



Scottish Affairs Committee

Oral evidence: [Land Reform in Scotland](#), HC 274-ii

Tuesday 05 August 2014

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Members present: Mr Ian Davidson (Chair); Mike Crockart; Graeme Morrice; Lindsay Roy

Questions 945 - 1022

Witnesses: **Dr Alison Elliot**, Chair, Land Reform Review Group, gave evidence.

Q945 Chair: Could I welcome you to this meeting of the Scottish Affairs Select Committee? As you will be aware we have been having a number of hearings into land reform in Scotland and this follows on from the various inquiries we had into the Crown estate and then issues relating to our islands and our future with Orkney, Shetland and the Western Isles. Could I ask you to start off just by introducing yourself and tell us why you are here? You chaired the group, which has now disbanded, but just your background and then just an introduction.

Dr Elliot: Fine, thank you very much. Yes, my name is Alison Elliot and I was the Chair of the Land Reform Review Group; I am an academic, I suppose, I used to lecture in psychology and then I stopped doing that and worked with the church. I was the political commentator for the Church of Scotland basically for about four years and then the moderator of the General Assembly. I have previously had an involvement with land reform in that I chaired, very briefly a thing called the Scottish Land Reform Convention which we set up about 1998. It was a civic approach to policy development at that time. We hoped there would be others of them but there wasn't. So that is the main background that I had in land reform.

Q946 Chair: Fine. Could I just start off then by asking you if you could just give us an outline of the process by which the land reform review group was set up, its remit, membership, work programme and timetable? Just a little background to set things in context.

Dr Elliot: Sure. There were three of us appointed to the group in July 2012. I do not know what the process was like before that, I just received an email saying would I do it and eventually I said yes. The other two people were Jim Hunter and Sarah Skerratt. Throughout the period of, I suppose, August 2012 we worked on refining the remit along with the Government and worked on a work programme. We also had a group of advisers appointed and they had their first meeting in October 2012, so throughout September they were being appointed as well.

For the first phase of the report—it was going to last 18 to 20 months—we decided we were going to be open and going around the country inviting open-ended questions on people's understanding of the relationship between land and people, in the hope that that would flesh out any ideas and concerns that might not have had high profile at the time. We had an open consultation, we invited submissions to be in by the beginning of January in 2013 and by the end

of April, May, we had produced an interim report. The plan was going to be that we would be open and have a wide approach to the subject in advance, in the first phase, and that we were now down to more specific things to look at in the second phase.

So there was always going to be a difference between first phase and second phase. But there was more of a difference than we thought because Jim Hunter and Sarah Skerratt both resigned for personal reasons towards the end of phase one, so we had to reconstitute the group. So the approach that we took in the second half obviously reflected the membership of that group. I think it also reflected some of the comments that had been made on the interim report where a lot of people thought that it was lacking in ambition and that we were going to be narrowing it down. They thought that this was a subject, which, at this particular point in history, could do with a more comprehensive approach. So rather than narrowing it down, in a sense, in the second phase we did decide to do a more comprehensive approach to land reform and so that is how there is a slight difference between the two phases. That was in response to the feedback to that we received.

Q947 Chair: Just about the change between the first report and the second report, I think that the evidence that we had was basically that the interim report was welcomed by landowners and denounced by reformers, and then the final report was pretty much the other way around. Why the change? I can understand the difference between a narrow remit and then a more holistic one but this did seem to be facing one way and then facing the other. What happened?

Dr Elliot: What happened? That was not my perception of it because in the first phase we certainly did visit a lot of estates but we also visited a lot of community projects, we visited a lot of umbrella organisations. We consulted fairly widely in the first phase and I felt that we had a reasonable spread across the piece. Certainly when the interim report came out it was not entirely approved by the landowners either, because I went to the meeting of the Scottish Land and Estates and it was okay but it was not entirely enthusiastically taken up.

One of the differences of course was that in the first phase because we were looking and speaking to people who were active in the field literally and then we were, I suppose, looking very much at the way in which people were using land, and the ownership was a given when you went on to see somebody. Now, it had never, ever been a suggestion by myself or anyone else in the group that ownership did not matter and that ownership was not crucial to the land reform question. I think a lot of the landowners who like to take the line that it is use that matters and not ownership, they perhaps thought that we were just going to be looking at the use and not questioning ownership. Which, of course, as I say, we always had intended to do and that was something that became more prominent when we came into the second phase. It might be something like that but it is the kind of subject, unfortunately, which has been divisive in all kinds of ways. Maybe you win some and you lose some.

Chair: No, the landowners did not know to begin with but they ken noo, as you might say.

Q948 Mike Crockart: They did not sit on the fence particularly with what we said. The Scottish Land and Estates said in their comment on the final report was that it appears based on a bias against private land ownership and makes a series of unfounded recommendations that would create more publicly funded bodies, increased bureaucracy and place an even heavier burden on the public purse.

Chair: Can you put your microphone on?

Mike Crockart: Sorry. I am not going to say all that again.

Dr Elliot: I got the gist of it.

Q949 Mike Crockart: They are not exactly sitting on the fence. What was your reaction to that criticism?

Dr Elliot: I was disappointed that they were not being more positive about it. At one point in developing the last report we thought that we were spending so much time looking at publicly owned land that the privately owned land was being really ignored a bit. It is not a report, I think, which is going out for the landowners in any particularly way. Yes, private ownership is a key element in it, but there is an awful lot about other things in it as well.

Q950 Mike Crockart: I think their feeling is that this seems to be an ingrained assumption that private land ownership is bad and community ownership is good.

Dr Elliot: I am sorry if they picked that up because I do not think that is what is being put forward in the report. We said on various occasions that while clearly there are bad landowners, and the Scottish Land and Estates accept that, many landowners are doing a very good job and that is in the report as well as saying but there is still a problem with the others, which they would agree with.

Q951 Mike Crockart: This is very much all evidence because the assumptions that they are making is that there is an inbuilt assumption that private is bad, community is good. Equally on the other side, there will be some community buyouts that have not necessarily worked as well. Is there the balance there with the evidence backing it up?

