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RURAL AFFAIRS COMMITTEE

Tuesday 28 November 2000
(*Afternoon*)

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RURAL AFFAIRS COMMITTEE

33rd 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

THE FOLLOWING ALSO ATTENDED:

Rhona Brankin (Deputy Minister for Rural Development)

Eileen Kennedy (Scottish Executive Rural Affairs Department)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

Mr Mike D Watson (Scottish Executive Rural Affairs Department)

WITNESSES

David Coulthred (League Against Cruel Sports)

Paul Crofts (Scottish Hill Packs Association)

Archie Dykes (Scottish Gamekeepers Association)

Mike Flynn (Scottish Society for the Prevention of Cruelty to Animals)

Peter Fraser (Scottish Gamekeepers Association)

Alex Hogg (Scottish Gamekeepers Association)

Alastair MacGugan (British Association for Shooting and Conservation)

James Morris (Scottish Society for the Prevention of Cruelty to Animals)

Mark Naisby (Scottish Hill Packs Association)

Thomas Parker (National Working Terrier Federation)

Robbie Rowantree (Scottish Hill Packs Association)

Colin Shedden (British Association for Shooting and Conservation)

Bill Swann (League Against Cruel Sports)

Barry Wade (National Working Terrier Federation)

John Waters (National Working Terrier Federation)

CLERK TO THE COMMITTEE

Richard Davies

SENIOR ASSISTANT CLERK

Tracey Hawe

ASSISTANT CLERK

Jake Thomas

LOCATION

The Chamber

Scottish Parliament

Rural Affairs Committee

Tuesday 28 November 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:09*]

The Convener (Alex Johnstone): Good afternoon, ladies and gentlemen. We are joined today by Jamie Stone, whom I welcome to the committee. John Farquhar Munro has informed me that he is likely to be late. I have received no other apologies.

Subordinate Legislation

The Convener: The first item is the consideration of subordinate legislation. First, we have two negative instruments: the Dairy Produce Quotas Amendment (No 2) (Scotland) Regulations 2000 (SSI 2000/391) and the Potatoes Originating in Egypt (Amendment) (No 2) (Scotland) Regulations 2000 (SSI 2000/393).

It would be appropriate for me to declare an interest in the first instrument, given that I hold milk quota and have been known to do the odd deal on it.

Members should have a copy of the regulations. The Subordinate Legislation Committee report was published on Friday and the relevant extracts have been posted to members. That committee made no comment on the instrument on potatoes. On the dairy produce quota regulations, however, the committee drew our attention to defective drafting points and to a potential devolution issue regarding the need for European Community approval. Are there any comments on the instruments?

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I should probably declare an interest.

The Convener: We do not want any mention of cheese, Mr Stone.

Is the committee agreed that we should make no recommendations in our report to Parliament?

Members indicated agreement.

The Convener: The next two instruments must be agreed by affirmative procedure. The first is the Mink Keeping (Scotland) Order 2000 (SSI 2000/400). I welcome Rhona Brankin, the Deputy Minister for Rural Development, and Mrs Eileen Kennedy, of the Scottish Executive rural affairs department, who has come to support the

minister.

The statutory instrument and the Executive note have been circulated to members. I will ask the minister to make a brief opening statement. Following that, I will allow questions from anyone who wishes to clarify matters. At that point, I will ask the officials to withdraw and will ask the minister to move motion S1M-1369, which may be debated prior to a decision. We can allow up to 90 minutes for that debate, although, if members are satisfied with the minister's replies, I would expect the committee simply to approve the motion.

The Deputy Minister for Rural Development (Rhona Brankin): I have been asked to keep my remarks brief because of the pressure on the agenda today. Therefore, I do not propose to go over the ground that is covered in the Executive note. My purpose is to introduce the Mink Keeping (Scotland) Order 2000. At the outset, I should say that the order does not introduce new legislation but rolls over existing legislation that will cease to have effect on 1 January 2001.

Mink have been kept for their fur in Great Britain since the late 1920s. Escapes from mink farms led to the creation of a feral population—mink were recorded as breeding in the wild in the late 1950s. In 1995, it was estimated that there were 52,000 feral mink in Scotland. Mink are semi-aquatic carnivorous mammals that are a pest in the wild, causing a threat to wild fowl, sea-bird colonies and vulnerable mammals such as water voles. They also predate on farmed fish and small livestock such as poultry. Restrictions on the keeping of mink were first introduced in 1962, in order to prevent further escapes from fur farms and additions to the feral population. Between 1965 and 1970, the Government mounted a feral mink eradication campaign. Total eradication proved to be impossible and the campaign was abandoned.

Two pieces of legislation control the keeping of mink for their fur: the Mink Keeping Regulations 1975 and the Mink Keeping Order 1997. Both are made under the Destructive Imported Animals Act 1932 and are intended to ensure that mink are kept in secure conditions. The 1975 regulations are not under consideration today. The order before the committee is concerned with ensuring that mink are kept securely to prevent their escape into the wild. It ensures that mink may be kept only under licence in certain areas of Scotland.

The Mink Keeping Order 1997 requires to be renewed to ensure that the Scottish ministers continue to have the power to prevent mink farms from being set up indiscriminately. That would ensure that any mink legally kept are retained under stringent security conditions to prevent them from escaping into the wild. Failure to renew the order would lead to deregulation of the keeping of mink.

14:15

The Convener: How many mink are kept in Scotland commercially?

Rhona Brankin: As you know, there are no mink farms in Scotland. A number of mink are kept for scientific and demonstration purposes. I am informed by Eileen Kennedy that there is only one keeper at the moment. How many animals are kept for display purposes, Eileen?

Eileen Kennedy (Scottish Executive Rural Affairs Department): One animal is being kept for exhibition purposes at the moment.

The Convener: But there is no mink fur farming in Scotland at the moment.

Rhona Brankin: That is correct. However, we are worried that, after the introduction of the Westminster bill to outlaw fur farming, fur farmers might move to Scotland. We intend to introduce legislation to ban fur farming but we do not have a slot for that in the parliamentary timetable.

The Convener: Do you believe that the instrument will give ministers the power to deal with that eventuality?

Rhona Brankin: Yes.

Alex Fergusson (South of Scotland) (Con): I come from an area in which there used to be a mink farm. When mink farming became unprofitable, the owner simply opened the doors of his cages and let the mink go. Does the order provide for punitive measures to be taken if a licence holder did such a thing?

Rhona Brankin: We will have to think about that question for a moment.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): While you are doing so, I would like to ask a question that follows from the previous answer. Has only one licence been granted to allow someone to keep mink in Scotland?

Rhona Brankin: Yes.

In response to Alex Fergusson's question, I can say that the mink keeping order that we are renewing makes provision for the secure conditions under which mink are kept. Currently, the conditions are inspected twice a year. We are satisfied that the existing order ensures that mink are kept in suitably secure conditions.

Alex Fergusson: I accept that, but I do not think that it answers my question. I am not trying to put you on the spot, but I asked whether the order contains any punitive measures to deal with a highly unprofitable licensed mink farm that opens its cages and lets the mink into the wild, as has happened in many parts of rural Scotland.

Rhona Brankin: That is covered in the existing order, which states that the mink must be kept in escape-proof cages or other containers and that, except when they are in transit, they must be kept in an enclosure or building that satisfies the requirements of the regulations. The order also states that each enclosure must have an appropriate number of cage traps in case minks should escape. I realise that you are asking about deliberate attempts to release the minks, but I stress that we intend to introduce a bill to outlaw fur farming. Furthermore, as there is no fur farming in Scotland at the moment, I am satisfied that the regulations are sufficient.

Alex Fergusson: Thank you. I see that your mink think was worth while.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Minister, you said that, in 1995, there was a recorded feral mink population of 52,000. Is it the Executive's view that mink are a pest and require to be controlled? If so, are existing measures satisfactory? Is the Executive considering any new measures in that regard?

The Convener: I am almost tempted to outlaw that question, given that it seems to have come about an hour early. Perhaps we could have a brief answer.

Rhona Brankin: We regard feral mink as a pest. Responsibility for their control rests with landowners; it is at landowners' discretion whether they wish to control feral mink on their land. Advice for landowners can be obtained from the local agricultural offices of the Scottish Executive rural affairs department. The mink keeping order was made under the Destructive Imported Animals Act 1932, which prohibits the keeping of mink, except under licence.

Fergus Ewing: Would that responsibility be affected by Mr Watson's bill, which we are considering later?

Rhona Brankin: Mink are usually cage trapped rather than hunted with dogs, so I do not think that that responsibility is relevant under Mr Watson's bill. We can clarify that for you.

Rhoda Grant (Highlands and Islands) (Lab): Why does the order treat the Isle of Arran differently from other islands?

Rhona Brankin: Some islands are being treated differently because they are mink free.

Mr Rumbles: Will you confirm that there are no current applications for mink farms and that it is not the intention of the Executive to encourage such applications?

Rhona Brankin: We would have to consider any applications, but there are no current applications for mink farms in Scotland.

The Convener: If there are no further questions, we will progress to the legislative stage. I ask Eileen Kennedy to withdraw and invite Rhona Brankin to move the motion.

Motion moved,

That the Rural Affairs Committee recommends that the Mink Keeping (Scotland) Order 2000 (SSI 2000/400) be approved.—[*Rhona Brankin.*]

Motion agreed to.

The Convener: The second order is the Welfare of Farmed Animals (Scotland) Regulations 2000 (SSI 2000/draft). We welcome SERAD officials Mary Bradley, James Douse and Mike Watson—he is not the Mike Watson who introduced the hunting bill.

Before we start on the item, I understand that there may be a couple of problems with the paperwork. Have all committee members received the appropriate papers? I received some of them in duplicate. If we are all content, I invite the minister to make her opening statement.

Rhona Brankin: When the UK held the presidency of the Council of the European Union in 1998, we introduced some important measures, one of which was directive 98/58/EC, covering the protection of animals kept for farming purposes. It is commonly known as the general farm animal welfare directive. An adoption of that measure was rightly acknowledged to be an important step forward in welfare terms because, for the first time, common standards now apply throughout the European Union. That was important not only for the resultant welfare of farm animals but for countries such as ours, which have traditionally had a high standard of farm animal welfare and have had to compete commercially with other countries where welfare standards have, in some cases, been much lower. The regulations before us implement the general directive into Scottish law. They also revoke and consolidate existing legislation in this field.

In drafting these implementing regulations, we followed four basic principles, the first of which was to ensure their user friendliness. We are conscious that a variety of people will need to use the regulations, so it was clear that they needed to be structured carefully. We decided to set out in schedule 1 the requirements that apply to all animals, with subsequent schedules containing further, species-specific requirements.

Our second principle is to ensure that we departed from the wording in the current EU legislation only when it is sensible to do so. Our third principle is to retain our national standards where they go beyond the EU requirements. Our fourth principle is to keep the burden on industry to a minimum. It might appear, on the face of it, that a new raft of measures applying to all farmed

animals would imply a cost to our industry, but I should make it clear that that is not the case, as the new measures simply put into legislation the good practice that the vast majority of our farmers already follow.

When we originally went out to consultation last June, we proposed building in three additional provisions to those contained in the directive. The first was the serving of a notice to formalise a situation that already exists unofficially. At present, state veterinary officers often send letters to farmers outlining all that needs to be done following a welfare inspection. Regulation 11 allows for a formal notice with a specified time limit to be issued requiring a person in charge of animals to take the necessary action to resolve identified welfare problems. In consultation, that was welcomed on all sides as a positive measure. We are proceeding with it, as it will ensure effective—but not more burdensome—enforcement.

The second issue relates to well-drained lying areas. It is anomalous that the existing law requires such areas for animals kept indoors but not for those kept outdoors. We thought that we should rectify that and give legal effect to a provision that was already in our statutory welfare codes.

We decided, on reflection, to leave out of the set of regulations on the third of the extra provisions that we had originally proposed—prohibiting the beak trimming of hens kept in cages. That will be dealt with under the species-specific directive.

The regulations must be seen as a welcome step forward in the improvement of farmed animal welfare. We are proud of our national standards of farmed animal welfare but we cannot be complacent about what needs to be done to ensure that they are upheld.

Mr Rumbles: The heading of the instrument contains the words “prevention of cruelty”. What is the Executive’s definition of cruelty? The instrument refers to

“unnecessary pain, suffering or injury.”

Have I interpreted that correctly?

Rhona Brankin: My understanding is that the definition used is “unnecessary pain or distress”.

Fergus Ewing: The minister referred to the fact that it was seen as desirable on policy grounds to widen the duties so that they refer to animals kept outdoors as well as indoors—we would support that. I direct the minister to paragraph 17 on page 6 of the instrument, which states:

“Animals not kept in buildings must, where necessary and possible, be given protection from adverse weather conditions, predators and risks to their health and, at all times, have access to a well-drained lying area.”

It is plain, minister, that a legal duty will be imposed on custodians of animals to protect from predators those animals that are kept outside. Does the Executive consider that Mike Watson's member's bill is compatible, or incompatible, with the fulfilment of the legal duty that will be imposed if this draft order becomes law?

14:30

Mr Mike D Watson (Scottish Executive Rural Affairs Department): The wording in paragraph 17 is "where necessary and possible". If animals such as sheep are up the side of a hill, we do not expect farmers to keep their eyes on them all the time. As I am not sure what Mike Watson's bill will say about that situation, I cannot comment on whether it would be compatible with these regulations.

Fergus Ewing: I believe that the bill will stop the use underground of various types of dogs. Many people, such as the Scottish Gamekeepers Association, which made an informal presentation to some committee members about an hour ago, argue that if the use of dogs underground is stopped, it will be difficult, if not impossible, to protect animals from predators. Does the Executive have a view on that matter? If so, what is that view?

Mr Mike D Watson: These regulations will apply to animals that are kept for farming purposes. They will not apply to wild animals that live underground.

Fergus Ewing: I know that, but we are concerned about the welfare of lambs and sheep, for example, which spend a great deal of their time outdoors. Those animals must be protected once this statutory instrument becomes law. Does the Executive believe that, in order to protect such animals from predation, it is helpful for dogs to be used underground, as they have been used traditionally, to flush out foxes to the gun?

Mr Mike D Watson: I am sorry, but I do not know the answer to that question.

Fergus Ewing: Would the Executive consider that important point, which is germane to the issues that we will consider later, and provide the committee with an answer?

Rhona Brankin: The matter that Fergus Ewing raises is related more to the bill than to these regulations.

Dr Elaine Murray (Dumfries) (Lab): Although it is tempting to talk about other committee business, I will ask about the beak trimming of battery hens, which is to be dealt with under separate legislation. In an e-mail, the Scottish Society for the Prevention of Cruelty to Animals expressed some disappointment to us that the

regulations did not deal with beak trimming. Could you explain in more detail why the decision was taken to address that issue in a different way?

Rhona Brankin: The EU directive that covers beak trimming does not need to be implemented until 1 January 2002. We are still discussing the best way of implementing that directive and will draw up separate draft regulations. Opportunities for further discussion will be available, as we will consult on the directive and the committee will have the opportunity to comment on it. The issue of beak trimming is not included in these regulations.

Mr Duncan Hamilton (Highlands and Islands) (SNP): Minister, could you clarify whether you are saying that, procedurally, beak trimming did not fit in with these regulations? In other words, is the Executive committed to prohibiting beak trimming, but just not now, or is it undecided on the issue?

Rhona Brankin: Our view was that implementing the measure would amount to gold plating, given that we do not have to comply with the directive until it comes into force in 2002. We will consult on it and will introduce regulations—

Mr Hamilton: Will you consult on the best way of bringing in such a prohibition, or will you consult on the Executive's view? In other words, are you for or against debeaking in principle?

Rhona Brankin: Our position is that there are a number of reasons why it is inappropriate to introduce a ban at present. In one sense, such a step could be seen as gold plating—there could be a compliance cost for industry that might not be borne by competitors in other European countries. The time to consider the merits of a ban is when regulations are introduced in 2002 to implement the directive on laying hens.

When that directive comes into force, we will not be obliged to ban beak trimming of caged birds. Member states are allowed to introduce derogations from a blanket ban when they consider it appropriate to do so. We intend to apply the directive's ban on beak trimming of caged hens but to allow beak trimming of hens in alternative systems. That will minimise the risk of injury to birds through feather pecking, which can be a serious problem in alternative systems. I emphasise that we will consult widely on that measure before we introduce draft regulations.

Rhoda Grant: My point is similar to the one that Elaine Murray raised. We also received representations on tail docking. Legislation says that tail docking is allowed if there is evidence of injury occurring because tail docking has not taken place. The e-mail that we received said that about 80 per cent of piglets have their tails docked. Tail docking has become the norm rather than the exception. Will inspections take place to ensure

that tail docking does not continue to be the norm?

Rhona Brankin: We intend to tighten up existing regulations. Farmers must demonstrate that there is evidence of damage before they are allowed to dock tails. We do not think that docking should be carried out as a matter of course.

