



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Tuesday 2 March 2010

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2010

Applications for reproduction should be made in writing to the Information Policy Team, Office of the Queen's Printer for Scotland, Admail ADM4058, Edinburgh, EH1 1NG, or by email to:  
[licensing@ogps.gov.uk](mailto:licensing@ogps.gov.uk).

OQPS administers the copyright on behalf of the Scottish Parliamentary Corporate Body.

Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by  
RR Donnelley.

---

**Tuesday 2 March 2010**

**CONTENTS**

<b>CROFTING REFORM (SCOTLAND) BILL: STAGE 1</b> .....	<b>Col. 2465</b>
---	----------------------

---

**RURAL AFFAIRS AND ENVIRONMENT COMMITTEE**  
**5<sup>th</sup> Meeting 2010, Session 3**

**CONVENER**

\*Maureen Watt (North East Scotland) (SNP)

**DEPUTY CONVENER**

John Scott (Ayr) (Con)

**COMMITTEE MEMBERS**

\*Karen Gillon (Clydesdale) (Lab)

\*Liam McArthur (Orkney) (LD)

\*Alasdair Morgan (South of Scotland) (SNP)

\*Elaine Murray (Dumfries) (Lab)

\*Peter Peacock (Highlands and Islands) (Lab)

\*Bill Wilson (West of Scotland) (SNP)

**COMMITTEE SUBSTITUTES**

Rhona Brankin (Midlothian) (Lab)

Jim Hume (South of Scotland) (LD)

Nanette Milne (North East Scotland) (Con)

Sandra White (Glasgow) (SNP)

\*attended

**THE FOLLOWING ALSO ATTENDED:**

Tavish Scott (Shetland) (LD)

**THE FOLLOWING GAVE EVIDENCE:**

Kenn Allan (Shetland Islands Council)

Jane Brown

Peter Dodge

Duncan Gray

Douglas Irvine (Shetland Islands Council)

Norman Leask

Jim Nicolson

Joyce Pole

Councillor Frank Robertson (Shetland Islands Council)

Andrew Thin (Scottish Natural Heritage)

John Watt (Highlands and Islands Enterprise)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

Town Hall, Lerwick



## Scottish Parliament

### Rural Affairs and Environment Committee

*Tuesday 2 March 2010*

[The Convener opened the meeting at 14:02]

### Crofting Reform (Scotland) Bill: Stage 1

**The Convener (Maureen Watt):** Good afternoon, ladies and gentlemen. I welcome everyone to the committee's fifth meeting of the year. The committee is delighted to be in Shetland, and to be meeting in Lerwick for the first time. I ask everyone to turn off mobile phones and pagers, as they impact on the broadcasting system. We have apologies from John Scott, but we welcome Tavish Scott, your local MSP.

The purpose of the meeting is to take evidence as part of our on-going scrutiny of the Crofting Reform (Scotland) Bill. To perform that role to the best of our ability, we have taken evidence in various areas that would be affected by the legislation. This morning, we were out and about in Shetland, speaking to crofters in their working environment, which has been very informative. The committee is grateful to those who met us on those visits, especially to our guide, Hazel Mackenzie.

This afternoon, we begin with a panel of individuals who work crofts in different parts of Shetland. Hearing from those individuals is intended to highlight the challenges faced by crofting communities on Shetland and to gauge how the bill's proposals might be received here. The final panel of witnesses will comprise representatives from Highlands and Islands Enterprise, Scottish Natural Heritage and Shetland Islands Council. However, before that, there will be a chance for members of the public to have their say on the bill. I will suspend the meeting after the first panel, at which point I will ask you, if you wish to speak, to make yourself known to the clerks if you have not already done so.

It may be helpful if I provide members of the public with a brief explanation of our role in relation to the bill. First, the Scottish Government published and consulted on a draft bill—many of you will have been aware of that. Having considered the responses that it received, the Government introduced into the Parliament the bill that is before us. The bill must now go through a three-stage process; we are well into stage 1.

During stage 1, the committee seeks views on the bill. We have considered the written evidence that has been submitted, we have held various meetings and fact-finding visits, and we will hear from the Minister for Environment next week in Edinburgh. After that, we will, I hope, agree a report to the Parliament for its consideration. The whole Parliament will then vote on whether the bill should proceed to stage 2.

If the bill gets past stage 1, it will be considered line by line by the committee at stage 2, when MSPs may lodge amendments to it. At the end of stage 2, the bill is reprinted with any amendments that were agreed to included in the reprint. The bill then enters stage 3, when the whole Parliament has a final chance to consider changes to it, before there is a vote on whether to pass the bill in its final form. As you can see, there is still some way to go before the bill can become law.

I welcome the panel of working crofters from Shetland: Jane Brown, who was a member of the committee of inquiry on crofting; Peter Dodge, a member of the Scottish Crofting Federation council; Duncan Gray, an area assessor for the Crofters Commission; Norman Leask, who is the parliamentary spokesman for the Scottish Crofting Federation but who is here in a personal capacity, as a Shetland crofter; and Jim Nicolson, another area assessor for the Crofters Commission.

I move to questions, and start by addressing a question to Jane Brown. One or two of the main recommendations of the committee of inquiry on crofting have not been included in the bill. Are you disappointed by that? If so, why?

**Jane Brown:** I thank the committee for inviting me to the meeting and giving me an opportunity to have an input. There are some recommendations in our report that I am disappointed have not come through into the bill. The largest issue in that respect is to do with support for crofting. The bill seeks to address issues such as absenteeism and neglect, yet support for existing crofters is key to addressing absenteeism and neglect, and creating a healthy crofting community. We probably all agree that having people on crofts in the crofting areas has been a positive thing for Scotland; everyone's motivation is that that should continue. I am disappointed that we are not hearing much about support for crofting and for crofters—agricultural support, support for crofters' stewardship of the environment, support for housing and so on—in the context of the bill and in other contexts.

An issue that came up throughout the inquiry and its report was that of support specifically for new entrants, given the challenges that they face. Some of the bill's provisions—for example, those on absenteeism—may address that to some extent, but I am talking about specific support for

new entrants and people who are seeking to become new entrants. Such support would help them to find a croft and deal with the same issues as existing crofters, such as agriculture and housing, as well as face some of the more difficult challenges that they may come across as new entrants.

The bill addresses some of the issues that we addressed in the inquiry, but in a completely different way. The biggest example of that is the regulatory body and how it would be constituted and so on. A key area in our report was our concept of supported local township committees. Such committees would consider in depth their own township and issues such as planning and so on at local level. They would be formally constituted, recognised and supported.

**The Convener:** We are coming to some of those issues in more detail. Karen, did you have a supplementary on that?

**Karen Gillon (Clydesdale) (Lab):** It is perhaps a general question for all the witnesses. This is my first visit to Shetland and I have been struck by not just the beauty of the place but the challenges of crofting—and today is a relatively calm day. Does the less favoured area support scheme adequately direct support payments to areas that are genuinely less favoured, or does Shetland lose out?

**Jane Brown:** I am sure that everyone will have something to say about that. The targeting of LFASS needs careful examination. I suppose that we are the most peripheral area in Scotland, but there are other such areas, and in general the peripheral areas think that LFASS should be retargeted.

**The Convener:** I will not go further into that, because I think that Shetland has had—or will have—a visit from Brian Pack and his inquiry team. The issue relates more to what they are doing. I invite other members of the panel to introduce themselves and describe the broad challenges of crofting in their part of Shetland.

**Peter Dodge:** I thank the committee for coming. I understand that you have been in Cunningsburgh today, which is where I live. It is rather a pity that you are seeing the harsh side of Shetland and its conditions. I would have liked you to have come in June, when we could have shown you what we have, not just in Cunningsburgh but in many of the communities around here. The communities are very vibrant.

You have been elsewhere and looked around, but I think that you will find that Shetland has just about the youngest rural population involved in agriculture in Scotland. I will keep coming back to that. You will need to ask why Shetland has such an active population of young folk. I think that it is

about attachment to the land. I would not say that there is a ready supply of jobs, but there is employment here, in crofting and elsewhere. My wife works full time and the wives of the boys that you met today also work full time. My wife is the tenant crofter and my mother-in-law is the landlord. There are several people here who are in the same situation. People have been on the crofts for hundreds of years. There have been eight or nine generations of our family in the house. The people are involved in the land. It is part of our heritage.

Crofting does not pay. For every pound of public money that comes in, I should think that we spend at least two or three pounds. We take no income out of it. Every penny that comes in is reinvested for the future. You will have seen that today. We work very closely together—there are family ties. Next to no income comes in from the schemes.

Like Jane Brown, we want a future for our children and their successors. In Shetland there are many things that we do successfully—or at least pretty well—and I would like to think that we could assist in moving things forward in other communities.

**Duncan Gray:** I am a crofter up in Unst, which is the most northerly of the islands. Very few of the committee have made it that far, although I believe that Tavish Scott is going up there tonight. The main problem that we have with crofting is retaining young families. It is very difficult to keep full-time employment on the island and keep families there, because we have to take two ferries from Lerwick to get that far north. I did a straw poll over the weekend and I found that there are five young couples who are looking for crofts on the island, but there is no croft entrant scheme or assistance for them.

14:15

**The Convener:** Would the land be made available if it was financially viable?

**Duncan Gray:** There is at least one croft—and there are probably more—for sale on the island at the minute, but the price is set too high for those people to afford. At least three of the couples have looked at the croft—it is a croft with a house—but they cannot afford it. A croft is supposed to be an asset, not a liability. After having to mortgage themselves up to the hilt to begin with, they would not even be able to make a start.

**Alasdair Morgan (South of Scotland) (SNP):** If that is the case, who will buy the croft?

**Duncan Gray:** I do not know—we will have to wait and see. I can get you the information when it sells.

**Alasdair Morgan:** I just wondered whether that is a general issue. The number of crofts is relatively fixed, and you are saying that young people cannot get in. If the crofts are being sold at a price that is higher than most people can afford, who are they being sold to?

**Duncan Gray:** The croft in question has been put on the market speculatively—the sellers are looking for somebody to whom they can sell the house for £200,000 or £300,000. They are hoping to get somebody who wants to come up for a quiet life and would like to buy a croft house in the north isles.

**Alasdair Morgan:** I am trying to ascertain whether that is a general problem or just a specific instance.

**Duncan Gray:** It is a specific one in that case.

**Norman Leask:** I agree with Duncan Gray that there are problems. The main problem relates to the issue of single farm payments: a lot of crofts are not coming up for sale because some of us older people have had the ability to continue on the croft with a single farm payment.

Plenty of young people are interested in crofting. You mentioned Brian Pack's visit—there were around 70 or 80 people at that meeting; I am 63 and I was just about the oldest person there. This is a young and vibrant community, and a lot of people still want to get into crofting. We need the type of support that has been mentioned.

Duncan Gray is right—it is very seldom that a croft comes up for sale in Shetland. There are various reasons—for example, a croft sometimes passes through the family. If anybody wants to try to make money by selling a croft, that rules out the locals. That is not an issue that you will find on the west coast.

**The Convener:** As Shetland Islands Council is one of the major landlords, would someone be more likely to get a croft that comes up through the council?

**Norman Leask:** Funnily enough, wearing my SCF hat I have had more complaints about the council as a landlord than I have about all the other landlords in Shetland. I am a Shetland crofter, but the council is not my landlord, so there are probably people here who could speak about that better than I can.

**The Convener:** As the council representatives are appearing on the next panel, would anyone like to give us some specific examples to ask the council about? You do not need to mention any names.

I see that no one wishes to reply—perhaps that is a question too far.

Perhaps Jim Nicolson would like to give a brief overview of the crofting situation.

**Jim Nicolson:** I am a crofter on the west mainland of Shetland. I was involved for some years in assisting young people when the previous croft entrant scheme was operating. Although it was not a large sum of money, the £3,000 that went to the outgoing tenant could be added to the valuation of the croft and would make it more attractive for the outgoing tenant to leave; they were probably looking for that bit more in any case.

It could make it that bit more acceptable for a young person to come in, along with the fact that they could get assistance with some of the improvements that they might want to make. It did not appear to involve a huge expenditure of money, but it was certainly worth while and it assisted some young people in obtaining crofts.

I have major concerns about the way that things are going. Brian Pack was here, and I am sure that the committee is aware that he is looking for the high-quality land to get the larger amounts of money. If that approach is adopted, islands such as Shetland and, I would say in fairness, much of the Highlands of Scotland will come out of that badly.

LFASS was mentioned. Some 85 per cent of Scotland is in LFASS, but we in Shetland, in the most peripheral area, do not really get what we should get. Additional payments were made, and they were certainly appreciated, but it seems absurd that areas that we would hardly consider less-favoured areas are getting better payments than people such as ourselves.

It is also curious that the one island group in the United Kingdom that is able to get the special island payments that are allowable under the European Union rules is the Scilly Isles. What disadvantage do those islands suffer that we do not have here, with our considerable distances from markets and transportation costs? I know that the recent weather has affected the whole of Scotland, but people here have had to import much larger quantities of feed to ensure the welfare of our animals. The cost of a bale of hay in Shetland is about £50—probably about twice what could reasonably be expected to be paid on mainland Scotland.

Our rural areas are important, and agriculture and crofting are particularly important for Shetland, as for other rural areas. However, it does not matter what we do in governance or ensuring that there is not neglect: I am concerned that, unless we have really positive encouragement for our young people to come into the industry, people will drift away.

Let me illustrate the vitality of agriculture in Shetland. There are just more than 1,000 crofts in Shetland and, when the excellent environmentally sensitive area scheme started, more than 800 entered into it. To be in that scheme, a croft has to be active. That did not just bring in money for the crofters; it brought considerable environmental improvements, which is what happens when so many of the crofts participate in the scheme. By contrast, perhaps 50 or 60 units are involved in the Scotland rural development programme, which is simply not an option for the smaller units. That is a major concern.

**The Convener:** We are certainly hearing that this morning. Jane, did you want to add anything?

**Jane Brown:** I wanted only to say that I am also a local crofter and to endorse what the others have said. I happen to be a tenant of the SIC as well.

**The Convener:** Okay, we will move to specific questions on the bill.

**Bill Wilson (West of Scotland) (SNP):** Duncan Gray said that it is difficult to keep people on the island and get young people involved in crofting. If I understood him correctly, he said that there is at least one croft up for sale that is currently unoccupied, which might suggest that there could be problems with absenteeism or neglect. I would like to explore those issues and start with neglect. Are there many neglected crofts in your areas?

**Duncan Gray:** There are not that many neglected crofts because usually somebody looks after them. There might be an absentee tenant, but their neighbour or somebody else will be looking after the croft. It is not usually worked; it is just grazed.

**Bill Wilson:** Presumably that would be an informal arrangement.

**Duncan Gray:** Yes.

**Bill Wilson:** So that presumably means that the crofter who is grazing the croft has no security of tenancy on the croft. He is at the mercy of the vagaries of the croft owner.

**Duncan Gray:** That is correct.

**Bill Wilson:** But, nonetheless, all the crofts are worked. Is that correct?

**Duncan Gray:** The vast majority are worked.

**Bill Wilson:** Does that apply in all areas in Shetland?

**Jane Brown:** In my area virtually all the crofts are worked. All the common grazings are stocked, but some of the levels of stock there are diminishing quite fast, which might be linked to diminishing support and the age of the crofters. I

think that all the crofts are worked at the moment. Quite a number are worked on the basis that Duncan Gray outlined, whereby there are informal agreements between people, but there are a lot of active crofters, too. I do not know how diminishing support over the next few years will impact on the level of neglect of crofts.

**Bill Wilson:** Are the informal agreements generally with crofters who are not here—absentee crofters—or with someone who is living in the croft but is not working it? Alternatively, is it a mixture of the two?