Dr Elliot: I think that the question of the balance on the outcome of the community land ownership, we certainly were reporting on studies that have been looking at a dozen community owned estates—it came out in April as we were writing the report—and the results from that were all positive. So on the basis of the evidence that we have then that was positive. The question of community being good and private being bad, the idea of community being good was certainly part of our remit because our remit was saying that we were to explore questions of how land reform would strengthen communities and would make them better. So the key from the point of view of the remit we had was to focus on strengthening communities and to see how the model of community ownership could be extended. So in that sense there would be a bias in it in the sense that was something that was already built into our remit. I think also the position that we took throughout it was that decisions have to be made in terms of the public interest. When we were talking about the public interest we hitched the public interest to the policies of the Government of the day in saying that the guardian of the public interest, the way we used the term, was the Minister and the elected members and the policies that they were pursuing. Clearly it is one of the policies that the Scottish Government has that they believe that community landownership is a good thing that has to be supported.

There was an inbuilt bias, if you like, in that sense but that was coming not from us, it was coming from the context in which we were writing the report.

Q952 Mike Crockart: So the criticism that was levelled that the concentration was too much of the ownership of the land rather than the use of it you would say flowed really from the remit that you were given, which was to look at ways of changing the ownership?

Dr Elliot: Yes, I think so. Also it is land reform, it is about changing things and changing things costs money and will produce change. I cannot remember the detail of the last bit of the quotation but there was something there that seemed to suggest that we could come up with a report that would just not make any difference at all. That is not the point of having a report on land reform.

Mike Crockart: The last part of the quote was about creating a heavier burden on the public purse but I think we are going to come back to that.

Dr Elliot: Come back to that later, okay.

Q953 Lindsay Roy: Afternoon, Alison.

Dr Elliot: Hello.

Lindsay Roy: There were 62 recommendations in your report, it created lots of issues that need to be addressed, can you categorise them under themes? Which were the key priorities in your view?

Dr Elliot: The report has different parts to it. So you could categorise it by the different parts: looking at ownership, looking at the community dimension, looking at the urban situation, looking at land ownership and use and concentration and so on. So there were, I think, eight sections of content there, which would be one way of dividing it. I also think it is important to say that underlying the whole thing, although there were 62 recommendations, when you look at it there is a common theme going through them all that is saying land is something that is a finite resource for the country, it is a crucial resource for the country, for the whole of the country. Therefore if you are making decisions or if you are having decisions challenged—it is not every decision you make but when it comes to making important decisions about land ownership and use, they should be done in the public interest and for the common good. So there is that theme that is going through, and in terms of themes that would be one important theme, I think, which was through the whole of the report.

Q954 Lindsay Roy: What would be the most controversial issues?

Dr Elliot: The one that I suppose got the most lobbying on would be the question of tenancies. That came up a lot. There is a parallel review group looking at agricultural tenancies and so exactly why we received so much comment on that is something that you can, I am sure, write a PhD on.

Q955 Lindsay Roy: Compulsory purchase?

Dr Elliot: We did not get very much comment on that, particularly. On the other hand, I think that is a very important part of it and it is important in that again one of the things that I discovered, which I had not been aware of, was the value in having that kind of compulsion in the background for moving things on.

Q956 Lindsay Roy: When was the last review of landownership?

Dr Elliot: The last review of land ownership? I am not sure. In terms of a Government review, obviously there was the land reform policy group, which was set up by the Scottish Government or the Scottish Executive, as it was, when this Parliament came into Scotland. That was because so much of the land issues in Scotland are technical and they are very difficult ones. They had, by all accounts, been not taken seriously at Westminster because they took up too much time. They were so different. At that time we still had the feudal system and so there was a lot of work to be done. That was one of the reasons that it became one of the flagship pieces of work for the new Parliament.

Q957 Lindsay Roy: Yes, not taken up seriously by Westminster and probably not taken up seriously by Holyrood either.

Dr Elliot: The Land Reform Act of 2003 had a lot of work done before it and we identify about 30 or 40 pieces of legislation that the Parliament has enacted since then, which, although they do not have land reform in the banner headline, are relevant to the kinds of things that we were looking at. There is a lot of work to be done in this area. There is still a lot of archaic stuff hanging around, despite getting rid of the feudal system and the way in which it was done. There is a lot of mopping up to be done before you start on making a system of landownership and use fit for the 21 century in Scotland.

So there have been bits and pieces done. We hope that one of the advantages of this report is that it puts between two covers an agenda for covering the full subject.

Q958 Lindsay Roy: Of the 62 recommendations, how many of them fall within the purview of the Scottish Government and how many fall within the purview of Westminster?

Dr Elliot: I would say that they all fall within the powers of the Scottish Government in the sense that some of them will require consultation with Westminster or co-operation with Westminster. So, for example, if you are wanting to devolve the Crown estate, the Scottish Government cannot do that on their own, but you do not need independence to do that. It is talking about devolution, it is talking about something being devolved within the United Kingdom. Also a lot of the stuff on taxation, you are dealing with reserve powers there but we are hopeful that the Scottish Affairs Committee will pick this one up according to that. So there is a mechanism there for that to be addressed as well. But the vast majority of them, it is something like 58 of the recommendations, are ones that the Government could implement without that kind of consultation.

Q959 Lindsay Roy: What action has been taken on any of the 58 recommendations that have been put forward?

Dr Elliot: They were only put forward at the end of the May and the Government so far has said that they will act on the question of registration of land, which was the first recommendation we made, and they have set a target for that of 10 years for the whole register to be completed and five years for Government land to be registered. They did very quickly say they did not want to remove the agricultural exemption and business rates, and that is because

we knew they had just finished consulting on that and they had decided that they were not going to change that. But that is also under review until 2017. So that is something that still could be picked up on. They have extended the land fund and the Minister has said that he plans to bring in legislation before 2016 on this, so there will be a bill coming in.

I should say I chaired the review group, which finished its work at the end of May, I do not have a continuing engagement with the subject because of the kind of work that I do, so I am not up to speed on all the things that have happened since then.

Q960 Lindsay Roy: I understand that. Whose responsibility then is it to monitor the implementation of your report?

Dr Elliot: I do not think it is a question of monitoring its implementation. Our report was requested by the Government and so we give it to the Government and we say, “This is what we recommend”. The implementation is the implementation of what they choose to pick up out of it. I hope they will implement the whole thing. I hope they will come up with proposals to cover the whole thing, although they will not necessarily do that all at once. But we do not have any authority—we are only an independent group—to require its implementation, we simply offer it to the Government as something that they should implement.

