

*Land Reform:
Politics, Power
& the Public Interest*

*by
Andy Wightman*

*The 1999 McEwen Lecture
on
Land Tenure in Scotland*

The Sixth John McEwen Memorial Lecture
on
Land tenure in Scotland

*“Land Reform: Politics, Power
& the Public Interest”*

Presented by
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(Author of *Who Owns Scotland*)

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The previous McEwen Lectures

Professor Bryan MacGregor (1993)
Land Tenure in Scotland

Dr. James Hunter (1995)
A Land Reform Agenda for a Scots Parliament

Professor John Bryden (1996)
Land Tenure and Rural Development in Scotland

Professor David McCrone (1997)
Land, Democracy and Culture in Scotland

Rt. Hon. Donald Dewar (1998)
Land Reform for the 21st Century

Copies of all the McEwen Lectures are available from:
The McEwen Archive, A.K. Bell Library, 2-8 York Place, Perth PH2
8EP
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The Sixth McEwen Lecture

The McEwen Lectures were started in 1993 as a tribute to the life and work of John McEwen (1887-1992) and the new impetus that his book *Who Owns Scotland* gave to the debate about landownership in Scotland.

The role of the Lectures is to provide well reasoned, authoritative and ground breaking presentations by distinguished Lecturers on the subject of Land Tenure in Scotland. The first five lectures have been highly successful and have had a major influence on the growing recognition of land reform as a fundamental factor in Scotland's future.

The Lectures have been delivered to capacity audiences representing a wide cross-section of interests. At a time when land tenure is so topical, the McEwen Lectures have provided an important focus on the issues involved and a valuable opportunity to meet and discuss the ownership and management of land in Scotland.

Donald Dewar, paying tribute to the Lectures in his 1998 McEwen Lecture, drew parallels between the role of the Constitutional Convention in securing the Scottish Parliament and the role of the McEwen Lectures in building a consensus for land reform in Scotland.

Andy Wightman is the foremost independent commentator on land reform in Scotland and eminently qualified to deliver the 1999 McEwen Lecture on "*Land Reform: Politics, Power & the Public Interest*".

This, the sixth McEwen Lecture, has been held in Edinburgh in recognition of the establishment of the Scottish Parliament and the imminent prospect of land reform legislation. These factors are also reflected in the afternoon Panel Discussion accompanying the Lecture, with members of the Panel including the Scottish Executive Partnership's lead Minister on Land Reform and the Chairs of the two parliamentary Committees involved with the issue, Justice & Home Affairs and Rural Affairs.

John McEwen

John McEwen was born near Aberfeldy, Perthshire, in 1887. He left school at 14 and trained in forestry on the Earl of Seafield's Cullen Estate. In 1920, he joined the Forestry Commission. From 1945 until his retirement in 1970, he worked self-employed as a forestry consultant, with most of his work in Perthshire.

In 1961, he became only the second ever working forester to be President of the Royal Scottish Forestry Society. In 1963, his services to forestry were recognised by the award of an OBE. In 1977, his book *Who Owns Scotland* was published and gave a new impetus to the debate about landownership in Scotland. A second edition was brought out in 1980, the year he was made a Fellow of the Royal Scottish Geographical Society.

John McEwen died on 2nd September 1992, two days short of his 105th birthday.

The McEwen Archive on Landownership

The McEwen Archive at the A.K. Bell Library was launched at the 1996 McEwen Lecture by Perth and Kinross Council and the Friends of John McEwen.

The purpose of the Archive is to build up and make available for public consultation an authoritative collection of books and other documents related to landownership in Scotland. There is no other such focused collection, despite the widespread public interest in the subject and its continuing topicality.

The Archive was founded with a collection of material that either belonged to John McEwen or is about him and which has been donated to the Library by his friends and colleagues.

In conjunction with the Archive, Perth and Kinross Libraries published a biography of John McEwen in 1998: *A Life in Forestry* by Doris Hatvany.

The McEwen Lecture Series 1993-1999

The 1999 McEwen Lecture will be the last McEwen Lecture, or at least the last one in the current series.

Circumstances have changed remarkably since the first McEwen Lecture was held in Aberfeldy in 1993. Then, the challenge was to establish land reform as a legitimate and important topic for public debate and government policy. This year's Lecture is the week before the Scottish Parliament starts work on a programme of land reform legislation.

This year's Lecture is thus at an important juncture in the history of the land reform debate in Scotland and an appropriate time at which to conclude the current series of McEwen Lectures. The six McEwen Lectures 1993-1999, admirably rounded off by Andy Wightman's forward looking Lecture, will come from a different era once the Parliament has started work on land reform.

The need for "authoritative and ground breaking" presentations on land reform, the remit of the McEwen Lectures, will remain. Hopefully, that role will now be met through the many more opportunities that exist for such presentations given the new prominence of land reform. However, if there should be a feeling that the role is in some way not being adequately met, the opportunity remains to start a second series of McEwen Lectures with the approach of the Lectures suitably modified to meet the new circumstances of the land reform debate.

The McEwen Lectures have been valued and enjoyed by many people and have provided an important meeting place for those with an interest in land reform. That need will now be met much more fully by the Scottish Land Reform Convention, as the appropriately constituted civic body to draw different interests together in ways that match the new focus given to land reform by the Scottish Parliament.

The 1999 McEwen Lecturer: Andy Wightman

Andy Wightman is a freelance writer and researcher specialising in landownership and rural development. He acts as an adviser to a range of organisations and individuals in both public and private sectors. The author of the highly acclaimed *Who Owns Scotland* (Canongate, 1996) and *Scotland: Land & Power* (Luath Press, 1999), he has written many reports and articles on land related topics. He is a leading advocate of land reform in Scotland and the foremost independent commentator on the issue.

Andy Wightman's Acknowledgements

I want to pay tribute to the Friends of John McEwen for having the foresight, energy and determination to organise this series of Lectures and in particular, to Robin Callander, who has provided such committed and strategic leadership. I am also grateful to Robin for his many constructive comments on drafts of this Lecture.

The 1999 McEwen Lecture
Andy Wightman

Land Reform: Politics, Power and the Public Interest

Preamble

It is a privilege to have been invited to deliver the 6th John McEwen Memorial Lecture on Land Tenure in Scotland and to be asked to do so at such a critical moment in the debate about the subject. I never met John McEwen, but it was his pamphlet *The Acreocracy of Perthshire* together with his book, *Who Owns Scotland*, which sparked my own interest in this topic when I was beginning my studies for a forestry degree at Aberdeen University.

