

# **RURAL AFFAIRS COMMITTEE**

Tuesday 19 September 2000  
*(Afternoon)*

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## **RURAL AFFAIRS COMMITTEE**

**25<sup>th</sup> Meeting 2000, Session 1**

### **CONVENER**

\*Alex Johnstone (North-East Scotland) (Con)

### **DEPUTY CONVENER**

\*Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)

### **COMMITTEE MEMBERS**

\*Alex Fergusson (South of Scotland) (Con)  
\*Rhoda Grant (Highlands and Islands) (Lab)  
\*Richard Lochhead (North-East Scotland) (SNP)  
\*Irene McGugan (North-East Scotland) (SNP)  
\*Des McNulty (Clydebank and Milngavie) (Lab)  
\*Mr John Munro (Ross, Skye and Inverness West) (LD)  
\*Dr Elaine Murray (Dumfries) (Lab)  
\*Cathy Peattie (Falkirk East) (Lab)  
\*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

\*attended

### **THE FOLLOWING MEMBERS ALSO ATTENDED:**

Mr Jamie McGrigor (Highlands and Islands) (Con)  
John Scott (Ayr) (Con)  
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)  
Mike Watson (Glasgow Cathcart) (Lab)

### **WITNESSES**

David Dunkley (Scottish Executive Rural Affairs Department)  
Joy Dunn (Scottish Executive Rural Affairs Department)  
Diane McLafferty (Scottish Executive Rural Affairs Department)

### **CLERK TO THE COMMITTEE**

Richard Davies

### **SENIOR ASSISTANT CLERK**

Richard Walsh

### **ASSISTANT CLERK**

Tracey Haw e

### **LOCATION**

Committee Room 1



## Scottish Parliament

### Rural Affairs Committee

*Tuesday 19 September 2000*

*(Afternoon)*

[THE CONVENER *opened the meeting in private at 14:03*]

15:42

*Meeting continued in public.*

### Salmon Conservation Bill

**The Convener (Alex Johnstone):** The second item on the agenda is the proposed salmon conservation bill. We are joined by Diane McLafferty, David Dunkley and Joy Dunn, who are here to speak to the paper that has been circulated and to explain the purpose of the bill. We can then consider how to deal with the bill at stage 1 if it is to be allocated to the Rural Affairs Committee. A decision on whether the bill is to be allocated to us is unlikely to be made until next Tuesday.

**Diane McLafferty (Scottish Executive Rural Affairs Department):** The bill takes enabling powers to bring in urgently needed measures for the conservation of wild salmon and sea trout.

The latest statistical bulletin, tabled for the committee, lodged in the Scottish Parliament information centre and publicly available from Her Majesty's Stationery Office in the next few days, shows that numbers of salmon and grilse caught and retained in 1999 are the lowest on record—records began in 1952—and are 39 per cent down on 1998. Sea trout catches are also the lowest on record and are 24 per cent down on 1998. The catch statistics are compiled from returns made by the owners of salmon fishings to the Scottish Executive rural affairs department.

The reasons for salmon declines are not yet fully understood. Increased marine mortality has led to fewer fish returning to spawn in Scottish rivers. Collaborative international research is on-going into the underlying causes. However, the problem of stock declines is so severe—particularly in the case of spring fish that have been at sea for several winters—that there is an urgent need to conserve as many fish as possible in the freshwater phase to maximise the potential number of spawners, the progeny of which will eventually repopulate the rivers. Wild fisheries contribute significantly to the rural economy of Scotland and the sustainability of salmon and sea

trout is crucial for socio-economic as well as natural heritage reasons. Reports of good grilse catches in some areas are encouraging news for those letting next year's fishings, but in no way lessen the need for action.

In addition, international pressure is being exerted on the UK as an EU member of the North Atlantic Salmon Conservation Organisation—NASCO. Scotland is considered to have inadequate regulatory powers in place to achieve significant reductions in the exploitation of threatened salmon populations.

15:45

Wild salmon fishery management in Scotland is based on a river-by-river approach run by district salmon fishery boards, comprising owners of salmon fishings and representatives of angling and netting interests. Current conservation powers available under the Salmon Act 1986 are limited. Boards may apply to Scottish ministers for regulations to restrict the use of certain types of bait or lure, and for orders to alter the annual close seasons. Eighteen of the 52 boards have bait and lure restrictions in place and many boards have agreed voluntary conservation codes that recommend catch and release or impose bag limits on fish caught. However, voluntary measures are effective only if all salmon fishery proprietors subscribe to them. The Association of Scottish District Salmon Fishery Boards, on behalf of individual boards, has lobbied hard for a wider range of conservation measures to be introduced. That echoes the recommendations of the report of the Scottish salmon strategy task force, published in 1997, which called for an extension of the measures available on application by district salmon fishery boards, and for ministers to have powers to take action when salmon populations are severely threatened.

Against that background, a consultation exercise was launched on 5 June which ran until 2 August, proposing that new enabling powers be taken to introduce conservation measures on application by boards to Scottish ministers and by Scottish ministers themselves. A total of 260 consultation papers were issued and 86 responses were received: 23 from district salmon fishery boards and fisheries trusts; 25 from national and regional bodies such as the Association of Salmon Fishery Boards, the Atlantic Salmon Trust, the Scottish Anglers National Association and the Scottish Environment Protection Agency; 11 from local authorities; six from angling clubs and 21 from individuals.

The question, "In whom should powers be vested?" received a majority in favour of district salmon fishery boards being able to apply for conservation measures. In response to the

question, "What would appropriate conservation measures be?" most respondents argued for angling or netting to be restricted, although some were more specific in recommending measures such as catch and release or bag limit. In terms of geographic coverage of powers, respondents were in favour of the application of measures to whole or part salmon fishery districts as required. Many respondents urged that there should be full and open consultation on proposals at local level.