Q961 Lindsay Roy: It would be up to the politicians to monitor what is happening?

Dr Elliot: Absolutely, yes. Yes.

Q962 Lindsay Roy: To prioritise what they think is most important?

Dr Elliot: I think the politicians but also other groups in society. I was very encouraged, for instance, that shortly after the report came out Development Trust Association Scotland, Community Land Scotland, Scottish Council for Voluntary Organisations and two other charities said, “Right, we are going to keep an eye on this. We think it is a good report, we think there is a lot here that needs to be done and we will keep an eye on checking that it is done”. So there are various agents in society that will be keeping an eye on this and hoping that it will be taken seriously, which I think it will be.

Q963 Lindsay Roy: Okay, that is helpful, you have an indication it is being taken seriously, yes.

Dr Elliot: I think so, I think it is, yes.

Q964 Chair: Sorry, how do you know that? So are people coming and saying to you, “Psst, by the way this is being pursued” or how do you know that it is being pursued or are you being communicated with, told, that this is continuing to be taken forward?

Dr Elliot: My understanding is that the Government has said they will bring in a land reform bill and the Minister mentioned that on Sky in June and I understand the process behind that is that they will be consulting on that bill in the autumn. The civil service team that was working with us is continuing to work on the subject and so it is continuing to work on the Government.

Q965 Lindsay Roy: So they also have a monitoring role?

Dr Elliot: I don't know enough about the philosophy of the civil service to know whether they see themselves as monitoring the Government's role or not.

Q966 Graeme Morrice: Good afternoon, Alison. Oh my button, yes, of course. Hopefully you can hear me now. The first aim of the group is to develop proposals that will, and I quote, "Enable more people to have a stake in the ownership, governance, management and use of land." Are there particular recommendations you have made that are designed to achieve these particular aims or should we see the report as an integrated package of reforms that, to some extent, are dependent on each other to deliver change?

Dr Elliot: Where is that? That is part of the remit right at the very beginning, isn't it, that you are talking about? "Enabling more people in urban areas of Scotland to have a stake in the ownership." Throughout the report there are proposals and there are recommendations that will be trying to do that. I suppose one of the things that we were trying to do was to loosen up the system to make it easier for people to have a stake and some better opportunities of ownership and so on and use of land, which will lead to greater diversity of land ownership and ownership types, yes. I would not point to one particular one because I have not categorised them in that sort of a way that would do that. But the community land agency, for example, that we are proposing will be an agency that will be trying to encourage facility negotiations between owners and communities to try and encourage the transfer of land into community ownership. We recommend that Government land should be transferred to the community, so there should be ways of facilitating the transfer of Government land into the community. Local authorities should have asset transfer schemes so that it is clear what kinds of assets they have that the communities might take over. So there are lots and lots in different parts that would be answering that particular point.

Q967 Graeme Morrice: So you see it very much as a package of measures and each one depending on the other to achieve an overall objective?

Dr Elliot: I think they will enhance each other, but I imagine that you could have—I would not give up on any one just because you do not get all 62. I think each of them will make a contribution to moving the subject along in various ways. But they are a package in the sense that you can make things available, you can facilitate the possibility of people owning land, but if the price of the land is still outwith their stretch then they are not going to do it. So in that sense they are all dependent on each other because it is not just a question of making it possible for people to do it, you also have to make sure that the mechanisms are there that will make it feasible. So some of them are dealing with the mechanisms, some of them are dealing with getting the rights established, some of them are establishing agencies that will help smooth out the process.

Q968 Graeme Morrice: You will be aware that the Scottish Government has announced plans in the current session of the Scottish Parliament to introduce a land reform bill. What would be the broad priorities that you would like to see included in the bill?

Dr Elliot: I think on that I should make the point, which I maybe should have made at the very beginning, obviously, as I say, the group existed up to the end of May. We did not discuss

which bits we would like to see in the bill, we wanted to see it all being done at the end of the day. We did not have a set of priorities saying that this should be in the bill or this should be done at another time, so I could give you my view but it is only my view.

Q969 Graeme Morrice: Could you give your view?

Dr Elliot: I thought you would say that.

Graeme Morrice: In terms of the priorities, you would like to see a lot of things in it but if everything is a priority then nothing is a priority, so what may be two or three particular measures you would like to see in it?

Dr Elliot: Can I just have a look at the recommendations again because I need to be reminded of what is in there as well. In terms of ones that could be done, clearly the land registration one is important because you are not going to make progress in land reform unless you know who owns—

Q970 Chair: You have a timetable that has been proposed of five and 10 years?

Dr Elliot: Again, that was something that we did not discuss in terms of how long it would be. Anything is better than never and also I think it is fair to say that our approach to this was saying this is something that has been recommended. There is a head of steam behind it and so we came behind that. The practicalities of how you sit down and actually do the registration and how long that would take is what would go into an informed answer to that. We did not have that kind of background. The Government has already mentioned that.

I think the things that I would be most interested in would be the menu of community rights, trying to get that established as being a sequence of rights that communities would have over land that they are interested in, and then that goes alongside the idea of the community land agency. So the two of these together I think would facilitate community ownership and that would be an important way forward. I think I would also like to see the Government moving fairly soon as well on the urban question, which is very different but I see that as being strategically a very important part of the whole question because it is making the point that land reform is something that is important for everybody in the country. Establishing that among the electorate is an important element of getting land reform in general taken seriously. As long as it is something that people think only happens in Sutherland then the appetite for it in Government is going to be fairly limited, but if you realise it is something that applies also to derelict land and eyesores in the city as well, then you are beginning to get engaged with the wider subject.

Q971 Chair: Can I just clarify that? That has always been one of the issues that I have been a bit unclear about, because the drive for land reform has always been associated with the Highlands and Islands and the Land Reform League and all these sorts of things. The whole question of urban land is almost to do with community development in an entirely different way. I have never been entirely certain about how well the two things mesh together. Are you firmly convinced that they have to be done together?

