The trade seems to have raised few other concerns following the consultation exercise on the document, although the NFU said that it felt that the word "slaughter" was a bit consumer unfriendly.

The Convener: The suggestion reads:

"Member State, or region or holding or third country".

Are those genuine alternatives or is there likely to be a requirement for more than one of those items to be included on a label?

Robin Haynes: Happily, the Portuguese compromise paper—which is not the final common position but seems to be an attempt by the Portuguese to reach one—specifically removes the option of region or holding and confines the indication to member state. Given the legislative process that exists in Brussels, I am not sure whether that one will stick. However, if it sticks, it means that the only compulsion will be member state of origin, in which case we would have a label on Scotch beef that says, "Country of origin: UK".

The Convener: As there are no further questions, I thank you for coming along to explain the document to us and for taking questions. The committee has been aware of the dangers to the industry in Scotland contained within some of the proposals. Like you, we hope that the opportunities that present themselves in Europe in the near future will allow us to continue down a road that suits the industry in Scotland rather than its competitors.

Robin Haynes: As a footnote to your concluding remarks, I should note that things are moving fast in Brussels, as the deadline for the legislation to be enacted is 1 September. A plenary vote of the European Parliament on the proposals is scheduled for 12 April. I would like to leave the committee with that message.

The Convener: Thank you. Do members have any other comments on issues raised by the beef labelling document? Do we wish to make a comment to the European Committee?

Alasdair Morgan: The immediate decision will be made in the European Parliament. I am not sure that our talking to the European Committee will affect what the European Parliament decides. Obviously, if the Parliament comes to a decision other than the one that we want, we will need to consider whether to put pressure on ministers to ensure that they hold out in the council for the position that has been outlined to us.

Rhoda Grant (Highlands and Islands) (Lab): Has this paper come to us via the European Committee or directly?

The Convener: It has been given to us largely for information. Today we have had an opportunity to have questions answered. We have considered the paper in detail, and it seems that the committee would like the European Parliament and the European Commission to implement the proposals that are being considered by the Portuguese presidency. There is no desire to comment on the issue at this stage, but we will reconsider it if the European Parliament decides against the proposals.

Land Reform

The Convener: The next item on the agenda is land reform. I do not think that I will be giving away any secrets if I say that the reason for the delay in starting the meeting was that we were making transport arrangements for our visit to the Highlands, which will take place during the recess. We have invited two recognised experts in their field to appear before us today and to give us an insight into the issues that will confront us when we consider the land reform bill—particularly those issues that we are likely to come across during our trip to the Highlands in April.

The first name out of the hat is that of Andy Wightman, who is accompanied by Camilla Toulmin. After Mr Wightman has addressed us, members will have an opportunity to ask questions of clarification. We will then take evidence from Dr Maurice Hankey. After that, members will be able to put broader questions to both witnesses.

Mr Andy Wightman: My colleague, Camilla Toulmin, is a programme director of the International Institute for Environment and Development, with which I have an association.

I begin by introducing myself. I am an independent writer and researcher on land issues, particularly land reform. I am not here to represent any vested interest; no one is paying me to be here. What I have to say is not intended to advance the interests of any particular group. I am research associate at the University of Edinburgh and a research fellow at the University of Aberdeen. I advise the Scottish Land Reform Convention and I am a director of the Caledonia Centre for Social Development land programme. I am also a member of the Scottish Executive's consultative panel on land ownership and have written extensively on the topic.

I understand that the reason for today's meeting is to provide some preliminary briefing and discussion about land reform, particularly in light of the committee's forthcoming visits. I intend to raise a few broad issues in connection with the proposed legislation; I hope that what I say will contribute to a useful discussion between us. I will not speak for the whole 20 minutes, which will allow us to have a more detailed discussion.

I want to address three questions. First, what do we mean by land reform and what are we trying to achieve by it? Secondly, what is the role of the community in the process? Thirdly, will the proposed community right to buy be helpful?

On the first question, there is a danger that land reform will be perceived as part of what I have termed the politics of worst excess. The argument runs that land reform is used to sort out the acute problems that have arisen in places such as Knoydart and the isle of Eigg and that there is no problem beyond such cases. The committee will not be surprised to hear that I do not buy that argument. Land reform should be perceived as a policy area that can make fundamental and beneficial changes to Scottish life. It is about modernising the system of tenure; challenging the current division of land in Scotland; improving accountability over land; adjusting the balance between public and private interests; creating economic opportunities for people; and sound stewardship of the environment.

There is a tendency to seek tactical interventions in the status quo to deal with so-called acute cases, instead of examining the bigger picture. We should recognise that land reform is a political activity. Land reformers have too frequently been accused of being political, as if any aspect of land reform is not political. A cursory glance at land reform around the world suggests that it is a highly political activity, as land represents power. Denying that fact has caused confusion in the debate.

Land reform is about redistributing society's power over land. To do that, we need a new system of land tenure. The feudal tenure system should be not just abolished, but replaced by a system that incorporates legal responsibilities as well as rights. We must end absentee landlordism and introduce measures to tackle the monopoly effects of land ownership, particularly the impact of the most concentrated pattern of private ownership in Europe, if not the world.

We must end the unregulated market in land and its consequent inflated value. We need good-quality accessible information about land ownership. We must reform our laws of succession, which mean that children and spouses currently have no legal rights to inherit land beyond the marital home, and tackle the question of the legality of vesting titles in offshore nominee companies and tax havens. Finally, we must create public rights of pre-emption over land to give the public more of a say in the land market.

As for my second topic—the role of the community in land reform—there are three broad areas to consider: the needs of the community, however "community" is defined; opportunities; and ideals.

Current legislative proposals on the community right to buy are focused on the premise that communities need land in order to remove barriers to sustainable rural development. Many of those barriers are quite straightforward, such as barriers to access to land for housing, for amenity or for community facilities.

In many cases, however, the barriers are

intrinsic to the land tenure system. For example, on the island of Eigg, community ownership did not come about because of some ideal that was pursued. It came about because it was the only option in a system that was otherwise unresponsive to the needs and wishes of the community. That has everything to do with the unregulated market in land and with the scale of land that is offered for sale on the market. If those factors are removed or dealt with, there would be much less need for community ownership.

14:45

Community ownership of land is about opportunities that are not always immediately apparent. It is important that legislation not just allows for, in a negative sense, the removal of barriers to development, but provides for opportunities for people who want to do something positive economically, socially and culturally.

Finally, community ownership is about visions and ideals. It is my view that the best people to decide the fate of land are the people who live and work on it and whose cultural and economic future and social well-being are determined by how the land is used. Although my point applies across the world, I will focus on Europe, because it is close. In countries such as Norway, France and Denmark, local communities own extensive areas of land. Powerful co-operatives of individual farmers and landowners run natural resource businesses, food, timber and retail businesses and banks and so on. Europe has a strong social economy, which is down to the fact that Europeans have a pluralistic pattern of ownership and a strong social land-owning sector. There is an ideological position on land and on community ownership that collective ownership of land is a good thing, which is borne out by experience in other countries.

My third question is whether the community right to buy will be helpful. My view is that the proposals that are being developed will benefit rural communities, although I stress that much depends on the detail. The Scottish Landowners Federation has also said that, although perhaps from a different point of view. The detail and how it is expressed can change fundamentally the way in which the legislation proceeds, but that is for a later date. I submitted to the committee a couple of briefings on the legislative proposals to date; members may wish to discuss those, but I propose to stick to the broad principles at this stage, because the detail may change.

I will make three broad observations on the community right to buy. First, its impact will be difficult to predict, because, as I said, much hinges on the detail. It is clear that the measure will almost certainly not lead to rapid change in the pattern of land ownership, as claimed by the Executive—or rather by the Scottish Office—during last year's consultation. That is because the majority of private land in Scotland has not been exposed for sale, either privately or openly, for more than 100 years. It is estimated that 25 per cent of estates of more than 1,000 acres have not been exposed for sale for more than 400 years. If land sales are so irregular, land reform that must be triggered by a sale event will have a fairly minimal impact on the pattern of ownership.

Secondly, the legislation could help communities that face difficulties to obtain land for development, although again the detail of the legislation will be critical—particularly the current narrow definition of community. Other developments are clearly problematic, such as the announcement by Jim Wallace in Parliament last November that communities will be obliged, as the Executive puts it, to buy everything on offer when the land comes to be sold, regardless of whether they are interested in 10,000 acres or just 1 acre. It is difficult to escape the conclusion that modified powers of compulsory purchase would be far more effective in circumstances where it is deemed socially desirable to gain access to small areas of land for development, rather than wait for an undefined point in the future.

Thirdly, the legislation is unlikely to be of use where community ownership is either not desired by the community—there is no reason why it should desire it if its interests are unconnected with any specific developmental need—or where the public interest is to do with much wider, perhaps national, issues. The Cuillin of Skye are a good example of that.

There is still considerable debate to be had on land reform. We have had a lot of consultation, but some of that has not been as thorough as it might have been. There is a strong drive in the Executive for certain things to happen. That was typified by Donald Dewar's announcement at the launch of the consultation document in August 1998 that the community right to buy was a prerequisite and that he was determined that hurdles to it would be overcome. However, the community right to buy was only one of 75 measures in the consultation document. There is a strong sense that the Executive's desire for a community right to buy—which may be useful—has detracted somewhat from the wider issues in the debate.

There is a much bigger context. Recently, I made the observation that it is not to doubt the sincerity with which politicians from the progressive end of politics have embraced land reform to question whether land reform as currently conceived will do more than rein in the worst cases of abuse, empower a few crofters and

promote a more co-operative disposition among the landed classes.

The Convener: Thank you very much. After Dr Maurice Hankey has addressed us, we will take questions from all members present. Are there any specific points that we would like Andy Wightman to clarify? If not, we will hear from Dr Hankey, who is the spokesman on land reform for the Scottish Landowners Federation. He is accompanied by Michael Smith, the legal adviser for the SLF, and Alistair McNeill, the federation's public affairs manager.

