

SUPPLEMENTARY INFORMATION FROM K SHADE (relates to submission no.41)

LAND REFORM BILL & OUTDOOR ACCESS CODE ?

With regards to my letter to you dated 10-12-01. I own Easter Bavelaw Farm, it is an enclosed farm, it is within the Pentland Hills Regional Park boundary, the park has a million plus visitors per annum.

Oral Evidence I understood all submissions had a closing date of 21-12-01, I therefore had asked to give oral evidence, this was due to the fact that the access code was not published and as such I was unable to give adequate submissions to the committee. I have been waiting for an invitation, but unfortunately I have just learned that the final committee meeting for oral evidence was held yesterday, I am therefore very disappointed that I have been denied any rights to a fair hearing.

Rights of Way It appears that your proposals are based on a erroneous presumption that the public already have a right of access to walk on all private land etc, this of course is not correct, otherwise we would not have the recognised Rights of Way footpaths. It is the common held belief of others, including land managers and the Law Society of Scotland, that the public do not have other rights of access to private land.

The Law Society of Scotland I understand the Law Society have stated to you, "there is no common law right of access to land" and "temporary intrusions or trespasses may also be resisted" and "there was a right to remove a trespasser using such force as was reasonably necessary" and finally they state "The Bill has the intention of shifting what is at the moment a law of trespass to a right of access. There is currently a presumption under the law that people cannot go onto other peoples land,".

ECHR I also note that your proposals continues to ignore my previous concerns that my rights will be badly effected by the Bill and as such it appears to contravene my European Convention of Human Rights.

Exclusive ownership The proposals appear to be diminishing or extinguishing my rights of ownership, I also believe that my enclosed farm may be among the worst affected by the Land Reform Bill regarding access. I am therefore opposed to your access proposals, as they will in effect turn my farm into a public park.

Public Liability and other insurance, we keep the farm private, however your proposals are giving a

new right of access and I will have no rights to manage that access. I understand from insurers that I will eventually have significant difficulty in obtaining a reasonable insurance, this is due to the fact that I will probably have hundreds of thousands of people visiting, and using my farm as a public park day or night, therefore the insurers are likely to assess my farm as being within a new greater risk area . I understand that under The Occupiers Liability (Scotland) Act 1960, I have a duty of care to protect a visitor from danger, i.e. by creating a barrier or forbidding entry, however your proposals will not allow me to manage access.

Compensation I can foresee, not only ECHR problems, but also many claims for compensation for the loss of exclusive rights of ownership, the claims may ultimately amount to many millions of pounds.

Alternatives – Access to enclosed farms should only be considered along a network of right of way core paths. But any new right of ways created must not go through a farm but around the farm boundary where suitable and agreeable, with fences, gates and styles erected and properly way marked with directions.

I look forward to hearing from you in due course.

K Shade

cc.

Scottish Landowners Federation
Scottish National Farmers Union