The proposed bill inserts five new sections into the Salmon Act 1986. It takes a non-prescriptive approach to the powers that boards may apply for, recognising that different measures will be appropriate for different rivers. Regulations can be made for salmon or sea trout or both. Examples of what might be enshrined in regulations are the imposition of mandatory catch and release if stock declines were particularly severe, or the introduction of a ban on the sale of rod-caught salmon. As with current powers under the 1986 act, statutory local consultation procedures will have to be followed before regulations are made. Regulations will be subject to negative resolution.

The proposed bill extends the powers of bailiffs to cover any new conservation measures introduced as a result of the enabling provisions. It also plugs a gap by introducing a requirement for proprietors of salmon fishings to make catch statistics available to boards upon request—previously the data have been supplied only to the rural affairs department, leaving the district salmon fishery boards out of the loop.

The bill is being introduced imminently because urgent efforts are needed to attempt to arrest the decline in fish stocks.

**The Convener:** Do members have any questions on the information that we have received or on the proposed bill?

**Richard Lochhead (North-East Scotland) (SNP):** Although today's figures are very worrying, they confirm many people's fears about the decline in the latest catch figures for salmon and trout.

I have two questions. First, how many of the Executive's proposals were recommended by the 1997 task force report? Secondly, for how many consecutive years have catch figures declined?

**Diane McLafferty:** I will answer the first question and invite my colleague, the inspector of salmon and freshwater fisheries, to answer the second.

The 12<sup>th</sup> recommendation of the 1997 Scottish salmon strategy task force report asked for the range of measures to be extended; that it be possible to apply different measures to different districts and parts of districts; and that there

should be more on offer than simply restrictions on baits and lures or changes to the close time. The bill's proposal is consistent with the spirit of that recommendation. Recommendation 13 of the 1997 report advocated that ministers should have emergency powers to act if it was thought that populations were severely threatened.

**David Dunkley (Scottish Executive Rural Affairs Department):** On the decline in salmon catches, it is not so much a question of the number of consecutive years that catches have declined, because there are always interannual variations. However, figure 1 in the statistical bulletin shows that catches have been declining consistently since 1973. Although such a decline has something to do with reduced netting effort, sometimes the decline in netting effort has been a response to perceptions of declining abundance.

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Before I ask my two questions, I want to say how much I welcome this important bill, which will certainly help in the River Dee and other rivers in my neck of the woods.

My questions concern the memorandum and the pre-legislative stage of the consultation process. I notice from the Executive's information that only 20 of the 52 district salmon fishery boards have responded to the consultation. In light of that fact, has there been a comprehensive enough consultation process?

My second question relates to the information presented to us in tabular form in the statistical bulletin. With the National Parks (Scotland) Bill, the Executive presented more than 300 responses in a similar tabular form; however, the details of the respondents were included. It would be helpful to have the details of the 86 respondents to this consultation to see who has responded and what they have said. Why were the responses presented to us in this format?

**Diane McLafferty:** It was obviously very helpful to have the local perspective of the 20 individual boards in the consultation exercise. However, we also received a very comprehensive response from the Association of Salmon Fishery Boards, which represented the 52 boards. We have been assured that the smaller boards that did not respond on their own initiative subscribe to their umbrella organisation's views.

As for including the respondents' details, I can see how such information might have been more helpful to the committee for the purposes of today's consideration. However, the consultation responses are all available for detailed consideration from SPICe.

**Mr Rumbles:** Could the Executive provide us with the details in that particular form? It would be very helpful.

**Diane McLafferty:** Of course.

**Dr Elaine Murray (Dumfries) (Lab):** I might be raising the same issue as Mike Rumbles. It would be useful to know whether, for example, a certain local authority supported the principles of the proposed bill, but felt that the Scottish Executive should continue research into marine mortality. Such information might help the committee to decide whom we should ask to give evidence. I respect the fact that SPICe has the information and that we can find it for ourselves; however, it would be handy for the committee to have those details in front of us.

**Rhoda Grant (Highlands and Islands) (Lab):** I also welcome the proposed bill. However, will there be consultation on any secondary legislation? Furthermore, will new research be undertaken before secondary legislation is introduced?

**Diane McLafferty:** Under schedule 1 to the Salmon Act 1986, when baits and lures orders are introduced, applicants are required to advertise in local newspapers and there is a 28-day period during which representations can be made to Scottish ministers about the proposals and how interests might be affected. Those procedures will be continued with any new regulations introduced through this legislation. Furthermore, the proposed bill will specifically require Scottish ministers to consider representations from those with interests in fishing or in the broader aquatic environment. As a result, the consultation procedures will be thorough.

As far as new research is concerned, the applicant for regulations will be required to justify their case and prove the conservation benefits that can be achieved by their intended restrictions.

**Alasdair Morgan (Galloway and Upper Nithsdale) (SNP):** You said that our EU colleagues thought that we had inadequate regulatory powers. Will the bill give us what they would consider to be adequate powers; and, if not, what else would we need to do?

**Diane McLafferty:** Although I very much hope that our EU colleagues will consider that the bill gives us adequate powers, I am not in a position to pronounce on their reaction. The consultation's launch on 5 June coincided with NASCO's annual meeting and met with an encouraging response. More important, the conservation measures that will be introduced will address the problems of spring fish and multi-sea winter fish.

**Alasdair Morgan:** Yes, but our EU colleagues must have indicated where our current powers are inadequate. Does the proposed bill address those areas?

16:00

**David Dunkley:** The scientific advice that we have received from the International Council for the Exploration of the Sea has related to reducing the exploitation of multi-sea winter fish. In the past, the view has been that, compared even with our colleagues south of the border, we have been rather short on regulations addressing that issue. The proposed bill goes a long way towards addressing that matter, in light of the situations that arise in fisheries management in Scotland, which are different from what happens in the rest of the UK, let alone the EU.

