

# **RURAL DEVELOPMENT COMMITTEE**

Tuesday 11 September 2001  
*(Afternoon)*

Session 1

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## RURAL DEVELOPMENT COMMITTEE

19<sup>th</sup> Meeting 2001, Session 1

### CONVENER

\*Alex Fergusson (South of Scotland) (Con)

### DEPUTY CONVENER

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

### COMMITTEE MEMBERS

\*Rhoda Grant (Highlands and Islands) (Lab)  
Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab)  
Richard Lochhead (North-East Scotland) (SNP)  
\*George Lyon (Argyll and Bute) (LD)  
\*Mr Jamie McGrigor (Highlands and Islands) (Con)  
\*Dr Elaine Murray (Dumfries) (Lab)  
\*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)  
Elaine Smith (Coatbridge and Chryston) (Lab)  
\*Stewart Stevenson (Banff and Buchan) (SNP)  
  
\*attended

### CLERK TO THE COMMITTEE

Richard Davies

### SENIOR ASSISTANT CLERK

Mark Brough

### ASSISTANT CLERK

Jake Thomas

### LOCATION

Committee Room 1



## Scottish Parliament

### Rural Development Committee

*Tuesday 11 September 2001*

*(Afternoon)*

[THE CONVENER *opened the meeting at 14:01*]

**The Convener (Alex Fergusson):** Ladies and gentlemen, welcome to the first Rural Development Committee meeting of the new term. The more astute among you will realise that there has been a change or two since last we met. It is only right that I pay tribute to my predecessor as convener of the committee—Alex Johnstone—and, if I may, I will do so briefly. For two years, he convened the committee ably and in a politically neutral fashion. I hope that I will at least be able to emulate that political neutrality in my time as convener. I look forward to as much of the support of members of the committee as possible in conducting committee business in a businesslike and mature manner. I look forward to working with you.

We are also about to welcome a new member of the committee. It would be remiss of me not to pay tribute to the member who has left—Mrs Margaret Ewing. Her contributions to the committee were always full and useful. Although we welcome the new member, we will miss Mrs Ewing's contributions.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Hear, hear.

**The Convener:** It is nice to know that that view is shared by Mrs Ewing's husband—there is relief all round.

**Fergus Ewing:** I am missing her already.

### Interests

**The Convener:** Item 1 on the agenda is the traditional request for a new member of the committee to declare any interests that are relevant to the workings of the committee.

I welcome a recent arrival to the Scottish Parliament—Stewart Stevenson. I hope that you will greatly enjoy working on the Rural Development Committee.

**Stewart Stevenson (Banff and Buchan) (SNP):** Thank you very much, convener. I look forward to working on the committee. I will make two declarations of interest. Although I am not formally required to register the interest, it is appropriate, in view of the amount that HBOS plc

lends to the farming sector, to declare that I receive a pension from that bank. I also hold some 39,000 shares, which is just below the level that I would be required to declare.

I also declare—this will come as no surprise to the committee—that I represent the parliamentary constituency that has the most substantial fishing interests. That is not a subject on which I expect to remain silent.

### Items in Private

**The Convener:** Item 2 is consideration of whether to discuss items 5 and 6 in private. It is right and necessary that we address the two items individually. We will consider item 5 first, which is a discussion on a possible amendment to the motion for debate on the Protection of Wild Mammals (Scotland) Bill.

**Dr Elaine Murray (Dumfries) (Lab):** We ought to discuss that item in public. Given the speculation that there has been in the media about the report and the discussions around the report, it would be helpful to have the discussion on the record.

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** I support Dr Elaine Murray's statement, especially in view of what happened when previously we went into private session on the Protection of Wild Mammals (Scotland) Bill.

More generally, I feel that this is an opportunity, with a new convener, to be more open and transparent. I know that the convener wants to deal with item 6 separately, but the Justice 2 Committee and the Standards Committee—if I dare mention the Standards Committee—do not even have agenda items to discuss whether the committee annual report should be dealt with in private. I do not see the need for us to go into private session for item 5 or item 6. We should discuss those items in open session.

**The Convener:** I appreciate what Mr Rumbles says, but my understanding is that a committee must decide at each meeting whether to discuss items in private.

**Mr Rumbles:** The convener decides in the first place whether to put on the agenda discussion of other items being taken in private. As convener of the Standards Committee, I have not put an item on tomorrow's agenda to discuss whether the discussion on the committee annual report should be open or private. We go into private session far too readily in committees in the Scottish Parliament when there is no real need to do so.

**Fergus Ewing:** This is a new parliamentary year, so we have the opportunity for a new start. It would be helpful to have the discussions on item 5

and item 6 in public. There is public interest in them. As Elaine Murray says, discussing the items in public removes the possibility of anything that we say in private being misquoted, misunderstood or not fully appreciated. If we do not want to see something in the newspapers, the best way to achieve that is not to say it. I hope that we can start a new parliamentary year with a new spirit of openness. I say that without any criticism of the former convener, because the committee as a whole took the decisions.