Dr Maurice Hankey (Scottish Landowners Federation): On behalf of the SLF, I welcome the opportunity to brief the committee before its tour. In view of the time that is available to us this afternoon, I will limit my comments to the community right to buy and to some general points. I have already circulated to members our response to last summer's white paper.

The SLF represents a broad range of ownership types and objectives. Our membership already includes those working for purely conservation or public benefit objectives. It spans a range of sizes of landowner holding, from very large estates down to smallholdings with house-and-paddock-type arrangements.

We have no difficulty with the concept of community groups wishing to acquire and manage land. We believe that existing community groups should be given the opportunity to prove their success and sustainability before they are presumed to be the panacea for everything that is wrong with private land ownership. We do not believe that the case has been made for communities to have a right to buy, or that the proposals that appear in last summer's white paper have been properly thought through.

I will go further, and describe the white paper as a bucket of fog or fog bank. It is an amorphous, ill-defined entity within which the land reformers are able to see visions of delivery from the perceived ills of private land ownership. Listening to the media last week, you would think that the community right to buy had already been put in place. However, landowners also see in the white paper the spectre of threat, interference and disincentive to what they are trying to do.

The white paper is an amalgam of bits of the land reform policy group's proposals relating to communities in fragile areas and to state intervention in special properties. It introduces discrimination between urban and rural property rights and extends across the whole of Scotland broad-brush thinking, the implications of which on the ground have not been properly considered. Those are the issues that I want to address this afternoon.

When the land reform policy group's paper "Recommendations for Action" was launched in January last year, the then Secretary of State for Scotland, Donald Dewar, said that good landowners had nothing to fear from the proposals. We, by contrast, believe that good landowners carry the consequences of the proposals. We do not believe that a community will register an interest against a good landowner; it will register an interest against the possibility that the good landowner will sell to someone who is not as benevolent, but the good landowner will carry the consequences of the delay on the sale, on the market price arrangements, and so on.

I would like to consider what we believe to be some of the false assumptions in the proposals. We believe that the right to buy assumes from the outset that a community group—which may be small, and may fall within whatever definition of community you care to choose—will be more successful in delivering benefit or sustainable development to that community than any individual, private or institutional purchaser. It may be; but there is no guarantee that it will be. I do not think that a right should be introduced on the possibility that something may work.

The proposals replace the willingness of a private owner to invest his own capital and to borrow against his own security, with the expectation given to community groups that if they are interested in acquiring a piece of property, the capital will be provided for them in one form or another from the public purse. That may be done through the Government, through agencies, through the heritage lottery fund, or through direct appeal to the public. The proposals assume that it is in the public interest that a small community group be given a right over any other individual to purchase a particular piece of land; and that it is in the public interest, and the best use of public money, that such a group may keep coming back to the state and the wider public for funding to carry on with what it wants to do.

The proposals assume that there is a wide range of things that can be done with land in rural Scotland that landowners cannot be bothered to get round to; and that such land is capable of generating huge funds for other development. If you look back at the history of the management of agricultural land in Scotland—from the industrial revolution through to what happened after the second world war—there are phases of major injection of private money. Land itself does not generate money on the scale that is needed to drive rural development.

Is land the constraint on rural development? Is working capital the constraint on rural development? Or is the availability of planning permission the constraint on rural development?

For every estate where you might suggest the landowner will not release land for housing, I could take you to 10 estates where the landowner would be only too willing to release land for housing or industrial development—if only they could get planning permission to do so.

The proposals assume that registration is without impact. I would like to suggest that the ability of a community to register an interest in a property, and somehow to put down a stake against the present owner or any other potential bidder, is a form of blight on that property. You cannot create a right in a system without there being a loss somewhere else—and that loss is in the blight on any land that is registered.

The proposals assume that good landowners—the people who the First Minister believes have nothing to fear—will continue to invest in rural Scotland when, should they wish to sell and move on, they will be constrained in their ability to sell when they wish, to whom wish, and at a free market price.

What is the real target of the community right to buy? Is it about land for housing? Is it about land for sports pitches and playing fields? Is it about land for community centres? We believe that compulsory powers are already in place with local authorities for any of those purposes. If a community cannot persuade a local authority that it has good reason to proceed down such a route, why do we need new legislation and a constraint on landowners to enable the community to do so in a different way? Is it about the big trophy estates—the Glen Feshies of the world—where what is at issue is perhaps a state interest in the estate, not a community interest.

15:00

Let us briefly consider the concept of community. In its response to the "Identifying the Solutions" paper from the land reform policy group, the SLF was probably the only group to make any attempt to define community. I defined community in four tiers. My first community is that on which the right to buy is focused: those who live on and/or depend on the land for their living. Against any scale, those people must surely be the ones who have most to lose if land is not well managed or developed. My second community comprises those who live nearby, or who depend indirectly on that land. Their livelihoods may be affected in one way or another, but not more than by many other things that happen in the rural sector. My third community is the community of common interest, comprising farmers, members of the Royal Society for the Protection of Birds, and people who have an interest in housing. Those are all, so to speak, horizontal communities of interest. My fourth community is the general public: the people who may visit the area or who have a public interest in their national land.

I developed that hierarchy because "Identifying the Solutions" tried to suggest a range of things that communities might do, but never talked about the same community twice. The first community must come first, which is why, in these proposals and except when there is no resident or working community, we believe that the right to buy—if it goes ahead—must be confined to that group. After all, if it were extended to a second group—the wider local population—those who ultimately depend on the land would be in the same position as they would be under a private landowner.

There was great debate over what a community comprises, which created some of the fog to which I alluded earlier. There is the question of residency: can a few people coming into an area purport to represent a community and change the direction of what is happening there? What is the potential for conflict between different groups within a community? I understand that in any race to register an interest in a piece of land, the successful party will be literally the first group to submit its bid to the Scottish Executive. If this right goes ahead, one section of the community might be given powers over another, and tenant farmers on an estate may effectively become landlords to other tenant farmers on the estate.

There is also a risk of negative registrations—registrations by people who seek not to promote rural development, but to ensure that nothing happens in their back yard. Furthermore, we have little guidance on what the constitution of such groups might be, and how, although it might be the primary objective of the groups, sustainable development is to be monitored and delivered. How do we know that those groups are going to be more accountable than a private landowner? Much worse is the possibility of a right to buy on an emergency power basis, when there has been no registration and not a great deal of planning. How will that proceed competently in the time that is available?

The proposals introduce the issue of raised expectations. The danger is to put into the minds of communities the idea that they can register an interest and perhaps acquire land when they would never have thought of doing so before. Why not extend that to other wishes? Why should a community be content to take over just land? Where does community interest stop and personal interest begin? That is a great danger to the way in which communities operate. Consider the example of an estate that comprises tenanted agricultural holdings. If the tenants get together and register an interest to buy the estate when it comes on to the market, they effectively deprive themselves of the opportunity to become owner-

occupiers in their own right. Will that get in the way of the concept of community?

I will say a few words on the impact and on the process that is proposed. These proposals apply across all rural Scotland. Anyone who owns rural property is potentially subject to the indiscriminate blight to which I referred. One of the great myths about land reform is that it just affects large estates. These proposals affect property all the way down to houses and gardens in villages. They impact on people's security.

The registration of an interest by a community comes between a landowner and his lender. Committee members may have a mortgage or a bank borrowing that is secured against a property; these proposals would allow a community group to come between you and your lender. There is an impact on the liquidity and value of your security. It may come at a time of crisis or opportunity; one may want to move on and do something else, but be unable to sell one's farm for perhaps a year because the community has registered an interest in it. Is that constructive?

There has been much debate about what constitutes sales for value and about the impact on inherited property. I offer you the scenario of a farmer who dies and leaves a property to his son and daughter. The son and daughter may fall out somewhere along the road, and one may wish to buy the other out. If a community has a registered interest in that land and there is any exchange of value in one sibling buying the other out, the community right to buy could, on the basis of current proposals, come straight through an existing business.

We welcome the Deputy First Minister's proposal that cherry picking should not be allowed, because there is potential in the proposals for communities to pick the best bits of what they want. A question about the basis of valuation is raised. We have still not seen any guidance on how the district valuer might be instructed to operate. There is the matter of the European convention on human rights; I do not raise that, but the Executive recognises that it needs to be discussed.

Delay and when people can drop out of a process that could take a year is another issue. When, in conveyancing terms, is the contract signed? When are burdens on the property discussed? Where are other interests in the land discussed? Options may have been given to building developers or land may be held on existing rights of pre-emption.

Let us imagine that the community has been successful in its buy-out. Even with the best will in the world and the best of winds, rocks may lie ahead. We do not believe that the proposals go into sufficient detail about what happens when conflicts arise or when cash runs out. Will communities be allowed to borrow against land? Can they provide a security? Can they provide an income to repay borrowings for development? What happens in community groups if the leaders drop out? What happens if personal interests take over? Can land be sold off? How much of it can be sold without voiding the original right of purchase?

Perhaps much more significant, what happens if all else fails? Can the land ever return to the open market? Is it indefinitely in a circle of community trusts, in which there may be neither the interest nor the funding that is needed to keep going? What happens if the community objectives are not met? There may be a great deal of promise at the outset, but what happens down the road? I hope that none of those problems occurs, but I want to ensure that there is an exit strategy if a buy-out does not work.

Instead of a right to buy, the Scottish Landowners Federation would like there to be a range of other constructive and positive options. We would like there to be incentives for transfer by mutual consent. Some of the budget proposals on charitable giving indicate possibilities: there could be roll-over in terms of capital gains tax, or inheritance tax benefits, for landowners in such situations.

The simple existence of the right to buy undermines the ability of groups to come to a mutual agreement. In removing constraints on what might happen to land, the Abolition of Feudal Tenure etc (Scotland) Bill will demotivate landowners from making land available for playing fields if they feel that it can then be used for other purposes.