**Duncan Gray:** It is definitely a mixture of the two.

**Bill Wilson:** Roughly what percentage of crofts in your area—very broadly—might have absentee owners?

**Jane Brown:** In our township we have 74 crofts and one absentee. The percentage is very low.

**Bill Wilson:** Is that the same for all the areas?

**Duncan Gray:** Exactly the same.

**Bill Wilson:** I want to get a feel for what is happening. How many of the 74 crofts would be worked under an informal arrangement?

**Jane Brown:** Maybe four or five.

**Bill Wilson:** That is quite low. Most crofts are worked by the person on the croft. Is that the same for all areas?

**Norman Leask:** Yes.

**Jim Nicolson:** Yes.

**Bill Wilson:** That is unusual, because we have heard that there are quite strong concerns about neglect in most of the other areas. I am sure that Norman Leask and Jim Nicolson mentioned neglect, but you seem to be saying that there is not a neglect problem at all just now. I am sorry to keep pushing this, but I am surprised, because there is quite a contrast here to other areas that we have been in.

**Norman Leask:** We would find neglect completely abhorrent. We would like to ensure that it did not happen. It is not really an issue in Shetland. For various reasons, absenteeism is an issue, mostly because people cannot afford to stay on their croft or they work for more than half the time off the islands—they leave their families at home and let somebody else work the croft.

**Bill Wilson:** So the families are living on the croft.

**Norman Leask:** In lots of cases, yes. The interesting thing that I heard when you met in Edinburgh was on the difference between the tenant and the family. In Shetland, we would think



more of the family as being the tenant. The wife might do a lot of the crofting, but she would not necessarily be the tenant. She might be the one who is most capable of being an assessor or going to the crofting commission. She might be the one who makes the decision about who to vote for—it would be done on a family basis.

**Bill Wilson:** Neglect has to be reported in some way to avoid it in future. Do you think that the common grazings committee should have a duty to report neglect, or would you expect individual crofters to do it? Clearly if the crofting commission is to act on neglect, somebody has to tell it that it is happening. Do you have any views on that? I am looking at you, Norman, but I am asking the whole panel.

**Norman Leask:** In the first instance, we must look at what we are going to do with the assessors. I believe that the assessors are the fulcrum on which the bill will or will not work. The local assessors must be strengthened. Local information will come through the assessors. You can ask the assessors sitting on either side of me how things work at the moment. We in Shetland have an excellent assessors set-up.

It is really good that you have come up to see us. Thank you for coming to see us—I am sorry that I did not say that first. I encourage you to invite one or two of us down again so that we can explain to you some of the things that we are trying to do that are Shetland specific.

14:30

**Bill Wilson:** Before the assessors answer, I will put something else to them. One of the comments that we had from other crofting communities is that there is a genuine lack of enthusiasm for reporting neglect because people are worried that it will start an argument with their neighbours that will spread to the various connected families and go on until the crack of doom, so to speak. Assessors are local people. If they had to report neglect, would they not be under the same pressure and might it not cause them personal problems in the community, or do you think that that is not a problem? I would very much like to hear the two assessors' views on that.

**Duncan Gray:** It is a bit of both. You get hassle from one side who say, "Why are you not doing something about this?" and hassle from the other. As soon as you stick your head above the parapet somebody will take a shot at you.

**Bill Wilson:** So you just like being hassled, is that what you are saying?

**Duncan Gray:** Thick-skinned, maybe.

**Bill Wilson:** Have you ever thought of going into politics? [*Laughter.*]

**Jim Nicolson:** What is important is that the community is aware of what the assessor can do and is doing. People approach me as an assessor about problems. If there is an issue of neglect, in the first instance I would approach the person against whom the charge of neglect is levelled and ask what their proposals are. That is a fair approach. I am old enough not to worry about what they think of me.

Obviously, I want to support people. The best approach in the first instance is to offer support to the person and ask them about their plans to tackle the situation. Hopefully, if things have not gone too far, they can come up with a strategy, but there might be reasons why somebody is not as able as they were to work the croft. Perhaps they should then be thinking about getting involved in a scheme whereby a younger tenant could come in.

**Liam McArthur (Orkney) (LD):** I return to a comment that Jane Brown made about the amount of livestock that is being held. It is generally accepted that there is a problem with the loss of livestock from upland and island areas. Jane Brown pinpointed part of the problem as being that the age profile might encourage some people to reduce the amount of stock that they keep. To what extent is the reasonable beef price over the past two or three years and the improving lamb price in the past 12 months having an effect on the problem, or would those need to be sustained over a longer period for you to make any decisions to reintroduce stock?

**Jane Brown:** People have certainly felt a lot more positive about keeping stock in the past 12 months. I hope that that has the knock-on effect of making them think that they might sustain their stocking numbers.

**Liam McArthur:** So it is more about maintaining levels than nudging them back up again.

**Jane Brown:** The price of sheep and cattle has fluctuated a lot. If the good prices were sustained it would have an impact. For a few years we were just keeping stock because we had it, but in the past 12 months people have begun to think that they might be able to get some income from their stock. As well as the financial benefit, people far prefer to be in that position. People in Shetland are proud of their native breeds and other stock and they try to produce quality stock. It is far more encouraging for us if we get a reasonable return for that, and it is a better position to sit in.

On neglect and the economy, when I went round with the committee of inquiry I was struck by how Shetland crofts are used actively compared with a lot of the other areas that I visited. One strong link that became apparent—there are some figures in evidence in the inquiry report—was between strong local economies and the level of

neglect, or lack of it. There was quite a lot of evidence that where there is a strong local economy, as in Shetland, people are holding on to the family croft actually invest in it when they are in a position to do so. That does not happen just in Shetland; it happens in other places as well, and it is healthy for crofts and the local community

**Liam McArthur:** Perhaps that answers my follow-up question. Perhaps the older generation of crofters, such as Norman Leask, are not to be accused of taking the single farm payment and reducing their activity because it makes no difference to the SFP. Shetland does not necessarily have the same prevalence of slipper farmers or armchair crofters that we are told are prevalent elsewhere in Scotland. Is that not a problem here?

**Jane Brown:** The activities that people do on their croft change depending on their age. As one of our fellow crofters said, as long as a crofter keeps their croft in good order, they can continue to claim the single farm payment, so it probably has had an impact on some people.

**The Convener:** Peter, did you want to say something?

**Peter Dodge:** I could go on forever.

In the simplest terms, a crofting community requires employment opportunities, and after that it requires security of tenure and suitable housing. A crofter must get a return on their livestock or whatever output they make, and that return is going up now, which is hopeful. However, sometimes, for year after year, we do not make anything; we just feed ourselves and hope that the subsidy will help us to go on to the next year.

We really need a radical review of and attitude change to crofting so that we are not just mocked as being archaic and inefficient. We need LFASS, which was originally a scheme for the disadvantaged. The EU knows what it wants: we are what it wants.

Government also needs to take a new and radical approach. Officials and lobbying groups need to back off and let crofting be seen. Members here are seeing what it is like. Mr Wilson said that it is almost unique. Well, why is it unique? Because we have the youth and jobs that supply money into our land. We have also had some useful money from the SIC charitable trust from the 1980s onwards, which has been invested in the land. That has diminished to a certain extent, but the knock-on effect is the youth that we have today, plus the interest.

The Government needs to sort out LFASS so that it is fair. If I had my way, although crofting is agriculture based, I would take it out of agriculture and away from farming so that we could, through

the commission, use the budget of £10 million to £12 million. I disagree with some of the ESAs, because they have stagnated some communities as far as young folk are concerned, since they provide a pension payment that is like a single farm payment.

We need a scheme that rewards activity—that goes for all agriculture in Scotland. I come from a place where nobody is left—there are thousands of acres with nobody there—so I will shout loudest from the parapets, because I do not want Shetland to go like that. We need to get in there and make a conservation-based scheme. SNH, the Crofters Commission and everyone else need to get together, go into the community, see what we have and how to protect it. You will find that crofters are responsible for keeping a lot of our wildlife environment. Once we have done that, we can go forward and have stability. We do not ask for much; we are not going begging for handouts all the time and waiting for the next subsidy payment. We want just reward for activity.

Folk say that we are living at the periphery and that we should sink. Well, no. This is about people; Shetland has got people.

**Tavish Scott (Shetland) (LD):** Convener, I thank the committee very much for inviting me to attend this meeting and I join the witnesses in welcoming you and your colleagues to Shetland. It is excellent that, in taking evidence on a major piece of Scottish legislation, the committee has come to the most northerly crofting county to consider the various issues. The last time a parliamentary committee visited Shetland it was the middle of June and we took the members on a boat round the back of Noss. I do hope that members of this committee get the chance to do the same trip later on.

My question is related to Jane Brown's point about neglect and Liam McArthur's point about structural support. What impact will the changes to structural support that are envisaged by the Pack inquiry and through LFASS and various other mechanisms have on neglect? In his questions, Bill Wilson rightly drew out the point that different approaches are taken in the different crofting counties—indeed, I am sure that members will have realised that the approach that has been set out today is very different from that highlighted at the committee's meeting in Thurso—and the enormous structural changes that are being forced through by Europe and other parts of the support system might result in the neglect of crofts and the degradation of and lack of livestock opportunity on the land. Do the witnesses, a number of whom I know were at the parliamentary debate on the Pack inquiry report the other week, think that that is likely to happen? If so, does that put in danger

the very ethos of the future for crofting that Peter Dodge described?

**Peter Dodge:** I think that you can answer those questions yourself, Mr Scott. *[Laughter.]*

**Tavish Scott:** Well, I am not here to answer questions.

**The Convener:** The witnesses might have to think about and come back to those questions.

**Peter Peacock (Highlands and Islands) (Lab):** I want to pin down two or three points on absenteeism to make things absolutely clear. As Bill Wilson has indicated, the picture in Shetland is very different from the picture elsewhere.

One consequence of the bill as drafted that crofters in other places are having difficulty with is that people who live more than 16km from their croft will automatically be classed as absentees and will have to seek permission to be absent. From what I have heard today, I get the impression that that would not be such an issue in Shetland. Am I right or wrong about that? Does 16km seem wrong to you or right?

**Peter Dodge:** That is 16 miles as the crow flies—

**Duncan Gray:** It would be 10 miles.

**Peter Dodge:** Aye, well, 16km. That would cover the majority of cases. However, given the amount and availability of transport nowadays, that could be extended. There are people all over the place. That said, of course, we want communities, so let us have things closer together.

**Peter Peacock:** Just to be clear about this, do the majority of the people who you know and who live in your communities live within 16km of their croft?

**Norman Leask:** Yes, but the whole set-up will affect the periphery. I live out on the west corner of Shetland, and anyone who lived 6 miles further inland could have both my land and much better land towards Tingwall. I am thrown up into a corner. However, it is not a major issue, and instead of setting the distance in stone it should be adjustable. You have to be very careful with this bill. Shetland has a vibrant crofting community and we do not want to be bitten on the bum by a measure that is meant to solve a problem elsewhere.

14:45

**Peter Peacock:** Norman Leask talked about the importance of the assessor role played by, among others, Duncan Gray and Jim Nicolson. Mr Gray said that he was sufficiently thick-skinned to take the flak, so to speak, but the fact is that crofters in many of the crofting communities to whom we

have spoken on our travels around Scotland have no idea who their assessor is, which I find slightly perplexing. Even if someone is not prepared to be as thick-skinned as Duncan Gray says he is, does the role that he performs in his community still have to be played by someone?

Moreover, Jim Nicolson talked about speaking to people who might be neglecting crofts. Even if it has not been described as such, do assessors play the role of mediator between parties? For example, would you mediate between a young entrant who is looking for a bit of ground and someone you know who is getting a bit old and tired and wants rid of some land?

**Duncan Gray:** I agree that the role involves a bit of mediating—a bit of give and take. Having a clear definition of whether somebody is an absentee or has neglected a croft would make things much easier. What counts as neglect on a croft? One person's view might be completely different from your view or mine. That should be set down in black and white, as with the 16km rule—a distance needs to be set and it might as well be 16km. If that is just a trigger point for us to say, "What are you going to do about this?" and the answer is, "It's causing no problem and I've been doing it for 20 years," that is fine, but it is down in black and white and a decision is made. However, a trigger point must be set at some distance for asking people to explain why they are staying where they are. If the answer is that no problem is being caused, that is fine and well—that is there for everybody to see.

**Jim Nicolson:** Shetland does not have significant numbers of people who live in Lerwick but who have crofts out on the west side of Shetland, the north mainland or Unst. Most crofters live on or near their crofts, but some original crofts are very small, so quite a number of crofters have more than one croft, to ensure their economic viability. That is not necessarily bad, especially if someone is interested in doing a lot of work. As Norman Leask said, a person might want to have a croft that is a bit further away from where they live—they might live in an area that has poorer ground and they might want a croft that is on better ground, if that is available.

I return to mediation. If a crofter were involved in legal action, I would not say from the start, "You need to improve or get out." It would be more a case of expressing a concern and perhaps suggesting that they employ a contractor to do something if they cannot do it themselves. I would raise their awareness of the possibilities and advise them about schemes, if they were in place and the person wanted to use them.

**Peter Peacock:** The bill contains provisions to equalise the burdens on owner-occupiers with those on tenants. The Government is also

considering equalising access to the grants system, although officials say that a decision has not been made on that. If that is done, no differences will exist on those matters between tenants and owner-occupiers. Do you have views on that? If those changes happen, what will be the point of being a tenant?

**Duncan Gray:** I think that, if those changes are made,

few people will be tenants after about five years. Everybody who can will buy their croft.

**Peter Peacock:** Do others share that view?

**Jim Nicolson:** I am not sure whether what Duncan Gray says will be the case. There are a number of owner-occupiers. It is difficult to identify who is an owner-occupier and who is a tenant. I know people who are owner-occupiers of one croft but tenants of another. That does not appear to make a huge difference.

As far as I am aware, people can qualify for grants. I do not see a major problem. Some people want to buy their crofts. Over time, they might do so, but that is not necessarily bad, and I am not sure whether even landlords would see that as bad.

**Peter Dodge:** I return to the history. I admit that I was with the Crofters Commission in the department of agriculture when I came here, so I have years of experience. A quarter of the crofts in Shetland are owner occupied. No great movement towards further owner occupation is taking place. Some landlords are related to their tenants—the tenants are put in so as to have them.

The culture here is egalitarian. In some of the islands, a tenant crofter who has several million pounds of assets, as well as income from their job on a purser, for instance, might be living next door to somebody who is on benefits, but you could not tell the two of them apart. When people put active effort into running their crofts, it benefits the whole community and the whole of Shetland.

**Peter Peacock:** One of the reasons for the bill is to try to act against speculation in crofts. It could be argued that if tenant crofters and owner-occupiers have equal access to grants there will be less reason to remain a tenant and more people will become owner-occupiers. Will that lead to more of a free market in crofts and thereby the kind of speculation that the bill is designed to eliminate? I am interested to know what you think about that in the Shetland context. If the bill is passed and leads to more owner occupation, is there a risk that there will be more speculation? Given what you said about family connections to crofts, I suspect that you do not think so.

**Peter Dodge:** It comes down to the mindset of the speculator. We do not have many such people

here. They have to live in the community and we can make life pretty miserable for them if their actions start to erode and corrode the community.

**Norman Leask:** Peter Peacock talked about equalising the responsibilities of tenants and owner-occupiers. That should certainly be done, because during the past how many years most owner-occupiers actually sat on their own tenanted crofts illegally. We have to iron that out. I thought that the previous bill might do that, because the issue was considered to a certain extent, but the matter remains to be sorted out.

In Shetland, probably quite a lot of crofts are owned within the family rather than by a landlord. I do not think that it will make a big difference whether a person is a tenant or not, as long as the responsibilities are the same.