In Scotland, all salmon fisheries are privately owned and, since the middle of the 19<sup>th</sup> century, we have seen the wisdom of river-by-river management. For example, other EU countries have taken blanket measures and closed or controlled fisheries. We have never been in the position to do that and I am not sure that we would want to, except in extremis. We still believe firmly that there is a strong case for river-by-river management.

I am sure that the bill will go a long way towards satisfying our colleagues on the international scene, commensurate with the way in which we see the operation of salmon fisheries management in Scotland.

**Alasdair Morgan:** The real problem is not the level of catching in our rivers; the real problem is somewhere out there and we do not quite understand what it is. This is the best measure that we can take until we find out what the real problem is. Is that a layman's summation of the situation?

**Diane McLafferty:** That would be a fair summation of the situation. We are trying to preserve as many fish as possible to allow them to return to spawn, so that we maximise the chance of having viable salmon populations in the future, given that we are unsure what is affecting them in the high seas.

**Alasdair Morgan:** It follows, therefore, that the measures that the bill will allow us to take may not be successful and that if we take them we may still see declines in catches.

**Diane McLafferty:** That is a possibility, but it is better than doing nothing.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** I welcome anything to conserve wild salmon. To have any fishery, there must be a surplus. You say that you do not understand the causes of the decline. Has any work been done on the recommendations of the 1997 task force? Has the impact of the large increase in the number of seals been taken into account? Has the impact of fish farming on the west coast been taken into

account? Has the impact of English east coast drift-net fishery been taken into account? Has enough work been done before we introduce legislation to see whether those are the causes of the decline?

**Diane McLafferty:** Work is being done on all the issues that you mention. However, the perilous state of salmon stocks is such that we cannot afford to await results from research projects. The focus of the bill is straightforward. It is to take measures to reduce exploitation as quickly as possible, while seeking to obtain the data on which to base longer-term decisions.

**Richard Lochhead:** Clearly, this is emergency legislation, because we have an urgent problem and we want to get legislation in place to deal with it. Out of interest, how does the bill relate to the recent review, "Protecting and Promoting Scotland's Freshwater Fish and Fisheries"? Is this our last shot? Will it be a long time before there is any more legislation to deal with freshwater fisheries? A lot of research is being done. We do not know the answers to many questions. The bill deals only with salmon and trout, but the review covers all freshwater fisheries. I am not an expert, but I assume that a lot of our rivers are multi-species.

**Diane McLafferty:** First, I am not in a position to predict what future legislative programmes might contain. However, I am in a position to comment on the review of freshwater fisheries, which, as you said, examines all freshwater species and therefore takes a more holistic approach and a longer-term view than it is the purpose of the bill to take. As I have said, the bill is required urgently to address the specific problems relating to salmon and sea trout and to ensure that wild salmon and sea trout have a sustainable future. Sustainability is examined in the longer-term review. The two are not in any way at odds with each other; it is just that one is needed urgently.

**Mr John Munro (Ross, Skye and Inverness West) (LD):** As someone with a keen interest in salmon fishing, particularly angling, I have noticed over the past few years a steady and alarming decline in the stock of salmon and sea trout, particularly on the west coast. I am surprised that we have the decline on the west coast but not on the east coast. There must be a sound reason for that. Various suggestions have been made. It could be predation at sea—Mr McGrigor mentioned the high seal population, and there are other predators on the coast that are protected and have a diet that is high in salmon and sea trout.

Some years ago, I read a letter in a trout and salmon magazine that highlighted the decline in sport fishing of salmon and sea trout on the west coast of Scotland. It went on at length about the

possible reasons for the decline. It concluded that there was no definite reason but that the decline was evident and that something drastic would have to be done about it. The editor's footnote said that the letter had been written in 1890.

People have suggested to me that such decline may be cyclical, but I do not think that it is. Various people up and down the coast have told me that, in their opinion, there are sound and justifiable reasons for the decline, apart from overfishing, predation and pollution. An element of pollution is caused by the high number of fish farms on the coast, which may be a contributory factor in the decline of salmon and sea trout. The decline is evident, it is serious and it has a massive effect on the economy of the communities that depend on a viable fishery for their existence. Why has more specific and definite investigation not been undertaken to scrutinise fish farm activity up and down the coast, either to give fish farms a clean bill of health and dismiss that argument or to establish once and for all that such pollution contributes to the decline?

**Diane McLafferty:** There is a lot of on-going work into that issue, particularly in the context of the tripartite working group chaired by the Scottish Executive. That group has been in existence for more than a year and brings together representatives from the wild and farmed salmon industries. The concordat was launched in July. It is hoped that area management agreements will be the product of detailed discussion at local level.

The issue is being given careful and urgent consideration. Indeed, the bill, which, as I have explained, is fairly straightforward, will allow for specific measures to be introduced to deal with sea trout, should sea trout on the west coast or elsewhere be in need of additional protection. Separate measures might be felt to be needed to reduce exploitation of sea trout over and above the measures introduced for salmon. That is something else that is new; it was called for by the Scottish salmon strategy task force in 1997.

**Mr McGrigor:** When will the tripartite group next report? Is the work of the seven west coast fishery trusts that have been set up to examine habitat and reasons for the decline of salmon and sea trout being taken into account?

**Joy Dunn (Scottish Executive Rural Affairs Department):** The tripartite working group published a report and concordat based on its recent findings. It will meet again on 6 October to re-examine its terms of reference and membership. After that meeting, it will enter a new phase of its work, which will focus on establishing the area management agreements and the restoration that needs to be done on the west coast. However, that will be a long-term project spread over the next five to 10 years.



**Richard Lochhead:** Is it within the competence of the bill to address the membership of the fishery boards?

**Diane McLafferty:** No.

**The Convener:** As there are no further questions, I thank Diane McLafferty, David Dunkley and Joy Dunn for explaining the bill to us and for giving us the opportunity to consider how we wish to proceed with it.