**The Convener:** I have spoken to one committee member about the matter previously. I said that I do not intend to stand in the way of the committee if it wishes to discuss items in public. However, for the time being I intend to bring up the subject on an individual basis at our meetings until we see how we get on with the new procedure—if I can call it that—rather than rule that we will not have private sessions. I would like to revisit the matter at every meeting.

I take it that the view of the committee today is that we should take item 5 and item 6 in public. I am happy to go along with that feeling and I welcome the new-found openness on the Rural Development Committee.

Is everybody agreed?

**Members** *indicated agreement.*

## Subordinate Legislation

**The Convener:** Under agenda item 3, we have six statutory instruments before us for consideration. Those instruments are subject to negative procedure.

The Subordinate Legislation Committee has made comments on two of the instruments: the Crofting Community Development Scheme (Scotland) Regulations 2001 (SSI 2001/208) and the BSE Monitoring (Scotland) Regulations 2001 (SSI 2001/231). Copies of the comments have been attached to the instruments to which they refer, as have Executive responses. Those have all been sent to members. No member has come back with questions on the instruments, so we are not taking evidence on them today. If members agree, I suggest that we discuss the instruments as a group. Do any members wish to comment on any of the instruments?

**Members** *indicated disagreement.*

**The Convener:** I recognise a “no” when I see it. Are members content with the statutory instruments?

**Members** *indicated agreement.*

## National Trust for Scotland (Glencoe)

**The Convener:** Agenda item 4 is consideration of petition PE227, which has been circulated to members. The petition concerns the impact of the National Trust for Scotland’s proposals for Glencoe. At this stage, the Public Petitions Committee has not formally referred the petition to us as it is aware of our current work load. It has asked us to indicate whether we would consider holding an inquiry into the role of the National Trust for Scotland as a major landowner in the Highlands and Islands. The paper that the clerks have circulated outlines the options in paragraph 20. It is worth repeating that we are not being asked to consider whether we support the petitioners’ case. Rather, we are being invited to make comments. I have no doubt that some members would like to comment.

**Fergus Ewing:** We should hold a limited inquiry into the issues that the petitioners raise. I say that as the local member and as someone who has had long involvement in the case.

I attended the meeting in Glencoe of the Public Petitions Committee. I have associated myself with some of the petitioners’ concerns and it might be helpful to note one in particular, which was not made explicit in the clerk’s note, although I am sure that that was not a deliberate omission. The concern is that the National Trust for Scotland—NTS—and other such major landowners perhaps have greater access to funding than do smaller landowners or businesses. Various large landowners have applied for public funds and there are concerns that bodies such as the NTS—whose employees do an excellent job in places such as Glencoe—seem to have the ear of the Government agencies and perhaps enjoy preferential treatment in the receipt of public funds. Only an inquiry could discover whether such concerns are justified. That is why I think that there should be an inquiry into the issues that are raised by PE227.

**Rhoda Grant (Highlands and Islands) (Lab):** I noticed that the petition was referred to the Justice 1 Committee to consider under the heading of land reform, when that committee was undertaking stage 1 consideration of the proposed land reform bill. I feel that that committee could deal with the petition, as could any committee that might be undertaking stage 1 scrutiny of the proposed land reform bill. I am also a little concerned that, after our successful away day when we decided that we were not going to do any firefighting, we now hear the noises of fire engines—as Lewis Macdonald once said. We must be careful about how reactive we are, particularly when another committee is dealing with a petition. As it has already been

agreed that the Public Petitions Committee is dealing with PE227, perhaps we should leave the matter at that.

**The Convener:** It was remiss of me not to point out that a members' briefing from the Public Petitions Committee is also attached to the briefing paper. It points out that the minister has confirmed to that committee that the

"National Trust for Scotland ... is not part of Government and does not receive funding from the Scottish Executive, except possibly for specific projects in the same way as other organisations."

**Fergus Ewing:** It is true that the Scottish Executive does not directly fund the NTS, but my point is that the NTS has applied for funding from Government agencies such as Scottish Natural Heritage—SNH—and has, I believe, received funding for a woodlands grant scheme. The NTS sought a grant for a substantial sum from the local enterprise company in Glencoe. After investigation, that grant was refused. However, the NTS then made an application to SNH for a grant of about the same amount. It seems to me that the NTS's attitude was that it did not get the money from one Government agency and so it applied to another one for money for a different part of what is, essentially, one and the same scheme.

In our discussion it is not possible to get at the facts of all those matters. However, the petitioners state that their complaint

"is an increasingly common complaint arising from the growing conflict in Scotland between small rural communities and powerful bureaucratic conservation groups."