McEwen's death in 1992 of course was the catalyst for these lectures and when the series was launched back in 1993, land reform was a distant prospect - indeed had been for previous decades. Professor Bryan MacGregor delivered the first lecture in which he outlined the fundamental way in which land tenure and land use are linked. Dr James Hunter in 1995 outlined an agenda for the then hoped-for Scots Parliament and Professor John Bryden a year later explored the relationship between land tenure and rural development. These three made the basic case for the significance of land tenure and its importance as a matter of public policy.

Then, in 1997, Professor David McCrone was able to talk for the first time in realistic terms about land reform moving onto the political agenda. That year saw the election of the Labour Government and the decisive vote for the Scottish Parliament in the referendum. Professor McCrone concluded his lecture with a section entitled 'Enter the Political' in which he underlined the importance of the new Parliament.

The political entered the McEwen series last year when Donald Dewar, then Secretary of State for Scotland, now First Minister in our new Parliament, delivered the Fifth Lecture in which he paid tribute to the role of the McEwen lectures in making land reform that much more possible - in a similar way, he argued to the role played by the Scottish Constitutional Convention in laying the groundwork for his government to hit the ground running on devolution (Dewar, 1998: 7).

This short history underlines the profound change that has taken place in Scottish politics and, by extension, the prospects of land reform. We are now in a position where not only do we now have the case for land reform and the legislative capacity to deliver it but we actually have a political commitment to begin the legislative process.

It is quite a remarkable juncture in the whole history of land reform and of course Scottish politics. After so many decades, a Parliament with its full legislative powers begins a session next week which will see not one but two bills on land reform introduced and, hopefully, passed into law. It is an exciting time and tribute should be made at this point to all those who made such a change possible and also to those, John McEwen included, who articulated the arguments for very fundamental changes in the way land is owned and used. Many of these people, active throughout the post war years and in the 1970s in particular, are now, sadly, no longer with us.

Following on from the distinguished series of prominent scholars in previous McEwen lectures, the Friends of John McEwen invited me to deliver the lecture this year and I am perhaps something of a surprise choice. In comparison to those previous McEwen lecturers I am not an academic or a politician and have been invited by the organisers I think because of my role as an independent commentator on land issues and on land reform in particular.

Donald Dewar last year concentrated on the politics of land reform from the partisan perspective of his particular administration's work in the Land Reform Policy Group which is now being taken forward by the Scottish Executive. My task today is to stand back, to draw breath and, from a non-

party-political perspective, to review in a more fundamental way, the issue of land reform and the three core ingredients of politics, power and the public interest.

I want to tackle this by exploring four main themes.

- First the fundamental and long-standing relationship between land reform and politics.
- Second the links between power and the public interest - and land reform.
- Third the way in which land reform is being tackled and the way in which the term itself is being used.
- Fourth the implications of all of this for developing a modern agenda for land reform which is concerned as much with entirely rational, practical and pragmatic consequences as with ideological theory or dogma.

This lecture is in two halves. In the first I explore the links between land and politics, the politics of land reform and the relevance of the concepts of power and the public interest in developing an agenda for land reform.

In the second half I argue for greater political sophistication in how we articulate and develop land reform and for greater clarity in what we mean by land reform. I will then suggest how a modernising agenda for land reform can be built in substantial part on a mainstream European vision of what land reform can achieve and on the political philosophy of a landowning democracy.

Part I

Land and Politics

Land and politics have been intimately related since the beginnings of modern society. As Jean-Jacques Rousseau argued, 'The first man who enclosed a piece of ground and found people simple enough to believe him was the real founder of civil society' (Rousseau, 1754). In Scotland, as elsewhere, the history of landownership began with a system of governance based upon the feudal relationship between the Monarch and the nobility - a system of land tenure still with us today 900 years later and an indication if ever it was needed of the resilience of Scotland's land laws and our historic failure, indeed inability, to do anything fundamental about reforming them. Rights over land which began as political rights of civic administration, evolved over time and under the control of those who possessed them, into full-blown property rights.

This transformation has been carefully and assiduously protected and nurtured by landed interests for many centuries. And it has been this careful definition and assiduous protection which has denied Scotland the kinds of reforms enjoyed by our West European neighbours. And closely associated with politics has been the phenomenon of power - political power, economic power, and cultural and social power. As Loretta Timperley observed in her academic analysis of landownership in Scotland, 'Power and landownership have been synonymous in Scotland from time immemorial' (Timperley, 1980: 137).

Power is of course a complex phenomenon manifesting itself in a wide range of ways. Despite this complexity it is, however, quite simple in essence - it means the ability or capacity to do something, the ability to act. This ability to act over land has been the fundamental feature of the ownership of land - the ability of some to act and not others. Indeed the Scots law of property emphasises rights in property - the right to act - to the complete exclusion of responsibilities. Only in the 20th century have

we begun to see significant incursions into these rights by the growth of statute law limiting the ability of landowners to act.

Politics has thus had a long association with the way land is owned and distributed. That does not prevent, however, those who wish to defend the status quo arguing, somewhat disparagingly, that interest in land reform is driven by political motives. Andrew Dingwall-Fordyce, the Convener of the Scottish Landowners' Federation, gave the Carbeth lecture last year entitled '*Land Reform - more a political hobby horse than a quest for Utopia.*' His reference to politics in this rather derogatory sense represents a common response among those for whom, because of vested interests, land reform is not the most welcome of policy agendas.

But politics as defined in the dictionary is something which is concerned with or relates to the state, to government, to the body politic, to public administration and to policy-making. Politics is thus concerned with civic organisation. Indeed the word itself is derived both from the Latin *politicus* and the Greek *polites*, meaning the citizen. Politics is thus concerned with civic issues or citizen's issues. Politics in short is about the process of governance in civic society.

And it is the process of politics that has shifted power steadily away from those who traditionally enjoyed it in disproportionate measure. Not only through the reform acts of the 19th century but through the planning, environmental and tenancy legislation, the balance of power has, quite properly, been steadily shifting from the historically tiny number of people who owned land to the hundreds of thousands more who as tenants now enjoy security of tenure or who by virtue of owning their own home are now property owners.

This process of politics is now receiving something of a revitalisation. For next week, Parliament begins to tackle a programme of land reform, a programme of a scale not seen for at least 100 years. And civic society, which has long argued for land reform, and has long argued for this Parliament, now, at long last, has the power, the ability to act, through its elected representatives to advance land reform. '*For the first time*', as

Donald Dewar observed when he announced the Government's legislative programme for the coming session of Parliament, '*a programme of legislation will be laid before a democratically elected Parliament in Scotland.*' That programme includes two bills on land reform, bills which, as Dewar argued, 'will make for a better balance between the private and public interest' (Dewar, 1999).

