**Bill Aitken:** We have heard evidence from land managers that they feel that the existing law, under the Occupiers' Liability (Scotland) Act 1960, has been changed by this bill and that the liability on them will increase. Are you in a position to reassure them?

**Ross Finnie:** Section 5(2) of the bill states:

"The extent of the duty of care owed by an occupier of land to another person present on the land is not affected by this Part of this Act or by its operation."

**Bill Aitken:** That is a fairly specific answer. I thank you for the clarity of that response. Do you agree that people who seek to avail themselves of walking in the countryside and access to the land do so at their own risk?

**Ross Finnie:** No. The bill will not affect the existing liabilities of land managers. A reasonable argument was made that, by granting a right of access, liability might be increased. I have taken on board the evidence that was given by those who made that point very strongly. There are liabilities and duties of care on landowners. I say expressly to the landowners that the duty of care that they have under the Occupiers' Liability (Scotland) Act 1960 remains in place. However, I am not creating an additional duty of care because an absolute right of access is being conferred on the individual citizen. That is a straight answer, if not a simple one.

**Bill Aitken:** So there will still be a common-law and statutory duty of care.

**Ross Finnie:** There is a statutory duty under the 1960 act. However, it will not be extended by anything in the bill.

**Bill Aitken:** Will the common law on negligence be extended by the bill?

**Ross Finnie:** No.

**Bill Aitken:** How would you answer the argument that, although the element of individual risk might not increase, the frequency of incursions and excursions on to the land would increase that risk?

**Ross Finnie:** I do not think that the number of persons is the issue. What exists is a fundamental duty of care. The number of persons accessing the land will not multiply that duty of care. The duty of care that a landowner owes under the Occupiers' Liability (Scotland) Act 1960 remains whether the number of persons involved is one or 1,000. The argument that you put forward is incorrect in law.

**Bill Aitken:** Do you think that property owners' liability insurance underwriters will accept that argument?

**Ross Finnie:** I am not aware of any evidence to the contrary. That is a commercial judgment that they will have to make. They will not be able to found it on a statutory provision that says that the liability has been increased. Indeed, if they look at section 5(2), they might have a little difficulty in increasing premiums, as the bill states that there will not be an increased liability.