

RURAL DEVELOPMENT COMMITTEE

Tuesday 27 November 2001
(*Afternoon*)

Session 1

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RURAL DEVELOPMENT COMMITTEE

27th 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)
*Mr Jamie McGrigor (Highlands and Islands) (Con)
*John Farquhar Munro (Ross, Skye and Inverness West) (LD)
*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

THE FOLLOWING ALSO ATTENDED:

David Mundell (South of Scotland) (Con)
Mr Murray Tosh (South of Scotland) (Con)
Mike Watson (Glasgow Cathcart) (Lab)

WITNESSES

Ross Finnie (Minister for Environment and Rural Development)
Mark Glover (Respect for Animals)
Robert Morgan (British Fur Trade Association)

CLERK TO THE COMMITTEE

Richard Davies

SENIOR ASSISTANT CLERK

Mark Brough

ASSISTANT CLERK

Jake Thomas

LOCATION

Committee Room 2

Scottish Parliament

Rural Development Committee

Tuesday 27 November 2001

(Afternoon)

[THE CONVENER *opened the meeting at 14:02*]

The Convener (Alex Fergusson): We have a lot to get through this afternoon. I welcome the Minister for Environment and Rural Development, Ross Finnie—thank you for coming to the committee on what must be a busy day for everyone in the Executive.

Subordinate Legislation

Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No 2) Amendment (No 5) Regulations 2001 (SSI 2001/415)

Potatoes Originating in Egypt (Scotland) Regulations 2001 (SSI 2001/421)

The Convener: Agenda item 1 is two statutory instruments for the committee to consider under the negative procedure: the Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No 2) Amendment (No 5) Regulations 2001 (SSI 2001/415); and the Potatoes Originating in Egypt (Scotland) Regulations 2001 (SSI 2001/421).

The Subordinate Legislation Committee considered the instruments last week in its 42nd report and made no comments on either instrument. The clerks have received no queries from members. Are members content with the instruments?

Members *indicated agreement.*

Fur Farming (Prohibition) (Scotland) Bill: Stage 1

The Convener: Agenda item 2 is evidence on the Fur Farming (Prohibition) (Scotland) Bill at stage 1. Members should have with them copies of the written evidence that has been submitted to the committee and a copy of the bill and the accompanying documents. Time is slightly limited, so I ask members to keep their questions as concise and focused as possible. In calling members to ask questions, I will bear in mind the issues that we must cover in our stage 1 report.

I welcome today's witnesses, particularly Mark Glover who has just arrived—I am sorry to put you in the firing line so quickly, but thank you for joining us. Mr Glover is the campaigns director of Respect for Animals. Robert Morgan is the executive officer of the British Fur Trade Association. We are also joined by Ross Finnie, the Minister for Environment and Rural Development, and Frances Reid, the bill team leader from the Scottish Executive. I am grateful to you all for attending; I know that some of you have come a considerable distance to be with us.

We would like to hear brief introductory remarks from the witnesses—anything that is in addition to the written evidence that has been submitted. We will then have time for questions from members of the committee. I invite Mr Glover from Respect for Animals to begin with a brief opening statement that will help to stimulate discussion.

Mark Glover (Respect for Animals): Thank you. I apologise for being late—I am late because of the trains.

The bill that has been made law in Westminster has been well received. From our point of view, the good news is that there is now a maximum of three fur farms left in England. All the remaining fur farms in the United Kingdom are in England. Because of the compensation package, a number of such farms have shut down during the past year. There were then only three left, but I believe that at least one of those has subsequently closed down.

That is extremely good news from the animal welfare and environment points of view. As members will be aware, mink have been a devastating introduction in relation to fauna in Scotland. It is worth emphasising that mink exist in Scotland and the UK because of fur breeders. Mink were a breeding species in the UK as early as the 1950s, way before any of the insane deliberate releases with which we are familiar took place.

The only other thing that I have to say is that I hope that the bill becomes law quickly, because it

is part of a Europe-wide movement. From our point of view, the good news is that other countries in the European Union are also considering taking action on the issue. Before the end of the year, it is likely that the Swedish Government will introduce a bill to ban fur farming, as will the Netherlands. The Netherlands is the second biggest mink breeder in the world and both those countries are following the UK's lead. We hope that they will introduce laws that are based on ethical considerations.