Thus the political process is in place, with the power to act - and to act in the public interest as well as in the legitimate interests of private citizens. Politics, power, and the public interest are central to land reform. They are not some abstraction or hobby horse but are the key ingredients that underpin land reform and which can make land reform happen. At long last the three can be drawn together in the Scottish Parliament.

And about time too because we remain burdened by the legacy of the past both in terms of the system of land tenure and the pattern of landownership. Our land laws have, as any cursory examination shows, been made by those who in the main have stood to benefit from them down the years and the ability of the rest of us to do anything about it has, until now been massively hindered by two factors which the Scottish Parliament substantially removes.

The first has been the lack of time in a crowded Westminster agenda - an issue alluded to again by Donald Dewar when he announced his legislative programme. The second barrier has been more substantial and of longer standing. The House of Lords has blocked and frustrated any proposals which threaten or appear to threaten the vested interests of its many landowning members. Neither the House of Lords nor its successor body will have a role in the scrutiny, amendment, or enactment of any legislation emanating from the Scottish Parliament. In the words of one Labour MP, Scots lairds will have to take their place in the lobby corridors along with everyone else. In historical terms this is a truly remarkable change.

But although the institutional framework has changed decisively and we can now act on land reform, it is civic and political groupings which drive the process and the content of land reform, The prospect for land reform

will be determined as much by how thinking progresses within Scottish civic and political bodies as it will by the opportunities now afforded by the Parliament. What therefore are the politics of land reform?

The Politics of Land Reform

The 19th and early 20th century saw radical action on land reform and delivered lasting social and economic progress. In the aftermath of the Second World War, however, despite Labour's commitment to land reform, little has happened.

It was not until the 1970s that political attention again seriously engaged with the land question. That period ended of course with the election of the Conservative Government in 1979 and led to those long years of political discontent in Scotland. Ideas have, though, moved on since the 1970s. No longer, for example, is the land reform debate conducted across the ideological divide between private and public landownership.

And the denial of a land reform agenda by the Conservatives also resulted in civic society picking up the issue and responding in a practical way on the ground to the problems it faced. This approach, most prominently captured in the activities of the Assynt crofters and of the islanders of Eigg eschewed the barren rocks of political ideology and instead generated a revitalised citizen's agenda for land reform, an agenda it should be noted which has a long and honourable history going right back to the Chartists and the National Land Company, the Highland Land League, the Stornoway Trust and the Scottish Farms Alliance.

This revitalised civic agenda highlights an important feature of land reform over the past couple of centuries and a point recently argued by Graham Boyd, namely that for much of this country's recent history the political process has failed to respond to 150 years of organised civic effort to promote more equitable and socially beneficial forms of landownership (Boyd, 1999). He argues that there have been four great failures. These were:-

- the failure between 1840 to 1886 to legislate to break up sporting estates and sheep farms into smallholdings and thus secure the continuity of peasant society in Scotland;
- the failure between 1890 and 1940 to legislate to protect scenic landscapes, provide a right to roam and establish national parks ;
- the failure between 1950 to 1980 to legislate to fully protect and safeguard areas of national and international significance to nature conservation and;
- the failure between 1950 and 1999 to legislate to protect the public and local community interest in land for livelihood improvement and economic development.

The lesson from these failures is that civic society can articulate and develop the case for land reform but in the absence of the political means or will to deliver, its efforts are often largely in vain. The political means are now in existence but what of the political will? How have the various traditions in Scottish political life responded to the need for land reform and what has been their record?

Labour, to the extent that it gave much thought to the land issue at all over the past 20 years has, right up until recent years, remained burdened with the legacy of state socialism and state ownership - this was after all the response of McEwen himself to the land question. And of course this legacy goes right back to the early days of the Labour movement. In response to the excesses of Victorian and Edwardian capitalism, the left sought refuge in the power of the state to solve economic and social problems. In the process it rejected the social democratic model which had emerged on the continent.

A social democratic property owning society with strong mutual and cooperative institutions exists right across Scandinavia and Western Europe. Walk into any village in the Netherlands, in France, in Denmark or Norway and you will find farmer-owned supermarkets, banks and food processing factories. The revolutions which swept Europe in the 18th century laid the groundwork for today's rural economy of small-scale proprietors linked together by a strong network of collective institutions

which give European social democracy a distinctive and culturally rooted constituency of support.

In Scotland, however, two further centuries of landed power prevented this sort of pattern from emerging and thus the engine for an alternative social democratic model based upon co-operatives of small scale proprietors controlling the land and economy was lost.

Meanwhile of course, the Tories were busy privatising public assets and promoting a property-owning democracy which could be relied on (or so it thought) to vote Conservative. What was inconsistent about this ideology, however, was that it took the form of an attack on public monopolies but not private ones and limited the ideals of property ownership to the home. There was no promotion of a property owning democracy in the countryside - precisely the opposite in fact. Tory politicians would have as soon countenanced an extension of a property owning democracy in rural Perthshire as they would have engaged in a massive programme of nationalisation of heavy industry. But curiously some of the later actions of Michael Forsyth did begin to acknowledge and develop the idea, albeit in a limited way on state-owned agricultural and forestry estates, that giving individuals and communities more power over land was not only a good idea but was consistent with Conservative philosophy.

The Liberals meanwhile, whose history is dominated by radical land reform in the Highlands, in Ireland and in the efforts to introduce a system of land taxation, do not seem to have built on that legacy in the way one might expect. Many individual Liberals have shown a commitment and passion about land reform but the decline of the party and its internal upheavals of the 1980s probably explain the absence of a distinctive agenda for land reform. The Liberal Democrats' Scottish manifesto however showed signs of a return to core liberal values, for example, by advocating the right of tenant farmers to purchase their farms at the point of sale or inheritance of their land. Jim Wallace of course now has the brief for land reform and it would be interesting to learn what is to happen to this agenda and whether we can look forward to the revitalisation of some of that Liberal zeal that achieved so much in an albeit very different age.

The other main party in Scottish politics, the Scottish National Party, has traditionally adopted a high profile on the land question but, like Labour, have tended to promote a rather diffuse political philosophy which has shied away from contentious political issues. Their recent Scottish Land Commission and party policy statement (Scottish Land Commission, 1997; Scottish National Party, 1999) barely touched the subject of land reform and concentrated instead on the broader issue of land use policy, although I understand this was as much for pragmatic reasons as political reasons. We do also of course have two new political parties represented in Parliament, namely the Greens and the Scottish Socialist Party, both of whose contributions to the debate will no doubt be distinctive and invigorating.