Dr Elliot: There are overarching principles that would apply in both cases. There are some mechanisms that I think are probably useful in both cases. For example, the compulsory sale

order, which we suggest, is quite an important one and quite a useful one, most obviously in the urban situation, but a compulsory sale order is something that is going to be useful right across the country as well. At the level of generalities, yes, this is about how we understand the ownership of property in Scotland and so, of course, it applies whether it is in the urban situation or not. Once you get down to the specific mechanisms as well, some of them will be more used in the urban situation than in the rural one, but the connections I think are strong enough for people to catch on to.

Q972 Chair: Just following that up, the recommendations, 62, one of the anxieties that there always is when there is a big report is that a Government will cherry pick and it will take one or two or it will take maybe 31 in order to say, “We are doing half of them”. It will pick the least impactful of the 31. That relates back to Lindsay’s point about monitoring and so on to make sure that real things are achieved as a result of that. I am struggling in a sense to work out what to ask you in a way exactly because you have indicated that you are not involved in monitoring it. Are you happy to leave it to the community groups you mentioned to make sure that the Government’s feet are kept to the fire?

Dr Elliot: And the politicians.

Chair: And the politicians as well?

Dr Elliot: Oh, yes. The 62 recommendations are there. We could go through them and say, “These ones could be implemented tomorrow. These ones need a bit more research done. These ones need other things done” but, in fact, it would be better if people like yourselves, who have a better understanding of the detailed mechanism of government, were to do that and to create a hierarchy or a staged set of proposals for implementation.

Q973 Chair: We had a discussion earlier on where somebody was advancing the idea that this has to be delayed because of such and such, procedures and so on. My experience is that very often too close an understanding of the procedures serves as an alibi for lack of progress. In a sense, the fact that procedures are difficult is not my problem and surely to some extent it should not be your problem either. To avoid cherry picking, which potentially takes a lot of the core out of this, I wondered why you did not think about saying, “Look, here are 10 of them that really have to be followed through if you are going to make much of a change”. You made yourself the point earlier on that in the early days of the Scottish Parliament they put through a number of changes, but a lot of these were relatively minor things. Incremental change is important, but it is not the major strategic leap forward that we might look for. Is it just a question of how we avoid things not being taken forward as quickly as they might? I am anxious a bit that the Scottish Government has announced that they are going to have a Bill, but they have not really said what is going to be in it. They have made announcements about doing the land reform, but they did not say, “Look, here are 20 of these things that we will do and that we will put into the Bill as and when”. Is that not an anxiety?

Dr Elliot: I can understand the dilemma that you have too many proposals, too many recommendations. There should be ways of staggering them so that you would expect some to be in a Bill that comes in this year, but there are other ones that are going to require prior research. Things like doing a study on land value taxation, for example, you need to do that before you know how to formulate a Bill to bring it in, so that is unlikely to be done immediately. There is that kind of extra bit.

Others are going to depend on getting the registration right. I am not anxious about that. I see it as a dilemma but I see that if people are approaching it in good faith they will cope with that. I trust them to approach it in good faith.

Q974 Chair: Yes, people can approach things in good faith but they can be approaching 25 different things in good faith and something gets squeezed out. I have just had drawn to my attention recommendation 21 about the Government should establish a Scottish land and property commission. Now, if they had wanted to do that, they could have announced at the time they said that they were going to do the land register and the implementation then follows on. Unless I am mistaken, they did not announce that they were going to do that and, therefore, it is all left up in the air. I have been approached by quite a number of the land reform people who have indicated that they would have been much happier if the Scottish Government had said not that they were going to accept all of your 62—because that would, perhaps, be unrealistic—but if they had said pretty quickly not that we are producing a Bill but that we agree with 25 of these, 40 of these, and there will be a Bill to contain these. In a sense, it is all very much a bit “jam tomorrow” and that is the worry, that this will slip down the agenda, particularly if Scotland votes for separation. You can see how the establishment of a new state would take priority and all of this, the danger is, would be just simply swept to one side. Are you conscious of that at all?

Dr Elliot: Yes, of course. That is the reality. I can quite see that there is a lot of meat in this. They are unlikely to do, as you say, all of it all at once. We would hope they would come up with a selection. We have not heard yet what that selection is but I am sure we will hear it quite soon. I am not sure what else we can do about that. Yes, I recognise the danger and I recognise the temptation for the whole thing to slip and I think it would be very sad if it were to. On the other hand, we have this report, which will be still on the desk going forward, and I hope it—

Chair: Well, it will still be on the shelf.

Dr Elliot: Well, yes, indeed.

Chair: Whether or not it is on the desk—

Dr Elliot: Well, let us hope it is on people’s desks. It is available. There are two things that are important for the reception of this report. On the one hand there is the report itself, which is there, whether it is on shelves or desks. The other thing that is important is the general direction of travel and the general theme, which I was saying at the beginning, about the importance of the public interest and the common good and that being how you make decisions about land ownership and use and that ownership and use are tied up together. All of that in terms of an attitude to how we approach land is something that is probably going to be as enduring as a lot of the detailed proposals. I am pleased that that bit has been picked up, as I understand it, by the main political parties anyway and also by many people who are commentators on this. That is worth holding on to and I think if that is held on to, then this will follow. A lot of this will follow.

Q975 Chair: Can I just clarify? I touched on the creation of the commission there. Was the commission, if established, intended to be a monitoring body as well?

Dr Elliot: Yes, I think so. The idea was that land, as we know, and the concerns here cut across all different kinds of departments within Government. It is easy for things to fall between the cracks and the idea of a commission was that it would not necessarily just keep monitoring these

particular recommendations but would be in a position to see how other social changes would require further development.

Q976 Chair: As you know, in those circumstances the lack of an announcement that a commission will be established has to be an anxiety because, again, I come back to the fact that a commitment has been made to do the land register. We can debate the timetable and all the rest of it, but a clear commitment has been given to that. The question of a commission, which you are designing, to monitor all this, there has been no such commitment and it might or might not be in a Bill that comes out some time.

Dr Elliot: It is a reality, yes.

Q977 Lindsay Roy: Alison, in your interim report, you mentioned a culture of fear among some of the tenant farmers. How widespread was that? What were the fears about in terms of recriminations?

Dr Elliot: It was as widespread as the submissions that we got from particular people. It was something that was obviously very difficult to explore any further and it was not so widespread that it existed among all tenant farmers because we also met tenant farmers who did not have that kind of anxiety. But there were certain situations and certain cases that we were aware of where there was that kind of fear.

