

RURAL AFFAIRS COMMITTEE

Tuesday 14 November 2000
(*Afternoon*)

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RURAL AFFAIRS COMMITTEE

30th Meeting 2000, Session 1

CONVENER

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

DEPUTY CONVENER

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

COMMITTEE MEMBERS

*Alex Fergusson (South of Scotland) (Con)

*Rhoda Grant (Highlands and Islands) (Lab)

Mr Duncan Hamilton (Highlands and Islands) (SNP)

*Richard Lochhead (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

WITNESSES

Douglas Batchelor (Scottish Campaign Against Hunting with Dogs)

Simon Hart (Scottish Countryside Alliance)

Tricia Marwick (Mid Scotland and Fife) (SNP)

Allan Murray (Scottish Countryside Alliance)

Bill Swann (Scottish Campaign Against Hunting with Dogs)

Les Ward (Scottish Campaign Against Hunting with Dogs)

Mike Watson (Glasgow Cathcart) (Lab)

Peter Watson (Scottish Countryside Alliance)

CLERK TO THE COMMITTEE

Richard Davies

SENIOR ASSISTANT CLERK

Tracey Hawe

ASSISTANT CLERK

Jake Thomas

LOCATION

Committee Room 1

Scottish Parliament

Rural Affairs Committee

Tuesday 14 November 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:05*]

The Convener (Alex Johnstone): Good afternoon, ladies and gentlemen. We do not yet have a full complement of members, although I have not received any apologies.

Subordinate Legislation

The Convener: The first item on the agenda is subordinate legislation. We must consider three negative instruments: the Agricultural Subsidies (Appeals) (Scotland) Regulations 2000 (SSI 2000/347), the Brucellosis (Scotland) Regulations 2000 (SSI 2000/364) and the Enzootic Bovine Leukosis (Scotland) Regulations 2000 (SSI 2000/365).

I remind members of the fact that I am in receipt of agricultural subsidy, as is recorded in the "Register of Members' Interests". Do other members have any interests to declare?

Alex Fergusson (South of Scotland) (Con): Although I am still recorded as a farmer in the "Register of Members' Interests", I am no longer in receipt of agricultural subsidy—unfortunately.

Mr John Munro (Ross, Skye and Inverness West) (LD): It might be appropriate to mention that I claim agricultural subsidies under the hill livestock compensatory allowance scheme and the less favoured area scheme.

The Convener: The first instrument is the Agricultural Subsidies (Appeals) (Scotland) Regulations 2000. I understand that Fergus Ewing was party to the discussions that took place in framing the Subordinate Legislation Committee report on those regulations.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): In this case, my presence on the Subordinate Legislation Committee is an example of serendipity. I know that the farming community has long awaited regulations to deal with the problems that have arisen in the integrated administration and control system, under which many farmers and crofters felt that they were being treated worse than criminals. Therefore the appeals process is welcome.

The substantive point that arose from the regulations was that the appeal in the first process

must be made no later than 60 days following the date of the decision that is being appealed. The rules do not include any requirement for notification. I would not be surprised if problems and arguments arose about when the 60 days begins. However, I appreciate that the only action open to us would be to annul the instrument, which would not be appropriate. I simply take this opportunity to draw attention to the fact that the 60 days begins from the date of the decision, rather than the date on which the crofter or farmer finds out about the decision. I hope that that will be more widely publicised in the farming community.

The Convener: Are there any other comments on the instrument?

Rhoda Grant (Highlands and Islands) (Lab): Will people be informed automatically of the appeals procedure when they are given a decision?

The Convener: I know that the form relating to the appeals procedure has already been sent out to farmers in Scotland. People are aware that such a procedure is in place.

Alex Fergusson: I have a similar point to that made by Fergus Ewing in that I would not want to annul the instrument. However, it is regrettable that the minister's advisers felt unable to include a retrospective element in the regulations. It is distinctly possible that some farmers will be fined a considerable amount of money for a perceived offence that was committed last year or the year before, whereas a farmer in a similar situation may have a successful appeal next year and therefore be unaffected financially by any decision on subsidies. That is an unfortunate situation but it should not stop the regulations going through.

The Convener: Is the committee content with the regulations and do we agree to draw no matters to the attention of Parliament in our report?

Members indicated agreement.

The Convener: The other two instruments are the Brucellosis (Scotland) Regulations 2000 and the Enzootic Bovine Leukosis (Scotland) Regulations 2000. They are straightforward and the Subordinate Legislation Committee has made no comments on them. Is the committee content with the regulations and do we agree to make no recommendations to the Parliament?

Members indicated agreement.

Protection of Wild Mammals (Scotland) Bill: Stage 1

The Convener: We move on to take evidence on the Protection of Wild Mammals (Scotland) Bill. Today is the first of four days of oral evidence on the bill. Since Mike Watson first presented his proposals to the committee in April, we have opened consultation with 23 organisations, resulting in the submission of more than 300 pages of evidence. In addition we have received more than 4,000 letters from members of the public. Those letters are available for inspection. The report of the Justice and Home Affairs Committee has been made available to members.

I remind members that the purpose of the first session is to provide a general overview of the issues and to pick up some of the main points arising from our consultations. The organisations giving evidence have provided a summary of their main arguments and I intend to allow them a minute each to make introductory remarks. Our first witness is Mr Bill Swann, who represents the Scottish Campaign Against Hunting with Dogs. He is accompanied by two advisers, Douglas Batchelor and Les Ward. Initial questions will be directed to Mr Swann.

Bill Swann (Scottish Campaign Against Hunting with Dogs): We welcome the opportunity to give evidence to the Rural Affairs Committee. Moral issues are a challenge for any parliamentary system. The committees at the heart of the Scottish Parliament face a difficult task in confronting complex scientific and ethical questions that inevitably accompany moral debates. We hope to assist the committee in considering the moral questions surrounding fox baiting and chasing wild mammals for sport.

SCAHD represents the International Fund for Animal Welfare, Advocates for Animals and the League Against Cruel Sports. We are supporting Mike Watson's bill because it presents an opportunity to stop unnecessary animal cruelty and suffering—what we consider to be the disgraceful practice of fox baiting with terriers and the pursuit and killing of hares, foxes and mink with hounds. That is a moral issue and we must ask whether, in a modern Scotland, it is reasonable to inflict pain and suffering on animals unnecessarily.

I offer the committee a statement from the International Whaling Commission that is relevant to our dealings with any wild mammal:

"Humane Killing means causing death without pain or distress perceptible to the animal. Any humane killing technique aims first to render an animal insensitive to pain as swiftly as is technically possible."

Putting terriers into fox earths to bait, fight and confront the fox, or chasing and killing animals with packs of hounds is inhumane and incompatible with that statement of principle.

I am accompanied by Douglas Batchelor, the chief executive of the League Against Cruel Sports, and Les Ward, who is the director of Advocates for Animals, which is based in Edinburgh.

14:15

The Convener: Thank you. We have a period of about 25 minutes in which we will address questions to you. Members need not feel that they have to use up all that time.

Dr Elaine Murray (Dumfries) (Lab): I want to talk about what you describe as fox baiting with terriers, Mr Swann. It seems to me that there are two forms of terrier work. There is what could be described as fox baiting, which involves fights between aggressive terriers and foxes underground. There is also a form of work that has been described to me by gamekeepers and others. It involves using smaller terriers either to flush the fox out from underground towards a gun or to bark at the fox, which allows the gamekeeper to locate the fox so he can shoot it. One of those kinds of terrier work seems to be legitimate; the other appears to be a form of sport. What is your opinion?

Bill Swann: We oppose the mental cruelty that is involved in trapping an animal underground where it is exposed to the smells and the sound of the terrier, which it evidently finds frightening. The fox will do everything in its power to escape from that situation. There is no possibility of ensuring that mental cruelty can be avoided in such an underground encounter. The minute that the dog goes underground, there is a possibility that the fox will be trapped and unable to escape. At that point, the fox will endure mental cruelty. The situation is entirely analogous to the situation with badger baiting. It can never be guaranteed that the fox will not be trapped. Our objection is not to terriers, but to underground encounters between terriers and foxes.

Dr Murray: Would you agree that, in some terrain, the alternative to the use of barking terriers might be snares, which could also be considered to be cruel and to expose the animal to suffering?

Bill Swann: We oppose the use of snares, which are widely banned throughout Europe. We hope that they become illegal in the UK as well.

The same points have been made about many of the practices that have been used throughout history to control foxes. There was gassing of foxes, which made the underground space into a

gas chamber. There were gin traps, which, although they were legal in Scotland until relatively recently, are accepted as being barbaric. Every time that a ban on one of those practices was proposed, the same arguments—that the practice was essential—were heard. However, since those practices were banned, there has not been a massive rise in the number of foxes or in the amount of damage that they cause. We contend that fox baiting with terriers falls into the same category as those banned practices. It is one of a number of historical practices—along with the use of gin traps, gas and strychnine—that are barbaric and that have been or should be stopped. The use of terriers in this way is a hang-on and is not essential for the legitimate control of foxes.

Dr Murray: What forms of fox control would you consider acceptable?

Bill Swann: We concur with the findings of the Westminster committee of inquiry into hunting with dogs, which examined the subject exhaustively and commissioned a vast amount of research. It concluded that rifle shooting, where the fox is immobilised in a beam of light, is the most humane, practical and effective way of killing foxes. The committee made the point that shooting has the greatest potential for control of the fox population. In circumstances in which it is not possible to use lamping, such as remote upland areas—in this context, the inquiry considered upland areas in Wales and in the lake district, which are broadly comparable to many of the upland areas of Scotland—the inquiry decided that it was necessary to use dogs to flush foxes from cover. The exemption that has been proposed to Mike Watson's bill allows for the practice of above-ground flushing.

Rhoda Grant: In many of the upland parts of Scotland, there is no above-ground cover. In such areas, foxes are either in cairns or in dens. How would you suggest that those foxes be controlled?

Bill Swann: The extensive scientific evidence that we have reviewed—much of it presented to the Burns inquiry—indicates that we have to ask, first of all, what farmers and gamekeepers are hoping to achieve. If they hope to achieve control of the fox population, it should be pointed out that that is a difficult thing to do; foxes breed rapidly in the spring and summer, so the fox population is constantly regenerated. The result of the research that was commissioned, which included the computer modelling of populations, indicated that the most effective way of controlling the population is to shoot in the late autumn and early winter. That reduces the number of animals that are available to breed in the following spring. The report stated that shooting was the most effective way of controlling the population.

We contend that most farmers and

gamekeepers are trying to limit damage. They are trying to respond to damage in a local way. We are entirely convinced that the combination of flushing to guns above ground and shooting with rifles provides an effective suite of controls. We should not lose sight of the fact that well over 80 per cent of control is currently carried out in this way, where the purpose is to limit damage.

Rhoda Grant: I do not think that you have answered my question. I asked how foxes that are below ground would be flushed out if terriers were not used.

Bill Swann: There is no method of using dogs to flush out foxes from underground that can guarantee that the situation will not turn into fox baiting. We do not believe that there is any humane method of controlling foxes that involves flushing them from underground.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Mr Swann, I am conscious that you have been—quite appropriately—telling us that the main reason why you support the bill is that you want fox baiting banned and cruel activity against animals for sport ended because it is barbaric. You have referred to amendments that might come before the committee later in the process. However, the committee must concentrate on what is before us. None of the words that you have been using this afternoon appears in the bill.

The bill is a catch-all measure that aims to end hunting with dogs, with one or two exceptions. You say that you broadly support the findings of the Macaulay report. It indicates that more than 13 per cent of full-time gamekeepers will be made redundant if the bill is passed. The evidence that we have received from the gamekeepers is that they are not involved in hunting for sport or in any barbaric practices. It seems to me that the bill strikes at the heart of the land management of our countryside. You have not addressed those issues.

You referred to the Burns report, which says that

“in the upland area of Wales, terriers or hounds were involved in some way in the killing of 70% of the fox tally”.

It also says:

“In upland areas, where the fox population causes more damage to sheep-rearing and game management interests, and where there is a greater perceived need for control, fewer alternatives are available to the use of dogs, either to flush out to guns or for digging-out.”

I stress the word “fewer” in that quote. If the bill is passed, it will severely affect the land management of Scotland and it will cause great disruption to Scottish gamekeepers, making more than 13 per cent of them redundant.

Finally, how do you respond to the fact that the

bill does not mention baiting for cruelty or for sport?

Bill Swann: Mike Rumbles has asked quite a few questions, which, if I may, I will answer in reverse order.

The quotation from Lord Burns's report concerning fewer alternatives to hunting with dogs ends with the phrase

"at least flush foxes from cover".

That caveat makes it clear that the specific element of flushing out foxes above ground should be retained.

My extended family farms land that ranges from grouse moor to upland sheep-farming areas, and my experience has led me to believe that shooting is the predominant method of fox control. Using their own figures, Scottish gamekeepers claim that terrier work accounts for 12 per cent of foxes that they kill. Landowners have indicated that, if baiting terrier work were stopped, they would increase the amount of shooting, which is an entirely reasonable and expected response.

As for Mike Rumbles's point about the bill's principles and the fact that the words "cruelty" and "sport" do not appear in the bill, I must claim a certain advantage, because we have been involved in the consultation on the drafting of the bill in England and Wales. We understand that that bill will be included in the Queen's speech in December as a Government-backed bill. Although the inclusion in the bill of the idea of intention is perhaps a presentational issue, it is evident that hunting is a deliberate act; no one can hunt unintentionally. For example, it is not an offence if someone's dog runs off and inadvertently chases an animal, because there is no intention behind that act. The exemption of flushing in the bill will exempt people who want to pursue rough shooting or other activities that do not involve hunting.

Mr Rumbles: Evidence from the Scottish Hill Packs Association, an organisation that would be devastated if this bill were to be passed, which I hope does not happen—

Cathy Peattie (Falkirk East) (Lab): It strikes me that Mike Rumbles seems to have made up his mind about this issue already. He may be asking questions, but he is also saying that, if the bill is passed, organisations will be devastated and many people will become unemployed. Surely we need evidence to make such decisions.

The Convener: Although that is a fair comment, I am perfectly willing at this stage to allow members to take any line that they see fit.

Mr Rumbles: After examining the 3,000 to 4,000 pieces of evidence that we have already received, I am quite clear about the issues. Today,

we are exploring the evidence of these witnesses to see whether it holds up, and I am not convinced by what I have heard.

Cathy Peattie: Your questions do not make it appear that way.

The Convener: Please carry on, Mike.

Mr Rumbles: I have been slightly thrown off my stride by that intervention.

Mr Swann, you did not address the issue of cruelty. However, it strikes me that you are interested in ending cruelty and sport, and the bill does not deal with that issue.

As I was saying before I was interrupted, the evidence from the Scottish Hill Packs Association indicates that the issue of flushing out foxes to be shot is not simple. For example, are people hunting if the fox is taken by the dogs after it is flushed out? Such an act appears to contravene elements of the bill. Your alternative of flushing out foxes to be shot by a line of guns might look good on paper, but it is not realistic.