People who buy crofts to sell on have to use that horrible loophole that lawyers are brilliant at finding. We have to fill that loophole and ensure that if a community needs land to come out of crofting the help can come to the community and not necessarily go back to the landlord. I thought that the proposal in Edinburgh was that money and entitlements would not necessarily go back to the landlord who sold the croft but would be community assets, which might be used to provide a decently paid assessor or clerk of a common grazing. What is most needed is funding for young people who are entering crofting.

**Peter Peacock:** We will come on to that.

**Jane Brown:** The issue to do with occupancy and tenancies is important in Shetland, for the reasons that Norman Leask gave. In other crofting areas speculation is an issue, but I think that people in Shetland sometimes buy crofts almost for the opposite reason, and might be misinformed in doing so. Some people buy their crofts because they want to own them, but other people buy their crofts because they are not sure how succession works. Their children, who might want to take on the tenancy, might not be living locally at the time, and the crofters think that there will be more security and more chance of keeping the croft in the family if they own it—which of course might not be the case. Sometimes, it is almost the opposite of speculation. That is not to say that speculation is not an issue. My experience during the inquiry was that speculation is a big issue in some other areas of Scotland.

**Peter Peacock:** Are you saying that the equalisation proposals might lead to more speculation, albeit perhaps not in Shetland?

**Jane Brown:** Speculation in crofts is certainly an issue. I suppose that that might happen, but assuming that the loophole is closed, there would be a serious delay; there would not be immediate speculation. If people wanted to speculate

immediately, they could go down the route of selling their assignation without going through the owner-occupier thing, so I do not know that it would make much difference.

**Peter Peacock:** That is helpful. Thank you.

**The Convener:** As there are no further questions on absenteeism or neglect, we will move on and dig a bit further into assessors and grazings committees.

**Elaine Murray (Dumfries) (Lab):** We have touched on the role of assessors a couple of times. I think that Norman Leask said that that role is important for the functioning of the bill. Will you describe how assessors are selected, appointed or elected at present? Should the bill make provisions on the way in which they are chosen or change their role in any way?

**Norman Leask:** Before you make a final decision on that, you should look at how the system works in Shetland. We have to go through certain protocols to become an assessor. The post is elected, albeit that people are sometimes elected by the arm up the back. We have a young, vibrant group of assessors. I think that Tavish Scott was at the last meeting, so he can explain to you later how the system works. It can and must work or the whole thing is a waste of time.

**Elaine Murray:** Should it be covered in the bill?

**Norman Leask:** Yes. The bill will hang or fall on what happens with assessors. That will be more important than any other part of it.

If we go back a couple of steps, the assessors network was dismantled. Wearing my semi-national hat, I fought tooth and nail to save the assessors, because I really believe in them. We won that battle and we are delighted to see them carrying on. As a Shetland crofter, I would like them to be strengthened. I have always believed that the assessors should be the bedrock. You set out six or seven areas for commissions or whatever. Assessors could be in the chair. They could represent the whole thing. I can see it working, but I cannot explain it, because I am not a natural orator, as you can tell, and I have the disadvantage that I speak in the dialect, so I apologise to you who are trying to make sense of me.

**The Convener:** Not at all.

15:00

**Elaine Murray:** Are grazings committees active in your areas? Should anything be done to encourage activity within grazings committees?

**Duncan Gray:** I will speak about what happens locally. The top half of the island is split up into small common grazings and there are grazings

committees for every one of them. The bottom half of the island is one big common grazing and it is split into different scattalds. There is no grazings committee in place there because nobody wants the hassle; the area is too big. I asked the commission about splitting it up, but the commission said that there would be too much paperwork and it was not interested. If we could split the area into scattalds or smaller areas, we would get grazings committees for the bits that folk use. If someone is using only 20 per cent of their scattald and it is fenced separately, they do not want the hassle and paperwork that comes from working with everybody else on the parts that they never touch.

**Elaine Murray:** What effect does that have?

**Duncan Gray:** There is no grazings committee.

**Elaine Murray:** Does that make a difference to crofters' general experience and the way that you work?

**Duncan Gray:** I do not know. There is no contact point if you want to do anything, because there is no grazings committee.

**Elaine Murray:** We will discuss boundaries and mapping in more detail in a few minutes. It has been suggested to us in evidence that if there were disagreements about boundaries when you were creating a register of crofts, there might be community solutions—the community itself might decide what the boundaries were. There could be a role for assessors and grazings committees in resolving disputes. Do you see that as a possibility? Would there be a problem in areas that do not have an active grazings committee?

**Duncan Gray:** Yes.

**Jane Brown:** There is a problem in areas that do not have grazings committees, because the shareholders in the common grazings have no formal way to represent themselves. Agencies and other people out there who quite legitimately need to communicate with crofters do not have any official channel of communication. They might communicate with one active crofter, but that is quite a responsibility for that person when there is no structure that says that they are a representative. They are also potentially cutting themselves off from some of the support schemes, which they cannot apply to unless they have a grazings committee, and from the opportunity to comment on changes that might be proposed locally. This is just my opinion, but where there are common grazings, it is important that the shareholders are engaged with that structure, so that they can represent themselves.

**Elaine Murray:** Can legislation resolve that? Could provisions be included in the bill to encourage active grazings committees, or is it not

a problem of legislation but a problem of history, geography and tradition?

**Peter Dodge:** The common grazings committees will respond to the production of sheep or whatever only if there is a return on the sheep meat or the support system for the habitat. I looked into this. The grazings committees in Shetland are some of the best in the Highlands. The top ones have records that go back generations—they are immaculate—and they know what they are trying to do. In many cases, they are still continuing to sponsor agriculture in the hills—they are keeping it going. The same committees also vote democratically for the assessors. In my time, the assessors' integrity has been absolutely fantastic. That kills two birds.

You have to be able to produce a product of merit from the hills one way or another and get a reward for it. On the back of that, we will continue to occupy the hills with young people. We need young people in the hills for the caa-ings.

**Jane Brown:** The opportunity is there in the legislation. I am not sure that you can force people to take that opportunity, but they could be supported to do so. I do not want to say exactly who should do that, but both the Crofters Commission and Highlands and Islands Enterprise might have a role. They could look actively at the areas that do not have grazings committees. The equivalent of a grazings support officer could go and meet the shareholders. I am not sure that you can force people through legislation to take that opportunity, but the opportunity and support should definitely be available.

**The Convener:** There has also been some suggestion that grazings committees could provide a report on their township or community. I do not know whether any of you have heard about what the Camuscross community did, but would people in Shetland be interested in something like that? Perhaps it is not such an issue if you have not got a lot of absenteeism and neglect.

**Norman Leask:** It is not really the issue. Jane Brown was quite right about getting a little bit of support. I would like to see a little job for some crofter's wife or crofter as the clerk to a common grazings committee, and for them to get a little bit of remuneration somehow.

We do not want to become rich, but we want to stay in the community. We want to exist in the community. We probably live better than most. We have a beautiful place to live in and we produce excellent food, but we need money as well, unfortunately. Jane Brown was speaking about it being a good idea to have a grazings committee, but if there is nothing in it for people, no one wants to bother.

**Jim Nicolson:** As well as being an assessor, I am a clerk to a grazings committee, which I find is of considerable assistance to me when an issue of some controversy comes to the fore. There is more than one grazings committee in my area, and I am involved with the largest one. I am also able to contact people who are on the other grazings committees to hear people's opinions about the proposals that are being made. I think that the grazings committees are extremely important and provide real support for whatever the assessor is doing.

**Peter Dodge:** The committee will speak to representatives from SNH later. I do not know how much they know, but the grazings are vulnerable because we are losing a lot of native stock off the hills. Major, detrimental changes are happening to the environment and if any more stock comes off, and if we lose more young folk, the hills will change, perhaps for ever. We do not want to see that.

**The Convener:** Okay. I ask Karen Gillon to move on to the reorganisation of the Crofters Commission.

**Karen Gillon:** I have become quite obsessed by elections to and the governance of the Crofters Commission and all that stuff.

**The Convener:** Surely not.

**Karen Gillon:** It is bizarre.

I am particularly concerned about who should be eligible for election. We have come across in our travels—and Norman Leask perhaps alluded to this—many cases in which the registered crofter is not the person who is doing the work. The registered crofter might be the man or woman of the house, but they might have a job elsewhere. Under the current proposals, the person who is working the croft, who is not registered, would not be eligible to stand for election—or, indeed, as I understand it, to vote in the elections. Do you have any views on the proposals? Should they be changed?

**Norman Leask:** First of all, the Crofters Commission has had a much higher profile in Shetland than it has had in most other places over the generations. We have had some excellent commissioners; in fact, I would say that all our commissioners have been outstanding. The commission has not been an issue here in the same way that it has been an issue on the west coast. I could not understand why people were so against the Crofters Commission when I first went to the west coast.

I believe that anybody in a crofting family should be eligible to represent the household's interests. There should not be one vote per tenancy—if the wife and the man each have a unit, they should

have two votes, because they have two businesses. If the wife is the tenant, the man should not be ruled ineligible to be an assessor or a commissioner.

I do not know how you can word any of that in legal terms; it is perhaps impossible. Perhaps everyone should try to ensure that the person who would like to carry on becomes the tenant. However, there is an issue with changing tenancies: if a croft changes tenancy, the tendency is for a higher rent to be immediately slapped on the household, so people want to put off making such a change for as long as possible.

I do not know how you can deal with the issue—it is for the lawyers to decide.

**Peter Dodge:** It worries me that the Crofters Commission might not know where the households are in the first place, as the register is so outdated. That could be a starting point.

The system would need to involve not just the household as a whole. Here in Shetland, crofting is egalitarian—men and women are one and the same. You will not necessarily know who the crofter, the tenant or the worker is—it is very much family orientated. One person might be able to do a particular job better than the other person, but each individual household should put forward someone whom they think best represents their interests.

I have nothing—I have no land and no tenancy, as my wife has everything in her name; I think the same goes for several of the folk who are sitting behind me. I hope that I still have a home to go to.

**Bill Wilson:** That depends on what you say during the rest of the meeting.

**Duncan Gray:** My wife and I both have crofts—I do not know how it would work if one of us was the crofter and the other one was not. It depends on the family and the household, and on who can put the time into working the croft. In many respects, my wife would be better than me at coming here and speaking to you.

**Jane Brown:** I am trying to cast my mind back to what the committee of inquiry on crofting said, but we were proposing a different body at that point, so there is not an exact parallel. If my recollection is right, we decided that anybody in the community should be eligible to be a member of the proposed local crofting boards, and that everyone who was a member of a crofting household should have a vote. In some ways, that is similar to, but also different from, what is being proposed in the bill.

In many households in Shetland, more than one person is the tenant of a croft. For example, my husband and I—and our son, who is in a separate household—are all tenants of crofts. It is a difficult

issue, and I am aware that there has been a lot of debate about it.

I suppose the question is whether to extend the system to include a wider electorate as well as registered crofters. There are certainly competent people out there who could usefully have a vote, but you have to draw the line somewhere in defining the electorate.

**Karen Gillon:** I suppose that this is partly what you are saying today, but as we go round the country, I am conscious of the fact that, in order to have a vibrant crofting community, you also need a vibrant economic community. A registered crofter in community A may be able to get a job in community B, and because they have a full-time job, the other person in their household becomes the person who works the croft. Under the current proposals, however, the person who works the croft is not eligible—as they are not the person on the register—to participate by standing for election or voting. That appears to go against what I have discovered during my steep learning curve: crofting is about the community and the family and trying to make the land work for the people that it serves. I am slightly concerned that the bill as it is currently drafted could lead to people being disenfranchised.

**Peter Dodge:** Under previous proposals, any crofter would be eligible, even if they were absent, as long as the croft was worked by somebody within the family. A move away from that is almost a change in the wrong direction—once again, just the household will be represented, never mind who is in the household doing the work.

15:15

**Karen Gillon:** Has the panel any thoughts about what constituencies we should have for the election of commissioners?

**Norman Leask:** Orkney and Shetland are always lumped together, which usually throws up a problem—

**Liam McArthur:** I cannot imagine why.

**Norman Leask:** You have not noticed that, then. [*Laughter.*]

In most cases, the Orkney people dominate, but in this case Shetland and Orkney could be together, and a person from Orkney could come down to discuss matters that were specific to Orkney. Perhaps an Orkney person would be voted on, anyhow. I have no problem working with Orkney; some people do.

**The Convener:** I should say that none of the detail is in the bill. All that must be worked out later.

**Liam McArthur:** I will stick with the issue of how we democratise the commission and keep away from the sensitive issue of Orkney-Shetland relations. The decision to allow a proportion of the commission to be elected has been welcomed by some people, but other people think that it does not go far enough. I would welcome the panel's view on whether a wholly elected commission is desirable or possible, given everything else that the bill seeks to achieve.

Last week the committee heard from commission representatives, who expressed a fairly firm view that, given the requirements on the commission, its chairman will need to be appointed by the minister rather than proposed and rubber-stamped by commission members. It would be useful to hear what you think about that and whether you think that the proposed democratisation of the commission goes far enough.

**Duncan Gray:** The proposal is that 60 per cent of members will be elected and the rest appointed. My understanding is that the chairman or convener—or whatever he is called—will be elected. Is that the situation?

**Liam McArthur:** It will be for the minister to appoint the convener, but he could be either one of the appointees or one of the elected members.

**Duncan Gray:** That is a difficult one. I am glad that I will not have to make that decision.

**Peter Dodge:** I fail to see why we would go so far down the democratic route only then to impose a chairperson who had not been democratically elected.

**Liam McArthur:** Do you think that it is important that the chairman should come from the 60 per cent of the membership who will be elected, whether the person is chosen by the commission or appointed by the minister?

**Peter Dodge:** The chairman could be elected by all the members. I would not like to see the imposition of a single individual at the top. We have come so far with democracy during the past few years; why not let it go a bit further?

**Jim Nicolson:** I disagree. We all aspire to democracy to a degree, but democracy does not always produce the best people. People of talent might not get elected, and we will want particular talents on the commission, which might not emerge through a totally democratic process. It might be that we got a convener who was the most popular person rather than the most able.

**Peter Dodge:** I should have said that I agree with the 60-40 split. The issue is just the convener.

**Norman Leask:** We certainly need appointees, for their expertise. The commission is an important

group of people. It should be possible to find a chair from the 10 members rather than put another person in. The chair might not necessarily be one of the crofters; they might well be one of the appointees. I do not know exactly what happens in Government circles, but most committees outwith the Government decide among themselves who is most able. However, whether there are 11 or 10 members is not an issue for me.

**Peter Peacock:** I want to pin you down on what you said earlier, when we were talking about how the bill can help to strengthen how assessors are elected or appointed. You seemed to be setting out an alternative model to a direct election. You talked about having six constituencies, from which a group of assessors would elect their convener, who would go to the commission as commissioner. Is that right? Is that your preferred model?

**Norman Leask:** That is what I said when the previous bill was discussed. That has always been my preferred model. However, I am quite happy to go along with whatever is possible. What we have now is a tremendous lot better than what happened last time. We must continue moving ahead and forget about what we did not get.

**Peter Peacock:** I asked because, as we have travelled around—and today, a bit—I have detected no real enthusiasm for direct elections. Alasdair Morgan and I met a group of crofters on the Uists at a public meeting, and when Alasdair, who is the Parliament's Deputy Presiding Officer, asked for a show of hands in favour of elections, only one hand went up. Jim Nicholson also seems sceptical about elections.

It is difficult to argue against democracy, for obvious reasons. However, if there is no great enthusiasm for elections and only 10 or 20 per cent of crofters turn out to vote, what will that do for the credibility of the commission? What does the panel think? Are people thirsting for democratic elections, or is that not a high priority for crofters?

**Norman Leask:** I believe that we could get our assessors elected. If we set up six areas in Shetland and put forward a protocol for each area, I think that the most appropriate people would come forward—and that could be all the election that was required. However, I lost the battle last time and I am quite happy to lose it again. I am a typical Liberal Democrat; I keep on at it.