Before we leave this item, I would like to say a few words. We have heard today that the bill is urgent and that it is likely to be uncontroversial and relatively straightforward. The bill will be considered by the Parliamentary Bureau next week and we suspect that it will be allocated to this committee. Do members agree that we need to treat the bill as a matter of urgency and priority in our work over the next few months?

**Members indicated agreement.**

**The Convener:** We will include this item on the agenda for next week's meeting, when we will decide on the details of evidence gathering. Remarks were made about the level of response to the consultation. Do members feel that it would be appropriate for the committee to seek further written evidence, rather than rely on the consultation exercise that has taken place?

**Mr Rumbles:** I would be much happier if the names of individual respondents could be given to us in tabular form. I think that we were given that commitment.

**The Convener:** At this stage, would you prefer not to take a decision on whether to take written evidence?

**Mr Rumbles:** We need to see who has already submitted evidence. That would inform our judgment.

**The Convener:** We will obtain that information quickly so that we can refer to it when we discuss this item next week.

**Richard Lochhead:** It would also be useful to see a full list of the recipients of the consultation paper.

**The Convener:** That is possible. As there are no further comments on the bill, we will place it on next week's agenda and discuss it again once we have received the information that has been requested.

I have been asked to allow a brief adjournment. Members should remain in their seats, as it will be for only a couple of minutes. That is not long enough to smoke a pipe.

16:13

*Meeting adjourned.*

16:15

*On resuming—*

## Protection of Wild Mammals (Scotland) Bill

**The Convener:** Item 3 on the agenda is the Protection of Wild Mammals (Scotland) Bill. When the committee met on 5 September to consider written evidence on the bill, members asked for a further two weeks to absorb the considerable amount of material that was available at that time. We have now had the chance to read that evidence and the committee can consider how it intends to set about preparing a report on the general principles of the bill. The Justice and Home Affairs Committee will report to us by the October recess on the enforcement aspects of the bill. We must take account of its views before preparing our report. I have written to members privately setting out some of the procedural points and ideas that have been suggested to me by individual members of the committee. We must now decide whether we wish to take further evidence before coming to a conclusion.

I refer members to the private paper that has been circulated. The paper sets out some of the options that are available to the committee and the pitfalls that would lie in our path should we choose to take them. I invite comments on the paper and remind members that they can raise any issue, regardless of whether it appears in the paper.

**Mr Rumbles:** As you will recall, when we met two weeks ago, I suggested that the written evidence that we had received showed overwhelmingly that—with due respect to Mike Watson—the intentions of the bill's sponsor were not reflected in the bill that is before us and that the bill was badly flawed. I do not want to go into the issues involved, as I know that this is a technical discussion of how we should proceed with the bill. However, there seems to be overwhelming evidence that the bill is flawed and that it would make bad legislation; in other words, it does not hit the targets that Mike Watson said he wanted to hit when he presented the bill to us.

The convener has suggested to us that we can proceed with the bill either by the normal route or by an alternative route. Two weeks ago I would have been happy to move immediately to a discussion of the bill, so that we could recommend to the Parliament that the bill be rejected on the grounds that I have mentioned. If we proceeded by the normal route of a stage 1 examination, that would require us to take oral evidence over many months, because of the huge impact that the bill would have in rural Scotland. That is clear from

the thousands of responses that we have received—we have received 3,000 to 4,000 responses on this bill, compared with 86 responses to the proposed salmon conservation bill. We have enough evidence to make it absolutely clear to us what we should do with the bill, and we should not waste any more time on this item, especially when there are important matters such as the salmon conservation bill for us to deal with.

The alternative route that the convener has suggested is helpful and I am willing to consider it rather than move to immediate rejection of the bill. If we take one or two meetings to discuss and agree the main items, we can consider producing a draft report on the evidence and wait for the Justice and Home Affairs Committee to present us with its report, which I understand will be available in October. We could then make a recommendation to the Parliament and have a debate on the bill in November. Ultimately, the Parliament will decide what happens to the bill, on a recommendation from the committee. In my view, we should take the second option that the convener has proposed.

**Mike Watson (Glasgow Cathcart) (Lab):** On a point of order. Like John Scott and Jamie Stone, I am disadvantaged in that I have not seen the paper that has been distributed. Could a copy be made available to me?

**The Convener:** The clerk has indicated to me that the paper was circulated privately to members of the committee and should remain in their hands.

**Mike Watson:** Fair enough, but could you outline what the suggestions are so that I can know what is being discussed?

**The Convener:** Two options were proposed in the paper. We could proceed by the normal route for a bill. We would first highlight the major issues on which we wanted to take further evidence. We would then identify appropriate organisations and individuals from whom to take evidence, appointing one reporter to identify suitable witnesses from among the supporters and opponents of the bill and, perhaps, a second reporter to identify other witnesses. After taking oral evidence, we would draft a stage 1 report.

The alternative that has been suggested is that we discuss the issues arising and draw conclusions from the written evidence, appoint reporters to examine the case for and against and proceed quickly to a draft report on 31 October, which is the earliest date by which we could get the input of the Justice and Home Affairs Committee.

**Cathy Peattie (Falkirk East) (Lab):** The idea of members' bills is important in the Scottish Parliament. This is not the first such bill that we

have considered and I am concerned that we are considering an alternative route. I am more concerned to hear Mike Rumbles talking about wasting time, and about not taking oral evidence. I recall long discussions on the importance of gathering oral evidence in relation to the National Parks (Scotland) Bill. I am concerned about the alternative approach, as it is important that any member of the Scottish Parliament has the right to bring a members' bill to the Parliament and to expect that bill to receive appropriate treatment in the committees.

I am concerned that members are making up their minds on the bill at this stage, or have done so already and have told the press that they are not prepared to support the bill and will push it out by another means. I am not prepared to support that.