We want to see incentives for partnership ventures, so that communities and landowners can do more together constructively. What about looking at the possibility of community groups having a pre-emption right? I do not believe that there is a cost implication in that, because if you take into account the compensation issues that the European convention on human rights raises, it is simply a question of moving money around and putting it under different headings.

I suggest that if the right to buy goes ahead, communities should be given the chance to buy at the outset so that a landowner can bring to the market a piece of land in the shape and style that a community wants to buy, but that if that right is not taken up there and then, landowners should be allowed, for some time, to get on without the encumbrance of community registration over their heads.

In summary, we want to see a thriving rural economy, with incentives for investment

partnership and "ownership", creating jobs and opportunities. We do not want to landowners to be frightened off making new investment in rural Scotland and taking the investment elsewhere. We know that some estates are already doing that. We do not want communities to run out of cash chasing unattainable visions. We do not want Parliament to take too long, if it goes ahead with the right to buy, to realise that it may need to adjust the mechanisms.

The Convener: It would be appropriate for me to take this opportunity to draw members' attention to my entry in the "Register of Members Interests", where they will see that I am a landowner and a member of the Scottish Landowners Federation. Would anybody else like to make a similar declaration?

Alex Fergusson (South of Scotland) (Con): I would.

Mr Jamie McGrigor (Highlands and Islands) (Con): I would, too.

The Convener: We now move on to questioning. Members may address questions directly to anyone on the panel. I encourage anyone who wishes to comment on any issue that has been raised to indicate their intention to me and I will allow them to do so.

Lewis Macdonald: Much of Maurice Hankey's contribution concerned the difficulties that he sees with the bill as it stands. The one positive thing he said at the beginning is that he wants community ownership to be given an opportunity to prove itself. I was born and spent the first 11 years of my life in the parish of Stornoway; community ownership has existed in that part of the country for two generations. The parish of Stornoway, which includes a quarter of the land area of Lewis, is owned and managed by the entire community, and has been run on that basis since the 1920s. It contains not only a lively and self-confident town, but some of the most densely populated rural areas in western Europe. Lewis has four or five times the population of comparable islands that are not in community ownership. Would Andy Wightman or Maurice Hankey like to comment on what lessons the Stornoway Trust can provide when we are looking at community ownership in Eigg and Assynt and the other areas that have recently gone down that road, and with regard to the bill?

Dr Hankey: You know a great deal more about Stornoway than I do. I would not venture to comment on it. My point is that we are talking about a right being given to community groups. Future community groups may not be as successful as the one you referred to, but it is presumed that they will be more successful by being given not a head start, but an exclusive start over any other potential purchaser for a property. A community without funds may or may not be a better option for a particular piece of land—it may be horses for courses—than a private investor who has funds to bring opportunities to an area. Let us not presume that the community has to be best.

15:15

Mr Wightman: Lewis Macdonald touched on the point that I made about ideals. In many cases, it would be ideal if the people who live and work in an area also own the land in that area—that point should not be forgotten.

Maurice Hankey made a fair point, as far as it went: it should not be assumed that community ownership of land will be better than private ownership, but the current system of land ownership in Scotland offers no guarantees. The unregulated land market, in which land is traded internationally, and the concentrated pattern of ownership, inject into the system a massive degree of uncertainty about the future fate of land that is on the market. I would argue that a community buy-out would be the better option, purely to remove that uncertainty.

Regardless of the fact that all crofters might have is 10 acres of bog and rock, they must go before Scottish Executive rural affairs department officials to be assessed on their competence. Their ability to subdivide and sub-lease their land is also regulated, yet people who trade tens of thousands of acres are not so regulated. Perhaps new landlords will be assessed for competency in future, if the land market is to be more regulated. If that happens, it does not necessarily follow that community ownership will be better than a private landlord. Community buy-outs have taken place in recent years against a background of threat, with people wanting to secure their future against the uncertainty that has been created by an unregulated market.

Mr John Munro (Ross, Skye and Inverness West) (LD): I will pose a question to each of the witnesses.

Dr Hankey, you addressed the issue of tenant farmers. As you know, the crofter has an absolute right to buy their few acres, if they so wish. Many tenant farmers have made representations to me on being afforded the same opportunities as crofters, as they also want an absolute right to buy their tenanted farms. Can you comment on that proposal?

Dr Hankey: The existing agricultural holdings legislation provides for the division of the capital required to farm between the owner, or landlord, who provides the capital invested in the land, and the tenant, who provides the working capital. It is,

and should be, a partnership between those two parties and, if either party scores against the other, that partnership will not work.

We believe that a tenant's right to buy could remove the willingness of landlords to create new lets, with the result that a tenancy that became available would not be let. The implementation of a right to buy might also lead to the removal from the market of the opportunity for someone without capital to farm on the scale that is required in the present economic climate. That is all that I want to say. We believe that the system, to which there are advantages, would be threatened.

Mr Munro: Mr Wightman, can you comment on that same point?

Mr Wightman: I believe that tenant farmers should have the right to buy. Moves to abolish landlordism were made in Denmark at the end of the 18th century. Similar moves were made in Ireland in the 19th century and in France in the 18th century.

The ability of tenant farmers to earn a living, particularly in today's depressed agricultural climate, would be greatly enhanced if they had access to the full range of rights that are available to landowners to engage in other activities and to sell land.

It is a nonsense to put across the idea that the availability of land for sale would dry up if a right to buy were created for tenant farmers. That will not happen if the tenant farmers' right to buy is restricted to tenants who, at a prescribed date in the legislation, which can be retroactive, had a full agricultural holding. It would not apply to anybody taking out a tenancy after the legislation was passed giving them a right to buy, or there would—obviously—be no land let. There would be no constraints on landowners' ability to let land if the right to buy were time constrained.

Mr Munro: I would like to follow that up with another question on a topical issue. People who were following the media last week will have heard the suggestion that a great area of Skye—the Cuillin range—might be coming on to the market. Most people assumed that that land belonged to the nation at large in any case. MacLeod Estates is suggesting that it will trade the Cuillin range for the £10 million that it needs to renovate the MacLeods' ancestral home. That is a sad example of what can happen to land in Scotland these days. I am sure that other means could be found of renovating the ancestral home without disposing of the Cuillin to whoever is willing to buy it. What are your views?

Mr Wightman: The first response that I have had from people I have spoken to has been one of surprise that the Cuillins are owned by anybody. If those people had read my book, they would know that they are owned by MacLeod Estates, although its position is fairly dubious in law until it produces the title deeds. The second response is one of deep-seated anger that a magnificent landscape such as that can be traded on the international property market.

I question the sincerity of John MacLeod of MacLeod. On the one hand, he says that the Cuillin is part of his soul and the souls of his ancestors. On the other hand, the FPDSavills press release says that he is willing to swap jobs for acres, so those acres must simply no longer be part of his soul. Many people find the very idea of selling such a place deeply offensive.

The solution to the problem should focus on MacLeod's need to renovate his castle. The Scottish Executive should attempt to put together a package of funding—from the Government, from clan MacLeod societies, from the lottery and from MacLeod Estates itself—to renovate the castle, if that is the primary need. In exchange for that, MacLeod should agree to transfer title and ownership of the Cuillins to a special form of inalienable ownership governed by a special act of the Scottish Parliament—a Cuillins of Skye act. The land would then be managed by local people and conservationists.

That act should also dedicate the Cuillins as a memorial to the war dead, civilian and military, of the 20th century, from all countries and all sides. That would fulfil the ambitions of many people who tried without success to create such a memorial in the 1920s. If that approach fails, the Scottish Executive should exercise its powers of compulsory purchase.

I find the idea of anyone paying money for the Cuillins deeply offensive, hence my suggestion that a special act of the Scottish Parliament is needed to create the Cuillins as an inalienable landscape. The Cuillins have never been rendered into ownership, except by a dubious title deed in the 17th century, and have never been bought and sold. That means a lot to people on Skye. It is no coincidence that the late Sorley MacLean's epic poem, "An Cuilithionn", was all about the permanence of the Cuillins against a backdrop of wars and violence in Europe. It is imperative that something is done; I detect a deep-seated anger out there, and the Executive must think hard about what to do.

Dr Hankey: John MacLeod is liquidating one asset to fund something else that he wants to do. If he had gone to the Scottish Executive asking for funds to put a new roof on Dunvegan castle, would it have said yes? He has not done that. He has chosen to move his assets around. He wishes to invest further in the castle to restore it and he wishes to do many other things on Skye. He is committed to Skye. That money will not go off

Skye, but will be recycled on the island. That is a sign of his commitment to Skye. Parting with the Cuillins is not a decision that he will have taken easily. He is redeploying his assets and committing to Skye in the long term. What is wrong with that?

Alex Fergusson: I do not know why we are discussing this—it is an individual transaction, which is not against the law. We are here to discuss the future of land reform. If it comes as any comfort to Mr Wightman and Mr Munro, whoever purchases the land will not take it away. The Cuillins will still be there for everybody to enjoy, as they do now.

I think that we are out of order discussing the matter.

Richard Lochhead (North-East Scotland) (SNP): It is perfectly legitimate for us to discuss a subject that has been the biggest land issue in Scotland in the past week. We are discussing land reform—how can we not discuss this matter?

Lewis Macdonald: All the comments have elucidated the fact that we are talking not only about an argument over detail. There are two fundamental views on the nature of land and land ownership. Nothing could bring that out more clearly than our discussion about the Cuillins.

What is seen by Alex Fergusson as a single transaction in the market, and by Dr Hankey as a liquidation or moving around of assets, is—for many people—at the heart of the debate on land reform. We are indebted to Mr Munro for raising the issue; it is right that we discuss it. We cannot talk about land reform without recognising the fact that it goes beyond the bill as it stands into wider issues.

Dr Hankey said that the bill does not address what happens to land when no community is directly involved in its economic use—that is true in the case of the Cuillins.

Andy Wightman suggested a Cuillins of Skye act of the Scottish Parliament, but I wonder whether there is a wider issue about land that is not exploited economically but is of value to the nation.