The Convener: Thank you for those brief remarks. The briefer the remarks, the more time we have for questions.

Robert Morgan (British Fur Trade Association): It is a privilege to be invited to give evidence to the committee. I am the executive officer for the British Fur Trade Association. Our members are fur traders and the majority of the fur pelts that are traded in the world are purchased by our members in London. We are therefore direct stakeholders in fur farming in the EU and elsewhere.

I have brought two supporters with me and there is a good reason for that. On my left is Mike Cobbledick who was a fur farmer in Devon and is now a successful fur farmer in Denmark. On my right is Professor Leif Lau Jeppesen, who is associate professor of animal behaviour from the zoological institute at the University of Copenhagen.

Why are my supporters here? It is because they represent two main strands of our case. The first strand is the rural development case for fur farming. Mike Cobbledick has asked me to say that he would like to invite the convener and any other members to visit him in Denmark. You would have a first-hand view of how a product for a niche market is developed and sold. There are international fur auctions in Copenhagen. In Denmark, mink fur is the fourth highest agricultural export after bacon, cheese and canned meat. It is worth \$350 million as an export. Mink farming also plays an important role in Denmark because it makes for viable rural communities. In Denmark, mink farmers are often arable farmers who also farm mink. The mink bring the profit that makes the farmers' operations viable.

The second strand to our argument is animal welfare. That is why Leif Lau Jeppesen is here. An opinion poll that an independent company conducted showed that in the UK, including Scotland, eight out of 10 people support farming for any purpose provided that there is good animal welfare. The public feels passionately about animal welfare and fur farmers feel passionately about animal welfare, because they need to look after their animals to produce good fur. Animal welfare is a key aspect; it is to do with public

morality. That is why we have invited Professor Jeppesen. He stands for independently judged animal welfare.

Before I finish, I give the committee three new facts to think about. In the EU as a whole, 365,000 tons of fish by-products are used to make feed primarily for mink and other farmed-fur animals. Much of that comes from the Scottish fishing industry. If the Parliament allows fur farming to remain legal in Scotland, it will send an important signal to other Governments in the EU, which will mean that the fur farming industry in the EU will be maintained. It will also mean that valuable fish by-product exports will be maintained.

My final point is that mink is now being prepared, cooked and eaten, not in the UK, but in China. I have some pictures of mink meat being prepared, which I can show to committee members. Am I allowed to do that?

The Convener: Absolutely.

Robert Morgan: I have pictures of mink meat being prepared for human consumption in China. That is at an experimental stage, but it means that mink are being reared not only for their fur, but for their meat. That potentially puts mink farming on the same footing as rabbit farming, which is not under threat. Alternatively, it puts mink farming on the same level as sheep farming. After all, we kill sheep for their meat, but we can still use the skin for sheepskin. In China, mink will be on the same level as those products. That takes away from the points that have been made by people who express the public morality argument. I have not dwelt on the public morality argument because there will be questions, through which I can deal with the issue more fully.

I ask the committee to reassess the bill, rather than to follow blindly the course that Westminster has taken. There is good reason to delay any decision. An EU scientific committee will report on fur farming at the end of the year. That is an important step towards specific EU legislation on fur farming. I ask the committee to delay the bill until the report has been produced.

I will be pleased to answer questions.

The Convener: Thank you very much. I am glad that you brought only photographs of minced mink—samples might have been more than the committee is ready for at this stage.

I am keen to offer the Minister for Environment and Rural Development the opportunity to come in, but I am aware that he might not wish to do so at this stage.

The Minister for Environment and Rural Development (Ross Finnie): I do not have much to add at the moment. The bill is fairly self-explanatory as far as we are concerned. There

has been no fur farming in Scotland since 1993. We are unaware of any pressure, wish or desire for any fur farming. Although there was not a huge number of respondents to the consultation process that we carried out before introducing the bill, the respondents did cover a fairly large cross-section of society and there was among them unanimous support for the bill.

Fur farming is prohibited in England. Given the circumstances and the question of controlling the border, we do not believe that there is any sense in permitting the practice to reappear by cross-border transfer.