Bill Swann: I know that Les Ward will want to answer your first point. However, as for your second question on the operation of the hill packs, our proposal for an exception does not necessarily reflect the way in which the Scottish hill packs work. However, they could work in a way that would satisfy our conditions for humane killing. When Lord Burns's committee looked at the operation of one of the Welsh hill packs, it found that the dogs were under close control, which meant that they were not allowed to get into a situation such as the one that you have suggested. That is a matter both of the control that is exercised over the dogs and of taking reasonable steps to put our proposal—to flush out the animal and to shoot it as soon as possible after flushing—into practice. The Scottish hill packs could operate in that way. Anyone who wishes to see a demonstration of that method should consider the operation of some Welsh hill packs.

14:30

Les Ward (Scottish Campaign Against Hunting with Dogs): The bill does not differentiate between putting dogs underground for sport or for pest control.

Mr Rumbles: That is my point.

Les Ward: It is as cruel and barbaric to bait a fox underground for the purposes of pest control as it is for sport and pleasure.

You missed a few words out of your reference to the Macaulay Land Use Research Institute report, which says that there was

"a high degree of uncertainty surrounding the responses".

There are alternatives. Only 12 per cent of what the report calls vermin control activities involve the use of terriers and the institute believes that that practice would be replaced by shooting and lamping. Furthermore, the report mentions that the landowners who were approached said that

"they would increase the level of effort . . . employed in alternative methods in an attempt to maintain the level of control"

which could result in

"further expenditure and employment in the economy".

Those responses came from individuals who clearly want the bill to be defeated. How on earth can they say that attempts to control foxes and to prevent predation on game birds will result in job losses without even deploying the alternative methods? That is supposition, and I do not think that the Macaulay Land Use Research Institute did itself any favours by trying to come down on that side of the argument.

Mr Rumbles: So you refute the Macaulay Land Use Research Institute's independent report.

Les Ward: I challenge the way in which the statistics were gathered. It is highly speculative to go to a group of individuals who want the bill to be defeated and to base all the facts and figures on what they say without even examining the situation.

Alex Fergusson: Mr Ward, you mentioned leaving important words out of sentences. In the written submission from Advocates for Animals, you quote from the Burns inquiry and say:

"In a proportion of cases, it"—

meaning death—

"results from massive injuries to the chest and vital organs. There is a lack of scientific evidence about the effect on the welfare of a fox of being closely pursued, caught and killed above ground by hounds."

I presume that you stand by that quotation.

Les Ward: I got it from the Burns inquiry report.

Alex Fergusson: In that case, I must ask why you left out some words. The report actually says:

"In a proportion of cases, it results from massive injuries to the chest and vital organs, although insensibility and death will normally follow within a matter of seconds once the fox is caught."

Bill Swann: Convener, I should say—

Alex Fergusson: I am sorry; I was asking Mr Ward.

Bill Swann: Sorry, convener. I will let Mr Ward answer for himself.

Les Ward: As someone who has seen more

than 100 fox hunts in Scotland, I can assure the committee that, for a wild animal, 20 or 30 seconds being attacked by a pack of dogs before death mercifully intervenes is one heck of a long time. Our case against the cruel and barbaric use of dogs is that, if wild mammals ever have to be controlled, it must be done as quickly and as humanely as possible. To us, that means using a rifle. It does not matter whether the animal's death takes 10, 20, 30 or 40 seconds. If you were a wild mammal and you had a pack of dogs tugging and pulling at you for that length of time, I can assure you that you would suffer.

Alex Fergusson: A respected veterinary practice gave evidence to the Burns inquiry, having carried out post-mortems on foxes that had been caught by hounds. Its conclusion was that:

"The degree of trauma caused by the bites is so enormous as to result in instantaneous death."

It backed that up by saying that:

"None of the foxes appeared to have gasped after the fatal bite was delivered, as there was no bloodstained fluid or froth within the trachea. Considering the damage to the lung tissue there should have been such material in the trachea had the foxes tried to breathe."

That is not emotive; it is scientific evidence that when the fox is caught, death is almost instantaneous. Will you comment on that?

Bill Swann: That is a veterinary matter and I am a veterinary surgeon, so I want to respond.

We are getting on to technical ground. I am cautious about taking the kill out of context. The kill is the end point of a deteriorating situation. A fox or hare is pursued for a period and the hound pack gets closer and closer; the situation is one of continuously deteriorating welfare. The fox is running away because of fear; otherwise, it would not continue running and making an effort to escape. It will run to the point of exhaustion—a supreme effort. The fox is driven by sound and smell, senses that are especially important to it. As the hound pack gets closer to the fox, the fox's welfare deteriorates considerably. It cannot escape from the threat. Do not forget that its escape routes—its earths—may have been blocked up. It cannot get away and the hounds are getting closer.

If we consider the slaughter of animals, electric encephalographic evidence has shown that where the main neck vessels of a sheep or pig are cut without any prior anaesthesia or stunning, it takes the animal seconds to lose consciousness. The main arteries in the neck may be immediately severed, yet brain activity will continue for a number of seconds. It is obvious that the situation will be comparable in another mammals.

I ask the committee not to take the matter out of context. I contend that the chase causes far more

suffering than its end point, as it subjects the animal to mental cruelty. I made the same point about confrontation in terrier work—the animal is confronted by a threat from which it cannot escape.

Alex Fergusson: I do not think that the Burns inquiry, most of which you purport to agree with, agrees entirely with what you have said. There is considerable doubt whether the fox is aware, during the chase, as you call it—or from the point at which it is raised—that it is being chased with a view to its capture. You said that the fox has no means of escape, but apparently the majority of foxes manage to escape—I do not know how.

Bill Swann: Lord Burns said that the chase seriously compromises the welfare of the hunted animal—I believe that most people would accept that. Nobody is able to say at what point that compromise becomes serious.

Fergus Ewing: Do you accept that foxes are a pest, in that they frequently kill lambs and game birds?

Douglas Batchelor (Scottish Campaign Against Hunting with Dogs): That is rather like the workman and his tools. The main problems that are associated with economic loss in sheep farming have to be taken into consideration; I have spent a lot of time involved in that. My experience was that loss is caused by the weather, the nutritional state of the ewes and the general quality of shepherding. The fox did not feature on the barometer of problems.

Studies have been done recently, one of which was published in *The Veterinary Record*. If I remember correctly, the long, independently peer-reviewed study showed that on one farm, 0.6 per cent of lambs were apparently lost to foxes and on the other, 1.2 per cent. We have the paper here—it is by White, Groves, Savery, Conington and Hutchings. The nub of it was that foxes are economically insignificant as a cause of loss, with the caveat that, while those lambs may have been removed, there was no evidence to suggest that they had been killed by the fox. There is a perception at large that foxes are the guilty party, when in reality there are far bigger problems in hill farming. With respect, what we are dealing with is fox baiting in the name of sport—a chase in the name of sport. I must admit that my Scottish upbringing taught me that if you are going to kill something, kill it, but do not play with it first. That issue has been obfuscated in many ways and in many debates, but it is essentially very simple.

The Convener: Is that paper included in the evidence that was submitted to the committee?

Bill Swann: Yes. We referred to it in our evidence and have referenced it, and I have quoted from it. It was incorporated in the

references in the paper that was submitted by the IFAW.

Fergus Ewing: Mr Batchelor, I am told that your former boss is a Mr Alun Evans. The notes that we have state that you were a manager of five farms, all of which called in the local hunts to keep fox numbers down. Is that true?

Douglas Batchelor: You refer to a piece that was put up for the Burns inquiry—I must explain the context. I managed a group of farms for a company called Fountain Farming Auchinleck, which had mixed farming and forestry ventures in Wales. There were eight farms in that area and I was their manager. Alun Evans was the director of hill farms, which included hill farms in Scotland.

At the time that I managed those farms, I did not authorise any payments to the hunt. Some of my shepherds were actively anti-hunting, but Alun Evans—

Fergus Ewing: With respect, I asked whether, during your stewardship as manager, the local hunts were called in to the farms to keep the fox population down. Yes or no?

Douglas Batchelor: Not by me and never to my knowledge. We are talking about 1972 to 1975.

Fergus Ewing: To follow the line of questioning of Rhoda Grant and others, Mr Swann advocated the use of shooting as a more humane—or less cruel—method of pest control. If a fox is shot and wounded, and goes to ground, how can it be dispatched, without the use of terriers?

Bill Swann: The type of gun that is used is important. In lamping, it is a high-powered rifle. I am told by somebody who is an expert in ballistics that a bullet from a high-powered rifle will do so much damage that the fox will not escape. There is a remote chance that it may be hit on a limb. With lamping and rifling, the success rate is extremely high. We do not advocate people taking pot shots at foxes, although I know that that has gone on historically and that some farmers do it. With shotgun shooting, the whole principle of flushing is that it brings the fox close to the guns. There is far less chance of missing.

To answer your question, a study at the University of Bristol is carrying out post-mortems on foxes that are brought in. So far, it has examined in excess of 90 foxes and has found only two showing evidence of wounding; in both cases, the wound was from a shotgun. The indication was that the foxes were shot at the wrong distance. I do not accept the idea that foxes rush off down earths when they are wounded. Going back to what I said about the ballistic characteristics of a high-powered rifle, the vast majority of foxes that are hit with such a rifle die.

Do not forget that, in the case of lamping, the

foxes are fairly close to the shooter. The shooter is on the back of the vehicle and the fox is pinioned in a beam of light, and so is relatively immobile. It is an easy target for a reasonably skilled rifle shooter. If the shooter is not reasonably skilled, they should not be out there in the first place. I do not accept that foxes being left wounded in that way is a major problem.

I hope that we have made clear that we are opposing chasing as much as anything. With rifle shooting, even if a fox is wounded, it has not been subjected to the cruelty of the chase.

14:45

Fergus Ewing: I think that Mr Swann has admitted, by implication, that, although the problem of foxes being wounded by gunshot may not be major, it must exist. Would not the bill mean that there could be occasions when foxes that have been shot and wounded, but not killed, go underground and cannot be put out of their misery because it will be an offence to allow dogs to go underground to kill the fox? You must accept that the effect of the bill would be to cause more cruelty than the current system. Surely that is the case by definition.

Bill Swann: I know that Douglas Batchelor wishes to speak on this, but I want to clarify the idea that there is a problem. We do not accept that a significant number of foxes are wounded in the way that has been described.

Having accepted that foxes will, on some occasions, become wounded, I defy anybody to know exactly where that wounded fox is likely to go. The idea that there is a neat, easy arrangement whereby someone can run to an earth, knowing exactly where the fox will be, is misinformation. People could not be guaranteed to know that.

Douglas Batchelor: This is about the moral issue of fox baiting, and the idea of sending a terrier down the hole to say to the fox, "I'm here to help you—with a kiss of death" strikes me as faintly ludicrous and something that most people would find utterly repugnant. We should also consider the fact that, in any case, going round the countryside putting dogs down holes with the objective of them engaging in a fight underground is rather strange practice.

The evidence in the Burns inquiry was that foxes that had been dug up after a dog baiting session were injured. The terriers were not post-mortemed—they survived—but there was clear evidence of cruelty to the fox, which is a fellow canid. In effect, what had happened was an underground dogfight. To suggest that we should send in terriers to dispose humanely of foxes strikes me, and many other people, as very

strange when the same argument would have been used in defence of badger baiting or bear baiting. We are talking, beyond doubt, about fox baiting. If people wish to handicap the fox by shooting it first, that is even worse.

The Convener: Elaine Murray and Mike Rumbles both wish to comment on this point.

Dr Murray: I accept what you say about lamping and the use of high-powered rifles. Is it possible, if other methods of pest control are not available to farmers or gamekeepers, that other people may be tempted to use shotguns to try to control fox populations? Under such circumstances, could a fox be injured but not killed, and suffer gangrene or take a long time to die? What about the degree of suffering under those circumstances?

The Convener: Mike Rumbles?

Mr Rumbles: May I come back in after Bill Swann's response?

The Convener: Okay.

Bill Swann: I am pleased that Dr Murray accepts the point on lamping, as that is important. Anyone who has seen a fox being shot with a high-powered rifle knows that that knocks the fox a considerable distance over a hillside. It is difficult to visualise what happens, when we are sat here in a committee room, but foxes do not survive a direct hit from a high-powered rifle.

I do not believe that the farming community in Scotland would go out wilfully taking pot shots at foxes with shotguns. Historically, I think that that used to happen to an extent, and if a farmer who is out for a walk with a shotgun under his arm sees a fox, it is sometimes asking too much for him not to take a pot shot.

These days, farmers have far more important things to do than just go walking round farms looking for opportunities to shoot foxes. To minimise lamb losses, farmers need to do far more important things, such as good shepherding and ensuring that lambs get adequate colostrum and shelter. This is not intended as a specific reply, but I find the idea that the farming population of Scotland is ranging out all over the hills with shotguns, looking for foxes to shoot, slightly ludicrous. We live in more enlightened times, as evidenced by the introduction of the measures to minimise lamb losses that I have described.

Dr Murray: However, farmers in my constituency tell me that they are troubled at times by particular foxes, which prey on lambs or fowl on their farms. Farmers have three options at present. They can call in the hunt, if it is the hunting season—hunting takes place in my constituency—they can use shotguns, or they can use snares.

Bill Swann: That probably encapsulates the point on fox control that we have been trying to make all the way along. The intention is largely not to try and control, or have an overall impact on, the fox population, which is highly resilient; the aim is one of individual cases of damage. I agree entirely with what has been said: it is individual foxes that can cause significant damage on an individual farm. When things are averaged out nationally, the fox is an insignificant cause of lamb losses.

If an individual farmer is faced with a rogue fox that is starting to take lambs, that is a problem for the farmer; I can say that from personal experience. What does the farmer do? He goes out with his gun and shoots it. That is what we did during my childhood when we faced the same problem. During lambing, there is no time to go out with ideas of ranging over the hills and far away with packs of terriers or heaven knows what else. If fox damage is being sustained, farmers go round the lambing fields in the evening, wait until they see a fox, and shoot it. They respond to individual cases of damage.

I will accept that there is a role for dogs in flushing. Farmers know their own territory and, on certain aspects of hill farms, they will have a fair idea where a fox might be laying up. They can go out with their dogs and flush it. However, I do not accept that using an enormous paraphernalia of dogs is necessary to achieve that end, and most farmers do not do that.

Mr Rumbles: I, too, was drawn to the attractive, neat option of just ensuring that foxes are shot—it can be ascertained more clearly that they are dead. However, after I travelled around estates and farms, it soon became obvious that that is not realistic. I think that the Scottish Gamekeepers Association would be impressed by your faith in its members' marksmanship.

I want to return to the issue of cruelty. Are you saying that the Scottish Gamekeepers Association is engaged in barbaric, cruel activities? Are you saying that the loss of 10 per cent of its profession's jobs would be a good thing, because the people who do those jobs are engaged in such barbaric practices?