Q978 Lindsay Roy: What percentage of your consultation did you find that?

Dr Elliot: I cannot remember now what it was.

Q979 Lindsay Roy: How substantial was it? Was it 25%?

Dr Elliot: No, no, no. Most of the comments that were coming in that respect were ones that were coming from people who were submitting, as I think they have submitted to you, confidential comment. It was the fact that it was confidential that indicated that they were concerned about the owner knowing about it.

Q980 Lindsay Roy: In terms of recriminations, what kinds of things were mentioned?

Dr Elliot: Gosh, this is going back. It was going back to the question of how rent reviews were being conducted and the way in which the rent was likely to be—it is a very close relationship, that of an owner and a tenant, and the potential for things to develop there is quite considerable.

Q981 Lindsay Roy: Absolutely. I cannot recall seeing a recommendation in the report to address this.

Dr Elliot: No.

Q982 Lindsay Roy: Why not?

Dr Elliot: In the report, by the time we came up with the final report there was already another review group had been set up to look at the detail of that, and they will be dealing with that. They are in a position to take confidential evidence from the different people there and it is appropriate that they should explore that themselves. We do have a comment on tenant farming and on secure 1991 tenancies with two recommendations in that case. One is about the question of registration of their interest in ownership, and the other is really a recommendation to the other review group saying that when it comes to the question of tenant farmers do not forget that in small communities tenant farmers are key people in the community. Therefore, the question of how demoralised or how buoyant they are is something that is likely to have an impact on the rest of the community. That was basically the gist of the second recommendation.

Q983 Lindsay Roy: Can we be clear who is following this up?

Dr Elliot: There is a review being conducted just now on agricultural holdings, which is being chaired by the Cabinet Secretary, Richard Lochhead.

Q984 Lindsay Roy: Together with the Land Reform Bill, do you think that will do anything to overcome the fears?

Dr Elliot: The Agricultural Holdings Review Group has come up with an interim report in which I understand they have not indicated any proposals, obviously because it is an interim report, but they have indicated the areas they will be exploring further. I do not know when they are due to report finally, but they have done. They were set up, I do not know, about a year ago and they have their interim—

Q985 Lindsay Roy: It is still an area of concern?

Dr Elliot: I am sure it is, yes.

Q986 Chair: Could I turn to the question of compulsory purchase? Now, this is not exactly Zimbabwean-style land seizures, but it clearly is quite a drastic proposal. Can you go over the justification for that?

Dr Elliot: Well, there is a section on compulsory purchase, which is to do with the way in which compulsory purchase might work currently in the local authority situation. Local authorities do have the right to a compulsory purchase. They generally only exercise it when they are wanting to produce a motorway in a particular place and so on, but it is something that could be used more extensively if they find that they are needing to develop a particular part of their land and it is difficult to get all the landowners to agree to that.

We had a very interesting conversation with Mike Galloway in Dundee City Council in which he was talking about the role of compulsory purchase there. What came out from that was that compulsory purchase currently, as local authorities experience it, is cumbersome and very, very difficult so they do not use it as much as they might do. The fact that they are not using it means that there is not a culture of using it and, therefore, effectively it is a tool that is useful and can be quite creative but is falling into disuse. If the whole idea of compulsory purchase was increased and was made more user friendly, then it probably would be used more. It is one of these cases where if you have the compulsory purchase power, then very often you do not need to use it

because you can use that as a threat or in the background to bring people round the table and then you find that the city or whoever it is can develop further. That is the compulsory purchase. That is one part of compulsory purchase that we talked about.

We do say that communities should have a right to request that the Government or the local authority, as the case may be, should use their right of compulsory purchase in particular cases, and that is if you get to the point where they feel that there is a community need for land that is being thwarted to the point where they simply cannot break through and they cannot get agreement. Now, the big context for that, of course, is the European Convention on Human Rights. There you have a balance established between the rights of the individual not to have their land taken away from them and the rights of the state to do things in the public interest. If that were to be the case, it is not that the fact that the community asks for it will automatically mean that it will happen, but it is that the community should be able to ask the Minister to exercise that right if they feel very, very strongly that it is crucial for the community to have that land. Now, obviously, they need to have a very strong case for that to happen and it would be something where, again, it is open to political scrutiny because it is ultimately going to be in the hands of the Minister to decide whether to grant that. That would then be something that would have political consequences if he gets it wrong.

Q987 Chair: Right. You used the term there “user friendly”. A lot there depends on which end of it you are on, doesn’t it?

Dr Elliot: Yes.

Q988 Chair: The emphasis that you placed there on the community arguing very, very strongly and then using the term, “It is crucial”, these are quite high hurdles, aren’t they?

Dr Elliot: Yes.

Q989 Chair: Is it your view that there should be quite a high hurdle? It is not just the balance of advantage?

Dr Elliot: I believe in human rights as well as the importance of the public interest and it is a serious decision to make. We have that menu of fair community rights that we have outlined and we make the point that it is a ladder. The further on it you go, then the more stringent the requirements should be, but at least there should be a forum there. This is providing a forum where people can argue their case and these cases can be fairly strong.

Q990 Chair: The changes that you are proposing about compulsory purchase, would you characterise them as a modernisation and development of the existing position, as you seemed to be suggesting when you were talking about making it more user friendly, or is it a quantitatively different leap forward, particularly in the more rural areas?

Dr Elliot: I think it is a case of updating our understanding and our ideas about this. Clearly, in the case of the local authorities modernising the way in which it is used, that is a simple modernisation. At the heart of all of this is—well, there are two things. First of all, the context of the European Convention on Human Rights was that it came in after the war in order to deal with restitution of property. That was the context in which that convention was drawn up. We are in a

very different situation here and, therefore, the way in which it is used is something that maybe has to reflect the reality of the situation we have.

It seems to me that land is, as I was saying earlier on, a finite resource and it is a crucial resource for the whole of the country. That is where I start from. Therefore, yes, of course, it is part of the common good. It is part of my understanding of the common good that people should have the freedom to have land and to own land and to do with it creative things as they wish, but they have to also do it in the spirit of citizenship whereby they recognise that other people have rights on that as well. Whether they own it or not, they have an interest in how it is used. They are stakeholders in that kind of enterprise. What we are trying to do is to rebalance that and to recognise that owning land is a privilege. Owning land is not just something that allows you to ride roughshod over what other people might need from that same piece of land. By and large, landowners recognise that and they comply with that. If a community wants a strip of land for a cemetery or something, they will find ways of doing it, but not all of them do. By and large, you have landowners who are good citizens.