The Scottish Parliament provides an opportunity for a new politics of land reform, one which, like that of 100 years ago, can make a substantial, radical and sustained difference in the way land is owned and used. And of course it is not simply that we now have a Parliament with the time and will to do something. That Parliament has legal jurisdiction over the territory of Scotland - the same territory over which Scotland's system of land law applies. Parliament thus has a legal duty to keep this system under review.

The challenge for the political parties represented in the Parliament is to make that difference through a modern programme of reform - but more of that later. In order to develop such a programme, land reform needs to be rooted in the two important concepts, power and the public interest, with which this lecture is concerned and I want now to look at the first of those - the concept of power.

Power

One reason land reform is political is because it is concerned with the distribution of power in society. Power - the ability to act - is what drives social progress whether it be the right to vote, the ability to access health care or education, the ability to take action over one's environment, or the ability to act in legal or economic defence of one's own interests or those of

one's family or community. Land is political in the sense that it is about the nature, derivation, distribution and exercise of power over sovereign territory - the sovereign territory of Scotland - and it is here that the more overt challenges for the political system lie.

Because we have never had land reform like other European countries, landed hegemony has survived in many ways remarkably unscathed. The new Parliament needs to challenge the legitimacy of this hegemony and the extent to which it is in the public interest that, for example:

- One quarter of the privately-owned land in Scotland is owned by 66 landowners with estates of 30700 acres and larger
- One third is owned by 120 landowners with estates of 21000 acres and larger
- One half is owned by 343 landowners with estates of 7500 acres and larger
- Two thirds is owned by 1252 landowners with estates of 1200 acres and larger.

This concentrated pattern of power associated with land is the core challenge for land reform. In 1872 around 100 landowners owned half the privately-owned land in Scotland. In 1970 this figure had risen to 313 and by 1999, to 343. At this rate there will be, by the end of the 21st century be 494 owners owning 50% of the privately-owned rural land in Scotland - hardly a revolution! Moreover as farm size gets bigger and those with 'new wealth' show signs of expanding their holdings in Scotland there is evidence that even this imperceptible trend of the 20th century towards a less concentrated pattern of ownership may now be beginning to slow down and indeed reverse.

It remains one of the notable features of contemporary political debate that whilst much rhetorical energy has been devoted to claims that land reform should benefit the many and not the few and that monopolies of land are not in the public interest, there has been no serious engagement with the problem that lies at the heart of this, namely the inequitable distribution of land and therefore of power over land and of the rights associated with that

power. It is all the more surprising because, as I shall argue shortly, there are both powerful practical reasons for tackling the pattern of ownership and a range of practical measures to effect change.

The Public Interest

I want now, however to consider the second of the two political issues raised in this lecture - that of the public interest. In terms of land this refers to the interest that we collectively as a society have in the territory of Scotland. What exactly is the public interest and how is it expressed?

As a society we interact with land all the time in terms of where we live, work and play. The quality and stewardship of the environment, the scope for participating in decisions about how land is used and developed, the opportunities for social progress and economic development, and the cultural and spiritual relationships we have with land are all vital ingredients of our individual and collective lives and identities. There is thus a wide range of very basic reasons why there is a public interest in all land and why as citizens we have both the right and the obligation to ensure that this public interest is expressed in ways which reflect society's aspirations and needs at any point in time.

Historically the continuing strength of private interests in land which has been consolidated over the centuries in the form of laws to protect property from creditors, to register and create real rights in property, to retain interests in land sold, to effectively privatise game, to secure the line of succession to land, and to protect landed assets against the onslaught of tax, have been discretely constructed and defined and remain formidable. As Sir John Sinclair, the author of the first Statistical Account of Scotland observed in 1814, 'In no country in Europe are the rights of proprietors so well defined and so carefully protected'.

Government has, since the late 19th century, sought to constrain the operation of private interests in acute cases of perceived injustice and in cases where there appears to be an overwhelming national interest such as in the period of post-war reconstruction. So, for example, tenants have

enjoyed increasing protection under statute law and the Town & Country Planning Act was introduced to provide a public system of development control. The public interest here provides the legitimacy for political action in redefining and redistributing property rights.

But regardless of the particular concerns of statute law, there is a public interest in all land. Crudely argued, 'this is our country'. Formally argued the relationship between the territory of Scotland (defined in legal terms as what is within the legal jurisdiction of the Scottish courts) and the people who inhabit it is based on the sovereignty of the Scottish people as represented by the Crown, and the authority of Parliament (and the democratic authority which it has over the whole system of land tenure). In addition, the Crown has certain proprietary rights as Paramount Superior over land held under feudal tenure. In addition there is the specific public interest in land owned by public bodies and, it should not be forgotten, the important public interest attached to a healthy system of private landownership.

The way in which the public interest is expressed needs perhaps to be revised and reinforced as part of land reform. As Callander argues, 'the current system, dating from the last millennium, is traditionally represented in terms of the feudal hierarchy of God, the Paramount Superior and superiors and vassals. In a reformed system, the priority of interests might be seen more appropriately in terms of the sovereignty of the people, the democracy of the Parliament, and the property rights of landowners.' (Callander, 1998: 204). The public interest in land is thus omnipresent and encompasses almost every aspect of how land is owned, who owns it, the pattern of landownership as well as its use and management. The public interest is also of very particular relevance when it comes to questions of land reform and human rights of which more in a minute.

Accepting that there is a public interest over all land and in every piece of land, the job of politics is to keep the relationship between public interests and private interests in an appropriate balance. Donald Dewar himself argued this when, in introducing the land reform proposals to be enacted in

the forthcoming session of Parliament, he argued that they would 'make for a better balance between the private and public interest.'

It is clear at this stage that the proposals he announced represent a decisive shift toward upholding and strengthening the public interest which has for so long tended to be marginalised and derided. But the extent to which they will do so does remain a matter for further debate, partly because it will be some time before even the basic structural elements of what constitutes the public and private interest is appreciated and understood as widely as it needs to be. The legal elements are what Robin Callander so skillfully managed to tease out in the context of the land tenure system in his recent book, *How Scotland is Owned* (Callander, 1998). But these elements also exist in terms of the wider relationships between how land is owned, how it is distributed, and how it is used and managed.

Not only do the elements of this relationship need to be better understood, so too do the mechanisms for developing appropriate policy responses when it comes to altering the balance between public and private interests. In short, there is a great deal of work to be done here - systematic, analytical work as well as political thinking.