**Duncan Gray:** Crofters are not going to be that worried about whether the person is elected, as long as they know that there is a man or woman that they can get hold of and speak to if they have a problem. That is the most important thing. There are more important things to worry about on a croft than how the commission is elected.



**Peter Dodge:** The issue has arisen because each community is pretty well unique in its own right and we are trying to get someone who represents the community. If that can be done, let us try and do it.

**Peter Peacock:** It is proposed that the commission should have the power to charge crofters fees, for example for applications to apportion, assign or decroft. A scale of potential fees has been published with the supporting documentation to the bill. What is the panel's view on crofters having to pay, in part, for crofting regulation in future?

**Norman Leask:** During the past 20 years we have steadily been punished more and more. I often say that crofting is a disease, but it is curable and some people eventually recover from the sickness. I ask the committee, every time you decide on anything to do with the bill, please think about how it will keep people in crofting in the periphery. That is the only thing that is important. We can forget about everything else.

**Peter Peacock:** That is an argument for not charging.

**Norman Leask:** Any extra charges would be completely unacceptable. We have been punished over the years. Here in Shetland, as I explained last night, we lost out over the change from hill livestock compensatory allowances to LFASS and then we lost out after the first examination of LFASS. LFASS is changing again, and we already get 30 per cent less into Shetland than we used to get in 2006. LFASS is underspent by something like £8 million. Please do something about getting us some of that money, through specific handicap area status for Shetland. That is how you will get the young people into crofting. It is quite simple—I am sorry; I know that that is for another day.

**The Convener:** Often, the result of successful applications for decroftings or apportionments will be financial gain for the applicants, and Government is increasingly having to be self-financing. Therefore, is there not some justification in charging for those things to cover the costs?

**Duncan Gray:** Twenty-odd years ago, when I started crofting in my own right instead of helping my father, grants were easily available through the crofting counties agricultural grants scheme. If a crofter wanted to improve their land, by putting up fencing or anything like that, money was also available through the croft entrant scheme. The croft entrant scheme has now disappeared and CCAGS grants are an awful lot more difficult to get than they used to be. If people are now going to be charged for apportionment, how can you expect folk to be interested? The Crofters Commission used to support crofters, but now it is

going to charge them every time that they want to do something or change something.

**Peter Dodge:** Between 20 and 30 years ago, when Shetland Islands Council money was being used to prime the pumps here and young folk were getting to stay on in the hinterland instead of going away to the town and migrating out of the backwoods, there were 100 apportionments a year in Shetland. There were more apportionments here than in the rest of the offices put together. The outcome of that can be seen today—we still have young folk and a vibrant community—but help is needed for that. As Norman Leask hinted, when a croft is passed over to somebody, in some cases, they are given a liability and a yoke around their neck for the rest of their life. So, let us be fair.

Some apportionments are coming up in an area just down the road from us in a neighbouring township, but there are complications that the Crofters Commission has not even started to get to grips with regarding udal holding laws, holdings with non-croft subjects on the hill, divisions of common land that were undertaken as part of the common grazing and a whole wheen of tenant crofters who have not been on the hill in the past 20 years. The way that things are going, when somebody applies for an apportionment to keep their cattle on the land, replacing the sheep, there will be the most horrendous brouhaha—not of that person's making—at the hearing and in what follows. If he sees that apportionment within the next three years, I will be very surprised. He will be held back, and if you ask him to pay for what is his natural right, you will just put that boy out of business completely.

15:30

**Karen Gillon:** I understand your comments about apportionment, but the issue of decrofting is slightly different. Would not charging a fee for decrofting be a potential way of bringing some income back, which could be used to support crofting? I do not know, but I think that there are two different issues and that we are perhaps mixing them up. If people are going to decroft and receive a financial gain, there may be merit in a charge, but you have made a good case for why there should not be a charge for apportionment.

**Jim Nicolson:** I agree with that. In most decrofting cases something is going to happen, such as a commercial development or a house being built. I would not like to see too large a charge being applied for an individual croft house, especially if it is the crofter who is going to build it. The chances are that they are decrofting in order to obtain a mortgage to enable the building to go ahead. When a commercial enterprise is involved, a charge would be appropriate.

Apportionments might be obtained for only 15 years in any case, although they might go on beyond that. In effect, a charge is being applied, but only for a specified length of time.

**Jane Brown:** Like Jim Nicolson, I can see the reason for charging if a commercial development is involved. However, for most apportionments and decroftings of family houses, the crofting legislation has put over crofters a whole layer of regulation that does not really apply to most other forms of land tenure. Because of that, I do not think that crofters should be charged. Over the generations, successive Governments have chosen to make those regulations, so unless the decrofting is done for the purposes of commercial development, people should not be charged.

**Norman Leask:** I certainly agree with that. Although I have no problem with people making money, I am opposed to too much decrofting, unless it is for the good of the community.

However, apportionments are given that cannot even be improved now. When I was young we could improve our apportionment. We could surface seed it and put sheep and cattle on it. We are banned from doing that now. It is one of the many ways in which crofters have been punished and punished again. I must apologise for being a bit angry about that.

**The Convener:** I am conscious that time is marching on and we have a few vital questions still to ask.

**Alasdair Morgan:** Another difference of opinion that we have come across in different parts of the country relates to how people know the exact boundaries of their crofts. One of the proposals is to set up a register, which will probably be map based. Do the witnesses think that croft boundaries in Shetland are generally well defined? Is the setting up of a map-based register a good idea? Could the exercise be done relatively straightforwardly in Shetland?

**Duncan Gray:** We already have maps. I asked some crofters about the proposal and they asked why another set of maps is needed. We do maps every year. The integrated administration and control system maps are done annually. We might need only to review the maps and make sure that the boundaries were correct, but I would say that they are 95 to 97 per cent correct already.

**Alasdair Morgan:** In that case, moving to the proposed register would be fairly straightforward in Shetland.

**Duncan Gray:** The Crofters Commission already has a register of crofts; it just needs to be modernised.

**Alasdair Morgan:** Aye, but it is not based on maps.

**Duncan Gray:** Just modernise it and put the maps in. We do not need to create a whole new register when we already have one.

**Norman Leask:** I am obviously very naive, but for the life of me I cannot see why the Government department that operates IACS cannot transfer its maps to another department. Geographers certainly need work but do we need people to go around all the hills and draw up new maps when maps are already there and we have signed them off and agreed to them? Are maps of the scattalds included? As far as I am aware, everyone I know completes their IACS form and agrees to the maps.

**Alasdair Morgan:** How frequently are there croft boundary disputes in Shetland? We seem to have come across them quite a lot elsewhere.

**Duncan Gray:** I cannot remember one.

**Jane Brown:** I am aware of one—they obviously crop up. The small number might be linked to the lower level of neglect. People in Shetland actively use their crofts. As Jim Nicolson said, virtually everybody is submitting an IACS form. Personally, I am not sure that the IACS maps could be used as a straight swap, because some people might have more than one croft. Also, the maps show only forage areas, so some areas of crofts might not show up on them, because they are not foraged—they might be rock or buildings or whatever. However, those maps would be an extremely useful starting point and the job would be substantially done. There might be boundary disputes, but I do not think that they will be prevalent.

Another issue about the register and the mapping is that the Crofters Commission has a register—I have seen extracts from it—that is dependent on information that it has been given and which is not necessarily up to date. There is a lot of scope to go through that register systematically and update it, particularly in relation to where people live and whether their correspondence address is the same as their croft address. That definitely needs to be done. An up-to-date register of the tenants, the crofts, the correspondence addresses, how they can be contacted and so on is essential.

**Alasdair Morgan:** Under the bill, the registration of crofts would be triggered by a series of events that might never come to pass in the case of certain crofts. As an alternative, it has been suggested that each township or grazings committee could put together the register and set out what it thinks the boundaries are for its community. Would that be a sensible approach?

**Duncan Gray:** Yes.

**Norman Leask:** That has been done in some areas. I hope that the committee will have a chance later to speak to Frank Robertson, as he has done that in an area that he and my wife are involved with. I do not believe that there would be any disputes that could not be sorted out on a map, especially if the crofters knew that they would otherwise have to pay to go to the Scottish Land Court. I am completely confident that we could sort out everything through the local committees.

**Peter Dodge:** In the 1970s, the department of agriculture employed students to go round all the farms annually during the summer to put the general boundaries on to maps for the department's use. As an outsider coming into Shetland, I look on the issue with great trepidation, because it depends on the scale of the map. The townships in which we live were avoided by the Land Court in 1913. In most of Shetland, there was still a native population who knew their boundaries. The Land Court would not touch the area round the townships. It did the meadows and the inby and outrun areas, but it did not dare to come in to the townships, where various estates came together and there were various rights of access, kailyards and whatnot. In some places, the generation that used those areas on a daily basis has moved on. We now live in harmony in many ways. There are not many boundary disputes because, as we live in such close contact with one another, we cannot afford them.

**Liam McArthur:** To return to the point about IACS, in each meeting that we have had on the bill, a different set of maps has emerged and we have heard suggestions about which might be the best and most accurate. The figures that we had on IACS are that there are about 12,000 crofters in Scotland and about 5,000 or slightly more who claim the single farm payment. There will be others who are still filling out IACS forms, but there is likely to be a discrepancy between the number of crofters and the number of IACS forms. We have asked for details of what that discrepancy might be, but do you have any suggestions about how the mapping exercise might be done for the remaining however many thousand crofters?

**Peter Dodge:** The IACS maps sometimes bear almost no resemblance to the crofts. Someone could occupy the same piece of ground from 1997 to 2004 and the Government agriculture department would change it on the map four or five times. It does not believe in the rights of crofters and silly wee things from the archaic past, such as sheep on tethers going right to the banks to the ebb, where there have been rights for hundreds of years. We continue all those rights, but we will not get someone who deals with the IACS to believe that sheep eating seaweed are part of our crofting lifestyle.

**Norman Leask:** Peter Dodge is right to say that the area changes on the map every year—and it always shrinks. *[Laughter.]* It is another one of the things that I get angry about.

**Bill Wilson:** Peter Dodge mentioned rights of access, which brings me nicely to a question that I wanted to ask. One possibility with the mapping is that, if it is not done correctly, it could leave ransom strips. I am sure that you know what they are—thin strips of land to which a landholder might conceivably deny access to a crofter without substantial payments of money.

When I heard of ransom strips, I thought that they sounded like a bad thing and that we needed something in the bill to say that crofters should not be unreasonably denied rights of access to their land. However, previous witnesses have suggested that ransom strips are a wonderful thing. I paraphrase slightly, but they suggested that ransom strips allow benign landlord dictators to control the crofters and ensure that they behave. I may be paraphrasing slightly harshly, but that is broadly what I was told. Does any of the witnesses have views on ransom strips, benign dictatorships or access to land?

**Peter Dodge:** I suspect that you have been to Lewis and Assynt. *[Laughter.]*

The strips exist, and they are rights of access. For some, we do not know which landlord is the owner, and in another world some people might call them beetle banks. They are the areas in some places that, when planting new houses or getting roads, people do not know where they stand regarding who to go to for a title. There are not a lot of them—most of the population know who owns what—but it just needs one individual to park a line or fence post in the wrong place and you have blood.

**Bill Wilson:** Do we need something in the bill to say that crofters should not be unreasonably denied access to their land?

**Peter Dodge:** We know where our access routes are—they have been laid out. If you pick up a 1902 map of the survey of 1872, you will find that most of the access routes are carefully defined. Whether they are still kept up is another matter, but we have a pretty good idea of what rights are there.

**Norman Leask:** Most of the cases in which the Land Court has been brought into action in Shetland have involved people being denied right of access across somebody else's croft—rights of vehicular access, usually, as I think that everybody has the right to walk. I think that every case that has arisen has been because of a denial of vehicular access to a croft.

**Bill Wilson:** Does the bill therefore need something to deal with that?

**Norman Leask:** I would like to see that, yes.

**Duncan Gray:** Yes.

**Norman Leask:** It would be quite simple. If it is not necessary, it is not necessary, but there is a chance to deal with things that have caused problems in the past.

**Bill Wilson:** Do benign dictators not appeal to you, then?

**Peter Dodge:** Do you mean the council?  
[Laughter.]

**Norman Leask:** Ask the council, because it could be the worst—or the best—dictator that we have. I do not know, but I have told you before that it has caused a problem.

15:45

**Peter Peacock:** The proposal is that the current register would be kept by the commission for another 30 or 40 years while the new register is being compiled in parallel, and that crofters would pay for registration and for an advert in the newspaper and so on. You have described a situation in Shetland in which virtually every croft is used, very few are neglected, there is very little absenteeism and there have been few boundary disputes. Can you think of two or three benefits—or even just one benefit—that would accrue to a Shetland crofter from the new map-based register?

**Norman Leask:** We would need to have an up-to-date register with a map attached to it. The problem has been because of our strange system, in which there are quite a few owner-occupiers. They are not tenants, so lawyers do not have to say that there has been a change in the owner occupancy of such crofts. In Shetland, that accounts for a lot of the missing crofts.

**Peter Peacock:** But if you have been living in a community, in perfect harmony with your neighbours, for 50 or 100 years, and you do not see any prospect of that changing, what does a new map-based register bring to the table?

**Norman Leask:** If a newcomer comes in, you can lay down the map and say, "That's the way that it's always been. That's the way we believe it should be." It is an insurance for the future, which we really need. We do not need it as it was originally envisaged, because that was to allow people to raise money on their crofts. We do not need it as exact as the original proposal. I have been opposed to us paying for the map, because we could do it as a community exercise. I hope that the committee gets the chance to speak to

Frank Robertson, who can explain the things that have been done.

In Bressay, the community got together 25 or 30 years ago to draw a map and present it to the Crofters Commission. The commission had no place to put it. No one knows where it went, or

whether it went in the bin. If communities can get together and attach a map to the register, it will be to their benefit, but it should not be a punishment—there should not be an extra charge.

**Peter Peacock:** But in that context, you would be quite happy for the commission to keep the register.

**Norman Leask:** The committee should stop this idea of everything being taken away from the Crofters Commission, which is the only body committed to crofting.

**Peter Dodge:** The other issue is what scale the maps should be. A 1:2,500 map is pretty standard, but we do not have that for a lot of Shetland, so if that was the scale we would be stymied.

**The Convener:** We have had maps come out of lots of places. There may be one in the Laird of Bressay's hoose.

**Karen Gillon:** As we have gone round the country, one of the issues that has arisen is development on crofting land and decrofting for development. How much of that is occurring in Shetland? Is it for community benefit, speculation or private gain?

**Duncan Gray:** There is not a lot going on in our files, as far as large-scale development is concerned. Most of the developments are happening around Lerwick.

**Norman Leask:** You would find the same thing going on in Stornoway. The nearer to Lerwick, the bigger the issue. There are other issues, such as efforts to protect little bits of croft land. One of the things that was taken away from us, in about 2003-04, was the grant to allow us to use the poorer part of the croft. You could get a grant for your road and all your facilities. I thought that we might save that one, but unfortunately there was a ministerial change and it fell away.

It is not all one issue. We do not have very much land, and we would like to save as much of it as possible, but we cannot refuse a young person who wants to put their house alongside their parents' house because that is the cheapest place. It may save them £30,000 to put the house on a good piece of the croft. We need support from Government for things like that. As Jane Brown said, Shucksmith considered all those issues and came forward with ideas to save little bits of land. That is just one of the many things that we have lost.

**Karen Gillon:** Do you sometimes end up building more houses because the cost of sewerage, roads and so on means that it is not viable to build only one? If you wanted to build a house for yourself, without any grant, would you have to build another two houses to make that a viable option?

**Norman Leask:** That is not an issue.

**Jim Nicolson:** That is not what happens. The biggest demand for crofting land for decrofting is to build individual houses. By and large—certainly in the communities with which I am involved—that is welcomed, as it strengthens communities by bringing in young people. If building takes place in areas where it is possible to connect to a public drainage scheme or which are near to electricity power lines and water, that saves money, so most building takes place where there are crofts and in areas that are designated for housing in the local plan. Generally, communities welcome such building, as it strengthens them.