The bill is being introduced on the grounds of morality. I am not sure that a current experiment in China on eating mink meat necessarily overturns the evidence that we have received, which distinguishes such activity from other forms of agriculture.

14:15

The Convener: Thank you. I will throw the meeting open to members.

Mr Glover—just to clarify the situation—do you support the bill on purely moral grounds? I assume that you are not questioning the welfare of animals that are kept for fur farming purposes.

Mark Glover: We most certainly are. The arguments are twofold. Such animals are not suitable for farming—particularly factory farming—conditions. They are not like any other form of farm animals. To bring sheep into the equation is simply not a fair comparison. The animals in question have been bred in captivity for significantly less than 100 years. Other forms of farm animal have been domesticated over thousands of years.

The Farm Animal Welfare Council described mink as essentially wild animals. I will not go through all the arguments, but mink are solitary, carnivorous, territorial animals—they are not like other farm animals. The evidence clearly shows that keeping them in small, barren wire cages creates a lot of problems for them. They mutilate themselves and behave stereotypically, such as by running up and down the cages. Farmed foxes are prone to cannibalism—frequently they eat their young. There is a strong animal welfare argument.

The ethical dimension arises from consideration of the end product. No one needs a fur coat and no one needs the fur trimmings that are increasingly common on garments in this country. The ethical argument—which is increasingly accepted—is that to raise an animal under cruel circumstances for such a trivial product is not justifiable.

I return to the opinion poll that the fur trade

representative mentioned. A different result might have been obtained in that poll if the word “fur” had been mentioned. As the public said that they accept farming where animal welfare conditions are satisfied, that automatically rules out fur farming in our minds. I suspect that it also rules it out in the minds of the great majority of the public.

The Convener: You feel that caged mink are essentially wild animals. Two, three or four years ago—I cannot remember—a large number of mink were let out of a mink farm in the south of England. Most of them were recaptured quickly because they were completely unable to adapt to the wild. Surely the argument that they are essentially wild animals does not hold water, because they do not adapt to the wild when given the chance to do so.

Mark Glover: I feel that the press distorted that situation. A large number of mink were let out of their cages, but there was a perimeter fence that not many mink got through. Once they were out, most of the mink were caught by large numbers of Ministry of Agriculture, Fisheries and Food officials and others, who ran around the countryside with nets and guns and so on. Many of the mink were run over. Most would not have survived, but the biology of the mink has a lot to do with that. Mink are highly territorial and in the area into which they were released there were established mink with established territories. Therefore, the new recruits to that population would have experienced extreme difficulty in finding new territories and surviving in the wild.

The Convener: Do you wish to respond, Mr Morgan?

Robert Morgan: Keeping animals for fur is as ethical as keeping animals for their leather or their wool. A mink does not wake up in the morning knowing that it will be killed for fur any more than cows realise that they will be steaks or chops. I reiterate the point about animal welfare—that is the key issue. A 1999 report on the welfare of farmed mink compared to other farmed animals, by the animal welfare centre at the veterinary faculty of the University of Utrecht, shows that animal welfare on mink farms is at least as high as that on farms where the production aim is food. A University of Oxford researcher called Georgia Mason also makes the point that the animal welfare of farmed mink is good when compared with other animals.

In our written submission we declared that in many ways the consultation process was rather superficial. For example, it followed the words of the Westminster consultation in talking about fisher farming—but there is no such thing. It is ridiculous to ask the committee to ban fisher farming when such farming does not exist.

Another example is that the North of Scotland Water Authority, in its response to the Scottish consultation, appears to accept a ban on mink farming. We wrote to NOSWA to challenge that. We said, "Look, if you're worried about mink escapes, the thing to do is to have proper fencing. If there is a break-in by eco-terrorists or animal rights people, they should be apprehended and punished. Just because there might be a problem, there is no need to ban something." I have given the committee a copy of NOSWA's written response to us, which said that providing that there is good practice—which there is—it is not asking for a ban.

Elaine Smith (Coatbridge and Chryston) (Lab): I have a question first for Mr Glover and then one for Mr Morgan.

