

RURAL DEVELOPMENT COMMITTEE

Tuesday 8 January 2002
(*Afternoon*)

Session 1

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RURAL DEVELOPMENT COMMITTEE

1st Meeting 2002, Session 1

CONVENER

*Alex Fergusson (South of Scotland) (Con)

DEPUTY CONVENER

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

COMMITTEE MEMBERS

*Rhoda Grant (Highlands and Islands) (Lab)
*Richard Lochhead (North-East Scotland) (SNP)
*Mr Jamie McGrigor (Highlands and Islands) (Con)
*Mr Alasdair Morrison (Western Isles) (Lab)
*John Farquhar Munro (Ross, Skye and Inverness West) (LD)
Irene Oldfather (Cunninghame South) (Lab)
*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)
Elaine Smith (Coatbridge and Chryston) (Lab)
*Stewart Stevenson (Banff and Buchan) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Murdo Fraser (Mid Scotland and Fife) (Con)
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

WITNESSES

Robbie Douglas Miller (Highlands and Islands Rivers Association)
Mr Hamish Jack (Strathspey Crofters and Tenant Farmers Association)
Iain MacAskill (Crofters Commission)
Peter Quail (Crofting Counties Fishing Rights Group)
Ian Rideout (Scottish Crofting Foundation)
Andrew Wallace (Association of Salmon Fishery Boards)

CLERK TO THE COMMITTEE

Richard Davies

SENIOR ASSISTANT CLERK

Mark Brough

ASSISTANT CLERK

Jake Thomas

LOCATION

The Chamber

Scottish Parliament

Rural Development Committee

Tuesday 8 January 2002

(Afternoon)

[THE CONVENER *opened the meeting at 14:03*]

The Convener (Alex Fergusson): Good afternoon, ladies and gentlemen. As this is the first meeting of the year, I wish everybody a happy new year. I hope that you all had a happy new year and that the year continues in the same vein.

I welcome everybody to the Rural Development Committee's first meeting of 2002 and start in my traditional way by reminding all members and witnesses and anybody in the gallery to turn off their mobile phones. We have apologies from Elaine Smith and Irene Oldfather. I am delighted to welcome Murdo Fraser and Jamie Stone to our committee as visiting MSPs.

Land Reform (Scotland) Bill: Stage 1

The Convener: We will take evidence at stage 1 of the bill. I say to the witnesses that the purpose of hearing oral evidence is to allow members to gather information to supplement the written submissions that we have received from them. That evidence will help to inform the committee's report to the Justice 2 Committee, which is the lead committee. The report that is made by our committee, which is a secondary committee, will become an integral part of the Justice 2 Committee report. That report will end up in the Parliament, where there will be a stage 1 debate on the general principles of the bill.

I am pleased that our invitation to give evidence has been accepted by our witnesses, who are: Peter Quail from the Crofting Counties Fishing Rights Group; Robbie Douglas Miller from the Highlands and Islands Rivers Association; Andrew Wallace from the Association of Salmon Fishery Boards; Ian Rideout from the Scottish Crofting Foundation; Iain MacAskill from the Crofters Commission; and Hamish Jack from the Strathspey Crofters and Tenant Farmers Association. I thank them all for their efforts to get here today.

I remind both the witnesses and the members that the focus is on part 3 of the bill, which concerns the crofting community right to buy. I remind members also that the committee has agreed to focus on the impact of the proposals on rural businesses.

I propose to start off by considering issues that surround the crofting right to buy in general. We will then move on to specific questions about fishing rights and the right to buy such rights. Bearing in mind that we have already received their written submissions, I invite the six witnesses to introduce themselves briefly by stating whom they represent and—if I may put it this way—what their relevance is to the debate.

Peter Quail (Crofting Counties Fishing Rights Group): I am here to represent the Crofting Counties Fishing Rights Group, which represents professional river employees in the six crofting counties.

The Convener: Please also introduce anybody whom you have brought with you.

Peter Quail: I have brought John Brae from the Brora District Salmon Fishery Board and Iain McMyn from the Kyle of Sutherland District Salmon Fishery Board.

Robbie Douglas Miller (Highlands and Islands Rivers Association): I represent the Highlands and Islands Rivers Association, which

was formed on 29 November 2001 formally to represent the views of river owners on part 3 of the Land Reform (Scotland) Bill. We represent approximately 73 rivers in the crofting counties. We are in favour of reviewing land ownership and access by practical, inclusive and fair means. With me is John Salkeld from the Halladale and Niall Graham-Campbell from CKD Finlayson Hughes.

Andrew Wallace (Association of Salmon Fishery Boards): I am director of the Association of Salmon Fishery Boards, which represents a network of 52 salmon fishery boards throughout Scotland. Boards are statutory bodies with responsibility, under the Salmon Act 1986 and previous salmon acts, to protect and improve salmon fisheries. Boards have a number of specific responsibilities. We are here principally to express our concerns about the potential impact of the bill on the conservation, management and good stewardship of the salmon fisheries resource.

Ian Rideout (Scottish Crofting Foundation): The Scottish Crofting Foundation represents the interests of crofters and crofting across the crofting counties.

Iain MacAskill (Crofters Commission): I am the chairman of the Crofters Commission, which is responsible for the administration of crofting acts. I am accompanied by Shane Rankin, who is our chief executive. Our interest is in all aspects of crofting and in all aspects of the bill, which we welcome.

Mr Hamish Jack (Strathspey Crofters and Tenant Farmers Association): I represent the Strathspey Crofters and Tenant Farmers Association. My adviser, Stuart Dunbar, is with me here today. We are most anxious to further our ends. We feel that any small unit that is in receipt of the crofting counties agricultural grants scheme and is not on the crofting register should be put on to that register, to give us parity with the registered crofters.

The Convener: Thank you all for your brevity. The purpose of today's meeting is for members to ask the questions that they feel they need to ask to ensure that our final report is better informed.

Before I throw the subject open to the floor, perhaps I could first ask a question that has been put to me about part 3 of the bill. Part 3 was never part of the original proposals for land reform legislation and seemed to have been tacked on to the bill at rather a late stage. I put the question to anybody who cares to answer it: do you feel that sufficient consultation was carried out prior to the inclusion of that part of the bill? Has there been sufficient consultation since? Are you happy about the consultative process that preceded part 3's inclusion?

Robbie Douglas Miller: As far as I am aware—

Mr Alasdair Morrison (Western Isles) (Lab): Convener—

The Convener: I am sorry, Mr Douglas Miller, could I hold you up for one moment?

Mr Morrison: I apologise to colleagues who have come along to give evidence, but I thought that today's meeting was part of the consultation. We are involved in pre-legislative scrutiny. I do not follow the question, convener.

The Convener: The question has been put to me by several people, and I thought that it was appropriate to ask it to kick off this evidence session.

Mr Morrison: I thought that this was to be the first session in many weeks of pre-legislative scrutiny. I want to be fair to those who have travelled to be with us today and to give them every opportunity to present their case cogently and clearly, but I thought that—

Robbie Douglas Miller: Could I interrupt, convener?

The Convener: Hold on, please.

Mr Morrison: We are consulting now, and there is plenty of opportunity.

The Convener: I am not convinced that we are involved in pre-legislative scrutiny now. The bill has been published.

Mr Morrison: Well, this is part of the pre-legislative process.

The Convener: If members are unhappy with the question, I will keep it until later in the meeting. However, it has been put to me by several people and I feel quite within my rights to ask it. Would somebody else care to start the questioning?

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): In recent weeks, we have read that there is a great deal of controversy about the inclusion in the bill of the right to buy's extension to the purchase of salmon fishing rights. I understand that those rights are a separate heritable entity under the current law—in other words, something that may be sold. I guess that many of you gentlemen are here today to offer us your views on that. I would like to hear from the Scottish Crofting Foundation how widespread the potential desire to purchase fishing rights as well as land is thought to be. What are your views about the inclusion of fishing rights in the bill?

Ian Rideout: We feel that there needs to be further clarification on the definition of fishings. There is clearly an issue around underused, under-managed and badly utilised fishings on the west coast; there is also the issue of managed

fisheries on the east and north coasts. We feel that some definition of a managed river system also needs to be made. If we are considering the possibility of purchasing managed river systems, we feel it unlikely that a crofting community body would have the necessary financial impetus to do that. If we are considering possible definitions of sustainable development, it is unlikely that a crofting community body would be in a position to purchase a managed river system if sustainable development includes investment of the kind that has been made to date.

Fergus Ewing: I understand that argument, but my question to you is about how widespread you think the desire is to include the purchase of fishings along with the purchase of land.

Ian Rideout: There is a desire on the part of our membership for the purchase of fishings to be included. However, given the mechanism provided for in the bill, the likelihood of that happening is very low. That is the current general opinion. We think that that applies more to the west coast, where some rivers are either not managed or underutilised. The opportunities may exist there for crofting communities to get involved. At this stage, however, the issue concerns inby land and common grazings.

Fergus Ewing: Why do the gentlemen from the CCFRG and HIRA feel that the provision covering that is so disastrous? They will recognise that the bill contains provisions to provide market compensation at the market value and, moreover, that it allows for a leaseback, which must be for a peppercorn—that is nominal or zero—rent for at least 20 years. That can be registered and can therefore be used as a security. Given that those provisions are in the bill, do they give you comfort? What do you think about the leaseback and the fact that any purchase would be at full market value with full compensation? There would not be confiscation, which seems to have been the implication of publicity in the past few weeks.

14:15

Robbie Douglas Miller: I understand that the leaseback provision does not apply to fishing so I am not sure whether your comments are correct.

Fergus Ewing: My reading of the bill is that the provision would apply if so directed by the ministers.

Robbie Douglas Miller: Even if the provision applied—which it does not—it would still be hard to understand how the community would benefit.

Fergus Ewing: The issue is whether the provision applies. My reading of the bill is that it would apply if so directed by the ministers.

Robbie Douglas Miller: That is not our view.

However, if it did apply, it would still be hard to understand how it would benefit the community. A lot of money would be spent simply to give somebody a peppercorn rent. How would that benefit the community?

Fergus Ewing: Section 80 of the bill is entitled

“Leaseback to owner of sporting interests”

so the provision must apply. I presume that you have read section 80.

Robbie Douglas Miller: I have.

Fergus Ewing: There can be a leaseback to an owner of a sporting interest,

“the annual rent shall be nominal”

and

“the duration of the lease shall be not less than 20 years”.

Robbie Douglas Miller: That takes me back to the question—

Fergus Ewing: Hang on. We have established that the bill provides for a leaseback of sporting rights. Does that give you comfort? Is that an avenue that you might explore at stage 1? If there was a leaseback on fishing rights, I presume that you could carry on enjoying them. Is that thesis wrong? What are your views on section 80 of the bill?

Robbie Douglas Miller: The advice that I have been given is that sporting rights pertain to deer stalking and not to fishing—that is our understanding of the situation. However, I still do not understand how there would be a benefit for a community. What would be the point? There would be a lot of disruption.

Fergus Ewing: I am simply asking for your views at this stage. The other witnesses can give their views on how communities would benefit.

Andrew Wallace: I would like to take up a point. The bill clearly states that there must be benefit to the community as well as protection of the environment. Like my colleague, I fail to see how peppercorn rent could be of benefit to the community.

I will set that issue aside and deal with a wider point. One misapprehension about salmon fisheries management is that it is extremely expensive and is unlikely to deliver surplus revenue. If it does not deliver surplus revenue—which is of principal interest to the community for cross benefits to other aspects of community development—the Executive's intended policy will not be delivered.