**Peter Dodge:** I have been involved in this side of things for two or three decades. The issue is very tricky. It is a major issue in Shetland, where some of the best arable land is under assault. It would have been a big help if in the past score years Government had assisted the poor council by saying that the better arable land in Shetland was worth keeping, given its historical value. The Government has hung us out to dry. The gradings of land here are such that it is of negligible quality, but we are starting to get housing on a larger scale. In some cases, we have tried to guide it out of the hill dykes and on to the poorer ground, but once one or two people get in the finances for a house site or two, they start to push matters. Only a few people tend to be involved. That is leading to break-ups in some communities, as the other side of a community tries to protect what it has left. It is not an easy issue to address. Because of it, harmony is no longer the key word in one or two communities.

We should zone houses more on poorer land, especially common grazings, and put in place the necessary services, as has been said. For years, planners here tried to get what they called hamlets, which is a strange term in Shetland; they wanted groups of houses, so that the services, the bins, the post and so on were brought together. That is anathema to many places in Shetland—it is not in keeping with our culture. It would be ideal if we could sort out the issue through councils, in harmony with the Crofters Commission. We have done that once, but the Scottish Land Court overturned the arrangement in the Ocraquoy case. Yet again, the Crofters Commission managed to stop developments where we would have preferred to see them, alongside old roads and existing services.

Many of the people in new houses come here because of what the crofting scene presents to them—the rural idyll and whatnot—but they are destroying what they came to enjoy. The problem does not affect many areas of Shetland, but within 12 miles of Lerwick there is encroachment on a scale that is harmful to crofting.

**The Convener:** We must finish this part of the session by 4 o'clock.

**Karen Gillon:** I have a question that I would like to ask Peter Dodge before we move on.

With regard to planning, do you think that we have got things the right way round in terms of the Crofters Commission? Is it involved at an early enough stage in terms of the zoning of land? Does it have enough powers to say, when a local plan is being developed, “You can zone that area for housing, but we are not going to decroft it”, which would force the housing into areas where it would have less of an impact on the agricultural use of the land?

**Peter Dodge:** At the moment, there are planners—I do not know where they come from—who want to zone all the areas that face in a southerly direction, so that houses can gain the maximum sunlight for solar power. It just so happens that those areas contain some of the best rigs in the parish. We have to get the Crofters Commission involved at an early stage, so that the planners can be told that we would like them to go over the other side of the hill dykes.

**Jane Brown:** By the time that applications are being considered on a case-by-case basis, it is far too late. The Crofters Commission has to be involved as early as possible—that should be in statute.

**Norman Leask:** I agree with everything that has been said. We had a problem in Ocraquoy and the decision was overturned. I do not know what you can do about strengthening the position or putting pressure on the Land Court. There is no point in giving the Crofters Commission more teeth unless it is backed up by the Land Court.

**Peter Peacock:** One of the proposals in the bill is to extend the period of clawback—during which a part of the development value would go to the landowner—from five years to 10 years. It looks like the Government's thinking is that that would damp down speculation, because someone would have to wait 10 years before they got 100 per cent of the value. On the other hand, it can be seen as simply extending a landowner's right to claim money. Is that proposal justified, or should the situation be left as it is? In his written evidence and in his evidence earlier today, Norman Leask has said that he would like the profits to go not to the landowner but to the trust, but I ask you to

leave that issue aside in talking about the principle of extending the period of clawback.

**Norman Leask:** To a true crofter, it will not make a big deal of difference, because they will be crofting their land. The only way that it could make a difference is if someone had to start crofting their land by selling off sites. That is the last thing that we want to happen.

**Jim Nicolson:** I do not think that an owner-occupier is any more likely to sell land for development than a landlord would be. If someone says to a landlord that they would like some land for a development, he or she is likely to go along with it, just as an owner-occupier would.

**Peter Peacock:** This morning, we heard that people occasionally sell a house site in order to do up the byre, or to buy a tractor or something like that. The implication of the proposal would be that, in realising that value, the landowner would get another five years of that. Does that seem right?

**Jim Nicolson:** I do not think so. In the distant past, landowners would make a significant contribution to the crofts on their estates. In some cases, they would assist in the building of houses and so on. By and large, that does not happen now, so the proposal would simply be handing a bit more to the landowners.

**Norman Leask:** When we were in Edinburgh, our response was the same as it is today. The Scottish Landowners Federation agreed that we had put forward a splendid idea—obviously, nobody there had read it at the time or something; I do not know. In any case, I stick to it.

The landlord does not need any more help. The community needs any support that is possible. In most cases, the proposal will be triggered only if the community requires land. Very seldom will someone be going round trying to flog off a site.

16:00

**The Convener:** Should we, if possible, try to address in the bill the issue of the Whitbread loophole?

**Norman Leask:** There is no question but that that has to stop.

**The Convener:** I see that everyone on the panel agrees with that.

We have time for a final question.

**Bill Wilson:** In the Crofters (Scotland) Act 1993, there are various statutory conditions. One of those conditions requires a tenant crofter to permit his landlord to view and examine the buildings of a croft. The Land Court has decided that that includes the inside of a croft house, even though the landlord might never have contributed to the

building or maintenance of the house. Were you aware that a landlord could insist on inspecting the inside of a tenant's croft house? What are your views on that?

**Jim Nicolson:** I certainly was not aware of that, but I would be happy if my landlord came to visit the house. I get on very well with him.

**Jane Brown:** I was aware of that. I understand that it has happened in Shetland and that the person to whom it happened thought that it was a gross intrusion.

**Bill Wilson:** My legal colleague, who informed me of that visit, told me that the tenant was not entirely cantie about it.

**Duncan Gray:** I was not aware of it, and I would think that most people would view such a visit as a gross intrusion. I get on well with my landlord, so I would not have a problem. That might not be the case for a lot of people, though.

**Peter Dodge:** I will not be telling my mother-in-law that a visit from her is a gross intrusion. *[Laughter.]*

**The Convener:** On that note, I thank the witnesses for their attendance. If any other issues occur to you and you want to share them with the committee, please write to the clerks as soon as possible, so that your views can inform future evidence sessions.

I will suspend the meeting for five minutes. I think that three members of the public have let us know that they want to take part in the public session. If anyone else has been motivated to speak by anything that they have heard in our discussion, they should have a word with the clerk, Peter McGrath, during the suspension.

**Norman Leask:** Before you suspend the meeting, I would like to present you with a book that some of the crofters have put together. It contains little stories about Shetland and some good photographs. I am sure that it will be happy reading.

**The Convener:** Thank you. I will share the book with my colleagues. It looks lovely and I look forward to reading it.

16:04

*Meeting suspended.*

16:12

*On resuming—*

**The Convener:** We move to the public participation part of the meeting. I suggest that we keep contributions to under four minutes so that everyone gets a chance to speak.

**Councillor Frank Robertson (Shetland Islands Council):** I have three points to make, the first of which is about the local development plan. I am the chairperson of the planning board, and we will embark on preparing local development plans under the Planning etc (Scotland) Act 2006. An important factor is the development of agricultural land. I have been involved with crofting nearly all my life. As well as being a councillor for the west side and the chair of planning, I am the chair of the local grazings committee on the west side—I have been for 20-odd years. I therefore have a reasonable working knowledge of crofting and crofting life. The issue for the local development plan is proscription and the development of what, on occasion, is good agricultural land.

Once planning consent is granted for a development, the need for decrofting follows, but it often occurs automatically once planning consent is given. It is not always for a single croft house. I see passing through the planning board fairly large-scale developments on what is termed, and can be classified as, good agricultural land. That is why I feel very strongly that we need a consultation process. Norman Leask talked at length about local assessors. In the planning process, we have statutory consultees such as SNH, the road surveys and community councils, but we do not have a statutory consultation with either the Crofters Commission or the local assessors, who have a good knowledge of the quality of the land. That is a lack in the planning process. That is my first point.

16:15

My second point is about one of the first things that our local grazings committee did about the scattald there. We captured all the local knowledge of the area that we could and prepared maps, at very little cost, using existing Ordnance Survey sheets. We produced a complete mapping of the whole scattald, based on the knowledge that we gained of boundaries and accesses. We have used that for recommendations and comments on apportionments. When those maps were completed, I lodged them with the then department of agriculture and fisheries for Scotland.

My third comment is on an earlier question that was asked about the Crofters Commission. From time to time, I have been involved in hearings. Good as local grazings committees are and democratically operated as they may be, it is extremely important that we have a higher authority that we can go to for a legal and balanced judgment on particular issues. In many cases, we have had great difficulty in reaching such judgments locally.

**Joyce Pole:** It is lovely that the committee is here—I am really chuffed to see you.

I live in the middle of what is really a development area. The two crofts next door to me—they are fantastic crofts—are being actively subdivided, which is tearing the heart out of them. All the arable land and the good grazing will be under housing quite soon. That is not right; the hills will be all that is left. It is because we live so close to Lerwick that the value of the 171 hectare holding that the two crofts make up has increased from the £170,000 price that it was bought at, to upwards of £0.5 million. That is the price just for the plots that are being sold at the moment. There will be lots more plots for sale in the next five to 10 years.

I prepared a statement because I thought that I would waffle, so I will just read it out, if that is all right.

There are broken links in the chain that bonds crofting to the community. The major broken link is that there is no body, no authority, no federation and no department in place to protect crofts for food production. In the past 10 years or so, the rapid pace of house building on croft land has gone unchecked. Lately, things have accelerated. The supporting statements that accompany many applications for planning permission for houses on croft land are not factual, and the information that is supplied is manipulated in such a way that planning approval has been granted when it should not have been. Any protection that the agricultural officer can offer to save valuable arable and grazing land is undermined by such statements.

The planning department has neither the time nor the staff available to check the veracity of supporting documents, and they have to rely on the disclaimer on the application form that puts the onus on the applicant to tell the truth. Many applicants know that once planning approval is awarded, the details that have been supplied are checked rarely, if ever.

A case in point involves a crofter's son who has built four croft houses. He decrofted the sites prior to the build and then sold the properties to fund his home abroad. Another crofter stated that as there was an ESA scheme on the poorer land, his only option was to build his house on the arable land. Locals knew that the ESA scheme had expired and even though the false statement was brought to the planning officer's attention, nothing was done and approval was granted. Proper regulation by the Crofters Commission prior to any planning submission would have brought omissions and half-truths under closer scrutiny.

The reason for building on the best land is simple: it reduces the cost of the house by about

£5,000 to £10,000, simply because there is no rock to clear, no large underbuild, and the foundations are quickly and easily laid.

House building changes the value of agricultural holdings in such a way that no one can afford to buy a croft and run it as a croft. A good offer was made by a genuine crofter, but it was refused, and it was a property speculator who bought the crofts next door to us. The only people who can make a purchase are those who intend to split the property into house sites and sell them on to the highest bidder leaving only the hill ground and rough grazing. Croft after croft is being asset-stripped. It is bad enough that some are selling a few house sites year on year, but now whole crofts are being sold to housing associations in collaboration with their preferred builders. If they do not get their way, they appeal and waste a huge amount of public money, putting excessive pressure on our paid officials and wasting precious time in our planning system.

We must have a robust method of control, an authority that regulates croft land use so that the croft owner cannot destroy his or her croft for short-term personal gain. Shetland's food-producing capacity is dwindling. The gradual reduction in grants and agricultural schemes is forcing more and more people to sell house sites. The broken link in the chain and the low monetary value of stock leaving the croft gate must be addressed. Although there is no cartel between buyers to keep the prices low due to lack of competition at the sales, there might as well be.

The general public seem to have no respect for the crofter or the crofting way of life and have a notion that their food appears as if by magic on supermarket shelves. Very little is home grown. Our export markets have been hit by Government failures such as the deregulation of the rendering industry and poor maintenance, which caused the spread of disease. We should be ashamed that we have allowed that to happen. Shetland needs its crofts for not only sustainable food production, but bonus issues such as tourism and its ancillary trades, such as suppliers, the wildlife and, last but by no means least, the farming and crofting community itself and its meat exports. Less arable and winter dry grazing means a greatly reduced animal stock or much more expense due to haulage charges for winter fodder brought in from the mainland.

The central and southern area of Shetland has the best land. The central area is under huge pressure; it is seen as an easy target for housing, simply because of the short commute into Lerwick and Scalloway. That is a ridiculous attitude—there is so much poor ground, particularly around Lerwick, where there is the highest demand for affordable housing. Our crofts must be protected.

If the Crofters Commission gains a new identity and its purpose is to manage and regulate the crofts, then prior to any pre-planning discussion with the planning department the new commission should be the first contact, not the last, as happens now, to determine whether the land can be taken out of crofting. That is where the assessors could play an excellent role in discussing the situation with the wider community. The new commission should have the power to protect the wider crofting community as our crofts are producing the most basic commodity—food, particularly protein. The size of crofts means that, if they are split up, they are really only suitable for growing vegetables and keeping one or two sheep. If they are kept as a viable going concern with a mix of arable, grazing and hill, you can get quite a lot of protein out of the area. That is the bottom line. It would help our exports, especially as the value of the pound is so low.

Splitting up crofts into ever-decreasing units leaves the area unable to sustain a decent flock of sheep, let alone a dairy or beef herd. Unless you want to turn everyone vegetarian, you must protect the viable protein-producing units. Britain's farming system is following the American system of overintensification, leading to animal stock intensities that are horrifying. In such systems, animals are in a stall 24/7, 365 days a year. Let us protect our food chain and fix the broken links. There will be a premium for meat reared on good grass in summer and home-grown fodder in winter.

Shetland is so lucky that we have beautiful scenery moulded by our crofting heritage. We also have large areas of poor ground for housing. We should do the right thing and properly fund our crofting industry, protect the good land and reap the benefits. The chain will then hold firm and support the charm of Shetland.

**The Convener:** Thank you for your forceful contribution. Douglas Irvine is on our next panel, but he has also offered to speak on behalf of Kathleen Sinclair who cannot be with us today.

**Douglas Irvine (Shetland Islands Council):** Kathleen Sinclair is a full-time farmer and the current chair of the local National Farmers Union of Scotland committee. Kathleen is busy today and asked me to make this statement on her behalf. I should make it clear that the views that I am about to read out are her views and not those of the NFUS committee.

Kathleen's first point is on the crofting register. She thinks that using IACS maps would be the best way in which to draw up the register, a point that was raised earlier.

Her second point is on the bill's definition of an owner-occupier. She thinks that, if owner-



occupiers are to be treated in the same way as tenants, they should be able to access grants in the same way that tenants can at the moment.

Kathleen's next point is on residency. She feels that the 16km distance is a problem and needs to be removed from the provisions. As we heard earlier, the number of islands in Shetland means that a mainland crofter who also has a croft on another island—or vice versa—could be further than 16km away from the other croft. That is also an issue for family crofts. The family is active in the district in which it lives, but may have a second or third croft more than 16km away. Kathleen says that a bit of flexibility is needed in that respect.

Her final point is on decrofting. She thinks that a crofter should be able to decroft an area of land for a house site, either for sale or family reasons. Her reason for saying that is that, given the restrictions on income at the moment, if a crofter has to raise income, the sale of a house site should be an option. She also says that, if we want to encourage young people and build rural communities, a supply of land needs to be made available. Those are Kathleen's points.

**The Convener:** Thank you all very much for your contributions, which are much appreciated. I will suspend briefly to allow for a changeover of panels.