The Convener: As we appear to be ready to move to the next stage, I invite the officials to withdraw and the minister to move motion S1M-1337.

Motion moved,

That the Rural Affairs Committee recommends that the draft Welfare of Farmed Animals (Scotland) Regulations be approved.—[*Rhona Brankin.*]

Motion agreed to.

The Convener: Thank you, minister.

Protection of Wild Mammals (Scotland) Bill: Stage 1

The Convener: We are ready to progress to today's most time-consuming business. It will take a moment or two to get the first team of witnesses in place, but I ask members not to leave.

I invite members to retake their seats for item 3 on the agenda, which is the taking of evidence on the Protection of Wild Mammals (Scotland) Bill. Today is the third of four days of oral evidence on the bill. Last week, we heard views on what constitutes humane and effective means of pest control and we examined falconry, hare coursing and traditional fox hunting in the light of those views.

The purpose of today's session is to continue our examination of the extent to which various activities are cruel—that is, whether they are necessary and whether they cause suffering.

I intend to hear individually the witnesses and advisers from each organisation that we have invited today. That means that we must be fairly brisk and concise with questioning to give each witness adequate and fair representation.

All members of the committee have, or will have, a copy of the full written submission that each organisation made in August. Summaries have also been circulated with today's agenda in order to avoid lengthy introductions.

We will start with Barry Wade, who is chairman of the National Working Terrier Federation. He is accompanied by John Waters and Thomas Parker, who will be able to assist Barry if we move into areas that require additional answers. I invite Mr Wade to make a brief opening statement. We will then move straight to questions.

Barry Wade (National Working Terrier Federation): The National Working Terrier Federation is extremely grateful for this opportunity to present oral evidence. We are opposed to the Protection of Wild Mammals (Scotland) Bill, which would criminalise the use of terriers to control foxes and mink. It would also affect adversely people who use terriers to control rats and rabbits, because those people would be required to justify their actions or run the risk of falling foul of the law. We believe that the bill is based on ignorance, misinformation and misguided political bigotry, and that it is influenced by animal rights, rather than animal welfare, considerations.

Until he was advised otherwise, Lord Watson, the bill's main sponsor, believed that terrier work—something that he sought to ban—is an activity that is carried out during the night with the aid of a

lamp. In fact, when he was shown video footage to clarify matters, he commented that if that was terrier work, he had no problem with it. However, here we are today, discussing a bill that seeks to ban terrier work.

The bill's supporters from the Scottish Campaign Against Hunting with Dogs allege, to justify their case, that terrier work causes mental cruelty to an animal that is trapped underground. In reality, that animal is not trapped, but living in its natural environment—the den where it chooses to live. The terrier's role is simply to flush the animal out. That is a natural process, which equates to the territorial challenges that a fox encounters throughout its natural life and which is, therefore, relatively stress free. That fact was confirmed by recent research that was commissioned by the Swedish Government and conducted by the Swedish National Veterinary Institute, in relation to the behaviour of underground mammals when confronted below ground by dogs.

SCAHD also claims that terrier work is unnecessary. In reality, it is the only method of dealing with foxes while they are below ground. That fact was confirmed by the Burns inquiry, which concluded:

"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."

The bill's supporters contend that terrier work could be replaced by ethical shooting at the fox's earth. In reality, it takes but a few minutes for a terrier to identify whether a den is occupied, but even after many hours—or even days—of observation with a rifle, one might still be unsure.

The necessity for terrier work was borne out by the Burns inquiry. It concluded that, even if a rifle is used to kill adult foxes at their earth, there is still a case to be made—on welfare grounds—for the subsequent use of terriers to ensure that cubs are not left without parental care. That opinion was reinforced by the Scottish Agricultural Science Agency, which stated:

"Young cubs cannot be controlled effectively or humanely by shooting adult foxes above ground . . . the most effective method of controlling young cubs is the use of terriers below ground".

The Scottish Society for the Prevention of Cruelty to Animals stated:

"If there is not to be a closed season (for shooting foxes), the SSPCA would have to support the allowing of terriers below ground in order to avoid cruelty".

The Convener: Can I stop you there, Mr Wade? We are keen to get on with questions, and we have the remainder of your statement before us. Is that okay?

Barry Wade: That is fine, convener.

Alex Fergusson: In the opening sentence of your submission you state:

"The NWTF is opposed to this Bill which would criminalise the use of terriers to control foxes and mink."

During earlier consideration, the Deputy Minister for Rural Development gave the committee to understand—I am not blaming the minister here—that dogs and hounds were not, to her knowledge, much used in the control of mink. Can you inform the committee about the degree to which terriers are used to control mink?

14:45

Barry Wade: Terriers are used frequently to control mink and so are hounds. Hounds from down south have visited north of the border. I used, about 15 years ago, to go to the Stair estate near Stranraer. We took hounds and terriers to control mink on that estate. We made an annual two-week visit, with a view to reducing the population of mink.

Alex Fergusson: Does that continue?

Barry Wade: No. However, terriers are used to control mink. They are particularly effective for locating mink, once they have learned their scent.

Alex Fergusson: Forgive me for addressing this question to you if you feel that it should not go to the NWTF. I am sure that all members have had considerable representations from lurcher men during the past week. Are you qualified to answer questions on lurcher work?

Barry Wade: I have owned lurchers. John Waters uses them, and might—

Alex Fergusson: It has been made plain to me in correspondence that lurcher men—as they call themselves—do not consider that their views have been represented to the committee. Can you inform the committee—as briefly as possible—about the work that lurcher men carry out and its relevance to pest control and/or to the sport-related matters that the bill affects? If you are unable to answer that, I will understand.

Barry Wade: The question is fine, although I will field it to John Waters. I point out first that John is a lecturer at the North Highland College at Thurso. That college is publicly funded, but John is speaking today on his own behalf as a professional gamekeeper, rather than as a representative of the college.

John Waters (National Working Terrier Federation): Lurchers play a very important part in pest control and have done so for hundreds of years. I saw on the television the representation that was made by the deerhound-coursing people and I saw snippets about greyhound coursing. I

have seen nothing about the use of lurchers.

A lurcher is a greyhound or deerhound crossed with some other breed of dog. It is a running dog crossed, for example, with a collie to give it some intelligence. Lurchers are widely used; I use them to control foxes. I use a pack of terriers with some beagles to hunt gorse bushes and small plantings and to flush foxes out to standing guns. The idea is to kill cleanly with one shot, but nothing is perfect and although that is okay in theory, sometimes it does not work in practice.

My terriers are only 12 in to 14 in high and would be unable to catch a fox if it went away wounded. However, behind the guns, I have guys with lurchers. If a fox got through the line of guns and was fired at and hit, a lurcher would be slipped. Lurchers are very fast and can catch and kill a fox very efficiently.

Alex Fergusson: Are lurchers used where guns are not also involved?

John Waters: Yes.

Alex Fergusson: Can one hunt foxes with lurchers alone?

John Waters: Yes—it is possible to go fox hunting with lurchers and many people do that. Many Highland gamekeepers have lurchers on the hills. If they were going over a hill and a fox raised at a distance, they would be able to slip the lurcher. A lurcher can run a fox in and kill it very quickly.

Lurchers are also widely used in rabbit control. People who go out with ferrets get lurchers to mark the holes, which tells them that there is a rabbit there. They net the holes up or stand by to shoot the rabbits and a lurcher can be slipped on anything that gets away. Those dogs provide a very efficient form of control.

Alex Fergusson: I was told in one letter that there are 11,000 lurcher owners—or perhaps lurchers. If all lurchers played a part in vermin control, I would think that that part was quite large. Is that correct?

John Waters: Yes.

Barry Wade: Lurchers are also used at night, in conjunction with a spot lamp. That is particularly effective for controlling rabbits—many rabbits are caught that way.

Dr Murray: As those who have kept terriers are aware, the term terrier covers a variety of dogs, from little Yorkshire terriers to Airedale terriers. Could you say something about the types of terriers that are appropriate for fox control? Mr Waters mentioned the use of small terriers. Do you think that those dogs would be capable of fighting a fox? What is your view of people who use more aggressive animals for fox baiting, rather

than for pest control? There might be a distinction between what you do with terriers and what other people use them for.

Barry Wade: In practice, almost any type of terrier can be used for fighting, from a Yorkshire terrier to an Airedale. The main factor is the way in which the terrier is worked, rather than its breed. That is why there is a National Working Terrier Federation code of conduct.

I will give a relatively simple example. I have no doubt that, if one loosed half a dozen Yorkshire terriers on a fox in a confined space—whether someone had dug into a block end with a spade or had transported a fox into a shed or a barrel—those terriers would attack the fox. If one loosed one large Airedale on such a fox the effect would be similar. The important factor is that terriers should be worked single-handed wherever possible.

I have worked terriers around the world and I know that their natural instinct is to stand back and bark. Their actions depend on the way in which they are worked. Next week, I will be in Germany, where terriers have been used to pursue wild boar that weigh 200 lb. If a terrier's natural instinct were to attack, as has been suggested, the end result of such an activity would be carnage—no terriers would survive that. In Germany, however, terriers do not get killed as a matter of course. It is a terrier's natural instinct to stand back and bay at its quarry.

Dr Murray: There are some people who make use of the terrier's fighting instinct—possibly in a sporting capacity—rather than its barking instinct. Is there a need for legislation to control further terrier work? Would you favour legislation that sought to control the use of terriers to ensure that they were worked single-handed and used only for pest control, to prevent people from being able to use them to fight wild animals underground?

Barry Wade: I think that Dr Murray seeks to ensure that such activities are carried out in the most humane way possible—either through legislation or through voluntary codes of conduct. It is fair to say that the code of conduct has been accepted or endorsed by almost every organisation whose members are involved in terrier work. We promote the code, as do other organisations, such as the Scottish Hill Packs Association.

Some 20 years ago, the standard in terrier work slipped considerably, but it has now moved on. The Protection of Animals Act 1911, the Protection of Animals (Scotland) Act 1912 and the Wild Mammals Protection Act 1996 all impose conditions on people's behaviour in this context. Although some of those acts are quite old, some recent court cases in which I have been involved

have shown that the implementation of the acts has changed slightly. What might have been acceptable 40, 30 or even 20 years ago, would not be allowed by the courts today. People who were prosecuted would be found guilty of many of those old activities.

Dr Murray: Is the current legislative framework sufficient to prevent the cruel use of terriers in sport?

Barry Wade: The legislation contains the opportunity to cut out bad practice—that is what has tended to happen south of the border. For example, there have been some prosecutions by the Royal Society for the Prevention of Cruelty to Animals. South of the border, if someone went on to land without permission to work their terriers and a terrier got injured, that person would be liable to be found guilty under the Protection of Animals Act 1911.

Fergus Ewing: Mr Watson's bill draws a distinction between the use of dogs, including terriers, above ground and their use below ground. Any use of dogs below ground is apparently cruel and would be made illegal. On the other hand, their use above ground is, I presume, not cruel and would be made legal in limited circumstances. If Mr Watson's bill were passed, would you be able to operate in compliance with the law—that is, could you avoid the use of terriers underground?

Barry Wade: Last week, the SSPCA made the point succinctly that, if a terrier is shown a hole, it will find some way of getting into it. That is a simple fact of life. Many of our terrier clubs run a rescue service for terriers that get trapped below ground. Today those dogs tend not to be working terriers, but pet terriers that have gone hunting of their own accord.

Fergus Ewing: One of our witnesses—Douglas Batchelor of the Scottish Campaign Against Hunting with Dogs—suggested that the use of dogs underground is cruel because it is a form of fox baiting.

Barry Wade: Fox baiting seems to be a new term that has been generated over the past couple of years. As I understand it, baiting is defined as an animal being taken from its natural environment, being made captive under the dominion of man and having another animal set upon it. Under the present laws, that practice is illegal.

Fergus Ewing: The Scottish Campaign Against Hunting with Dogs—and in particular Mr Bill Swann—put it to the committee that lamping could be used as an alternative to your practices. Lamping would not require dogs to work underground, but is lamping an acceptable and adequate alternative for the use of terriers?

Barry Wade: Do you mean lamping with rifles?

Fergus Ewing: Yes.

Barry Wade: I have a little experience of lamping—the problem is that it is not as exact a science as has been suggested. It has been suggested that foxes are almost transfixed in a powerful beam of light, but that is not the case. Foxes are less cautious under cover of darkness and so, instead of using cover as they would in daylight, they will be out in the middle of a field. Spotlights are used to find out where the foxes are—the lights catch the reflection of their eyes rather like cat's-eyes on the road. At that point, one would attempt to call the fox into close proximity by sucking the back of the hand to imitate the call of a wounded rabbit, so that the fox could be shot. Foxes—particularly older cubs—will tend to come running to that noise.

However, once a fox has been shot at and missed, it learns very quickly that the lamp is a danger signal and becomes what we call “lamp shy”. I have found many times when I have been out at night with a lamp that, as soon as the light is flicked on, the fox either runs away or becomes very suspicious in his behaviour and starts to use cover.

Fergus Ewing: When he described the process of lamping, Mr Swann said 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.”—[*Official Report, Rural Affairs Committee*, 14 November 2000; c 1322.]

What are your comments on that?

Barry Wade: I know that Mr Waters would like to comment. There are professionally produced videos by experts in lamping, which show foxes that have been injured, but which are still alive.

15:00

John Waters: Barry Wade said that he does not have much experience of lamping. However, he has explained the situation perfectly to the committee. I do quite a lot of lamping and I know that the perfect shot—the mythical marksman who can hit everything—does not exist. If he does, I have never met him. A fox can be fired at and missed. As Barry Wade said, he then becomes very lamp shy, so that one has a devil of a job getting him.

If a fox is lying in cover during the day, that is the time to hunt him out. If lamping is done at night, the fox can be wounded—even by the best shots. When I go lamping, I take a dog with me. If there is any chance that a fox has been wounded, I track him down with the dog. Without the dog, I would not be able to find him.

Barry Wade: I would like to correct my colleague. In fact, I have done quite a bit of lamping.

Fergus Ewing: Thank you for that correction.

The SSPCA has suggested that a way forward might be to have a close season, during which control of the vixen population would be prohibited. How effective do you think that would be?

Barry Wade: In practice, the season that the SSPCA is arguing should be the close season is the season during which, typically, there is the greatest need for control. It is the time when most damage is being done and when birds are nesting. I am sure that John Waters will want to comment from the point of view of a gamekeeper. Tom Parker is also fairly actively involved in that side of things.

John Waters: Dr David MacDonald did an in-depth study of the red fox and concluded that one of the best times for controlling it is den time. Professor Peter Hudson, who worked for the Game Conservancy Trust for 10 years, wrote a book called "Grouse in Space and Time". He said that spring was the best time to control foxes to preserve ground-nesting birds. He added that year-round control of foxes was essential to maintain numbers of game birds and other ground-nesting birds. Some of the greatest predation can occur in winter, with the result that insufficient breeding stock is left over to the following spring.

Thomas Parker (National Working Terrier Federation): We carry out a systematic programme of fox control, mostly in the central belt. We operate on a four to six week programme, visiting the farms that have called us in. Our highest number of call-outs comes during spring lambing, when there is a high incidence of farmers finding occupied earths. Farmers tend not to notice the earths until they see signs of occupation. That is when the phones start ringing.

Cathy Peattie (Falkirk East) (Lab): Would you describe terrier work as pest control or as a sport?

Barry Wade: I would describe it as pest control.

Cathy Peattie: I am interested in the issue of cruelty. You may have heard Mike Rumbles ask the minister to define cruelty. Do you think that terrier work is cruel? How would you define cruelty?

Barry Wade: The legal definition of cruelty is the causing of unnecessary suffering. The courts have interpreted that as meaning that, if suffering occurs for necessary reasons, no cruelty has occurred.

I have no wish to see my dogs injured at any

time. While I am in Scotland, my wife does not sleep very well, because she does not like to be on her own. My working terriers sleep on my bed when I am not there—they are very much part of our family. I have no vested interest in seeing those dogs injured in any way.

Terrier work is carried out in accordance with our code of conduct, which was drawn up by people who had considerable experience, and every word was agreed by a large committee of terrier men. A hell of a lot of experience went into drawing up that code of conduct, which minimises the risk of injury to either the terrier or its quarry.

The accepted indicators for cruelty are factors such as body temperature and heart rate, which were talked about last week. As I mention in our detailed submission, research was conducted in Sweden in January, whereby badgers were implanted with remote transmitters. Measurements were taken on a computer that was located 5 m away and the variations in body temperature and heart rate were recorded. The measurements that were registered when a terrier entered the artificial earth that contained the badger were similar to those that were recorded during that animal's normal functions such as feeding. Some of the highest measurements during the test were recorded when the badgers were caught up and put into the box that they were transported in from the enclosures to the artificial sets. The conclusion was that there were no visible signs of stress using the accepted scientific indicators.