As I have argued there is a public interest case for pursuing land reform. Part of this public interest agenda is the legitimate definition and protection of private ownership of land - an essential currency in a modern democracy. This concern with defining and protecting private rights also provides the legal justification for interfering with those same rights. To protect the citizen from an over-zealous state, however, we have the European Convention on Human Rights.

Article 1 of the First Protocol to the European Convention on Human Rights provides that 'every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.' It goes on to point out that not even these provisions should 'impair the right of a State to

enforce such laws as it deems necessary to control the use of property in accordance with the general interest.'

The significance of the Convention is that it provides a public interest justification for depriving a person of their possessions. This could encompass a wide variety of measures including ones which reduce the scope or effectiveness of property rights, not necessarily just confiscation or expropriation. Given that the redistribution of property rights in some form is the central purpose of land reform and given that land reform, if it is to be at all effective in this purpose will be challenged by those who wish things to remain as they are, it is essential that there is a clear articulation of what it is that constitutes the public interest in land.

Not only that, but there should be no reduction in the scope for arguing a public interest case if and when a challenge emerges - and it looks likely that one will. In this respect arguments to retain a direct proprietary interest in the land tenure system by us the people, a function currently provided by the Crown's role as ultimate owner, are extremely important. This interest could prove a vital part of any defence against challenge under human rights law, particularly so as such legislation is now domesticated and will be heard in the Scottish Courts.

Abolition of the feudal system as is being proposed by the Scottish Executive involves the abolition of the Paramount Superior in whose name is vested the ultimate ownership (beneath God) of Scotland's feudal lands. Now I have no problem with getting rid of the term paramount superior but, as many have argued, there are strong arguments for the retention of the role currently fulfilled by the Paramount Superior in terms of conditionality and social and environmental duties and responsibilities. It seems to me that since the ultimate superiority of the Crown is the only Crown role devolved to the Scottish Parliament, that rather than promptly abolishing it, we should re-interpret it in a creative way. The Crown as Sovereign should, in short, replace the Crown as Paramount Superior and thus ensure that the ultimate ownership of all private land remains in the hands of society as a whole.

To conclude on this first half of the lecture, the public interest in land legitimises land reform. Defining and articulating that public interest has never been so important and part of that public interest is concerned with redefining and clarifying the rights held by public and private interests and making sure that the distribution of the political power which accompanies landownership is appropriate and fair. I suggest to you that we have failed to properly define this balance or the elements of it in any way other than through rhetorical statements. Moreover, in the rush to abolish feudalism, we may eliminate an important locus of that public interest namely, the proprietary interest of the Crown over the land of Scotland.

Part II

Land Reform in the New Scotland

I want now to move on to Part II of the lecture which is in five sections. In the first I explore the implications of politics, power and the public interest for the way in which land reform is tackled. In the second I argue for a better understanding of what exactly land reform is and what it should be trying to achieve. In the third, I suggest that land reform in Scotland can be seen as part of a mainstream political agenda in the European tradition. In the fourth I outline the kind of modernising agenda which needs to be constructed if land reform is to be promoted in a coherent and systematic way. And in the fifth I argue for the development of a landowning democracy.

Handling Land Reform

First lets explore some of the implications which politics, power and the public interest raise in terms of how the political process is taken forward.

Land reform is a new topic for mainstream political attention. Among all the topics which form part of the first legislative programme of the new Parliament, land reform is the only topic not to be backed up by the kind of information and analysis which comes of having pressure groups, academic departments, think tank policy papers, or even (until recently) civil servants dedicated to it for many years. This is a major weakness and has contributed to the difficulties in developing appropriate policy responses.

It is evident, for example, that the aims and objectives of the current community right-to- proposals, are still unclear partly because we have so little information and analysis to help inform them. Should they be aimed at those who live and/or work on the land (in other words tenants of land and employees of landowners) as proposed or should they be aimed at wider communities of geography and interest?

Indeed the White Paper and the wider agenda of which it is part and which I have critiqued elsewhere (Wightman, 1999a; 1999b), is a good example of a policy initiative which, despite its utility, will in fact do little to change the pattern of ownership in rural Scotland and little to empower communities - the two advantages claimed for it when it was initially proposed (Scottish Office, 1998). Indeed it appears to empower Scottish Ministers rather more than communities! That is not to argue against it but merely to suggest that had better information and analysis been used, we would have been better prepared for the process in which we are currently involved.

Exactly who, in what circumstances, and over what timescales is it intended shall benefit from legislative change? Had proposals as they stand been in place some year ago, celebrated cases such as Eigg or Knoydart would have been unable to take advantage of them because of the narrow definition of community and the requirement in partnership arrangements that the community body possess the majority of votes. Indeed at Abriachan, where the White Paper was launched, not only do few people live and/or work on the land in question, but the moratorium on Forestry Commission land sales means that the land would never have been on the market in the first place.

Current political ambition for radical land reform, whether real or rhetorical, is not yet matched by the kind of information, analysis and insight which is necessary to underpin it. It is simply not available in sufficient measure and is the first thing which needs to be rectified in terms of how this topic is handled.

Closely related to this is the question of rhetoric and reality. Land reform, encapsulating as it does issues of power, class, history, democracy, geography, culture and identity, is a topic which can attract potentially intoxicating oratory. Given the long political dormancy of the subject its emergence into the harsh glare of public scrutiny demands that particular care is taken with the way in which it is articulated.

High hopes have been invested in the land reform process but evidence so far suggests that political rhetoric is in danger of raising expectations beyond what is to be delivered. Donald Dewar has repeatedly claimed for example, in an attempt to assuage the landed classes that 'the measures proposed pose no threat to good landowners' (Dewar, 1999). But they pose no threat to bad ones either as far as I can tell.

Similarly, press reports that, and I quote, '*absentee lairds who mismanage their estates will be forced to sell their land to the state under radical new plans to be announced this week*' (Hill, 1999), are, to say the least, unfortunate and the public are in danger of being left with a confused and I think hackneyed and stereotyped view of the problem.

It is important that such extravagant claims are contained because land reform is actually quite a sophisticated policy agenda which embraces urban & rural issues (tenement law/feudal reform, access), social justice and social inclusion, the environment and the economy. If land reform is to move forward as a platform for democratic renewal then it needs to move beyond its current portrayal as a Highland issue about big estates, bad landlords, crofters and downtrodden communities.

All these issues (information and analysis, rhetoric and reality) underline the vital role of Parliament in promoting informed and critical debate. Given the long neglect of land reform one final perspective needs to be borne in mind when dealing with land reform.