16:29

*Meeting suspended.*

16:30

*On resuming—*

**The Convener:** I welcome the second panel of witnesses. They are John Watt, the director of strengthening communities at Highlands and Islands Enterprise; Andrew Thin, the chair of Scottish Natural Heritage; Douglas Irvine, the business development manager of the economic development unit of Shetland Islands Council; and Kenn Allan, a land surveyor for Shetland Islands Council. I ask you all to state briefly what you think the main role of crofting should be in 21<sup>st</sup> century Scotland. Is it about the retention of viable communities in remote areas? Is it about making the best and most sustainable use of small agricultural units? Is it both or is it something else?

**Douglas Irvine:** Crofting is the glue that holds the rural society of Shetland together, from both a social and an economic perspective. Crofting encourages economic activity outside agriculture. For example, a crofting household will have more than one job, and some of our other industries have depended on those people being active. The salmon farming industry in the 1980s was developed around crofters and farmers getting involved in that activity, and crofters have had a part to play in the development of mussel farming.

Crofting is also important for tourism, and many crofters have construction businesses or run shops. Crofters make an important contribution to more than just agriculture—they contribute to the local economy in general and to the whole fabric of our rural society.

**The Convener:** Does anyone else want to chip in? You do not have to press the button on the microphone—the broadcasting staff will press the buttons. If you are a councillor, you will be used to pressing your own button.

**Andrew Thin (Scottish Natural Heritage):** I have been on too many committees. The fundamental question is this: what is the public interest behind the bill? It is about the retention of population in these areas.

**The Convener:** Okay. Does anyone else have a view?

**John Watt (Highlands and Islands Enterprise):** Yes. We see crofting as a valuable tool that provides an important rationale for economic, environmental and social development—I say those in alphabetical order, not in order of priority. Agriculture and horticulture are important aspects of land management in crofting areas. We realise that crofters can rarely make full-time incomes purely from agriculture in many areas, but they still make an important contribution. In areas, other than Shetland, forestry is an important land management aspect of crofting. Increasingly, other land management elements are coming from crofting land, such as renewable energy, which is controversial in some places but is of great value in many communities.

There is also an environmental rationale in terms of landscape and amenity. Crofting is very much part of the landscape of these areas, which has implications for tourism, and it contributes to biodiversity. Increasingly, issues relating to carbon fixing and carbon management are becoming important in many crofting areas, and carbon is a significant issue for common grazings.

In addition, crofting plays an important social and cultural role in our communities. I agree entirely with Andrew Thin that population retention and growth in these communities is vital to their longer-term sustainability, and crofting has contributed to the retention of populations in many of our most fragile communities. It also contributes to the cultural diversity of the Highlands and Islands and its strong links with culture have been talked about quite a lot in the Shetland context. We sense that it contributes to community cohesion, which is an important part of retaining sustainable communities and livelihoods in these areas.

We therefore see crofting as an environmental, economic and social activity.

**Peter Peacock:** I should make it clear that I have known Andrew Thin for many years and have worked with him in various capacities. I have known John Watt for even longer and have worked with him, too. They are not unknown to me, nor I to them.

This is perhaps a question more for Andrew Thin and John Watt, given the evidence that we have heard today about there being a thriving crofting community in Shetland. In our travels in Caithness and Sutherland, the Western Isles and so on, we have come across communities that are clearly not thriving. Can you offer us any insights into what makes the difference between crofting communities that are thriving and those that appear not to be? Are you aware of any factors from your observations of such things over many years?

**John Watt:** I echo one or two of the comments that came from Shetland crofters. It was very interesting listening to them. As the committee has travelled widely across the Highlands and Islands, I am sure that committee members have seen the differences in crofting activities across the region.

Clearly, complementary employment opportunities are an important element of successful crofting communities. As I mentioned at the outset, crofters have difficulty in providing a full-time income purely from agriculture, so complementary activity is important. It is very much part of my organisation's efforts in crofting communities to ensure that we maximise the opportunity of complementary employment as well as crofting activity. Clearly, in the Shetland islands, the income and the employment opportunities that the oil industry has generated over the past three decades have made it easier for people to live and croft here. As we move forward, I would like to think that we could help to engender other economic opportunities elsewhere in the Highlands and Islands to complement and sustain crofting activity.

That is one element, but I will let colleagues contribute others.

**Andrew Thin:** We need to zero in on what difference regulated land tenure makes. John Watt is absolutely right that different parts of the Highlands and Islands are economically vibrant, but often the reasons for that vibrancy are to do not with land tenure but with other factors, such as the existence of oil, or Dounreay. The question is what difference regulated land tenure makes. Historically, regulated land tenure has enabled people to have access to land, to put down roots and to create homes. That has sustained population levels through periods when they would otherwise have fallen away a lot faster. Of itself, regulated land tenure does not create economic vibrancy, but it can certainly enable people to stay

when they might otherwise go. The other side of that coin is that, if an area has a reasonable population, it has the people and skills to exploit economic opportunities when those come. Regulated land tenure is not a completely separate issue. Without regulated land tenure, I suspect that the Highlands would have a much lower population, except perhaps in the inner Moray Firth.

**Peter Peacock:** Will the measures in the bill as introduced to the Parliament help to sustain, support and encourage more vibrant crofting communities in the future, or are there measures that should be, but are not yet in the bill that would help to achieve that? Do people have any thoughts on that?

**Douglas Irvine:** I will first add a little to what was said in response to the previous question. Shetland was a vibrant community before the oil industry arrived here and I am fairly sure that we would still be quite vibrant without the oil. A look at Shetland's recent economic history will show that we moved ahead as a community in the late 1960s and early 1970s, which was before we had an oil industry. There is more to it than just the presence of oil.

**The Convener:** Does anyone want to reply to Peter Peacock's second question?

**Andrew Thin:** I will try to answer it.

The bill contains things that will help, especially the measures that are aimed at addressing absenteeism, but I would not overstate how much difference it will make. It will make some difference. The question of what measures could be in the bill is a huge and difficult subject so, given the stage that the bill is at, I will try just to focus on what is in it.

We must recognise that it will be quite costly to have a really effective commission that could implement the bill. I was on the Crofters Commission for five years as a commissioner. The commission has frequently been criticised, and one reason why it is not effective is that it is not really resourced and skilled up to do the job that it needs to do. The bill does not tackle that.

I have some concerns about the issue of housing and speculation. Housing is an economic driver that brings in population and allows people to settle. We must be slightly careful about the suggestion that the Crofters Commission should second-guess the planning authority. The planning authority should try to promote economic growth, population retention and so on, so careful thought should be given to the proposal to give the Commission more than statutory consultee status.

**Peter Peacock:** I will return to that in later questions, if I may. I think that John Watt also wants to respond.

**John Watt:** Crofting probably needs three things. The first, which I have already mentioned, is complementary employment opportunity. The second is regulation, so that protected tenure status is utilised to its maximum. The third is funding opportunities to support the activities that it undertakes and the provision of public goods that it provides, and funding includes that for housing. The bill contributes to the regulatory element but does not address the funding issue, which many crofters have mentioned, and might have gone further on opportunities for housing provision and new entrants to crofting, neither of which is addressed centrally in the bill as introduced. As has been suggested, the regulatory function will seek to ensure that as many people as possible who live in an area work in the area and that the land is used to maximum effect.

16:45

**Peter Peacock:** My next question is directed at HIE, in particular, although other witnesses may respond from their perspective. Just over a year ago, HIE was given the crofting development role. I know that you did not necessarily ask for it, but it was given to you and a budget of £150,000 or thereabouts was transferred to you. In your written submission, you state:

"HIE is encouraging crofting community development by integrating it into its programme for whole community development in its fragile areas."

When you say that crofting community development is being integrated, do you mean that your existing programme of work with fragile areas will continue and that, as part of that, you will take a special look at crofting, or has crofting simply been merged into the programme? It is not entirely clear to me what is different as a result of the transfer.

**John Watt:** As you know, HIE reorganised and changed its focus almost two years ago. We became focused on specific activities, rather than taking the broader-brush approach that we had taken previously. The committee may know that in the Highlands and Islands we have a special designation for fragile areas, which are defined—on a map, if you like—with reference to a range of criteria such as out-migration, unemployment levels and distance from service centres. These days, much of our focus is on those fragile communities. Happily, those areas coincide with the areas in which crofting is a fairly prominent activity.

It is important to stress that the role that we took on a year ago from the Crofters Commission was

to assist crofting community development, rather than crofter development. We do not offer financial assistance to individual crofters—that comes from other places, such as the SRDP. We work with a whole community development process in a selection of communities throughout the Highlands and Islands. We are trying to encourage them to consider in a co-ordinated way their future and future growth. In many of those communities, crofting is an important element. We want to ensure that the crofting community and the wider community work together for the broader community benefit throughout the area.

The committee has seen the huge differences in the crofting issues throughout the Highlands and Islands—different communities have different issues relating to crofting. Those might be about absenteeism, neglect, housing pressure or opportunities to develop other economic activities on crofts. Because we have been given responsibility for crofting community development, we want to ensure that the crofting element of community growth is integrated with other aspects of community growth.

We are at the early stages of the process and it has not moved as far or as fast as I would have preferred. However, in the next six months, we will have a set of community plans for growth in many communities in the fragile areas with which we are dealing. For each of those, there will be a statement on how crofting fits into that.

**Peter Peacock:** So, the programme of development—in effect, it is community planning at one level—is continuing, but with a tighter focus on crofting and its being highlighted.

You talk about fragile areas in which, by definition, there is a lot of crofting activity, but does that mean that you are not working with communities that are beyond those fragile areas, even if they are crofting communities?

**John Watt:** We will work with such wider communities, but less intensively. We call the process community account management, which is a clumsy phrase, but it indicates an intensive relationship with a smaller number of communities. There will be about 20 this year and another 20 over the next two years throughout the Highlands and Islands. In addition, we are investing in other crofting activity through what we could call one-to-many initiatives. We will develop toolkits for other crofting communities to go through the process themselves, rather than have intensive support from us. That is part of our refocusing on fewer activities.

**Peter Peacock:** Am I correct that you are talking about crofting communities rather than communities of crofters, so there will not be a plan by the crofters in a crofting community on how to

develop crofting for them collectively? The process will involve the entire community, whether or not people are involved in crofting.

**John Watt:** Yes. In some places there are active grazings committees and township committees that will contribute to that, whereas in other places, as we know, there are no active grazings committees. We feel that the crofting element is still an important part of the plans in those areas, so we will encourage those communities, through our intensive relationship with them, to ensure that it is included.

**Peter Peacock:** In terms of its regulatory provisions, the bill has trigger points including for the register, absenteeism and neglect issues. One fascinating element of the evidence that we have taken thus far is that the more we have got into things, the less appropriate the regulatory approach appears to be. As you have heard today—and as you may have read in evidence—people have been articulating that. For example, they have said that, instead of having what the bill proposes on the register, we should start from a community point of view. The community should map and agree things. People have also introduced the notion that this would be a way of identifying neglect. That happened in Camuscross, as you may be aware. Some crofts are neglected and there are also absentee crofters. There should be a plan for dealing with that. It might also help to identify potential land for housing and so on. All that appears to be entirely consistent with community account management, as you describe it. Let me know if you do not agree with that statement.

You are approaching the issue from a community development point of view. You want to see strengthened communities, whereas the commission takes a regulatory approach, albeit that it also views some of the processes as helping towards lighter-touch regulation—for example, through mediation, people can agree a plan to sort things out. It is interesting to note that. Also, the commission will, so to speak, always come close to your territory from a regulatory point of view, whereas you will always take the community development point of view. Given that, should the commission and HIE have some sort of joint locus? What are panel members' thoughts on all those points?

**John Watt:** Ever since we have taken on the responsibility for crofting community development, we have worked closely with the Crofters Commission. Our view is that plans that are agreed locally should help to inform the regulatory process. We should work closely with the commission. There is a key role for assessors in being the local appointed people in the process—we want to work closely with them. In such

situations, the division between the development and the regulatory functions is small—people have to work together. It is very much our intention to ensure that regulation can be properly informed by a collective idea of where the community is going.

**Peter Peacock:** You see benefits in having a close relationship with the commission in terms of your continuing work and responsibilities, and you are coming at things from different points of view, but arriving at the same points of interest. You want to work actively with the commission in those respects in the future.

**John Watt:** Absolutely. At the moment, we meet the commission every month to discuss how both of us are taking things forward.

**Peter Peacock:** I am interested in whether other panel members have a view on that.

**Andrew Thin:** There is an interesting and potential contradiction in all this. The broad view that we are hearing is that the public interest has to do with the whole community. We are hearing that, but the democratic accountability of the commission is being moved increasingly towards just the crofters within the community. There is also talk of giving the commission significant powers with respect to land release. In a sense, we are lining up the commission against a planning authority that takes account of the whole community. That is an issue.

**Peter Peacock:** What is the issue?

**Andrew Thin:** If this is about the whole community, why are we moving towards a commission that is democratically accountable only to part of it?

**Peter Peacock:** Okay.

**Douglas Irvine:** I am pleased to see in the bill a move towards strengthening the assessors in the commission. We argued strongly for that on seeing the draft bill. The council's take on the register is that it should rest with the commission. It is important that proper maps be drawn up for that purpose. In the 18<sup>th</sup> and 19<sup>th</sup> centuries, we had accurate maps of all the land in Shetland. It should therefore be possible to do that without too much of a problem in the 21<sup>st</sup> century. That needs to be considered as a project. My opinion is that funding could perhaps come through the SRDP. There must be a way of getting this done fairly quickly. If we start out by using IACS, that is fine.

Moving on, the council's position is that we would have preferred to have seen the role of the commission strengthened without any of its functions being diverted to other organisations. The decision on that has been taken, but we still hold to our view.

**Peter Peacock:** You would like the commission to have a continuing role in the development of crofting generally.

**Douglas Irvine:** Our position is that the commission should be strengthened to consider the wider role of crofting communities.

**Peter Peacock:** I come to my final question, which it may be unfair to ask the panel when I should probably have asked it of the planning board chairman. John Watt talked about a community developing a plan for its area, and the committee has discussed the development of maps, which may go wider than just mapping. Would the council welcome that as part of the process of informing its local plan for the zoning of housing in particular townships and crofting communities?

**Douglas Irvine:** I cannot speak for the planning service because I am not involved in it, but that would appear to be a logical step.

**John Watt:** We have had initial discussions with Highland Council and the Crofters Commission about planning, and I would like to do that with the other planning authorities. In the initial response to the bill, we were one of the few bodies to suggest area committees. We felt that the sensible way forward was for responsibility for crofting decisions to be taken locally. Although that is very much the direction of community empowerment in many other fields of activity, the issue has moved on from there. The committee asked previous witnesses who would be eligible to vote and who would be eligible to stand—they are two different things. Am I going on to someone else's territory?

**The Convener:** Yes. We will come to that later. Liam, did you have a question?

**Liam McArthur:** Yes. Unfortunately, Peter Peacock has been successful in deftly moving the panel on through the issues. Funding came up earlier—I think that Andrew Thin mentioned it first. The Finance Committee's deliberations on the bill's financial memorandum drew out in evidence a degree of uncertainty about some of the costs. When Drew Ratter gave evidence in Thurso last week, I think he mentioned that there is a risk, depending on people's expectations, that the bill could cost millions. On the other hand, it could be contained within existing budgets. As you heard from the first panel, many of the issues have related to funding, although they have been to do with the support structure—LFASS, SRDP and so on—which does not really fall within the scope of the bill. All the same, the bill covers a range of issues, such as chasing up absenteeism, dealing with neglect and developing a map-based register, which could prove to be very costly. In the panel's view, is it important that ministers—or the Parliament—make an early call to say that the bill

needs to be contained within existing funds, or do we need to be clear about what is needed and then ensure that the bill is properly resourced? I am conscious that people's expectations of what the legislation will achieve will vary, perhaps quite markedly.

**Andrew Thin:** To be fair, that is for ministers to answer. However, it is important to be clear that the implications of the bill—you have just alluded to some of them—mean that if the Crofters Commission is going to do the job well, it will have to receive significantly more resource than it does at the moment. At the end of the day, it comes down to money, although it is also about attracting the right people in to do the job really well.