We contacted the chief veterinarian in Sweden in May 1999 to ask his opinion on the relevance of those tests, given that they were conducted on badgers rather than foxes. In his opinion, the situation was the same for foxes. Badgers were used in the experiments only because they were easier to keep in captivity.

Cathy Peattie: We have received reports—although probably not concerning organisations such as yours—of terrier men whose terriers suffer frequent, sometimes fatal, injuries. What are your thoughts on that? Elaine Murray asked earlier about the need for legislation and regulations to ensure that such injuries are not sustained. What is your view on that?

Barry Wade: Standards in terrier work slipped badly some 20 years ago. We addressed that through establishing our code of conduct, and the standard of terrier work that is carried out today is probably higher than at any time in living memory.

Thomas Parker: Was that report based on terrier work in Scotland?

Cathy Peattie: Scotland and Wales.

Thomas Parker: I have worked terriers in Scotland for more than 30 years and I have never

seen a fatality when terriers have been worked properly. Injuries are minimal: there is no future in having an extremely valuable animal damaged. On the issue of cruelty, the fox must be killed as swiftly and humanely as possible, and we try to control the environment so that that is generally what happens.

Barry Wade: I am aware of the reports that have been issued by people who are opposed to hunting with terriers. Some of those reports date back 20 or more years and are taken from written material that is not relevant today.

John Waters: I know of no one who carries out pest control in the Highlands or in my area who goes round fox dens—as they do in the springtime—wanting their terrier beaten, chewed and mashed up so that it cannot be worked again. They want a terrier that can be worked from day to day. The intention is not to have a battle underground; the intention is to bolt the fox, shoot him, and get home.

Barry Wade: When foxes are lying naturally below ground, they are very susceptible to being bolted. As a child, I used to rabbit a lot with my father. On more than half a dozen occasions, I have put a ferret—which is only a small thing—into a rabbit earth, and a fox has bolted. He has been lying there quietly but, at the slightest disturbance or threat, he has bolted. I have many friends south of the border who are hunt terrier men and go out earth stopping of an evening. Just throwing soil into the mouth of a hole will frequently make a fox bolt. It is very easy to bolt a fox that is lying quietly in his earth.

The Convener: I am keen to get on to our next witness and to get through our afternoon's work, but a few people would like to ask questions.

Mr Hamilton: A number of my questions have already been answered. I take the point that the use of a combination of dogs is the quickest and most humane way of doing the work. It would help the committee—and possibly take some of the heat out of the debate on this bill—if we felt that best practice was being adopted for terrier work. If standards are at the high level that you suggest, why have only 25 per cent of the people involved signed up to the voluntary code? You may want to dispute that figure; it was supplied by the SSPCA. Might professionals in your line of work accept legally binding national standards, which could be monitored and enforced? Would that not be a way of allaying people's fears about cruelty?

Barry Wade: The figure of 25 per cent is our own figure so we do not disagree with the SSPCA on that. The National Working Terrier Federation is made up of virtually all the major terrier clubs in England, Scotland and Wales. Other professionals, such as gamekeepers, have their

own organisations. In practice, all those organisations have endorsed or adopted the National Working Terrier Federation's code of conduct, so the percentage of people who work according to that code is significantly higher than 25 per cent. The percentage will, in fact, be very high.

Mr Hamilton: Is the 25 per cent figure for Scotland or the UK?

Barry Wade: It is for the UK. I will give you some examples: the Scottish Hill Packs Association has adopted the National Working Terrier Federation's code of conduct; the Scottish Gamekeepers Association, like its colleagues south of the border in the National Gamekeepers Organisation, has endorsed it; and the British Association for Shooting and Conservation and the Master of Foxhounds Association have taken it on.

Mr Hamilton: If so many of them have already adopted it, it will be relatively easy to make its standards apply nationally, without any great loss to anyone.

Barry Wade: I would not disagree with that. In your original question, you suggested that statutory regulation might be better than voluntary regulation. We have no power to make things statutory; we operate a voluntary regulation system. We drew it up as a yardstick because we realised that the day would come when mainland UK might well come into line with the rest of Europe, where they tend to have licensing. We felt that it was important to have a code that people could adopt.

We have also heard oral evidence of another code of conduct for terrier work and a voluntary licensing system. The SSPCA referred to that last week and said that no adverse comments had been received. That is true. However, no practitioners have been consulted on that code of conduct or the voluntary licensing system. We support the code of conduct that we operate, which we believe to be practical. Furthermore, our code is very professional because it was drawn up by practitioners.

15:15

Thomas Parker: I am a constituent of Mike Watson. I spoke to him at his surgery and he mentioned the other code of conduct that had been drawn up. I had already seen that code and told him that it was totally unworkable. However, I asked him to send me a copy of that code anyway. He sent me a copy of the National Working Terrier Federation code of conduct. I do not know if Mike Watson was confused between the two codes or if he thought that ours was the better one.

Rhoda Grant: You said that foxes often bolted when you were blocking up the earths. Why would you block up the earths?

Barry Wade: I would not block them up, but I have friends who are terrier men who would. South of the border—perhaps north of the border too—it is perfectly legal to block badger sets to prevent terriers from entering them during the day's hunting. Where the idea is to catch foxes with hounds, people are employed as earth stoppers or hunt terrier men and they are authorised to block lightly the entrances to badger sets. Sometimes foxes lie in the entrances to those sets and if one entrance has been blocked by loose soil the fox will bolt from another entrance.

Richard Lochhead (North-East Scotland) (SNP): I have a question for Thomas Parker. You mentioned that you do not work in particularly remote areas, but that you work for farmers.

Thomas Parker: That is correct.

Richard Lochhead: I presume that gamekeepers mainly control pests on estates and that, as you run your own pack, you are called out by farmers, who ask you to come and deal with foxes that are causing a problem.

Thomas Parker: Yes.

Richard Lochhead: Is that run as a business?

Thomas Parker: No, it is voluntary. We have worked in conjunction with the Institute of Terrestrial Ecology as well as with farmers. We have provided the institute with a lot of data, including six-figure map references for the location of fox earths and badger sets. That work was carried out in the 1970s to aid the institute with contingency plans in the event of an outbreak of rabies. I mapped out every fox earth and badger set of which we had knowledge at the time. I also included the dates on which we took foxes from those places. All that information was passed to Dr Kolb at the Institute of Terrestrial Ecology. I understand that the institute has since been burned down by animal rights activists.

Richard Lochhead: Do you derive income from terrier work? Do farmers pay you?

Thomas Parker: At one time in the mid-1970s we derived an income from fox pelts. However, our main activity is the breeding and working of terriers. It is a barter system. We began as a group of guys who went out shooting. When we were dealing with pests such as rabbits and pigeons, the farmers asked us to control foxes as well. That is why we added an extra tool to our box. The farmers contact us because we are known to be efficient.

We have a long-standing reference from the

Kilmarnock and Loudon branch of the National Farmers Union of Scotland. That branch introduced us to farmers and gave them numbers to contact us if they were having problems at lambing time. We are trustworthy, we know what we are doing and we implement a systematic programme of pest control.

Richard Lochhead: Farmers will phone you up because they know that you are efficient. However, you will not be paid for it.

Thomas Parker: We will not be paid for it.

Richard Lochhead: Do you take the dogs out only when a farmer calls you?

Thomas Parker: No. As I tried to explain, once a farmer contacts us, we institute a systematic programme. We check the earths on his ground every four or five weeks during the winter months. We do it at that time because the cover is down and the holes can be found more easily.

Richard Lochhead: We are trying to sort out which activities are sports and which are legitimate pest control.

Thomas Parker: We are involved in pest control.

Richard Lochhead: Do you consider what you do as a sport?

Thomas Parker: No. My sport is fishing. The activity that I am talking about today is pest control. Also, it allows me access to places to fish and places to shoot. In the countryside, we work an effective system of bartering.

The Convener: I thank our witnesses for their assistance and welcome the next group of witnesses, who represent the Scottish Hill Packs Association: Robbie Rowantree; Mark Naisby, who is the secretary of the organisation; and Paul Crofts, who is the chairman.

Robbie Rowantree (Scottish Hill Packs Association): On behalf of the SHPA, I thank the committee for inviting the practical, hands-on guys to give evidence today.

When we were invited, we asked ourselves why there are hill packs; we decided that it is because there is a need for them. The Government recognises the need for this form of pest control and funds it accordingly: SERAD pays a grant to the association members. Estates, farmers and crofters pay subscriptions and call-out fees even when agricultural incomes are at an all-time low. That is because hill packs provide a highly effective means of fox control that complements the other necessary control methods.

In the past 50 years, fox numbers have risen inexorably. There are fewer shepherds and keepers in our straths and glens; moreover, since

1959, the Forestry Commission has planted 1.1 million acres of trees and there has been extensive private planting. In all those circumstances, the hill pack is the most effective way of controlling the predators in difficult and impenetrable terrain that is often a haven for foxes.

We want to stress the fact that, in this essential form of predator control, it is always our intention to minimise suffering. Hunts are always ended as quickly and humanely as possible.

The Convener: You mentioned the fact that you hunt in difficult terrain. What type of terrain do you cover apart from the densely forested areas? Do you work steep and uneven ground as well?

Robbie Rowantree: The two huntsmen with me work on steep and uneven ground: one in Argyllshire and the other in Inverness-shire and Sutherland. They are better equipped to answer that question than I am.

Paul Crofts (Scottish Hill Packs Association): The average size of the woods that we work in is between 100 acres and 3,000 acres. In big woods, the guns go inside the wood and try to shoot the fox as it crosses a ride. In the smaller woods, the guns are outside and try to shoot the fox as it is flushed out of the wood.

The Convener: So the job of the foot pack is to flush out foxes to guns.

Paul Crofts: That is the primary intention. The fox is shot at the first opportunity. Occasionally the hounds catch the fox above ground; that is also part of what we do.

Fergus Ewing: In his evidence to the committee on 14 November, Bill Swann of the Scottish Campaign Against Hunting with Dogs suggested that the Scottish Hill Packs Association could operate without needing dogs to go below ground. Would that be possible?

Mark Naisby (Scottish Hill Packs Association): No. We could not operate without using terriers below ground. The farmers and other people who subscribe to these schemes see them as a total fox control operation. If a fox goes to ground, that fox must be dispatched. We must have the means of dispatching foxes that go to ground.

Fergus Ewing: I want to put to you the proposition that I put to the witnesses from the National Working Terrier Federation: that lamping might be an acceptable alternative. Is that the case? I would like you to talk specifically about the type of terrain in which you operate. I am thinking of forests and upland terrain.

Robbie Rowantree: I work as a gamekeeper on an estate where two of us cover about 45,000

acres. Without a dog, it is almost impossible for us to locate foxes. Lamping has its limitations, and those limitations are increasing. In the early days, when I was a teenager and we shot foxes in the spotlight, they were reasonably easy to get, because the technique was new. However, foxes have begun to learn from one another that a spotlight is bad news. In the early winter, pairs run together. If we shoot one fox in a pair and the other witnesses that shooting, it realises that spotlights mean danger. From that point, it will not sit in a light. If a vixen escapes with cubs that are big enough to walk at foot and she sees a light and panics, she will educate her offspring to be light shy. Lamping is not a 100 per cent effective technique for fox control. In thick cover, such as woodland, lights do not work. We cannot use a spotlight in trees.

Fergus Ewing: The SSPCA has proposed a closed season—presumably in spring, although we are not sure what time limits, if any, the society would want to place on a closed season. How would that affect your activities?

Robbie Rowantree: For me, as a working gamekeeper, a closed season for fox control would be a disaster. I would be unable to control foxes effectively.

Fergus Ewing: The SSPCA argues that autumn and winter are the most effective times for fox control.

Robbie Rowantree: That flies in the face of all the evidence, particularly the work done by Dr David MacDonald of Oxford University. He said that the most effective time for fox control is when the vixen can be located successfully, at the breeding den.

Mr John Munro (Ross, Skye and Inverness West) (LD): I am sure that you appreciate that the issue of fox hunting raises a number of questions, some of which remain unanswered. There are a lot of fancy ideas about the activity. It has been suggested to us that hunting with dogs is a sport. At the outset, I was inclined to accept that proposition, because I was thinking merely of hunting with horses and hounds. I was not thinking of the Scottish Hill Packs Association. Do you regard the activity that you undertake with your hill packs as a sport or as a necessary part of the conservation of the countryside? I am sure that when you flush a forest or a plantation, you do so at the invitation of the owners and that it is not an organised day for sport.

Robbie Rowantree: I can answer your question in two parts. First, as a working gamekeeper I employ the three straths fox pack to hunt on my ground. When I am doing my work, I invite Mr Crofts to come with his hounds to do his work. If someone regards their job as sport, they are very

fortunate. I happen not to. For us, this is a simple predator control exercise.

As we explained, a number of guns are needed. We tend to work on a swapping basis, whereby two of us will go to the help of our neighbours when they hunt the pack on their ground. Two of them will then come to us and so on. I may hunt 10 or 15 days in a year, only two or three of which will be on my own ground. On the other days, I am paying back neighbours. I am salaried when I am doing that, so it is a job of work rather than a sport.

Mr Munro: When hunting is carried out with horses and hounds, the untimely death of the fox occurs when the hounds eventually catch up with it. In the plantations, the forests or the grounds where you operate, have you ever known a hill pack dog to catch a fox?

Robbie Rowantree: Yes. On occasion, the hounds will catch foxes. One of the advantages of that is that, in the event of a wound, there is a guaranteed kill when the hounds catch the fox. As an effective method of control, what we do is unsurpassed in the woodland situation.

15:30

Mr Munro: I know from experience that the fox is a wily old character. When he hears the hill pack away in the distance, he can usually keep himself well in advance of the pack in a woodland situation. Is that your experience?

Robbie Rowantree: I have seen a number of foxes shot when they have been hunted in woodland. The fox keeps in front of the hounds as best he can, but he runs into the line of guns and is shot.

Dr Murray: I would like to ask about the selectivity of the different methods of hunting when a farmer is having problems with a specific fox rather than with foxes in general—it may be a rogue fox that is predating lambs. How do you rate what you do—in terms of being able to locate and destroy a specific, rogue fox—compared to the other methods that have been mentioned, such as lamping?

Robbie Rowantree: As a gamekeeper, I would say that all foxes are rogues. The hill pack can also be effective in a lambing field. Mark Naisby will have had more experience of that, as most of his subscribers are hill sheep farmers in Argyllshire. The hill packs can go to a place where a fox is killing regularly, pick up its scent, track it to where it is laying up and deal with it accordingly. Is that correct, Mark?

Mark Naisby: That is correct. In one place that I cover every year, there is lamb killing. The farmers phone me up when they lose even one lamb. They are good at animal husbandry; every lamb is

marked and they know when one has gone. Straight away they will ask whether I can come down in the morning. They will often ask me to bring a dozen or 15 hounds, as they know where the fox is coming from. I take my hounds and unbox them, and the farmers tell me exactly where the lamb has gone missing. A drag is taken away and the hunt usually ends up in the forest. The same farmers will have arranged for neighbours to turn out with guns, and the fox is either shot or put to ground for the terriers to dispatch.

Dr Murray: Would the alternative methods, such as lamping, which are preferred by some of the organisations from which we have taken evidence, be equally selective in picking out the foxes that are causing problems?

Mark Naisby: We usually take the lamp to the place that I am talking about, but in that area people do quite a lot of lamping and the fox is usually lamp shy. There are not many gamekeepers in my area, and some of the people who go lamping are not professionals.

Dr Murray: Many people in my constituency follow the mounted hunts by foot, in cars or on horseback. They enjoy the spectacle, which they say is not the killing of the fox but the use of the dogs. When you take the hill packs out, do people come to watch them working?

Mark Naisby: No.

Robbie Rowantree: Imagine standing on the top of a hill in Sutherland in January—it is not very popular.

Dr Murray: So, what you do is purely a matter of pest control.

Mark Naisby: In Argyll, in the past eight weeks, I have had two dry days. I am sick of drying out waterpools. People do not go to the hunt for fun.

Mr Hamilton: In your submission, you mention Government funding; I am sure that many people will not have realised the extent of Government funding for the packs. You say that there are

“39 Fox Destruction Associations, of which 32 are part funded by the Scottish Executive.”

Is that correct?

Mark Naisby: That is correct.

Mr Hamilton: Can you give us a sense of the amount of money that is involved? You said that the amount of Government support had been cut recently.

Paul Crofts: Until three years ago, when the Labour Government came to power, we received 50 per cent of all our costs—if we spent a pound, the Government gave us a pound. That funding has been cut. We are given 50 per cent of our costs for three months of the year. The three

months of the year that are stipulated are February until the end of April or beginning of May, which is the breeding season for foxes.

Mr Hamilton: Has there been any discussion about the impact of the bill on future funding? Under the bill, what you do will not be allowed, so presumably your funding will end.