Bill Swann: I will return to comments that I made in earlier evidence. I do not believe that gamekeepers are cruel, nor that they think, "Wacko! Let's go out there and be cruel to animals." However, tradition and convention dictate that people use certain practices that need periodically to be re-evaluated.

If you had talked to a gamekeeper in 1912, they would have told you that strychnine was essential for the control of certain pests. That is now known to be an immensely cruel poison, which causes

pain and suffering. No one would dispute that now, but it was disputed then.

From the 1950s to 1970s, gin traps were viewed as an essential tool in pest control. I am quite certain that nobody in this room would advocate a return to their use. However, it was argued forcefully and strongly at the time that they were an essential tool in the armoury of gamekeepers and farmers for the control of certain pests.

Over time, we have to stop and re-evaluate certain practices, and ask whether they are reasonable in today's context and in the light of our scientific knowledge and our ethical and moral position in our society today. We are not calling gamekeepers cruel, but when they put terriers underground—an action that, in effect, results in baiting of the fox, which is trapped and cannot escape—the fox suffers unacceptable mental cruelty. We object to that practice. It is cruel and should be re-evaluated in the light of 21st century Scottish morals. That is the principle that we are setting out. We are not saying that gamekeepers wish to go out and be barbaric. I do not accept that for one minute.

Mr Rumbles: You focus on cruelty, and it is important for the committee to know where you are coming from. You say that you oppose the chase and the infliction of cruelty on an animal. I think we all understand that, but it is important to put the issues into context. Do you think that there are other activities that inflict cruelty through a chase or a catch? You talk about cruelty all the time. Is, for instance, fishing an inherently cruel activity?

Bill Swann: That is a fair question that we are often asked. It raises the further question whether we are attempting to attack all sports. The answer is no. I am secure in the knowledge—

Mr Rumbles: So it is not cruel?

Bill Swann: May I answer the question? Foxes, hares and mink are intelligent mammals. We are in no doubt that they experience mental cruelty, and I have taken care to emphasise that throughout our evidence today. We are talking about the suffering of an animal that is put into a situation in which it is immensely frightened and from which it cannot escape. I ask the committee to keep that notion in mind. We are dealing with an intelligent, highly developed and highly sophisticated social animal. A fox is a long way up the evolutionary ladder in its social behaviour, its intelligence, and, we contend, its ability to suffer.

I have no such evidence on fish. If I were shown a clear case of a fish that was as evolutionarily capable of mental suffering as a highly evolved mammal, I might review my position on fishing, but I have no scientific evidence on which to base such an opinion.

Mr Rumbles: I would just like to make that clear. Do you consider fishing not to be a cruel activity?

Bill Swann: At this point in time, given the scientific evidence that is available to me, I cannot make a case for cruelty in respect of fishing, provided that codes of practice are adhered to, with which most reputable anglers comply. I hope that my answer is clear enough.

The Convener: I am keen to move on to our next set of witnesses, but I understand that Richard Lochhead wants to make a comment first.

Richard Lochhead (North-East Scotland) (SNP): Thank you, convener. It is nice to get a word in edgeways.

I refer to previous comments. The witnesses quoted a report that said that 12 per cent of vermin control is conducted by use of terriers. I presume that that means that terriers kill 12 per cent of foxes. However, your campaign's written evidence says:

"In respect of terrier work, we are convinced that a substantial proportion of this activity is carried out as a 'sport', concealed behind the justification that it provides 'necessary' fox control. We believe that terrier work is often no more than dog fighting or baiting."

How do you reconcile those quotations? Is it a sport, or partly a sport, to control 12 per cent of vermin by use of terriers?

Bill Swann: We cannot determine the percentage of terrier work that is conducted just because people enjoy it. However, we have no doubt that a percentage of the work is done for enjoyment. When people get together and form, in effect, a club or an association, there is an implication that there is a social or recreational aspect to the activity. From my own experiences in hill farming, I have not the slightest doubt that gangs of youths, or men, and, in this day and age, some women too—the activity is not an exclusively male province—who go out to use terriers may perform a percentage of the work because it is considered recreational.

In my days of practising as a vet, people brought terriers to me that had scars, and they were proud of the scars. They had names for the terriers, and would say, "This is a one-er," or "This is a two-er," according to the number of scars that were inflicted or because the terrier was deemed to be a good fox baiter. An element of competition exists. People will say, "My terrier is better than yours." The work of gamekeepers has a purpose—albeit one that we consider misguided in today's context—but much terrier work is recreational. We do not believe that any work underground is justified, but performing such activities as recreation is especially reprehensible.

15:00

Richard Lochhead: How do you measure mental cruelty? You are in favour of flushing out foxes, but I presume that that activity causes mental cruelty. How does that compare with the mental cruelty caused by underground activity?

Bill Swann: Without starting a debate that is too technical, I can answer that question clearly. To assess welfare, we tend to use welfare indicators. Those indicators can be body physiological measurements such as heart rate or body temperature, or behavioural indicators, which show how an animal responds to its environment.

We have seen much video footage, from which we have examined carefully the fox's reaction when dogs first disturb it. The video that Lord Burns commissioned, on one of the foxes on which his inquiry had a post-mortem performed, gave a classic example. When the fox is first disturbed from cover by the dogs, it travels a short distance. It stands and looks to evaluate the threat. At that point, the fox's welfare does not appear to be compromised immediately. When the fox is chased continuously, however, the suffering sets in.

I will use an analogy. Imagine yourself as an asthmatic in a smoky pub. If you feel an asthma attack coming on, your immediate reaction is to get out for some fresh air. If the door is unobstructed, you can get out. You have been flushed, and your welfare is momentarily disturbed, but you can respond to your environment to correct the problem, so your welfare remains good. If somebody blocks your exit from the pub, and you are not allowed out and feel the asthma attack worsening, you will try to push your way through. Your welfare will get worse and worse, because you cannot escape from what has started to affect you. If someone actively stops you from getting out of the pub, and you fall to the ground from the asthma attack because you are dying, your situation is analogous to that of the fox at the end of the chase.

The fox experiences repetitive, on-going and cruel acts that cause suffering. The acts start on a minor scale, when the animal can adapt to the change in its environment, and progress to the point at which the animal cannot respond because its welfare has become worse and worse. I hope that that analogy helps to make clear the cruelty that occurs during the protracted chase.

Mr Rumbles: Are you saying that it is not mental cruelty to flush foxes to guns?

Bill Swann: If the fox is flushed out quickly and shot quickly—

Mr Rumbles: So it is not mentally cruel?

Bill Swann: We accept that the fox experiences

some disturbance in its environment—

Mr Rumbles: Is it mentally cruel?

Bill Swann: No. I do not believe that it is, but you may take opinions from others.

Alex Fergusson: Many of the questions that I wanted to ask have been covered, but I am still intrigued by the idea that no fox survives a shot from a high-powered rifle. I am sorry, but if you genuinely believe that, you are looking through rose-tinted glasses. I take no pleasure in saying that, but I know that because I was a hill farmer until the Scottish Parliament elections took place.

I disagree with Douglas Batchelor. In the part of Scotland in which I lived, the fox was an enormous killer of lambs at lambing time. I rarely lost fewer than 50 lambs a year, and that figure was typical of the farms in my area. The problem was huge. It is interesting that there was no hunt in that area. The witnesses are right to say that farmers do not have time to deal with the problem at lambing time. In areas that have hunts, farmers call in the hunt to deal with the foxes, normally successfully.

I will move on to a completely different matter. The evidence of the Scottish Campaign Against Hunting with Dogs plays strongly on the fact that 74 per cent of Scottish residents wish hunting to be banned. I accept that if a microphone were placed in front of everyone in Scotland and they were asked whether they wanted fox hunting banned, that figure might be returned. However, do you agree with the Burns inquiry, which said that research results do not support often-quoted polls with similar figures?

The witnesses and others are often quoted as saying that even in areas in which hunting is conducted, the majority of people favour a ban on hunting. That is not supported by Burns. In fact, Burns says very much the opposite: that in rural areas where hunting is carried out, more than 60 per cent of the population do not favour a ban. You say that you agree with the Burns report; do you agree with that section of it?

Bill Swann: I will make a brief statement about what Alex Fergusson said about rifle shooting. I contend that shooting that is assisted by lamping, where the fox is immobilised by a beam of light and the range is very short, is different from the use of a rifle without the assistance of lamping. I make that distinction, as the incidence of wounding is exceptionally low when lamping is used.

We do not necessarily wish people to use a rifle in a way that might be less appropriate, such as when the range is wrong or the target is moving rapidly—we would not like people to take pot shots. Lamping narrows the odds. Lamping is a much more common and frequent practice than it

was some years ago. There is no intention to imply any malpractice, but times and practices change.

Douglas Batchelor will answer on statistics and polling.

Douglas Batchelor: You will forgive me if I answer from memory—we will be happy to supply the relevant material from the Burns inquiry report. I recollect that to get a different result from the national polling figures to which you referred, the Burns committee took four parishes in which there was a hunt kennels and the surrounding parishes, provided they did not include any town with more than 5,000 people. That allowed the inquiry to come up with the result that a ban on hunting was opposed. It had to be highly selective about the audience that was polled to get a pro-hunting group.

The Burns inquiry also produced some interesting comments by people who had moved into the countryside. They did not use the word “intimidated” but the implication was that that is how they felt and that they felt that they had to identify with what they thought was the received wisdom of the countryside. The anomalies in the reporting on the polls suggested that there was not a majority in favour of a ban in the countryside but people were afraid to express that opinion because they felt it would be unpopular. Certainly, massive evidence was presented to the Burns committee of outright intimidation of people who opposed hunting. That was quite serious, and there is considerable reference to it in the Burns inquiry report.

Alex Fergusson: I do not think that there is anything wrong with taking a poll in what I think you are describing as a hunting area—a rural area where hunting takes place. If I wanted to conduct a poll on football behaviour, I would not go to a rugby match. It was surely reasonable to take a poll in hunting areas.

Douglas Batchelor: That would be reasonable, but the inference was that the inquiry had to find four parishes that contained a hunt kennels—there are in the order of 300 hunts in England and Wales—to reach a figure of this nature. Market & Opinion Research International carried out the polls showing that there was a majority in favour of a ban, which we supplied as part of our evidence. Its explanation of the difference between the two polls was that it was purely a result of the sample. It was nothing to do with either set of polls being inaccurate; simply that very different groups were selected, which led to very different answers.

MORI also said that one had to take into account the social confirmation effect, as a result of which people felt they had to go along quietly with something with which they disagreed, purely

because they had moved into an area where there was such strong support. That might well be true of people in some of the Scottish border towns.

Alex Fergusson: I would argue, on the same lines, that a large proportion of the 74 per cent of people who you suggest support a ban on hunting never think about it until they are asked about it. Perhaps we are both coming round to the view that polls are a waste of time.

Douglas Batchelor: I doubt whether the Gallup Organisation or MORI would agree with you. It is their skill and profession to sort out the reliable poll from the unreliable one, and we are happy to rest on their evidence.

Alex Fergusson: I think that everybody agrees that if a poll were taken on the siting of telephone masts, people would be against their going up willy-nilly, as happens at the moment. A poll might find a majority in favour of capital punishment. Tick-box polls do not accurately reflect what people want.

Bill Swann: As I said in my opening statement, this is a moral issue. Polling is one of the established ways of determining majority public opinion on moral issues, which can change. I contend that the MORI polls have a desperately important role to play for organisations such as ours. For us to propose what is morally correct, as we are doing now over these issues of cruelty, we have to be sure that we represent a moral majority of the population.

I wish to clarify something about the polling sample—it may be better to do so in a short paper to save committee time. The polling sample in the Burns inquiry report concerned areas in which hunting is very important to small rural communities. We accept that, for people who hunt, hunting is very important. It is socially important and it would be ridiculous to argue otherwise.

Les Ward: The polling point has been well dealt with by Bill Swann. Mr Fergusson should take the matter up with MORI. Most people agree that MORI is a respected polling organisation and that it polls correctly.

I want to pick up on what Mr Fergusson said about 50 lambs being killed. The implication was that foxes are going round farms decimating lambs and so on.

Alex Fergusson: I did not make that statement.

Les Ward: He said that many lambs are lost to foxes. It is clear from post mortem evidence and so on—we can produce the evidence if the committee wishes us to do so—that lambs that are taken by foxes are already dead or are weak, non-viable lambs. There are three studies on the matter, all relating to Scotland. One found that there was no fox predation at all—the lambs were

left alone. There was another farm on which fox predation took place. There was no increase whatsoever in the number of lambs that were taken.

The most recent study, to which Douglas Batchelor referred, was carried out on two farms in Scotland. Over the four years of the study, 16 lambs were identified as having been killed by foxes. The research concluded that fox predation was not a significant cause of lamb mortality on hill farms.

It is true that foxes take lambs, but the fox is a scavenger and in many instances does a good job for farmers by tidying up many dead lambs, or sick lambs that would not make it anyway. Foxes should be regarded sometimes as a friend, rather than always as the enemy.

Alex Fergusson: I understand that you are saying that foxes do not present a problem to sheep farmers. As a sheep farmer of 30 years' experience, I wish that what you said had been the case, as it would have saved me burying a lot of dead lambs that were lying there anyway.

Bill Swann: I repeat that, on a national basis, the scientific data have established that the fox is not a significant predator on lambs, but we accept that foxes can be a problem at certain times on specific farms. The most recent study, to which Les Ward referred, showed that the majority of lambs that were taken on one of the farms were taken in one season during the four-year study. That is in line with my experience of hill farms. There can be several years with very little fox predation, but then one year in which fox predation is much more significant. It is often caused by just one fox. That point supports our case, which is that control should be about controlling individual foxes. It is not about the notion of rushing out to exterminate the fox population of the whole area, which cannot be achieved.

The Convener: If there are no more questions for these witnesses, I thank Bill Swann, Les Ward and Douglas Batchelor for their assistance.

Bill Swann: We thank you for taking evidence from us in a fair and balanced way.

The Convener: Our second group of witnesses represent the Scottish Countryside Alliance. Allan Murray, its director, is accompanied by his advisers Simon Hart and Peter Watson.

15:15

Allan Murray (Scottish Countryside Alliance): Good afternoon, and thank you for the invitation to come to the committee and discuss the whys and wherefores of the Protection of Wild Mammals (Scotland) Bill.

The Scottish Countryside Alliance is an organisation that promotes and defends all country sports and many country issues. We welcome best practice in animal husbandry and welfare. Our members are drawn from all walks of life—there is enormous support for the many country activities that take place across Scotland. Let us be under no illusions: Scotland is not a wild and unmanaged environment; its landscape is well managed and complex, with an interconnected infrastructure in which wildlife is well balanced and known and enjoyed by all.