Our concern is that there may be a temptation to extract value from the fisheries through, for example, increasing exploitation or reducing investment in the fisheries to cross-subsidise other

aspects of community development. That would result in a decline in the quality of management in fisheries and possibly in the number of jobs that follow on from them. The exercise would fail the other aim of the bill, which is to protect the environment. If we cannot pin down whether the fisheries produce a meaningful surplus revenue, that is a material point. If they do not, I do not think that the policy in the bill will be delivered.

Richard Lochhead (North-East Scotland) (SNP): I have questions for Peter Quail and Robbie Douglas Miller, but I will address my first question to Andrew Wallace.

There are several fisheries in Scotland that are neglected by their private owners. Your organisation has expressed that opinion several times. Do you accept that it would be better for a community organisation to run a fishery than for it to continue in its current neglected state?

Andrew Wallace: There is no doubt that certain fisheries in the country are underused and undermanaged. I take issue with Ian Rideout's comment that the west coast in particular suffers from that affliction. I have been involved in the construction of five fisheries trusts on the west coast over the past six or seven years and they have done an enormous amount of work in association with the salmon fishery boards. I can vouch for the fact that something in the region of £300,000 is being spent on the west coast that was not being spent previously.

On the issue of whether a community could manage a fishery that was in decline, I have no doubt that such an opportunity may arise. However, the point is that the impact of the legislation would extend well beyond poorly managed fisheries to all fisheries, because of the issue of insecurity of title and the disincentive to invest. That is our principal concern.

Richard Lochhead: One of the difficulties in taking evidence in committee is that we do not know much about the background of the witnesses. People tend not to send their curriculum vitae or other information. Perhaps Peter Quail and Robbie Douglas Miller can prefix their answers with some information on their organisations, such as when they were set up, how they are funded and how many members they have.

You are concerned about investment drying up in the fisheries because of the threat of compulsory purchases. If investment were taking place in a fishery that might become subject to compulsory purchase, would that investment not be taken into account in terms of the value of the fishery at the time? Secondly, when crofting bodies are set up, they must satisfy ministers that they are acting in the public interest. Does that fact

not offer you some comfort?

Robbie Douglas Miller: I will answer the first part of your question first. With regard to current investment it is important to understand how fishing is valued. If one makes a substantial capital investment in the creation of new pools on the river or into a conservation project such as the spring enhancement programme or other such measures, that does not in itself enhance the value of the river. The value of the asset is a simple calculation on the five or 10-year average number of fish caught multiplied by the capital value of a fish in the current market. If one spends money now, it makes no difference to the value of the asset today. The value is the capital appreciation that one may or may not get from project work now.

Richard Lochhead: Okay. I am surprised by that answer. If someone is setting the value of a fishery and the owner has just spent £200,000 improving the banks and beds, surely they should count that towards the value. Are you saying that that is not the case?

Robbie Douglas Miller: I am saying that it is not. There is a misunderstanding about how fishings are valued. It is not the same as land. If one builds a building on a bit of land and it costs £200,000, that adds £200,000 to the value. There is something to show for it.

Richard Lochhead: So if someone has spent £300,000 restocking the river, that would not count either?

Robbie Douglas Miller: It is not as simple as that. It is not a trout farm. It is a complex process over several years to improve a river. One cannot just chuck in a whole load of salmon—

Richard Lochhead: I understand that. It is because it is a complex process that we are considering legislation.

What comments do you have on the part of my question on the public interest?

Robbie Douglas Miller: Will you remind me of that part?

Richard Lochhead: Do you get any comfort from the fact that ministers must be satisfied with a crofting body's set-up and that it is acting in the public interest?

Robbie Douglas Miller: That comes back to the point that Andrew Wallace made about the threat to the security of title of the fishing. The legislation will create uncertainty about the title of the fishing because at some point the fishing could be removed from the owner against their wishes. That would make it difficult for individuals, trustees or businesses to continue to invest. If, as I pointed out, the fishing is not valued by capital

improvements but by the number of fish that are caught during a period, there is not much incentive to continue to invest in the hope of making capital appreciation on the asset during the next three, five or 10 years. So the answer to your question is no.

Mr Morrison: I feel privileged to be part of a generation of Labour politicians who are involved in implementing this historic legislation, which has been an aspiration of our party since the days of Keir Hardie.

I have a question for Mr MacAskill of the Crofters Commission. As someone who was born and brought up on a croft, how important does he think the element of the legislation that we are discussing is for the continuance of crofting communities? What role will the bill have in the wider debate on crofting?

Iain MacAskill: It is of crucial importance, but other elements are necessary as well. Crofting operates in the most peripheral and sparsely populated areas in Europe, the Scandinavian countries excepted. The bill is crucial to maintaining the numbers of people in those areas. The more that emerges from within communities—instead of external answers being imposed—the healthier those communities will be. Therefore, ownership and management, if communities want it and if it is appropriate, must be beneficial to their development.

That is not a threat to businesses; it will generate collective and individual businesses. Change of land ownership will not impact on businesses. Communities are bound to be at least as good at management as individuals. They will understand as well as any individual—particularly those who do not live in the community—that assets must be maintained and developed. Inevitably, their management will, as a rule, be better.

The legislation is important and it is important that we do not make exceptions. We should not worry that the legislation will discourage landowners from spending a lot of money on the land for various bits and pieces. As was mentioned, the bill contains a variety of protections to stop that happening.

Mr Morrison: Are you saying that good landowners have nothing to fear from the legislation?

Iain MacAskill: Most landowners of crofting communities are, at worst, benign. Very few of them harm communities and most have good relationships with them. Communities will not rush in to buy simply for the sake of it—there must be a reason. I believe that most cases of a community buying land will be jointly agreed and that many will be another form of partnership. We must have

the mechanism to let that happen. Without it, there will continue to be barriers to overcome.

Mr Morrison: I want to scotch a myth that was in Mr Wallace's response to Fergus Ewing's question: the completely spurious idea that if fisheries are owned and run by communities, they will be diminished. This morning, I had the pleasure of leaving the isle of Lewis, where I live on the oldest democratically run estate in Scotland. It is important to put on the record that that estate has produced some of the best salmon returns in Scotland during the past 15 difficult years.

Mr Wallace is the chairman of an association that represents a number of statutory bodies. To the best of your knowledge, have any of the chairmen of the district salmon fishery boards been involved in any political activity in the past few weeks? I refer specifically to the minutes of the Highlands and Islands Rivers Association, which exhorted you to involve them in such political activity. Will you answer that question?

14:30

Andrew Wallace: If they have done so, they have done so as individuals and not as chairmen of fishery boards.

I challenge your first point. You have completely misinterpreted what I said. I have never claimed that crofting communities are incapable of managing fisheries, and I never would make that claim. I share many of the views that Iain MacAskill has expressed—the diversification of land ownership and management in Scotland is entirely laudable. What I said was that if we are to deliver benefits—that is, deliver the policy that is stated in the legislation of revenue to support aspects of the community—it is possible that money and investment may be extracted from the fishery to its detriment. I have expressed that concern, but I have not said that that will be the inevitable outcome.

Stewart Stevenson (Banff and Buchan) (SNP): I enjoyed Alasdair Morrison's history lesson. One hundred years ago the Labour party embraced the policy of reforming land ownership. The SNP works to a slightly shorter time scale, as I am sure Alasdair Morrison is well aware. An even more interesting historical fact is that, only a third of a century ago, I worked for a salmon fishery board. I worked for the River Tay District Salmon Fishery Board as a water bailiff, and it was my favourite student summer job.

Let us come up to date. I want to address a couple of financial questions to the whole panel, which the panel will answer in their individual ways. It would be useful to understand the extent to which salmon fisheries do or do not make a

profit in their own right, because much of the evidence from the 270 or so responses to the consultation—a large number of which refer to fishing—suggests that fishery boards make sense only in the context of enabling economic activity that does not relate directly to the salmon fishery; that is, bringing people into the area and everything that stems from that. It would be interesting to know the direct economic benefit of the fishings. What economic benefits would result for crofters from transferring the ownership of salmon fisheries from the current owners to crofters? A substantial proportion of the evidence suggests that such a transfer would be a burden rather than a benefit.

Those are the economic issues. I will ask another question, so that the panel can deal with it in the same answer and thus save time. Will changing the ownership of the river banks, while the salmon fisheries stay in their existing—and presumably different—ownership, have any impact, which would make it reasonable for part 3 of the bill to focus on transferring the salmon fisheries to the new owners of the river banks, who will presumably be the crofters? The question is about the practical implications of the division of ownership.

I would like to hear briefly from all six witnesses, if that is possible.

The Convener: That is up to the six witnesses.

Peter Quail: On how much money salmon rivers make, the annual income from fishing rents on the River Brora is around £56,000. The annual river board's budget is £70,000, so there is an annual shortfall of £14,000, which is made up with private money out of the river owner's pocket. The annual budget for the River Helmsdale, which I work on, is around £110,000. We tend to just break even. We employ 10 people on the river, and that pays their wages.

Robbie Douglas Miller: There is a slight difficulty in answering the question in detail for a lot of rivers, because I am not privy to everybody's personal accounts and I am not aware that anybody else is privy to those accounts. I can give an estimate for the two rivers with which I am involved. Neither makes a surplus and both require funding from a central source—which is our business in Edinburgh.

It is almost impossible to judge the benefit a crofting community would get from owning salmon fisheries rights until it happens, but I think that the consensus of opinion is that it would have a negative effect on the local area, particularly on employment.

I think I have interpreted correctly that the third question concerns fragmentation of fishing. Fishing is widely bought and sold. I think that I am

right in saying that more than 75 per cent of all rivers in the crofting counties have been bought and sold since the end of the second world war. That indicates that there is plenty of scope to buy fishing; the important factor is that the fishing comes up for sale in manageable, logical and practical lots. As soon as one starts interfering with those lots and allows one individual or community to buy a stretch of 100 yards, it devalues the lot. It also makes it immeasurably more difficult to manage the lot, because in most river systems there is a consensus of opinion about how to manage the whole river system. The more people who are involved, the more difficult it is to do. I am not saying that managing small stretches cannot be done, but it is much more difficult to do.

Andrew Wallace: I agree with Robbie Douglas Miller. The fragmentation of fisheries is an important issue. We enjoy an unusual situation in Scotland because fishing rights can be separated from land rights. That has been the case for hundreds of years. Logical fisheries management units have evolved as a consequence of that. Associating crofting land with fisheries could easily fragment the fisheries, which could result in damage to fisheries upstream and downstream. In addition, such fragmentation might not serve well the crofting community that made the acquisition in the first place.

Ian Rideout: We cannot answer the question about the financial viability of salmon fishings. On the benefits to crofters, we need to ask whether the bill makes it practicable for crofting communities to purchase fishings. Two indicators or sets of criteria need to be applied: one is the public interest aspect; the other is whether crofting communities purchasing fisheries constitutes sustainable development. We suggested in our written evidence that both those aspects need to be clarified.

To talk about sustainable development implies investment. We are talking not only about a transfer of ownership of fishings—as was suggested—but about compulsory purchase. In other words, moneys will have to change hands. To consider sustainable development, we need proof of investment possibilities. Will a crofting community that wants to purchase the land have the necessary financial ability to prove that it can invest in a managed-fishing river system? The issue about bank rights is different—we feel—from the issue of an entire managed river system.

Iain MacAskill: If there is no change and everything is sustained from someone's pocket or from a company lobbying in a few thousand pounds each year to keep the salmon river going—I do not know whether that is true or not, as I do not know about the finances of salmon rivers—my worry is

that it seems a rather dubious way of sustaining long-term benefits for crofting communities.

Getting involved in crofting communities means getting involved in specific economic and social benefits for those communities—whether the communities do things directly, in partnership, or through other arrangements. It seems to me that uncertainty about people lobbying in money would leave things in mid-air in the long term.