We are here to investigate issues of that nature. I do not think that that would be firefighting, because the petition has been before Parliament for a long time. I have always supported the issue that is highlighted in the petition and I believe that it must be considered in detail by the Parliament.

**Mr Rumbles:** I sympathise with the views that Fergus Ewing has expressed, but—there is a but—I was struck by the paragraph halfway down the back page of the briefing by the Public Petitions Committee. It says:

"For the benefit of new members, it is important to note that both the Visitor Centre and the Woodland Management Scheme proposals to which the petitioners are opposed have already received the necessary permissions. **There is nothing the Parliament can do to reverse these decisions.**"

Bearing in mind our informal discussions about firefighting and getting on with our own agenda, if the Public Petitions Committee is saying that nothing we can do will reverse the decisions, I do not see—in this case—any benefit in the committee diverting from its programme to examine those decisions. We should stick with our work programme and not pursue this issue.

14:15

**Stewart Stevenson:** I visited the visitor centre at Glencoe recently and I can see why it is overdue for replacement. Nonetheless, there are real concerns about the proposals that have been suggested.

I always draw on personal experience. When I was a child we went for many years to Achmelvich in west Sutherland, which was part of the Vestys' considerable landowning interest in the Highlands of Scotland. I was very conscious of the dead hand that a large private landowner had on the ability of the community to develop and manage the resources that rightfully should have been its own. The National Trust for Scotland is no different in that regard. If the opportunity arose for us to consider the NTS's work, we should think seriously about taking that opportunity.

I acknowledge what Rhoda Grant said and Mike Rumbles supported: we have a heavy work load in the committee and in Parliament and we must take that into account. However, I support the proposal to carry out a limited investigation.

**Dr Murray:** I do not support that proposal. I agree with Mike Rumbles: it has been pointed out to us that the Parliament can do nothing to reverse the decisions, so there is not much point in having a lot of debate on them. It might be the case that the National Trust for Scotland is a major landowner in the Highlands. However, there are many others, some of whom do not even live or operate in Scotland. If we wish to examine the role of large landowners, that examination should be far wider than an examination of only the National Trust for Scotland.

**George Lyon (Argyll and Bute) (LD):** I support what my colleague Mike Rumbles has said and what Elaine Murray has said. On points of principle, the future role of major landowners can be examined when we consider land reform and, further down the road, the agricultural holdings bill.

Fergus Ewing has raised some genuine concerns and I am not sure what role members of this committee will play. MSPs often try to help groups who try to access different pots of money. If at first we are rejected, we try other roads in an effort to get funds for particular projects.

We can certainly discuss one of the issues that the petition throws up—that of the future role of major landowners. However, that will come into our discussions on land reform and the agricultural holdings bill.

**Fergus Ewing:** From what members are saying, I surmise that there is not a huge appetite for an inquiry. I accept Mike Rumbles's point. No one is suggesting that the development will not go ahead—it will. However, we should still consider

the matter. The National Trust for Scotland receives hundreds of thousands of pounds of taxpayers' money. When considering the proposed new centre for the NTS, we must also consider the effect on the existing businesses—restaurants and shops—that compete with the NTS. Those businesses have no access to grant assistance of any kind.

The issue of principle that George Lyon invited me to set out is whether it is fair that a large wealthy body—a quango or a charity such as the National Trust for Scotland—has almost unlimited access to the public purse, when small businesses that operate locally such as farms, shops and restaurants, have no access to any money and might be disadvantaged by the provision of a grant to a local competitor. I apologise to members if I did not set out that point clearly before. Given that that principle exists and that its general applicability might be of future concern, I wonder whether the committee might agree to the second proposal, which is to appoint reporters to examine the issues that the petition highlights.

**The Convener:** I welcome Fergus Ewing's recognition that there is not support for an inquiry and that we could perhaps move on to the second option.

**Rhoda Grant:** Fergus Ewing made a fair point about displacement in communities. We often hear about large bodies or landowners setting up businesses that run in conflict with the local community, but that is a planning issue. It might be worth writing to the committee that deals with planning and asking it to look at the matter. I know that the Public Petitions Committee has in the past passed on its concerns about the planning process. That committee might want an inquiry into planning procedures. There should be no displacement; somebody should not set up a business just to take away somebody else's business. That does not create inward investment or jobs in an area. That should be flagged up in any planning procedure.

**Mr Rumbles:** I appreciate what Fergus Ewing said and I do not want to bring up another subject, but I draw a parallel with a subject that is close to my heart and that is related to displacement. A vast amount of public money has been invested in Highlands and Islands Enterprise for the funicular railway, which is about to damage ski resorts in my constituency. As far as I am concerned, that matter is much bigger than the issue on which Fergus Ewing supports an inquiry.