I want to explore a bit further the wearing of fur, which Mr Glover mentioned. I do not know of any friends or relatives who wear real fur, although in my granny's day it was clearly a status symbol. What evidence do you have that the public objects to fur farming? Some of the committee's evidence seems to indicate that there is a revival in wearing fur. Can you expand on what you say in point 4 of your submission of 7 November, which is that you are

"assuming that ... information on the cruelty of fur farming ... is not required."

Could you expand on the cruelty aspects?

Robert Morgan: First, I will talk about the growing popularity of fur—

Elaine Smith: I am asking Mr Glover this question because it relates to respect for animals. I will then ask you a different question, Mr Morgan.

Mark Glover: The fur trade is worldwide, as you have seen from the facts in my written submission. It is a colossal business that is worth about \$10 billion a year. The fur trade puts an awful lot of money into trying to convince the press and the public that fur is back. Every year press releases are put out saying that fur is back and I have even seen in evidence that has been submitted to the committee the suggestion that fur sales in this country are up by 30 per cent. I note that no reference is included for that figure, so I am not quite sure what it is based on.

There is a public perception that there is more fur on sale than there has been in the recent past. That might be true of fur that is incorporated into collars and cuffs on coats and into trimmings. That is largely because of the efforts that the fur trade's marketing people have put into convincing designers that they should incorporate fur into their garments and persuading the media and the public that fur is back. However, sales of full-length fur coats continue to decline and the few fur

shops that remain in the United Kingdom continue to close as demand falls.

There is clear objective opinion-poll evidence to show that more than three quarters of the public—76 per cent of the population—want fur farming to be banned. That figure has been consistent for more than 10 years. The statistics on fur wearing show that about 4 per cent of people in the United Kingdom own a fur garment. I suspect that many people, when they go into a department store or a clothing store and see fur on a collar, find it hard to believe that it is real fur—they think that it is fake fur. When we have challenged members of staff in shops and asked them what sort of fur is on a garment, they say often that it is not real, but fake, fur—although patently it is real. They are not able to tell the difference, and they certainly are not able to tell what type of fur it is. Elaine Smith highlights a problem in the perception of what is real and what is not, and what is on sale and what is not. I am not sure whether that answers fully the question; I will return to it if you wish.

On cruelty, all objective scientific research and reviews of the research have concluded that the welfare of animals in fur farms is not good. I sent the committee a copy of a report by the Farm Animal Welfare Council. Not only did it issue a statement saying that for animal welfare reasons it disapproved of fur farming, but it went on to describe mink and fox as essentially wild animals. The council said that the conditions in fur farms do not meet even the basic behavioural and physiological needs of those animals. It went further by issuing a letter to the then Ministry of Agriculture, Fisheries and Food saying that it was not even prepared to get involved in discussions about codes of conduct for rearing those animals, which it would normally do for all other farm animals. The reason for that—as it said in the letter—is that it did not want to give to the fur farming industry the stamp of approval that such codes of conduct would imply.

That was back in 1989. All the research that has been carried out since then confirms that position. As I said, the level of cannibalism in fox farms is appalling. The levels of self-mutilation and stereotypical behaviour are significant in all fur farms. Basically, keeping a wild animal in those conditions is akin to keeping a dog or a cat in a tiny wire cage for its entire life. Most people would accept that that is cruel. In some respects, keeping a mink or fox in such conditions is worse, because they are still wild animals.

Elaine Smith: How do you feel about the suggestion that was made earlier about eating mink? Will that happen in Britain?

Mark Glover: No. In the 15 or so years that I have been involved in this issue, I have seen some publicity attempts by the fur trade, but that

one takes the biscuit—although that is probably the wrong thing to say.

Elaine Smith: Could I ask—

The Convener: Is it the same question for Robert Morgan?

Elaine Smith: No, it is a different question, but Mr Morgan might wish to respond to the previous question—that is up to him. I am interested in how many members Mr Morgan's organisation represents, and in how many of those are in Scotland. What impact do you think the proposed ban on fur farming will have in Scotland, given that we have received evidence that there are no fur farms in Scotland? What impact could the ban have on your industry and your members?