I am sure that arrangements can be made and that must happen on the basis of benefits to communities. The benefits would go beyond fishing. If people come to fish, there will be a ripple effect. That effect must be there at the moment, and I am sure that no community would want to destroy it.

Mr Jack: To be truthful, I cannot comment on this issue, but I feel that if the land is to be owned by the communities, they should also own the fishing rights. At the end of the day, anything that will sustain a population in the glens and hills of Scotland must be encouraged in every way possible.

Stewart Stevenson: Do you have any comments on tenant farmers? I understand that there are many in Strathspey.

Mr Jack: There are units along the river banks. If people are able to buy their land, and if the superior gets to keep the fishing rights, the superior should be made responsible for the upkeep of the banks. The issue will have to be considered carefully. As the member knows, the river sits in a natural flood plain; it is not uncommon for us to have a big flood, resulting in thousands of pounds worth of damage to the banks, so who owns what would have to be clarified.

Peter Quail: I would like to answer the earlier question on the effects on local communities. In Helmsdale, we have three communities: the community that works on the river, the crofting community and the community in the village. We have around two miles of fishing that borders crofting ground. One mile of it is fished by local anglers. If the crofting community were to make a compulsory purchase of that land, local anglers would lose out. I feel that that would completely destroy the community, with local anglers being excluded. How could a crofting community charge local anglers £23 annually, which is the charge just now? If the crofting community ran the fishing as a business, it would have to charge the highest rents and get in the highest-paying fishers. Local anglers would lose out.

Mr Jamie McGrigor (Highlands and Islands) (Con): Before I ask any questions, I draw members' attention to my interests in the members' register. I have a shareholding in an

owning syndicate on the River Awe. I have been involved in different aspects of fishery management for 30 years. I am also a member of the Scottish Crofting Foundation.

I have always been impressed by the professionalism with which rivers in the crofting counties, in particular, are managed. They have a worldwide reputation. Angling tourism brings in an enormous amount of revenue to the crofting counties.

I see that Highland Council has changed its position: it is now against the compulsory purchase of salmon fishing rights and I am surprised that the council is not represented here today. Would compulsory purchase be detrimental not only to angling tourism but to the public angling interest? I believe that the latter accounts for a quarter of all the fish caught in the crofting counties.

The Convener: To whom is that question directed?

Mr McGrigor: Peter Quail, probably.

Peter Quail: Mr McGrigor is right about public fishing. Within the Kyle of Sutherland, an average of 476 salmon are caught by local anglers. As I have said, when crofting communities take over those areas, what will happen to local anglers? They will not be able to afford the rents that crofting communities will have to charge. Part of almost every river in the crofting counties is for local angling. In many cases, it borders crofting ground.

The Convener: Iain MacAskill may wish to address that point.

Iain MacAskill: I do not know why there is an assumption that the rates for local anglers will have to change and that local communities will not recognise recreational facilities for their people. We seem to assume that if crofting communities take over—which will not necessarily be the case, if it is not in their interest—they will suddenly head towards bankruptcy, will not be able to manage the facility and will freeze out members of their community. There is no basis for arguing that and no evidence that crofting communities do that.

The Convener: I do not want the witnesses to get into a debate. I am not trying to quench any desire to give evidence, but it is important that members can ask questions. We will keep going on that basis, but I will try to bring in witnesses when I can.

Mr McGrigor: First, I ask Alasdair Morrison which river system he was referring to—was it the River Creed?

Mr Morrison: Do you mean the fisheries within the Stornoway Trust area? Yes, it was the River

Creed.

Mr McGrigor: In that case, I ask Andrew Wallace whether employment has been sustained and whether the rivers that have been under community ownership, such as the River Creed, have brought benefit to the local community? Will he comment on what I have learned recently about the Assynt situation, where—I believe—a river that was a salmon river has been dammed without a fish pass of any kind?

14:45

Andrew Wallace: You are correct about Assynt. There was an order for a hydro scheme under the Scottish renewables obligation.

In the case of the Creed, I understand that the catches on the river have been pretty poor of late, but I do not have any first-hand knowledge of how the fishery is managed. I recall hearing that it has been taken over recently by the angling association and that a lot of good management is going on in conjunction with the Western Isles Fisheries Trust.

Mr McGrigor: Can any of the witnesses comment on Glen Dale, which has been in community ownership since 1905?

Robbie Douglas Miller: My understanding of the Glen Dale situation is that there was a sustainable salmon population, but it has been fished to extinction and a fish has not been caught there since 1984, I think.

Mr McGrigor: The last fish was caught in 1992.

Robbie Douglas Miller: You are trying to make the point that Glen Dale is not a good example of a community managing fishing well.

Mr Morrison: I give Andrew Wallace a categorical assurance that the River Creed in the Stornoway Trust area is run competently by the trustees, who are elected every three years. I reinforce the point that Iain MacAskill of the Crofters Commission made about the use of language in this evidence-taking session. The use of the word “fragmentation” is quite striking. The suggestion that a crofting community that took control of a fishery somehow could not work in a consensual way with other landowners is absurd in the extreme and does not reflect my experience across the Highlands and Islands.

I will assist my friend Jamie McGrigor on Highland Council’s position, which is not that it is opposed to the compulsory purchase of fisheries—rather, it wants the issue to be dealt with under another bill, not the Land Reform (Scotland) Bill.

Rhoda Grant (Highlands and Islands) (Lab): My first question is for Andrew Wallace. I spoke to

him and colleagues of his when we were considering the Salmon Conservation (Scotland) Bill. When we took evidence on that bill, the fact that land management had a huge effect on the fishery came through loud and clear. Is it beneficial for the same people who look after the land to look after the fishery?

Andrew Wallace: I do not think that there is any evidence to support that. As I said, the land and fisheries are often disassociated from each other. On rivers such as the Tweed and the Tay, large habitat restoration projects are going on in conjunction with landowners—whether or not they own fishing rights. Regardless of who owns the banks, it is possible to achieve the consensus that Mr Morrison talked about and good management. It is simply a matter of approach.

Rhoda Grant: So you are saying that it does not really matter who owns the land or the river, as long as everyone works together for the preservation of the salmon; and that that would have to be the case, whether or not the crofters owned the river.

Andrew Wallace: Ultimately, yes. However, I keep returning to the same questions. Is policy being delivered? Will the fishery generate a surplus to benefit the community and, if so, will there be any attempt to reduce investment in it, given the effect that that would have on the protection of the environment? That is my sole and principal interest in the matter.

Rhoda Grant: That leads me on to my next question, which concerns the surplus. Many witnesses today seem to take the view that any money going into—or indeed being earned by—the salmon fishery would be pushed into other developments in the community. No one has addressed the point that a healthy salmon fishery would mean other benefits for tourism, such as cottage rental and sale of fishing equipment. Such benefits are the reason why a crofting community would consider taking on a salmon fishery. It would see that even a badly managed fishery would attract inward investment by bringing high-spending tourists into the area and so would invest in that fishery to ensure a knock-on income from other sources.

The Convener: Is that point directed at anyone in particular?

Rhoda Grant: It is directed to anyone who will answer it. I want to hear both sides of the argument.

Iain MacAskill: I cannot argue with that point. When any community that thinks carefully about its acquisition considers such matters, it should take into account the current situation and the benefits that are already accruing, that might continue to accrue or that it might be able to

generate because of salmon fishing activity.

Robbie Douglas Miller: Rhoda Grant makes a good point. However, although there is nothing to suggest that what she says could not happen, it is important to understand that the situation for a community north of Inverness is not the same as the situation for a community along the Tweed or the Tay. There is neither the same volume of people nor the same length of season. Unless a compulsory acquisition includes all the assets that go with fishing—such as the lodge or the hotel and other elements of the infrastructure—I do not really understand how the same level of service could be maintained. I am not saying that that could not be done; I am just saying that it would need to be financed.

Furthermore, in order to attract a high-spending individual to a river, the set-up would have to be fairly exclusive. Individuals would want to go there not just for the fishing but for the peace and tranquillity—indeed, for the whole experience. Fishing is a competitive sport and is not confined just to Scotland; it is opening up in Russia, Norway, Iceland, north America and all across the world. Scotland has a worldwide reputation for delivering first-class sport and anything—perceived or real—that harms that reputation will also harm investment in fragile communities. The people who stay in the lodges and hotels, their wives and their children spend a lot of money up there. I let my lodge when I am not there, so I know the benefit that it brings to the Shin Falls café and gift shop, the local butcher, the hardmonger and the other facilities. If people do not come, we will need an awful lot of other people to spend a third or a half as much to reach level pegging. We must understand that, to the high-spending tourist, the whole package is important; it is not just a question of them turning up, doing a bit of fishing and moving on again.

Rhoda Grant: You emphasise my point precisely. The crofters would want to buy the fishery in order to provide the accommodation and facilities on which high-paying customers can spend their money.

Could you—

Robbie Douglas Miller: Who would finance that?

The Convener: I am sorry, but I must allow the member to ask the question. I shall then ask you to come back in.

Rhoda Grant: Mr Miller has thrown me off my train of thought. The reason why crofters would buy a fishing right is so they could provide hotel and shop facilities and the like to encourage tourism and encourage people into their community. They would not buy it for the income from the fishery and it would not stop them

investing in the fishery. In fact, it would encourage them to invest in the fishery.

Robbie Douglas Miller: Unless the crofters are able to buy the whole river system, or such part of the river system as is attractive to high-paying tourists, which may or may not be on or contiguous to the crofting land, they will not attract that tourism. If the fishing starts to be fragmented, the other river owners will not get the tourists either.

We must be clear that crofting communities do not want just to purchase compulsorily an attractive bit of fishing, stick a few people on to fish it and charge them a big rent in a hotel. Most of the rivers that we are talking about work on a floating beat system, with people moving up and down the river each day, fishing one part of the river on Monday and a different part on Tuesday. That provides the variety and the exclusive experience that tourists pay for.

I return to the point about fragmentation. As soon as a river system starts to be broken up, unless every owner agrees to continue with the same process, which they may or may not do, tourists will not come.

Peter Quail: In the Strath of Kildonan, there are six lodges that provide accommodation for high-paying visiting anglers. The wives and daughters of most workers in our strath work in those lodges. We already provide that service. There are plenty of people who fish the local angling club water and stay in hotels in Helmsdale. A new hotel has just been built there. The jobs of many people in our strath are dependent on the rotating beat system that is in place. As Robbie Douglas Miller says, fragmentation would stop that rotating beat system.

Rhoda Grant: In answer to Robbie Douglas Miller's point, I find it strange that crofters would consider buying a river system if it was not going to make money.

I have another question. Who owns the lodges that are used at the moment?

Peter Quail: The landowners who own the beats on the rivers.

Rhoda Grant: Do you have any idea what income they get from those lodges?

Peter Quail: I do not have any figures.

Mr Morrison: I would like to thank Mr Douglas Miller, because I think that his arguments have helped to reinforce what we are about. He has helped to emphasise the importance of including fisheries in the land reform package.

Do you believe that a crofting community is capable of providing the experience and services that you listed, such as exclusivity and excellent

service, quality of food and accommodation, to the high-paying visitor?

Robbie Douglas Miller: Any community could deliver that; it would not have to be a crofting community. It could be a tenant farmer, a local landowner or a member of the local church. Anybody could do it; it is a question of financing it. If there is not the finance behind it, it will not work. If standards are allowed to slip, it will not work. If the people are not employed, it will not work. There needs to be a business plan that demonstrates that the enterprise will work.