Paul Crofts: As you can imagine, it was a big shock to lose the funding of 50 per cent of our costs. That loss was made up only because people who subscribed to the hill packs put their hands in their pockets and continued to pay for what we do.

I would like to pick up on a previous question. It is not only pest control that is going on. People pay us to hunt for the day. Sport does not come into it at all. People pay for a service, which is what we provide.

Mr Hamilton: My second question is unrelated to my first, other than that it involves Government agencies. I think that you mentioned the Forestry Commission. I understand that the Forestry Commission has no form of pest control on its land and does not allow hunts. If the bill is passed, there will be a major impact there, too. Could you say more about that?

Robbie Rowantree: I can answer that because my brother is a chief ranger with the Forestry Commission, so I have inside information.

Mr Hamilton: Two for the price of one.

Robbie Rowantree: The Forestry Commission will act on complaints from a neighbour if there is a fox coming out of its land to predate on livestock. It is not quite so helpful in cases of predation on ground-nesting game birds—there is more argument about that. Many decisions are left to the local line manager—the forest district manager—who can decide whether to give packs access to his ground. They tend to stipulate the presence of an independent scrutineer to ensure that reasonable levels of animal welfare are maintained.

Rhoda Grant: When you locate a fox, what is your usual success rate in dispatching it?

Paul Crofts: Over a season, we will account for 90 per cent of the foxes that we find. I estimate that 80 per cent of those foxes will be shot dead; 10 per cent will be peppered and wounded, and will be caught by the hounds; and 10 per cent will be caught by the hounds under their own steam.

Rhoda Grant: We have heard a fair amount of talk about voluntary codes of practice and licensing. I dare say that you already have voluntary codes of practice. How do you feel about them? How would you react to their being legislated for and put into a licensing scheme?

Robbie Rowantree: Our submission addressed the licensing. We follow a fairly rigorous code of conduct, which is scrutinised in places such as Forestry Commission land. Our only concern about licensing was that any licensing operation under Lord Watson's bill would have to be self-financing. As we have explained, our grants have been cut and we are struggling financially. Placing on us the burden of a licensing system with open-ended costs could be punitive; it could lead to our being abolished because we would be too expensive. Making it unviable for us to operate could be a back-door way of banning us. The details of any licensing system would have to be made clear before we could say yes or no to it.

The Convener: As there are no further questions, I thank the witnesses for their time. They have been very helpful.

Robbie Rowantree: Thank you.

The Convener: Our next witness is Alex Hogg, chairman of the Scottish Gamekeepers Association. He is accompanied by Archie Dykes and Peter Fraser. Would you like to make a brief opening statement, Alex?

Alex Hogg (Scottish Gamekeepers Association): Good afternoon. Thank you for asking the Scottish Gamekeepers Association here to discuss the Protection of Wild Mammals (Scotland) Bill. I am Alex Hogg, the chairman of the association. On my left is Archie Dykes and on my right is Peter Fraser.

We are wildlife managers, charged with protecting Scotland's rich biodiversity and maintaining a balance to benefit wildlife and rural communities. We take that responsibility seriously. The fox, for which we have the greatest respect, is a cunning and intelligent predator. It has a strong instinct to survive and a sixth sense that humans have lost. The hill fox is a particularly difficult animal to control. Losing use of our dogs would mean an even greater rise in the fox population, with devastating consequences for wildlife.

In the past two weeks, I have attended the committee's meetings and heard the phrase "mental cruelty" crop up time after time, yet nobody seems able to define that phrase or to show that a fox suffers mental cruelty when chased. The concept of necessary suffering has also arisen. From the evidence that we have heard so far, it appears that it is fine for one type of mammal to suffer, but not for another. However, it has been established that fox numbers need to be controlled in many areas.

What constitutes the acceptable suffering of any animal? We are not scientists, but we are professionals. We have no doubt that what we do benefits the broad spectrum of wildlife, and that our predator control methods are necessary and

humane. A fox has no preconceived notion of the threat that a dog might pose, but it understands instinctively that man is its predator. Human scent is anathema to a fox. Only its instinctive desire to kill emboldens it to risk encounters with man.

The SGA committee has combined experience of more than 500 years of working in the countryside. We all agree that one of the worst cases of mental cruelty inflicted on a fox was depicted in a recent well-known and popular vet programme on family television. We were entertained to the sight of a truly terrified fox that had been covered in oil; it was taken to a vet's surgery, examined by a human and repeatedly washed. Between the washing and further examination sessions, we saw the creature immobilised in a cage and stricken with fear. From the fox's perspective, that prolonged handling must have been as bad, if not worse, than being chased by a hound, yet that is considered acceptable suffering, in the name of good television.

The mental cruelty incurred by a hound's chasing and killing a fox or by a terrier's bolting a fox from underground to an instantaneous death by waiting marksmen is no more stressful or cruel than any other compromising situation in which the fox might find itself. The fox cannot intellectualise the concept of death or differentiate between levels of danger. I know that if my car skids off the road and into a ditch I may sustain bruising and that if my car skids off the road and over a cliff I may be killed. The fox is incapable of making such distinctions.

We ask the committee to take seriously the petitions that call for an investigation into the long-term economic, environmental and social impacts of the bill on rural communities. Our unique countryside and biodiversity is our legacy for the generations to come. It is the Parliament's responsibility to ensure that those generations can enjoy it tomorrow as we do today.

15:45

Mr Rumbles: When Mike Watson gave evidence to the committee, he made it clear that the general principles of his bill were aimed at ending mounted hunting, hare coursing and terrier work. We are focusing on that third element. He said that the real purpose behind his bill was to end cruelty and cruel practices. This afternoon, we heard the Executive's definition of cruelty, which was unnecessary pain or distress. I want to ask the Scottish Gamekeepers Association whether it feels that, in the pest control operations that it carries out, it is engaged in a practice that causes unnecessary pain and distress.

Alex Hogg: We always try to carry out our

operations to the best of our professional capabilities. Gamekeepers look after animals—we have dogs and pets, and we see to a wide range of wildlife throughout the year. We would never want to be unnecessarily cruel to any animal.

Mr Rumbles: This question is directed at Peter Fraser, who is a gamekeeper at Invercauld in the Cairngorms, in the uplands of Scotland. If the bill goes through, what would be the effects on your work, and on the landscape and the environment, over five or six years?

Peter Fraser (Scottish Gamekeepers Association): If we are not allowed to put a terrier below ground, our fox control will cease. You can kill a few foxes with a spotlight and a few with a snare, but the terrain that we work in is a large area of 40,000 acres. There are big fox cairns and many sand earths. If we are not allowed to control foxes, their number will rise, which will have a disastrous effect on all ground-nesting birds. We still have some capercaillie in our area, which will suffer.

There will be a knock-on effect—jobs will go. Our area depends on grouse moors, which take in sporting clients from all over. If there is no surplus of grouse every year, within a few years men will be laid off. The bill will have grave consequences for everybody who is involved in our type of work.

Mike Rumbles: We saw some of the landscape when members of the committee went up to Braemar. For the benefit of those who did not, will you explain whether there are any real alternatives to the use of dogs on the slopes of those large hills? Are shooting and snaring real, practical alternatives or do you really need to use the dogs?

Peter Fraser: We have sheep and deer where we are. We have to think carefully about where we set our snares—we are greatly limited in that. The spotlight was a success early on, after the gin trap was banned. We killed quite a few foxes, but if you miss a fox it learns not to stop for a second shot.

If there was anything we could try, I think we would have done it by now. I get no pleasure from lying out on the hillside for days on end at a fox den, freezing my backside, shivering, wet and thoroughly miserable. If we could do something else, we would have done it by now.

Dr Murray: Are there times of year when there is greater need of fox control? When do you find foxes the greatest problem?

Alex Hogg: Spring is when the need to control foxes is greatest. Birds that nest up a tree are safe, but curlews, ring ouzels, lapwings and grouse all nest on the ground, so they are defenceless. The fox has to rear cubs in that area. A lot of people in the room today will have owned puppies and will realise how much food they need

to get them to eight weeks old. Imagine the vixen hunting to feed her cubs. She devastates the wildlife within two or three miles of her den.

Dr Murray: So a nursing vixen might be the greatest nuisance in respect of wildlife, lambs and so on?

Alex Hogg: Yes—and she has her husband; she has got the dog.

Dr Murray: That brings me on to the problem with orphaned cubs, which the committee has discussed a couple of times. There is a likelihood that in controlling foxes that are causing a nuisance you will sometimes orphan cubs.

Alex Hogg: Are you asking me how to deal with those?

Dr Murray: I know that they are often dealt with by dogs. Bill Swann made the point in an e-mail that it is kinder to allow the fox cubs to die underground than to use a dog to locate them and dispatch them. What is your view on that?

Alex Hogg: How would you feel if you were left to starve to death in a room over a period of two or three weeks? It is much kinder to dispatch them with terriers.

Dr Murray: That was not my view. It was a view that was put to members of the committee by somebody else.

Bill Swann also put another view to us. I quote from his e-mail:

"The use of terriers to kill cubs is, in my experience, done solely to increase the 'head count' of foxes killed and in no way relates to attempts to match earths, containing orphaned cubs, to shot vixens".

Is that true?

Alex Hogg: Can you repeat that question?

Dr Murray: He is saying that in his experience—he is a veterinary consultant to the RSPCA—the use of terriers to kill cubs is done solely to increase the head count of foxes killed. He is saying that terriers are being used to bump up the cull of foxes and it is not a co-ordinated attempt to ensure that cubs who are orphaned are targeted.

Alex Hogg: That is a lot of nonsense. Most times when we are at a den and we bolt a vixen, the cubs are with her in the den. We are not trying to bump up the number of foxes killed. We are there to do our job and control them.

Dr Murray: So the vixen and her cubs are generally killed at the same time.

Alex Hogg: Yes, usually. On odd occasions a vixen may be shot in the spotlight, but 90 per cent of the time she will be with the cubs. That is why we go round the cubs at cubbing time. We always set our date at about 15 April. That is when she

will be with the cubs. If she were not with the cubs, she would have to come into the den in the early morning or late evening. We would wait and shoot her with a high velocity rifle or a shotgun.

Mr Stone: I thank you, convener, especially as I am not a member of the committee, although rumour has it that I might be shortly.

I have heard people such as Mike Rumbles and John Farquhar Munro put forward eloquently the effect that a ban might have on rural jobs such as Mr Fraser's. Have you thought through the economic consequences?

In Caithness and Sutherland, we get some rich and grand people such as Alex Salmond, who appeared briefly and spoke to Mr Robbie Rowantree. I think he thought today was Wednesday, not Tuesday, as he did not stay around for long. Such people spend a lot of money—especially their wives, who go to the tweed shops and buy local produce. That is a good thing in remote areas. Have you quantified the potential financial loss to those areas if people are discouraged from visiting due to a perceived drop in the quality of shooting and sporting?

Archie Dykes (Scottish Gamekeepers Association): An American gentleman, who is a professor of biology, has shot with us for about 20 years. He is interested in the Watson bill and its effects on the rural economy. He estimated for me this year that his group alone has spent £3 million over the past 20 years. That is just one group, who come with their wives, stay in hotels, go shopping and the rest of it. If you multiply that out by the other groups, it would amount to a considerable amount of money.

Mr Stone: Will you advance that argument more loudly in future, or have you done so already? I ask because the argument is new to me.

Archie Dykes: Yes. From the mathematical point of view, if there are more foxes, there will be less game, and if there is less game, there will be less sporting income from visitors. It is as simple as that: less game means less income and less money with which to provide jobs.

Mr Stone: I do not know the answer to this question, and I will forgive you if you do not know it either, but if the fox population rises, what will be the effect on other carnivorous mammals such as badgers? We have heard about the effect on birds, such as ring ouzels, but what about badgers and otters? Have you done sums on an increase in foxes leading to a decrease in the food supply?

Archie Dykes: No; we learned that badgers in big sets will share the set with foxes. It is not unknown for that to happen when there are a number of holes in a set, and foxes may cub in the same holes as badgers. However, while they can

live together relatively well, a badger will usually send a fox packing if it is not welcome. As to the effects on the animals if they live in the same area, the fox is probably more resourceful than the badger as far as food is concerned.

Richard Lochhead: Given that you use a variety of dogs in different circumstances, but have mentioned only terriers and their use underground, is it fair to assume that gamekeepers would be able to carry out the pest control part of their job if they were allowed to continue to use terriers underground? Do you see a need to use other dogs in different circumstances?

Alex Hogg: Most gamekeepers have terriers, but some have lurchers. As you can imagine, we would definitely still need the hounds to carry out our job properly in large tracts of forest and in the other areas that you have heard about.

Richard Lochhead: Is it safe to say that you could carry out effective pest control by using terriers underground?

Alex Hogg: Yes, but we would still need to use other types of dog in the battle against the fox. It would be a big plus for us if we could use our terriers underground. If an estate has large tracts of forest next to it, hounds are needed.

Richard Lochhead: Are they needed to flush out the foxes so the foxes can be shot?

Alex Hogg: Yes.

Richard Lochhead: What are Peter Fraser's comments? I presume that, in Braemar, the area is mainly hilly but that it also has some wooded land.

Peter Fraser: As Alex Hogg said, we need to use a variety of dogs for different work. We would definitely be stuck—we would be finished—without the terriers and the foot packs. There is no way we could operate without the foot packs. In our district, as in many others, we have large areas of forest. The Forestry Commission no longer controls foxes unless a neighbour complains. We must have different dogs for different uses—it is as simple as that.

I work dogs to run the ground when I am looking for fox earths. If we have a problem and cannot find the earth, I work two terriers over perhaps 200 or 300 yds around me. If, should the bill become law, the terriers were to pick up a fox's scent and go back to a cairn or a sand hole, I would be breaking the law—there is nothing I can do about that. Our job will be much harder if we cannot use terriers and hounds.

Richard Lochhead: Do you use hounds in Braemar?

Peter Fraser: Yes.

16:00

Archie Dykes: An aspect of terrier work has not yet been mentioned. Often you cannot tell whether a den is occupied; with more and more hillwalkers appearing in the hills, a growing problem is that a vixen will shift her cubs if one comes within a quarter of a mile of a den. Although there might be carcasses lying about, she will be gone. A vixen disturbed in that way will often split her cubs up and put them in two or three different places. Without terriers, it would be impossible to find them, as she can pop them in any handy hole.

Alex Hogg: I endorse Archie Dykes's comments. Our grounds are covered in rabbit holes. It would be impossible for me to find out which hole the fox is in without my terriers.

Alex Fergusson: Before you took the stand—so to speak—Robbie Rowantree told us that, as a gamekeeper, he sees every fox as a rogue fox. Do you agree?

Alex Hogg: Yes.

Alex Fergusson: In that case, do you agree with a point that was made last week: that the mounted hunt is the one land user or land manager in Scotland with an interest in keeping a healthy fox population?

Alex Hogg: I cannot comment on that point. We are not close enough to the mounted hunts.

Alex Fergusson: Right. In your view, is the only good fox a dead fox?

Alex Hogg: That is a really hard question. I have so much respect for a fox—it is a really cunning animal. However, what has not been mentioned is that quite a few gamekeepers in the association have consulted old game records, some of which from 40 or 50 years ago show that only one fox was killed in a certain year. Indeed, I know of one estate where that total has risen from one fox killed in a year to 200. It is a constant battle; every time a fox is killed, three or four come to the funeral. Perhaps foxes keep piling in because gamekeepers have created an oasis of land in the middle of other land that has been mismanaged and has no wildlife on it. We have to try our hardest to keep on top of the situation. I should repeat that the most crucial time of year is when the birds are nesting on the ground.

Alex Fergusson: In the presentation that he gave some of us at lunch time, Ronnie Rose said that if the bill were passed it would have the gravest effect on Scotland's current biodiversity. Do you agree that, as Ronnie Rose slightly touched on, biodiversity means the balance of nature?

Alex Hogg: I agree totally. If this bill goes through, I think that we will see something close to

the second Highland clearances.

Alex Fergusson: That is a very strong statement and it is not the first time we have heard it. How do you back up that assertion?

Alex Hogg: For example, nine or 10 gamekeepers and stalkers and their families might live up in a certain glen in the Highlands with children who attend the local school. If the fox became such a predator that we could no longer have grouse shoots, the landowner would probably sell the ground or turn it over to sitka spruce, the gamekeepers would be paid off and the school would close. The situation would be on-going, as the committee can well imagine.

Alex Fergusson: I should declare an interest as an ex-farmer—one who is, according to some press reports, becoming fat, along with the convener. *[Laughter.]*

I would like to direct a question at Peter Fraser. From your curriculum vitae, I see that for some years you have been involved in hill shepherding. As an ex-hill sheep farmer, that interests me. Last week we were told in evidence from the SSPCA that foxes take only lambs that are weak or already dead. Having worked as a shepherd, do you agree with that? How can one tell that a lamb that has been lost has been taken by a fox?