Q991 Mike Crockart: Alison, you talked earlier about the work that this Committee has done. It has spent a fair amount of time examining particularly the fiscal aspects of land reform. There is waving from the back there. I am pressing my button but there are too many on.

Chair: Lindsay?

Mike Crockart: There we are, is that better? You mentioned earlier about the work that this Committee has done spending a fair amount of time examining fiscal aspects especially of land reform. If I can turn to section 25 of your report, because that covers land taxation payments and markets, how significant do you think in your mind these fiscal matters are in relation to land reform?

Dr Elliot: I think they are crucial. I do because time and again you have people who have ideas for how land can be developed. They want to get access to land and one of the characteristics of land in Scotland is that it is hugely expensive. One of the mechanisms that is keeping it expensive, we are told, is the taxation regime. It seems to be a regime that works well if you are capital rich but not if you are not. In other words, there is no recurrent tax on land itself and that means that because there is no tax on it, then we are told by the economists that that means that that is capitalised into the price and, therefore, the price of land is increasing. If there were a recurrent tax on the land itself, then that would reduce the price of the land to an extent.

Also, when you get into other areas of payments and particularly once you get into the rural situation and you are talking about agricultural payments, again the payments are increasing the price of the land because once you buy the land then you get all these payments. Both the payments system and the exemption from business rates and the various reliefs that are available for agricultural land are a mechanism that keeps the price of land high.

Q992 Mike Crockart: A lot of the evidence that we have had during the course of carrying out the inquiry was very much that it is the complexity of the taxation system that seems to be feeding this. Every time a particular difficulty has been identified, then a further change is made and it ends up with a situation that is immensely complex and very difficult to find your way through to the end of. Is that the experience that you found in your inquiry?

Dr Elliot: I think that that is obviously the case. One of the key references, of course, for everybody just now is the Mirrlees report. It makes that point that if you are dealing with a change to taxation, you really have to look at it as a system and not just piecemeal because the reason we are in trouble is because it has been done piecemeal. Therefore, taking on the question of looking at the taxation system is a big undertaking because it means not just looking at introducing a tax in order to discourage a particular kind of behaviour here—because that will have knock-on effects on other things—you want to look at it as a system as a whole.

Q993 Mike Crockart: You would not argue that there are particular bits that could be perhaps not tinkered with but amended that would substantially make the system better because the experience in the past has been that this has ended up having knock-on effects elsewhere that perhaps were not foreseen?

Dr Elliot: I think there is enough of a coherent story coming out over taxation and land that would allow you to adjust the system in various ways, adjust it as a system and not just bit by bit. The number of taxes that are relevant here are relatively limited, although they are very important ones. They are the council tax, they are the business rates, and then you have also the inheritance tax and capital gains tax and so on. Looking at them as a whole, then you can see that, as I said before, there is not a recurrent tax on land itself and that is something that can be looked at. If you are going to review the council tax anyway, then that is something that should be fed into that. Also in terms of business rates, the agricultural exemption is increasing the price of land and, therefore, again, that is something where you could see the changes being introduced again as a package.

The point of it is that taxation does two things. It serves to redistribute or it serves to pay for public services by taking most from the people who have most. That is supposed to be the basis of it. It is also useable in order to change behaviour and in order to focus on particular policies. I think that underlying all of this, of course, would be one of the other recommendations that we make, which is that we should have a proper national land policy that would then be guiding this. If you had a national land policy that had a better idea of where agriculture fits into a diverse rural economy, for example, and, therefore, how much agriculture has to be protected by taxation, how much it could be dealt with in the same way as other rural businesses, if you had a proper policy that was pulling all of that together, then you would have the basis for approaching all of these different taxes in a coherent way.

Q994 Mike Crockart: So it is necessary to have the overall policy before you can determine what value land should have given its different competing potential uses?

Dr Elliot: I think so.

Q995 Mike Crockart: Then you build the taxation system around that to promote those priorities?

Dr Elliot: I think so because if you are going to change the taxation system, then you have to persuade people that the change is sensible. It has to be a transparent kind of change and in order to argue that, then it would be helpful if you had a coherent policy underneath it.

Q996 Mike Crockart: Final question: is the worry not that if you have to have an overall change—we have to review everything to put together a whole new system—does that not then make it too

frightening to go down that route? If there is a simple thing that will fix things for now, that is more likely to get done? If it is a bigger thing that will fix it for all time, then it might never get done?

Dr Elliot: I think that is probably true. We are back to the question of the 62 recommendations. How do you sequence this and how do you ensure that at the end of the day you get to where you want to be rather than simply cherry picking or choosing easy bits here and there, which may at the end of the day make things worse?

Chair: Lindsay, you wanted to come in on this.

Q997 Lindsay Roy: Alison, are you saying this would be reviewed at the same time as the council tax?

Dr Elliot: I am not sure whether the council tax is being reviewed.

Chair: Sorry, I thought that was what you mentioned.

Lindsay Roy: Yes, because it is a regressive tax and appears to be proportionately more.

Dr Elliot: Yes. The proposal for land value taxation is something that there is a lot of value behind and a lot of arguments behind, but generally the idea is that that is not going to be brought in in addition to everything that is happening at present, but rather would be seen as being a substitute for council tax. Therefore, if you were going to be considering that, the way I read the various articles that I have seen indicates that if you are introducing it, then you will be introducing it instead of council tax rather than simply as well as.

Q998 Lindsay Roy: As far as you are aware, there is no concrete programme or timescale for this?

Dr Elliot: Not that I am aware of, no.

Q999 Chair: The danger, of course, of saying that there could be no review of land taxation until all property taxation is dealt with is that nothing ever happens. It comes back to the question of incrementalism, doesn't it? Some of these things could be done without there having to be a big bang, surely.