Robert Morgan: We have 45 members, including retailers. All the retailers in Scotland are members of our association. We represent fur traders and retailers.

Elaine Smith: Are those 45 members in Scotland?

Robert Morgan: No, the British Fur Trade Association has 45 members.

Elaine Smith: How many of those are in Scotland?

Robert Morgan: I think that there is one member in Scotland. I cannot think of any more than that. Our members are not fur farmers, they are fur traders and retailers. We represent the market and the marketing.

Elaine Smith: So is the fur farmer whom you have brought along not one of your members?

Robert Morgan: He is a fur farmer in Denmark. We represent Britain.

Elaine Smith: Is he a member of your organisation?

Robert Morgan: He is a member of the European Fur Breeders Association. We are associated with that organisation, but as I said in my opening statement, I represent the British Fur Trade Association. We are stakeholders in fur farming worldwide because we are involved in selling the products.

Elaine Smith: What possible impact could a ban in Scotland, where there are no fur farms, have on your industry or your members, particularly your one member in Scotland?

14:30

Robert Morgan: It is perhaps not for me to say, but we consider it wrong for the Scottish Parliament to pass a bill that has no fundamental justification or has inadequate justification. We feel that we must show up the bill for what it is. That is

our first interest in coming to the committee.

There are many positive reasons for the committee to examine fur farming in other European Union countries—for example, in Denmark—to see how farmers form part of the rural community because they derive a profit from fur farming. If the Parliament continues to allow fur farming in Scotland, it is possible that you could re-establish fur farming in Scotland. That is our interest.

Elaine Smith: You have one member at the moment in Scotland and there are no fur farms in Scotland. Given the ban in England and Wales, do you envisage, if we were not to ban fur farming in Scotland, an influx of fur farmers or the growth of the fur farming industry in Scotland? Is that what you are saying?

Robert Morgan: I am saying that we have invited the Rural Development Committee to consider another country—Denmark—to see niche marketing and to consider whether you would like to reintroduce fur farming. Perhaps you would like to introduce some other product for a niche market in the world market.

In my written submission, I circulated an article in which Jim Reed, the chief executive of the United Kingdom Agricultural Supply Trade Association said that Scottish farming was in a very difficult position and should consider new products in the future. He suggested that niche marketing was one of the only possibilities for Scottish agriculture.

Mink farming is completely unsubsidised. It is not subject to intervention. I cannot look into the future, but we believe that there will be pressure from Brussels and the World Trade Organisation to reduce the subsidies that are available to farmers.

We are saying that the committee should come to Denmark, find out how a product is developed for the world market and consider whether that product could be developed in Scotland once again. You might draw other conclusions.

We have a strong case for trying to get the committee to consider the bill carefully. As I have said in my written evidence, there is as much substance to the argument of moral objection as there is material for the emperor's new clothes.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Ross Finnie was right to say that there are no fur farms in Scotland. I am not sure that he was right in saying that there has been unanimous support for the bill. I have a letter in front of me from the National Farmers Union of Scotland, which states that the NFUS is not aware that any of its members is involved in fur farming. In consequence, it has no comments to make. It

seems to me that the NFUS is neutral, which is entirely different from supportive.

From listening to the evidence so far, it seems to me wrong in principle for the Parliament simply to nod through any piece of legislation without fully considering its impact and its possible future impact were there to be an export of the fur farming trade to countries such as Scotland from Denmark, as Mr Morgan has suggested.

I understand from information that the committee was given that there are 6,000 fur farms in the EU and 290 in EU applicant countries. I also understand that there are 170,000 full-time employees in the fur sector and that, for countries such as Denmark, fur is a hugely valuable product; it is the third or fourth most valuable export product.

I would like to hear more evidence about animal welfare. Mr Glover has made some serious allegations, but Mr Morgan has not really dealt with them. I would like to ask Mr Morgan and the minister more about animal welfare issues. Does the minister accept that the situation is as Mr Glover has stated and that it is impossible to have well-regulated fur farming—I believe that several EU directives regulate the industry already—and that the activity is cruel per se and must end? Alternatively, does the minister consider that if fur farming were properly regulated—as the EU is currently considering—it should not be banned and we should not close our minds on the issue?