When deciding on future legislation, I ask that you ensure that it is introduced for the right reasons and not simply to test parliamentary systems. The effects of wrong legislation could be enormous—effects on communities and families and their ways of life, their livelihoods and their jobs; effects on the economy, conservation and biodiversity; effects on the horse-racing world and the dog-breeding and training world; effects on social inclusion; and effects on tourism, which is a huge asset to the Scottish economy. Visitors to Scotland welcome its landscape, which is second to none. I live in the countryside; I know it, enjoy it and look after it. I hope that future generations will do the same. I therefore encourage the Rural Affairs Committee to take on board our points about legislation for the future.

Simon Hart is my campaigns director and has a huge knowledge of country sports issues. Peter Watson advises me on all the legal aspects of the countryside in Scotland.

Dr Murray: I have a confession: I very much enjoy riding horses. I do not do so very well, but I understand why people might want to spend a Sunday morning on horseback, accompanied by friends and dogs. If fox hunting were banned, why could drag hunting not fulfil much of that enjoyment for people in rural communities? Could equestrian activities, pony clubs, hunt balls and point-to-point still continue, with drag hunting substituting for fox hunting? Could developing drag hunting provide an opportunity for tourism and further income for farmers?

Allan Murray: I thank my namesake for that question. It should not be a confession to say that you ride horses; that is great. Drag hunting is a sport in its own right; it is not at all similar to fox hunting, except that both use hounds. In drag hunting, a trail has to be laid down for the hounds.

I would like to make Dr Murray aware that neither she nor I would go drag hunting, because it is not for the faint-hearted. I am tired of doing free-fall activities. Drag hunting is a specialist sport over land that is made available by landowners—not, I think, to their gain. It involves a swift and hard course to prove the horse-riders' ability. Fox hunting, on the other hand, involves the challenge

of knowing how hounds work. With drag hunting, the hounds take the line that has been laid down; with fox hunting, they have to find the line.

Simon Hart (Scottish Countryside Alliance): Lord Burns's inquiry addressed drag hunting. One of his conclusions was:

"It is unlikely that either drag and bloodhound hunting or drag coursing would of themselves mitigate to any substantial extent any adverse effects on the rural economy or the social life of the countryside arising from a ban on hunting."

There is another way of looking at this issue, as we do in my current place of residence in Wales. Only 42 per cent of people who participate in hunting with dogs in the United Kingdom do so on a horse; most people enjoy the spectacle on a bicycle, on foot, in a car or by some other means. Horses are an insignificance to the majority of hunting people. Drag hunting has been available to the nation for the best part of 200 years, so the option exists for people who wish to take it up. However, its popularity has not increased for the simple reason that farmers, in certain circumstances, expect some benefit from the activity of hunting. It is also impossible to go drag hunting in some places because of the terrain. That is why hunting in a lot of upland places takes place on foot.

Dr Murray: You said that many people participate in fox hunting without being mounted on horseback—they go for the spectacle. What is the spectacle? Is it the killing of the fox? Is it the dogs working?

Simon Hart: If you asked 100 people, you would get 100 different answers; that is one of the fascinations of fox hunting. The only answer you would not hear would be, "I go to see a fox killed." If people wanted to see a fox killed, they would go out with their local gamekeeper because they would have a far better chance of being there when it happened.

Early in his inquiry, Lord Burns dismissed the notion that anyone who goes hunting derives some sort of pleasure from seeing animals hunted or killed. People derive pleasure from a range of different things. Some of those things, we accept, are replicable in drag hunting; but a great many are not. In fox hunting, people might enjoy the social aspects and seeing their friends. They might enjoy testing their physical abilities on foot or on a horse. Or they might enjoy watching the unpredictable magic—and I say this as an ex-huntsman—of watching an animal puzzle out a line using the natural scent of a wild animal. That magic is indescribable; it has gripped people for more than 2,000 years. It means something different to everybody.

Dr Murray: As an ex-huntsman, how do you

assess the cruelty that is experienced by the fox? The previous witnesses felt strongly about the mental distress that is caused to foxes by the chase and the kill.

Simon Hart: We all awaited the outcome of Lord Burns's research into such questions. It was revealing that he stopped short of using the word cruelty. He did so for a good reason: it is not a scientific measurement, but a subjective view. What one person thinks of as cruel another might not. Burns said that to prove any degree of suffering as we understand it, further scientific research would be necessary. There has been no scientific research and I was surprised to hear, during the previous evidence, that the expressions used in Burns's report seem to have led automatically to the conclusion that hunting is cruel. Burns specifically avoided saying that. He said that there is insufficient evidence.

Burns also said that there is no point in considering hunting in isolation. We have to live in the real world, not one that we might consider ideal. Whatever suffering hunting may or may not cause—and whether it causes suffering is unproven—it has to be considered in the context of alternative methods of control that might be employed should a ban on hunting be enacted.

Burns was very careful to say that all those alternative methods—even though properly conducted to a high standard by a number of practitioners, many of whom our organisation supports—involve a degree of suffering. It would be utterly wrong to suggest that we remove one of those methods, because the chances are that that would lead to increased pressure on the remaining methods. If that happened and fox hunting were banned—especially if the people employing the remaining methods did not have enough experience in them—animal welfare could well be worsened, not improved.

Richard Lochhead: So far, you have spoken mainly about losing hunting as a sport. Is your main objection to this bill that, if it is passed, a sport that many people enjoy will be lost, or is pest control a factor?

Simon Hart: Our objections to the bill are based on a combination of issues. There is a danger of pigeon-holing hunting either as recreation or as necessity; many aspects of hunting involve a combination of the two. We do not see that as a problem, because the same is true of a number of other methods of animal control that are used in the UK. The bill would have adverse effects on pest control pure and simple, which is practised by upland gamekeepers and shepherds in Scotland and elsewhere.

The bill may be intended to make only hunting for sport—whatever that may be—a criminal

offence, but it is clear from the evidence that we have heard and the written evidence that has been submitted to the committee that there is a good chance that it embraces a much wider constituency. Those who hunt with hounds are fairly low down the list of people who would be penalised, if not criminalised, by the bill.

Allan Murray: The bill is about dogs. It does not single out hounds. Far more people in Scotland hunt with dogs than with just hounds. Scotland is full of people who hunt with dogs. The bill would affect all of them, whether they hunt with hounds, terriers or lurchers.

Richard Lochhead: I simply wanted to be clear about why you are opposed to bill, as your introductory remarks concentrated on the status of hunting as a sport. Do you believe that any sport should be legal, irrespective of how cruel it is?

Simon Hart: The Countryside Alliance in Scotland and the UK supports only traditional country sports, whether they are concerned primarily or only partly with pest control, provided that they are conducted to the highest possible standard and that they are properly regulated. The alliance would not support any activity that involved inflicting suffering on animals unnecessarily. On the basis of the research that we, along with others, have conducted, we maintain that the field sports for which we are arguing do not involve the deliberate infliction of suffering on animals. If they did, we would not support them.

Richard Lochhead: Is it possible to have a fox hunt without suffering?

Simon Hart: The Burns inquiry found, first, that fox hunting needed to be examined in the context of the overall picture on fox control. All the evidence that we have seen suggests that, in the event of a ban, the welfare of foxes would not improve. Secondly, Burns made clear that at the moment there is insufficient evidence to take a step that might lead to people being sent to jail.

Cathy Peattie: You talk about hunting with dogs in Scotland. Do you agree that you have issued a fair amount of misinformation to people in Scotland and that people are making assumptions about the bill that are not accurate?

Allan Murray: I ask Cathy Peattie to clarify what she means by misinformation.

Cathy Peattie: I do not live in a rural area: I represent an urban area in which there is a strong mining tradition and where a number of ex-miners hunt. They take part in rough shooting with their retrievers and they are concerned that if one of their labradors runs after a rabbit they will end up in jail.

One of my constituents said to me that he had

been told that he would not be able to continue participating in a sport—he called it a sport—that had been in his family for the past 100 years. Another constituent, who is a falconer, is concerned because he has received information that he will no longer be able to work with his birds.

People are coming to me and, I am sure, a number of other MSPs with such information, to ask whether it is true and, if so, what they can do about the bill. They tell me that the information they have received comes from people such as you.

Allan Murray: The member's constituents are correct about the bill as it stands. The Scottish Campaign Against Hunting with Dogs says in its submission that it would like the bill to be amended to exclude rough shooting and falconry. As the earlier witnesses indicated, it would still be necessary to prove intent.

How does somebody prove that they are taking their two dogs out for rough shooting or to flush for the purposes of falconry? Your constituents are correct: that is unclear as the bill is currently drafted.

15:30

Cathy Peattie: Are you putting that information out? We will ask Mike Watson about that. We have heard from previous witnesses that that is not the case.

Mr Rumbles: No we have not.

Cathy Peattie: We heard that there was an issue when people go out with their dogs and the dogs chase rabbits. We were told that that is not seen as hunting. Perhaps we can go back and read the evidence later.

You are saying that this is a sport and you have mentioned pride in Scotland, taking care of the countryside and so on. I live in an urban area and take equal pride in Scotland. I spend most of my weekends in rural parts of Scotland, so I think that I have some ownership and a right to ask questions, too.

I would like to hear your comments on whether it is a moral issue. Do you think that mental cruelty to animals is an unimportant issue or do you think that it simply does not happen?

Allan Murray: I thank Miss Peattie for raising the point that it is not an issue of town versus country. It is about the Scottish countryside. I am delighted that you welcome activities in rural areas. I will pass it to Simon Hart to comment on whether it is a moral issue or one of cruelty. We do not see it that way.

Simon Hart: There is a moral issue that needs

to be addressed, but the bill has nothing to do with making life better for wildlife. Rather it seems to be an attempt to restrict people's ability to take part in an activity of which other people disapprove because they perceive that activity to be cruel. However, the evidence that it is mental cruelty is not available.

We must ask at what stage one draws the line about what is morally acceptable in modern 21st century Scotland—Bill Swann used that expression this morning. How do we apply such arguments to other activities that produce an enormous amount of income and enjoyment for residents and visitors to Scotland? I am talking about the shooting and fishing industries in particular, which raise those questions not only in themselves but in the way the land is managed to produce a decent quality of shooting in Scotland. That involves the control of wild mammals, partly through recreation, but mainly through necessity. Where do we draw the line on what is deemed to be acceptable behaviour by people involved in those industries or who choose to adopt a lifestyle that others might not? Where is the moral line and how do we draw that safely in legislation?

Lord Burns was very careful. I am sorry to keep going back to that report, but it is a useful yardstick. Although Burns was specifically tasked with not getting stuck into the moral or ethical arguments, at the end of the day he made one or two recommendations. The overwhelming recommendation was that, in the absence of a ban, there was a clear case for licensing hunting operations in the UK. If Lord Burns and his committee had any doubts about the integrity of hunting people, hunting or the industry surrounding it, I doubt that he would have given such a broad hint in his report about the direction that hunting should take.

Lord Burns is an honourable man and both sides of the debate have acknowledged his report. He has given firm guidance to the Government that there is no case for making hunting a criminal offence. There are plenty of areas in which hunting could be improved, the majority of which have been addressed. However, there is no case to condemn hunting to death.

Cathy Peattie: You talk about where we draw the line and Mr Murray talked about living in the real world. I would suggest that it is acceptable for someone to go fishing, catch a fish and take it home to eat, or to hunt and take a rabbit or bird home to eat. I find something obscene in people setting one animal against another simply to kill it. Is not that where we should draw the line?

Simon Hart: It depends on your perspective. Plenty of hunting people take an entirely different view. They believe that the activity involves a fair chance of escape for the quarry species and that it

contributes to the well-being of the species and the landscape in which it lives through conservation and biodiversity—call it what you will. They believe that the activity is far closer to nature than any other activity involving control or recreation. Their view is opposite to yours. If your argument has failed to convince them, it does not mean that they should be made criminals, any more than the reverse would apply.

Our conscience has allowed us to reach a view on hunting, shooting, fishing, religion, alcohol abuse and the age of consent. All are contentious social issues but, in a tolerant society, people should be entitled to take such views. The line may vary from community to community. Legislating on the vague basis of where one draws the line is very dangerous.

Cathy Peattie: You seem to be saying that it is dangerous to legislate when we witness real cruelty. Do you want us to stand back and let it happen in the name of freedom?

Simon Hart: Not at all. I am not saying that. The activities that we are talking about should be open, accountable and subject to scrutiny and additional scientific research. If any activity can be proved to cause distress or suffering or to damage in some way the landscape, animals or people taking part, it would no longer have the support of the Scottish Countryside Alliance or its counterpart in England and Wales.

Allan Murray: Before we go on, I would like to draw Miss Peattie's attention to the original submission from the Scottish Campaign Against Hunting with Dogs. On the second page it says that amendments will exempt rough shooting and falconry if the bill reaches stage 2.

Mr Rumbles: I want to ask about mental distress and cruelty. In the previous evidence, we were told that it is mentally distressing to hunt with dogs, but that it is not necessarily mentally distressing or cruel to flush out and shoot. It is a very subjective idea. It was suggested to us that if it is not mentally distressing or cruel to flush out and shoot animals, shooting foxes might be an attractive idea. I was interested in your answer to the moral question about whether it would be cruel to leave a fox that had been shot and wounded and had crawled away, as we heard in previous evidence.

Simon Hart: Every practitioner of country sports has always taken the view that it is their duty to dispatch quarry by the quickest and most humane method. Any Scottish stalker will tell you that if they accidentally wound an animal it is their job to continue to track it until the animal is accounted for. There is no doubt about that.

However, I return to the point that we made earlier. I am not sure what evidence is being used

in the argument about mental cruelty. I believe that it is entirely subjective. As far as I am aware there is no evidence—none was submitted to the Burns inquiry.

Fergus Ewing: We are here to ask you fairly simple questions to elicit factual responses. Do you accept that foxes kill lambs and game birds?

Allan Murray: Yes.

Fergus Ewing: The previous witnesses suggested that lamping is the method of fox control that the Burns inquiry advocated, but that is wrong: the Burns inquiry stated that that was a tentative conclusion subject to various caveats. What is your view on lamping as an alternative, should Mr Watson's bill become law?

Allan Murray: Lamping is a method that is practised. We know it takes place. However, there is a danger in it as an alternative. The public are being encouraged to use the countryside. I welcome that, but if legislation such as this is enacted overnight, lamping will have a different effect on the control of vermin. Lamping has an effect, but those who do it are not all marksmen. That is accepted. There is still an issue at stake.

Simon Hart: The quote on lamping from the Burns inquiry sums up Allan Murray's point:

"Efficient lamping requires good vehicular access. Its usefulness can therefore be limited in areas with rough terrain and steep slopes. It also requires terrain that allows safe shooting."

The previous evidence was rather grey in its reference to the flushing activities of gun packs. Gun packs do not use rifles, they use shotguns, and that raised serious welfare concerns for the Burns inquiry.