**Alex Fergusson (South of Scotland) (Con):** I have spent some time reading the almost 4,000 letters that we received on the bill. In essence—I hope that I will be forgiven for a slight generalisation—those who support the bill have one main reason: they believe fox hunting to be a cruel and barbaric activity that should be banned. Those who believe that we should oppose the bill give many reasons. Many are concerned about areas that Mike Watson has said he would prefer to amend out of the bill. That is the point on which I disagree slightly with Cathy Peattie. If the Scottish Executive brought a bill before us and said that it wanted to change the bill hugely because certain things had not been thought of, it would be rightly and severely criticised.

Mike Watson has stated in public that he is interested in the bill as a means of testing a members' bill in the Scottish Parliament. Therefore, I think that Mike Rumbles has every right to take the stance that he has taken, which is why I am speaking in support of him.

It is incumbent on the committee to consider the general principles of the bill as it stands, not as it will be once someone's amendments have been incorporated. We are being asked to spend a huge amount of time taking evidence that, according to the bill's proposer, might not be necessary because he wants to delete parts of the bill. In the Justice and Home Affairs Committee this morning, I believe that considerable doubts were expressed about the competence of the bill on those grounds. I do not like wasting my time or the committee's time. I object hugely to wasting the Parliament's time, as that wastes the taxpayer's time and money. We should seek the shortest possible route by which we can put the bill to the Scottish Parliament for its decision.

**Richard Lochhead:** I sympathise with Cathy Peattie's comments. The committee has a job to do and we should get on with that job. Members'

bills are an important part of the democratic process in the Scottish Parliament. By their nature, such bills will often be controversial. If we let the number of letters that come in dictate how long we are prepared to spend on the bill, or whether we will take short cuts, we are circumventing democracy, and I do not think that we should do that. The purpose of stage 2 and stage 3 is to sort out the detail. If bills were perfect when they were introduced, we would not need stage 2 or stage 3. We should go down the normal route and not look for shortcuts.

**Des McNulty (Clydebank and Milngavie)**

**(Lab):** Constitutionally, it is important that we recognise that it is the job of the Parliament, not committees, to decide whether legislation is passed. The committee's job is to assist Parliament by clarifying the issues that are involved. At stage 1, our task is to identify those issues and the principles that the bill establishes.

I realise that the convener was trying to be helpful, but he has created a false dichotomy. The issues of principle can be identified and pulled out relatively quickly. To some extent, I agree with Alex Fergusson on that matter. We can identify the issues of principle that are at stake in the bill by going through the stage 1 process, then put to Parliament a clear picture on which it can decide. If Parliament decides to agree stage 1, we must go through a detailed process of examination at subsequent stages to progress the bill. We need to recognise that we have a ground-clearing role in teasing out the principles that are involved in the various issues. Our role becomes clear when we move on to the next stage.

**Alasdair Morgan:** Some members who want to take the alternative route want to assist Parliament. It is clear that Parliament can make up its mind, but it can do so in more than one way and on more than one occasion. The problem is that the controversy has arisen over parts of the bill that might not be included in the bill after stage 2. It is significant that much of the opposition to the bill—both in letters and as expressed outside Parliament—has concentrated on those parts of the bill, which have caused more opposition than some of us would have expected. We did not think that the bill would have the effects that we now realise it would have. That has distorted the written evidence and it will distort the oral evidence. It will certainly affect the amount of time that the oral evidence takes up, as people will come to complain about things that might be deleted from the bill at stage 2. That will waste the committee's time and the time of those witnesses.

If we go to Parliament at an early stage, having heard what we have heard so far, to say that we think there is a problem and to ask whether Parliament agrees with us or wants us to continue

with our normal process, we would not set back the process of considering the bill by more than a few weeks.

Given the timing of the hunting season, we would not have delayed the practical implementation of the bill should it be passed. We do not lose anything by allowing Parliament a chance to think again about matters that the committee has picked up during the early part of its consultation. If Parliament thinks that we are wrong, it will send the matter back to us and we will continue our work—we would lose no more than three or four weeks.

16:30

**Dr Murray:** Mike Watson will not be surprised to hear that I have significant reservations about the bill, which I have made clear previously. I am also concerned about the proposed alternative route. If the Parliament makes a decision and we have not completed our stage 1 consideration, that would raise some concerns. Mike Watson would be upset if we rejected the bill without having taken oral evidence. If the bill were agreed at stage 1 and we moved to stage 2, we would not have taken evidence on some of the issues that need to be considered.

The paper that the convener has written with the clerk's assistance mentions the fact that there is contradictory evidence on the basic facts; we should concentrate on that at stage 1. I am equally concerned about spending too much time on the matter. Would not it be possible to distil what is contradictory out of all the evidence that has been submitted, then to take oral evidence that focuses on that, rather than on proposed amendments?

**Irene McGugan (North-East Scotland) (SNP):**

There are no real reasons why we should deviate from our usual practice and there are some good reasons why we should not, particularly given the controversy that the bill has attracted. I suspect that many people would be suspicious about why we had taken a different route in our examination of the bill. It might well be a test of the Parliament's processes and rules, but it is not the role of the Rural Affairs Committee to invent new systems as we go along.

**Rhoda Grant:** I agree with Irene McGugan. It is important that we follow the usual procedures because we are dealing with a members' bill. Executive bills are backed by resources to allow civil servants to put ideas and draft bills out for consultation. Individual members do not have such resources. The issue is not about supporting the bill. As a point of principle, it is important that we carry out the consultation properly, recognising that less consultation has taken place than would be the case for an Executive bill.

**Mr Munro:** Much has been said about taking further evidence. We have all the evidence that we need. The written submissions that we have received—almost 4,000—have been mentioned. We seem to have an abundance of evidence. I see nothing wrong with the suggestion that we short-circuit the procedure by taking an alternative route. That would still give the Parliament the opportunity to take evidence and to hear the submissions that have been made to the Rural Affairs Committee. I support the suggestion that was made by Mike Rumbles and I agree with the alternative route that the convener suggested.