I do not wish to pursue the issue now; we should leave it for another time. It would divert us from our programme if we launched an inquiry, or even appointed reporters to bring the subject back to the committee. Although the issue is important, we must apply our minds to bigger issues. We need to

get on with our programme.

**The Convener:** The clerk has rightly brought to my attention the fact that the Transport and the Environment Committee has agreed to write to the Scottish Executive to seek further information on what steps might be taken to improve procedures for local consultation on planning issues. That might address the point that Rhoda Grant made.

I am not picking up a great desire from members to appoint reporters. I do not wish to do so; does any member—apart from Fergus Ewing and possibly Stewart Stevenson—disagree?

**Mr Jamie McGrigor (Highlands and Islands) (Con):** I was at one of the meetings that Fergus Ewing attended in Glencoe. The local anger that was directed towards the NTS and the feeling that there had not been enough consultation was obvious.

I agree that Glencoe needs a new visitor centre. However, other issues were raised. People felt that there had not been enough consultation on the excessive culling of deer on the National Trust's land in the area to produce a native forest.

**The Convener:** What is your point in relation to the petition?

**Mr McGrigor:** My point is that I agree with Rhoda Grant that there should be better consultation between local communities and big bodies that come in with proposals that will make a big change to the local community.

**The Convener:** Everybody has had his or her say on the issue. Our reply to the Public Petitions Committee should be that we are content to note the petition and act on it in the context of other business—as stated in bullet point 3 on the summary that members have in front of them. I think that that reply reflects the view of the committee as a whole. If no members disagree with that suggestion, we will move on.



## Protection of Wild Mammals (Scotland) Bill

**The Convener:** Item 5 concerns the debate on the Protection of Wild Mammals (Scotland) Bill. We now know that a debate will take place a week tomorrow, on Wednesday 19 September, on motion S1M-2078, in the name of Mike Watson,

"That the Parliament agrees to the general principles of the Protection of Wild Mammals (Scotland) Bill."

I specifically asked for this item to be put on the agenda because, as convener of the Rural Development Committee, I felt that it was perhaps incumbent on us, given the fact that our report came to a different conclusion, to lodge a reasoned amendment suggesting an alternative outcome. I do not need to remind anyone, except perhaps the new members, of just how much work the committee has put into its report on the bill over the past 18 months or so.

It is important for the committee to debate my proposed amendment to Mike Watson's motion, because committee members may not agree with me. If that is the case, so be it. However, we should at least discuss the issue before next week's debate. The clerks have circulated my proposed amendment to the motion, and I shall give members a minute to study it before we open the debate.

As the text of the amendment has been circulated only in private, I shall read it out so that it enters the *Official Report*. It is an amendment to the motion for the stage 1 debate on the Protection of Wild Mammals (Scotland) Bill on 19 September 2001. It reads:

"As an amendment to motion (S1M-2078) in the name of Mike Watson, leave out from 'agrees' to end and insert

'does not agree to the general principles of the Protection of Wild Mammals (Scotland) Bill because, as stated by the Rural Development Committee in its Stage 1 Report, the focus of the Bill is on the use of dogs which does not necessarily involve cruelty;

and notes that the Rural Development Committee on 11 September agreed to ...'".

The text finishes at that point, and I hope that the committee will agree on wording to complete it. Now that members have had time to look at the proposed amendment, I throw the subject open to debate.

**Rhoda Grant:** I was under the impression that, when a motion on the stage 1 report on a bill is debated, that motion cannot be amended and that members must either vote for it or against it. I would like to know whether we can amend the motion.

**The Convener:** Are you suggesting that the motion in a stage 1 debate cannot be amended?

**Rhoda Grant:** That is certainly the point that was put to me, so I would like clarification about it.

**The Convener:** I will have to seek advice on that point.

**Richard Davies (Clerk):** The Presiding Officer issued guidance on the form of what are known as reasoned amendments to stage 1 and stage 3 motions, which was published in the business bulletin on Friday 9 February 2001. In that guidance, he set out the scope by which those motions may be amended. There are limits to ensure that, if the amended motion happened to be agreed to by the Parliament, the Parliament would be left clear about whether the bill is agreed to or not agreed to at stage 1.

**The Convener:** Does that answer your question, Rhoda?

**Rhoda Grant:** It does.

**Mr Rumbles:** Like Rhoda Grant, I seek clarification. The motion that has been lodged by Mike Watson is obviously diametrically opposed to the findings of the committee, but we have the straightforward option of voting against that motion. What is the purpose of your proposed amendment?

**The Convener:** The purpose of the amendment is to focus attention on the report, which members of the committee have invested an enormous amount of time in drawing up. I feel that, if I, as convener, lodge an amendment to Mike Watson's motion, that will give us all a stronger focus on the committee's report than would otherwise be the case. That is simply my gut feeling. I wanted the matter to be discussed in the committee and this is the only opportunity for that.