I am involved in managing rivers in Sutherland and I can tell members that a business plan could not be put together that would generate benefit for a local community. Based on the way in which the rivers are run at the moment, expenditure and investment would have to be cut. The result would be a reduction in salmon numbers and in the number of people who would come back to fish in that river or those river systems in years to come.

Murdo Fraser (Mid Scotland and Fife) (Con): I have three questions to three individuals. My first is to Mr MacAskill from the Crofters Commission and relates not to salmon fishing, but to the wider issue of the crofting community right to buy. The Crofters Commission's written submission talks about the people who exercised the right to buy under the Crofting Reform (Scotland) Act 1976 and says:

"only in isolated cases has ownership brought real economic benefits for individuals."

The committee is considering the economic impact that the bill would have on crofting communities, so will you assess what the economic impact of the crofting community right to buy would be? Would it have a major or comparatively minor impact?

15:00

Iain MacAskill: Giving exact figures is almost impossible. If a community wants to buy, it will have developed a plan. People have a considerable incentive to develop their community. Some things, such as joint marketing, can be operated better collectively, as well as being operated in individual ways.

I am confident that such communities would be active. They would take more control over their destinies and take more responsibility. There would be benefit and the situation would not be worse. It would improve. With the possible exception of what we just discussed, I do not think that any business in such a community would suffer. The effect would be all pluses.

Murdo Fraser: That is notwithstanding the fact that people who have exercised the right to buy

have said that it seems to have little economic impact.

Iain MacAskill: You must remember that the people who have exercised the right to buy have continued to do what they did before. In many ways, they have frozen themselves out of a subsidy system, or at least they must prove that they should rejoin it. They still run a croft, which remains the same size. In itself, the right to buy did not change the situation.

A croft is a very small farm, and the circumstances of the past few years have meant that, for those who depend totally on agriculture, the situation could not have improved in many areas. It has gone the other way. However, if a piece of land is a community asset and more than just a croft, the totality of what can be done—be it in the environment, in tourism, in any form of fishing or whatever—means that more is bound to be achieved. That is what communities would do if they had more control over and more responsibility for their situations.

Ian Rideout: On economic benefit, it is our view—much evidence supports it—that self-determination in communities is accompanied by a spirit of interdependence in those communities, which directly benefits the social economy. That may not be what is being considered for the general economy, but the social economy in those fragile rural communities is benefited by self-determination.

Murdo Fraser: I have two other questions about salmon fishing rights. My first is to Robbie Douglas Miller of HIRA. I understand from your written submission and from what you said today that your principal concern is that if the bill is passed with the crofting community right to buy salmon fishings, that will prevent private sector investment, which will be to the Highland economy's detriment. Have you had any evidence, or has it been suggested, that the publication of the proposals has had a detrimental impact on likely investment in Highland rivers?

Robbie Douglas Miller: I received a letter from the membership of HIRA which contained an indication that, across the 73 rivers that are represented by HIRA, a total of £2.35 million has not been spent, or will not be spent, in the next financial year to 6 April. It is also worth pointing out that Highlands and Islands grants total only £1.3 million. That means that twice as much as is handed out in grants to the community by Highlands and Islands has not been spent on those rivers. I have some clear facts and figures for the committee and would be happy to circulate them to anyone who is interested.

Murdo Fraser: Thank you. Am I correct in saying that your concern is not that the rights

would be exercised but that, if the rights exist in law, investment will be deterred?

Robbie Douglas Miller: That is exactly right. If the security of title remains threatened, no individual, trustee or business will continue to invest, making a loss as they do at the moment, in order to, in theory, increase the value of their future asset. They will not do so if they do not know whether they have a future asset.

Peter Quail: I would like to comment on security of title. One river worker on the Brora, because of insecurity of title, had to find employment elsewhere. He has four children. He cannot say that he will be in a job for the next five years, yet he has to provide his family with security. That is the same for all of us. We have no security. How do we plan families? How does Iain McMyn from the Kyle of Sutherland get a mortgage to buy a house? What bank will touch him if he does not know whether he will be in a job for the next five years?

Murdo Fraser: I have one last question for Peter Quail. In correspondence, newspapers and elsewhere, I have seen your organisation characterised as being simply, if I may say so, a collection of laird's lackeys or Highland Uncle Toms. How do you react to those criticisms?

Peter Quail: The people that we work for are businessmen, just like any others. Yesterday, when I was in Inverness, I was asked the same question by—I think it was—*The Herald*. If members were to ask who owns any business in a city such as Inverness, they would find absentee owners. That happens everywhere.

People do not tip their caps any more and bow to people. Our employers are good and we work under good conditions. In 1996, when I took on my job, I thought I could be in it for 40 years. My ex-boss was in his job for 25 years. We have good job security. It is a good way of life for which we are fighting.

Richard Lochhead: Could one solution be that you and your fellow workers are given the opportunity to buy the fishings? Is part of the problem with the legislation the fact that it is confined to crofters?

Peter Quail: I live about 20 miles away from any crofting ground. The legislation is not relevant to me.

Richard Lochhead: What I am saying is that the debate is about the ownership of the fishing rights. Do you and fellow-workers in your community want the opportunity to buy those rights, or are businesspeople the only people who can run the fishings?

Peter Quail: When you start to look at the ins and outs of things, you realise that that is not a

viable proposition. From where would we get the money to pay for any shortfall? Over the past 100 years, the Helmsdale has employed 10 people and it continues to do so. Where else is that type of employment to be found?

Richard Lochhead: When Robbie Douglas Miller referred to competitors overseas, he mentioned Norway, Russia and Iceland. Are the ownership patterns in those countries different to that in Scotland? Is it not the case that Scotland is just about the only country in Europe where the fishings are owned privately?

Peter Quail: There is public ownership in Norway. People will go elsewhere if it is cheaper. If we cannot provide the standard that we are providing at the moment to the people that we have at the moment, many of them will go elsewhere. We need the annual investment of people coming to us and putting money into the local community.

Richard Lochhead: If Norway can have successful fishings that are owned publicly, why cannot we have that in Scotland?

Robbie Douglas Miller: I am not sure how much Richard Lochhead is aware of fishing in Norway. I fish there quite a lot. In the past 50 years, Norway's 147 migratory salmon rivers have gone down to 23.

Richard Lochhead: Is that not to do with international climate change or for other reasons?

Robbie Douglas Miller: No.

Richard Lochhead: That is a bit of a misleading comment. It is the same situation with 90 per cent of the River Clyde. If Robbie Douglas Miller does not mind my saying so, that is a bit of a red herring.

The Convener: We will take a brief comfort break. Coffee is available for members and witnesses. We will reconvene in 10 minutes.

15:09

Meeting adjourned.

15:25

On resuming—

The Convener: I welcome members and witnesses back to the meeting and thank them for returning promptly. The adjournment lasted longer than the anticipated 10 minutes owing to a delay in the dairy section. Some members managed to get late milk with their coffee, but the black stuff will keep us awake. Before the adjournment, I was about to ask Mike Rumbles whether he had a question.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): It is interesting that three of the six witnesses who are giving evidence to the committee have direct fishing interests. This afternoon, the evidence session is on the general issue of the crofting community's right to buy and not just about fishing, although that is important.

In the past hour, I have listened carefully to witnesses, but I am a little perplexed. I do not know who the losers will be. It is obvious that the crofting communities will gain from the bill. I would be interested to hear responses to my questions from Peter Quail, Robbie Douglas Miller and Andrew Wallace.

The bill provides specific criteria for consent by ministers. It is carefully crafted and deals with many issues—I shall focus on a couple of them. Section 71 of the bill states:

"Ministers shall not consent to an application under section 70 above unless they are satisfied ... that the exercise by the crofting community body of the right to buy under this Part of this Act will support the sustainable development of the crofting community".

The bill is about progress, sustainable development and ensuring that there is enough money to make crofting sustainable and to maintain jobs. It states that ministers must be convinced

"that it is in the public interest that the right to buy be exercised."

I have heard Andrew Wallace and Robbie Douglas Miller saying that the bill will result in fragmentation, lack of investment and job insecurity, but I cannot see why that should be the case. I am still waiting to hear the evidence to back up their assertions. I have looked through the bill and the evidence that has been presented. Am I missing something glaringly obvious? I do not understand the objections, as the bill seems to contain all the safeguards in relation to sustainable development and the public interest.

On compensation, we have heard worries expressed about fragmentation and reducing assets. Section 85 states:

"The 'market value' of land or interests is the value it or they would have on the open market as between a seller and a buyer both of whom are, as respects the transaction, willing, knowledgeable and prudent."

It also states that account may be taken

"of any depreciation in the value of other land or interests belonging to the seller which may result from the transfer of land or interests including depreciation caused by division of the land or interests by the transfer of land or interests to the crofting community body".

That seems to be completely safeguarded by the bill and I genuinely still do not understand the basis for the fears that have been expressed. There does not seem to be any evidence behind

them. I would like to hear particularly from Peter Quail, Robbie Douglas Miller and Andrew Wallace.

15:30

Robbie Douglas Miller: You first asked who loses.

Mr Rumbles: Yes: I can see who gains, but I cannot see who loses.

Robbie Douglas Miller: The river owners lose.

Mr Rumbles: In what respect?

Robbie Douglas Miller: They lose their asset.

Mr Rumbles: They are fully compensated for it; they do not lose in a monetary sense.

Robbie Douglas Miller: If you had your house taken off you, would you consider its market value to be satisfactory compensation, despite the fact that you did not want to move from it? I do not think so. I think that you are jumping to a conclusion on that.

You also asked about funding. I am perplexed, because I understand that the money will come out of the land fund, which started off with a total of £10 million. I understand that a £4 million purchase has already been made, which leaves a balance of about £6 million. Are we not raising a lot of hopes against a balance of £6 million, which is an inadequate sum of money to buy, at the market value, fishing—

Mr Rumbles: So there is nothing to be concerned about, following your logic and from your perspective.

Robbie Douglas Miller: I am concerned: I think that the interim period presents a huge number of vagaries and uncertainties. We either get a damp squib or funding is sought from another area to make the capital purchases.

Even if the capital purchases are made, I am unclear how fishery ownership would continue to be funded, as Jim Wallace has said that no further funding will be available. I hope that members will take my word for it that the fishing that I own makes a loss—I can show that that is the case—so I would like to know how it would be funded. Unless the public purse will pay for it—Jim Wallace has already said that it will not—the inevitable result is a loss of investment. As our briefing paper states, there is a damaging hiatus of investment.

Mr Rumbles: What evidence do you have for that?

Robbie Douglas Miller: I can give you evidence to the tune of £2.35 million, which has not been invested into the fragile communities in the north of Scotland that would otherwise have gone ahead

with purchases. That is a significant sum of money.

That situation will continue. As Peter Quail explained, a number of people in the north of Scotland fear for their job security. They do not believe that a job in fishing and fishing management is a secure future and they do not understand where that industry is going. They are leaving the industry and are going elsewhere. A number of people are looking to buy houses and make their livelihood in the north of Scotland, but they cannot do that at the moment, because they do not know where their job will be.

Mr Rumbles: I want to nail this issue down. Your line of argument is completely unconvincing as far as I am concerned. You have told us in evidence this afternoon that a huge number of fishings have been on the market over many years. Why should things be any different now? Why should there be any difference in the market?

Robbie Douglas Miller: If someone does not know whether they will own an asset next week, next month or next year, that makes a material difference to their decision as to whether—

Mr Rumbles: But owners can sell any day of the week. Peter Quail spoke about this earlier and perhaps we should hear from him directly—I would certainly like to. As I said, owners can sell their land and fishing rights at any time. Does that not make things even more insecure? I do not see the connection.

Andrew Wallace: If someone's house is in a potential motorway corridor, there is a blight effect and the threat of compulsory purchase is considerable. If your house was under a specific threat of compulsory purchase, would you paint the window frames or build a conservatory? The answer is no, you would not.