The Government's approach to land reform is to focus on the future, not the past, claimed Lord Sewel in his introduction to the Green Paper (Scottish Office, 1999). This, it appears is part of an attempt to remove from the debate the sense of historical injustice felt as a consequence of, for example the Highland Clearances and in a sense this is perfectly proper. But in a very fundamental way it is misguided since the entire array of political, legal and economic factors which underpin the current system of landownership in Scotland are a product of history and of those who, in their own interests have substantially made that history.

The role of history is not as has sometimes been suggested to provide a place where one can retreat from the complexities of modern life. So, as David McCrone argued, no to any idea that we can or should return to 1746 or 1886 (McCrone, 1997: 23). But moving forward necessitates understanding why we are here. Why we are here has got everything to do with what went before. A new Scotland is not an ad hoc collection of whimsical ideas about how we want to govern our country but a vision which must be rooted in an analysis of why we are where we are.

In terms of land reform that means exploring and analysing the remarkable institution and pattern of landownership which has propelled itself down the centuries with remarkable resilience. Land reform of entirely the wrong sort has been taking place for centuries - the evolution of law and practice dedicated to the preservation of landed hegemony.

A better informed debate places as much of an obligation on civic Scotland as it does on political Scotland. And here the role of civic groupings such as the Not-for-Profit Landowners Group and the Scottish Land Reform Convention, which is an alliance of the voluntary sector, trades unions, churches and local government, is particularly important. Land reform is about creating a better society. If civic society is unclear about what it wishes to achieve through land reform, it is rather naive to think that politicians will be in a position to develop relevant policies. So much for process therefore, what about content? Do we have a shared understanding of what land reform actually is?

A Shared Understanding of Land Reform

Land reform encompasses agendas as diverse as social inclusion, rural development, and opportunity and enterprise. Land reform is a process which should aim to modernise our framework of land law as part of the redistribution of power over land necessary to promote social and economic progress and environmental stewardship.

There is still no coherent set of political principles driving the Government's land reform agenda forward. Current debate, as I have

hinted, has either deployed rhetoric that suggests some underlying political philosophy but displays no signs of carrying it through into action, or, has deployed rather opaque language such as '*removing the land-related barriers to the sustainable development of rural communities*' (Scottish Office, 1998: 3). There is nothing inherently wrong with such an objective. Indeed it has proved useful. But where is the big picture? Surely a new Parliament which has the potential to provide original and principled political philosophy is precisely the place we should be developing strategic and far-sighted thinking.

Now the Parliament has not properly got down to work yet but I hope, at least as far as land reform is concerned that Joyce Macmillan was wrong when she argued recently that, '*these days, at least as far as the centre-left is concerned, ideology is dead, and policy-making consists of a series of modest adjustments dressed up to look like major initiatives*' (Macmillan, 1999). Wrong too I hope was the historian who described the current Government programme of land reform as '*representing the pursuit of what is least disruptive, the minimum possible reform to retain support and to argue that promises have been fulfilled whilst alienating the fewest*.' (Cameron, 1998).

As I have argued, there has simply not been the time and effort devoted to the land reform agenda that the topic deserves and one way of helping to overcome this short-term constraint is to develop a more coherent vision of the future within which land reform can sit as a driver and facilitator of wider social, economic and environmental change. I'll come to that next but meanwhile it is also important to be clear about what land reform actually is in the Scottish context and what it should be aiming to do in strategic terms.

What then is meant by land reform? One of the features of the debate over recent years is that the term has been used as a rubric for a great many topics, some of which have nothing to do with land reform at all. The Government's Green Paper on Land Reform for example includes recommendations on national parks, codes of good practice on land use, and community planning (Scottish Office, 1999).

It seems to me that there is a danger that the term becomes so diffuse in its application that it loses any real meaning. Classical land reform involves the modernisation of land law, the redistribution of land and the provision of appropriate support systems to underpin such social change. But what is happening in Scotland is that land reform is being used to cover any changes or reforms to land policy as a whole. To clarify matters then;

There is a distinction between land law reform, land distribution and land use.

- Land tenure is about the legal system and its mechanics - the derivation and definition of rights to land.
- Land distribution is about changing the way in which these rights are distributed.
- Land use is about wider administrative law towards land and how property rights are exercised.

And this division of rights or powers into how they are derived and defined, how they are distributed, and how they are exercised provides a useful way of arguing that the political process should be concerned with ensuring that such rights - such power - is:

- derived in a way which is properly constructed in terms of the balance between public and private interest;
- distributed in ways which promote social justice, opportunity and equity;
- and exercised in a responsible and sustainable way.

Core land reform then is about the distribution of rights over land rather than about the nature of those rights or how they are exercised although it seems to me that the term *can* be extended in a manner which takes account of these other two characteristics but extend it too far and it becomes so wide as to be meaningless. The point is that disproportionate attention has been given to land tenure and land policy rather than to the core issue of how property rights are distributed.

Within such a framework of the derivation, distribution and exercise of property rights, there is an inverse relationship between the strength of the property rights and their distribution. The more substantial the private rights associated with property, the greater the case for their wide distribution. Conversely, the weaker those rights (and thus the stronger the rights vested in the public interest), the less vital it is to ensure their wider distribution.

Under such a scenario, therefore, the more land one owned the greater the accountability demanded. A workable definition of land reform could therefore retain the core concept of redistribution but rather than apply this crudely to the extent of holdings, it could extend it to cover both the derivation and nature of property rights and the exercise of those rights. Given that such rights confer power, land reform can be seen as the process of redistributing power.

Redistributing power gives us the freedom to find a balance between public and the private interests right across the range of ways in which property rights manifest themselves - in terms of how they are derived, distributed and exercised. And it is the extent to which land reform deals - not through any one measure but through a co-ordinated range of measures - with the concentrated pattern of landownership across Scotland that is the real litmus test of land reform.

So getting a shared understanding of what land reform is is important but so too is some kind of vision of what this should all be leading to and here I want to argue for a mainstream European vision of land reform.

A European Vision

An indication of a vision for Scotland can be seen in the social democratic tradition of Western Europe - a strong state, a place for the community interest enshrined in the tenure system, a pluralistic pattern of owner occupation and a strong public interest in land including access rights; a completely different package in other words from the neo-feudal system in

Scotland. Such a vision does not provide all the answers to where we should be going. Other countries have problems with their land tenure and ownership systems but, as Drennan Watson recently observed, the difference lies in the fact that these other countries have the capacity, among other things to solve their day to day economic and social problems far better than we do (Watson, 1996) - and the distribution of land is central to that.