As a founder member of the Federation of Welsh Packs, I know that we considered those issues in some detail and gave evidence to Lord Burns when he came to visit hunting people in Wales. A ban on hunting would lead to an increase in the use of firearms and shotguns for the purpose of fox control. There are welfare risks attached to that. With that increase would come a risk of inexperienced people using weapons with which they were not familiar.

Statistics from the Federation of Welsh Packs show that a considerable proportion of the foxes that they deal with in an average year are carrying injuries as a result of previous skirmishes. The ability to track an injured fox is important. Earlier on, we talked about how difficult it was to track a fox from the point at which it might have been injured to the point at which it might have gone to ground. That is what a scent hound does, which is why, over thousands of years, people have evolved hunting dogs. When the fox has gone to ground, it is necessary to use a dog to locate and

kill it.

Fergus Ewing: To put it briefly, are you saying that lamping will not work in areas such as the Scottish Highlands, where the terrain is difficult, steep and inaccessible?

Simon Hart: I think that lamping has great limitations. I believe that only 30 per cent of the fox cull of upland gamekeepers is as a result of lamping. In a perfect world, lamping would have its place and would be extremely effective. Our evidence to the Burns inquiry says that.

Fergus Ewing: In his comments to the committee on 4 April 2000, Mr Watson stated:

"The hunting of wild mammals with dogs is a cruel and unnecessary leisure activity"—[*Official Report, Rural Affairs Committee*, 4 April 2000; c 595-6].

We have to consider carefully the notion of cruelty. There is an element of difficulty in applying to animals the standards of behaviour that we would apply to humans. Do you consider that the use of terriers to pursue dogs, in the traditional way that involves the dogs' going underground, involves the terrier's natural instincts? Alternatively, do you believe that the practice is cruel?

Simon Hart: Terriers cannot be forced to go to ground. They do so of their own accord as it is their natural instinct. Earlier, I heard the expression "fox baiting", which I have not heard used previously in the debate. Legitimate terrier work to control pests bears little resemblance to what was described earlier. The legitimate use of terriers that stand back and bay the fox from a distance, which enables the operator to shoot the fox, has been, for generations of shepherds and gamekeepers in Scotland, the only method of safely dealing with the fox problem. If it were not the only safe way, they would not do it.

Fergus Ewing: The previous witnesses argued that it is cruel to use dogs to hunt foxes. Is it cruel for foxes to kill lambs?

Simon Hart: That is the problem that Burns came up against. No research has been done into what is going on in the fox's mind when it is killing or about to be killed. The closest that research has come to doing so is the Phelps report in 1997, which was commissioned by the countryside movement. A group of vets observed foxes' behaviour at a dig and concluded that they showed no signs of the fear that is usually associated with close capture, such as defecation and urination.

Richard Lochhead: Mr Hart, you said that a terrier's natural instinct is to go underground. Are they not trained to do so?

Simon Hart: The nearest analogy that I can think of is the sheepdog. A sheepdog puppy will

automatically lie on its belly and go through instinctive motions, like a retriever, and will almost go as far as bringing back a thrown stick. However, one has to hone—

Richard Lochhead: Are terriers trained to go underground?

Simon Hart: Absolutely not. It is an instinctive operation. A terrier cannot be forced to do it.

Richard Lochhead: I asked the question because I did not know the answer, not to make a point.

Des McNulty (Clydebank and Milngavie) (Lab): I want to explore some of the language that you use in your evidence. You emphasise the idea of individual rights and human rights under the European convention on human rights. Could you say more about the ways in which hunting is a right and what you believe a human right to be?

Peter Watson (Scottish Countryside Alliance): Ownership of a dog is a property right and the use of a dog is the exercise of a property right. In our previous appearance before the Justice and Home Affairs Committee, we made detailed submissions on European convention issues. The opinion of English and Scottish senior counsel, which deals with those issues in some depth, has been made available.

Des McNulty: But you do not believe that that right is fettered in any way. You believe that it is an absolute right.

15:45

Peter Watson: All rights are fettered to the extent that they require to be balanced. There is no dispute that, as a matter of European law, property rights include the right to use and enjoy property, and interference with that right must be justified.

Des McNulty: I am sure that you are aware of the big debate in the United States on the right to bear weapons and to use guns.

Peter Watson: I am very much aware of that debate. I was involved in representing the families of Dunblane and dealt with the gun control issues that arose from that situation. That is a good example of finding a balance and, while I could speak for hours on this subject if necessary, it has been well dealt with in submissions that have been made already to the Justice and Home Affairs Committee.

Des McNulty: You mentioned the issue of licensing. If the bill is not successful, it has been argued that a licensing system should be introduced. What would be the appropriate scope of a licensing system for hunting, if such a system were to be introduced?

Peter Watson: The aim of any licensing system, such as liquor licensing, is to provide a regulated basis on which an activity can take place, measuring that activity against public standards and regulating it by an appropriate authority. I cannot imagine that hunting would fall into a different category from any other activity for which Parliament decides licensing is appropriate.

Des McNulty: Separating out vermin control from the recreational aspects of hunting, how effective would licensing be in preventing unnecessary cruelty? Do you think that licensing would be more or less appropriate, or more or less effective, than a ban in achieving that objective?

Peter Watson: A licensing system would be as effective as the quality of the legislation that is passed. The more work that is put into refining legislation in order to ensure that it meets and achieves reasonable standards, the more opportunity there is of producing a system that works.

Des McNulty: Would you prefer to go down the licensing route rather than to have the ban that is proposed by the bill? Would you consider a ban?

Allan Murray: All aspects of any bill must be considered, but the Protection of Wild Mammals (Scotland) Bill is before us and that is what we must discuss. Licensing is part of the bill, and if the bill is passed, we will have to consider licensing and what the licensing body would be.

Des McNulty: The bill raises moral, ethical and practical issues. I am trying to extract from you whether you think that an alternative approach to dealing with public concerns would be effective, from your organisation's point of view. Are you prepared to advocate licensing?

Allan Murray: We would consider licensing if it was to be introduced by the bill.

Rhoda Grant: You said in previous evidence that, during a mounted hunt, a fox had a fair chance of escape. Would you say that a mounted hunt is a sport rather than pest control?

Allan Murray: No, that is not entirely what we were saying. A fox can escape—that is the idea of hunting. There is no conclusive evidence that says that a fox will be killed there and then, because that does not happen in the real world. There is no getting away from that.

Rhoda Grant: Saying that there is a fair chance of escape gives me the impression that it is more of a sporting activity. Surely if you were involved in pest control, you would not want the fox to have a fair chance of escape.

Allan Murray: Pest control is part of all hunting. The fox that will be caught is the one that needs to be caught. That is what we call selective culling.

Rhoda Grant: Are mounted hunts able to carry out selective culling? In previous evidence we heard about foxes that will take lambs, unlike other foxes in the area. Would a mounted hunt be able to pinpoint a rogue fox and dispatch it?

Allan Murray: There is no difference between a mounted hunt and a foot pack. They use the same hounds. They are capable of doing the same job whether they are on a horse or on their feet. The rogue fox will be taken out. As Simon Hart said earlier, there are far more people who hunt on their feet or who spectate all day from a vantage point than follow on horseback. The horse is only their mode of transport to get there quicker. They are out there for the chase. They are not the people who are doing the hunting; the hunting is done by the person in control of the hounds and the hounds. Foot packs or mounted packs do the same job, and the fox will be caught if it is the rogue fox, or the one that has been selected for that day.

Rhoda Grant: So you are able to select the fox that you are going to pursue.

Allan Murray: Indeed.

Simon Hart: There are call-out services, which certain hunts in certain parts of the world conduct for individual farmers who are suffering from a loss, or a potential loss. Do not forget that a lot of this is about avoiding a loss. We have heard a lot of evidence about lamb losses being so negligible that hunting is not justified, but it was not mentioned that the reason lamb losses are negligible is because of the existing methods of control that are conducted across the UK—and I mean the four legal methods. Packs regularly do lambing call-outs when lambing is taking place from Christmas onwards. If somebody rings up and says, "I have a potential fox problem" or, "I have a fox problem" the huntsman in question will take hounds out to identify, pursue and catch the fox in question.

Rhoda Grant: I find it a little difficult to understand how you can pinpoint the rogue fox. If you are going out with a lamp and a rifle, you go to that fox's den, you see the evidence of the lambs, and you know that that is the den that you are looking for. If you are out on open terrain chasing a fox, there is no saying that that is the rogue fox.

Simon Hart: There are two explanations for that. First, when waiting around a lambing pen with a rifle, as I have done myself on more than one occasion, you tend to see a large number of foxes poking about, picking up bits and pieces of scrap and carrion, and many are perfectly innocent. You might only find that one of those foxes is the one that is causing damage, so you have a good chance of shooting a number of innocent foxes and leaving the one that creeps in

and takes live lambs after everybody else has gone.

What you can do, and what the call-out packs do all the time, is pinpoint the place where the ewe lost the lamb, which is easy to do, especially if it is twin lambs. They take the hounds round and the hounds hunt the scent of the fox, the drag, or the overnight residue scent of where the fox has been, and they track that to where the fox is lying up for the day. That is the only method; people have tried everything under the sun. The hounds hunt slowly and steadily, up a hill, up to a patch of gorse, up to a pile of rocks or wherever the fox is. No better method has been suggested, certainly not in Wales, than that system of identifying the fox that was in the location where the crime was committed.

Rhoda Grant: Are you telling me that that is the way that mounted hunts work as well?

Simon Hart: Mounted hunts do call-outs all the time. Mounted hunts are organised such that they have a registered hunt country in which they operate. It is their duty in that hunt country to hunt the country fairly and evenly—I think that that is the expression. That means assessing where fox populations are high or low, and conducting their hunting activities accordingly. When I was involved in running my hunt, which I did for a number of years, my calendar was set out fortnightly or monthly in advance, and I responded to all fox population messages. Obviously, I fitted that in with other aspects of running the hunt.

The people who allow hunting allow it for a number of different reasons, but fox control is very high on their list of priorities. It is perhaps higher on their list than it is for the mounted followers, who are going out with a different motive. Without the fox control motive, the rest of the operation does not even come into the equation. That is the principal agricultural operation. As it is a good-will operation, we must observe those views.

Allan Murray: I should stress that, as Simon Hart said, all mounted packs are regulated. We do not just go out into the open spaces.

Rhoda Grant: Are you telling me that all mounted hunts are started where a lamb has been taken and that they follow the scent of the animal that took that lamb?

Simon Hart: It does not necessarily happen that way. Hunts respond to lambing calls and to population shifts in fox numbers. The average season, which runs from September to March, will be planned on the basis of what farmers want or do not want. There will be a number of farmers who say: "I don't want any hunting here. I am going to control my foxes by some completely different means." That is their choice. However, where people want to use dogs for fox control, that

remains the most important factor when it comes to planning hunting activities. That has not altered. The mounted hunting aspect is based on agricultural requirements and always has been.

Alex Fergusson: I would just like to clear up what I think might be a grey area as far as call-outs are concerned. If a farmer is losing lambs and calls out the hunt, I assume that it would not be a full mounted hunt that would take place. Presumably, it would just involve the hunt master, some hounds and a few huntsmen. Would they be on foot or on horseback?

Simon Hart: There would be a small number of hounds and the huntsmen would probably be on foot.

Alex Fergusson: So it is not the same as the full hunt?

Simon Hart: No. Normally there would be only three or four people. It would usually happen at 5.30 in the morning. Any later and the overnight drag of where the fox has been would probably have evaporated and the operation would be unsuccessful.

Alex Fergusson: So the service is provided by the hunt, but the mounted hunt is a completely different thing from the call-out service.

Simon Hart: That is correct.

Alex Fergusson: Thank you for clarifying the matter. I think that there might have been some confusion about that.

Mr Rumbles: I would like to focus on another issue. The section of the bill on prohibition and offences states:

"An owner or occupier of land who permits another person to enter or use it to hunt in contravention of subsection (1) commits an offence."

What is your view about the practicality of that provision, given the forthcoming land reform legislation on open access? What does "permits another person" mean in that context? Would it have any effect on the land reform legislation that is coming down the track?

Allan Murray: It probably would have an effect. We do not yet know what form the land reform legislation will take, but all those prohibitions and penalties would be bound to affect the situation.

Mr Rumbles: Most of the argument has been about cruelty, but I understand that you oppose the bill because it will also have a wider economic impact on the Scottish countryside. I asked the previous witnesses about what the Macaulay Land Use Research Institute's independent report said about gamekeepers. Do you agree with that report's view that more than 13 per cent of full-time gamekeepers will be made redundant if the

legislation is passed? Can you comment on the effect that that would have on land management in Scotland?

Allan Murray: We did not recognise that report as a full report. We have a team that has studied the report in detail and you will hear evidence from those people in one of your later evidence sessions. The Macaulay Land Use Research Institute took its investigation as far as it could within the Executive's rules and guidelines, but it was not sufficient as a full survey or as the sort of research that your committee requires.

Mr Rumbles: Do you think that more than 13 per cent of gamekeepers would be affected?

Allan Murray: Considerably more.

Alex Fergusson: Almost everybody, including the previous witnesses, has referred to the Burns inquiry. We had to refer to that inquiry because there has not been a similar inquiry in Scotland. The MLURI report, excellent as it is, is accepted as being fairly narrow. It does not touch on the social impact that Mike Watson's bill would have. I do not find it very satisfactory to have to refer to a report, as we have all had to do, for which evidence was taken only in England and Wales.

It may be that the Burns evidence is completely satisfactory. I wish now that I had asked the previous witnesses this question. Perhaps they may want to drop us a line about it. Do you think that the Burns inquiry provides sufficient evidence for us in Scotland to conduct this investigation, or do you think that there is a need for a further report into the wider implications of the bill in Scotland? If you think that evidence should be taken in Scotland and a new report written, what should such a report cover?

16:00

Peter Watson: There is an inherent difficulty in relying on what is essentially an English inquiry into English circumstances when trying to discuss matters that we hope to regulate in Scotland. There is no doubt that, if we had the benefit of an inquiry in Scotland, we could properly address all the aspects—employment aspects, social aspects, cruelty or what have you—in a Scottish context. There are matters that are peculiar to Scotland, but the difficulty is that none of us had the opportunity to take part in the Burns inquiry or invite Burns to look at Scotland. On an important issue such as this, the better approach would undoubtedly have been to have our own inquiry.

Alex Fergusson: What sort of differences are there between the situation in England and that in Scotland? I ask that out of ignorance; I genuinely want to know.

Peter Watson: I think that there are social

differences. Scotland is different in its geography and in its diversity of population. If this is to be dealt with as a devolved matter, it is important to deal with it on our own information and according to our own social circumstances.

Simon Hart: Burns was working to a tight time scale, and one of the overwhelming conclusions that he reached was that there needed to be more time and more research before any sort of sensible conclusion could be reached. That related particularly to aspects of animal welfare and cruelty, which are probably the two most important areas of the whole issue. If Burns came to the conclusion that much more research was necessary before safe legislation could be passed, one can only assume that the same principle would apply anywhere.