Mr Rumbles: Yes, I would, because I know that I would get full market compensation for it. I do not understand the argument.

Andrew Wallace: The wider point is that the effect of the legislation—its footprint—will cover the crofting counties area, although the bill might be applied only in specific instances. The policy memorandum to the bill states:

"It is not envisaged that the crofting community right to buy will be frequently exercised."

To achieve a modest policy purpose—the Executive confesses that the right will not be taken up very often—the bill will create a substantial blight effect over a large area. The perceived benefit should be set against the cost of the removal of investment. It strikes me that that equation does not stack up.

Salmon fishings are distinct from crofting land—

they have separate titles and valuation and require different technical and investment responsibilities. Given that, salmon fishings should be dealt with only in part 2 of the bill, which applies nationally and not to a favoured part of the country. Fisheries come on the market fairly regularly, so communities can make acquisitions of logical fisheries units. Everyone will benefit from that and there will be no specific cost for one part of the country. That makes a more logical fist of the matter than hanging a compulsory purchase threat over a large part of Scotland, which would have all the impacts that we have identified.

Peter Quail: Life in general is uncertain, but if the compulsory purchase provision hangs over people's employment, it will be even more uncertain.

Mr Rumbles: I want to pursue that point because I do not understand it, given your response. The minister will allow a crofting community to exercise its right to buy only when there is a sustainable development impact, investment and a public interest. That is more secure than the current situation—which applies to you and many of your colleagues—in which private landlords or owners can sell any time, meaning that you are out of a job.

Peter Quail: Where will the investment come from for the rivers? That question has not been answered. Where will the money come from to make up the shortfall? The accounts for most rivers show that there is a shortfall. Is there a guarantee that the same number of jobs will be maintained after the bill is enacted? Companies that are sold are streamlined, which means job losses. Will a crofting community guarantee my colleagues full-time employment?

Mr Rumbles: The bill will enhance your job security rather than taking away from it.

Peter Quail: No, it will not.

Ian Rideout: The issue is about employment. I understand that purchases of assets, companies or organisations involve the Transfer of Undertakings (Protection of Employment) Regulations. If a crofting community body purchases a fishery, it will be obliged to adhere to the TUPE regulations, which means guaranteeing the continued employment of the people who work in the company.

It has been suggested that the right to buy fishings should be removed. We are fundamentally opposed to that and we feel that adequate safeguards are in place—the public interest and sustainable development requirements. If we use the Rio declaration's definition of sustainable development, that is an adequate safeguard.

In the draft bill, the period within which a crofting

community could apply to buy fishings was five years from when the community bought the related land. In the bill as introduced, that period has been reduced to one year, which means that crofting community bodies must exercise the right to buy a fishing within a year, rather than five years. I understand that that was done to reduce the potential for lack of investment. I make it clear to members and everyone else that we feel that the right to buy fishings is necessary and is part and parcel of a general crofting community right to buy. We have said consistently—although we have not dealt with it today—that to make the bill practicable and manageable, we must examine the detail. We are concerned that there are barriers in the detail to making the bill work.

Robbie Douglas Miller: I would like to pick up on a point that Ian Rideout made. Ian, were you consulted on the inclusion of salmon fishings—

The Convener: I am sorry. I cannot allow a debate between witnesses.

Robbie Douglas Miller: This is important.

The Convener: The subject of consultation has become dear to my heart since the start of this meeting.

Robbie Douglas Miller: No one was consulted.

The Convener: I will return to consultation later in the meeting, so you will have a chance to comment then.

Robbie Douglas Miller: Thank you.

The Convener: I would like to pick up on a point that Andrew Wallace made. Judging by most of the correspondence that I have read pertaining to part 3 of the bill, I think that the crux of the issue is the confrontational aspect of the compulsory right to buy without any appeal by the owner of the asset, be it land or fishings. I wonder whether a less confrontational way of approaching the matter would be to treat part 3 in the same way as part 2. In other words, the right to buy would become a right of pre-emption, so that when the land comes on the market the crofters have a right to buy either the land or the fishing. Would not that remove the confrontational aspect of the bill?

I would very much like to hear from Ian Rideout, Iain MacAskill and particularly Hamish Jack how they would treat that problem. I appreciate that what I suggest would probably take longer, but I feel that it would encourage a more natural change to land ownership and management than the compulsory right to buy would.

Mr Jack: I should point out that the people in Strathspey whom I represent are tenants of the Seafeld estate. To be fair, we have a good landlord. We pay our rent and the estate never bothers us—we do not see its representatives

except when there are rent reviews. However, when the Land Reform (Scotland) Bill was published, we had great hope for the future. If we are to have land reform, let it be radical.

Some tenants in Strathspey are from families who have been tenants of Seafeld for 300 years. They have made an input into those units over the years. They dug the fields out of the bog and drained them and they built their own houses. Even if they have the old agricultural tenancy, the right for their family to succeed them at the end of their tenancy is not guaranteed. Should they have to leave their holding for any reason, be it ill health, retirement or anything else, the landlord is legally obliged to compensate them for any improvements that they have made, but in some cases that can be as little as £1. We feel that the time has come for drastic change. If the Government is committed to keeping people in the glens, it must give local people—the greatest asset that the glens have—the right to have their own homes.

I appreciate being invited to the committee today. Our aim is to get smaller units, many of which are side by side with registered crofts, on to the crofting register of Scotland. In many cases, the registered crofts neighbouring those units are even bigger than the small units. We feel that if we do not get reform this time, should a Tory Government be returned, we will never get it.

The Convener: You took my breath away for a minute there. Would Ian Rideout and Iain MacAskill also like to comment?

Iain MacAskill: Part 3 of the bill is different because the situation is different in respect of existing crofting law. The more one tries to fit the two together as if they are both the same, the more complicated and less satisfactory the situation becomes.

Part 3 does not deal with the whole of the crofting counties. It deals with registered crofts, which make up only a small chunk of the crofting counties. We have to be specific with the statistics and information that we throw about.

I agree with my colleague Ian Rideout that the measure has to be included. It can be sensibly applied, although once we start watering it down and changing it, it becomes irrelevant.

As was pointed out earlier, the bill sets up massive hurdles—we have to go through a series of legitimate hoops to prove that a proposal is sustainable and will benefit the community. As a result, no proposal will reach the final stage unless it is totally valid. The more unnecessary hurdles we add on top of that, the more difficult the process becomes.

15:45

Ian Rideout: The bill also says that fishings should be "contiguous to" croft land. Furthermore, if, as has been suggested, the fishings are in the hands of a separate landowner, the bill would require a separate application to be made. Although it has been suggested that the right to buy could be reduced to the right of pre-emption, we would not accept such a measure. We would perhaps want the right of pre-emption after the first year; it forms the basis for the general community right to buy, which does not have a time frame. With the crofting community right to buy, there is a year's limit on compulsory purchase, but there is no indication whether there is a right of pre-emption after that year. We have heard statistics for fisheries coming on to the market. When they do, crofting communities are likely to want to use the right of pre-emption after the prescribed period; under the bill, the one-year period restricts the possibilities for crofting communities to exercise that right.

The Convener: I call John Farquhar Munro.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Thank you, convener. We are only an hour and 40 minutes into the meeting. Just for clarification, have we moved away from the debate on fishing?

The Convener: It would be useful if we could do so, but there is nothing to stop you asking questions about fishing.

John Farquhar Munro: I just want to make a brief point to the fishing delegation. I find it difficult to accept its suggestion that if salmon fisheries were publicly owned they would immediately go into decline. Sufficient evidence from Assynt, the Stornoway Trust, which my colleague Alasdair Morrison mentioned, and other areas shows that publicly owned fisheries have been managed very successfully. I know of individual estates with fisheries to which the public have been given access; those fisheries have been successful and have not been damaged in any material way.

Before I move on, I point out to Mr Jack that the decline in wild salmon stocks on the west coast of Scotland has been due to the fact that various estates and river proprietors, including the Crown Estate, have rented out huge tracts of the coasts as salmon-netting stations. Mr McGrigor asked about the Glendale salmon fishery, which was destroyed simply because of the bag-netting that was common practice around that coast. As a result, individual proprietors have much to answer for in the decline of salmon fishings. I repeat that I am not prepared to accept the statement that the public ownership of a fishery means that it would go into decline.

I sympathise with Mr Jack, because I know that

he came to the meeting to discuss not salmon fishings or river systems but the land reform proposals as they affect tenant farmers. A submission in the documents outlines the case that he wanted to present. We have discussed the issues for a long time and it is to Mr Jack's credit that he has stayed to listen to the debate. He rightly makes the point that tenant farmers are being discriminated against because they are not afforded the opportunity to make a bid for their property under the same terms as the crofting community is. The crofting community has enjoyed that right over a number of years and there are set procedures and criteria for exercising it. I see no reason why, after a continuous period of tenancy by the same tenant—whether that period should be 15, 20 or 25 years is a matter for discussion—such an opportunity should not exist on the same favourable terms. I am sure that other committee members have views on that issue, but I support Mr Jack and many other tenant farmers who have made the same case over a number of years. I hope that the committee will consider it favourably.

The Convener: I am not sure whether you asked any specific questions, John, but you made an excellent statement.

John Farquhar Munro: I waited so long to get in that I lost the thread of my question.

The Convener: I do not blame you at all. I call Jamie Stone.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Convener, it is very good of you and your colleagues to give me the opportunity to ask a question, as I am not a committee member.

My question is pretty simple. It strikes me that the argument has two prongs, the first of which is slightly from the lairds' perspective of not wanting to lose land and the second of which concerns employees such as the ghillies and others who work on the rivers. As we have heard, lairds come and go; however, ghillies do not come and go quite so easily. The jobs are vital for extremely remote areas.

My question is for all sides of the argument. If necessary, how could we constructively tweak the bill to safeguard further those vital local jobs? Are you about to rule my question out of order, convener? You look pensive.

The Convener: Not at all. I am pensive, but on another subject.

Peter Quail: The CCFRG wants the compulsory purchase provision to be removed and part 2 retained. We have no problem with a buyer-seller relationship.

Mr Stone: Yes, but what if that provision is not removed? How would you tweak part 3 to

safeguard your job?

Peter Quail: There is no way to tweak part 3, except by getting rid of the provision on compulsory purchase.

Mr Stone: Okay. You see the matter as pretty black and white. Next, please.

Robbie Douglas Miller: Peter Quail is right. It is very difficult to tweak something that is absolute. Either we have compulsory purchase or we do not. If we do, we have a problem, and simply requiring the person who takes on the concern to keep the same number of employees does not stack up and will not work out. As a result, I am rather inclined to agree with Peter. The issue is black and white: either the bill provides for compulsory purchase or it does not.

Andrew Wallace: I endorse that position. However, if the bill is passed as it is, we would be happy to engage in further dialogue with the Scottish Executive to ensure that non-legislative safeguards are in place and that proper technical expertise is provided to crofting communities. There should also be some form of arbitration mechanism in the event of disputes over what was and was not good for a fishery.

The Convener: Every member has now had the chance to put and follow a line of questioning. As I realise that other questions have now emerged, I am quite happy to allow another round of questioning. Fergus Ewing was the first member to catch my eye.

Fergus Ewing: I want to address some questions to Hamish Jack—

Mr Stone: With respect, convener, I think that the other witnesses want to answer my question.

The Convener: I beg your pardon. I thought that no one else wished to comment. Please feel free to comment on Jamie Stone's question.