**Fergus Ewing:** From brief discussions that I have had with a clerk in the chamber office, I understand that the format of the stage 1 debate will allow the committee representation in both the opening and the closing speeches. Is that correct?

14:30

**The Convener:** I would not have thought so, as we will be debating Mike Watson's motion rather than the committee report.

**Richard Davies:** I understand that no formal decision has yet been made on the speaking order for the debate.

**The Convener:** However, I assume that the fact that we are debating Mike Watson's motion will mean that the committee will not be represented in both opening and closing speeches.

**Fergus Ewing:** As the committee has done a huge amount of work and produced a massive, complex report, members of the committee should

speak in the debate to explain the work that we undertook and the conclusions that we reached. I understood from my informal inquiries to the chamber office this morning that committee speakers are a customary part of a member's bill debate.

If I am wrong and if committee members are not to be called to speak, there is a strong case for lodging an amendment that will allow a member representing the committee to speak. I would like to have the matter clear in my mind before focusing on the wording of the amendment, which is a separate issue that can be addressed only after we find out what the procedure will be for the debate.

**Dr Murray:** It is probably necessary to clarify the procedures. I was advised that the committee could not lodge an amendment and that any amendment would have to come from an individual member. The convener could lodge an amendment, but only as an individual member and that would not necessarily mean that committee members could speak, even if the wording of the amendment were agreed by the majority of committee members. We must also bear it in mind that four members of the committee did not agree with the conclusions of the report and that it would be difficult to suggest that there was some sort of uniform view in the committee.

We need to clarify the committee's status in the debate. Supporting the current wording of the amendment would not be any different from voting against Mike Watson's bill. I do not think that the amendment would add anything to the debate. Members will have the opportunity to vote against the bill in the debate and members will be called to speak—as individual members if not as committee members—and will be able to make any necessary points about our report.

**Mr Rumbles:** It would be appropriate for the convener and deputy convener to speak in the opening and closing speeches during the debate. The only way to secure that is by lodging a committee amendment.

**The Convener:** Elaine Murray is correct in saying that we cannot lodge a committee amendment. I wanted to discuss the matter with the committee so that I, as the convener of the committee, could lodge an amendment that would focus the debate on the committee's report in a way that would not happen if we did not lodge such an amendment—I use the word “we” loosely.

**George Lyon:** I take it that you are seeking the endorsement of the committee to lodge the amendment. What would be your plan of action if you did not receive that endorsement? Do you intend to lodge the amendment anyway, as an individual member?

**The Convener:** I would have to think about that. I simply felt that it was right for the committee to discuss the matter at this point—it is the only chance that we have to do so before the debate—with a view to securing proper recognition of the significant work that the committee has undertaken. I feel that it is important for the debate to focus on that work.

**George Lyon:** So, you are first seeking an agreement in principle from the committee that such an amendment be lodged.

**The Convener:** Yes, that is correct.

**George Lyon:** The second thing that you are seeking is the completion of this open-ended amendment.

**The Convener:** Absolutely. The first decision must be whether the committee is minded to follow the course of action I propose.

**Dr Murray:** Do we not first need clarification of the committee's status in the debate, as the necessity for an amendment is predicated on that?

**The Convener:** It would be useful for us to adjourn the meeting for 10 minutes, during which time the clerk and I could try to get a ruling on that from the chamber office. Is the committee content for us to do that?

**Members indicated agreement.**

*Meeting adjourned at 14:35.*

14:47

*On resuming—*

**The Convener:** Ladies and gentlemen, thank you for your forbearance. I am sorry that we are a couple of minutes late, but we have made some progress on the procedural matters that we were discussing. As I am totally out of breath, I ask the clerk, who is much fitter than I am, to explain.

**Richard Davies:** The position is as we understood it to be. First, it is permissible for the convener to lodge an amendment in the name of the committee to the motion if the committee agrees. Secondly, no decision has yet been made on the running order or speaking lists for next Wednesday's debate. The matter is still being considered and will be discussed with business managers. Thirdly, there will be no automatic placing of committee members on the speaking lists, because the debate will be not on the committee's report but on the motion,

“That the Parliament agrees to the general principles of the Protection of Wild Mammals (Scotland) Bill.”

However, if an amendment in the name of the committee were selected for debate, there would be a right for representatives of the committee—

one presumes that it would be the convener and deputy convener—to speak to that amendment.

**The Convener:** Is that clear to all members? Obviously, there are still some permutations to be developed in the course of time.

**Mr Rumbles:** I suggest that we get on with business and agree to submit an amendment in the name of the convener and deputy convener.