Ross Finnie: Mr Ewing is right. We should not allow bills to go through on the nod and that is why we are here. There is no controversy on that point.

More important is one's view on animal breeding. I take the view—as does the Executive—that there is an argument about the justification for public benefit in breeding animals. The argument that I support and that the Executive is proposing in the bill is that breeding for food and food purposes provides sufficient justification for public benefit. We are not persuaded that breeding for the purposes of fashion or cosmetics is a sufficient reason. It is a fairly simple distinction. That is why the policy memorandum makes it clear that we are introducing the bill on the ground of public morality and not on the ground of animal welfare.

Fergus Ewing: That is helpful in setting out the reasoning behind the bill. Has the Executive reached a view on animal welfare issues? You have said that that is not the primary purpose of the bill, but does the Executive consider it possible to conduct fur farming in a way that is not cruel?

Ross Finnie: That presupposes that one has arrived at the conclusion—

Fergus Ewing: I am asking you, minister.

Ross Finnie: One still has to answer the fundamental question as to whether it is right and proper to breed animals for a purpose that does not produce a justification of public benefit.

Fergus Ewing: Let us say that one takes the view that it is not wrong per se to breed animals for fur. We wear wool and our shoes are made of leather.

Ross Finnie: Those are by-products.

Fergus Ewing: Let us assume that one takes the view that it is not wrong per se to breed animals for fur—or fashion as you put it, which is slightly pejorative—and as sources of clothing or apparel. Anyone holding that view would also want to be responsible about animal welfare. Does the Executive consider it possible to conduct fur farming in a way that avoids cruelty? It is a fair question.

Ross Finnie: That may be possible but it presupposes that one's answer to the first question is that breeding animals for such purposes is not itself cruelty.

Fergus Ewing: I thank the minister for that answer, which seems to be candid.

I have read out figures for the money and jobs involved—those figures may or may not be inflated, but fur is plainly a worldwide market that is important to many EU states. As the Minister for Environment and Rural Development do you not feel hesitant about banning an activity that is regarded—perhaps because of different social mores or views—in other EU states, including modern, civilised countries such as Denmark, as something that should be allowed? Are you not reluctant to close off an avenue that could be used for diversification, which is a main plank in the forward strategy for agriculture?

Ross Finnie: No. My position is clear. I take Mr Ewing's point, but it depends on my disregarding public morality in coming to a view on whether I regard fur farming as a suitable means of progressing the economy in Scotland. I have made my position quite clear and the Executive's position is clear: we do not regard the breeding of animals purely for fashion or cosmetic purposes as sufficient justification for public benefit.

I draw a distinction between that and the question of the public benefit to be derived from breeding animals for the purpose of providing food. In breeding those animals, I accept that there might be by-products that are used for other purposes. However, the primary purpose is for the production of food, which has a justifiable public benefit. Therefore, I am not about to go down the road of arguing that some other form of activity would provide some income when it is wholly opposed to what I believe to be morally justifiable.

Of course, I gave the matter consideration before introducing the bill.

Fergus Ewing: Does Mr Morgan have any comments on the matters I have raised with the minister, and the minister's responses?

Robert Morgan: Yes, I have several points to make. With reference to animal welfare, fur farming is approved by the Council of Europe, just like other types of farming. The reason why the Council of Europe approves of fur farming is that the state of animal welfare in the farms is acceptable. I have already quoted from a paper that shows that the animal welfare on mink farms is better than in most other types of animal farming. If the committee would like us to write to the convener with further details, we can do that. The other suggestion is to ask the minister and the committee to come and look at Mike Cobbledick's fur farm and judge how good the animal welfare is on that farm.

A fur farmer must produce good pelts. The way to produce good pelts is to keep the animal happy. If you have a dog or a cat you will know that, if its fur begins to deteriorate, that is a sign that there is something wrong with the animal and it is the same with mink. It is in the farmer's commercial interests to treat the animals well.

It has been stated that fur is a luxury. However, many things that we consume and aspire to consume are luxuries. Deer, pheasant and salmon are readily accepted but are also luxuries. It is like introducing a test for expensive makes of car and saying that it is immoral to buy a BMW or a Rolls-Royce but it is okay to buy a Ford or a Fiat.