Ian Rideout: Our position is the same. Compulsory purchase is an absolute; it cannot be reduced to a right of pre-emption. However, although we feel that that the provision should be included as part of the right to buy, the bill contains adequate safeguards. I agree with Andrew Wallace that many more additional non-legislative safeguards could be introduced, particularly on the subject of technical expertise. However, the basic principle must remain—the crofting community right to buy must extend to all aspects of what that land is made up of, which includes rivers, the land, minerals and sporting rights.

Iain MacAskill: I, too, agree that that is absolute, in the sense that that must remain the principle. I am almost totally confident that the problem is solvable at the point of decision and

ultimate control. We must remember that if a community intends to buy, it will be required to take considerable steps to prove that its proposal constitutes a sustainable development. I am sure that any community would want to preserve employment for its people. It must show that buying is in the interests of the community as a whole.

No matter how good the landlord is, private transfers do not currently have to observe those requirements. Surely imposing the need for good management prior to a minister agreeing is not a step back, but a step forward.

Fergus Ewing: I want to direct questions to Hamish Jack and to follow the line of questioning that John Farquhar Munro almost initiated, which gave us a clear and helpful statement of Hamish Jack's case. I begin by asking Mr Jack how many farmers in Strathspey he represents here today.

Mr Jack: It is between 30 and 40 at the moment.

Fergus Ewing: How long have those farmers been tenant farmers?

Mr Jack: Their families have held the tenancies for 70 to 100 years.

Fergus Ewing: In some cases, I believe that they have done so for hundreds of years.

Mr Jack: That is correct.

Fergus Ewing: That is so in your case—although not for you personally.

Mr Jack: No.

Fergus Ewing: I am glad to clarify that. You all have in common that you lack security of tenure. Is that right?

Mr Jack: Most definitely. Many of those farmers have the old agricultural tenancies. Any farm that is given up nowadays is usually amalgamated with its neighbours. Of two farmers at home, one has nine places and the other has seven. Any small place that is likely to come up on the market will be amalgamated. We want that decline stopped. We want the families who have made those places to have the right to stay there.

We feel that getting registration would achieve that. Registration would bring great imagination and release a lot of energy because if people had the incentive of having their own unit, they would be willing to reinvest, as even if they did not benefit from that, their families would.

Fergus Ewing: At the moment, any tenant farmer who invests and improves their farm stands to receive no compensation.

Mr Jack: They receive minimal compensation.

Fergus Ewing: So the problem is that you and your colleagues are not registered as tenants of crofting land.

Mr Jack: That is correct.

Fergus Ewing: I believe that that is the case because although Inverness-shire is a crofting county many tenant farmers there chose not to register when they had the opportunity prior to 1955. Is that your understanding?

Mr Jack: Some of the older tenant farmers tell me that many were inhibited because they did not want to offend their landlords. That is possibly why many of them did not take the opportunity to register.

Fergus Ewing: I understand that if you registered you would have automatic access to the crofting counties agricultural grants scheme—the CCAGS.

Mr Jack: Yes, that would be a follow-up. However, even without being registered we can apply for CCAGS grants. To achieve that we have to sit a means test. The Scottish Executive does not tell us what the figures are but, should we pass that means test, CCAGS grants are open to us for two and sometimes three years. We are designated by the Secretary of State for Scotland as having the same economic standing as a registered crofter. Our argument is that if we are deemed to be of the same economic standing as a crofter, could the law not be amended to allow those units that are in receipt of such grants to go on to the crofting register?

16:00

Fergus Ewing: As has been pointed out by Mr MacAskill and John Farquhar Munro, the part of the bill that we are considering today is not designed to consider the interests of Strathspey in particular. Nonetheless, I imagine that we all wish to ensure that tenant farmers in all parts of the Highlands benefit from the policy, which should not be a blanket policy but should take account of all the circumstances. In short, are you seeking the right to register as crofters, so that crofting law would extend to your situation in the same way as it applies to registered crofts?

Mr Jack: That is correct.

Fergus Ewing: Does the Scottish Crofting Foundation supports Mr Jack and his colleagues?

Ian Rideout: Yes, we totally support them. We would welcome the inclusion of tenant farmers on the register, so that they can come into the crofting fold.

Fergus Ewing: Finally, I understand that the Executive's policy is to encourage the extension of crofting outwith traditional areas and that there has

been some success on that front in areas such as Balmacara. I am grateful for Mr Jack's evidence.

Rhoda Grant: I will raise a follow-up point with the Crofters Commission before I ask a question to which I want some answers.

At present, new crofts can be created, but how is that done? Would such a procedure be of help to Mr Jack?

Iain MacAskill: It is a cumbersome process. For example, it took two years at Balmacara, even with a willing landlord, the National Trust for Scotland. The land must be completely adjacent to existing croft land—a common grazing in Skye was extended because it was adjacent to croft land. There might be problems in Mr Jack's case as matters stand, although I totally understand his concern about the unfairness of a situation in which identical units that are side by side in the same county are treated differently. Perhaps we will have to wait for the new crofting act, which I understand is around two years away, to amend the existing procedure. I am quite happy to look into Mr Jack's case, but I am pretty sure that I would find that we could not apply the procedure in his case.

Rhoda Grant: In the Scottish Crofting Foundation's submission, you mention that you want to change from a simple majority to 75 per cent the number of crofters who would have to be in favour of a buy-out. I am a little concerned about that proposal. Why do you want to make that change?

Ian Rideout: Initially, during the consultation, we asked for the figure to be 100 per cent. We understand that, under the European convention on human rights, that cannot be the case, but having a simple majority—or 51 per cent—could cause division within crofting townships, if 49 per cent were opposed to a buy-out. We are talking about the majority of crofters voting at the beginning in favour of starting the process. A larger majority gives a better mandate. Our concern extends from that point, as we feel that a similar majority should be required in the constitution of the incorporated entities, in respect of both directors and members, to ensure that the interests and voice of crofting are heard by the management of those companies.

Rhoda Grant: I am sorry—I had difficulty following your answer because of the conversation that was going on beside me. Could you explain why a 75 per cent majority would lead to greater harmony? Great problems could be caused in a community if, say, 60 per cent of crofters voted for a buy-out, but they were prevented from going further by the remaining 40 per cent.

Ian Rideout: Our point is that we would like a minimum of 75 per cent in favour of a buy-out, as

that would mean that, potentially, only 25 per cent would be opposed. There would always be the possibility of harmony if those percentages were adopted, as people would find that a majority of 75 per cent voting in favour of a buy-out was acceptable. If the majority vote in favour was 51 per cent, with 49 per cent voting against, there would be a difference of only 1 or 2 per cent and greater disharmony would be caused in townships than would be the case if there were a 75:25 split.

Rhoda Grant: I still feel that a minority preventing the majority from doing what they want to do—for example, if 74 per cent of crofters want to exercise the right to buy and a small minority say that they cannot—would cause more disharmony than operating a simple majority. Could a situation arise where absentee crofters and the like were persuaded to vote against action when they had no interest, which could prevent the community from progressing?

Ian Rideout: In my understanding, absentee crofters would not be included in the vote.

Richard Lochhead: I have two quick questions, the first of which is for Hamish Jack in particular. Would he recommend that his proposal for tenant farmers in his area be offered to tenant farmers throughout the rest of the country, not just the crofting counties? That would not relate to part 3 of the bill.

Mr Jack: Naturally, I would like to see it offered to everyone. However, it is a must for everyone in the crofting counties who is in a similar position to ours.

Richard Lochhead: My second question is for the Scottish Crofting Foundation and relates to the powers that the crofting communities will have if part 3 of the bill is enacted. Some people are concerned that under that part of the bill, the crofters would have a lot of power, which might be to the detriment of the wider community.

I understand—no doubt John Farquhar Munro will correct me if I am wrong—that there was a recent case in Skye when the landowner closed the local shops and the local community wanted to open a co-operative shop. The only land that that shop could be built on was a quarter acre of common grazing. However, the crofters voted three to one against giving or selling the community that land to build a shop. There are examples where the crofters might not act in the interests of the wider community. Are there any safeguards that you can offer to the wider community that that will not happen should part 3 be enacted?

Ian Rideout: The definitions of public interest and sustainable development in the bill continue after incorporation. Ministers reserve the right to review that at any stage. If ministers are not happy

with what is happening, they have the option to compulsory purchase from the community body. My understanding is that the terms of the bill require criteria to continue to be met after the set up.

Richard Lochhead: So you would not want a situation to arise like in the example that I gave, where crofters could take a simple vote against the wider interest?

Ian Rideout: I do not think that it would occur. Generally speaking, in such townships there is a sense of harmony at this stage. The bill takes adequate consideration of the wider community interest—people who are not directly involved in crofting—within a township. Townships are largely based on crofting. One of our concerns following much of the debate is that, as crofters are able people and are educated in the university of life, it is absurd to portray them as unable to make appropriate decisions or to manage such entities. I am not suggesting that Mr Lochhead is saying that, but it is a view that has been put across and it is totally untrue.

Iain MacAskill: We have carried out some pilots on community decision making—in other words, passing our powers to communities. In the areas where we have tried it—we have focused on our responsibilities, which are largely crofts—the communities themselves decided to change and to involve other members of the community who were not crofters, thereby strengthening what they did.

One must remember that crofters can also be lawyers, doctors, teachers and so on. They are a cross-section of the community. All communities differ. Human nature will play a part from time to time. I have no doubt that community bodies that have decided to proceed will involve the whole community and rightly so.

Murdo Fraser: I have two questions for Hamish Jack. What do you find attractive about moving to crofting tenure? Is it the added security or do you have an eye to coming within the provisions of part 3, which would give you a right to buy at some future point?

Mr Jack: Security is the greatest asset of all. If we have the security, we will invest in a property and our families will succeed. Whether we buy is optional. I believe that, if we are to keep communities in country areas, they must have a sustainable future. Our schools must be kept open and our post offices must be kept going. The security afforded by croft registration and, when we have that registration, the ability to diversify will help our cash flow and lead to new ideas and a new energy coming to the countryside.

Murdo Fraser: Thank you. I have a brief follow-up question. If you do as you propose and re-

register the land as crofting land, that would require a change in the landlord-tenant relationship. Under the ECHR, compensation would have to be paid to the landowner. Would that compensation come from the pockets of the new crofters or from the public purse?

Mr Jack: People may talk about human rights now, but they did not talk about human rights 100 years ago when the land was cleared. Maybe this is radical, but it is how I feel. Given the rents that the tenants have paid over the years and the improvements that will need to be made, I do not think that the landowners will require any more compensation than 15 times the annual rent as payment for the property.

Murdo Fraser: We are not here to right the wrongs of 100 years ago, but I thank you for your answer.

Peter Quail: In Scotland, we should look towards the future instead of always remembering the past and giving payback for it. Many wrongs were done all over the country. If we start righting wrongs now, we will be in big trouble.

Mr McGrigor: I have two questions for Andrew Wallace and Peter Quail. The water framework directive, which will be introduced quite soon, will designate Scotland as a super catchment—I presume, out of respect for the number of salmon that we still have. Do you consider that the compulsory purchase power will affect that in any way? What would be the effect if rivers did not meet the targets that are set by Europe in that directive?

Peter Quail: The compulsory purchase power will affect investment, which will affect the number of returning salmon. Can you repeat the second part of your question?

Mr McGrigor: What will happen to Scotland if rivers do not fulfil their targets under the directive?

Peter Quail: Under the legislation, the owners will be heavily fined.

Mr McGrigor: Does that mean that Scotland will be fined by the Commission?

Peter Quail: Yes. If the number of salmon declines, the owners will be legally responsible.

Andrew Wallace: The water framework directive, which proposes the division of Scotland into three large catchment areas—not one, although that decision is still pending—will have a profound impact on the management of the freshwater resource. I am not convinced that it is sufficiently fine-tuned to address some of the issues that we are discussing.