**The Convener:** Does any member wish to say otherwise?

**Dr Murray:** My agreement would be qualified and dependent on what the final paragraph of the proposed amendment was. I will not agree to the submission of an amendment unless it proposes an alternative. If the amendment simply states

“as stated by the Rural Development Committee in its Stage 1 Report”,

I will not support it.

**The Convener:** I accept your qualification and suggest that we move forward on the basis that we agree in principle to my lodging an amendment, subject to our being able to agree the wording of such an amendment. Is that agreed?

**Members indicated agreement.**

**The Convener:** Therefore we agree in principle to my lodging an amendment, subject to the discussion that will start now. I understand that, in my absence, Fergus Ewing has had a think around the subject.

**Fergus Ewing:** Your absence enabled me to exercise the grey matter to some extent. I suggest the wording of an amendment for our consideration. Perhaps Richard Davies can help us out by writing this down:

“As an amendment to motion (S1M-2078) in the name of Mike Watson, leave out from ‘agrees’ to end and insert ‘does not agree to the general principles of the Protection of Wild Mammals (Scotland) Bill for the reasons set out in the stage 1 report of the Rural Development Committee; and further urges the Executive if this Bill does not proceed beyond stage 1 to examine the issues identified in the report, in particular paragraph 72 thereof, in order to address whether the existing law against fox baiting provides adequate protection against cruelty.’”

**The Convener:** I have been absent for a while, so before you speak to that, I want to ask whether you discussed the wording among yourselves.

**Mr Rumbles:** Purely informally.

**The Convener:** I quite understand—I just wanted to get the picture.

**Fergus Ewing:** The microphones were off at the time, although that was not a matter of choice.

The first point of the amendment is that the committee

“does not agree to the general principles of the Wild Mammals (Scotland) Bill for the reasons set out in the stage 1 report”.

That wording is preferable to the wording that was initially proposed, which suggested only one aspect of that report. It would make sense to refer to the generality of the report because the report contains a large number of conclusions and a great deal of work.

Secondly, to refer only to the report would not be enough and would, it is arguable, neither add anything nor provide a substantive amendment. In the stage 1 debate, it may be useful to draw the Parliament’s attention to the fact that the committee agreed unanimously—so far as I recall—to paragraph 72, which states:

“The Committee makes clear that it abhors any such form of “fox-baiting”, whether carried out using dogs or otherwise and we are concerned that the animal welfare agencies have been unable so far to secure any prosecution under existing legislation. The law as it stands provides little protection and the Committee recommends that this issue be examined by the Scottish Executive if this Bill does not proceed beyond stage 1.”

In other words, the committee concluded that the existing Scots law on fox baiting could perhaps—especially in the light of the lack of prosecutions—be tightened up. The witnesses from the Scottish Society for the Protection of Cruelty to Animals drew our attention to that area and to the need for a careful examination of the issue.

In conclusion, to include a reference to paragraph 72 in the text of the amendment would point to some of the positive work that was done by the committee and would therefore be a good thing.

**Rhoda Grant:** As someone who obviously will not be supporting the amendment, I feel that it would be better to keep it as short as possible. Fergus Ewing is trying to give the committee some protection against a backlash against the committee’s recommendation. That is a wee bit dishonest. If we refer to the report, it should be taken in total. The Executive could then respond to any of the findings of our report. That would only be fair.

**Mr Rumbles:** Convener, as you pointed out, the stage 1 debate will not be about our report; it will be about the acceptability or otherwise of the bill. Our report should be used in that debate. The amendment proposed by Fergus Ewing is a sensible one, which I support in its entirety. The amendment does not just say no and nothing else; it is very positive.

It is important that people realise that following the great deal of work that we did—some of us worked on this issue in the committee for 18 months—there are outcomes that have to be

addressed. Fergus Ewing has hit the nail on the head by highlighting the loose law against fox baiting, which the SSPCA identified. The Executive would benefit from doing something about that. The proposed amendment is a good reasoned amendment and we should support it.

**The Convener:** I should bring to the committee's attention the advice that I have received, which is that a reasoned amendment should only explain the reasons for rejecting the motion and should not necessarily suggest further forms of action. That is not to say that the wording of Fergus Ewing's proposed amendment would be turned down, but it might have to be tinkered with to make it acceptable.

**Dr Murray:** You may have put a spanner in my works. I was going to propose an alternative to just identifying what we have termed fox baiting, which is terminology that has recently come into our vocabulary. We may know what it means, but I am not sure that everybody else does. I was going to suggest that we lodge an amendment along the lines of examining whether the Wild Mammals (Protection) Act 1996 can be amended to afford wild mammals greater protection against the imposition of unnecessary suffering in sport and pest control, which would be stronger than just reflecting on fox baiting. However, if we are unable to lodge an amendment of that type because it is directive and does not just refer to the stage 1 motion, it may not be possible to examine that option. I wonder in that case whether it is worth lodging an amendment at all.