The Convener: If there are no further questions for the witnesses, I take this opportunity to express our gratitude to Allan Murray, Peter Watson and Simon Hart for coming before the committee to help us with the issue.

Allan Murray: Thank you for giving us the time to do that, convener. I hope that we have answered your questions well enough, but you know where we are if you need any more information.

The Convener: I suggest that we adjourn for five minutes.

16:02

Meeting adjourned.

16:07

On resuming—

The Convener: Thank you, ladies and gentlemen, for your indulgence. Our final witness on the Protection of Wild Mammals (Scotland) Bill is Mike Watson, who is the member in charge of the bill—that is the formal title that I am told he has been given. It is Mike's second visit to the committee. He came before us in April this year to discuss the issues that he hoped to include in his bill. Accompanying Mike Watson is Tricia Marwick, who is the supporter of the bill. It is her first visit to the committee and we welcome her.

As before, I will give Mike Watson the opportunity to address us briefly. We will then move straight to questions.

Mike Watson (Glasgow Cathcart) (Lab): Thank you, convener. I should point out that, unless I am dreaming, I also appeared before the committee in September, so this is my third visit.

The Convener: My apologies.

Mike Watson: It is clear that I did not make

much of an impression then; I hope to make more of one today.

My opening statement will be brief. I introduced the bill because I believe that hunting with dogs causes unnecessary suffering to mammals. Unnecessary suffering is the legal term used to define cruelty. I stress that cruelty is the issue in this bill. The hunting of foxes, hares and mink with dogs is a pastime that has had its day. It is an activity that is no longer socially acceptable to the overwhelming majority of the people of Scotland. The aim of my bill is to legislate to end it. Stage 1 gives the committee the opportunity to judge the bill's general principles, which are set out in the bill and could not be much more succinct. The bill proposes:

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

The bill is primarily intended to end three cruel and barbaric practices that still occur in Scotland's countryside: fox hunting, hare coursing and terrier work. If the bill becomes law, that is what it will do.

The Convener: Thank you. We move to questions.

Mr Rumbles: When you presented the bill to us in April, you outlined the general thrust of the bill. You said:

"The hunting of wild mammals with dogs is a cruel and unnecessary leisure activity".—[*Official Report, Rural Affairs Committee*, 4 April 2000; c 595-96.]

You said many other things, but I want to focus on that statement.

If hunting were just about leisure and unnecessary suffering, we would be in a different situation. The bill would not stop only leisure activities. All the evidence suggests that effective land management will be hit. The independent Macaulay Land Use Research Institute report, whose findings the previous witnesses did not accept, says that more than 13 per cent of full-time gamekeepers would lose their jobs. Your bill would seem not to hit the targets that you spoke about on 4 April. At that time, I and another member asked whether you would consider withdrawing the bill and resubmitting it to ensure that the targets that you wanted to hit would be. Do you still feel that the bill is competent and hits the targets that you want it to hit? Do you genuinely intend the bill to wipe out at least 10 per cent of Scottish gamekeepers' jobs and to stop effective pest control? You have mentioned alternative methods, such as lamping. Do you have experience of those methods?

Mike Watson: When I appeared before the committee on 4 April, I told members that there were loopholes in the bill. I made no secret of that

fact. I said that the amendments that I proposed would close those loopholes. The bill is not intended to catch falconers or rough shooters, but there was a loophole through which they might slip. I therefore lodged amendments on 4 April to close those loopholes.

As the bill passes through Parliament, it will, like every other bill, be amended. What counts is not how a bill starts its life, but how it finishes. To turn your question round, I am confident that the bill, if it runs its full course, will hit the targets that I want it to hit. That answers the first part of your question.

The second part of your question was whether I want to throw gamekeepers on the dole and destroy effective pest control. Of course I do not, and I do not believe that the bill will do either of those things. The Macaulay report to which you referred has been pretty widely discredited, not only by me—I said on my first visit that I did not believe that the institute had consulted widely enough—but by others. Allan Murray said that he thought that consultation should have been wider still. If I were the Macaulay Land Use Research Institute, I would probably say that somewhere between those two positions would be about right. Nevertheless, I do not think that the report was of tremendous value. Even so, it did not suggest that the bill would signal Armageddon for jobs, in the way that has been suggested.

Saying that 12 or 13 per cent of gamekeepers would lose their jobs assumes that they do nothing else and that no attempts would be made to change the way they operate should part of their activity be made illegal. I do not accept that, nor do I accept that simply because 12 or 13 per cent of a gamekeeper's typical work load involves terrier work and 12 or 13 per cent of fox control is carried out by gamekeepers that taking that activity away from them will mean that 12 or 13 per cent of gamekeepers will be made redundant. Other things could be done. I heard Allan Murray say that he does not think that it would work like that. Gamekeepers admitted in evidence to the Macaulay institute that they would do other things. People do not just stand around if they lose their job or their livelihood; they do other things, or expand what they already do, to fill the gap.

16:15

Tricia Marwick (Mid Scotland and Fife) (SNP): I would like to make a specific point about gamekeepers. I would describe the Macaulay institute report as flawed. It is hard to take seriously a report that takes into account only one point of view—that of those who oppose the bill. Not only did the institute not go to Mike Watson, the proposer of the bill, to ask him to explain its impact but, more worryingly, section 1.5 states that

"it was left to individuals to decide how to interpret the current proposals in the draft bill".

Later, the report says that there was a lot of confusion among respondents about the implications of the bill.

Cathy Peattie has spoken about misinformation and people from the Scottish Countryside Alliance have suggested that certain things that people have said will happen because of the bill will not happen. Some of the high figures the Macaulay institute has obtained are the result of confusion. That confusion was not cleared up when the institute's report came to us and some of it has been sown quite deliberately to undermine the bill.

Mr Rumbles: You have both made it clear that you do not agree with the Macaulay report. The Scottish Countryside Alliance does not agree with it either, so you have some common ground. Mike Watson has suggested that Scottish gamekeepers can do other things, so the effect of the bill will not be dramatic for them. You have presented us with a bill that, in many people's opinion, would have a dramatic effect—job losses of around 13 per cent according to the Macaulay report, although you may disagree with those figures. Have you been in touch with the Scottish Gamekeepers Association? Have you found out how the bill would affect gamekeepers?

Mike Watson: I have been in contact with the association, although I have not yet visited it. However, on 1 December, at his invitation, I will spend a day with the association's secretary, Alex Hogg, to see the work gamekeepers do. I have never denigrated gamekeepers or the value of their work. The issue is simply one of taking up the slack that would be left should my bill be passed. I really think that gamekeepers are imaginative enough to take up that slack.

Mr Rumbles: I am delighted to hear that you will visit the association; that is super.

You have said that the general principles of the bill are clear. The general principles of a bill cannot be amended after stage 1. If we pass this bill at stage 1 and recommend it to the Parliament, we cannot then amend those principles at stage 2.

Mike Watson: It depends on what you regard as the general principles.

Mr Rumbles: That is what I am after—what are they?

Mike Watson: I gave the general principles—the ending of the three activities mentioned in the bill. When I was here in April, we discussed what could and could not be done at stage 1. That is why I thought it best—for the committee and for all those who are concerned, in whatever way, with the bill—to make my intentions clear. The main amendment would reword section 2 to take out

licensing. I do not regard licensing as a general principle.

Mr Rumbles: It is worth pressing this point because it is important and has a direct effect on Scottish gamekeepers. Are you saying that ending terrier work is a general principle of this bill? That could not be amended if we recommended to Parliament that we pass the bill at stage 1. The effect on the livelihood of members of the Scottish Gamekeepers Association would be dramatic. Is ending terrier work a fundamental principle of the bill?

Mike Watson: Yes, it is. I have named the three types of work that I am concerned about: fox hunting; hare coursing, which we have heard nothing about today despite its being an important part of the bill; and terrier work. We have to stress what the general principles of the bill are. It has been put to me that licensing is one. That is not the case.

Fergus Ewing: Have you had any direct experience of hunting wild mammals with dogs?

Mike Watson: No.

Tricia Marwick: I accompanied my father when he used to go shooting. He had a number of retrievers. I have watched animals being shot, but I have had absolutely no direct experience of animals hunting as a pack.

Fergus Ewing: I ask that question because although one obviously does not need to have witnessed a hanging to have a view on the moral issue of capital punishment, it is debatable whether this is a purely moral issue. We are concerned to get to the facts of the extent to which pest control is necessary. We have already had vastly conflicting evidence on this subject, even from among the first three witnesses. From the evidence that I have heard so far—as Peter Watson put it quite well—it seems that more research is required on the situation in Scotland. For example, we have not yet had an inquiry into that situation. Do you agree with that conclusion? If so, do you feel that the bill should be withdrawn?

Mike Watson: No. I gathered from Mr Watson's comments—I should point out for his benefit as much as for mine that he is no relation—that the Burns inquiry covered only England and Wales and could not be simply read across to Scotland. I certainly agree with that contention. The fundamental moral issue that seems to have emerged from the Burns inquiry is whether cruelty exists. We could have a dozen inquiries on whether fox hunting is cruel, but until we can train a fox to speak we will never be absolutely sure.

I am sorry, I am not a vet, but I am pretty clear in my own mind—which is why I introduced the bill—that these activities are cruel. No one needs any

kind of animal psychologist to tell them that. That is the moral issue on which most people will make their judgments. No amount of inquiries can ever prove it for certain. After imagining what happens to the animal, I am prepared to say without any shadow of doubt that the practice is cruel.

I could turn the argument on its head. If I could somehow collect 30 foxes and set them on one hound, that would also be a cruel act that not many people would try to defend. People would also take it as read that it would be pretty cruel for 30 dogs to attack a cat. We should apply the same morality to fox hunting.

Fergus Ewing: If cruelty is an absolute concept, perhaps the killing of any animal for any purpose is cruel.

Mike Watson: The purpose is important.

Fergus Ewing: On 4 April, you said that your bill

"would not outlaw the use of terriers to flush out above ground"—[*Official Report, Rural Affairs Committee*, 4 April 2000; c 596.]

It is difficult to make an absolute distinction between the non-cruelty of flushing out foxes above ground and the cruelty of flushing them out below ground. Are you really asking us to accept such a conclusion?

Mike Watson: Yes. Simply being chased does not constitute cruelty. Above ground, terriers will be used to flush foxes out of brush, trees or rocks into waiting guns, which does not constitute cruelty. That aspect is different from the chase, which can last a very long time and is clearly cruel as the fox becomes more desperate and can find no means of escape.

Fergus Ewing: We recognise that your views are strongly held and are no doubt shared by many people; they are just as vigorously opposed by many people in rural Scotland. However, that is not the point. Your comments seem to encapsulate the quandary in working out a definition of cruelty. We are not applying human concepts of human behaviour to the behaviour of animals.

Did not Shakespeare say somewhere that

"There's nothing either good or bad, but thinking makes it so"?

Does that not encapsulate the essential quandary posed by your bill?

Mike Watson: I am not in a quandary with the bill. It is germane to talk about human behaviour, because I am talking about regulating human behaviour. The question is the context in which that is done. I defy anybody to tell me that the way the fox or the hare is treated is not cruel. Whether the fox or the hare can turn round and say, "I don't like this. I wish you would stop," is not the point. I

think that a generally sensible person can draw that conclusion. It is not just a subjective judgment.

Mr Rumbles: In evidence to the committee on 4 April, you said that the bill

"would not outlaw the use of terriers to flush out above ground"—[*Official Report, Rural Affairs Committee*, 4 April 2000; c 596.]

You have repeated that view again just now. Do you think that in practice, when foot packs go through a wood flushing out foxes, the hounds do not come across foxes and dispatch them above ground? Does that not show the difference between the theoretical approach that you have taken and the practice of the Scottish foot packs?

Mike Watson: I am not sure that your argument does not assist my case. There are no absolutes in this, in the same way that nobody can be sure that however good a person is with a rifle he or she can dispatch an animal right away. Of course nobody can say that the animal would be shot dead with the first shot. There will be cases in which hounds will come across the fox when flushing them out. The general principle—

Mr Rumbles: But your bill makes it illegal to hunt wild mammals using foot packs.

Mike Watson: Intentionally to do so. The importance of the intention is stressed all the way through. If the activity is undertaken to flush a fox out to waiting guns, that is the intention. If something goes wrong and the fox is caught, that is not the intention.

Mr Rumbles: But it does not go wrong. It happens automatically—all the time.

Mike Watson: I have not heard evidence to that effect. The idea of flushing foxes is to drive them to waiting dogs.

Mr Rumbles: But that is theory, not practice.

Mike Watson: There are no absolutes. Nothing can be absolute, particularly in the countryside.

Mr Rumbles: I am pressing you on this point because it shows that you have addressed the theory but do not know what happens in practice.

Mike Watson: I can only repeat the word "intention". The intent that is involved in any activity is key.

Mr Rumbles: I accept that, but I think that in practical terms you are wrong.

Dr Murray: In the information on suffering, there is a letter from the chief executive of the League Against Cruel Sports to somebody from British Wildlife Management. He states:

"I am sure you will agree that people hunt and shoot mostly because they enjoy it. Our case is quite simply that

they should not enjoy it.”

He goes on to compare hunting and shooting to the pleasure that is experienced by paedophiles when they abuse children. I do not think that that is your view, but does it concern you that one of the people who has been involved in drafting the bill may have a much wider agenda that relates to all sports that involve killing animals, including hunting and fishing?

Mike Watson: I cannot speak for other people on what their agenda is; I can speak out only on my own agenda. I have been around long enough to be clear in my own mind what I am doing and to avoid being pushed up alleys that I do not wish to enter. You talk about hunting and shooting. Let us be clear that there is nothing in the bill that would affect shooting; only hunting is affected. I do not like the analogy that was used. It is offensive. I know that that is your view, too. My agenda is clear. The bill will set out clearly what I hope it will achieve. What other people have in mind or what legislation may follow in relation to other species is of no concern to me.

Dr Murray: When you introduced the bill, you proposed several amendments that you felt would address some of the problems with the breadth of its scope. One amendment would deal with the hunting of rodents and rabbits using dogs. As far as I recall, it would exclude rabbits and rodents from the category of wild mammals. The definition of a wild mammal is clear: it is a warm-blooded creature that suckles its young. I may be going ahead of stage 1, but I wonder whether it is appropriate for the bill to exclude categories of mammal from the mammalian kingdom. Do you share my concern that that might open the door to the exclusion of other mammals on the ground that they are pests? The bill could then be amended to exclude more mammals.

16:30

Mike Watson: It may, or it may not. All I can do is try to draft the bill as clearly as I can. If I do not think the bill has been properly drafted, I will try to amend it. We will have to wait and see what amendments other people lodge at stage 2. As far as I am concerned, the amendments that I proposed to the committee on 4 April would improve the bill. Every bill is improved at some stage. As far as I am concerned, if the amendments are agreed to, the bill will be in an acceptable form to deal with rough shooting, rabbits and rodents—but I cannot speak for other people.