Peter Fraser: Usually the victims of fox killing are twins. When a shepherd goes into the field the morning after an attack, he can tell that something has happened because the ewes are uneasy or nervous. When he mothers up all the twins, he will see a ewe with one lamb, being very protective of it and keeping it close to her side. That ewe has lost a lamb.

There is no doubt that a fox will take a sick or dead lamb. However, he will also take a healthy lamb. He will do it as quickly and as efficiently as a hound will kill a fox.

Rhoda Grant: Earlier you mentioned badgers. Would you normally block up badger sets before going out to look for foxes?

Alex Hogg: We have nothing to do with badger sets. We are concerned solely with finding vixens at their dens.

Rhoda Grant: Would you at any time block up holes or dens?

Alex Hogg: As I mentioned earlier, we would block up a hole only if we were at the dens and the vixen was not there with her cubs. If we had to go home to fetch a rifle or more people to wait for the vixen to return, we would put a jacket or a game bag in the mouth of the hole to prevent her from going in and taking her cubs away.

Archie Dykes: It is usually quite easy to tell whether a den is being used by a badger or by a

fox. Apart from the legal issue, we would not want a terrier to go near a badger, as they are seriously bad news. They can do a lot of damage to terriers.

Rhoda Grant: However, you would not block up a badger hole to stop a terrier going down.

Archie Dykes: Badgers use their holes all year round and sleep in them. Foxes do not usually sleep in their holes, except at cubbing time. We get to know where the badger sets are and in spring we avoid them. A badger is usually at home every night, but a fox is not.

Mr Munro: Thank you for coming to give us your evidence. How do you see the activities of the fox over the past couple of decades? Twenty or 30 years ago there was a proliferation of rabbits in the countryside. Then we had myxomatosis, which almost wiped out the rabbit stock. As a result, foxes have begun to forage and maraud in a different area. Increasingly, they have come on to the domestic scene. In many areas, the number of foxes is getting out of control. Do you think that those developments are the result of a shortage in the environment of the food to which they were accustomed?

Peter Fraser: After the gin trap was banned, the fox population started to rise slowly. About 30 years ago, many of the lowland estates, particularly in our area—Deeside and Donside—were broken up, and the tenant farmers were given the chance to buy them. The estates might previously have employed one or two keepers, but they were paid off. There was no fox or vermin control at all. That contributed to another rise in the number of foxes. Over the past 10 years, the Forestry Commission has been toning down its vermin control policy. That is why we have more and more foxes—it is never ending.

Mr Munro: Many groups have told us that controlling fox numbers is a sport rather than a legitimate occupation. As gamekeepers you lie out on a ridge or by a den, early in the morning, waiting for the vixen to come in—perhaps she does not come that day or even the next. I am sure that you do not consider that a sport.

Alex Hogg: We do not.

Fergus Ewing: The SSPCA has suggested that there should be a close season. If there were a close season—ignoring for a moment that the SSPCA has not yet specified when it would begin and end—how would your activities as gamekeepers be affected?

Archie Dykes: On average, a bird must sit on her eggs for 24 days to hatch them. During that time she risks foxes, crows, stoats and weasels; she lives in danger the whole time she is incubating the eggs. Even when the eggs are hatched it takes up to two weeks for the wee

chicks to learn to fly and so escape danger. I have sat on a hill and watched a vixen clean up a load of young lapwing chicks, picking them up one by one and filling her mouth with them. That is a scene of devastation. A close season at that time of year might mean that some bird populations of the uplands would become extinct.

Fergus Ewing: I gather from your submission that foxes prey on a wide variety of ground-nesting birds. You have 90 years' experience of gamekeeping between the three of you. Do you know whether RSPB Scotland uses any method to control foxes?

Archie Dykes: About three years ago, RSPB Scotland stopped controlling the fox populations as some kind of experiment. Fox control was reintroduced this year because of the decline in capercaillie and black cock. RSPB Scotland does not use snares or terriers, but it carries out some lamping.

Most people think that birds nest in trees, but at least 70 per cent of Scottish birds nest on or near the ground. Many different birds are vulnerable to fox predation. The ITE used to carry out grouse research on ground next to us until the land was sold. There were around seven golden plover nests every year. Within five years of the ground being sold and the keeper being made redundant, there were no golden plovers left. If fox control were not carried out at nesting time, the effect on many birds—not just game birds—would be very serious.

The Convener: Thank you, gentlemen.

Our next witness is Dr Colin Shedden, director of the British Association for Shooting and Conservation Scotland; he is accompanied by Alastair MacGugan, who is the conservation training officer for BASC Scotland. Thank you for coming along, gentlemen. Do you have a brief opening statement that you would like to make?

Colin Shedden (British Association for Shooting and Conservation): Yes, and I assure you that it is brief. Mike Watson has stated on several occasions that it is not the intention of this bill to affect shooting. As recently as 14 November, he stated to this committee:

"Let us be clear that there is nothing in the bill that would affect shooting".—[*Official Report, Rural Affairs Committee*, 14 November 2000; c1355.]

I hope that the points that we make in our written submission show clearly that a great deal in the bill would affect shooting—not only for gamekeepers, but for the 100,000 Scots who enjoy shooting and the large number of owners of working gun dogs and terriers.

The Convener: Who would like to begin the questioning?

Dr Murray: Mike Watson has said that he would be prepared to lodge an amendment to exclude rough shooting from the bill. Would that be sufficient to address your concerns?

16:15

Colin Shedden: The proposals for an amendment that I have seen have addressed some of our concerns, but they have by no means addressed them all. Although they have removed some of our members' serious concerns about rough shooting, there are still provisions that directly affect shooting and concern us enormously.

The bill includes a legal requirement—as I read it—to shoot flushed mammals as soon as possible. A number of mammals, such as deer, currently enjoy close seasons but the requirement would be that a flushed mammal must be shot. A lot of work would remain to be done even if the proposed amendment were lodged. There are other points, which some may regard as fine tuning, which the shooting community is concerned should be addressed before the bill can be made acceptable to it.

Dr Murray: Do you think that the shooting community's concerns about the bill could be addressed by an amendment? Would it be possible to amend the bill so that all your concerns were addressed?

Colin Shedden: Nothing is impossible, but the scale of the amendment that would be required should be borne in mind. One of the fundamental principles of the bill is to make shooting with one dog good and shooting with two dogs bad. That is a massive component of the bill, the removal of which would weaken the structure of the bill as it is drafted. Would that weakened structure then be capable of supporting further amendments? I do not know. Rebuilding the bill after such a massive weakening of its skeleton would be difficult.

The Convener: Would the provisions on the use of dogs to flush mammals that are to be shot have an effect on shooting activities in Scotland generally?

Colin Shedden: Yes. Whether one dog is being used or more than one are being used, the bill makes it an offence to use dogs to hunt for wild mammals. It should be borne in mind that 62 per cent of those who shoot in Scotland have at least one working gun dog. In the majority of shooting situations for our members and others, there will inevitably be mammals present on the ground. The bill makes it clear that the intentional hunting of those mammals would be a criminal offence. I am concerned that someone who has three hunting dogs that take off after a mammal for a short period of time would not be able to prove his

innocence in a court—he was hunting with hunting dogs—and that it could be established that he has used those dogs for the flushing of hares, rabbits, foxes and other mammals.

The Convener: No matter how good a marksman someone is, they are fallible. When a mammal is shot and injured, under current circumstances it may be normal for that mammal to be pursued, retrieved and possibly killed by a dog.

Colin Shedden: Yes.

The Convener: Does that add to or take away from the cruelty of the situation?

Colin Shedden: All the codes of practice that we produce for a wide range of shooting exercises require those who are taking part to have with them a dog for such contingencies. There is only a low incidence of wounding in a lot of situations. Some research that has been undertaken on rifle shooting has found that, in deer stalking, the level of wounding is as low as 2 per cent. We have heard other reports, and other reports have been received by this committee, of higher levels of wounding.

The use of high-powered rifles in lamping could result in some wounding. We would argue that that may happen in around 2 per cent of cases, but no categorical research has been done. However, wounding can happen and we would like to be able to use dogs to follow up wounded animals.

Fergus Ewing: If Mr Watson's bill becomes law, it will not be permitted to use dogs underground. Virtually all today's witnesses have said that they could not continue their activities without being able to use dogs underground. Lamping has been proposed as an alternative method of pest control. It would involve the use of high-powered rifles. Do you know how many licences exist in Scotland for the use of such firearms? Has the number of people with such licences reduced? Those are the people who would be able to carry out lamping.

Colin Shedden: The only people who would be able to use a rifle for lamping would be those with a firearm certificate and the landowner's permission. Off the top of my head, the 1999 figures are that about 32,400 people in Scotland have that certificate. Five or 10 years ago, perhaps five or 10 per cent more firearm certificates were issued. There has been a progressive decline in the number of firearm certificates, so fewer people are able to undertake that form of fox control.

Fergus Ewing: Of those 30,000 or so, how many would be interested in carrying out lamping?

Colin Shedden: Some people will have their firearm certificates for target shooting, but the majority will have them for rabbit shooting with a

0.22 rimfire rifle, which is small calibre and not suitable for foxes. The rest will have their licence for fox control and deer management.

Surveys that we and the Scottish Gamekeepers Association have carried out, and work that has been undertaken by the Macaulay Land Use Research Institute, have shown that shooting—often with a spotlight—is the most common means of fox control in Scotland. The figure that is quoted is that between 44 and 70 per cent of foxes that are killed are shot. Snaring is the second most common means and, interestingly, the use of terriers underground comes out third. However, the use of terriers is the only means of fox control that is seasonal; one would therefore not expect it to be as common as the others. From our work, we know that 62 per cent of our gamekeeper members in Scotland have terriers and will use them when necessary for fox control—for instance, in areas where the terrain is unsuitable for the use of a rifle and spotlight.

Fergus Ewing: The MLURI report suggested a possible loss of the equivalent of 114 full-time jobs; in your written evidence, you suggest the loss of the equivalent of 228 full-time jobs. Why are you right and MLURI wrong?

Colin Shedden: I would probably argue that we are both right to a certain extent. MLURI worked out a methodology for predicting the percentage of job losses within the working gamekeeping community. Our work, based on our membership figures, indicates a total employment of 1,300 gamekeepers and deerstalkers in Scotland. I am sure that the Scottish Gamekeepers Association's membership figures will bear out the fact that more than 1,000 gamekeepers are currently employed. The MLURI report came up with a total employment figure of 534—that is off the top of my head—and our figures were about double that. Applying its logic of interpretation to our more accurate figures would indicate a higher loss of gamekeeper employment than MLURI predicted.

The Convener: I do not think that there are any further questions, but I would like to raise one other point. No, I am wrong, there is a further question, but Alex Fergusson will have to wave a bit quicker. I will finish what I was saying and come back to him.

You have spoken about the number of firearm certificates held in Scotland and the fact that the number is falling. For an entirely unrelated reason, there is pressure—certainly political pressure if not governmental pressure—for a reduction in the number of firearms that are legally held. It is being suggested to us that foxes ought to be shot rather than dealt with in any other way. Is that compatible with the political pressure for a reduction in the number of firearms in the country?

Colin Shedden: Primary firearms legislation is reserved to Westminster, and the clear political will is to reduce the number of firearms or shotguns in private ownership. That will have an impact on the ability of people living or working in the countryside to manage a wide range of pest species, of which the fox is one. We have consistently argued that, although shooting is undoubtedly the most commonly used means of fox control in Scotland, and probably one of the most successful, it is but one of four tried and tested methods that are legally available. The removal of any one of those four components could have a serious effect on necessary countryside management.

Alex Fergusson: Please forgive me if you dealt with this point while I was out of the room, but at the fourth bullet point on the A4 sheet that you submitted, you say that you

"are opposed to . . . the total restriction on the use of terriers underground."

That implies that you are not opposed to some restrictions in the use of terriers underground. The committee is struggling with this issue. As Elaine Murray said, there are different types of terrier and different reasons for putting them underground at different times of year. It is a muddling concept. Could you expand on the statement in your submission?

Colin Shedden: That is very difficult actually—I had not noticed that I had chosen those particular words. It was very observant of you to pick them out. I will bring in Alastair MacGugan to explain why we are opposed to a total restriction.

The Convener: Did he write it then? [*Laughter.*]

Alastair MacGugan (British Association for Shooting and Conservation): All day we have heard that lamping is the method that we should use so that we do not have to use terriers. We have also heard that the SSPCA says that we should have a close season. It is no mistake of nature that foxes decide to have their cubs when the greatest food resources are around. If you are lamping, the only way you can ensure you get the cubs is by using terriers. Having all the types of pest and predator control available is important. Timing is also important. A document that has gone to the Scottish Executive on the capercaillie has, as a top management priority to be implemented, the control of foxes and crows in the period between March and August. You could not do that if you were limited to lamping or snaring, because you need the terriers to get down to take the cubs.

Rhoda Grant: I repeat a question that Elaine Murray asked earlier: which is less cruel—sending a terrier after cubs or leaving cubs to starve underground if you get the vixen?

Alastair MacGugan: I have spent many a night trying to ensure that my terriers could get at cubs, and I know that that is preferable to leaving the cubs to starve. I have come to terms with the fact that we need to have some form of control over foxes. I must carry out that control in the least cruel way. In my mind, during the denning season, which is the important period for fox control, it is less cruel to put a terrier below ground than to take the vixen away and leave the cubs to starve to death over a week or two.

16:30

Richard Lochhead: I notice that in a policy statement a few days ago, the SSPCA said that

"The prospect of cubs starving to death below ground was unacceptable in welfare terms"

and that in such circumstances it would allow the use of terriers below ground. Given the evidence of a previous witness that only 10 per cent of foxes that were killed were killed by hounds, if the bill were changed to allow the use of terriers, could you live with that?

Colin Shedden: We oppose the bill in detail, which is what we have discussed this afternoon. We also oppose the bill in principle, because it places a restriction on the use of dogs in the countryside and on the number of dogs that can be used. Although, as a shooting organisation, we give full support to other legal countryside activities, we would be very concerned that, if such a bill were introduced, it could be amended later to impose further restrictions on the use of dogs in the countryside. Similar things have happened on previous occasions—for example, the Firearms Act 1968 has been amended to introduce further restrictions. The shooting community would examine seriously a bill that was said to affect only one or two activities, anticipating that in subsequent years there would be further restrictions on the use of terriers or other species of dog.

The Convener: If there are no further comments, I thank the witnesses for giving evidence.

We were going to have a cup of tea at this point in the meeting, but we are now behind schedule as a result of the detailed questioning. Is it the view of the committee that we should plough on?

Members indicated agreement.

The Convener: We will take our final groups of witnesses together. I am told that it will take a couple of minutes to bring the witnesses in, but I do not want any members sneaking off now that we have agreed to continue.

16:33

Meeting adjourned.

16:34

On resuming—

The Convener: The witnesses are Mr David Coulthred, the head of public affairs of the League Against Cruel Sports, who is accompanied by Bill Swann, whom we have met before. We will also take evidence from James Morris, the chief executive of the Scottish Society for the Prevention of Cruelty to Animals, who is accompanied by Libby Anderson, the society's parliamentary officer, and Mike Flynn, its chief inspector.

How do you react to the views that have been expressed today on what constitutes necessary activity?

David Coulthred (League Against Cruel Sports): When the League Against Cruel Sports was formed, there was very little information about the ecology of animals that were hunted, and in particular of foxes. It is telling that we now have a mountain of evidence, including the Burns inquiry, which served a tremendous purpose by bringing together the pool of knowledge. It is quite clear from that inquiry that hunting plays a very minor part in the overall control of the fox population that is exercised in Scotland and elsewhere. The post mortem evidence shows that all the animals that had been supplied by fox hunts had endured unnecessary suffering before their deaths. It is not surprising that the inquiry concluded that the welfare of those animals was significantly compromised. In our view, hunting is a minor part of population control, which causes unnecessary cruelty. Under any definition, it is cruelty.

James Morris (Scottish Society for the Prevention of Cruelty to Animals): I heard nothing today that I would not have expected to hear. That is because you were questioning people who are deeply committed to what they do. We have heard their arguments and discussed the matter with them. We work with gamekeepers and everyone else who works with animals in Scotland. I heard nothing unexpected. My only concern is that there is an all-pervading tendency to do things in the way in which they are done because that is the way in which they were done.

I was worried by one of the final comments of the previous witness that he was concerned about the bill because it would or could lead to further restrictions on the freedom of people to operate dogs in the countryside. That is one approach. Another is to regard that as a fear of progress. Society moves on and we have continually to re-examine how and why we do things.

The Convener: I understand that Bill Swann wishes to react to a particular point.

