



## [Overview of Changes in Land Tenure]

The patriarchal clan system which was founded on kinship and loyalty to their leader, the clan chief, was the social order that prevailed in the Highlands for centuries. Under that social order, the whole clan had collective possessionary rights in the land within the territory occupied by the clan, and such territory was guarded and defended by the sword of the clan.

These clan lands were vested in the office of the clan chief for administrative purposes only. There is no historical evidence to indicate that the patriarchal clan chief had any rights of ownership in the clan lands. In fact, technically speaking, there was nothing to stop the clansmen from removing the clan chief himself from office at any time if necessary.

In the course of the crofters' evidence to the Napier Commission they asserted time and time again, that they had a perfect right to live peacefully on their ancestral lands, by reason of the long possessive occupation, but by that time the clansmen were disarmed, and they could not therefore refund their rights on the land in the traditional way so they were often removed arbitrarily at short notice without compensation or alternative accommodation, by arrogant landlords like Lady Jane Matheson of the Lews who told Mr. John Murdoch, Editor of the pro crofter newspaper, 'Highlander', when he paid her a courtesy visit at the Lewis Castle in the 1880's: 'She could do what she liked with her own land, as it is her own private property, purchased by her late husband for £175,000'.

John's reply summed up the crofters case concisely saying: 'Supposing my watch was stolen by a thief and your late husband had bought it that would not constitute him the owner, even if it had changed hands several times. In like manner was the lands of Lewis filched from the people. Your late husband was a fool to give away his money for that which by right belongs to others.'

The audience came to an abrupt end.

Certainly, there were political and economic forces at work in the Highlands, over which the common people had no control, because their voice was never heard in Parliament, and the principle of common ownership of the land in the Highlands was gradually eroded over a long period of time by the granting of charters and the imposition of feudalism on the clan society by a King and an un-representative Parliament, composed of landed and other vested interests. But as long as the clansmen held their arms they disregarded these charters as being of no relevance to the situation in the Highlands.

It was the Jacobite rising of 1745 that gave the Government a perfect excuse to impose its will on the Highland clansmen by disarming them and unleashing a savage repressive policy against the Highland people, despite the fact that many of them did not participate in the Jacobite rising and neither were many of them in favour of the restoration of the Jacobite House of Stuart.

Government repressive policy was aimed at what they regarded as civilizing the Highland people by disarming them and ensuring that they would never again challenge the imperial power, as well as suppressing their language, dress, music and culture etc., with the usual colonial mentality.

Once the clansmen were disarmed the clan chiefs saw their opportunity and they betrayed their own Highland people by changing sides and assuming full personal control of the communal clan lands. In that way the old social order in the Highlands disintegrated and the clan chiefs became private landowners.

These events were taking place in the Highlands at a time when Southern British Society was also in a process of change with industrialisation, imperialism and the expropriation of the small-holder's lands, which were being organized into large farms and the rural people were swallowed up into the industrial towns and cities. The new philosophy was the exploitation of the weak and the unrestricted accumulation of wealth, including the natural resource of land, in the hands of a few.

The new Highland landlords were men of the world and they were well aware of what was happening around them, and they were determined not to be left behind, because by that time they had become accustomed to an extravagant lifestyle, and a certain social status, as they mingled increasingly with the aristocratic society of the south and adopted their lifestyle and language.

In that way they were no longer able to understand or sympathise with the indigenous Highland people. The clansmen were bitterly disillusioned by these events at a time when they expected solidarity and support from their leaders.

These changes in Highland society introduced a new class division of privileged and servile. Gone forever was the sense of kinship and loyalty to a patriarchal leader; in its place came a demoralised and dispirited feeling of hopelessness and a slavish fear of the cruel new regime which demanded absolute obedience. The people felt cowed and submissive and drained of all self-confidence. It is doubtful if even now, some 250 years later, we have fully recovered our self-confidence as a people. It was therefore a sin against a people.

The new owners of the soil in the Highlands sought advice from consultants and so called experts who recommended comprehensive development programmes which were referred to as "Estate Improvements". Professional managers or factors were engaged in order to carry out these so called improvements which were always geared exclusively towards generating the maximum income for the landlords, in order to pay for their extravagance in the South. Little, or no, consideration was given to the social or economic welfare of the indigenous people who had lived on that land for many generations. In fact that was the beginning of the shameful Highland Clearances.

In the eyes of the new landowning class in the Highlands, in the second half of the 18<sup>th</sup> century, it was necessary to sweep away everything belonging to the clan system so as to be able to take full possession and control of all the resources of the Highlands including the lives of the small tenantry. The first step was to replace the old clan system of land tenure called Run-Rig by introducing a new system of tenure known as crofting. The Tacksman 'Na Daoine Uaisle' was the key middleman of the old Run-Rig system of tenure and it was swept away, as in future the crofters were to hold their land tenure direct from the landlord, to whom the crofters also paid their annual rent.