Mr McGrigor: My second question concerns the involvement of Highlands and Islands Enterprise, which I presume is the body that will produce the

funding for some of the proposed buy-outs. I gather that the Crofting Counties Fishing Rights Group wrote to the directors of HIE, asking for their views, and received only one reply. Nonetheless, that resulted in your holding a meeting yesterday with Dr Hunter and Sandy Cummings. How did the meeting go and were any of your fears addressed?

Peter Quail: Dr Hunter gave us absolutely no answers to the questions that we asked him on funding and security of title. I think that the compulsory purchase part of the bill has been shoved through with no thought for afterwards. Although the money is there to buy the rivers, I do not think that anyone has sat down and thought about what will happen afterwards. Has anyone worked out whether rivers are viable? Where will the shortfall come from? Dr Hunter could not answer any of that. Can anyone at this meeting say where the money to support the existing jobs will come from?

16:15

Mr Rumbles: Do you not accept that the nub of the question is in section 71(1)(j)? It states:

“the exercise by the crofting community body of the right to buy”—

the phrase is “right to buy” rather than “compulsory purchase”, which several people seem to use all the time—

“will support the sustainable development of the crofting community”.

Other members kept talking about one of the many hoops that have to be jumped through, which is that the minister has to be convinced that there is sustainable development for the future. Do you not accept that? I would have thought that you would have considered that issue in particular, because it is so important to the point that you have just made.

Peter Quail: I accept that, but the compulsory purchase aspect is still there.

Mr Rumbles: Yes, but surely for you the nub of the issue is that the minister has to be convinced by the crofting community that it has a viable plan for sustainable development of the fisheries for the future. According to the bill, if the crofting community does not have such a plan, the minister cannot give consent. I do not understand the point that you make. Will you clarify it further?

Andrew Wallace: Perhaps I can help. I take your point—there are safeguards and we welcome those, although I would like more of them. However, as I have said, the impact of the bill extends beyond any acquisition, which means that there will be countless circumstances around the crofting counties on which the minister’s view will

be neither here nor there. Investment will be pulled and, as a consequence, jobs might be lost.

Mr Rumbles: The minister must be convinced that the crofting community has a sustainable development plan for the future that involves investment and enhancement of the area for the purposes of sustainable development. Are you saying that that is a blight?

Andrew Wallace: No, you are not listening to what I am saying.

Mr Rumbles: I am listening now.

Andrew Wallace: Although the minister's decision is based on an acquisition—where a bid is made by a crofting community—the extent of the effect of the bill goes well beyond that, into areas where there might not be any proposals for acquisitions and where investment and expenditure is reduced because of lack of security of title. We have just heard Ian Rideout say that security is the best asset of all and that people and their children benefit from all the investment, expenditure, time and effort that they put into owning and managing a resource. Precisely the same argument applies for people who own salmon fisheries.

Robbie Douglas Miller: It seems extraordinarily strange that we are having a debate on these two subjects: the creation of new landlords and the abolition of other landlords. That does not make any sense.

Mr Morrison: From where I am sitting, we are talking about the redistribution of wealth in some communities. Mr Quail, what is to prevent the proprietor or proprietors—I have no idea exactly who you work for, but it is not relevant—selling the fisheries before you get back to Helmsdale tomorrow?

Peter Quail: What are the chances of the Scottish Parliament closing down, or something like that? Life is a gamble. My proprietors could sell up and go tomorrow. They could ship out now. With the threat of compulsory purchase, who is to say that they are going to stay? They are obviously not wanted.

Mr Rumbles: You keep talking about compulsory purchases. The bill is about empowering the local community in their local areas.

The point that Alasdair Morrison has just put to you is that you might be in the car or train back to your local community and, on arriving, might find that your job has gone and that the land and fishing rights have been sold. The bill does not take any security away from you or members of your group. I would have thought that it adds to your job security. Do you not accept that?

Peter Quail: No, I do not accept that at all. The bill gives me no security.

Mr Rumbles: That is strange.

The Convener: The Crofters Commission submission states:

“Recent research suggests that crofters seek to acquire title because of perceived or real threats and only in isolated cases has ownership brought real economic benefits for individuals.”

I ask the representatives of the Crofters Commission to point out to the committee what distinguishes the few individuals who benefit from others who might have bought their properties.

Iain MacAskill: On the point about perceived threat, Assynt, which moved because of uncertainty about a landlord who had gone bust and was in liquidation, Eigg and various other places have reacted to threat. The bill gives us the opportunity to react to opportunities as well as to threats.

On the question of whether individuals have gained, most have not, because although they are now owner-occupiers, they are still subject to crofting statute. They are the still the same operators of the same small unit and they face the same problems that they faced before.

Those who may have gained are those who may have been near Inverness, Stornoway or any urban situation where there is demand for land and housing. They might have decided to opt out of crofting and start de-crofting for housing purposes. In other words, they would asset strip.

In the Western Isles, the number of owner-occupiers is tiny—something like 1 per cent of crofters. One has to move towards Inverness and other urban areas before the owner-occupiers represent a significant proportion of crofters.

The Convener: Unless I have picked you up wrongly, you have virtually said that the success of crofting ownership depends on asset stripping.

Iain MacAskill: The crofters who have realised substantially higher sums are the ones who have basically become property developers, which is not what crofting is about. There has been no particular gain outwith that. Others have moved into having other small businesses on their crofts and developed in that way. By and large, owner-occupiers have not particularly gained financially.

The Convener: I quite understand what you are saying, but does not that give weight to the argument that Peter Quail, Robbie Douglas Miller and Andrew Wallace are mostly making about maximising the economic capability of the asset that the crofter purchases? In other words, if the right to buy fishing rights was exercised, that fishery would have to be used to its maximum

economic effect, which might not be in the best conservation interests of the river.

I think that what you just said gives weight to the argument that, where the crofters purchase the salmon fishing rights, they would have to maximise their output, which would be detrimental to the long-term environmental impact on the river.

Iain MacAskill: I do not think that what I said gives weight to that at all. We are not talking about an individual crofter buying the salmon rights on the estate. We are talking about a community—a collection of crofters and other people living in that community—coming together to form a proper company with proper goals to meet requirements before acquiring the rights. The two are totally different—they are apples and oranges.

We are not talking about an individual crofter buying a couple of acres of land and seeing what he can do with it. We are talking about a much more fundamental use for a community of all the assets of the land. That might be to provide housing for other people to live in or for younger people to come and join their families on that land. It might be to use that land for environmental purposes and might involve fishing, tourism and recreation.

It is disappointing that today's debate has concentrated on a single issue, important though that issue might be; the acquisition of land by crofters is a much wider issue.

The Convener: I accept that the debate could have had a better balance, but the fact is that most of the controversy centres on the right to buy salmon fishings. That is why the questions have been weighted in that direction.

I would finish this—

Robbie Douglas Miller: Convener, you started the meeting two and a half hours ago on the subject of consultation. We have not yet returned to it.

The Convener: I was just about to finish off the session by asking whether you believe that the Scottish Executive conducted sufficient pre-legislative consultation on this section of the bill.

Robbie Douglas Miller: My apologies.

My understanding is that no river owner, manager or employee was consulted on the issue. Furthermore, neither the Atlantic Salmon Trust nor the Association of Salmon Fishery Boards was consulted. The Scottish Crofting Foundation and the Crofting Commission were not consulted; in fact, I do not believe that the Scottish fishery department was consulted either. The measure was included in the bill on the basis of 15 recommendations from a source that is as yet unclear, as it has not been made public. Who

suggested this proposal, where did it come from and who is behind it?

Ian Rideout: We feel that there was a good deal of consultation on the draft bill, which is something that we would commend. Indeed, some of the recommendations that we made at that stage have been included in the bill.

Rhoda Grant: I have a point of clarification concerning Iain MacAskill's comments about how individuals have benefited from buying their crofts. Was he seeking to make a contrast between individuals buying their individual crofts and crofting communities buying their community, with the greater benefits that that would bring?

Iain MacAskill: Indeed. There is a substantial difference between those two aspects. Our subject today is the community, which is a very different animal from an individual with a few acres.

We were quite happy with the consultation; indeed, some changes have been made to the draft bill as a result of it.

Mr Rumbles: Does Robbie Douglas Miller in particular accept that there was a huge amount of consultation on the draft bill, which has resulted in some quite radical changes in the bill that we are now discussing?

Robbie Douglas Miller: Yes, if you take the bill as a whole. However, if you mean the inclusion of salmon fishings in part 3, I have to disagree with you.

Stewart Stevenson: I note that paragraph 6.48 of the draft land reform bill consultation paper, which was published in February 2001, explicitly refers to

"mineral rights and salmon fishings"

and specifically says:

"Comment on these provisions would be welcome."

The people opposite should have taken the opportunity to make representations at that time.

Mr Morrison: I can further assist Mr Miller. As has been rightly pointed out, there have been 3,500 respondents to the consultation on the draft bill, and they have helped to inform the bill that the deputy minister published on 27 November.

Robbie Douglas Miller: They came through before the draft bill.

Mr Morrison: We have also heard from Mr Rideout, whose organisation represents 4,000 to 5,000 individuals. They seem quite satisfied with the consultation process.

Robbie Douglas Miller: I say again that they came through before the draft bill.

Andrew Wallace: On a point of clarification, no

one would dispute that the draft bill was presented as a consultation. Indeed, it was preceded by three very competent consultation processes, which I believe were identified by different colours. I cannot recall the names of the documents, but they were amber, purple and green. However, the consultation process extended over the past three years, and none of those papers gave us an opportunity to address the subject. It would have been profoundly helpful if we had been allowed to do so.

Mr Rumbles: How does that square with what Stewart Stevenson has just said?

Stewart Stevenson: I will read from "Land Reform: The Draft Bill", which was published on February 2001. The document says:

"The effect of the legislative proposals at sections 77 and 80 is to allow the crofting community body choice as to whether or not it will purchase the mineral rights and salmon fishings associated with land it acquires under the crofting community right to buy."

The paragraph then goes on to speak in the broad terms that are now reflected in the bill and specifically asks for comments on that particular issue. That was the best part of a year ago.

The Convener: Absolutely. However, I wanted to ask the question because of people's concerns that, prior to the publication of the proposed bill, there had not been much consultation on this aspect of the bill, whereas there had been considerable consultation on its other aspects.

Stewart Stevenson: I do not want to lengthen the discussion too much. I am merely making the point that it has been very nearly a year since the issue was raised and comment specifically invited, and that we are in this situation because of what has happened.

The Convener: Frankly, I do not believe that it is helpful to draw out this discussion any longer.

I propose to close the evidence-taking session now. I am very grateful to both the front-bench spokesmen and their assistants for giving up considerable time today to attend the meeting. I am sorry if anyone feels that there has been an imbalance in the debate. However, the fact is that the questions that committee members wanted to put have been put. Although we might or might not be happy with the answers, we are certainly much better informed than we were at 2 o'clock this afternoon. Thank you very much for that.

I ask you to step down as witnesses, but you are more than welcome to stay for the rest of the meeting.

16:30

In summing up the session, I ask members

whether they have any statement to make on the past two and a half hours of evidence or whether they have any points that they wish to tease out. It is fair to say that we have concentrated on two aspects of part 3 of the bill. First, the main concern about fishing rights centred on the perceived impact of the bill on assets, the perceived need of public funds to replace private investment and the possible impact on job security. However, the other side of the argument was equally well put.