Bill Swann (League Against Cruel Sports): Elaine Murray quoted from an e-mail that I sent to her. In that e-mail I made it clear that its purpose was to say that orphan fox cubs represent a no-win situation from an animal welfare science perspective. My e-mail made it clear that leaving orphan cubs to starve to death causes suffering. However, I also said that if cubs are a little older and are aware and are able to defend themselves, they will put up a spirited fight against a terrier. That, too, causes suffering. I do not believe that animal welfare science can say which is the worst scenario, as both cause suffering that is unacceptable. That is why I supported the SSPCA's call for a close season.

I said that it was a matter for individual conscience to determine what was the kindest death in those circumstances. Very tiny fox cubs will starve to death so quickly through dehydration that some people might think that that was kinder. I do not know what is the kinder action where there are older fox cubs, which are much more mobile. I made the point that that is a moral and ethical decision, which welfare science cannot really help. I sent that e-mail to clarify whether there was a scientific balance. I want to make it clear that I do not advocate leaving cubs to starve to death. This is a no-win situation, in which one cannot find a balance.

Cathy Peattie: We have heard much evidence in the past couple of weeks. How do you react to claims that the ban would cause a new Highland clearance, would be devastating for rural communities and would be bad for the land and for animal welfare? We have heard such worrying statements.

David Coulthred: We heard many similar claims south of the border. When those claims were investigated, they were well and truly nailed. In the evidence that was supplied by studies such as the MLURI report, we heard claims—if they were to be believed—that thousands of dogs would be lost. We now know that the number would be in the low hundreds, or even less.

I think that a static view of the rural economy is taken which does not reflect the way in which it works. Sean Rickard, a former senior economic adviser to the National Farmers Union, has supplied evidence about that. A point that he made, which was reinforced by Dr Neil Ward of the University of Newcastle upon Tyne, was that the agricultural economy, like all other economies, changes and moves with the times. Saying that a job lost is lost for ever does not reflect reality. The Scottish economy is advancing in exactly the same way as the economy elsewhere.

Fergus Ewing: On a point of order, convener. Will we have some evidence about the position that prevails in Scotland rather than reliance on such reports as that which was just mentioned? Will the witness be directed to answer the question that was asked?

The Convener: I take my lead from David Steel, who says that he controls the questions, but cannot control the answers. Have you finished, Cathy?

Cathy Peattie: No. This might be a fairly obvious question. Do we need to kill foxes?

David Coulthread: Some say yes, some say no. Considerable evidence shows that when fox culling stops, the number of foxes may decrease. I will restrict my answer to Scotland. A study was conducted on the large Eriboll estate, where all fox control was stopped for a couple of years. On the estate, the number of sheep rose, and the number of foxes declined slightly. There are several explanations for that.

The main conclusion that I reached, having read that study, was that foxes needed to breed less when they were not being culled. Either the breeding population was smaller, or fewer foxes were produced. Therefore, there is Scottish evidence that fox populations need not be controlled, in some cases. However, you can conclude that, whether or not they need to be controlled, people will probably continue to control them. The argument concerns the most effective and most humane methods. Our argument is that hunting with dogs is one of the cruellest methods.

Cathy Peattie: What is the best method?

David Coulthread: We recommend shooting with a high-velocity rifle. Like the Burns inquiry, we prefer lamping.

The Convener: Mr Morris, do you have any comments?

James Morris: You will not be surprised to hear that I do. The SSPCA recognises fully the fragility of the Scottish rural economy in some areas. It is not even right to talk about the Scottish economy as a whole, because the Borders, the central belt, the Highlands and the islands must be treated separately. All have different economies. I worry whether a job lost, in some areas, could really be replaced. However, that is a matter for bodies other than welfare organisations such as mine. MLURI was asked to conduct a study for the Scottish Executive and duly completed it. That evidence must be taken into account. It is not the place of a welfarist to provide such evidence.

Cathy Peattie asked whether it is necessary to control foxes. The rural situation is varied. In some areas, it may be unnecessary—some islands have no foxes, so it would be totally unnecessary—but

in others, predation may be much greater. Each part of the country must be taken individually when considering the need for fox control.

16:45

Mr Rumbles: Evidence this afternoon has largely focused away from sporting activity and on pest control. I noticed that David Coulthread from the League Against Cruel Sports began by talking about fox hunts and hunting. I was rather surprised at his dismissive attitude to people working in the rural economy. I am thinking in particular of people in the Highlands such as Peter Fraser, who gave evidence this afternoon about his gamekeeping activities on the hills above Braemar, where many committee members have visited him. I would like to know from the witnesses, and particularly from David Coulthread, what experience they have. You made somewhat dismissive comments about jobs in the most fragile rural areas of Scotland.

David Coulthread: As you know, Mr Rumbles, my base is in England, so I will pass you on to Bill Swann, whose base is in Scotland.

Mr Rumbles: But I want to know from you whether you regret the comments that you just made.

David Coulthread: I stand by my comments, because I was endorsing a report by Sean Rickard, who has considerable expertise in the matter.

Mr Rumbles: In that case, I will focus on my main questions. I understand where you are coming from. You are from the League Against Cruel Sports. However, do you recognise a difference between the culling, if you want to use that word, or the dispatch of foxes for sport and the dispatch of foxes by members of the Scottish Gamekeepers Association as part of their job? Members of that association gave evidence today. They said that they do not do that for fun; it is part and parcel of their work. Do you differentiate between those two roles? Do you realise that the bill, as presented to the committee, will hit not only sporting activity, but jobs that focus on pest control, which would affect the rural environment?

David Coulthread: I am grateful for the chance to clarify our position. It is important to state from the outset that we are primarily an animal welfare organisation.

It has concerned us over the years, and has been shown by the evidence that we have produced, that the control, if you want to call it that, of foxes and most other animals that are dispatched by hounds compromises their welfare seriously.

First and foremost, our concern is for animal

welfare. If hunting were a sport that did not involve cruelty, we would not be concerned. We oppose fox hunting because it compromises the welfare of the animals. For that reason, we also oppose most of the conventional methods of culling animals with hounds, simply because it is difficult to control dogs that are hunting as a pack or terriers when they are in holes. We have heard claims that no damage is inflicted on the fox. We dispute that. Enough post mortems and videos have been produced to provide evidence that when a terrier is underground in a hole with a fox, underground dog fights ensue. It is pertinent to the committee's inquiries to point out that the only legal form of dog fighting takes place underground when terriers are in the same hole as a fox.

Mr Rumbles: I will pursue my point. Many members who visited the Scottish gamekeepers in Braemar were impressed that, when we were openly shown the terriers, there was not a mark on them, or on the retired terriers. This afternoon, we heard evidence that it is not in the gamekeepers' interests to fight terriers and foxes. The dogs are valuable, loved animals. Do you accept that when the Scottish gamekeepers flush foxes from underground for predator control, the terriers simply instinctively locate the fox, which departs to be shot?

I have another more important question, on cruelty. You obviously understand the Scottish Executive's definition of cruelty, which the Deputy Minister for Rural Development gave us this afternoon. She said that cruelty was the causing of unnecessary pain or distress. The gamekeepers told us that, in their opinion, they do not cause unnecessary pain or distress. I would like you to make a value judgment on whether the activities that the Scottish Gamekeepers Association described to us this afternoon cause unnecessary pain and distress.

David Coulthred: I will ask Bill Swann to answer that.

Bill Swann: I would like to answer the question as I have first-hand experience of terrier work on both sides of the border. As I stated in the evidence that I gave on behalf of the Scottish Campaign Against Hunting with Dogs, which includes the League Against Cruel Sports, we do not believe that gamekeepers set out wilfully to be cruel. I hope that that was entirely clear in what I said at that time.

Mr Rumbles: Do you think that they are cruel?

Bill Swann: I do not think that they intend to be cruel, but I think that what they do includes cruelty. I hope that that is clear.

Mr Rumbles: It is not clear. Are you saying that what they do is cruel or not?

Bill Swann: The activities that are involved in terrier work contain intrinsic cruelty. However, gamekeepers are not cruel people. That disparity has arisen because, as Mr Morris said, time and scientific knowledge have moved on and our appreciation of an animal's capacity to suffer has changed. Everything that we have heard from the gamekeepers today has emphasised the intelligence of the fox. Because we have a greater awareness of the animal's sentience, we have a better understanding of its capacity to suffer.

Terrier work is a specific practice that was formulated at a time when the fox's degree of sentience was not fully appreciated. In the light of current scientific and behavioural knowledge, I contend that terrier work involves unacceptable cruelty. However, I do not think that a gamekeeper who is involved in that traditional activity intends to cause cruelty to animals. Gamekeepers want to kill foxes and, because they have been brought up with the practice and trained in it, they do not believe that it is cruel. We should re-evaluate that assumption in the light of the knowledge that we have today, not the knowledge that we had 20, 50 or 60 years ago. I do not think that I can be clearer than that.

Mr Rumbles: Nevertheless, I would like some clarification. Correct me if I am wrong, but I understand that you are saying that the gamekeepers do not think that they are doing anything cruel. That is not what I asked about. I asked you whether you think that the gamekeepers are engaged in a cruel practice. Yes or no?

Bill Swann: Yes.

Mr Rumbles: Thank you.

Bill Swann: I think that Mr Rumbles asked a second question that I have forgotten in the course of that exchange. I ask him to repeat it.

Mr Rumbles: I am resting at the moment. I believe that that answer was effective.

The Convener: Mr Morris, would you like to comment?

James Morris: I dare not.

David Coulthred: I am not surprised.

James Morris: A certain hostility is developing that I do not think is necessary.

The Convener: Before you answer, I should say that we are aware that the organisations that we have before us have slightly differing positions. For that reason, I am happy to allow vociferous exchanges to take place and to allow the witnesses to comment on them from a relatively peaceful position.

Mr Rumbles: I would like to ask a follow-up

question.

The Convener: Will it be short, Mike?

Mr Rumbles: In Mr Morris's evidence the last time—

Richard Lochhead: On a point of order. I would like to point out that there are other members of the committee.

Mr Rumbles: Excuse me, but I think that Richard Lochhead has asked more questions than I have this afternoon. We shall check the *Official Report*.

Richard Lochhead: Mike Rumbles has not been here for most of the afternoon.

The Convener: Gentlemen, please. Carry on, Mr Rumbles.

Mr Rumbles: The last time that Mr Morris appeared before the committee, he said that he did not wish to ban the use of terriers for going underground to dispatch young foxes, but that the bill would do so. I am confused. Is Mr Morris saying that there is no alternative?

James Morris: Our basic position is that we would prefer it if no terriers were sent underground. During my previous evidence, I conceded that sending terriers underground to dispatch cubs might be a sensible use of terriers. We would not promote that, but I am prepared to accept that, to prevent cruelty to the cubs, it might be necessary in certain situations.

Richard Lochhead: I would like to take some evidence so that I can better understand the issues.

We have heard from the gamekeepers that they find the use of terriers for underground work essential—a position that the SSPCA has accepted in relation to some situations—and that they can see no alternative to the use of hounds in woodland areas.

Can James Morris say whether there is an alternative to the use of hounds in woodland areas? Is the alternative cruel?

James Morris: The use of hounds to flush foxes from woodland—flushing above ground to guns—is not an offence and the bill would not make it one.

An alternative to such use of dogs would be to have a close season following the intensive culling of animals in the breeding season, prior to the birth of cubs. If attention were focused at that time, the fox population would be reduced because breeding would be stopped. Foxes do not mate again later and would not cause a problem when lambs were born or when birds nested. However, we have no proof that that would work and studies

would have to be done. However, agencies that answer to the Scottish Executive are able to do that.

Richard Lochhead: You consent to sending terriers underground even although, on occasion, the dog might encounter a vixen. Do you accept that, if hounds are used in woodland areas, a hound might occasionally kill a fox?

James Morris: Yes. If a dog that is chasing a fox catches the fox, the dog will kill it. However, lurchers can kill a fox quickly because of the difference in weight, but terriers and foxes are of similar weights and our difficulty is with a situation in which they might fight underground.

The gamekeepers from whom you have heard today are not the type of people who block up fox holes in order to ensure that there is a fight underground. However, we come across such activity and we are aware that it goes on. We attempt to prosecute people who are involved in such activity, which must be stopped.

Alex Fergusson: A fortnight ago, Mr Morris and I had a brief conversation after evidence taking had finished, and we talked about blocking up holes. I pointed out that I understood that that practice was already illegal. Mr Morris and his officials put it to me that cases had been brought to court under the existing legislation, but that loopholes had been found and the prosecutions were unsuccessful. In previous evidence today, we heard that the Royal Society for the Prevention of Cruelty to Animals had conducted several successful prosecutions. What is the difference between England and Scotland that prevents successful prosecutions in Scotland?

17:00

James Morris: I will hand over to Mike Flynn, who tracks such cases closely.

Mike Flynn (Scottish Society for the Prevention of Cruelty to Animals): I spoke to Barry Wade from the National Working Terrier Federation. His comments were based on a case in Fife in which an individual put a fox down a man-made pipe, put two terriers in behind it and closed the pipe. The charge was fox baiting. He also was charged with cruelty to the terriers, because both terriers were injured. He was found not guilty of fox baiting because there was no evidence that the fox could not have escaped. In the view of the court, the fox was not captive, although in our view it was. However, the man was found guilty of cruelty to the terriers.

In the English case, as it has been explained to me, the court's view was that, because the person who put the fox and the terrier together did not have permission to be on the land, it was not a

necessary act and was, therefore, unnecessary. The prosecution was successful in England because of a play on words. If the person in the English case had been authorised to be on the land by the landowner he would not have been prosecuted.

There was a similar incident four years ago in Bathgate. A fox was caught by four individuals, placed on open land and four terriers were set upon it for more than 20 minutes, during which time the individuals also kicked the fox. All four were arrested because the incident was caught by a security camera. There were four convictions—three of the men got community service and one was jailed—but they were not charged with cruelty, because the Crown said that the fox was not captive because it was in the open. Instead, the men were charged with breach of the peace because they had alarmed the security men who had watched the incident.

I must emphasise Mr Morris's point. I feel sorry for the gamekeepers who we have just seen. I am horrified to hear of people covering 40,000 acres—it is not possible to do that. If there was sufficient manpower on the ground, the problem could be dealt with. I met two gamekeepers at the Kincardineshire foxhounds in Mr Rumbles's constituency. One of them told me that five years ago, five people were employed to do his job and that he cannot cover his land alone. If there were more people, lamping could be done to a greater extent.

To answer Mr Fergusson's question, the English cases were successful only because the offenders were not authorised to be on the land.

Alex Fergusson: May I continue?

The Convener: A long time ago I promised Elaine Murray that she could get in.

Dr Murray: The SSPCA submission states:

"The Society agrees with the recommendation by SCAHD that culling is best practised in autumn, when the pre-breeding population is lower and there are no dependent cubs."

However, we have heard evidence today that foxes are most problematic in spring. I know that some of the witnesses do not agree that foxes take lambs, but we heard evidence that foxes are a problem for the conservation of certain ground-nesting birds. Do you accept that there is a fox problem for wildlife, rather than farmed animals, in the spring? If so, can a case be made for the control of foxes—or what might be considered rogue foxes—in the spring?

James Morris: I appreciate fully the difficulties of protecting game birds—that is a fact with which no one can argue. We took advice from Bill Swann, who is an expert in the field, on the best

time to control the fox population—we do not claim to be experts. As I said, science moves on and there is evidence that the breeding season might be the time to do the majority of culling. As was mentioned in previous evidence, RSPB Scotland apparently does not need to use the same controls that others use, yet it is protecting birds. I have not seen the details, but if one organisation that has a great deal of land can protect its birds without using certain traditional practices, re-examination is required.

Bill Swann: I am flattered by James Morris's faith in my expertise. I will pass the buck even further down the line and say that my expertise comes primarily from sitting through all the sessions of the Burns inquiry, reading all the evidence and taking part in all the specialist seminars. I feel reasonably confident about commenting on the conclusions of the scientific evidence that was passed to that committee.

Much evidence was produced by distilling submissions from gamekeepers, landowner organisations and others in Scotland, England and Wales because—although the Burns inquiry was an inquiry for England and Wales—it took evidence from a broad church. It also concentrated on the work of two scientists—Dr David MacDonald, who was quoted earlier this afternoon, and Professor Stephen Harris—who are pre-eminent in the field. Their joint conclusion, which was incorporated into the Burns inquiry, was that shooting late in the year has the greatest capacity to reduce the fox population. That was determined partly by population modelling, in which all the data are put into a computer that examines various scenarios to determine how the fox population can be changed most effectively. The conclusion was that shooting intensively at the end of the year cuts into the following year's breeding population.

In the summer one can, within reason, kill as many foxes as one wants, but that merely cuts into the number of foxes that will die anyway, either as a result of road accidents, disease or starvation. Thousands of foxes might be killed, but only those that would be killed as a result of those other means. By cutting into the breeding population, we can try to reduce the number of foxes that are available to occupy earths and breed at the start of the fox-breeding season.

The word "autumn" is perhaps ambiguous. We should say, as Mr Morris made plain a few seconds ago, that culling should be done just before fox cubs are born. If the intention is population control, that is when it should be done.