In Norway, the Netherlands, and in Denmark local communities and small farmers own the land. Powerful co-operatives own and run food and timber processing and retailing operations. The biggest producer of chlorine-free wood pulp in Europe, the Swedish company Södra, is owned and run by 27000 small farmers. And they do it because local people living and working in the countryside own their own country. The social economy of land in these countries has led to a culture of self-belief, pride, self-reliance and mutual solidarity that has had huge beneficial effects on the cohesiveness and sustainability of communities.

Meanwhile farmers in Scotland remain relatively powerless to control the linkages in their economic production systems because they do not own their own banks and supermarkets. Scotland's farming future lies in increased control of the processing and retail chain so that declining farm incomes can be compensated for by income from activities higher up the economic chain.

Another example concerns community forestry which is in its infancy in Scotland with public agencies professing to understand and promote it but unwilling to acknowledge the difficulties and contradictions implicit in the current pattern of ownership and control of the industry (and I include the public sector as much as the private sector here). Fishing too is another example of the powerlessness of coastal communities to influence the destiny of their local economy. And sporting or hunting rights is another area where there is substantial opportunity for a new more democratically based economy providing wider benefits to the community.

European countries provide many good examples of the kind of arrangements which can help develop the rural economy. Many of them could have direct application here and it perhaps underlines again the need for a better understanding of the relationship between land and economy if land reform is to deliver all the benefits it is potentially capable of providing.

A land reform programme should then be based upon a clear set of political principles allied to a vision for the future. What is needed beyond that is a coherent agenda - a modernising agenda. What should *this* look like?

A Modernising Agenda

The land reforms that swept Europe 200 years ago or so (and Ireland 100 years ago) had a profound impact on rural society - an impact which today explains much about how western European rural society operates. The impacts included, relative to Scotland:

- a well populated countryside despite industrialisation and economic emigration;
- strong mutual and co-operative institutions - a social economy;
- a diverse and steady inflow of capital as succeeding generations invested in the land;
- a strong cultural identity.

In Scotland we are now in a position to make radical changes in how the country is owned and used that might deliver similar sorts of impacts in future. What is required is a modernising agenda for land reform which updates outdated laws, promotes opportunity and social justice and builds democracy. It is an agenda which brings together the essence of land reform - the redistribution of power - with the essence of modern politics - a progressive programme for building a better society. And it is this alliance of the political and the pragmatic which needs to be constructed if land reform is to be widely supported and given the political support to see it through the challenges that lie ahead.

Those who argue that land reform should not be prosecuted to right the wrongs of the past are right to do so. But land reform is about changing what we have inherited to make it fit for the future and that does involve understanding and coming to terms with the past. In this respect, it is wrong to deny the way in which the past has shaped the present. A modernising agenda must recognise this and be prepared first of all to do away with the archaic features of our current land laws. A long-overdue start is about to be made with the abolition of the feudal system but I want to highlight just two other features of Scotland's land laws which should be consigned to history.

The first is our laws of inheritance. Currently land is treated differently to other forms of property and heirs of a deceased landowner enjoy none of the legal rights to land that they do to moveable property. Reforming the law on succession to provide legal rights for children and spouses to inherit land should be the cornerstone of a progressive social democracy and indeed was the basis of a Scottish Law Commission report almost a decade ago, progress on which was blocked by landed interests. Succession law reform is a small but important part of modernising our land laws, creating greater opportunities, redistributing power and delivering a small measure of social justice at the same time.

The second feature is the ongoing debate about agricultural tenancy reform. *Abolition* of tenancy was the name of the game throughout Europe over the last 100 years yet here we are still talking about *reform*. Giving tenant farmers a statutory right to buy the farm upon which generations of their family may have lived and worked is a modest but vital measure. No farmer would be obliged to buy their holding but those who felt that such a move might offer them a better future would be entitled to exercise the right. This was the measure which ended landlordism in Ireland and where its loss has not been obviously associated with a plunge into rural poverty and economic collapse - quite the reverse in fact.

Such a move should be allied to new arrangements to make existing tenancies more flexible by allowing a greater diversity of economic activity by tenants (e.g. forestry and tourism), the strengthening of existing tenant's

rights and the introduction of new and more flexible leasing arrangements for land for new entrants to agriculture. The fact that such right-to-buy would be restricted to those tenants who, under the existing Agricultural Holdings Act held a tenancy at a defined retrospective date, nails dead the claim, promoted vigorously by the Scottish Landowners' Federation (and indeed repeated by the Scottish Executive themselves) that landowners would cease entirely to let more land and that the supply of land for rent would dry up. No tenant entering any new tenancy after the right-to-buy legislation was introduced would qualify for the right to buy under that legislation.

These two modest measures would do much to balance the current emphasis on community right-to buy by extending the scope for land reform beyond collective arrangements to those governing opportunities for individuals. They would contribute to the vital goal of creating a more pluralistic pattern of ownership, a goal which, it should be stressed, will not be achieved by any one measure alone but rather by a range of measures including these two and others such as action on land monopolies, crofting reforms, more flexible powers of compulsory purchase, game law reform, public access rights and so on.

A modernising agenda must also be quite clear about the imperative to promote social and economic progress and build democracy. Thus it must include measures designed (as indeed succession and tenancy law are) to break down landowning monopolies. The key to investment in the rural economy as in the urban economy is access to land. The current division of land frustrates investment through the monopoly power of large holdings. Breaking these down will promote investment and economic activity rather than inhibit it as is so frequently claimed by those with vested interests in maintaining existing landowning power structures.

Building democracy through greater local control of resources, greater local democracy in decision making (introducing local democratic control over the Forestry Commission for example) and greater security for individuals and their families is the final challenge for a modernising agenda. Ideas have already been aired by the SNP for example on creating

Locality Land Councils. Again evidence from western Europe points to the crucial role played by communes and municipalities, co-operatives and mutual businesses, and local decision making in strengthening communities. Such land use bodies are not some ad-hoc addition to existing structures but an integrated part of local democracy.

Land reform is thus both a legitimate topic for political debate and a legitimate topic to be politicised. But it can also be framed in terms of a far more pragmatic, modernising process of governance. A modernising agenda is a blend of traditional land reform and a strategy for social and economic renewal. We have hardly begun to build this alliance yet but it is crucial that we start now. I am encouraged by signs of progress in the new Scottish Executive and also by the enthusiasm and energy displayed by many Members of the Scottish Parliament. I am less encouraged as it happens (and this may make me unpopular) by the relative lack of visionary ideas and energy emanating from Scotland's universities. That is probably as much to do with the funding and research assessment culture but I suggest it needs to change if we are to create the means to drive such an agenda forward - certainly politicians cannot do it by themselves.