**The Convener:** I ask the clerk to what degree one is not allowed to consider alternatives in a reasoned amendment.

**Richard Davies:** The announcement in the business bulletin of 9 February did not specifically say that that could not be done, but my advice from colleagues in the chamber office is that such an amendment should be fairly short and simple and could simply put the point of view that the general principles should not be agreed to. The amendment should say "because" and then give a reason why the general principles should not be agreed to.

**The Convener:** I have considerable sympathy with Elaine Murray's proposal, because such an amendment would be constructive. Does anyone else wish to participate? If not, we have to take a decision on whether to lodge an amendment using Fergus Ewing's words or to consider them again in the light of Elaine Murray's or Rhoda Grant's comments. We have three slightly different positions. Fergus Ewing's amendment urges the Executive to pay particular attention to a part of the report that was highlighted—paragraph 72—for all the reasons that we know about. Elaine Murray would like to be more robust than that, and

suggests that the committee looks at—

**Dr Murray:** Either the Executive or the committee could do it. It may be a matter of protocol. We need to consider whether it is appropriate for us to instruct the Executive to take a particular course of action or whether we should volunteer to take it ourselves.

**The Convener:** Rhoda Grant's position is that we should not recommend anything at all.

**Rhoda Grant:** I said that if we lodge an amendment, it should state that we are recommending that the Parliament should not agree to the general principles of the bill, for the reasons stated in our report, and leave it at that.

**Mr Rumbles:** If Fergus Ewing's suggestion is not allowable, I see no reason for not taking up Rhoda Grant's proposal. However, I prefer Fergus's suggestion, as it calls on the Executive to address an anomaly in the existing law.

**George Lyon:** I support the proposal that has been made by Fergus Ewing, as it takes us a little further forward. In our stage 1 report, we make very clear our reasons for not supporting Mike Watson's motion. However, we need to take the matter a bit further.

**The Convener:** I glean from members' silence that we should attempt to progress the wording proposed by Fergus Ewing.

**Dr Murray:** I do not think that it would add anything to our amendment.

**The Convener:** Is there another form of words that you would prefer?

15:00

**Dr Murray:** I offered the committee a form of words, but I do not know whether it is appropriate in an amendment for the committee to instruct others to do something. I do not think that fox baiting is the only issue that needs to be addressed. We must address the much wider issue of cruelty to wild animals and the protection afforded to them. That means considering the use of dogs and other practices in sport or pest control that affect foxes or other wild animals. If we return to this issue, I am reluctant for us to restrict ourselves to the issue of fox baiting.

**Fergus Ewing:** The wording that I read out referred both to issues generally and to paragraph 72 in particular. I was not being prescriptive or suggesting that the committee urge the Executive to consider only the issue of fox baiting. I highlighted that issue because it was one that the committee identified. I did not propose that we instruct the Executive to examine the issue, but merely that we urge it to do so. That answers the point that Elaine Murray made.

**Mr Rumbles:** Can we move to a decision on this matter?

**The Convener:** I am minded to do that as soon as possible. Perhaps we could deal with the problem by adding three words to the end of the amendment proposed by Fergus Ewing. It calls on the Executive

“to address whether the existing law on fox baiting provides adequate protection against cruelty”.

We could add to that the words “to wild mammals”, so as to widen the debate.

**Dr Murray:** There is no existing law on fox baiting.

**The Convener:** The point was made to us that existing law does not allow successful prosecutions of practices such as fox baiting.

**Dr Murray:** But the existing law covers a much wider area than just fox baiting.

**The Convener:** We could urge the Executive

“to address whether the existing law on animal welfare provides adequate protection against cruelty”.

Would that better address your concerns?

**Dr Murray:** Yes.

**Fergus Ewing:** I think that the Protection of Badgers Act 1992 makes it illegal to bait a badger, while the Protection of Animals (Scotland) Act 1912 makes it illegal to bait a cat. According to the evidence that we received, it is not illegal to bait a fox. I have suggested this amendment because I believe that that matter should be given careful consideration. I hope that we can bring Elaine Murray on board and secure her support, along with that of all other members.

**The Convener:** If the amendment finished with

“whether the existing law on animal welfare provides adequate protection against cruelty to wild mammals”,

would that encompass the feeling of the committee?

**Mr Rumbles:** I would rather go with Fergus Ewing's suggestion.

**The Convener:** We need to make a decision on the matter.

**Dr Murray:** Many of us feel strongly about hare coursing. The current wording does not address that issue as it refers only to the baiting of foxes and not to the baiting of other wild animals such as hares.