Mark Glover raised a point about the UK market for fur garments and fur trim. The reason why the market has increased so much—albeit from a small base—is that fur is now being rechannelled through retail outlets whereas historically it was sold only in specialist fur shops. Now people can go to fashion boutiques to buy a scarf or pair of boots and find fur items available—fur trim as well as fur jackets and various other items made of fur. The market has undoubtedly increased and I have explained why that is.

We have shown that mink is being used for human consumption in China. It is quite legitimate to use China as an example. Mike Cobbledick attends fur auctions and knows where his products are being sold. Some 50 to 60 per cent of the world's fur is being bought for China. China and Hong Kong are major manufacturers of fur garments. The fur goes there to be made into garments, which then come back to Europe—to Italy, France, Spain and, to a lesser extent, the UK. In China, there are entrepreneurs who buy fur for themselves, for their wives or their girlfriends. It is a growing market.

In Russia and northern China, fur is a necessity as they are cold countries. Of course, fake fur can be used, but it probably does not have the same thermal properties and is not as efficient as fur. If fake fur is used, petrochemicals have to be used. People should beware of burning a fake-fur coat as the material is very toxic—please be careful.

Does that answer some of the questions?

Fergus Ewing: It does, thank you.

The Convener: Before I come to Jamie McGrigor, Mike Rumbles has a consequential question.

14:45

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): My question follows on from Fergus Ewing's question. I direct it to the minister because I assumed that the Executive's reasons for wanting to pass the bill were driven by the damage that mink escaping from fur farms in the past have done to our environment.

I was rather surprised when I read through the policy memorandum to the bill, which states:

"The Bill is grounded on a moral objection to the keeping of animals to exploit them solely or primarily for the value of their fur or for breeding progeny for such slaughter."

I was further surprised to hear the minister say several times that banning an activity is justified because there is no public benefit. We should be talking about banning an activity because there is public harm, not because there is no public benefit. That was a strange remark to make.

From what I have heard and what I have read, I am not sold on the so-called moral objection to fur farming. Correct me if I am wrong, minister, but the morality seems to be that it is okay to eat animals, but not to wear them. I find that logic odd. If that is the logic that the minister is expounding to us today, surely paragraph 4 of the policy memorandum is not worded sufficiently strongly. The Executive wants to ban fur farming in Scotland, but it does not want to ban fur imports.

Ross Finnie: We do not have to express every argument in terms of both the positive and the negative. If I am expressing the view that there is no public benefit, I could equally have said that I think that there is a public disbenefit from breeding animals for purely cosmetic purposes. One can play both sides of that tune.

We are concerned about the considerable damage that occurs when mink escape from farms, but it is difficult to codify an approach to that damage. We have to think through what codification can be expounded simply as our principal objection. People can take the view that they do not draw any distinction between the

purposes for which animals are bred or they can have no view on that. That is part of what the debate is about. I think that there ought to be a good reason for breeding animals. There ought to be a public benefit justification. If there is not, then there is public disbenefit. We have not progressed the bill on any other grounds.

Mike Rumbles's latter question related to imports.

Mr Rumbles: I do not understand the logic. If you feel that there is public harm in having fur farms, there must be public harm in importing fur.

Ross Finnie: We get into a difficult area in terms of our ability to ban a trade within the EU. We would have serious difficulties if we tried to do that. The moral position is that we would want to do it. However, in terms of the scope of the bill, our concern—if you support the view that that kind of exploitation is not justified in the public interest—is the potential exploitation of Scotland simply because of the obvious difference but lack of a barrier between Scotland and England. I accept that you would wish to go further but I do not think that it is competent so to do.

Mr Rumbles: It was just my first point.

Ross Finnie: I understand the logic of that, Mike.

Mr Jamie McGrigor (Highlands and Islands) (Con): As somebody who was a candidate in the Western Isles, and a farmer and manager of fisheries on the west coast, I consider so-called wild mink or feral mink, all of which originally escaped from fur farms, to be a tremendous pest. Having said that, there is no reason why the mistakes of individuals in the past should be used to ban something. The mink eradication scheme Hebrides—MESH—is trying to eradicate mink from the Hebrides. I understand that the Hebrides would not come into the equation because the islands are outside the mink jurisdiction—fur farming is already banned in the islands. What guarantee could you give that things will be better in future regarding escapees? The mink has been very dangerous to ground-nesting bird colonies in Scotland.