Dr Murray: Do you not feel that a rat that is chased and caught by a Jack Russell terrier experiences mental distress? If the argument is that a fox is caused mental distress by being

pursued by dogs, does not the same apply to a rat that is pursued by a Jack Russell terrier?

Mike Watson: We are back to the absolute point that Mike Rumbles made. A rodent that is caught by a dog—or a rabbit—is likely to die much more speedily than a fox. Because of their size, rabbits and rodents cannot be treated in the same way as foxes. That is not the right way of proceeding and it is why I proposed that amendment.

Other people may wish to broaden the debate. Today, we have heard about fishing. We have also heard all sorts of stories about shooting game birds and so on. I have no truck with attempts to widen the scope of the bill.

Mr Rumbles: That point goes to the crux of what worries some members of the committee—the fact that not even the promoter of the bill accepts that it is right.

Mike Watson: I disagree.

Mr Rumbles: If you let me finish, you will see that I am trying to help.

The Executive's Education (Graduate Endowment and Student Support) (Scotland) Bill has a problem, so the Executive intends to withdraw it, rewrite it and resubmit it before the Enterprise and Lifelong Learning Committee produces its stage 1 report. This committee is in danger of having to discuss potential stage 2 amendments, which is inappropriate to stage 1 examination. Elaine Murray just talked about that. Even now, will you not consider withdrawing the bill, letting us continue to discuss the principles, and then resubmitting it in the format that you want before we produce our stage 1 report?

Mike Watson: Mr Rumbles is certainly consistent; I give him that. I will let others judge whether he is helpful. He made the same suggestion when I was here seven months ago. I examined the possibility of withdrawing and resubmitting the bill. The Education (Graduate Endowment and Student Support) (Scotland) Bill was introduced not in March, but a bit later, and the situation is different. In April, I said that I would not withdraw the bill because it had already been delayed long enough and because many obstacles had been put in its way. Since then, we have come down a long road. The bill must have had the longest period of any bill for submitting written evidence.

Nobody can accuse the bill of being rushed. As far as I can see, resubmitting it would waste more time. That is why I did not do that. Bills cannot be amended at stage 1. Any bill that is introduced faces that problem. Would it have been better if I had said nothing until stage 2 about the changes that I propose? I thought I was helping by

supplying the amendments at that early stage. The committee must have seen the press coverage, which did no good for my reputation. Despite that, I thought it was better to be honest, to say that the bill could be improved and to show how I intended to do that.

Mr Rumbles: But the Executive has done it—

Cathy Peattie: Richard Lochhead and I have been trying to get into the debate for some time, but we keep coming back to Mike Rumbles. We are a fairly big committee, yet Mike seems to be conducting the whole inquiry.

Mr Rumbles: Oh, come on Cathy.

Tricia Marwick: Before you move on to Cathy, convener, I will respond to the point that was made about the Education (Graduate Endowment and Student Support) (Scotland) Bill being withdrawn. The Transport (Scotland) Bill is another example, as that bill went through a stage 1 debate before the workplace parking levy scheme was withdrawn by the Executive at stage 2.

Fundamental amendments can be made to a bill at stage 2. It is perfectly right and appropriate that an amendment that Mike Watson lodged way back, to obtain the views of the Rural Affairs Committee, should be treated in exactly the same way as other amendments.

Members are used to major amendments being made to bills. Not all bills need to be withdrawn and no one suggested that the Transport (Scotland) Bill be withdrawn, although six pages of amendments have been accepted at stage 2.

Rhoda Grant: Mike Watson said earlier that cruelty was unnecessary suffering. This afternoon, we took evidence on terrier work and were told that there are no alternatives to terrier work in some terrains—one could not carry out lamping, for example.

We have also received written evidence—I am not sure whether Mike Watson received a copy of that evidence—which says that terrier work is not intended to lead to a fight between the fox and the terrier. The terrier is there merely to give the fox a fright; when the terrier is withdrawn, the fox leaves the den and is shot.

Mike Watson also said that there are no absolutes. I am quite concerned that you are saying that terrier work is covered by the general principles of the bill, because there is no alternative to terrier work in some terrains and terriers are not used to cause cruelty. In a small number of incidents, cruelty has taken place but, as Mike Rumbles said, that could happen on a foot hunt or whatever. People who work with terriers do not intend to cause cruelty. I have received information from people who carry out that kind of pest control that it is not in their interests to

damage their terriers—some of which are expensive animals, which they have spent a lot of time and money training—as that could lead to veterinary bills.

I am concerned about that part of the bill, particularly if Mike Watson is indicating that terrier work is covered by the general principles of the bill.

Mike Watson: I accept that, in many cases, the intent is not to set the terrier on the fox—or vice versa, as the terrier could end up second best, and I would be no happier about such a situation.

We have also heard evidence today about a number of people who put their terriers underground with a view to getting the fox. Those terriers come back with scars that are seen by their owners as something to be lauded.

We keep talking about there being no absolutes, and I do not doubt that some people send their terriers underground in the genuine hope that the fox will be chased out. If the fox comes out, that is fine, but what happens if it does not come out? That is the problem.

We must draw a line between those two groups of people. At the end of the day, it must amount to cruelty if a fox is attacked underground, because the fox has no escape if the exit is blocked.

Rhoda Grant: I understand that, but when causing cruelty is not the intention of the majority of people who use terriers, does not the bill discriminate against them? That sort of practice should be illegal—it amounts to baiting and fighting, rather than being any kind of pest control. Using the phrase “flushing out” rather than “baiting” in the bill would make that distinction. It would be obvious to a veterinarian who was treating a terrier that it always went underground and fought foxes, as the dog would not have the temperament to do that work. The person who put that dog to ground would be committing an offence.

Mike Watson: That assumes that the dog would be seen by a vet, but it might not be. We cannot take that for granted. The sort of people who use their dogs in that way are unlikely to take them to the vet to be patched up, for the reasons that I gave in reply to your previous question.

I accept that, in many cases, sending a terrier underground has the desired effect. My point is that, in many other cases, that does not happen. I cannot go along with the line that simply because such action has the desired effect in some cases, that is not a reason to outlaw it. One cannot introduce a bill on the ground of cruelty, as I have done, and somehow exempt terriers. There is no logic to that.

Rhoda Grant: I disagree. The practices that are

allowed in the bill can lead to the dog killing the fox by accident—that is something that we have to live with. We are talking about intention. I would say that the same applies to work carried out underground. You have said that cruelty is unnecessary suffering. Where there is no alternative for pest control, surely the bill is too stringent. I am concerned that that is a general principle.

Mike Watson: I accept that—it is especially relevant to the parts of the country that you represent. However, it is not as if there are no alternatives—we have talked about them. It is not the only way of keeping down the fox population—that argument has been well rehearsed. It is one way of doing it, but it is not the only way. I accept what you are saying, but my proposal is not as prescriptive as you are suggesting.

Rhoda Grant: According to the evidence that I have been given, where there is no access for vehicles, lamping—which is the alternative to terrier work—cannot be carried out. Most foxes are kind enough to hide where people can get a vehicle to them, but when they move away from the area, nobody has told me of any alternative.

Mike Watson: We did not say that there was no alternative. There are areas where vehicles cannot go, but foxes can still be shot without access by vehicles. I am not saying that that will have the same effect on numbers as the current terrier work.

Dr Murray: From the description that we have been given, lamping is the most humane method of dispatching a fox because it immobilises it. The fox can be shot and one could be sure that it was dead, and that it would not go underground with wounds. However, there are certain terrains in my constituency and in the area that Rhoda Grant represents where people cannot get a vehicle up there to do the lamping. The alternatives are snaring—which everybody agrees could be considered an equally cruel method of dispatching a fox—or shooting with a shotgun, which could result in suffering if the fox is not killed outright.

Mike Watson: I accept that, but shooting has to be the main alternative. I am not advocating snaring, nor any other method. I am not suggesting that this is necessarily straightforward, but we are talking about a relatively small proportion of the fox population. I am not belittling the fact that this is important in the areas where the hill packs operate. However, to try to write that provision out of the bill would undermine the logic of my saying that I am attacking cruel and unnecessary suffering.

Rhoda Grant: The words are cruel and unnecessary suffering. If people's intention is to cause unnecessary suffering, I have no problem

with what you are trying to do in the bill. However, it is wrong to take the view that everyone who is carrying out work with terriers is looking to cause unnecessary suffering. There is a small minority who are—I agree that we have to do something about that, but there are other ways in which we can tackle it. Outlawing what is a tool for pest control and not a sport is not the way to address the problem.

Mike Watson: There is evidence that terrier work has an element to it that is not simply about pest control. It may be about pest control, but there is also the question of enjoyment—the social aspect, when people get together to pursue the activity. That may not concern the majority of people involved, but there is that side to it, which cannot be discounted. Again, we are back to the no absolutes. It is not as if there are people wearing different badges for different activities on different days. The cruelty—which I would say is unnecessary, even when the intent is not there—has to be considered.

Rhoda Grant: Even if that is carried out by a minority, and could be tackled in another way?

Mike Watson: Yes.

Alex Fergusson: This is an important issue. One of the principal aims of the National Parks (Scotland) Act 2000 was to protect the biodiversity of areas within the boundaries of a national park. I am sure that you would agree that that is a worthy principle. In the two areas where national parks are proposed, particularly the Cairngorms, the principal method of fox control is to put terriers underground. The Burns inquiry suggests that in the upland areas of Wales, that is the method by which 70 per cent of foxes are killed. There might be other methods, but this is far and away the most important. If we do not allow people to put terriers underground, that will have an impact on the biodiversity of national parks. Do you accept that your bill poses a genuine problem to areas within the boundaries of a national park, one of whose main aims is to protect biodiversity?

16:45

Mike Watson: Did you say that in north Wales 70 per cent of foxes are killed by putting terriers underground?

Alex Fergusson: That is the area to which Burns referred in the report, because that is where he did his research.

Mike Watson: As we have already heard, the Burns inquiry is not particularly relevant to the Scottish situation.

Alex Fergusson: With due respect, that is cherry-picking the report. We can only go on the information that has been given to us. I repeat my

call for another report.

Mike Watson: I do not agree that I am cherry-picking the report. Mr Watson, who gave evidence for the Scottish Countryside Alliance, said that the Burns report could not be read across to Scotland, because of geographical and other differences. I am sure that those differences extend to biodiversity.

I do not belittle the point that Alex Fergusson makes about the National Parks (Scotland) Act 2000. I accept that in some areas terriers are put underground because of the terrain. However, that is not the only way of controlling the fox population. The suggestion that if putting terriers underground were made illegal, the fox population would get out of control, is not borne out by the facts. We are getting bogged down in the issue, which applies to relatively small parts of the country. There are only five hill packs in the whole of Scotland. It is not a major activity. How many people are involved with those packs and how many foxes do they kill in one year out of the 20,000 or so that die throughout Scotland? I do not have the figure to hand, but I do not imagine that it is a large percentage of the 20,000 foxes that die.

Alex Fergusson: That does not answer my question, which related to a serious issue.

Tricia Marwick: I am sure that Alex Fergusson will want to correct the figure that he quoted for north Wales of 70 per cent of foxes being killed by terriers underground. If he reads the report, he will find that 70 per cent of the foxes killed in north Wales are flushed out by terriers, which is quite different.

Alex Fergusson: I accept that correction. However, terriers are involved in some way.

Tricia Marwick: It is important that Alex Fergusson accepts my correction. We must ensure that our facts are accurate.

Mr Rumbles: Mike Watson said that there were just five hill packs, but that is not the issue. There are areas in my constituency, in the Cairngorms, where Scottish gamekeepers do that work. This is not just about the foot packs. The member is failing to see the impact that his bill would have on jobs in the Scottish countryside. He may not have come across this activity in Glasgow, but it is effective in the Cairngorms and many other areas.

Mike Watson: I have come across it in Glasgow. I have been lobbied heavily by people who live in Glasgow Cathcart and use terriers to hunt. That blows out of the water the idea that this is a town versus country issue. I do not belittle the points that you make, but they should be given due weight in the context of the bill as a whole. There is an imbalance in the questions that I am

being asked, almost all of which relate to terrier work. I have not been asked any questions about hare coursing, so I take it as read that Mr Rumbles and Mr Fergusson are happy for that to be banned. There have been virtually no questions about mounted fox hunts, either. Clearly, terrier work is the issue that most concerns the committee. However, the bill is about more than that.

Alex Fergusson: Mr Watson should not take anything that I do not say as read. He is well aware that my position is not as he has just outlined.

Fergus Ewing: Does Mr Watson believe that terrier work has a social and/or sporting purpose?

Mike Watson: That is undoubtedly true in some cases.

Fergus Ewing: Can you name one example?

Mike Watson: What do you mean—the name of the dog? The name of the person who takes it out?

Fergus Ewing: Which hill pack do you—

Mike Watson: No, no, the hill packs are funded through the Scottish Executive, and I am not suggesting that that is a leisure pursuit.

Fergus Ewing: You have said that you believe that the use of terriers has a social and sporting purpose. I presume that you hold that belief because you know what you are talking about and can give one example. I am asking you to give one example.

Mike Watson: I am not talking about the hill packs; I am referring more to the central belt, where there is certainly a social—

Fergus Ewing: Can you give one example?

Mike Watson: These clubs do not have names that can be written down on a bit of paper. People get together and go out with their dogs. People who have spoken to me about the provision have pleaded with me for it to be removed from the bill. It is something that they do, and they see it as part of their social scene. The clubs do not have handy names that we can trot out.

Fergus Ewing: You have said that you hold the belief that the use of terriers has a social and sporting purpose. Can you reply to the committee in writing, letting us know the facts upon which the opinion that you have just voiced is based? It seems that there might not be any facts to support that opinion. If I am wrong, I should be interested to know what those facts are. With the convener's permission, I invite Mike Watson to supply that information to the committee.

Mike Watson: If that information is available,

and if people are willing to be named, I will do so. However, I do not know whether people will be willing to have their names put forward. If they are not already among the 4,000 people who put their names forward, they may not be. I am surprised that Mr Ewing thinks that that is a point at issue.

Cathy Peattie: First, I was not shouting for my benefit—it was to encourage you to listen, convener. Mike Rumbles can talk for a wee while.

I want to return to the misinformation about the bill. I have a firm lobby among my constituents. My constituency covers an urban area, but urban areas cover farmland and all sorts of other areas. That misinformation covers the ideas that people would no longer be able to go fishing, that rough shooting would not be allowed, and that anyone who took their dog out for a walk in the park, or round a loch, whose dog chased a bird, rabbit or whatever, would be liable to a fine and so on. That is the sort of information that is going round. My mailbag is full of correspondence on that; I am sure that that also applies to other MSPs.