The Convener: We are here to discuss issues of relevance to land ownership in the Highlands and Islands of Scotland; our discussion is relevant to what we will see next week. The points that have been raised are relevant.

I want to move on to other issues, but as Lewis Macdonald's comments included a question to Andy Wightman, I will ask him to respond.

Mr Wightman: Far be it from me to question the competence of the committee, but I suggest that when you go on your field visits, the Cuillins will be on the lips of everyone whom you meet.

The specific case may not be relevant, but what it represents in terms of the issues that the committee is considering is important. Communities have an interest in the land, but so do many other people; that concern was highlighted during the land reform consultations. Places such as Mar Lodge and Glen Feshie, which were national interests, were the subject of controversy in the past. One of the criticisms of the proposed legislation is that it includes no mechanism to deal with what are regarded as national heritage lands. The Cuillins is an example of that, and people are very angry about it. It is part of the background to land reform and highlights one of the important issues—all the evidence suggests that when places such as the Cuillins go on to the international property market, they are sold quickly, and that within 10 or 20 years the place will be worth £50 million. The point is not that a lot of harm will be done to the Cuillins, but that there will be no opportunity to be engaged and involved in the future of the area, which is coming under intense pressure.

It is vital that that control is exerted. This matter is relevant.

Dr Hankey: I do not know whether I am entitled to ask Andy Wightman a question. The idea of access to, and control of what happens in, the Cuillins must be explored. If the legislation that is coming before Parliament is passed, it will grant a right of access to that land for everyone; bearing in mind the nature of that land, what sort of control does Mr Wightman suggest—would a particular group have control while other groups did not? Is that land different from any other piece of land because it has heritage status? We could get into grey areas, and we cannot have different laws applying on different sides of a grey area.

15:30

Mr Wightman: Yes, the Cuillins are special. In the controls that I am talking about, the challenge would be to ensure that the Cuillins do not get on to the international property speculation market. The ownership of the Cuillins should be in the hands of an organisation, body or consortium that has the public interest at heart. The only reason that £10 million is being asked for is that £10 million reflects the public interest in the land, not the private interest of MacLeod Estates, which paid nothing for it. It is possible to make a case for particular pieces of land in Scotland having such high values.

Irene McGugan (North-East Scotland) (SNP): Both sides in the debate on the right to buy have expressed difficulty with the definition of community. The definition may be restricted to

tenants and employees, but they may represent only a small portion of any community, the rest of which may feel excluded from decision making. Had such a narrow definition been adopted for initiatives such as Knoydart, and others, I believe that they would not have been eligible under the new proposal. On the other hand, we have heard that decisions are best taken by those who are closest to the land.

Jim Wallace has tried to address that difficulty and has proposed that ministers should have some discretion in deciding whether a community body is sufficiently representative of, and supported by, the local community. I wondered whether that compromise addressed the concerns of those on either side of the debate. If not, how would you define a community, and how would you make progress?

Mr Wightman: That is a problem. Jim Wallace indicated in his statement last November that the Executive was minded to allow a degree of discretion. The danger of allowing degrees of discretion—especially degrees of discretion for ministers—is that it allows latitude for a Government that is hostile to land reform to exercise discretion in one way, and a Government that is pro-land reform to exercise it in another way. There are pros and cons to having discretion in the legislation. However, I suspect that that is all that can be done in the circumstances. It is clear that the cases on which the proposal is meant to be based would not have got off the ground with the narrow definition of community that the Executive has proposed.

I believe that we should have a definition that is more related to the voters' roll in civil parishes. I have been involved in different communities. Everyone who lives in the Laggan parish, for example—a parish of 250 square miles in Inverness-shire—is interested in everything that happens all over that parish. They have been involved in many initiatives when, strictly speaking, no one has lived and worked on the land concerned. The best solution is to have a degree of geographic definition, rather than a purely legal definition in terms of the relationship of people to the land on which they live or work.

Dr Hankey: There is a difference between "interested in" and "an interest in". Those who live and work on a piece of land, or those who live immediately adjacent to it, have an interest in what happens to that piece of land. Their view of the land might be quite different from that of someone who lives five or 10 miles down the road. If the legislation is about trying to remove the concept of control over those who live and/or work on the land by some foreign absentee or other owner, we must be careful that we do not simply replace that control with control by a group of people five miles down the road, who equally may not share the interests of those who live and/or work on the land. We are not talking about buying parishes; we could be talking about buying five acres, 10 acres or 500 acres, but, in the same way, the purchase may not necessarily be in the interest of the whole parish.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Before I ask my question, I should point out that, as a resident of Birse, I am automatically a member of the Birse Community Trust, which the committee will visit in a fortnight's time.

Andy Wightman said that the ownership of land is political and is about power. People often ask me whether the most important issue is not the way in which the land is managed and the way in which it is open to the community. I want to focus on the Birse Community Trust. You mentioned the members of Laggan parish, and the Birse Community Trust is similarly based. It does not own any land, but it owns a number of common rights. Could you address that issue, as it links back to your comments about purchasing the Cuillins? Is it not more important to focus on what we do with the land, on open access to the land and on how the community engages with the land round about it than on ownership?

Mr Wightman: Perhaps it is more important, but the two are intimately linked. People's ability to be involved in how land is managed, in deciding how land is used and in deciding its fate—who should buy it and how it should be parcelled up on sale—is intimately bound up with the power that goes with rights of ownership. Landed interests and, more particularly, their agents, have over the years deployed the argument that land ownership does not matter and that what matters is how the land is managed. That is complete nonsense. In some cases it matters more how the land is managed, but in every case how the land is owned and who owns it influence how it is managed. In many cases, the issue is not how the land is managed, but the fact that, for example, communities would like a small farm of 1,000 acres to be split up, because there are people in the community who want access to a smallholding. Such communities are not interested in how the land is managed, but in providing land for people who want to live there. Ownership and management cannot be separated.

Mr Rumbles: So for you the key issue is who owns the land.

Mr Wightman: No. Who owns the land is not the key issue, but it is a key issue. It is not the most important issue, but it is critical. Without addressing that, we cannot address the wider problem. For too many years, it has been denied that the issue of who owns the land, how it is

owned and how the market operates is a legitimate topic of discussion when we are dealing with problems associated with land. It has been a taboo. We have suffered for that, because people have thought that we can make progress purely on the basis of the so-called voluntary principle and of trying to persuade landowners to be nice. Ultimately, in many cases, the issue of land tenure and land ownership must be tackled.

Mr Rumbles: Do you know much about the Birse Community Trust and do you feel that it is a model that could be used elsewhere—even though, as you know, BCT does not own land?

Mr Wightman: As I understand it, BCT has a range of interests in the parish. Its principal interest is in the commonty of the Forest of Birse. Over the years, Scottish commonties have largely disappeared, so BCT is in a unique position. I do not think that lessons can be learned from its interest in the commonty of the Forest of Birse, because many other communities do not have access to their commonty, which was expropriated and placed in private ownership a long time ago. Sooner or later, community trusts such as BCT, which have an interest in land-related matters, will become interested in acquiring a piece of land. That is one of the options that is available to community organisations. Just because a particular community has not expressed an interest in owning land and has expressed its interest in other ways—through management agreements, partnerships and rights over commonty—that does not mean that at some point in the future it will not wish to purchase land.

Dr Hankey: I want to answer a number of the points that have been made. The first relates to the power of the landowner. If a landowner owns property that is entirely subject to an agricultural tenancy, he has very little control over what happens on that land. Equally, a landowner may own land but not have the capital to develop it in the way that he would like. In that sense, the landowner may be no different to a community that owns land.

A landowner may have the capital and the will to do something with a piece of land, but may not get planning permission to do what he wants. A community may be in the same position. When Andy Wightman gave the John MacEwen memorial lecture last autumn, he did not refer to the concept of planning permission at all. The power that landowners have over the land is a lot less than Andy would have people recognise; landowners have to operate within a framework of planning controls, heritage designations and so on.

I do not know anything about the Forest of Birse so I will not comment on it, but perhaps it reflects the ability of communities to interact with whoever owns the land, with a view to using land for a particular purpose. Early last year we produced a code of practice for good land management, which included the idea that whatever their private objectives, landowners should work with communities to recognise joint objectives—that is the federation's position.

Rhoda Grant: Dr Hankey compares ownership by a community with ownership by an individual. There is not much difference in expertise between the two types of owner, because we do not know to whom the landowner will pass the land, and whether that person has the ability to run an estate. Also, it cannot be said that no private landowner accesses public money. Private landowners have the same access to banks and public money as community owners have.

A community right to buy and the ability to register that right might put pressure on private landowners to work with the community and to set up systems that allow communities to have an input—that would get away from the them-and-us situation. What are your observations about that?

Dr Hankey: I have no difficulty with the idea that there may not be much difference between a community landowner and a private landowner in terms of access to capital, ability to get planning permission, and imagination about what can be done with a property. We welcome a mixture of land ownership types in Scotland. However, I have difficulty with the presumption that the community should have an automatic and inalienable first bite. That right presumes that the community group that gets its registration in first will be better at looking after the long-term interests of that land than any other bidder. Other bids may come from conservation non-governmental organisations—this is not just private buyers versus the community.

It would be preferable—I am running off-brief—if the community had the chance to put up a counter-bid, and ministers could choose between two bids for a property, based on what the bidders might offer to the community and the land in the longer term. We should get away from the presumption that the community is best. I have no difficulty with communities owning and managing land, but we should not assume that they are the panacea.

Rhoda Grant: How do you envisage accountability working in private ownership? Obviously it is built into community ownership because the community is the people who live on the land. Private ownership does not appear to have any accountability to the community.

Dr Hankey: Many landowners live on their property. Some landowners live elsewhere so that they can earn income that can be invested back

home. Many properties require that inward investment.

I do not believe that your assumption that the community will be more accountable is substantiated by what we have seen to date, in the white paper. We do not see how a potentially small community group, which may be at odds with other members of that community, will necessarily be accountable. There is no guarantee of delivery of its objective. Correct me if I am wrong.