The bill has changed quite dramatically; it is no longer the bill that I was prepared to support at the outset. It seems to have directed its attention away from the original suggestions.

**Cathy Peattie:** I am a member of the Education, Culture and Sport Committee. This time last year, a document was sent out on a reforming education in schools bill. Following consultation, the document changed not only its name, but its contents. By the time the document went through Parliament, it had changed considerably. That is how the Parliament works: we start with an idea, consider the issues, carry out consultation and amend the proposal accordingly. That is something that we should hold on to.

**Alex Fergusson:** That was a document; this is a members' bill. The two are not comparable.

**Cathy Peattie:** It was an education bill.

**The Convener:** I will allow Mike Watson to reply when members have finished their discussion.

**Des McNulty:** We are setting up a false dichotomy. I agree with John Munro's point—we have a lot of evidence. It is not absolutely necessary for us to take protracted oral evidence. We must be clear about the committee's responsibilities. It is our responsibility to tease out the various issues in the bill as drafted. We must highlight those issues for the Parliament to assist it in its decision on whether to agree the general principles of the bill. If the Parliament agrees the general principles of the bill, we move to stage 2, which is detailed consideration of the provisions of the bill. At that stage, members will have an opportunity to lodge amendments.

We are not the body that decides. We are the body that deals with the evidence and renders it manageable for the Scottish Parliament. We must make a report on the general principles of the bill. We must distil the written evidence and take such additional oral evidence as we think necessary for sufficient clarification to allow Parliament to make a decision.

There is no fundamental disagreement between the different stances that are being taken by

members of the committee.

**Alasdair Morgan:** If Des McNulty was right about the amount of oral evidence, I could see the attraction of his argument. However, he is wrong. The amount of oral evidence that a committee takes is generally proportionate to the amount of written evidence that it receives—the more written evidence we receive, the more oral evidence we must take. The idea that we could get away with taking a small amount of oral evidence does not stand up. If we embark on oral evidence sessions, they will be of significant quantity and length. We should take a health check with the Parliament first to find out whether it wants us to continue.

**Dr Murray:** I understand Alasdair Morgan's point, but it is clear from reading through the evidence that much of it is repetitive. I do not want a protracted process where we discuss the matter for ever—there are more important things that the Rural Affairs Committee could be doing. It would not be impossible to identify the main issues of contradiction and, within a fairly tight time scale, to take evidence from both sides to elucidate and clarify those points.

**Mr Rumbles:** Cathy Peattie talked about how bills change. I had an open mind about the bill and had decided not even to comment on the issue until I saw what Mike Watson presented in April. I suggested to him then that, especially since he had come armed with proposed amendments to his bill, we would be much better off if he would go away, work on the bill and present the new bill in the form he wanted. If that had been done, we would be progressing the bill now. Instead, five months down the line, we are still talking about whether to take oral evidence.

It is inconceivable that the Scottish Parliament will pass the bill that Mike Watson has presented to us. The argument that it can be amended is fallacious. This is stage 1 examination of the bill, at the end of which we are required to recommend to Parliament that it agrees the bill or rejects it on the general principles as presented to the committee. The issue is simple, and it is clear that the bill is completely flawed—it hits so many different targets. The evidence from between 3,000 and 4,000 individuals and many organisations shows that the bill would be unworkable if we accepted the general principles.

We must consider the process. It would not be inconsistent for us to say now that we have enough evidence—I think we had enough evidence two weeks ago—and that to launch into a process of taking oral evidence would serve no real purpose. I agree with Alasdair Morgan and Alex Fergusson that if we take oral evidence, we are duty bound to take a huge amount of it. It would be daft for the committee to proceed simply to test a members' bill; a members' bill has gone

through stage 2 already. The convener has produced a report that suggests a reasoned alternative—I do not like the word “alternate”. We are not deviating from our purpose; we are taking a look at the bill. The bill is flawed and it would be wrong to proceed with it. I think the “alternate route” in the convener’s paper is the only alternative.

**The Convener:** Are there any further comments? If not, I ask Mike Watson to reply.

**Mike Watson:** Thank you. I take on board members’ comments; I know that everybody has taken the matter seriously. I hope that the committee will vote to allow the bill to proceed through stage 1, which will include the taking of oral evidence. That is an important part of the process.

16:45

Irene McGugan and Rhoda Grant talked about testing the process and I have been quoted—rather unfortunately—a couple of times as having said that I wanted to test the members’ bill system. I said that, but in a different context. There is a difference between introducing a bill and saying that it will be useful to see the members’ bill process being tested—which is what I said—and saying that I want to test the process therefore I have come up with the bill. I did not say that.

Inevitably, we are testing the process of drafting a bill. I am not a lawyer; I had legal assistance in drafting the bill and, as members may know, I was referred to the Standards Committee. The legal advice was that the form in which the bill was drafted did not adequately reflect its intentions. Members can criticise the bill on that ground, but it is not an Executive bill and I do not have civil servants to draft it. It is usual for a bill to be amended as it goes through Parliament. Eleven bills have gone through Parliament so far and none has completed the process without amendment, so amendments are not in themselves unusual. I have proposed two amendments so far. The Minister for Justice lodged 248 amendments to the Abolition of Feudal Tenure etc (Scotland) Bill.

It has also been said that large parts of the bill have been changed. Mike Rumbles said that the bill is not what was expected and that it is wider. If the amendments that I have proposed are taken into account, the bill is within the same parameters as the bill that was presented to the House of Commons in 1997, so I do not see how it can be regarded as having been made wider. It may have been reasonable to assume that my bill would cover the same ground as that bill, but my bill went a bit further; I accept that. In response to representations that were made when I appeared before the Rural Affairs Committee on 4 April, I

said that I would propose amendments that would remove three specific aspects—rough shooting, rodents and rabbits, and falconry—that were addressed by the British Association for Shooting and Conservation. It is wrong to suggest, as Mike Rumbles did, that the bill is “completely flawed” as a result of those amendments. Is Mike Rumbles saying that he would otherwise have been in favour of the bill? I suspect not. It is hyperbole to say that the bill is fundamentally flawed because of those amendments. That is not the case.