Mike Watson: On that misinformation, the drum has been beaten with monotonous regularity, despite what I said about my intentions for the bill on 4 April. It is not that the bill included rough shooting and falconry; it is that there were loopholes in the bill through which rough shooting and falconry might have slipped. I therefore tried to clarify that point on 4 April.

If people continue to bang the drum, saying that this or that will happen, it is tantamount to saying that the Parliament would vote down my amendment at stage 2 and demand that such activities be included in the bill. Living in the real world, I do not think that that will happen.

The context within which stage 1 has taken place should have been taken into account. My comments of 4 April are on the record. The bill has, of course, to be taken as read. However, politics is the art of the possible, and we should be dealing with the realities of what will happen. I regret that that was not done.

I cannot speak for the people who have continued to express the views that they have; I have simply used every opportunity. I have had 1,500 letters on the matter and, in replying, I have made the point that the provision is not as widely drawn as has been suggested.

Alex Fergusson: According to its title, the bill is intended to achieve the “Protection of Wild Mammals”. If that is the desire of the bill, are not routes available other than what is contained in the bill? Does not legislation already exist for that? Would not it have been simpler to include foxes with the protected species of mink and hares? Those who wished to hunt foxes would then have to apply for a licence to do so. Considerable

evidence has been put to me and, I am sure, to other members of the committee, that the protection of wild mammals is not what would really be achieved by the bill.

Mike Watson: In all the time that I have been considering the bill—which is well over a year—this is the first time that that suggestion has been put to me. The answer simply has to be: possibly. That may be for someone else to investigate, but it is not the road that I chose to go down.

As far as I was concerned, the name of the bill made it clear that I was trying to end cruel behaviour towards wild mammals. That is where “Protection” came from. Members may know of a bill that was presented to the House of Commons in 1995—John McFall’s Wild Mammals (Protection) Bill—the same words in a different order. I do not claim copyright on the title. It seemed to me to encapsulate what I was trying to do. It is possible that an entirely different route could have been pursued, but it was not an approach that I considered, nor had it been put to me before today.

Alex Fergusson: You and Tricia Marwick cast considerable doubt on the MLURI report, and the Burns report in some respects. I will put the same question to you that I put to the others. It is a genuine question; it is not meant to be a trick question or a delaying tactic. In order to justify the bill to those on whom its full impact will fall, is there a need for a Scottish inquiry into the impact of the bill in Scotland? If not, why not?

Mike Watson: If the inquiry was to establish whether the practice was cruel, there should not be one. It would be a waste of time, because one would never establish that to a satisfactory level. If the inquiry related specifically to the bill, it would be appropriate, as Tricia Marwick said, that as the sponsor of the bill I should be consulted, and that others who are in favour of the bill be consulted. However, the time has gone. We have moved too far. We are well down the road of the parliamentary process. It is now time for the Parliament and MSPs to decide on the form that the bill will take when they are required to vote on it. That is the proper route. Given that the MLURI report has been published, opening up the issue again and going back to square one and doing it differently would not serve any real purpose.

Alex Fergusson: Given your opening remarks, when you said that this was about cruelty, is not it worth trying to establish what cruelty is?

Mike Watson: How does one do that? I accept that Burns had a go at doing it. I do not believe that any rational person requires to be convinced that cruelty is involved. I do not see how anybody can look at fox hunting, whether it be with hounds or terriers, or hare coursing and say, “I am not

convinced that that is cruel." One may defend the sport because of pest control, personal enjoyment or whatever, but one cannot say that it is not cruel. An inquiry would not establish that.

Tricia Marwick: In response to Alex Fergusson's point, Burns looked carefully at cruelty, and concluded in paragraph 6.49:

"There is a lack of firm scientific evidence about the effect on the welfare of a fox of being closely pursued, caught and killed above ground by hounds. We are satisfied, nevertheless, that this experience seriously compromises the welfare of the fox."

If the fox is killed, its welfare is very seriously compromised. That highlights the difficulty that the Burns inquiry had in defining cruelty, but the test is whether being chased and killed seriously compromises the welfare of the fox. I suggest that it does.

Before we move on from terrier work, I will quote from Burns, in response to Fergus Ewing's point when he challenged Mike Watson to name names. Mike was trying to make a distinction between hill packs and work that is done on an unofficial basis. Paragraph 6.51 states:

"It seems clear, nevertheless, that fights do sometimes occur during digging-out or bolting and we have no doubt that this is more frequent in unofficial terrierwork than in that linked with the registered packs."

That is important. The unofficial terrier packs are more likely to involve their dogs in fights with the foxes, which is not necessarily a feature of hill packs.

As for whether we should have an inquiry in Scotland, the Scottish Parliament is unique, in that we take evidence at this stage of bills, which is what the committee is charged to do. I hope that, having heard the evidence, all members of the committee will keep an open mind. I suggest that Alex Fergusson's comments in *The Daily Telegraph* on 20 March, before any evidence was led, in which he called on people to fight the bill to ensure that it did not see the light of day, were not helpful.

The Convener: Carry on, Alex.

Alex Fergusson: I think Rhoda Grant has a supplementary question.

Rhoda Grant: Yes, I do.

Alex Fergusson: I am happy to let you ask it.

Rhoda Grant: You have said that people who are not official terrier workers tend to produce more injuries. I can see that. I understand what is being said about people who do not know much about flushing out a fox from underground using terriers coming from a city. That could be dealt with in the bill. Section 2(7)(b) states:

"An occupier of land (or an individual acting with the

occupier's permission) does not contravene section 1(1) by using a single dog under close control to— . . . flush"

out a fox or hare.

You could leave it as underground as well as above ground and that would mean that it would have to be the farmer, the crofter, the landowner or someone acting on their behalf. It is in their interest to find the rogue fox and have it flushed out and dispatched quickly. It is not in their interest to use it as a sport. That would tackle the problem that concerns you and ensure that people can carry out pest control.

17:00

Mike Watson: That is an interesting proposal. I have not heard it before and I am willing to consider it. I cannot take it on board now, but it is a useful proposal.

The Convener: Alex Fergusson has signalled to me that he had not finished.

Alex Fergusson: I am nearly finished. If asked, I would repeat today what I said in *The Daily Telegraph*, but I hope that that does not alter how I have tried to take evidence. I hope that I have taken evidence in a balanced and fair manner and will continue to do so. One of the joys of democracy is freedom of speech. I hope that you will not question that.

My final point is one of the reasons I do not want this bill to see the light of day. I think Mike Watson hit on some of the difficulties. I hope that it will not have passed unnoticed that several members of the committee have great reservations about the bill. Mike Watson said that there are "no absolutes". I accept that. Is there not an inherent problem in producing legislation—especially legislation that has criminal implications—when there are no absolutes? Does not that present a problem? I think it does.

Mike Watson: No, I do not think so. Grey areas exist in various aspects of the law. That is not a reason for not proceeding with the bill. It is a matter of how the bill is enforced. The Justice and Home Affairs Committee is dealing with that matter. I am sure that you have read its report. It stated that there is no reason, in terms of the legal provisions, for not proceeding with the bill. It states that the

"problems are not sufficiently serious to compromise the workability of the Bill as a whole."

The workability of the bill is the aspect that deals with the issues that Alex Fergusson raised. Is it workable and enforceable? Subject to the caveats set out in its report, the Justice and Home Affairs Committee has said that it is. The fact that there are no absolutes is not a reason for not seeking to enshrine certain activities within the criminal law.

Dr Murray: I have a brief supplementary on the terrier work. There seems to be a view that the hill packs are the good guys and everybody else is illicitly sending Staffordshire bull terriers down holes to fight with foxes.

I come back to the activities of gamekeepers, who may use terriers themselves or sometimes call in reputable terrier workers. What happens in those situations—it is often to detect orphaned cubs—is that a small terrier such as a Jack Russell or a Border terrier, which is not likely to fight with a fox because it is too small, is put down with a monitor on its collar. When it sees the cub, it barks. The gamekeeper digs down and dispatches the cub with a pistol or a rifle. That is not necessarily cruel. Why do you consider that activity sufficiently cruel to be in the bill? What is the future for those orphaned cubs? If somebody does not get to them they will probably die—they will probably starve to death.

Mike Watson: I have discussed that issue with the Scottish Society for the Prevention of Cruelty to Animals and with some of the terrier men, whom I have met. At issue is the amount of time the terrier spends underground before it is dug out and the time it has to face up to either the full-grown fox or its cubs. The answer to that question depends on who you ask. I do not doubt that fox cubs that have been orphaned may die a slow, lingering death underground if their mother has been shot, but the person who shoots the mother fox is not always aware that she has cubs. I am not defending that situation, but it is a minor issue. It is not a reason for saying that terrier work should be removed from the bill.

Dr Murray: This is one of the ways in which gamekeepers use terriers, particularly at certain times of the year.

Mike Watson: I know that the dogs have a bleeper on their collar so that gamekeepers can identify where they are and dig down. As I said earlier, I will find out about that in greater detail on 1 December. I take the point that Elaine Murray is making, but it must be seen in the context of the bill as a whole.

Mr Rumbles: You said that you are surprised by the committee's line of questioning this afternoon, which has focused on terrier work. You asked why there had been no questions about hare coursing or mounted fox hunts. I hope that you are now aware that members have genuine concerns about the practical implications of your bill as introduced, because it is so wide ranging. Many of us felt that the principles of the bill were not clear, but this afternoon you have told us that, in your view, they are. If I have understood you correctly, you are saying that, as a general principle, the bill seeks to ban hare coursing, mounted fox hunting and terrier work. If that is the case, some

members of the committee have real concerns about the effect the bill would have on land management and the countryside.

Mike Watson: I do not think that I said anything the Scottish Campaign Against Hunting with Dogs did not say in its written submission to the committee. The general principles of the bill could be understood as what is on the face of the bill. In its submission to the committee of 11 August, the Scottish Campaign Against Hunting with Dogs listed the three activities to which I referred in response to your earlier question: fox hunting, hare coursing and terrier work. I have not come up with new information, although I may have stated it more explicitly.

Since the bill was introduced, it has been argued that its general principles are not clear. I could have made my life much easier if I had concentrated on hare coursing and mounted fox hunting; we could already have an act of the Scottish Parliament outlawing those activities. However, if the issue is cruelty, it would be illogical to single them out. We may need amendments to take into account issues of the sort that Rhoda Grant raised; I do not know.

Mr Rumbles: If you think that a ban on terrier work is a fundamental principle of this bill, that cannot be amended.

Mike Watson: I cannot say to the committee that we should end cruel, barbaric practices and then tell members to turn a blind eye to terrier work. If I did that, I would have no credibility with the committee, the Parliament or the population of Scotland.

Mr Rumbles: So it is all or nothing?

Mike Watson: No. As I said earlier, politics is the art of the possible. We shall see what is possible as the bill progresses. I am sure that the committee will give resounding support to its principles at stage 1.

The Convener: I thank Mike Watson and Tricia Marwick for helping us with our consideration of the bill today.

Item 3 on the agenda gives members the opportunity to have recorded in the *Official Report* any views that have not been expressed during the consideration of evidence. We have been very thorough, so I would be surprised if there was anything to add.

Alex Fergusson: There may well be further comments once we have read the *Official Report* of this meeting. I hope that not commenting now will not preclude our commenting at a later stage.

The Convener: I assure members that there will be no attempt to preclude anyone from commenting.

Item 4—on fact-finding visits—was placed on the agenda with the agreement of certain members last week. We have had some heated discussions on this subject. I do not want to exclude any particular invitation—we have received more than one—but we have a specific invitation from the Scottish Gamekeepers Association to visit Braemar. A proposal has been put together for that. Members were polled and the date on which most members were available was Friday 24 November. Shall we accept that invitation?

Mr Rumbles: Yes.

Cathy Peattie: I said at the time that Labour members would not be able to attend on that date because we are having an away day. I am not sure who might want to attend, but that date excludes all Labour members on this committee.

The Convener: Do you feel that that is a problem?

Rhoda Grant: I have commitments on both the dates that were suggested. I could probably do something about my commitments on Monday 20 November; unfortunately I have a prior booking for Friday 24 November—arranged even before the date for our away day was chosen. I cannot cancel or reschedule it.

The Convener: According to my list, John Munro and Mike Rumbles are available on 20 November. Rhoda says that she might manage on that date too.

Alex Fergusson: We could go on both dates, if that was all right with the SGA. That would take in most of the committee.

The Convener: Shall we say that we shall make the visit on one or other of those dates, and that we shall enter into further correspondence on the arrangements?

Mr Rumbles: But Alex's suggestion is that, if the SGA is amenable, we could go on two dates. Members could then go on either date.

The Convener: Yes, we shall take that approach. I am not supposed to take information from the gallery but I can see a representative of the SGA giving me the thumbs up.

Dr Murray: The only reason I have not put myself forward for either of those dates is that the local representative of the SGA in my constituency has been good enough to take me round one of the estates and go through many of the issues with me. I therefore felt that another visit would be a duplication of what I have already seen in South of Scotland.

The Convener: We also have to deal with the suggestion, made informally, that the committee take the opportunity on the last of its four

evidence-taking meetings to move outwith Edinburgh. The Borders has been suggested. I cannot remember who I have spoken to on this issue, so are there any comments?

Mr Rumbles: That would be a very good move.

The Convener: In order to move outwith Edinburgh, it has been suggested that the meeting be moved from Tuesday 5 December either to the Monday or, preferably, to the Friday of that same week—the first full week of December.

17:15

Mr Rumbles: Can we do it on Monday 4 December?

The Convener: I am told that as that is a holiday weekend there may be staff difficulties on the Monday.

Fergus Ewing: Could the clerk e-mail us with the possibilities? I would find it difficult to say without my diary.

The Convener: We can do that. The other matter is the venue. A paper has been circulated that makes four suggestions: the Volunteer Hall in Galashiels; the town hall in Hawick; the Tweed Horizons Centre at Newtown St Boswells, which I understand has been used before; or the Victoria Hall in Selkirk. I understand that committees have met previously in Galashiels, while this committee has held a public meeting in the Newtown St Boswells venue.

Dr Murray: I was going to suggest Dumfries, which has already been agreed as a venue. It is within the hunting area.

The Convener: I see Euan Robson shaking his head—perhaps he thinks it should be in his constituency.

Alex Fergusson: I second that—it is a suitable location and is easily accessible from many parts of South of Scotland.

Fergus Ewing: Can I suggest that we consider Hawick or Selkirk?

Mr Rumbles: Are there more hunts in the Borders than there are in Dumfriesshire?

The Convener: Does anyone have any views on that?

Dr Murray: The whole of the Borders is affected.

The Convener: There seems to be some enthusiasm for Dumfries. Any comments against?

Fergus Ewing: If there is a suitable venue, the Scottish National Party has nothing against Dumfries.

The Convener: There seems to be a consensus on Dumfries. We will clarify a date.

Members *indicated agreement.*

The Convener: The final item on the agenda is the report on the Salmon Conservation (Scotland) Bill, which we have previously agreed to consider in private.

17:17

Meeting continued in private until 17:32.

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