Camilla Toulmin: I do not work on land reform in Scotland; I work on land reform in Africa. You might think that that is irrelevant to the debate that is going on here, and in Scotland at large, but useful comparisons can be made.

Many African countries are undergoing land reform at the moment. One of the key lessons is that land reform is a hugely political issue. The decisions that are made on it have long-term consequences for politics and for economic growth and development. Particular patterns of land distribution produce particular kinds of economic growth and particular possibilities for the development of rural livelihoods. A more equal distribution of land tends to produce higher rates of economic growth and a more diversified pattern of the rural economy. It is important to bear that in mind.

A related issue concerns what constitutes a community and whether there can be a representative community group. Some of the points that have been raised by members can be perfectly well addressed, and I suggest that they read some of the legislation that is coming out of the South African land reform process. Community land associations are being set up, which try to ensure that there is a properly constituted community group with a decision-making body that is accountable to the membership of that community.

15:45

Mr Wightman: I was interested in Maurice Hankey's remarks—particularly when he said that he was off his brief—on communities having to have their bid assessed by ministers, against those of other buyers. That goes to the heart of the matter. We are talking about regulating the land market so that the optimum solution can emerge. I agree, but I do not think that it is necessarily best for the community to have an overriding right to land ownership.

However, people in the community should have a say in the way in which land is owned in the future. They might want to own it, or part of it; they might want more farmers; they might want more housing; they might want someone from a far-off country, who has millions of pounds, to come in. The heart of the matter is introducing far more accountability for the way in which land transactions take place and over who eventually buys the land. That does not necessarily mean giving a community the right to buy the land, but it means introducing a regulatory environment. That is common in other European countries, in which community land boards make strategic decisions on such matters.

The last question was whether the legislation might lead to landowners being more co-operative. Part of the politics of this is the promotion of a more co-operative disposition among landowners. There is no doubt that, if legislation that threatens landowners is introduced cleverly, they will be persuaded to be more co-operative and the downside of that legislation will not hit home. That might be of benefit. However, if the introduction of legislation is handled badly, and the concerns of the Scottish Landowners Federation are not addressed, there might be a backlash and the legislation might be frustrated. That is an important point.

Rhoda Grant: There has been a fair amount of argument about who makes up a community. We need a wider definition of community. A landowner might donate a playing field, a village hall, or whatever, which has a community benefit although nobody lives or works in it. If an estate were sold off to another private landowner, how would you ensure that that community benefit was protected?

Mr Wightman: That is an important question. The answer is bound up in the detail of the legislation, which we do not know yet.

Dr Hankey: That point comes back to what I was saying about the good landowner carrying the burden of the legislation. In your example, if the landowner is not minded to make a direct sale of the playing field, the sale of the whole property is held up while the community bid on that piece of land is handled. The legislation should not become a ball and chain round the ankle of a good landowner because he might sell to someone who is not as benevolent. In the discussion last week about the Cuillins, the fact was often raised that John MacLeod's successor might not allow access to the land, whereas he had. He is being disadvantaged—I would not say victimised—because he has chosen to provide a benefit that somebody else might choose not to.

I would hope that, in your example, a private sale of the football field could be made before the rest of the property was marketed.

Alasdair Morgan: Several times, you have used the phrase, "good landowner". Could you define what you mean by that?

Dr Hankey: The boot is on the other foot—I would rather ask you to define what a bad landowner is.

Alasdair Morgan: You used the phrase, not me.

Dr Hankey: I used the phrase in the context that the then Secretary of State for Scotland used it.

Alasdair Morgan: What do you think he meant by it?

Dr Hankey: In the run-up to the launch of that paper in January last year, there was a great deal of speculation that the proposals would allow land to be taken off bad landowners. That speculation was followed by the debate about who those bad landowners might be. There are a number of causes célèbres for landownership. Some have been referred to today; others that are usually bandied around in the media have not been.

A good landowner takes account of all the headings that we have detailed in our code of practice. I will circulate copies of that code after the meeting. A good landowner has the social, economic and environmental aspects of his estate as concurrent concerns. He considers every aspect of those three dimensions at every stage. He is prepared to recognise the public interest in land even if it is in private ownership. He is interested in stewardship and in passing that land on to the next generation in no worse a state than he acquired it. He wants to create opportunities for himself and others.

Richard Lochhead: You said that some landowners live on their estates and others live abroad to earn income to reinvest in their estates. However, some simply cannot be traced. Absentee landlords were one of the factors that put land reform on the Parliament's agenda. Do you think that absentee landlords are a problem? What could be done to address that problem?

Does Andy Wightman think that the proposals go far enough towards addressing that issue?

Dr Hankey: I have no difficulty with the concept of an absentee owner. I would prefer the owner or his representative to be clearly known in the community, so that there is a line of communication for issues relating to the land, but it is unrealistic to believe that everyone who owns land must live on it and be there full time to make their living and put the money into the property that it requires. We should consider non-governmental organisations. They are not resident owners, but they have a representative who is clearly known in the district and who is contactable. That is what is important.

Richard Lochhead: We hear, for example, that John MacLeod of MacLeod owns the Cuillins. Would it be acceptable for the people of Scotland not to know who owned the Cuillins, and only to know the representative of the person was owns them?

Dr Hankey: It is important that people know how to find out who owns a piece of land, but the ownership of every piece of land need not be general knowledge to everyone all the time. The information must be accessible.

Mr Wightman: My view is that it is vital. The Treasury is losing revenue as a consequence of land being vested in offshore tax havens. The ability of people to do simple things is frustrated by the inability to trace owners, for example, the ability of the crofters at Laid, whom members are going to see, simply to go through the mechanics of elements of crofting law. As a minimum, there should be a duty of disclosure of beneficial interests. I would make it illegal to vest title of land offshore.

The whole question of absentee landlordism needs to be tackled. At the very least, we need some consistency. I do not see why the Government should take action against absentee crofters—to the extent of hunting them down to the far side of the world and depriving them of their inheritance—when the same is not happening to landowners. There needs to be consistency in the way that we treat people who have rights over land whether they are resident or absent.

Dr Hankey: Can we have some clarification of what absentee means? Do we mean foreign, living in London when the property is in Caithness, living in Inverness when the property is in Caithness or living on the farm next door to the farm that is owned? If we follow Andy Wightman's line, we will have to be careful to legislate knowing what we are trying to address. We should go back to the idea of someone who owns a small farm creating a tenancy on it, because they do not want to farm it themselves. The owner would no longer be resident on the property, but does that make him an absentee owner, for the purpose of the definition?

The Convener: That is certainly an issue that we will need to address. Does Mr Wightman wish to address it now?

Mr Wightman: The definition of absentee owner is certainly much easier to resolve than the definition of a community. One of the failings of the process to date is that we have not been exposed to the situation in other European countries. I am talking not about faraway countries, but about countries such as Ireland, France, Norway and Denmark, which have definitions that relate to residence on the property that one owns. My preference would be for landowners to live on the property that they own. They could live nearby, but that should be their permanent home, they should be registered to vote there and they should pay

their taxes there. The Inland Revenue has definitions of residency for the purposes of income tax, which we could introduce. There are a range of simple definitions when it comes to residency; the problems pale into insignificance compared with the problems of defining community.

Richard Lochhead: I should like some clarification. You said that you would prefer ownership by offshore trusts to be illegal. Are there any legal barriers to that happening?

Mr Wightman: Not in my understanding. The most effective mechanism for that would be to make it incompetent to record title with the Registers of Scotland unless the title was held by a company, trust or organisation domiciled and registered in the UK. There are some constraints already. One has to sign disclosures that there are no outstanding qualifications with relation to the Matrimonial Homes Act 1983. The Government's white paper says that a statement must be introduced to the effect that any registered land has gone through the right procedures before a title can be recorded. That is the most effective place to put such hurdles.

I believe that vesting title of land offshore should be made illegal because we are losing vast sums of tax revenue. It is a basic principle that if one owns land in a country and benefits from the basics of sovereignty—the defence of that territory—one should pay taxes in that territory.

16:00

Dr Hankey: I am not sure that this is relevant to the committee's discussion. Surely the issue is that ownership of land is not used as a tax haven in this country. One needs simply to own a property to get many of the benefits that Andy Wightman mentions. That is a totally different issue from that of land ownership and what land is used for.

Mr Wightman: The committee will be visiting Laid. It is owned by a Liechtenstein company and that has caused many problems—the issue is relevant.

Lewis Macdonald: I would like some clarification. Is Mr Wightman talking about UK ownership and UK law rather than European law? Would such proposals be robust in terms of European law?

Mr Wightman: Let us be clear—we are talking about offshore trusts in tax havens such as Panama, Bermuda, the Virgin Islands and Liechtenstein. No trust or company in the British Virgin Islands or Panama has rights under the European convention on human rights.

Lewis Macdonald: Trusts and companies in other countries in the European Union do.

Mr Wightman: They do—I am not including them in what I say. Any citizen of the EU is entitled to own property and to live and work anywhere in the European Union.

Alex Fergusson: We have talked a lot about definitions. That is understandable—definitions are terribly important in all the legislation that comes before Parliament. There will be a good example of that in tomorrow's debate in Parliament.

I want to go back to what Andy Wightman said in his opening statement. He asked what is meant by land reform and what we will achieve through it. I would like to spend a bit of time on what we might achieve. My understanding is that when a community practises its right to buy, the aim should be the better benefit to the community. I think that I am right in saying that if we are to define better benefit, there must be a monitoring process. Could Mr Wightman and Dr Hankey give the committee their thoughts on that?

Mr Wightman: Monitoring is crucial. The white paper suggests that to be able to register an interest in the right to buy or to exercise the right to buy—I cannot quite remember which—one must satisfy certain criteria, one of which is that the interest must be based on sustainable development of the community. The criteria, testing of the criteria and establishing for how long the criteria must be satisfied after sale are crucial. I would prefer that such criteria were not included—they make the process bureaucratic. If a community wants to purchase land and if Parliament is minded to give it the right to do so, Parliament and the law have no right to interfere in why the community wants to buy the land, or what it will do with the land in future.