It is not true that I am saying something different from what I said on 4 April. I do not think that I could have been clearer about my intentions when introducing the amendments. I may be a victim of my own honesty—I was trying to help the committee by describing the form that I intended the bill to take. I could have kept quiet.

The decision on how much oral evidence to take is entirely a matter for the committee, but I endorse a point that was made, I think, by Richard Lochhead: much of the written evidence was fairly similar, so the committee could focus on the various strands. In response to what Elaine Murray said, it would be possible not to invite the organisations that are concerned with the parts of the bill on which I have said I will lodge amendments.

I have another reason for hoping that the bill will be given the opportunity to run its course. As you know, the Justice and Home Affairs Committee has begun taking evidence on the bill. At its meeting this morning, the committee asked that a Queen’s Counsel’s advice be taken on the bill’s compliance with the European convention on human rights. I understand that a report on that aspect will be given to a future meeting of the committee. It would be odd if the lead committee decided not to take oral evidence when one of the secondary committees was doing so.

I have made my main points and I appreciate being given the opportunity to do so. I think that a procedural attempt is being made to restrict the scrutiny that will be given to the bill, and I regret that. The Parliament will have the opportunity to cast its mind over the bill, but I hope that that opportunity will follow a full stage 1 process. That is what is intended for all bills that pass through the Parliament. I ask the committee to go ahead with that process.

**Mr Rumbles:** I would not like the committee to be unintentionally misled. I am sure Mike Watson would agree that many amendments can be made to the bill as it proceeds through Parliament. He referred to the Minister for Justice presenting hundreds of amendments to one bill, but those amendments were technical in nature. We are asked today to consider the general principles of the bill. If the bill is agreed at stage 1, its general

principles cannot be amended; that is the point that I have been making quite clearly. It would be misleading to suggest to the committee that we can amend the bill later. I ask for your guidance, convener; is that correct?

**The Convener:** I am unable to give that guidance without taking advice.

**Dr Murray:** How does one define the general principles of the bill, so that we know whether we agree with them? Are they what Mike Watson thinks are the general principles of his bill?

**Mike Watson:** The general principles of the bill are set out on the face of the bill. It would be

“An Act of the Scottish Parliament to protect wild mammals from being hunted with dogs; and for connected purposes.”

Those are the general principles of the bill and they would remain, subject to amendment. Mike Rumbles is correct to say that the general principles of the bill could not be amended, but any amendments to the bill would be acceptable as long as they accorded with those general principles.

**Alex Fergusson:** Mike Watson said that the committee had the option of not taking evidence on amendments to the bill that he might lodge at a later stage. However, there is no guarantee that an amendment will be accepted, even though that might be highly likely. The committee must, therefore, take evidence, particularly on a bill such as this, which—regardless of one’s views—seeks to take away rights that people have enjoyed for hundreds of years. That means that we must be very thorough in our investigations and evidence taking, should we choose that route.

**Mike Watson:** Strictly speaking, what Alex Fergusson has just said might be correct. However, no one has written to me—and, like other members, I have received a good few letters on this subject—to ask me to include rough shooting, to add rodents and rabbits or to ensure that falconry is mentioned. I would be interested to hear whether other members have received such requests, but I do not think that there is any possibility of further measures of the sort that have been mentioned being included after stage 2.

**Rhoda Grant:** Is it possible to take evidence at stage 2? Mike Watson said that we should put off taking evidence on the parts of the bill that he is seeking to amend until they have been amended and that we should concentrate our evidence at stage 1 on the other parts of the bill.

**The Convener:** It is possible for us to take evidence before dealing with amendments at stage 2.

**Dr Murray:** The recommendation is that evidence on the amendments should be taken at

stage 2. That would make it possible to carry out a focused stage 1 examination of the basic principles of the bill and the contradictions that it contains, and to take supplementary evidence at stage 2.

**Des McNulty:** I support Elaine Murray’s position. We need to have a focused scrutiny process at stage 1 that deals with the main principles of the bill. That does not involve consideration of every possible amendment or implication of the bill. We need to identify the main parameters of what is proposed.

I do not accept Alasdair Morgan’s point that there needs to be a balance between oral and written evidence. People submit written evidence so that the information that they have can be recorded. Every member of the committee has a right to read that, and I hope that they will have done so.

We must be clear on the fact that our task is to produce a report on the main principles of the bill at the end of stage 1. We do not have to deal with every dot and comma of everything that anyone might want to say about it. I have been involved in the scrutiny of two bills, and in each case we have taken oral evidence from groups of people who could be expected to provide clarification on the general principles of the bill. The point is not to take oral evidence from everybody who has an interest in it.

**The Convener:** I should point out that after stage 1, amendments that would undermine the general principles of the bill would be inadmissible.

**Mr Rumbles:** That is the ruling that I was asking for, as that is what I understand. It is essential that the committee should be clear about that. We cannot amend the general principles of the bill after stage 1.

**Alasdair Morgan:** I will make my point briefly, as I think that we are going round the houses a bit. I am worried that not taking much oral evidence or specifically excluding certain parties from oral evidence would leave us open to the accusation from those who do not want the bill to be passed in any shape or form of not being a listening committee or a listening Parliament, and of railroading through legislation without proper consultation. That charge might be invalid, but it would be levelled against us. We should be aware of that possibility.

**Dr Murray:** That charge could be levelled against us if we took the alternative route.

**Mr Rumbles:** In paragraph 9 of the guidance, the convener states:

“If the Parliament decided, at the conclusion of that debate, to agree to the general principles of the Bill, the Committee would still be able to take oral evidence on the

Bill, concentrating then on the practical implications that may impact upon amendments to be considered at stage 2."