**Douglas Irvine:** You need to consider this from the perspective of crofters. Although there is no direct connection between the bill and the direction in which the Pack review has taken us, it is all to do with building confidence in our rural communities. On the one hand, we have the prospect here of the introduction of additional costs and another layer of bureaucracy; on the other hand, Brian Pack was here a few weeks ago telling us that we will get much less money in our single farm payments. We have done some work on that and, based on the model that Pack used, we think that the current £5 million that we receive through single farm payments will fall back to £3 million. At the same time, as was discussed earlier, there is no guarantee that LFASS will increase. All that is working against building the confidence that we need in our rural communities. Legislation should be seen as complementary, at least to some degree. If you are an individual crofter, you are thinking, "I'm getting hammered here, and I'm getting hammered from the other direction, too, by both sets of legislation." The legislation needs to be considered together.

17:00

**Liam McArthur:** Clearly, the bill needs to be considered against a backdrop of which the funding mechanisms are but one part. Nevertheless, as we were told last week, although the commission has been the subject of some criticism, no one is arguing for its abolition. Indeed, the commission can be quite a handy external body towards which everyone can direct their anger at different points. Is there a risk that the commission will be set up to fail under the bill if its remit is cast too widely and if it is not properly resourced?

**Andrew Thin:** It is fair to say—it is a truism—that any public body will fail if it is not properly resourced. That also goes without saying. To do its job, I think that the commission will need more resources than it currently has. However, some provisions in the bill, such as the definition of

“purposeful use”, will make things very difficult for the commission. The issue is not just the need for more staff and more money but the calibre of leadership and so on.

**Liam McArthur:** That calibre is hardly likely to increase if the job is seen to be perhaps even more of a poisoned chalice than it has been in the past.

**Andrew Thin:** That is certainly a risk.

**Elaine Murray:** Peter Peacock touched on a number of issues to do with assessors that I do not intend to go over again, but I want to ask about the network of assessors, which is referred to in both Shetland Islands Council's and HIE's written submissions. Are the bill's provisions on assessors sufficiently detailed? Are there other provisions that ought to be included in the bill that would strengthen the role of the assessors network?

**John Watt:** I do not have any strong points to make on that. We certainly value the network of assessors. We think that they need to be supported and empowered to make their job possible or at least easier. We have had some initial discussions, including a presentation that I gave to the assessors' conference at the end of last year. We feel that we could work closely with the assessors in some of our work in order to bring the development and regulatory functions closer together. However, I have no other major points to make.

**Elaine Murray:** So further strengthening is not required in the bill itself. Is the issue more a matter of practice and of how the different organisations work together?

**John Watt:** Yes. That could be achieved through practice.

**Peter Peacock:** I seem to recall reading a press column or commentary that said that HIE has appointed 20, 30 or 40 local agents across the region to help. Could there be some marrying up between the assessors network and those local-agent roles?

**John Watt:** That is what I was alluding to—

**Peter Peacock:** I am sorry—does HIE pay local agents across the Highlands to help under its community account management programme?

**John Watt:** Yes; it does so in selected communities across the Highlands and Islands.

**The Convener:** If there are no more questions on that point, Peter Peacock will move us on to the crofting register.

**Peter Peacock:** In its written submission, Shetland Islands Council seemed to be sceptical about the register. Can Douglas Irvine expand on what the council said about that?

**Douglas Irvine:** The register should remain with the crofting commission. We are a bit sceptical about why something new needs to be set up when there is an existing register that, with a bit of work and resource behind it, should be able to fulfil the purpose. That was the point that we were making.

**John Watt:** In our submission, we said that, in the areas in which we are working, we could use the process that has been described previously, whereby the community could help to populate the register. That would, we hope, be relatively cheap.

I just want to correct Peter Peacock on the development officers that we talked about. We do not employ them; we offer finance for communities to employ them locally. In certain areas at least, through those officers and local assessors, the register could be populated relatively easily using a community and mediation process.

In addition, as members will know, we have been active in assisting communities to acquire land, often crofting land, as community landlords. In such communities, where there is already a body actively managing the crofting areas, the register might be populated relatively quickly through a community process.

**Liam McArthur:** HIE's written evidence suggests that the community mapping process would not necessarily be relatively cheap. It suggests that the fees should be waived and that the SRDP might be deployed to fund the process, as I think Douglas Irvine suggested.

**John Watt:** That is correct. When I said that it could be done relatively cheaply, I meant for individual crofters.

**Bill Wilson:** I asked earlier about ransom strips. As the witnesses were all in the room at the time, that saves me repeating the question. Will you comment on that?

**Kenn Allan (Shetland Islands Council):**

As a representative of the worst landlord in Scotland, perhaps I could comment on that. *[Laughter.]* I have been tasked with reviewing the management of the council's crofting estates and how we handle the asset base. Recently, we have had occasions on which the term “ransom strip” has been used. I do not want to give details of individual cases, but one person had purchased their croft with the access in one area. They subsequently decided to develop two house sites on the boundaries of their croft. There was no access from the perceived access to the croft, but they thought that free access would come thereafter from estate ground. Subsequently, we valued that ground and charged a commercial fee for it, which was deemed to be inappropriate by the communities, I guess.

The council is a relatively benign landlord and is not mercenary in its approach, as some Highland estate owners perhaps are. It is possible that the council is the only landowner in that circumstance that the committee has heard from. However, such issues arise. Certainly, we should not pass on servitude rights to all crofters without discussion with landowners. The landowner seems to be left out of the consultation with committees and the development plan. The whole aspect of developing an estate is taken away from the landowner and placed primarily with tenants.

**Bill Wilson:** That is slightly different. A person who develops two houses and has not bothered to check that they have access is not in the same situation as those to whom I referred. One example is that if a map is not drawn perfectly, there might be between a boundary and the road a slight gap of a couple of feet, which might deny an individual access to the croft.

**Kenn Allan:** That is right, but the majority of landowners in Shetland have their land-based assets and croft boundaries relatively well mapped. Sometimes, those maps do not conform to the IACS maps and sometimes they do. However, as far as I am aware, there has been little in the way of an approach to landowners to see what map-based assets they have in terms of the crofts that are tenanted on their ground. It is just another opinion, I suppose, but it might be that the value that is attached in the estate office to the map and the tenant role might be as beneficial as the IACS maps.

**Liam McArthur:** Would a provision that would not permit denial of reasonable access, in terms of its having a commercial value, run counter to the process that you have described?

**Kenn Allan:** The point that I was making was that the crofter should have secured servitude rights when he purchased his croft, if he believed that he was going to need them, rather than come back later on some pre-defined regulation that would give him automatic access to his croft area.

**Bill Wilson:** That is not quite the same thing. In the circumstances that you are describing, the crofter presumably had access to his croft and was now seeking access to two developed houses. That is not the same as getting access to the croft, is it?

**Kenn Allan:** What we are arguing about is the point of access. The area where he wanted to develop house sites was bounded by privately owned crofts and estate ground. Historically, his servitude never went through that area.

**Bill Wilson:** I think that we are talking about slightly different things. Some crofters seem to be worried about the fact that, because there are apparently a lot of maps around that do not always

agree, when map boundaries are drawn, it will be possible for areas that people thought were in crofting to come out and vice versa. It is possible that a crofter might find that he has no access to his croft or that he has access that is much more limited than was the case prior to the mapping process. That, rather than the situation that you are describing, is the kind of situation in which access might be a concern.

**Kenn Allan:** That is right, and it raises the question of whether all the servitudes have to be logged with the keeper when a croft is registered.

**Liam McArthur:** Earlier, you betrayed a frustration that landlord interests are not necessarily taken into account to the degree that tenants' rights are. Last week, in Thurso, there was no real support for the idea that the bill should ensure a landlord interest in the Crofters Commission. Is that something that you would support or see a need for? If so, would it be managed through the election system or the appointment system?

**Kenn Allan:** The process has primarily focused on the tenants, and an opportunity has been missed to secure the proactive involvement of landowners. Not all landowners are bad landowners. A lot of communities have relied on estates and wealthy landlords for development. There was an opportunity to involve estates and landlords in the process with regard to development plans, but it was not taken.

17:15

**The Convener:** We heard from the previous panel some concerns about Shetland Islands Council as a landlord. I do not know whether you would like to expand on those concerns.

With regard to planning applications, is the fact that some land might be croft land taken into account? Does not a conflict of interest arise from the fact that Shetland Islands Council is the planning authority and the owner of the land?

**Kenn Allan:** That is separated out internally by division. There are contradictions in the planning regulations. Most of the area that is zoned for housing is on inby land, but nearly all of the hill ground—the scattald—is not zoned for housing. Development is focused on ground that we would consider inappropriate if we looked primarily at agricultural value.

**The Convener:** That is not what crofters say to us. They say that you are building, are suggesting building or have built on good inby land, because huge problems are associated with building on less good land that may be further away from utilities.

**Bill Wilson:** That is what Kenn Allan said.

**The Convener:** I am sorry—I misunderstood you.

**Kenn Allan:** I agree with what the convener said. The issue is the contradiction in the planning policy, not the bill that you are considering.

**Alasdair Morgan:** The planning policy is developed by a democratically elected body. I am not sure how the problem can be solved. Why do we think that a council—a democratically elected body—that has arrived at clear decisions is wrong and assume that the crofting commission, with all of its involvement, will arrive at decisions that are correct? That is a non sequitur.

**Kenn Allan:** The two bodies need to talk to each other to sort out preferred options for areas to develop, so that we do not always develop the easiest option.

**Alasdair Morgan:** What is easy for one will not be easy for the other, and vice versa. Given that the two will argue with each other, will we arrive at a better solution?

**Kenn Allan:** That is the dilemma.

**Andrew Thin:** The problem is the proposal to give the commission what amounts to the power to overrule the democratic planning authority. We could get around that by making the commission a statutory consultee in the full sense, like SNH is and many other bodies are.

**Liam McArthur:** I understand that the bill will not give the commission the right to overrule the planning authority, but will ensure that the commission can bring to bear its particular expertise at a sufficiently early stage in the process to inform the planning authority's decisions thereafter.

**Andrew Thin:** You may be better versed in the bill than I am. I read the bill as making the commission not a statutory consultee but rather more than that. That raises the issue of whether the democratic interest is in the crofters electing the commission or in the local authority.

**Peter Peacock:** I intended to come to the issue later, but I will pick it up now, seeing that it has arisen. The ability under the bill as drafted to refuse a decrofting, although it has planning consent, is intended specifically to address what has been seen as a weakness—the fact that, in effect, the Scottish Land Court can overturn decisions by the commission that appear to people to be acting against speculation. The commission may say that land is needed for crofting, but the planning authority, wearing a different hat, may be prepared to give planning consent, which means that the commission is out of the equation.

The aim of the provision is specifically to rebalance matters a bit. It will do so in two ways.

First, in future the Scottish Land Court will have to have regard to the commission's plan, which is not the case at present. Secondly, the bill gives the commission another go, to make it more difficult to develop croft land that, in the commission's view, should be kept in the interests of crofting. Is that not a suitable balance to strike?

**Andrew Thin:** It seems an odd way of proceeding. If the commission is a straightforward statutory consultee, it will be consulted at development plan stage and can be consulted at planning application stage, which would deal with the issue that you describe quite effectively. We appear to be going one step beyond that and saying that, notwithstanding the fact that the democratically elected planning authority has considered all of the issues, there will be a further hurdle. That strikes me as unusual, compared with other ways in which we deal with such issues.

**Bill Wilson:** You could say that, in the past, a democratically elected Government defined land as crofting land, with a specific intention, so there is another layer above the planning authority to say that such land is regarded as crofting land. Is that not an appropriate argument?

**Andrew Thin:** It is perfectly appropriate—you have just made the argument well. At the end of the day, these are decisions for politicians. I am making what I think is the important point that the arrangement is anomalous, compared with the way in which we deal with other such issues. In those instances, a statutory consultee gives their view, it is considered fully and the elected authority makes a decision.

**Bill Wilson:** Can you think of a parallel to the commission deciding to decroft land and then the decision going to planning? I am trying to think of another situation in which planning law is affected in a similar manner, or is this fairly unique?

**Andrew Thin:** I will give you an example in relation to SNH. If ministers have designated an area as a site of special scientific interest or a European site, as a statutory consultee, we will advise the planning authority of that fact. The planning authority then has to make its decision.

**Peter Peacock:** SNH has experience of commenting on planning applications. Are you arguing that a better way of approaching the problem would be for the commission to be not just a key agency in the development of the local plan—which it is now—but a statutory consultee in relation to individual applications? Then, are you talking about all individual applications on croft land or only those that go against the local plan? SNH must have some insight into what that means in terms of workload and so on.

**Andrew Thin:** Yes. The SNH position is that local authorities may consult us on any application



and must consult us on applications that have been designated by ministers. This is a crude parallel, but it seems to me that the way to deal with this is for a planning authority to have to consult the commission if something goes against the local plan because it would already have had a bite at that one.

**Peter Peacock:** Would you go further and say that if the commission were consulted and it recommended that, in the interests of the crofting community—rather like the evidence a witness gave us earlier—the land should be kept for crofting and not for housing, there should be a presumption thereafter to refuse rather than approve planning?

**Andrew Thin:** No. I do not think that that would be the presumption. The question is whether if the council were minded to approve an application, despite the commission advising against such a decision, that should trigger a referral to ministers. I am afraid that I do not have the answer. That is the question that we need to answer if we are going to go down that line of thinking. My instinct is to say yes, it should trigger a referral to ministers, but I concede that I have not fully worked that one through.

**Liam McArthur:** Would that not happen anyway? For example, if it is council land, given the interest that the council has and its role as a planning authority, would that not trigger an automatic referral to ministers?

**Andrew Thin:** I was thinking about the wider situation, and not just one in which the local authority is the landowner.

**Karen Gillon:** That is an interesting point. If there is a conflict between, for example, SNH and a planning authority, there is an arbiter in the form of a ministerial determination. We do not have such an arbiter here. We may want to consider that further. If the commission says that it needs to retain a piece of land as crofting land and the planning authority says that it needs it for housing, someone somewhere has to make the final decision on those two competing national interests. A referral to Scottish ministers might be the way forward.

**The Convener:** Can we move on to the issue of neglect, Bill?

**Bill Wilson:** Yes. We will not neglect neglect.

It was nice to hear earlier that some witnesses think that there is not a major problem with neglect in this area. We have not heard such evidence in relation to other parts of Scotland. Is neglect a fundamental problem in crofting?

**Douglas Irvine:** The statistics show that absenteeism is not a problem.

**Bill Wilson:** Can we concentrate on neglect first? We will come to absenteeism after that.

**Douglas Irvine:** In my job at the council I have been involved in agriculture for almost the past 24 years, and few instances of neglect, if any, have been mentioned on any of our agricultural panels. I have no evidence that there is a problem with neglect in Shetland.

**The Convener:** That is clearly not the case in other parts of Scotland.

**Andrew Thin:** There is no question but that neglect of crofts is an issue in many parts of the Highlands and Islands. The difficult question is the extent to which the public interest is compromised by that. That is the challenge. The bill attempts to deal with the issue in terms of good agricultural and environmental condition—or GAEC, however that word is pronounced—and in terms of conserving scenic beauty and flora and fauna. I think that the issue is whether the bill adequately addresses neglect in a way that protects the public interest. Although GAEC probably does that up to a point, I have some unease about the terminology that is used about scenic beauty. One can start to define flora and fauna, but beauty is a very subjective concept. It is a charter for lawyers.

Although I have some considerable unease about the wording, the clear and good intent of the bill is to deal with neglect by addressing the clear public interest. However, it could be that the public interest varies over time. Therefore, the issue might be better addressed by imposing a duty on the commission to come up with a clear definition of neglect from time to time rather than by trying to enshrine the issue in legislation, which I think might cause difficulties.