Then the Landlords established legal rights to the seaweed that grew or was cast up on the shores of their estates and that, together with the new crofting system of land tenure, gave them full control of the raw material and the workforce of the lucrative Kelp Industry. By rent-racking the helpless crofters they also reduced their helping labour costs. The average wage for the whole family, young and old, male and female, was said to be only £7 for the whole season at a time when the price of Kelp was as high as £20 per ton.

The changeover to the new crofting system of individually held holdings with clearly defined boundaries was said to have started in Argyll in the 1770's and in due course the new system of tenure was generally adopted by the entire so-called improvement programme. The word croft was not in common usage until about the beginning of the 19<sup>th</sup> century, and it was not until the passing of the 1<sup>st</sup> Crofters Act in 1886 that separate legislation governing crofting came in. Before that a crofter was an agricultural tenant in tenuous occupation of a piece of land owned by a private landowner, on a year to year basis. Until 1886 crofting landlords were free to terminate a crofter's tenancy at the end of any year and recover possession of the land together with any buildings or other permanent improvements that the crofter of his predecessors had created on the land. Apart from his stock and personal belongings the only thing a crofter was allowed to take was the roof timbers, and sometimes even that was burnt before his eyes when the crofters were cleared in order to make room for the so called improvements of commercial sheep farming.

The first commercial sheep farm that was established in Lewis was the 'Park Sheep Farm', established by the Seaforth landlord at the very beginning of the 19<sup>th</sup> century. During the first half of that century upwards of thirty small crofting communities were cleared from Southern Park as the sheep farm expanded and encroached on the crofter's land. In 1886, the very year of the 1<sup>st</sup> Crofters Act, the 42,000 acres of the Park Sheep Farm was converted into a deer park and the deprived landless people of Lochs both north and south rose up in anger the following year 1887 and protested vigorously against the estate's refusal to give them living space, by staging the famous Park Deer Raid. The event was commemorated in 1994 by erecting a memorial to those heroes beside the main road just south of Balallan.

The first Crofters Act of 1886 was a watershed in crofting history. The main features of the Act were:

1. First and foremost, security of tenure for all those who were tenants of crofts at that time, irrespective of how small the croft was.
2. The right to a judiciary determined fair rent on application to the Land Court by either the crofter or the Landlord, and once the land-court fixed a croft's rent it would stand for several years unless altered by mutual agreement.
3. The right of a crofter to claim compensation from his landlord for the permanent improvements to the croft should he renounce the croft or be removed from it.

These elements in the first Crofters Act, as in a similar Irish Act, was usually referred to as the three 'Fs' fixity of tenure, fair rents and free sale of improvements.

The Act also conferred on the crofter the right to bequeath his croft to a member of his family, as well as the right to cut peats and gather seaweed etc., it applied to the seven crofting counties of Argyllshire, Invernesshire, Ross & Cromarty, Sutherland, Caithness, Orkney and Shetland.

The first Crofters Act of 1886 is the Crofters Charter. It afforded considerable relief to the oppressed crofting community. However, it stopped far short of correcting all the injustice that the Highland community was subjected to, and every right thinking person will agree that the time has come to correct the major wrong of the Highlands to its rightful administration, the people who live and work in the Highlands.

It is quite wrong for a basic natural resource like the land which was created by God for the use and benefit of all the people, to be monopolized and controlled by a handful of private landowners, very often absent, and very often rich nationals of overseas countries, who use the land resources of the Highlands as a speculation and tax dodge to enable them to become richer at the expense of the economic regeneration of the Highlands for the benefit of the indigenous people of the Highlands.

Assynt and other places indicate that there is an awakening in the Highlands towards the end of the 20<sup>th</sup> century, but let us be sure that we hammer out a scheme that will release all the natural resources of the Highlands for the benefit of the economic development of all the Highlands. The concept of crofting is not only agriculture but agriculture combined with other gainful employment; crofting will ONLY survive if and when there are other jobs available. At present the Highlands are apportioned in artificial divisions or estates that suit the buyers and sellers of the land, and as the price increases so does the number of estates, without any reference to the welfare of the people who live there or the environment.

Our contention is that the replacement of private estates, by local community owned estates, while a big improvement on the present set up is not the answer, because that will not release the economic potential of the Highlands. Small estates will remain uneconomic units no matter whether they are private or community owned and as costs rise they become more uneconomic. The Stornoway Trust which was the original community owned and administered estate in the Highlands, is far too small to be economically viable in present day conditions.

What is needed is one democratic unit, call it 'A Land Trust' or what have you, for the whole Highlands which, if properly managed on sound business lines, would yield a vast income, that could be ploughed back into the economic regeneration of the Highlands for the creation of jobs, instead of going piece meal into the pockets of rich sheiks and speculative entertainers. Don't let us be frightened by the size of the task; there are plenty of able men and women in the Highlands to undertake the project.

[ends]

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