Alex Fergusson: Would that be the case even if it was likely that a considerable sum would be taken from the public purse to fund the purchase?

Mr Wightman: That is a separate issue, which is dependent on the rules and laws that govern the granting of that cash. It is a political question.

Alex Fergusson: Point taken.

Mr Wightman: I would be happier to see less rather than more bureaucracy surrounding the issue. The increase in bureaucracy will make the process difficult. I acknowledge many of the points that the SLF raised—there are many concerns about the detailed impact of land reform. We have not properly assessed what the impact will be, and the devil is in the detail—the committee will have to spend more than one meeting resolving that issue.

Dr Hankey: I hope that we are not talking about giving rights over other potential purchasers to a community group that might express an interest in purchase late in the process, without that group

being required to demonstrate how it will deliver benefit before being given the right to buy. We cannot simply prune away bureaucracy—that would risk undermining the philosophy of the right to buy. If a community is being given the right to buy, based on its delivery of benefits that private land ownership has been deemed unable to deliver, that community must be required to show what it is going to do.

Dr Elaine Murray (Dumfries) (Lab): It has been said that the legislation will affect the Highlands and Islands; in fact, it will affect all rural Scotland, including the rather large area below the central belt.

I want to return to the definition of community, on which there seem to be two very distinct views. First, Dr Hankey threw in something of a red herring about how the legislation will extend to houses and gardens in villages or small family farms. If community is defined as people who work or live on the land, it is highly unlikely that anyone will work or live in somebody's back garden.

On the other hand, Andy Wightman has suggested that the definition of community needs to be broadened and made more flexible, and that people whose livelihoods are affected by the management of an area of land should be included in such a definition. Why should the definition be extended to people who already own property and land in an area? For example, he referred to the possibility that small farms might be split up because people in the community might want smallholdings. However, might not that act against the interests of tenants and employees of an estate?

Furthermore, should any definition of people whose livelihoods are affected by the management of an area of land also include owners of holiday homes, who might well argue that their livelihoods are affected by the way in which surrounding land is managed? From that point of view, although the legislation can probably never satisfy everyone, we must consider a middle road that provides a general definition of community and ministerial discretion for dealing with particular circumstances.

Andy Wightman also suggested a need for compulsory purchase of strategic parcels of land for community use. However, people in rural communities often ask why the same proposals are not made for urban areas, because the same argument holds.

Mr Wightman: I have never argued that land reform should be constrained to rural Scotland. Many of these measures are equally applicable to urban areas.

As for the definition of community, I am uncomfortable with the thrust of the legislation; some of my writings accept the fact that the legislation will be passed and, as such, make the best of a bad job. Perhaps the Executive and the Parliament will finally have to do the same.

I do not think that there is an ideal solution to the problem, because the legislation has not been properly thought through. I cannot say much more than that. All I suggested in my briefings was that if we are to have the community right to buy, there must be substantial flexibility.

Dr Murray: How should that flexibility be exercised? Surely it is preferable for ministers to exercise such flexibility instead of allowing interests that might not benefit tenants—who are, as you say, the most vulnerable people in the community—to do so.

Mr Wightman: Ministerial discretion is obviously one solution. However, this matter goes back to my earlier point about the geographical basis of community. People who live in a certain geographical area should have a collective role in the legislation, and it should be up to them to resolve any problems or internal conflicts that might arise between different groups. That is the nature of democracy. For example, the Stornoway Trust covers a population of tens of thousands of people with a vast array of interests that are affected by its decisions. However, the trust is elected by its membership. Although the definition of community might pose a problem in specific cases, I think that the widest definition of the word should be adopted and it should be up to people to be sensitive to the needs and interests of particular communities within their own community.

Dr Hankey: Convener, can I address the red herring? I do not believe it is one. The proposal, as defined in the white paper, will apply to all land in rural Scotland. Earlier, Andy Wightman said—and I support him entirely on this—that this whole matter is very volatile and depends on how we move a couple of definitions. It can swing quite widely.

If we extend the definition of community beyond those people who live and work on the land to people who live nearby, potentially, if someone has a house with a large garden and perhaps a paddock in the middle of a village in rural Scotland, and if the community at large thinks that that would make a good site for a village hall, there is nothing that I can see in the white paper proposals that protects the home owner from being the target of a registration.

Dr Murray: But you would accept that the current definition of community protects people in such cases?

Dr Hankey: Yes, but I do not know, in the context of this discussion, whether the definition of

community is sacred in any way. The minute that we move the definition of community, we have to address all the other definitions. Potentially, if this is all up for debate by the Parliament and its committees, all these things have a domino effect.

If a small farmer only has 50 or 100 acres on the edge of a village where there is a community interest in the land, there is likely to be some form of community interest in the farmer's property. Just because someone owns a big estate, that does not make them any more susceptible to interest in the property than being a small farmer. According to how the legislation is currently being considered, everyone is included.

Alasdair Morgan: The differences in patterns of rural land ownership and in the economy throughout rural Scotland have been raised in previous questions. Andy Wightman said that a broad-brush approach was probably not appropriate. Are there any changes in the legislation that you would like to apply to different areas of Scotland to make arrangements either more suitable or less unsuitable, depending on perspective? Do you think that whatever legislation we pass should apply to all rural areas?

Mr Wightman: Part of my difficulty with this whole legislation is that there has not been sufficient analysis of what it is trying to achieve. My view is that, if we carry out a programme of land reform that tackles issues such as monopoly holdings of land, absentee landlordism, offshore trusts and succession, we should leave well alone.

We should not have cumbersome legislative devices to give certain preferences to certain interests, possibly in certain parts of the country, and depending on certain criteria to arrive at this or that method. I would rather have none of this cumbersome, bureaucratic legislation which is, as I have described, a tactical intervention on the status quo. It immediately opens up the whole question of definition and scope. Where does the legislation apply? What about thresholds, definitions of community and definitions of eligible land?

I would rather all that was swept away. I do not want to see it. I would rather there was a much more pluralistic pattern of land ownership: with hundreds of thousands of people owning land; where the impact of any one landowner's decisions will be limited in scale and to a very small geographical area, and will not affect the wider community; with children having the right to inherit land; where tenant farmers may choose to buy their land if they wish; where there is a more active land market; and where the land market is regulated so that, if there are community or national interests, the farmers can have a say.

I would like a much more light, fluid, flexible approach, rather than a narrow, legalistic, bureaucratic, cumbersome approach, which we have adopted. To the extent that this legislation is on the way, I would rather it applied to all rural Scotland than be restricted in scope to certain parts of the country. It is difficult to decide which parts it should apply to and which parts it should not apply to.

Dr Hankey: I would like the legislation to be amended to give communities a greater opportunity to participate in the land market, and not to have a right over other interests in that market.

I want to return to an earlier point about tenant farmers and right to buy. I was reminded of this by something that Andy Wightman has just said. One of the greatest markets for farmers in Scotland for potential purchases is currently Ireland. Farmers in Ireland are deprived of any opportunity to secure agricultural tenancies, because they do not exist. Land prices are ridiculously high in Ireland, which is why people are coming over to Scotland to become either tenants or owner-occupiers. The landlord-tenant system has the potential to create opportunities for people who do not have the necessary capital but who have capital that they can deploy over a much bigger business to get a first foot on the ladder. We must be careful that, in pursuing one objective, we do not lose sight of other goals.

16:15

Rhoda Grant: I return to a question that Richard Lochhead asked earlier, before we got bogged down in definitions. If we all agree on the definition of a bad landlord, what should we do about a bad landlord? Taking away the legislation that is currently being introduced, what would be the solution to that problem?

Mr Wightman: I do not buy the argument about good and bad landowners. There are good and bad plumbers, journalists and bus drivers. Life is full of good and bad people of all descriptions, and there will always be good and bad landowners. The debate should not be focused on that. The debate has tended to focus on bad landowners not because there are many bad landowners, but because the impact on local economic development of a bad landowner is massive, due to the scale of land holdings that exist in Scotland.

If the market is regulated, and if landowners are subjected to the same constraints and regulations to which crofters are subjected to demonstrate their competence, the problem could be substantially done away with. However, the debate is not about good and bad landowners, as there will continue to be good and bad landowners, bus drivers, plumbers—and even politicians, although

at least they are subject to the vote. [*Laughter.*]

Dr Hankey: I am glad that Andy said that first.

Bad, good—what are the definitions? What parameters are you going to set? Who will be the arbiter and what is their perspective? To what extent does it become a definition only if a landowner is not giving the benefit that the particular viewer wants?

I have referred to our code of practice, which is fairly wide-ranging and open to a range of interpretations in different situations. What may be good or bad in one locality is not necessarily good or bad in another; what is suitable for one particular classification of land may not be suitable elsewhere. We have always avoided trying to define a standard of land ownership throughout Scotland, as that would be difficult. We have tried to provide a range of objective headings against which to measure how successful someone is, but the definition depends on the viewer's perspective.

Rhoda Grant: Can we get away from the definition for a moment? We will probably never agree on a definition. Imagine, for a moment, that we had agreed that a certain landowner was a bad landowner. What steps could we take to bring that private landowner to task?

Dr Hankey: The big question is who the "we" is who have agreed. The federation has a track record of getting involved in the kind of situation that you have described, and we will continue to do that in situations in which we believe that land ownership is being brought into disrepute. There are other ways in which those people can be influenced.

Rhoda Grant: What are those ways?

Dr Hankey: An example of how we influence bad private landowners is that our current convener is involved in the Carbeth hutters dispute as a trustee of the Carbeth hutters group. That is a clear indication of the federation's views on that case. I do not say that that is how our views will be acted on elsewhere, but that is one way in which the federation has sent a clear message about what it believes.