Secondly, on the general crofting right to buy, witnesses questioned the need for compulsion; the time scale, in particular the limit of one year following the purchase of land to buy fishings; and the majority in any vote. Furthermore, it was suggested that rights should be extended to tenant farmers in the crofting counties. If members have anything to add regarding the major concerns that were raised with us, they should say so now. The clerks will circulate an e-mail with a summary of the afternoon's evidence, and any comments from members will be welcome.

Richard Lochhead: Although we did not discuss it in great detail, the one point that I would add is support mechanisms for the period after compulsory purchases are made. The committee should return to that issue.

The Convener: I think that I mentioned that when I mentioned the need for funding to replace current investment. However, that is fine.

If members are happy, we will move on to item 2 on the agenda—[*Interruption.*]

Rhoda Grant: Convener, I think that I will need a red flag or something to get your attention.

The Convener: Yes, you might need it occasionally.

Rhoda Grant: We should also add to the report the suggestion that the community right of pre-emption should be extended to the fisheries right after the one-year limit is reached. The point is valid because the measure is available to other communities.

The Convener: Thank you for that.

Subordinate Legislation

Plant Protection Products Amendment (No 3) (Scotland) Regulations 2001 (SSI 2001/454)

The Convener: Item 2 on the agenda is consideration of two statutory instruments under the negative procedure. If no members wish to speak on the first set of regulations, are we all content to make no report?

Members *indicated agreement.*

Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No 3) Amendment Regulations 2001 (SSI 2001/455)

The Convener: Do members have any comments on the second instrument?

Stewart Stevenson: These regulations mark a very welcome return to free international trade in almost everything that we produce. There are, however, three specific exceptions that relate to wild game in the Scottish Borders and the Stranraer and Dumfries areas of Dumfries and Galloway. In essence, that means that wild deer cannot yet be exported. It is slightly disappointing that there was not an explanation about that. I had to dig quite deep before I found that out.

The curious thing is that we are still not allowed to export these beasts because of a lack of traceability, yet at no stage during the foot-and-mouth outbreak did we identify the wild deer in those areas as a potential reservoir of infection, and no cull was carried out. It is slightly disappointing to find out that we are still restricted at this stage. However, we do not need to hold back the regulations too much, because I understand that the issue will return in two, three or four weeks' time, and that that particular restriction is likely to be lifted. It was odd to find that we are restricted on something that, according to veterinary advice, was not an issue. Having said all that, no one has contacted the Scottish Executive to make a point about it.

The Convener: I can assure you, living in Galloway as I do, that the deer population was very much put under the microscope, at least locally, if not nationally, and that there was even talk at the time of a cull of the entire deer population. It has been of concern to the vets involved that there might be a residue of the foot-and-mouth virus among the deer population, so I can see why there was considerable local concern about that—although it may never have hit the national headlines—and I can see why there are restrictions. I agree that the matter should be returned to fairly shortly, and that the restriction

should be lifted.

Stewart Stevenson: I understand that the matter will be returned to shortly.

The Convener: That will complete the process, I am delighted to say. Thank you for bringing up that point, Mr Stevenson. I take it that you do not wish us to take any other action.

Stewart Stevenson: No, I do not.

The Convener: Are members content for us not to make any further suggestions in our report to the Parliament?

Members *indicated agreement.*

Integrated Rural Development

The Convener: Before the recess, we agreed that any members who wished to do so could propose places that the committee might visit with a view to its stated aim of trying to determine what is blocking integrated rural development. Four specific bids have been made.

Rhoda Grant: I notice that nobody has made a bid for an island. I wish to make a bid for Colonsay, which is an initiative-at-the-edge area with specific problems. I think that it would be useful to go there. I am not sure whether transport will be possible, but it would be well worth considering.

Stewart Stevenson: I do not think that the transport available would allow us to get to Colonsay and back.

Rhoda Grant: That is the issue—what bigger barrier is there to rural development? We could consider hiring a boat from somebody; I do not think that it is that expensive. I think that people have gone across there for one-day visits in that way. It might be difficult for the clerks to arrange, but boat hire is quite common, and someone local would be able to help out.

The Convener: I have just asked the clerk about the availability of his own sailing boat, but he assures me that it is not big enough.

Stewart Stevenson: And I will not fly us there either.

The Convener: Nonetheless, Rhoda Grant's suggestion is noted at this point and we will return to it.

Do you wish to comment, Richard? I thought that I saw you trying to catch my eye.

Richard Lochhead: No, convener—although I would like to suggest putting Deeside on our list as a matter of course, rather than always waiting for Mike Rumbles to suggest it, as it is his constituency.

Mr Rumbles: I take exception to that. I will explain why Mid Deeside Ltd figures among the suggestions. Obviously, it is located in my constituency, and I know from personal experience what problems affect it. Rhoda Grant is right: we need to consider the real issues, rather than just thinking of where we would like to go. I am perfectly happy to go to any other area in which a real issue is involved. That is why I suggested Mid Deeside Ltd, whose chairman had a fruitless meeting with the Minister for Environment and Rural Development.

Mid Deeside Ltd is a tremendously successful community partnership company and, unlike in other areas of Scotland, such companies in its

area are not part of the local government set-up but are run entirely by members of the local community. They have had great success in accessing project funding.

A typical problem throughout Scotland is that such good local initiatives will stumble because they cannot access core funding. That is a major issue for the committee; that is why I suggested Mid Deeside Ltd and for no other reason.

Richard Lochhead: It is important that we go to an island, whether it be Colonsay or another island, as well as other locations that have been mentioned.

Mr McGrigor: First, I endorse what Rhoda Grant said. I, too, think that it is important to visit an island, but it is hard to decide which particular one of the 60 to visit. Secondly, I suggest a visit to Kintyre and the Kintyre initiative working group. From Campbeltown up, the whole Kintyre peninsula has been in a low state for some time. There is an issue about its ferry. The area recently got new employment through the wind-farm manufacturing plant, but the whole area needs rejuvenation. It would be a good place to go to.

The Convener: I am not against your suggestion, but we must bear in mind that we are specifically trying to identify barriers to integrated rural development. It does not really matter what those barriers are. I am not speaking against your suggestion, but we must remember to focus on those barriers in our discussion, to help the Executive—if I can put it that way.

Mike Rumbles gave a passionate defence of his suggestion. Perhaps Fergus Ewing can do the same for his suggestion.

Fergus Ewing: Yes. We are planning visits to find out what is preventing success and what the barriers are to rural development. Therefore, I can understand Mike Rumbles's approach of identifying particular companies and issues.

I focused, however, on the general problems that exist in Lochaber. I have mentioned only some of those problems, such as the public and private transportation difficulties, the problems of housing shortages and the high costs of housing, particularly in the west Lochaber area.

In parts of west Lochaber, such as Lochaline—which is dependent on fish farming—Strontian, Acharacle and Lochailort, the problems might not be dissimilar from those that are encountered on islands. The difficulties of getting to remote parts of Ardnamurchan, for example, are probably on a par with the difficulties of getting to some of the islands, but perhaps not as difficult as getting to Colonsay.

Lochaber has suffered particularly because of tourism problems. Because the national park is

being created in Cairngorm, other areas in the Highlands that will not be within the golden boundaries of the national park may be beginning to feel that they will be left behind. If that is the case, perhaps we should find out about it sooner rather than later.

Specific difficulties face most of the major industries in Lochaber, but perhaps some of the major employers have opportunities as well. I do not want to pre-judge the evidence, but I think that there is a strong case for visiting Lochaber. As far as I know, that is not something that the committee has done so far. Members might be aware, however, that Lochaber falls within my constituency, so I cannot say that I do not have a personal interest in the matter.

The Convener: Does Richard Lochhead want to flesh out his general suggestion?

Richard Lochhead: Yes. Huntly is a town in Gordon that is experiencing difficulties in terms of the number of empty shops in the high street; that situation has arisen in just the past year or two. Huntly has the second-largest rate of unemployment in the whole of Aberdeenshire.

Buckie is a coastal town that in recent years has experienced difficulties because of the decline of fishing in the town. Buckie is on the list as a suggestion of a coastal community to visit. I think that we should visit a coastal community, but it might require a bit more research to find out which one would be the best to visit.

16:45

Stewart Stevenson: Richard Lochhead and I discussed Huntly and Buckie as potential candidates before he submitted the suggestion. The advantage of our visiting either of those towns is that they have a reasonable hinterland that could draw people from a variety of rural communities into a participative event, were we to hold one. My constituency is not alone in being an awkward intermediate area, in the sense that it is rural and shares many of the problems of the traditionally underprivileged rural areas but is also relatively wealthy. We require the opportunities that are now being denied us because of things such as our not being able to compete on business rates, our not being in any grant-aided areas, our finding it difficult to come to terms with the changing world and our having a wide diversity—within a reasonable hinterland of either Huntly or Buckie—of different rural problems in different communities, which could all be brought together. To meet the requirement to find somewhere to visit that is coastal, we might focus on Buckie.

The Convener: As the only person here who lives in the south of Scotland—there has been a

change in balance in the committee in that regard—I suggest that we visit Forrest Estate at Dalry, near Castle Douglas. It is a large estate whose business is based on forestry and is in the process of trying to become a centre of excellence for renewable energy. The estate has recently built a fascinating office, which was opened by Ross Finnie. The running costs of that office, which are based on green policies, are 30 per cent lower than those of a normal office of that type. The office is almost in the middle of nowhere and has brought 15 high-quality jobs to the area, with a view to increasing that number. If the whole development takes place, 50 high-quality jobs will be created in an area where such jobs are hard to come by.

The estate has had to overcome a series of hurdles to get to that position, not least of which was the need to provide an IT infrastructure into which it could feed. Added to that, there has been a problem with finding housing—particularly low-cost housing—in the area; that problem will increase if further jobs are created. There is also a proposal to close a large number of primary schools in that part of the stewartry and that has become an obstacle to integrated rural development. People will not be keen to move to villages where there are no primary schools, although there is at least a secondary school in the local village of Dalry.

The Forrest Estate would be a suitable place for us to visit, given the fact that, when we discussed the proposal initially, the reporters were keen that we should meet and discuss matters with what they termed “real people” rather than the agencies that we tend to meet on such visits. I am not saying that those agencies should be excluded, but there was a feeling among the reporters that we need to make genuine contact with people on the ground.

An alternative venue would be Buccleuch Estates, which wrote to us and offered to host a day visit. Buccleuch Estates has already held a day seminar on rural development that was attended by 43 members of the Executive's staff. I dare say that we could find out the details of that seminar if members wished to do so.

Those are my proposals. I think that those would be suitable places to visit to find innovative rural development that has succeeded in overcoming some of the hurdles that it has met.

We have to make a bid for funding for our visits by a week on Friday. I suggest that we think about what we have heard today. We may have to limit ourselves to four or five visits, although we have about six suggestions. Members should think about it over the coming week and we will decide which visits we want to undertake at the end of next week's meeting, to allow a funding bid to be

made to the conveners liaison group on Friday. Do members agree with that?

Stewart Stevenson: If we are talking about dropping only one of the proposed visits, might the clerks undertake some preliminary investigation into the logistical practicalities that might cause one of them to drop off the list anyway?

The Convener: Yes. Perhaps the clerks could produce a short paper for us on the proposals and what the difficulties might be.

Richard Lochhead: One of the reasons for the problems in such areas is that they face logistical difficulties. Perhaps we should experience those difficulties.

The Convener: The example that Rhoda Grant cited is a classic in that respect. If such problems are a real obstacle to rural development, perhaps we should experience them. We might be late in getting back for the business of Parliament, but so be it—what a shame that would be. If members are content with the suggestion, the clerks will produce a paper for next week's meeting and we will make our final choice next week. Is that agreed?

Members indicated agreement.

The Convener: I thank all members for their participation in a very useful meeting this afternoon.

Meeting closed at 16:50.

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