Dr Elliot: Well, again, if we take them one at a time, then the question of the exemption from business rates may be—each of them is going to require quite a lot of research and economic modelling anyway. You do not just decide it looks like a good thing so we will introduce it. The argument, as I understand it, for removing the agricultural exemption is not that agriculture would then be having to pay the full rate all the time, but rather that it would be treated in the same way as other businesses. Maybe that is something that could be introduced, but again it would have to be properly modelled and properly reviewed and researched before that was done. The Government is saying that that is under review until 2017, so there might well be changes in that direction. That might make a change—

Q1000 Chair: I think we were just a bit wary of the idea that you could not do anything until you did everything.

Dr Elliot: Oh, sure. I am an academic, though, so—

Chair: Okay. No, most of what you have said has been entirely comprehensible, which is not always the case with academics.

Dr Elliot: Despite being an academic.

Q1001 Chair: That is exactly my point, exactly my point. Can I turn to another one of the issues that has caused a bit of a concern? That is the question of a cap on land ownership. Now, maybe you would just clarify why you thought this principle was so important.

Dr Elliot: Right. I do not think it came in as a principle. I think it came in as an answer to two different questions. What matters are the questions that it was trying to answer. It came up in the context of the concentration of land ownership, and in discussion about that we could see that over the last 40 years if anything there is an indication that that concentration might be getting worse. You look at the prices of land in Scotland and you look at the prices of land in London and you realise there is a lot of money around that is free floating and is looking for an investment. Scotland is looking quite vulnerable in terms of its land at this particular point and it could be—we have no evidence to say that this is going to happen but it could well be—that people will see that as being an area where they could park their money, basically without being active owners and without having come into the country. That being so, the fact that there is not an upper limit on how much land they can own is a problem. Therefore, that is one of the reasons. The question is: how do you stop too many people just using land as an investment, which is not the same as investing in land, on a large scale? One way of doing that is to say that there should be an upper limit on how much land any one person can use.

The other way in which it came in was in a slightly different context, which is about the way in which owners very often have a monopoly of decision making within a small area, within the area that they own. Now, we recognise—and this has been emphasised by Scottish Land & Estates and we indicate it in the report as well—of course, that this is every bit as bad and it is a problem wherever. Well, if it is a problem, if the owner is abusing their position in terms of the influence that they have on people's lives in the community, then that can happen however many acres you own. Obviously, the more acres you own, the greater the risk.

It is an answer to two questions. I was saying when I spoke to the Scottish Parliament's committee that if other people can come up with better answers to these questions, fine. We are not saying, "My goodness, if someone has 100,000 hectares, that is enough for them or if someone has 10,000 hectares that is enough". It is not a principle in that sense. It is more that it is a practical answer to two different questions.

Q1002 Chair: Right. Why I picked up the principle was that a quote from the report was, "Concern here is not what an upper limit should be but the principle that there should be an established limit". That is why I picked up the question.

Dr Elliot: Okay, yes, fair enough. The idea of a principle, yes, fair enough.

Q1003 Chair: Because one of the issues of the question of upper limits is that an acre of land is not the same as an acre of land. If you are parking money in rich agricultural land as compared to barren moorland, then clearly the issues about how much you can invest are different. Was it your intention that there should be differential limits depending on the value of land? If you said nobody should be able to invest more than X millions, that would obviously be subject to fluctuations in price but it

would take account of the fact that some land is almost worthless and other acres are incredibly valuable.

Dr Elliot: Yes. I think that is a case where there could have been different answers to that question. The point is that the question should be asked. The answer, which I will stand by, is that it would be a good idea to have an upper limit, but the upper limit will depend on, in a sense, how you consider the questions because it is an answer to these questions, not something in general.

Q1004 Chair: Right. Yes, I think had the whole debate come forward more as being, “We are presenting this as being the answer to these two questions” it would have been dealt with slightly differently. The question of the upper limit raises issues about compulsory purchase and all sorts of other things. It sets it in a different sort of context. One of the things, of course, also relates to the question of whether or not any upper limit that is decided should be applied retrospectively. Did you have an intention about that?

Dr Elliot: We recognised that that was one of the questions the Government would have to think about and also take advice on.

Q1005 Chair: What was your view?

Dr Elliot: We did not have a view. We recognised that it was a kind of political question that the Government would have to have a view on. We thought it was for the Government to have the view rather than us.

Q1006 Chair: Right. In terms of the two identified issues that you had, taking the second one first about monopoly, presumably monopoly can be overcome by putting forward proposals on a sliding scale; you can only have such and such a percentage of land within a certain limit and so on, and rules can be devised in that sort of way. It is achievable depending on how you present the question of monopoly and what the catchment area is and so on.

Dr Elliot: I think it is a fascinating question, that one, the question of the monopoly and how it operates in different situations. I think it probably is reflective of the social structure of the area you are talking about every bit as much as the size of the area. If you are in an isolated part of Scotland where the estate is basically the main institution, then that is quite different from in the middle of Perthshire or something like that where you can move from one employer to another. There are different kinds of fora that you can use in order to discuss things and get your views across. It is also tied up with that, which may be also derivatively related to the kind of land or the value of the land.

Q1007 Chair: Okay. Turning, then, to the question of transparency—sorry, I just realised, yes. We do not think of these questions ourselves, you know. We get them given to us. No. It appears that we have forgotten to identify who is picking up the points on transparency. Can I start on that? As well as proposing the limits on the amount of ownership, you were also suggesting that there should be limits on the ownership of land to legal entities registered in the EU.

Dr Elliot: Yes.

Q1008 Chair: Can you clarify why you made that recommendation and what you think it will achieve?

Dr Elliot: Well, the reason for it had to do with transparency and accountability. It was following on from the question of registration. You need to know who owns the stuff.

Q1009 Chair: Why?

Dr Elliot: In order to—what is the word—interrogate the way in which land is being used and the way in which the whole thing is developing. By and large, it is very frustrating if you do not know who owns the land. If you are trying to make progress, you want to acquire a piece of land for a project that you have, you need to know who owns it.

Q1010 Chair: There are different steps here. You could know that a company in Grand Cayman owns the land, so the ownership is known. You could be able to write to them and have a dialogue with a company in Grand Cayman easily enough without any difficulties, surely. Why should they have to be in the EU?