Rhoda Grant: Are you saying that members of your organisation would join pressure groups that were mounting a campaign against a landowner who was deemed to be at fault?

Dr Hankey: I have said that we have done that, but I could not extrapolate from that to future cases, in which we might take action in different ways and to a different extent.

Rhoda Grant: Are there any other measures that you would take?

Dr Hankey: I would need time to consider that question. Perhaps I can answer the committee after the meeting.

Mr McGrigor: I am not a member of the committee, but I am an MSP for the Highlands and Islands, so my thoughts are about jobs and livelihoods, which are the most important things to me. Also, I own a hill farm, from which, I must admit, I am quite often absent because I work in Edinburgh. I know that it is very difficult to make any money in agriculture and that jobs are at a premium in the Highlands.

Several estates—I can think of two in particular—employ many people and are financed by money from outside. What happens if that outside money is not there and those jobs go?

Mr Wightman: When the money goes, the jobs go.

Mr McGrigor: Perhaps I did not phrase that very well. There is an estate on Harris that employs 25 people in summer and has a resident staff of six or seven in winter. It is undoubtedly run by money from outside as I do not think that it could bring in enough cash to produce that number of jobs. If that owner sells, one would want the buyer to be rich enough to continue to employ those people. Otherwise the jobs will go.

Mr Wightman: That raises an important point. It illustrates the vulnerability of the current land ownership system. We do not have very good evidence about this. No hard research has been done on the relationship between levels of investment and patterns of ownership and so on.

There is no doubt that a large estate that employs many people and invests money from outside is a good thing, but there is nothing to stop smaller landowners doing the same thing. There is no correlation between that investment and the scale of holding. All the evidence that there is shows that the more plural the pattern of landowners, the more investment there is. Edinburgh would not have taken off if it was one big estate. There is investment in Edinburgh because lots of people own bits of Edinburgh and have invested their time, effort and money into it. That is how to ensure that there is investment in the countryside. We should not be reliant on the hope that one person will invest money, as that system is vulnerable and uncertain.

Mr McGrigor: If public money were used for buy-outs, it would appear that estates would incur losses to keep jobs going. Would those losses be met by local councils?

Mr Wightman: Before any community takes steps to own land, it is only prudent that it undertakes a business plan—that has happened in every case in which I have advised community groups. They have looked at the options, the possibilities, the liabilities, the assets, the

prospects and the finance in a thorough way—far more thoroughly than many landowners do when they come in, because many cases rely on external subventions of cash. There is often a more rigorous analysis of the economic sustainability of an estate owned by a community group than that of an estate owned privately.

Mr McGrigor: But what if there are losses?

Mr Wightman: If there are losses, there are losses. If the Stornoway Trust or the John Muir Trust make a loss, they make a loss. If the 27,000 forest farmers in Sweden who own the biggest pulp-producing factory in Europe make a loss, they make a loss—that is business. However, I do not think that the issue is any of our business. If a community owner goes to the wall, that is tough luck. It does not reflect on the principle.

Mr McGrigor: But those jobs will go.

Mr Wightman: Yes, but they will be recreated, I have no doubt.

Mr McGrigor: That is where I disagree with you. The premise is that the money that comes in from outside maintains those jobs. You are saying that someone who does not live on the land should not own it. That might jeopardise those jobs.

Mr Wightman: The evidence is that, where there are lots of resident landowners—in a city, for instance—people invest money, time and expertise in the area, shop locally and send their kids to local schools. A dynamic and sustainable economy is created. The more absenteeism that there is and the less the connection with the land, the more vulnerable the area is, regardless of how much money is poured in from outside. That is a symptom of unsustainability.

Dr Hankey: Andy Wightman is extrapolating over an untenable range if he is comparing what happens in a Highland estate with what happens in the centre of Edinburgh. The two places are not comparable.

In talking about the business plan, he is suggesting that the community right to buy will be exercised where there is a possibility that the community can make some money and that, everywhere else, the landowner can carry on investing.

The Convener: If there are no further questions, I will thank our witnesses for their assistance. I hope that we will be able to call on their help when we discuss the issues of land reform again.

Subordinate Legislation

The Convener: We have two statutory instruments before us today. The first is the Dairy Produce Quotas Amendment (Scotland) Regulations 2000 (SSI 2000/52), which was circulated to members on 15 March. It is laid under the negative procedure. No motion of annulment has been lodged, so the purpose of today's discussion is to examine the instrument. The deadline for parliamentary action is 27 April. You will notice that the Subordinate Legislation Committee confirms that there are no technical issues to draw to our attention. Are members content to note this proposal?

Members *indicated agreement.*

The Convener: Can we conclude that the committee wishes to make no recommendation in its report to Parliament?

Members *indicated agreement.*

The Convener: The second instrument that is before us is the Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Order 2000 (SSI 2000/53). It was previously circulated to members on 15 March. The circumstances of the order are exactly the same as for the previous order. Are members content to note the proposal?

Members *indicated agreement.*

The Convener: We can conclude that the committee wishes to make no recommendation in its report to Parliament.

Rural Employment Inquiry

16:30

The Convener: We are delighted to welcome Professor Mark Shucksmith and Sue Sadler. Members will recall that they provided advice and research for the committee during the discussion on our inquiry on the impact of changing employment patterns in rural communities. At the previous meeting, Professor Shucksmith outlined his initial approach to the inquiry. In the light of last week's discussion, he has drafted a consultation paper that was circulated to members last night.

The purpose of today's discussion is to consider whether the committee is content with both the consultation paper and the plan for public meetings, or whether adjustments to them are required before their publication. Members should also be aware that the cost of the public meetings will be in addition to that of the research contract, and that the committee will have to bid against the fund that is available to committees for ensuring partnership with the people in their work.

Professor Shucksmith will go over the paper again and indicate any changes to it to the committee.

Professor Mark Shucksmith (Adviser): Thank you, convener. I had the benefit of some helpful and constructive comments from officers of the Parliament yesterday. On the train this morning I tried to build those comments into the text of the document. It is, of course, too late to circulate those changes, but it might help the committee if I go through the changes without going in to great detail about the text that I propose to insert.

One suggestion was that web links to other documents should be included. That should be taken forward in conjunction with officers of the Parliament.

Question 2 implicitly asks whether there has been an increase in local government jobs. It would be best to replace the words "local government" with "public administration, health and social work and education." According to the Scottish Executive, those sectors account for 26 per cent of jobs in rural Scotland.

It was suggested that the paper should bring out more specifically rural issues, for example, the fact that low pay is more of an issue in rural areas and the impact of the national minimum wage on rural Scotland. There are also issues about the flexibility of labour and different job search methods. I have tried to add one or two sentences relating to those issues.

Under the heading "Who is affected?" it was suggested that there should be more discussions about the types of areas that might be affected along the lines of discussions about different social groups. As a result, I propose to include the point that distinctions are sometimes made among commuter areas, agricultural areas, tourist areas, remote areas and islands. People have different ideas about how to distinguish between such areas. Views will be sought about how such areas are affected in the diversity of rural Scotland.

I thought that it might be helpful to include some of the figures that the Scottish Executive has provided on changes between 1991 and 1997 in the Highlands and Islands, the rest of northern Scotland outside the Highlands and Islands and southern Scotland, to highlight that diversity and aid people's responses.

It was suggested that the paper should make more explicit the "other services" mentioned before question 7. As a result, I suggest that we should add the phrase "such as post offices and schools" in brackets after "other services".

The other main points were raised in connection with the section entitled "How can policies help?" Before I had even heard from the clerks, it occurred to me that what is listed under the heading "Scottish Parliament" relates only to the direct education, training and enterprise responsibilities of the Parliament. I therefore propose to include a reference to other devolved responsibilities such as housing, transport and the environment, communities and social inclusion, and to draw particular attention to the Parliament's responsibilities under the rural development regulation brought in by the European Union in its common agricultural policy reforms.

Finally, at the end of the paragraph on training in the section on Highlands and Islands Enterprise and Scottish Enterprise, I propose to flag up future developments in the field, particularly individual learning accounts and the Scottish university for industry, and to ask whether they can be made to work in rural Scotland.

Dr Murray: On question 7, which refers to the provision of services, is there any way to tease out from local authorities and other service providers indications of additional costs of providing services? Although you referred to schools and post offices, there is obviously an issue for local authorities about their ability to provide schools in rural locations.

Professor Shucksmith: I could certainly invite people to submit views or provide information on that issue.

Richard Lochhead: I just want to run a small point by our advisers on the use of Highlands and Islands statistics. People have told me that the economic picture of the Highlands and Islands is

slightly distorted because of Inverness, and can hide decline elsewhere in the region. Will you take that point into account during the investigation?

Professor Shucksmith: Absolutely. Any statistics that are available for different zones within the Highlands and Islands reveal a considerable diversity. My proposed text on this point will come just before question 6 and say, "Between 1991 and 1997, the Highlands and Islands gained population overall, but employment fell by 1 per cent. Within the Highlands and Islands, there was considerable variation from one locality to another".

In all of this, we have been trying to strike a balance between providing the answer to the question, which we do not want to do, and providing enough issues to provoke a response. I was hoping that a sentence on the considerable variation within the Highlands and Islands would encourage other people to raise points about the relationship between different parts.

The Convener: Are there any other comments?

Lewis Macdonald: The previous question prompted the thought that urban drift is part of the picture. Whether in Inverness, Aberdeen or other regional centres, urban drift will inevitably be part of the inquiry. I wonder whether that will emerge from the questions that you have laid out, or whether we need to include a question on it.

Professor Shucksmith: That issue is raised in two or three places in the draft, in relation to the areas that are within easy reach of urban centres. On employment trends in the north of Scotland, outside the Highlands and Islands, I draw particular attention to Aberdeenshire as dominating the trend.

Richard Lochhead: If it is feasible, you may consider including two types of statistics for the Highlands and Islands: one set that includes Inverness and one that does not. Perhaps you might include only the statistics that exclude Inverness and qualify that.