We need to separate population control—trying to reduce the number of foxes that breed in a year—from response to damage. I realise that I have been waffling for quite some time and that

time is pressing, but dealing with damage is a totally different matter. If one suffers from damage year in and year out and there is a need to control the fox population, Lord Burns effectively said that one should go out and kill as many foxes by lamping as one reasonably can—he did say by rifle shooting—in the late part of the year to try to reduce the pre-breeding population so that fewer cubs are born.

We accept that, as the gamekeepers have said, there is a problem in spring when there is a high demand on food resources because of pregnant and nursing vixens. We believe—and I think that this was in our International Fund for Animal Welfare submission—that this is a unique problem that is associated primarily with grouse moors.

There is an alternative to trying to control pre-breeding foxes, which is shooting foxes at earth. As an alternative to terrier work, Professor Harris proposed that an effective way to kill foxes would be to control shooting activities until the time that foxes start to emerge from earths. That is widely practised—it is nothing new. We heard from gamekeepers that they already spend two or three days at earths looking for foxes. If the timing was shifted slightly, the same effort could be expended, but the emerging cubs could be shot as well as the vixen.

We are looking for more humane strategies that are based on strategic timing, rather than the belt-and-braces approach of using terriers—we cannot edit the cruelty out of terrier work. If every fox was flushed and bolted from its hole, we would not have a problem, but too high a percentage get trapped and have confrontations. We are trying to find more humane alternatives, and we believe that they are viable.

Dr Murray: Do you accept that there are incidents that could result in cubs being orphaned underground? Your e-mail states that you are

“totally opposed to the use of terriers in this way for moral reasons.”

Would you find it unacceptable to use terriers, even in the case of orphaned cubs?

Bill Swann: I would where I believed there were alternatives that could avoid that situation. This is essentially an issue of conscience and I expect fully that people will have different views on it at different times. There are times when fox cubs are orphaned—that can happen through road accidents. I have been in the unfortunate situation of running a fox over. I must say with all honesty that I did not stop to see whether it was a pregnant vixen; that did not occur to me. I checked it over to see whether it was dead and carried out the act of humanity to ensure that it was dead. It did not occur to me at the time to worry whether it had cubs.

I am sure that many farmers shoot foxes when responding to incidental damage at lambing time. They will go out and shoot a fox and it will never occur to them that the fox might have cubs elsewhere. That does not make them cruel people; it is merely an oversight.

When the gamekeepers gave evidence, they made it clear why there is such an incidence of orphaned cubs—that is something that I have never been fully able to understand. They made it clear that they put terriers into holes to bolt the vixens, but the cubs remain in the holes. They said that, on almost every occasion, the vixen will be shot first. She will defend her cubs. When terriers are put in, the vixen will fight to defend her cubs—that is what I find objectionable. I do not think that vixens should be put in that position. The vixens bolt and are shot and the terriers kill the cubs.

We will obviously have to check the *Official Report*, but I do not think that there was any ambiguity about whether that was the situation that the gamekeepers described. They stated that it is probably a very rare event for cubs just to be left in an earth and abandoned.

I accept that that sort of situation is a “no-win situation”, as I said in my e-mail. There is no humane way of getting round it. I object to terrier work, so members know where I am coming from. Members object to cubs being left in such situations, as I do, but I cannot find a humane alternative. That is why we must consider alternatives such as close seasons. That is something that has been taken out of proportion, as if it is a massively common event. The gamekeepers were quite clear that it is a rare event.

Dr Murray: My understanding of what the gamekeepers said was that they bolted the fox cubs after they bolted the vixen but, as Bill Swann says, we will have to look at the *Official Report*.

On another matter, I want to ask the SSPCA about the welfare of hound packs. James Morris suggested that, if we get rid of hound packs, it might be possible to identify dogs that are suitable for rehoming. How many pack hounds would be suitable for domestic rehoming, given that they are not house-trained and that they are quite large animals that are used to being in a pack and therefore quite likely to suffer from separation anxiety?

James Morris: We have said that we would work with any agency to attempt to rehome animals, rather than having them humanely destroyed. We recognise the difficulties, but certain packs are fed in different ways. Nothing appears to be standardised. I have some difficulty about rehoming animals that have been fed on raw meat. Their food is totally uncooked; part of a

lamb is thrown to them. That could make for a rather messy transition.

We would work with anyone. The younger dogs that are still in the training phase might be adaptable, because they are, to a point, puppy-walked and domesticated before they go to the hunt. However, older dogs are likely to prove really difficult. We would work as best we could with everybody to rehome as many dogs as possible. If I were to give the committee a figure, it would simply be off the top of my head and would have no validity. The intention would be to rehome as many dogs as possible.

Mr Rumbles: In his answer to Elaine Murray, Bill Swann mentioned his personal objection to terrier work underground and referred to the percentage of underground fights between terriers and foxes. Can Mr Swann tell us what that percentage is?

Bill Swann: If I had that information, I would impart it gladly. The honest answer is that I do not know. I accept that, for reputable gamekeepers—and we accept that many gamekeepers are reputable—their preferred intention is that the foxes bolt quickly, like flushing above ground. No animal welfarist could have any great objection to that. If it is reasonable animal welfare to disturb a fox from cover above ground, how could disturbing it quickly underground be any different? There is no difference, because both are quick. However, that does not happen all the time.

We object to the fact that one cannot guarantee that there will be a quick, instantaneous bolt from a hole. I remind members that such activity takes place during the breeding season and that a vixen will try to defend her cubs. If she is in the foxhole, her maternal instinct is to defend. That is why a percentage of foxes—I have answered your question by saying that I do not know the percentage—will not merely bolt cleanly and nicely, as we would all wish was the case, because they will stay in the hole for defence.

That is why we end up with a situation in which there is underground fighting. The instinct of the vixen to defend her cubs is pitched against the instinct of the terrier to defend itself. That is why fighting results. I cannot define the percentage. I have not been out with every gamekeeper in Scotland, England or wherever to look at every situation and measure the percentages of foxes that are flushed against percentages of foxes that remain and enter into an underground fight. I can speak only from anecdotal evidence. I have spoken to crofters, gamekeepers and farmers. They have said honestly that there is a substantial percentage of incidents that result in an underground encounter—that is where the cruelty lies. There is no way of stating which way such an underground encounter will go, but if the vixen has

cubs, there is a great likelihood that she will stay down the earth to try to defend them.

17:15

Mr Rumbles: The Scottish Hill Packs Association witnesses said that 10 per cent of their foxes were taken by dogs when they were flushing to a line of guns. You accept that it is not cruel for 10 per cent of foxes to be dispatched by dogs above ground, but you cannot tell us what percentage of foxes are dispatched by dogs underground. Correct me if I am wrong, but you seem to be saying that, because it happens underground, it is cruel—although we do not have statistics for that—but that above ground, where we believe the figure to be 10 per cent, it is okay. I do not understand the logic of that.

Bill Swann: I refer to evidence that I gave at a previous meeting. We do not approve entirely of the way in which the Scottish foot packs operate. I referred to a foot pack in Wales, which Lord Burns had been to see. I had an extensive conversation with him about the Welsh foot pack's method of operation. I believe that foot packs can operate above ground with a code of practice that would make the situation better. I firmly believe that there is the capacity for improvement and that the figures can be improved.

Let us go back to the terrier situation. Unless a gamekeeper convinced me that there was some sort of device or method that he could employ that would stop the possibility of underground encounters—bearing in mind that a vixen will literally fight to the death to protect her cubs if she can—I can, having taken the emotion out of the situation and considering it rationally, see no way of shifting the odds. If there was a way, I would gladly sit down and discuss it.

Mr Hamilton: I have one comment and two questions. My comment is simply to pick up on the point that Mr Flynn made about examples of bad practice. I want to flag up the readiness of some of today's witnesses to be bound by legislation and a national code. I hope that that point will be taken on board.

I want to ask the League Against Cruel Sports about the number of foxes that exist. The league's submission does not say that it opposes the need to kill foxes, and it appears to have no specific opposition to the numbers of foxes that are being killed. However, surely Mr Morris's point—that until alternatives are in place, we will struggle to see where we can go—is central. We have heard evidence this afternoon about what it would mean were the bill in its current form to be enacted and we have heard that, despite your principled and moral objection to the current method of reducing the fox population, you have no viable alternative.

Do you therefore accept that adoption of your approach would result in a regrettable explosion in the fox population?

We heard evidence about the practical position when a fox that is flushed is shot and wounded—people not being perfect—but not killed. What is it about that scenario that suggests to you that it is more humane to allow that fox to escape, rather than having dogs on hand to finish the job cleanly and efficiently?

David Coulthred: I heard two questions—I assume that the question on population control was addressed to the League Against Cruel Sports. Control using dogs is responsible for a minority of the foxes that are taken out every year. Bill Swann has already mentioned the population modelling study that is being produced by Professor Stephen Harris and Dr David MacDonald, the two leading experts on fox ecology. Their research shows that the majority of foxes that are being taken out are those that would probably die anyway. If control with dogs were to stop, the number of foxes that survived to the end of the year would increase only marginally.

If we break down the numbers of foxes that are killed, we find that the vast majority die through natural causes, are killed on the roads or are shot. The number of foxes that are killed by dogs or through hunting is perhaps 3 or 4 per cent of the total. The argument that hunting with dogs is an efficient means of controlling foxes is therefore flawed. The argument that organisations such as BASC are putting forward is that hunting with dogs is one of several methods of fox control. We would argue that it is insignificant in terms of the numbers of foxes that are killed.

I referred to the Eriboll study, which showed that where population control techniques were reduced—in that case reduced altogether—the fox population decreased slightly after 18 months to two years.

Mr Hamilton: The sum of what you are saying, with sound academic credentials, is that if hunting were to be removed, there would be no significant change in the fox population. Is that correct?

David Coulthred: We are saying that there would be no difference whatsoever.

Bill Swann: Duncan Hamilton asked about wounding—I refer him to the BASC evidence, which mentioned a wounding rate of about 2 per cent. Burns could not come up with an exact figure, but mooted 1.8 per cent. There are no hard statistics to confirm those figures, although we all suspect that they are about right. In shooting, 2 per cent is a low level of wounding.

As a result of my farming background, I have shot foxes. I make no bones about the fact that, in

some circumstances, foxes can be a nuisance. In those circumstances we aim to shoot the fox. Before lamping was available, I have been in the situation where a fox was shot and wounded and we used a dog to try to track it. I accept that that is a legitimate activity. However, at the end of the day, finding a fox is almost impossible. The circumstances in which shooting a fox is necessary make that very difficult. One might be at the end of a field of lambing sheep, see a fox and make a judgment that it is in range and that it is acceptable to shoot at it. There is generally the chance of a second shot, but after that the fox will be very difficult to find. Mike Rumbles might be laughing because he thinks that often there is no chance for a second shot. However, times have moved on and I was talking about the situation 30 or 40 years ago. Nowadays, equipment has improved—rifles and telescopic sights are better.

Mr Hamilton: With the greatest respect, if times have moved on, why do people continue to make the case for using dogs? Are you suggesting that they could take a second shot and not use the dog, but that they choose not to do that?

Bill Swann: When a wounding occurs, a farmer is not necessarily equipped to do something about it. The farmer might be trying to look after sheep that are lambing, among which a ewe is mismothering one of its twin lambs, bad weather is approaching and the farmer is trying to get everything sorted. The farmer might, incidentally, have a gun with him and shoot at a fox, not knowing whether he had wounded the fox or missed it. Under such circumstances, a farmer could do no more than respond to the immediate requirements of the day—looking after his sheep. The farmer could not track the fox for miles. If it can go so far, the fox is probably not seriously wounded. If it is still in the vicinity, the farmer will probably have another chance to shoot it.

Mr Hamilton: That was not the scenario that I set up. We are not talking about a random shot at a fox, but a carefully controlled attempt to flush out a fox and shoot it. Why do not you accept that, if the fox is wounded and can be finished off there and then, that is the most humane way in which to kill it?

Bill Swann: Are you talking about a situation where foxes have been flushed to a gun pack?

Mr Hamilton: Yes. The fox has been shot and not killed. Why is it not humane to put the fox out of its suffering there and then?

Bill Swann: If the fox were severely wounded it would simply be shot again. The way in which a gun pack is set up—

Mr Hamilton: Sorry, but what if that was not possible? You must accept that there are some situations in which shooting the fox again would

not be possible—you have just admitted that.

Bill Swann: I support fully the use of dogs to track a wounded animal. For example, one would use a dog to track a wounded deer. If the dog got there first and killed a wounded fox, I would not consider that to be an act of hunting, but an incidental act. The intention is to be humane—I do not accept that using a dog to track a wounded animal is cruel.

Mr Hamilton: In other words, as far as you are concerned the issue is not cruelty, but intention.

Bill Swann: In a case such as we have discussed, yes.

James Morris: I draw members' attention to section 3(1)(c) of the bill, which would allow people to use a dog to track an injured animal. The foot packs explained that the 10 per cent of foxes that were killed by dogs had already gone through a gun line and been injured. The intention is to slip the dog. If the fox is badly wounded, a swift dispatch is what is wanted. If it runs too far, one would try to track, capture and dispatch it. That is covered in the bill and we are not saying that that is cruel.

Mr Hamilton: Do you have a problem with saying that it is humane for the dogs to kill the fox in that environment?

James Morris: It is the only thing that one could do.

David Coulthred: There was some confusion about the nature of that question. Foxes that are flushed into a line of fire are likely to be shot by more than one gun and the chances of them getting away with several gunshot wounds are remote.

Alex Fergusson: Today's written submission from the League Against Cruel Sports finishes by stating:

"Some individuals involved in the illegal persecution of animals use the current legal status of hunting to escape prosecution."

How would a ban on mounted hunting stop such illegal persecution?

David Coulthred: That relates to a considerable amount of anecdotal evidence that has been reported to the league. In particular cases, people have been digging in badger sets, but have claimed that they were digging for foxes.

Although the prosecutors made it quite clear that they knew that the accused were digging for badgers, the defendants were able to escape prosecution because they claimed that they had been digging for foxes, but mistakenly in a badger set. As long as that activity remains legal, people will be aware of the loophole and will continue to

use it.

Alex Fergusson: I am sure that, like me, you do not want the bill to be based on anecdotal evidence.

Mr Rumbles: I was interested in your response to Duncan Hamilton, who hit the nail on the head. On the issue of the line of guns, you said that it was perfectly acceptable for dogs to be slipped to track and dispatch a wounded animal. However, I think that Duncan was referring to another scenario. If a gamekeeper was flushing out or lamping and shot and wounded a fox without using a line of guns, would it be acceptable for the gamekeeper to let slip his dogs to dispatch the animal?

17:30

David Coulthred: I will ask Bill Swann to answer that question.

Bill Swann: I must apologise to Mr Hamilton—I misunderstood his question. I hope that we have clarified the point.

Mr Hamilton: Do not worry—you are certainly not the first person in the chamber to have misunderstood me.

Bill Swann: I support the position that Mr Morris outlined. By supporting the bill, we hope to avoid intentional acts that we believe are intrinsically cruel, but which cannot be legislated out or removed through good practice. If that were not the case, we would not be here. In any case in which an animal is injured, we are all obliged to look to the welfare of the animal at that time.

We believe that there is intrinsic and unacceptable cruelty in the majority of cases in which animals are subjected to hunting in all its forms. Where an animal of any species is shot and injured for any reason—such a situation could arise outwith hunting—we have an obligation to find the animal and do something about it. In such cases, the use of dogs to track and find an animal is entirely justified. If a dog happens to kill the animal when it finds it, that might not be the best method of killing the animal, but it is still a pragmatic solution to stop the animal's suffering. We would prefer a more humane method of killing; however, in the wilds of the Scottish mountains, I have come across sheep that have fallen down ravines and, as an agent of necessity, I have had to decide how to end that animal's suffering and to use the most pragmatic and humane method that is available.

It is horses for courses. As I have said, hunting is an intrinsically cruel activity, in which every animal that is involved has a high percentage chance of being subjected to unnecessary cruelty. We are obliged to deal with an individual injured

animal—no matter whether the injury has been caused through a road accident or shooting—as quickly and as humanely as we can. I hope that that answer is unambiguous.

Mr Rumbles: The scenario that I outlined was not an incidental activity—I was talking about the deliberate activity of a gamekeeper going out to shoot and bringing his dog as a back-up. That situation will arise if he misses the shot.

I am interested in statistics and you have used many today. Although I notice that you could not provide statistics about fighting underground, you implied that 98 per cent of shots were accurate. What is the source of that figure? Does it come from purely anecdotal evidence or from a more scientific background?

Bill Swann: Convener, am I wrong in saying that that figure was mentioned this afternoon by BASC?

Mr Rumbles: Is that the origin of the statistic?