**Mr Rumbles:** Can we move to a decision, convener?

**The Convener:** Yes. Does the committee agree to proceed with Fergus Ewing's proposed wording?

**Fergus Ewing:** With the addition of the words, “of wild mammals” at the end, which you suggested, convener.

**The Convener:** I suggested that the amendment should finish off with: “cruelty to wild mammals”.

**Dr Murray:** Will you read the whole amendment, convener?

**The Convener:** Yes. The amendment would read:

“As an amendment to motion (S1M-2078) in the name of Mike Watson, leave out from ‘agrees’ to end and insert ‘does not agree to the general principles of the Protection of Wild Mammals (Scotland) Bill for the reasons set out in the stage 1 report of the Rural Development Committee; and further urges the Executive to examine the issues identified in the report, in particular paragraph 72 thereof, in order to address whether the existing law against fox baiting provides adequate protection against cruelty to wild mammals.’”

**Fergus Ewing:** I move that as the wording of the amendment.

**George Lyon:** I second that.

**The Convener:** Does anybody disagree?

**Rhoda Grant:** I do.

**The Convener:** Do you wish to put a counter-proposal?

**Rhoda Grant:** No.

**Dr Murray:** There is probably little point in putting a counter-proposal, given the support for the proposal. I want to put a counter-proposal, but I do not think that there would be much support for it.

**The Convener:** In the interests of balance, I would like to hear the counter-proposal, if you are willing to put it forward.

**Dr Murray:** The counter-proposal would be for the amendment to state:

“and further urges the Executive”—

I agree with Fergus Ewing that the word should be urges and not instructs—

“if the bill does not proceed beyond stage 1, to examine whether the Wild Mammals (Protection) Act 1996 might be amended to afford wild mammals greater protection against the imposition of unnecessary suffering in sport and pest control.”

**Mr Rumbles:** There is a clear difference between the proposals and we need to vote.

**The Convener:** There is a clear difference. For the sake of the clerk, will you read your proposal out again, Dr Murray?

**Dr Murray:** I will pass my piece of rather scruffy writing to the clerk.

**The Convener:** We have a proposal for the wording of the amendment. Are you making a counter-proposal, Dr Murray?

**Dr Murray:** Yes.

**The Convener:** In that case, we have to move to a vote, which, I must admit, is a position that I had hoped to avoid. The question is, that Fergus Ewing's proposed wording of the amendment, which is supported by Mike Rumbles, be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fergusson, Alex (South of Scotland) (Con)  
 Lyon, George (Argyll and Bute) (LD)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)

#### AGAINST

Grant, Rhoda (Highlands and Islands) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)

**The Convener:** The result of the division is: For 6, Against 2, Abstentions 0. Fergus Ewing's wording of the amendment is agreed to.

Dr Murray, do you wish to propose your wording?

**Dr Murray:** I think that it falls, given that the other proposal has been agreed to.

**The Convener:** In that case, with the majority agreement of the committee, I propose to lodge the amendment in my name. It will be up to the Presiding Officer to decide whether to accept it.

## Annual Report

**The Convener:** Item 6 is the annual report. Members have received a private copy of the draft annual report, which is pretty clear. A report has to be given to the Parliament annually. I assume that members have read it. I am glad that Dr Murray has read it.

**Mr Rumbles:** The report seems to be a straightforward and factual account of the committee's progress during the year. I have nothing to add.

**The Convener:** The deadline for the report is not until the end of September, so if members are desperately keen to come back to it, we could do so. However, I think that everybody is happy with it. Do we agree to the terms of the report?

**Members indicated agreement.**

**Fergus Ewing:** I endorse the report. As the report shows, the work load of the committee has been substantially dominated by the consideration of legislation. Mr Watson's member's bill—the Protection of Wild Mammals (Scotland) Bill—has taken up a huge amount of time, but there has also been serious Executive legislation such as the National Parks (Scotland) Bill and the Salmon Conservation (Scotland) Bill. Because the work load of the committee is so taken up with legislation, we have not really had the time that some of us would have liked to address other serious issues in the rural economy, which in many ways is facing great crises. I am sure that members from throughout the political parties are greatly concerned about that. My private view is that if the number of MSPs were reduced from 129, it would be more difficult for the committee to do the job that it is entrusted with and there might even be a case for considering, as the Justice and Home Affairs Committee was split—

**The Convener:** I am sorry to butt in, but please stick to the debate, which is on whether we accept the draft report. I think that the answer to that is yes, but I am not sure that the debate was meant to encompass future policy on members of the Parliament. However, you made your point before I managed to stop you. This is my first convenership—I will be quicker next time.

**Stewart Stevenson:** Are you sure, convener?

**The Convener:** I should have said that I will try to be quicker next time.

If members have nothing else to say on the draft report, we will accept it and it will be sent to the appropriate place. On that note, I draw the meeting to a close.

*Meeting closed at 15:11.*

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