Professor Shucksmith: It would be easy to build in tables of statistics on issues such as population, employment and different sectors. We have not done that so far, because we wanted people to come forward unclouded by too much of our analysis. However, we could easily include more tabular or statistical information if the committee thinks that that would be appropriate.

Richard Lochhead: If the employment statistic without Inverness, for example, is minus 5 per cent or minus 6 per cent, that is the bigger picture that people should see. It would be misleading if that were distorted by the inclusion of Inverness in the statistics.

Professor Shucksmith: I shall certainly look into that. The Scottish Executive has not provided us with the figure for the Highlands and Islands excluding Inverness for the period from 1991 to 1997. Generally, when one wants to distinguish between local territories, or between a city and a broader region, one has to return to the 1981-1991 census comparisons. However, I shall check whether the figures excluding Inverness are available.

The Convener: Before we discuss the public meetings, we should look at the front page of the draft consultation document, to check that we are all in agreement on the objectives of the inquiry as they are set out. I suspect that this may be the last time that we will be able to suggest changes.

I notice that the title has become "The Impact of Changing Employment Patterns in Rural Scotland", which is slightly catchier than the previous one. Are we all in agreement with the key objectives that it sets out?

Professor Shucksmith: I took the title and the objectives from the specification for a tender bid. I am happy to change anything.

The Convener: Are we agreed that the consultation document, the questions and the reasoning that is set out in the questions are appropriate—with the adjustments that Professor Shucksmith has suggested?

Members *indicated agreement.*

The Convener: Richard Davies has just pointed out that there will be a final draft. Would the committee be content for Richard and I to agree that final draft, which I shall then send off?

Members *indicated agreement.*

The Convener: Proposals on public meetings, have been set out in the paper. Are there any comments on the schedule for public meetings?

Sue Sadler (Rural Employment Inquiry Team): I do not have a copy of that paper in front of me, but we have made considerable progress on the public meetings, which are subject to agreements on the details of finance and timetabling, such as when buildings are available and so on. We are considering arranging for the participation of some committee members by video link, if they are not able to attend public consultation meetings and have agreed that Lewis will be the venue for the island visit. I am happy to take questions.

16:45

Dr Murray: I have a question about the final paragraph, in which you propose to offer additional, small, informal sessions to excluded members of society. How do you intend to identify whom to invite to those meetings? Are you

suggesting that there should be an invited audience?

Sue Sadler: We will work with existing groups and field workers who know people in those situations and who can support their contributions. It would be disingenuous to expect people whom we approach specifically because of their disadvantaged situations to be able to put together strong and coherent arguments. They should be allowed to respond in a supported setting.

Dr Murray: I presume that that will mean that people will go to them and that they will not be expected to come to us.

Sue Sadler: Yes. I think that we would have to arrange that according to the circumstances.

Alex Fergusson: I want to get down to the nitty-gritty. You propose to hold a meeting in Newton Stewart on Monday 8 May, which you suggest that Elaine Murray and either Alasdair Morgan or I should attend. It is absolutely right that Alasdair Morgan should be present, as he is the local constituency MSP, but is there any reason why three of us should not attend?

The Convener: No, not at all. In fact, one or two names have been added to the list recently. Rhoda Grant has been added to the meeting in Newtown St Boswells and Richard Lochhead has been added to the meetings in Lewis, Laurencekirk and Dingwall. You will be busy, Richard. Did you volunteer?

Richard Lochhead: I volunteered as required.

Lewis Macdonald: Funnily enough, I would like to volunteer to go to Lewis.

I will stray a little from the agenda by returning to the previous major item of business. It was clear that the perspective of the Stornoway Trust on land reform has not been taken fully on board in the debate. If two or three members of the committee are to attend the meeting in Lewis, it might be helpful for them to meet representatives of the trust, in case the committee chooses to invite it to give evidence in future.

The Convener: That is a useful suggestion, which we will consider before the meeting takes place.

Richard Lochhead: Will people be able simply to turn up in order to participate in the public meetings?

Professor Shucksmith: Yes. We will try to publicise the meetings in any way that we can and we will invite everyone to come along.

The Convener: Have members had a chance to go through the process that has been laid out for the public meetings? Do members feel that every eventuality has been covered? Are there any comments on the proposals?

Professor Shucksmith: I am not sure whether I have the same papers as members of the committee, but I draw the committee's attention to the fact that the date of the Oban meeting has yet to be confirmed.

I have one other question. On what date do you expect to launch the consultation? Has that been considered? I shall do my best to return the consultation document in its revised form to members tomorrow or the next day.

The Convener: Do we have a date in mind?

Richard Davies (Clerk Team Leader): The document could be published on the website and printed within a couple of days of the final wording being agreed.

The Convener: Are there any other questions about the public meetings?

Alex Fergusson: When will we know whether we have the funding?

The Convener: We have to agree a bid for the partnership fund, but I understand that that should not be a problem.

Mr Munro: Before Mike Rumbles left, he was asking about a date for Laurencekirk.

The Convener: The proposed date for Laurencekirk is Thursday 11 May. Is that date still to be confirmed?

Sue Sadler: None of those dates has been confirmed.

The Convener: The date on the paper is only a proposed one.

Sue Sadler: I should mention that time is tight and we have to fit in all the meetings on dates that are available to members.

The Convener: Can we assume that the current plan for public meetings is agreed?

Members *indicated agreement.*

The Convener: As I mentioned a moment ago, we have to bid for money from the partnership fund to finance the meetings. I hope that that will not be contentious; I am told that it is unlikely to be.

Does the committee agree that we should go ahead with a bid for funding?

Members *indicated agreement.*

The Convener: We need to talk about when we want to launch the consultation. What is the earliest practical date?

Richard Davies: That depends on when the final text is agreed.

Professor Shucksmith: I can send you a final text tomorrow morning—I will still have to check the point about separating Inverness from the rest of the Highlands and Islands, but I can make the other amendments and e-mail the document to you.

Richard Davies: We could announce the consultation publicly on Friday.

The Convener: We will have to agree a press release to publicise the launch of the consultation. I shall circulate the draft press release by e-mail for members to comment on. Members can assume that that press release will be used unless there is a good reason for alterations to be made. If any members have suggestions for alterations, they should inform Richard Davies as soon as possible. Mailing lists have been supplied by the Arkleton Centre for Rural Development Research.

Richard Davies: It is worth asking Professor Shucksmith for his view on mailing lists. We had a brief discussion about this at a previous meeting and asked whether the committee would be content to use the list provided by the Arkleton centre.

Professor Shucksmith: We have a suggested mailing list. Many of the categories on it are generic and would require detailed addresses from other sources. We could also obtain the list that SERAD uses for its consultations and for rural challenge grant information. There is also a list of chief executives and heads of economic development in local authorities, which can be obtained from the Convention of Scottish Local Authorities. Somebody has to request those mailing lists and bring them together.

There is also the Arkleton centre's mailing list, which I have with me and can pass to the clerks. We have a list of other organisations that could be approached, although we may not have the full addresses yet.

Sue Sadler: We have already started to talk about the details with the clerks and other officials; it is a matter of agreeing how the information is brought together.

The Convener: We want the consultation to go out as widely as possible. You should ensure that the list of addresses is made available to members so that, if any member feels that anyone has been missed out, they can nominate additional names.

Professor Shucksmith: We will pass it to the clerks directly after the meeting.

The Convener: The final point on the checklist with which we have been provided is a suggestion that the committee should see the first witnesses on 25 April.

Richard Davies: Has the committee, or Professor Shucksmith, had any thoughts on who the committee would like to hear from first in this inquiry?

Professor Shucksmith: My suggestions for early witnesses would be Highlands and Islands Enterprise and Scottish Enterprise—as organisations with prime responsibility for economic development, employment and training. The committee could also invite COSLA and the Scottish Council Development and Industry.

The Convener: Does Richard Davies have any comments on what the agenda will be for the meeting on 25 April?

Richard Davies: It will be heavy.

Professor Shucksmith: You might not want all those organisations to attend the first evidence-taking session.

The Convener: Do members have any comments on who they would like to see first? Should we perhaps select two of those organisations and start on 25 April?

We will take that as a proposal.

Are there any other points to deal with?

Professor Shucksmith: When will the consultation period end? I suggest 18 May, as the final public meeting is on 15 May and we should allow a couple of days for people who are stimulated by that meeting to write in. We need to have a couple of weeks for the analysis, which we will try to complete by the end of May.

Richard Lochhead: I have a question about publicity. Is there a plan to put a letter in the letters pages of all the local newspapers? A lot of people read the local press, so that would give us some free publicity.

The Convener: Members of the committee might wish to do that. I know that we all have our own structures for the local press in rural areas. Perhaps we should prepare a draft letter, which members could circulate, with all the information that we want to include.

Richard Lochhead: That might lead to some confusion. The Scottish Parliament press office will have a fax number for every local paper in Scotland. We could send out a letter from the committee to every local paper; I am sure that the newspapers will print it.

Alasdair Morgan: That seems sensible, because we do not have comprehensive coverage.

The Convener: We will take that as a proposal.

Richard Lochhead: I will write to *The Press and Journal*, if you want.

The Convener: The folk there would not know who you were, would they Richard?

Alasdair Morgan: They just bin your letters.

The Convener: Does the committee agree with the proposal to end the consultation period on 18 May? We will take on board the lessons of the Scottish Executive and accept the odd submission on 19 May.

Members *indicated agreement.*

The Convener: Professor Shucksmith, are you happy that we each understand what the other is planning on this?

Professor Shucksmith: Yes.

The Convener: We will have a list of dates for the meetings confirmed as soon as possible and circulated so that members can put the dates in their diaries. If any major changes are proposed, we will contact members to check that those changes are acceptable. We have a good system for contacting members and have managed to agree a timetable in the past.

I express the thanks of the committee to Professor Mark Shucksmith and Sue Sadler for coming to the committee meeting again. I wish them luck in their preparations for the inquiry.

I thank members for their attendance.

Meeting closed at 17:00.

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