Bill Swann: I believe so. It was also mentioned at one of the specialist seminars for the Burns inquiry. Although the figures have not been subjected to the sort of scientific rigour that would satisfy a published paper, BASC believes that they are correct and we agree.

Fergus Ewing: If this afternoon's proceedings have proved one thing, it is that men argue and animals act. My difficulty is that the previous witnesses seem to have massive personal experience of dealing with the problem first hand. Every one of them said that their methods are the most effective, the most humane and the least cruel. Furthermore, every one of them said that the close season proposal of Mr Morris and Mr Swann would be ineffective and impractical. Why should we believe you, but not them?

James Morris: I appear to be live, so I will deal with the question.

The Convener: Do not feel forced to do so because of the light on your microphone.

James Morris: I have tried to keep all my answers short this afternoon, but I would like to make a short statement now. Nearly everything that we are discussing today in relation to people's worries is about exemptions in the bill. No one is after gamekeepers—the problem is the use of terriers underground. Everything else is included in the bill and allows the control of any species that preys on another or causes damage to a farmer. Gamekeepers should be aware that no one wants to stop their work.

As for the close season proposals, we do not use close seasons for foxes at the moment, although other countries, such as Germany, Italy and the Netherlands, do. I could not put my hand

on my heart and say that the proposals would work. However, they require study and an open mind—people should not say merely that they have always done things that way and that the numbers of foxes are still increasing.

Fergus Ewing: If there were an easier and more humane way, perhaps it would have been found by now. However, is not it the case that another aspect of the bill—namely section 3(1)(c)—poses a problem? As Mr Hamilton said, in some cases it is necessary to use dogs to retrieve foxes that might have been wounded through being shot. I think that Mr Morris suggested that section 3(1)(c) deals with that point—it does to some extent. However, am not I right to say that that section permits the use of only one dog and that, therefore, the people from the Scottish Hill Packs Association would be restricted in their activities? If that is the case—as I believe it is—is not it also true that, if they did not use a full pack of dogs, they would be far less likely to locate the wounded fox. One dog is far less effective than a pack. As a result, the proposals in Mr Watson's bill are bound to be more cruel because, if only one dog is used, it is more likely that the wounded fox will escape retrieval.

James Morris: The explanatory notes of the bill state that what is called the interpretation order

“provides that words in the singular generally include the plural”.

At the drafting stage, we raised the point that the word “dog” must also be read as “dogs”. I have difficulty with that aspect and many other people are being misled by it. Perhaps some slight adjustment should be made to the wording of the bill.

Fergus Ewing: I thought that you might say that. However, your argument fails in the light of the wording of section 1(5) which refers to “one or more dogs”. The deliberate use of the phrase “or more dogs” indicates that the particular method of interpretation does not necessarily apply to the use of one dog.

James Morris: That is why we criticised the bill.

Fergus Ewing: I am sure that, as a reasonable man, you will accept that that makes two particular problems, not one, as was suggested earlier.

Another matter of concern has arisen from the SSPCA's written submission, although I am sure that there was no intention to create anything other than a true impression.

In the last paragraph of page 1 of its submission, the SSPCA noted

“that only 25 per cent of terrier operators are members of the National Working Terrier Federation and subject to its code of practice.”

Today we have heard from the Scottish Gamekeepers Association—we have written evidence to support this—that it endorses the NWTF's code of conduct. We have also heard from the Scottish Hill Packs Association that it endorses the code of conduct. Do you believe that, if a problem exists, it exists with only a minuscule minority of gamekeepers and others who are involved in this sort of work?

James Morris: I accept that only a minority would cause us concern. The figure of 25 per cent that we cited was given to us by the National Working Terrier Federation. It is now saying that other groups accept its guidelines. However, as far as I know, the SSPCA was not signed up to the guidelines at the time that we received the information.

Fergus Ewing: Are you saying that the SSPCA was unaware of the fact that those other organisations had signed up to the code?

Mike Flynn: One big problem that we have is that, although 25 per cent of terrier men are registered with the National Working Terrier Federation, that figure does not include members of the Scottish Hill Packs Association or the Scottish Gamekeepers Association. Many people who are not bona fide gamekeepers use terriers in the countryside—they probably outnumber bona fide gamekeepers. Most of the problems that we encounter are caused by people who class themselves as gamekeepers on Saturday and Sunday, but who are painters and decorators from Monday to Friday. They do not check their snares, but simply go out now and then with their terriers. We have raised that issue with the Scottish Gamekeepers Association.

Today, the committee has heard from very small and elite groups. They are not the people who cause us problems. We have had problems with bona fide gamekeepers, but only with a minuscule percentage.

Fergus Ewing: I am very pleased with that answer. I asked the question because, generally, Scottish gamekeepers feel that they are under attack for taking part in cruel activities. Having heard the evidence and having spoken to a number of gamekeepers, especially in my constituency, it seems to me that, far from being cruel, gamekeepers know best how to manage wildlife most effectively and humanely. People who spend their lives going to seminars and giving evidence to parliamentary committees might not be as well placed to comment.

My last question is directed at Mr Swann, who said that many gamekeepers are reputable. The automatic connotation is that the rest are not reputable. I ask Mr Swann to withdraw that suggestion and to agree that, if there is a

problem—we have received no evidence that there is—it must be confined to a tiny minority of the people who are involved in working to control the fox population in Scotland.

Bill Swann: I do not simply attend seminars and take an academic view on the issue. For many generations, my extended family has farmed upland areas of Britain and many of my relatives still do. The areas that they farm include grouse moor and very high-level ground, some of it above the 2,000 ft mark. I have a great deal of first-hand experience of fox control and know a number of gamekeepers, some of them personally. I have been out working with gamekeepers; when I was a boy, I went out working regularly on a grouse moor with a gamekeeper.

I have seen both sides of the equation. I referred to reputable gamekeepers and I believe that the vast majority of gamekeepers aim to do a reputable job. I use the word "reputable" because what they are doing at the moment is not illegal. If the bill is enacted—for reasons that we have spelled out clearly—what they do will become illegal.

From personal experience, I know that the disreputable element to which I referred consists of a very small number of people. As Fergus Ewing has asked me to put that on the record, I will do so. I spent more than 20 years as a practising veterinary surgeon and, in that time, gamekeepers brought me terriers that had suffered some pretty horrendous wounds. I am not claiming for a minute that that is normal practice or that it is common practice today; I accept that gamekeepers have tried to improve their working methods. However, whenever underground fights occur—they still do—there is a risk of terrible injuries. However, when I gave evidence previously, I made it clear that I do not believe that gamekeepers are wilfully cruel.

17:45

Fergus Ewing: I am pleased that you have clarified what you said earlier. Could you provide the committee with the names of individuals who, in your view, are responsible for unacceptable activities? I do not know who they are and I cannot take your evidence seriously until you give us some examples. The use of generalised slurs and smears against groups in Scottish society is absolutely unacceptable. You have just said that there is a group of people who have taken part in unacceptable activities involving cruelty. Those people should be named and identified, so that we can treat your evidence as evidence, rather than as a generalised smear. I hope that this is a legitimate question, convener.

Bill Swann: Convener, I am more than happy

for you to have sight of confidential veterinary records that contain details of names, addresses and the circumstances in which injuries occurred, provided that you can give me an absolute assurance that that privileged information will be treated in the confidence that it requires.

The Convener: We will correspond with you about that.

Dr Murray: I am intrigued by the legal interpretation that the singular includes the plural. I will be very careful before offering anybody "a drink" again.

My impression is that you object principally to people setting out with dogs deliberately to pursue and to kill wild animals. The Scottish Hill Packs Association said that it was about 90 per cent successful in its fox take. Ten per cent of cases were the sort to which Duncan Hamilton referred, in which dogs dispatched an animal that had previously been injured. Another 10 per cent were cases in which the dogs just happened to get to the animal first. When that happens, how does one prove intention? How can one prove that the intention was not to allow the dogs to hunt and kill the fox? In the case of mounted hunts, could not a few of the folk involved simply carry guns, making it possible for them to say that they intended to shoot the foxes?

James Morris: We are happy that we can gauge intent from the fact that people have taken their dogs out and set them to course or to flush out the fox to a line of guns. The people out with those dogs would have to be carrying guns. Those would be licensed, so we would have some control of the type of person who would be in the hills shooting foxes. If someone is out in woods with hounds but no guns, they are not flushing but hunting.

Dr Murray: Let me put a hypothetical case to you. If the bill were passed and the mounted hunts decided that they would use dogs to flush foxes to guns, would that practice be acceptable?

James Morris: The use of the hounds would be acceptable. They would not be doing long-distance chasing. They would have to start close to the guns, or the radius within which animals could move would become uncontrollable. The activity would be under control in the sense that there would not be a long chase and there would be flushing to guns. The same hounds could do that.

Mr Rumbles: I am intrigued. You said that the angst that we are going through this afternoon, specifically my focus on gamekeepers, was not necessary, because the bill covers it all. Which part of the bill means that I do not have to be worried any more about that issue?

James Morris: Which issue?

Mr Rumbles: You said that the concerns are taken care of. There are real worries about it.

James Morris: My understanding of the bill is that it is anti-hunting and not anti-pest control. There are exceptions for controlling animals that are predating others.

Mr Rumbles: So, as far as you are aware, the bill does not cover pest control.

James Morris: The bill says:

"A person does not contravene"

the provisions on hunting a wild mammal with a dog if they are

"controlling the number of a particular species in a particular place in order to safeguard the welfare of that species there . . . protecting livestock, fowl or game birds in a particular place from attack by wild mammals".

It states that, if the person is licensed, they would be cleared to protect—

Mr Rumbles: Sorry, which section of the bill are we talking about?

James Morris: Section 2(2).

Mr Rumbles: It says:

"A licence may authorise an individual . . . to stalk a wild mammal, or flush it".

It does not say anything about dispatching it.

James Morris: You are not reading the section that I am reading.

Mr Rumbles: You must read paragraph (b) with the subsection as a whole.

James Morris: Section 2(2)(b) says "protecting livestock". Is that what you are reading?

Mr Rumbles: That is correct, but you must read the subsection from the beginning. It states:

"A licence may authorise an individual (or a group of individuals) to use a dog under close control to stalk a wild mammal, or flush it from cover above ground".

It says nothing about dispatching the animal.

James Morris: Are you suggesting that you can do everything except kill it?

Mr Rumbles: That is correct. That is the problem. I think that I have made my point, convener.

The Convener: I would like to bring this evidence session to a close.

Alex Fergusson: In response to Fergus Ewing's final point, Mr Swann said, quite rightly, that many of the activities that are currently legally carried out by gamekeepers will be rendered illegal if the bill is passed. I accept that. Gamekeepers and others have told us—I have no greater reason to

disbelieve them than I have to disbelieve Mr Swann and Mr Morris—that the bill's impact on their activities will affect the biodiversity of upland and mountain Scotland. The protection of biodiversity is enshrined in legislation; it is one of the principal aims of the Executive's National Parks (Scotland) Act 2000. Is the disadvantage to biodiversity—"destruction" would probably be too strong a word—that we are told would be a result of the bill a price worth paying?

Bill Swann: I will have to be careful not to talk about matters that I do not feel confident to talk about. Biodiversity and conservation are not my field. We are back to anecdotal evidence, which I am cautious about using. I live in the heart of one of the largest of the west-coast estates—the Gairloch estate in Ross-shire. There is now little sporting activity. A small number of stags are shot each year but, as far as I am aware, that is the only hunting that takes place. I have had long conversations on this topic with the manager of the estate. There is little dog use; the odd farm commissions one of the terrier owners, but the practice is not extensive.

The estate is planting many thousands of acres of natural woodland, which will be the biggest man-made forest in Britain. That is for biodiversity purposes and is essentially a conservation measure. There is talk about reintroducing the capercaillie.

In my discussions, the manager at the Gairloch estate has been totally confident—members are at liberty to contact him if they wish—that necessary fox control there will be done by shooting. I base my evidence on hands-on, pragmatic attitudes such as that. However, the evidence is anecdotal. If the committee wants to pursue the issue, I am sure that the Gairloch estate would be delighted to provide assistance.

The Convener: Have we come to the end of questioning? Mr Morris would like to comment.

James Morris: I want to provide clarification on the previous question from Mr Rumbles. We are not professional givers of evidence to inquiries; in fact, we have never having done this until now.

Section 2(7)(b) refers to the use of dogs to

"stalk, or flush from cover above ground, a fox or hare"

to protect livestock, fowl and so on. However, subsection (8) states:

"Subsections (1) and (7)(b) apply only to a person who, once a wild mammal is found or emerges from cover, acts to ensure that it is shot as soon as possible."

Mr Rumbles: It does not allow dispatch with a dog. That is the point that I am making.

James Morris: The fox is being flushed so that it can be shot. If it is not shot or is wounded, the

dog may be used, under section 3(1)(c), to relocate it so that it can be dispatched quickly. I think that it is covered. The whole intention is that the aim of pest control is to dispatch the pest.

The Convener: We would benefit from time to reflect on that.

Mr Rumbles: There is no mention at all of its being dispatched by the dog.

James Morris: The intention is not for it to be dispatched by the dog; the intention is for it to be shot. That is what the bill is after. The use of a dog subsequent to the shooting is to relocate an injured animal.

Mr Rumbles: In its evidence, the Scottish Hill Packs Association makes it clear that part and parcel of its everyday activity is that foxes are dispatched by the dogs. It is not an afterthought.

The Convener: Are we satisfied?

Mr Rumbles: Yes. I am.

James Morris: I will leave the evidence for members to study.

The Convener: That brings us to the end of this part of the meeting. Thank you very much, ladies and gentlemen, for your help.

I remind members that we have agreed to meet in Dumfries, in the Easterbrook Hall, at 1.30 pm on Friday 8 December. We will also meet on Tuesday 5 December. Members should have been notified about that.

Members have all been e-mailed to the effect that the minister, Rhona Brankin, who was supposed to be coming along, is now unable to. That does not affect the material content of the meeting—it was indicated to me that, at this stage in the bill, the minister might not have been able to give us much assistance one way or the other. I propose to take an early opportunity to bring the minister before the committee, probably in the new year. That will not be inappropriate, even if we have begun to draft the early stages of our report. Does that meet with the committee's approval?

Mr Hamilton: There is a slight problem. This is not an Executive bill, but the Executive is clearly a key player in it. Given that we heard today that the Executive has a significant financial involvement, I would like to have the chance to take evidence from the minister. Are you saying that there is no possibility of our doing so before we start the draft stage 1 report?

The Convener: I am not saying that we have to wait until after we have started the draft. I am saying that we can successfully get the evidence, probably early in the new year.

Mr Hamilton: When do you envisage

concluding the stage 1 report?

The Convener: I do not think that we will produce even a draft report before the end of January.

Alex Fergusson: On the subject of further evidence, RSPB Scotland has been mentioned more than once today and Scottish Natural Heritage has also come into the discussion.

Richard Lochhead: And the Forestry Commission.

Alex Fergusson: Those are major players in the bill, and we have all been lobbied by the lurcher men. We must consider inviting those people to give their views.

18:00

The Convener: It would be appropriate to ask members of the committee whether there is anyone else whom they would like to take evidence from. That could be treated as a specific agenda item, probably at the next meeting, and we should try to collate any additional evidence as quickly as possible.

Fergus Ewing: I endorse Alex Fergusson's recommendation to invite the prospective witnesses that he mentioned—SNH and the RSPB. We also need more information about the use of lurchers, which we heard about today. There was another organisation—

Mr Hamilton: The Forestry Commission.

Fergus Ewing: Mr Hamilton has a younger, more agile mind than mine.

Mr Hamilton: It would not be difficult.

Fergus Ewing: I wonder whether we might have the opportunity, once my mind—not Mr Hamilton's mind—is a bit fresher, to consider the implications further before we take evidence from the minister. I would like to give more careful thought to these matters, rather than reach a precipitate conclusion.

The Convener: Okay.

Mr Rumbles: We could take evidence from the minister when we have received all the other evidence. Would not that be more appropriate?

The Convener: We will approach the minister about the suitability of dates extending beyond next week. We can agree on a time when dates have been made available.

Salmon Conservation (Scotland) Bill

The Convener: The final item on the agenda is the order of consideration of the Salmon Conservation (Scotland) Bill. Richard Walsh has e-mailed the suggested order to members, and I see no alternative to that suggestion.

For the benefit of members who may not have seen the e-mail, I will just outline what has been suggested. We are due to consider the bill at stage 2 on Tuesday 12 December and to continue on Tuesday 19 December. I have been given no indication that the Executive will move for the bill to be considered in anything other than the order in which it was printed. If the committee is content to deal with it in that order, we should agree now how far we want to go at that first meeting. Richard Walsh has suggested that, on Tuesday 12 December, we deal with amendments to the bill up to the part that concerns proposed new section 10B. Are we agreed?

Members indicated agreement.

The Convener: Okay. We can now go home.

Meeting closed at 18:02.

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