**Bill Wilson:** Would you like almost a rolling definition of neglect that could deal with new situations as they arise? Am I correct in understanding that?

**Andrew Thin:** That is putting it crudely, but yes.

**The Convener:** I think that Karen Gillon has a supplementary question on the same issue.

**Karen Gillon:** This question is really for John Watt. In our discussions today and previously, it has been suggested that neglect is partly to do with the availability of finance. One of the written submissions says that the bill will not deal with the real problem facing crofters, which is that many of them do not have the finance to do what they want to do to bring their croft up to a reasonable standard. With the changes to the grants systems and the SRDP, crofters cannot do some of the things that they want to do. It has been suggested that, because of that, although we can put in place whatever provisions we might want on neglect, if people cannot afford to make the improvements,

they will not be able to do so. How do we tackle that?

**John Watt:** I agree that neglect is a symptom or result rather than a cause. The need for funding for activities on crofts is one of the reasons why there is neglect. There are ways of addressing that in as much as the commission can use its powers to ensure that, if for whatever reason a particular tenant is unable to look after the croft but others in the locality are in a position to do so, someone uses the croft. That would be one way round that. However, I think that it is right to say that in many places—though not in Shetland, apparently—the fundamental problem is that economic reality prevents people from being able to afford to do something with their crofts.

17:30

**Bill Wilson:** Let me continue on from my previous question.

Andrew Thin said that he would like the commission to be able to provide a rolling definition of neglect. Let us assume that we have such a definition. How do we then identify neglected crofts? Should we expect individual crofters to say that crofts are neglected? Should we impose a duty on grazings committees to go around identifying neglected crofts every so many years? Should we insist that the assessors do that as part of their job? Clearly, there is not much point in defining neglect if we do not then identify neglected crofts.

**Andrew Thin:** Absolutely. The same point applies to absenteeism, actually. It seems to me that there is little choice but to impose a statutory duty of some sort on the crofting commission to do that. Otherwise, we will continue with the current situation in respect of both neglect and absenteeism—

**Bill Wilson:** Should the crofting commission have someone to go around inspecting crofts? Presumably, the Crofters Commission at present does not have the facilities or the resources to send people round the crofts.

**Andrew Thin:** It does not at present. However, it is very hard to see how else it could be done. If a duty is created in statute that a croft must not be neglected and must not have an absentee, unless it is policed the law is in danger of becoming an ass.

**Bill Wilson:** Could not either the grazings committees or assessors be used as the reporting agents or police force, as it were?

**Andrew Thin:** Those could certainly be used, but I do not think that a statutory duty could be placed on them. One could try, but I do not think that it would work. If the duty was placed on the

commission, the commission would be expected to use all the tools at its disposal. One assumes that the commission would seek to use local agents in whatever form—assessors, grazings committees and so on—but the statutory duty would be on the commission as the statutory body.

**The Convener:** What about the idea that a community itself could identify how the land is used within its community, as has happened in Camuscross? There has been some suggestion that the grazings committee or the assessor—or, indeed, the township—could produce an annual report.

**Andrew Thin:** All those tools could be used, but the issue is what duty should be placed in the statute. The practicalities of imposing a statutory duty on grazings committees to do X, Y or Z would be difficult. If the statutory duty was placed on the commission, the commission could be left to work out the details. I am sure that the commission would use those sorts of tools, but it would be under the duty and it could sort out how to meet it.

**John Watt:** I would like to think that the community-led development process that I talked about earlier would produce a collective identification of issues of neglect. In the communities that we are working with, the Camuscross-type situation would result in people saying that neglect is the crofting problem in that community. Of course, some trigger for action would then be needed. Presumably, the trigger would be to bring in the commission as the regulator to do something about the problem. There could be a collective community decision on, first, whether neglect is an issue and, secondly, whether a solution could be found locally.

**The Convener:** I think that Peter Peacock has a supplementary question, as has Liam McArthur.

**Peter Peacock:** I wanted to move on, but I will let Liam McArthur ask his supplementary first.

**Liam McArthur:** Earlier, Andrew Thin referred to absenteeism as if it were almost a greater priority than neglect, in relation to which we have had a brief exchange about the potential burden that could fall on the crofting commission. However, we struggled to get any of last week's panel to accept that absenteeism is much of a problem, as people thought that neglect should be the primary focus. Does Andrew Thin share that view? Should those priorities be given equal standing? If there are budgetary constraints, should the commission focus on one issue more than on the other?

**Andrew Thin:** In my answer to Maureen Watt's first question, I said that the primary purpose of crofting is the retention of population. Clearly, it

logically follows that the public interest priority is absenteeism.

**Liam McArthur:** However, the evidence that we have received suggests that, given its effect on maintaining the land and on sustaining the wider community, neglect has a greater impact on others who are crofting alongside. Certainly in the evidence that we have taken over the past few weeks, absenteeism has not been seen as being as much of a problem as neglect and degradation.

**Andrew Thin:** I am surprised. That is all that I can say.

**Peter Peacock:** It might be difficult, but not impossible, to place duties on a grazings committee or a township—it would be more difficult in respect of a township than of a grazings committee, which is a statutory body—but it would not be difficult, presumably, to place a duty on the commission to take action when asked to do so by a grazings committee or a township through a plan. Might that be a trigger, potentially?

**Andrew Thin:** Yes, that is right. It depends on how strong one wants to make the duty but, clearly, that could be done.

**Peter Peacock:** I want to take you back to the point that you made about flora and fauna and landscape. I take the point that you made about landscape. On flora and fauna, the bill as currently drafted provides almost a perfect excuse to neglect a croft with impunity. A person can simply say that they are trying to protect a flower, a piece of grass or whatever. People who have given evidence have said that the bill cannot be so open ended and that there must be some defined outcome. Somebody would have to judge whether the protection of flora and fauna was warranted and wanted. Do you see SNH having a role as the adviser to the commission on whether flora and fauna were being properly looked after or whether people were simply making excuses?

**Andrew Thin:** If the bill is passed broadly as it has been drafted, it is clear that the commission will have to get advice on such matters from the Government's adviser. That would make good sense.

I will relate my answer to Karen Gillon's point about finance, which I am afraid I did not answer—I apologise for that. As drafted, the bill enshrines in statute the ideas of purposeful use and GAEC. People who do not want to do something to do with their croft's GAEC can do something to do with conservation. However, there is an unanswered question. If a person cannot afford to do either, where does that leave them?

A more effective and flexible approach would be to put something in statute that would require the croft to be used purposefully, and to give the

commission a statutory duty to define what the phrase "purposeful use" means and to keep its definition up to date. As issues, circumstances and the SRDP evolve, the commission could update its definition. That would be a much more flexible and workable solution than trying to enshrine everything in statute.

**Karen Gillon:** Would there be a role for SNH? Did I miss that? We have heard that when people have considered landscape management, environmental improvement and the SRDP, there has seemed to be a long time lag before a plan can be developed. Have you been asked whether there would be a role for SNH? What would the financial burden be? If things are to be done properly, I imagine that SNH would have an additional resource requirement in the crofting counties.

**Andrew Thin:** There is no question in my mind but that SNH will have a role. We have not been asked about that, but I am sure that it will have a role. I am sure that we have not been asked about it simply because we have not yet got to the right stage for that rather than for any other reason.

The proposals have huge resource implications for SNH and others. There are huge resource implications for Government if we are serious about people regularly going round all the crofts and inspecting them, insisting that plans are put in place and so on.

In my preamble to my earlier comments, I said that I am uneasy. It makes good sense to talk about purposeful use, but there are questions for Government about the practicalities of who will police things, how things will be done, who will advise on what, how the phrase "purposeful use" will be defined, who will keep that definition up to date and what will happen if things are not affordable. It is a can of worms. As I said, it seems to me that absenteeism is the real issue. To me, that is the public interest priority.

**Alasdair Morgan:** You are right to say that trying to police neglect or absenteeism would be hugely expensive, especially given the size of some crofts in some areas. Is it not at least arguable that it would be far more beneficial if the money for that was given in grants to crofters to do something useful with? That is probably a rhetorical question, but the panel is nodding.

**The Convener:** Does Bill Wilson want to sweep up on the issue of absenteeism and neglect before we move on?

**Bill Wilson:** Yes. I want to touch on absenteeism, partly to give Douglas Irvine a chance to finish his earlier answer.

The proposed trigger to be set for beginning investigations of absenteeism—which is not

necessarily the same as saying that somebody is absent—is 16km. If we are going to have investigations of absenteeism, is that a reasonable trigger, or would you prefer a different trigger? Should there be no investigations of absenteeism at all?

**Douglas Irvine:** As you heard earlier, absenteeism is not a particular problem in Shetland. Your statistics bear that out. However, if the 16km residency rule is adhered to rigidly as you suggest, that may cause some problems because of the geography of the islands. I know of one instance where somebody works a holding 20 miles away from where they live. I know another individual who has a family croft on a neighbouring island, which is further away than 16km as the crow flies. Some flexibility may need to be built in to cope with such situations, otherwise we will have some problems.

**Bill Wilson:** I suspect that the aim is just to have a trigger for an investigation, and that in such situations, you would say, "That's fine. Forget it." Would you trigger investigations in some other way?

**Douglas Irvine:** No, if 16km is used as a trigger point that is fine, but the next steps have to be clear so that a situation does not develop between the person who uses the croft at the moment and somebody who might be interested in using it.

**John Watt:** It is a difficult issue that I know the committee has been wrestling with. HIE has anecdotal evidence of a small township on the west coast where almost all the resident crofters are inactive and the only active crofter is an absentee who happens to live more than 10 miles away—he lives 60 miles away. That is a difficulty, mainly because the resident crofters are elderly and do not want to croft any more, and the absentee is active on behalf of the whole township rather than just himself.

On whether the distance should be 10 miles or more, I suspect that the 10-mile rule was introduced in a different time and should be updated. However, if it is only a trigger, the distance is arbitrary.

I agree with Andrew Thin that tackling absenteeism is important if we feel that people should reside in the area and contribute to all the other aspects of life there by using services and supporting schools, for instance. However, if tackling absenteeism is about land management, that can be undertaken positively by people who are more than the trigger distance away, as in the example that I gave. To return to some of the work that we hope to do, I hope that the communities themselves will identify whether absenteeism or neglect is the primary issue, because there will be different solutions in different places. As we have

seen, in Shetland, absenteeism is a small issue, whereas, in other places, it is a major one.

**Karen Gillon:** I am interested in the witnesses' views on the current proposals on the elected positions, how people should be elected, who should be eligible to stand and who should be eligible to vote. We are serious about involving communities in the process, but we seem to be getting ourselves into a situation in which we may not achieve the Parliament's equalities objectives.

17:45

**Andrew Thin:** I refer you to the legislation on national parks, which is a useful starting point from which to examine the issue. Under that legislation, some members of the board are appointed by the minister, others are nominated by local authorities in the park and others are elected by the people who live in the park—the elected members do not have to be resident in the park; anyone can stand.

I think that that is the model that we are heading towards with the Crofters Commission. There is, as yet, no local authority input. I suggest that that might be worth thinking about, especially as there are not many local authorities that cover the crofting counties. With regard to the elected members of the commission, there is a question about whether we are talking about crofters or people in the crofting community, which is made up of more people than just the crofters. It strikes me that it is for the electorate to decide who to elect; it is not for statute to decide who they should be allowed to elect.

**John Watt:** I jumped the gun on this earlier, as we have given a lot of thought to the issue. There is a question of who is eligible to stand and who is eligible to vote. I suspect that crofters should be the people who are eligible to stand—I accept, of course, that there are complex definitional and equalities issues about which members of the family are recognised as being crofters. Given the work that we have been doing on the definition of the broader crofting community, should you not be looking to part 3 of the Land Reform (Scotland) Act 2003 with regard to a definition of who should make up the electorate of the crofting community?

**Peter Peacock:** Remind me what that says.

**John Watt:** I thought that you would ask me that.

Part 3 of the 2003 act allows the crofting community to vote on whether it will take over a crofting estate. I think that the definition of the electorate that it uses includes everyone who lives either on croft land or on land that immediately abuts croft land.

**Alasdair Morgan:** That has never been put into practice, though, has it?

**John Watt:** As far as I am aware, there has been only one vote under part 3.

**Alasdair Morgan:** How complex was the exercise of making up the register in that case? We are talking about applying that definition over an area that is big enough to be one of six constituencies in the crofting part of Scotland. It strikes me that making up that register will not be a trivial exercise.

**Bill Wilson:** Especially with the “abuts” part.

**Alasdair Morgan:** Particularly with the ransom strips in between, but never mind.

**Andrew Thin:** If the electorate is going to be made up of crofters, it is hard to see any alternative to using the list of registered tenants. If the electorate is going to be made up of the crofting community, it is hard to see any alternative to including the entire electorate. However, the middle way that is used in relation to the national parks, which involves the local authorities nominating members, brings in that wider democratic element.

**Alasdair Morgan:** I have a question for Mr Watt. If, as Andrew Thin said, you have a register—however it is composed—that represents the people whom you think are entitled to vote, why should you restrict the people for whom they can vote? Surely that is up to their good sense. You said that the person who is elected should be a crofter, but why? If a crofter decides that they want to elect their accountant, for example, that is their choice, is it not?

**John Watt:** I was thinking about the issue in terms of the wider electorate voting. In that situation, you could end up with no crofters on the Crofters Commission.

**Andrew Thin:** But that would happen only if the electorate decided that it should. It is a matter for the electorate.

**Liam McArthur:** That makes the issue of how you define the electorate all the more important. It is conceivable that crofters could be carved out of the arrangements completely.

**The Convener:** That will be hammered out when we come to draft our report, no doubt.

I have one final question, which I asked our previous panel as well. Should the bill clarify the position in relation to the *Whitbread v Macdonald* case in order to stop crofters avoiding the landlords’ clawback?

**John Watt:** I cannot claim to be an expert on crofting law but I think that that is one of the loopholes that should be closed.

**The Convener:** I thank the witnesses for their attendance. If any issues occur to you as a result

of today’s session, please get in touch with the clerks as soon as possible so that your views can inform our final evidence-taking session, which will take place in Parliament on 10 March, when we will hear from the Minister for Environment and the keeper of the registers of Scotland.

I thank everyone for attending our meeting. It has been a great pleasure to be in Shetland.

**Douglas Irvine:** On behalf of Shetland, I thank you for holding the committee’s meeting in Lerwick today.

*Meeting closed at 17:51.*



Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

Members who wish to suggest corrections for the archive edition should mark them clearly in the report or send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP.

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament annual subscriptions: £350.00*

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Printed and published in Edinburgh by RR Donnelley and available from:

#### Scottish Parliament

All documents are available on the Scottish Parliament website at:

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

For more information on the Parliament, or if you have an inquiry about information in languages other than English or in alternative formats (for example, Braille, large print or audio), please contact:

#### Public Information Service

The Scottish Parliament  
Edinburgh EH99 1SP

**Telephone: 0131 348 5000**

**Fòn: 0131 348 5395** (Gàidhlig)

**Textphone users** may contact us on **0800 092 7100**.

We also welcome calls using the Text Relay service.

**Fax: 0131 348 5601**

**E-mail: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)**

We welcome written correspondence in any language.

#### Blackwell's Scottish Parliament Documentation

**Helpline** may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

#### Telephone orders and inquiries

**0131 622 8283 or**

**0131 622 8258**

#### Fax orders

**0131 557 8149**

**E-mail orders, subscriptions and standing orders**  
**[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)**

#### Blackwell's Bookshop

**53 South Bridge  
Edinburgh EH1 1YS  
0131 622 8222**

#### Blackwell's Bookshops:

243-244 High Holborn  
London WC1 7DZ  
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

#### Accredited Agents

(see Yellow Pages)

and through other good booksellers