A Landowning Democracy

Finally, before concluding this lecture, I want to propose a new goal for land reform, that of a land-owning democracy.

Some weeks ago I was interviewed by the Observer newspaper. In the course of the interview I made the observation that the Conservative's idea of a property owning democracy was interesting but had only involved attacking public monopolies and not private ones and also stopped at the urban limits. It never extended into the countryside. The article was headlined '*Thatcherite land reform sought. Scotland's leading land reform campaigner has called for a Thatcherite revolution in land ownership*' (Bell, 1999).

I squirmed when I read it although I was pleased to note the reference to recent work I have done in association with Democratic Left Scotland

since anyone who thinks I am a Thatcherite would have to reconcile that belief with writing a pamphlet for a grouping which arose from the ashes of the Communist Party of Great Britain! Furthermore anyone who might think I am a communist will have to reconcile my support for private property ownership!

The point is that the political right has been happy to defend private property rights but not to make sure that as many people as possible enjoy these - not to democratise them. Thatcher's property owning democracy only went so far whilst at the same time decimating the public housing stock and making false promises about the virtues of homeownership - perhaps in a similar way to which we may now be in danger of creating false promises about community landownership.

The left by contrast, given its socialist roots has been least comfortable with the notion of private ownership hence the debates in McEwen's time between nationalisation and private landlordism. Its failure of course has been in its historic thirriage to the statist model of social progress and its explicit rejection of the social economy model developed in agrarian society throughout Europe.

This failure meant that for too long the left's response to the land question was to nationalise it. Now is the time to re-evaluate the place of private ownership - both in terms of how it is defined and how it is distributed - in a liberal democracy. This is not something one might think that should cause too many problems. But it does because it hits the most political of all issues - the division of land. Bluntly, can politicians remain disinterested in the remarkably concentrated pattern of private land ownership in rural Scotland?

The answer of course is that they cannot. But there is a fear in certain quarters I suspect that land reform becomes associated with what are now regarded as old-fashioned ideas of redistribution. The response to such fears is to view land reform as a process of modernisation of Scotland's land laws in order to redistribute power as part of promoting economic and social progress. And in such a scenario I have frequently been struck by the

potentially very wide coalition in support of land reform. Land reform in Scotland is an agenda for the left and the right. Expanding private property, breaking down monopolies and promoting opportunity is an agenda for the right. Redistributing power and increasing public accountability is an agenda for the left. Liberating and empowering the individual is close to Liberal hearts. And there is a long standing concern for social welfare and environmental stewardship in the Green movement.

It seems to me therefore that the concept of a landowning democracy which, for example, was alluded to by David McCrone in his McEwen Lecture two years ago (McCrone, 1997: 23), is one that can begin to unite at least elements of the left and the right or, if that is far too naive of me, at least give those of us not involved in party politics a standard around which to develop a modern agenda for land reform. Could it be the concept around which the political parties this afternoon could begin to build a shared agenda for land reform?

A landowning democracy provides a framework in which private property ownership is protected and cherished, where such privileges are widely distributed and where the framework both legal and fiscal in which those rights are enjoyed is accountable to the wider public interest.

Such a landowning democracy has implications for how the Scottish Parliament deals with land reform. Take agricultural tenancies for example. The role of politicians thus far has been to delegate responsibility for how far one goes on tenancy reform to the key parties namely the Scottish NFU and the Scottish Landowners' Federation. However, just as setting the level of the minimum wage was not delegated to the unions and employers to agree upon neither should proposals for reform of agricultural tenancies. This is for the very good reason that one party, the Scottish Landowners' Federation, has an effective veto on negotiations since their members remain in possession of the land and thus in a position of relative power in so far as they are willing both to concede on the arrangements or to let land when such arrangements are finally agreed and legislated for.

Which is why, in order to balance the public and the private interest there is a strong case for Parliament to legislate on providing a right to buy in alongside the creation of new fixed term tenancies. In other words there is a public interest in such matters which cannot be delegated to private parties to uphold - that is the job of Parliament.

Conclusions

To draw matters to a close, the historic proximity of landed power and political power has confused and frustrated attempts to promote land reform. Now that this proximity is breaking down there is an opportunity to explore both the political and the pragmatic dimensions of land reform.

The political dimension of land reform exists. It is intrinsic in the process of redistributing power over land. It is also intrinsic in the need to modernise our land laws for entirely pragmatic reasons. It is entirely appropriate and legitimate as the means to promote and defend the public interest in land as well as the private interest. Land reform is as normal a topic of political debate as health, education or transport. To argue otherwise is to suggest that we as a society should remain entirely disinterested in how land is owned and used.

The development of a landowning democracy is a long overdue task but it is one which provides unparalleled opportunities. From having one of the most primitive systems and patterns of private landownership in Europe, we could, if we are ambitious enough, move to a situation where we have amongst the most progressive. And we could do this in a matter of a generation or so. Now that Scotland has a degree of political autonomy, the time and will to deliver serious land reform, and the beginnings of a coherent agenda for doing so, there is really no excuse for repeating the sterile debates of the past.

We need to move on to develop a sustained and co-ordinated programme of public policy towards land and it is encouraging that this has been recognised by the Scottish Executive and indeed was made explicit by Lord Sewel in his introduction to the Green Paper in January of this year

when he stated that, *'it is crucial that we regard land reform not as a once-for-all issue but as an ongoing process. The present recommendations are therefore by no means the final word on land reform; they are a platform upon which we can build for the future.'* (Scottish Office, 1999). I agree.

In closing I would just add a note of caution. We do not yet have land reform. Land reform is and will be resisted by some of the most powerful, well connected, established, and vested interests in the country. The control of land, as I have argued, is about the possession and exercise of power and it is critical that the efforts that such vested interests make to defend that power does not deflect us in our task of securing meaningful and far-reaching changes in the way land is owned and used. We must in other words have the conviction and purpose to make a difference in the face of determined opposition.

I have argued today that we stand at a remarkable and unprecedented moment in time when land reform is not only possible but is being actively pursued by Scotland's new Government. I have argued too that land reform is political but that it is also pragmatic since the aims of redistributing power are to achieve social and economic progress. In order to do this we need a more sophisticated approach to how we articulate the case for land reform, we need a more principled definition of land reform, and we need a vision with which to link legislative change with future outcomes. Above all we need to construct a modern agenda which brings our legal relationship with land up to date whilst at the same time promoting economic and social change. We need, in short, a landowning democracy.

I wish our politicians, our civil servants, our academics, and civic society well in this task. All of us too must endeavour to play our part in constructing a co-ordinated and sustained programme of land reform to deliver a modernising agenda and a land-owning democracy.

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