The objections to the bill relate to its practical implications as well as the general principles. I am trying to show that we are not precluded from taking oral evidence at stage 2. That means that we can proceed on the basis of the written evidence that we have received. I do not understand why there is any objection to that.

**Rhoda Grant:** I do not want to go round the houses, but it is important that we submit an informed stage 1 report to the Parliament, whether we are recommending acceptance of the general principles of the bill or rejection of the bill. We must make a clear statement, and we need to do the work that allows us to do that. Without detailed information, the Parliament may simply approve the bill at stage 1.

**Mr Rumbles:** Do you not believe that we have enough information?

**Rhoda Grant:** No.

**Dr Murray:** Mike Rumbles referred to paragraph 9 of the guidance and its suggestion that we take oral evidence on the practical implications of the bill. He is suggesting that people object only to those practical implications. In my constituency, there are many people on both sides of the argument, and some object to the general principles of the bill. It is those that we would be considering at stage 1.

**Mr Rumbles:** I do not disagree with that.

**The Convener:** Given the discussion that has taken place, it would be appropriate for us to move to a decision. We should have a division and make it clear what we are dividing on. Would members be prepared to decide by a show of hands or would they prefer a roll-call vote?

**Members:** By a show of hands.

**The Convener:** So that we can be absolutely sure what we are voting on, I will read out the alternatives. Are we content to choose between options A and B as presented?

**Members indicated agreement.**

**The Convener:** Option A is as follows. First, we would allocate time at one or two meetings to discuss and agree the main issues arising from written evidence. Next, we would identify the issues to be resolved using oral evidence sessions and the witnesses to be called to give evidence. We would hope to do that around the end of this month. After that, we would allocate evidence sessions according to the number and variety of issues identified. Because we took evidence first from Mike Watson, our next evidence session might be devoted to an examination of the case

against the bill. We could then hear from supporters of the bill and other parties who might be able to give a balanced view. That could be done between October and December. We would then allocate one or more meetings to discussion of the issues and consideration of a draft report in December or January.

17:00

Option B is to allocate one or two meetings to discussing and agreeing the main issues arising from written evidence and to drawing conclusions from that. That could be done at the end of this month. We would then consider a draft report based on written evidence and the views of the Justice and Home Affairs Committee, which will be available in late October. After that, we would move to a stage 1 debate in November, subject to the decision of the Parliamentary Bureau. If the general principles of the bill were agreed to, the bill would be referred back to the committee. Further investigation of its detailed implications could be carried out from December onwards.

There is a choice between option A and option B.

Does Des have a question?

**Des McNulty:** I am not sure that I agree with option A, as presented. My view is that we should decide whether we agree to take oral evidence on the general principles of the bill. That seems to me to be the fundamental difference between the two options. The committee might want to discuss in some detail how to go about taking oral evidence. I do not accept what is said in the second bullet point under the heading, "The 'normal' route", at paragraph 11 of the guidance. The fundamental issue is whether we should take oral evidence. I think that we should divide on that point.

**Mr Rumbles:** In a spirit of willingness, I acknowledge that Des McNulty's suggestion is quite appropriate. The fundamental issue is whether we should proceed to take oral evidence.

**Dr Murray:** In the light of my previous comments, I do not think that the option A route would have to be as protracted as indicated in the paper. Des McNulty is right: the question is whether we want to produce a normal stage 1 report, having taken oral evidence.

**The Convener:** If committee members agree, we will take the options and—[*Interruption.*] We will treat the recommendations as guidelines, and divide on the basis of—

**Mr Rumbles:** No. The simple issue is whether we go for oral evidence or whether we go straight to a written report. Those are the options between which committee members want to choose.

**The Convener:** The question is whether the committee wishes to take further oral evidence before coming to a conclusion.

**Cathy Peattie:** We have not heard any oral evidence.

**The Convener:** To clarify the point, I repeat that the question now is whether the committee wishes to take further oral evidence before coming to a conclusion.

#### FOR

Grant, Rhoda (Highlands and Islands) (Lab)  
Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

#### AGAINST

Fergusson, Alex (South of Scotland) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**The Convener:** The result of the division is: For 6, Against 5, Abstentions 0.

Therefore, the committee has determined that it wishes to take further oral evidence before reaching a conclusion. Do members wish to discuss the timetable or the procedure that they wish to follow?

**Mr Rumbles:** I would like to come to a close as it is after 5 o'clock.

**The Convener:** We have one agenda item that must be dealt with today, as it was carried over from last week.

**Dr Murray:** Given that the paper circulated to us indicated that there was contradictory evidence on some of the basic facts, is it possible to distil the most basic questions? We could concentrate our evidence sessions on those questions. While I am anxious that we do not make the procedure protracted, there might be obvious issues that arise from the SPICe paper on which we wish to take oral evidence and to which we might wish to return at a future meeting.

**The Convener:** There are references to such issues in the SPICe evaluation paper. Do you mean issues that are over and above those contained in that paper?

**Dr Murray:** Rather than make a decision about that right now, we might wish to reflect on the contents of that paper and select a few key issues on which to take oral evidence.

**The Convener:** Do we want to return to that at next week's meeting, to discuss the timetable?

*Members indicated agreement.*

## Subordinate Legislation

**The Convener:** The next item on the agenda is the Animals and Animal Products (Import and Export) Scotland Regulations (SSI 2000/216), which was on last week's agenda and was carried over to allow the report of the Subordinate Legislation Committee to be circulated. Do members have questions on that committee's report? Can we move to a decision on the regulations?

As there are no comments, may I assume that members are now content with the instrument?

*Members indicated agreement.*

**Mr Rumbles:** May I now move that the meeting be closed?

**The Convener:** I accept that proposal. Are members agreed?

*Members indicated agreement.*

**The Convener:** Item 5 on the agenda will be carried forward to our next meeting.

*Meeting closed at 17:06.*



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