Dr Elliot: I think one of the other reasons for restricting it to the EU had to do with your own question in the Commons to the Prime Minister about the EU as a place where there was going to be work done on ensuring the beneficial owners of land. Therefore, if you are registered in Grand Cayman, then presumably the EU mechanisms would not operate there, whereas they would operate if you were dealing with a company that was registered in the EU. It was in order to capture that, really, that we picked up on that.

Q1011 Chair: Could I clarify then why you feel it is necessary always to know who the beneficial owners are? If you have a perfectly acceptable relationship with the company in Grand Cayman or their agents here in Scotland, is it necessary to know that Joe Bloggs or the Duke of Bloggs is the ultimate owner of a particular piece of land?

Dr Elliot: It is getting back to the democratic principle, surely. We are a democracy where, as part of that, there should be a certain openness about the arrangements that are of crucial importance to the country.

Q1012 Chair: Why is it of crucial importance to the country that we know that the Duke of Bloggs owns a particular piece of land if you have a perfectly acceptable working relationship with his factors and agents and you know that the company is based in Grand Cayman? I am just trying to explore why this needs to be pursued.

Dr Elliot: Again, it is something that we did not discuss as a group. We assumed that it was valuable to know and to be able to make contact with the owner and, ideally, the beneficial owner as well of the land that was under question at any one time.

Q1013 Chair: You see, to some extent it is coming back to the question of good landowners and bad landowners. I can understand why if somebody, say, in an urban area is neglecting something, you want to be able to find out who is owning that in order that some action can be taken.

Dr Elliot: Exactly.

Chair: It is a question of parcels of sky from tenements that have been demolished and all the rest of it in order, as much as anything else, that you can apply a compulsory purchase order. I can see all the point of that, but if you have an incredibly generous and constructive and positive owner who is acting at one remove through his factor, then why do you need to know—except for just naked curiosity—who the Duke of Bloggs is that is owning this piece of land?

Dr Elliot: Well, maybe you do not if you are comfortable with it, but the point is we are talking in general terms and the fact that there are people who will hide behind these companies and that it will then be difficult to pin down exactly who owns some bits of land. It is just about transparency.

Q1014 Chair: I am just trying to clarify. Transparency, as you are advocating in your report, would be absolute and be a good in itself. I was just trying to clarify whether or not in a sense it was conditional on being necessary that where you had problems caused then you wanted to find out who ultimately was doing it. Part of this stuff about the EU was also to do with tax evasion and avoidance and dodging and all the rest, which is a different set of issues and where I can see the point of transparency there. It is just a question of whether or not this absolute is justified and is justifiable in terms of moving forward on a wide agenda.

Dr Elliot: There is also a sense in which the lack of transparency is a relic of an approach to this whole subject, which is it is none of your business. In other countries, this sort of information is available without any bother. Why shouldn't we have it as well?

Q1015 Chair: Can I clarify about the registration, then? You were proposing that the companies would have to be registered in the UK, but individual citizens of foreign countries would still be able to own. Joe Bloggs, were he an American citizen, would presumably still be able to own land in Scotland without being registered in any way in the EU, but if it was Joe Bloggs PLC, or whatever the American abbreviation is, then it would have to be registered in the EU in order to own land in Scotland.

Dr Elliot: Yes, this is a point that came up with the Rural Affairs Committee as well in the Scottish Parliament. It is something that we had not picked up, that we are talking about legal persons, which, of course, include natural persons as well as other legal entities. Again, it is a case where as well as looking at the recommendation you look at the question it is trying to answer, which is about transparency. Obviously, if the person is identifiable and they are, then there is enough transparency and there is enough accountability in that case. It was mainly we were thinking of companies. We were not thinking of individuals when we were writing that.

Q1016 Chair: Again, the question of retrospection. Like the issue relating to maximum size of ownership, would it be the intention that this would be retrospective or have you not thought of that?

Dr Elliot: We had not thought of retrospection in this particular case. It was following on from the question of the land register. Do you have cases at present on the land register where the owner is Grand Cayman? I do not know.

Q1017 Chair: It just strikes me that it would have to be retrospective on the basis that if it was owned by a company in Grand Cayman, that company could then be bought and sold and ownership

could move round about all over the place. You would not necessarily know because the owner remains the company and, therefore, there is not a change in the direct ownership even though there is a change in the ownership of the institution that owns the land.

Dr Elliot: Right, yes.

Q1018 Chair: Colleagues, any other points that you want to raise? I think we have covered most of the issues that we had.

Dr Elliot: That is good.

Q1019 Chair: As I indicated to you before we came in, we always ask people at the end whether or not you had any answers prepared to questions that we have not asked, which allows you to cover any points that you feel we have not covered or make any observations that you want to make sure you put in front of us.

Dr Elliot: Yes. I have prepared answers to a whole lot of questions, but I think I am happy not to have them asked.

Chair: Oh, right. Well, in that case we can keep going. We can keep going if you want.

Dr Elliot: No, I do not think so.

Q1020 Chair: You have seen the other hearings we have had. You will be pretty clear what the thrust of our direction is. It is just a question of whether or not there is anything you think you would want to add.

Dr Elliot: Yes, one of the things I would like to add that we did not raise was the National Audit Office's report on HMRC and the whole question of exploring the revenue foregone in a lot of these tax cuts and things like that. I would encourage you to pursue that and to clarify just how much money is involved in a lot of these exemptions because I think that would be useful.

Q1021 Chair: Why do you think that is particularly significant? It is the only point you have raised with us as an initial one and I am just wondering why that one.

Dr Elliot: I think it is one that you are particularly well placed to pursue and it is the kind of information that is part of the jigsaw that is missing. There is a lot of comment backwards and forwards about the cost of a lot of the things that we will be proposing and a lot of the cost of community ownership and so on, and it is never put in the context of what other money is being spent on land or failing to be spent on land. Having information about that wider financial setting in which these particular costs come in I think is important because, as I was saying right at the very beginning, land reform is going to change things if it goes through and that is going to cost something, at least at start-up costs. We need to be able to know how that fits into the wider cost of things.

Q1022 Chair: That was very helpful. Now, is there anything else, then, in that case? If you have a list of things there that you might have raised with us, we would much rather flush them all out than not have them. No?

Dr Elliot: No, I think that is fine.

Chair: Okay. Well, could I thank you very much for coming along? I think this has been very helpful.

Dr Elliot: Thank you.