Robert Morgan: I appreciate that this is a separate Parliament and, quite rightly, you want to make judgments in the Scottish context. However, I sometimes have to refer to a debate that took place in Westminster. Following the consultation exercise that he took as Parliamentary Secretary to the Ministry of Agriculture, Fisheries and Food, Elliot Morley said:

"The Government have now concluded that there is insufficient evidence to suggest that the existing arrangements for keeping mink significantly contribute to the problems caused by feral mink."—[*Official Report, House of Commons, Ninth Standing Committee on*

Delegated Legislation, 11 December 1997; Vol 5, c 3.]

Jamie McGrigor asked me specifically about the context of Scotland and the islands. I appreciate that there are valuable nesting birds on some of the islands. If fur farming were to be reintroduced to Scotland it would not take place on Lewis or any outlying islands. It is already illegal to farm fur on all Scottish islands except one—I do not remember which island, but it is not Lewis. The existing mink-keeping regulations stipulate strict conditions for keeping the mink fenced in. In England—the same would go for Scotland—the fences are regularly inspected once a year. There are penalties for a fur farmer who does not follow the law in that respect.

The area where we ask for more vigilance relates to break-ins at fur farms in the past by what we would call eco-terrorists. They have let the mink loose, but it is not done for animal welfare—it is of no animal welfare benefit for mink to be let loose. A domesticated mink cannot easily fend for itself in the wild because it has been domesticated for many more generations than was the case when mink were first released in Scotland. If mink are let loose, they are not done any favours, because they die pretty quickly. I hope that answers the specific point. We know about MESH—Mike Cobbledick has told me that he knows somebody who is a specialist in that area. He is prepared to write to Mr McGrigor with further advice if that is required.

The Convener: Mr Glover, what do you think about people who break into mink farms and let the animals out?

Mark Glover: Thank you for offering me the opportunity to respond on that point. I think that releasing mink from those farms into the countryside is a bad thing to do. It is regrettable that it has happened in the past few years. It is important to point out that no one has been arrested in connection with releasing the animals. I was talking to police in Hampshire yesterday in connection with a related matter and they told me that they are open-minded about who might have released the mink. The bottom line is that whoever has released the mink is a criminal and, from a campaigning point of view, their actions have held back progress on the issue. The motives behind any releases of mink have to be questioned.

When an attempt was made to open a mink farm in Orkney, a public inquiry was held. The final report of the inquiry said that the most likely causes of escape from the farm were storm damage, human error and failure to maintain the protective equipment. There are several examples of mink escaping after a storm has blown a tree on to a mink farm. Although it is convenient for the fur trade constantly to talk about animal liberationists and eco-terrorists, there are many factors involved

in the release of mink into the environment.

Mr McGrigor: In Denmark, there are 2,000 mink farms and, in Finland, there are many fox farms. Both those countries are pretty modern and politically correct. If a poll were conducted there, would we find that 75 to 76 per cent were in favour of a ban? Was your poll a UK poll? Why is the feeling different in progressive countries such as Denmark and Finland? Is there anywhere in Europe where fur farming has been banned?

Mark Glover: The polls in the UK have been consistent for a number of years since the start of the campaigns to show the truth of what goes on in fur farms. The public in the UK are well-educated about the conditions in fur farms whereas, I fear, the public in Denmark and Finland are not. Animal welfare organisations in those countries are only starting to highlight the cruelty that exists in fur farms.

As for the situation elsewhere in Europe, I can say that the Northern Irish Minister of Agriculture and Rural Development, Brid Rodgers, will soon introduce a bill to ban fur farming in Northern Ireland, in line with the Westminster ban and, I hope, the Scottish Parliament bill. In Sweden, which is a major producer of fur and has 190 farms that breed around 1.5 million mink a year, a proposal to ban fur farms will be introduced to Parliament before the end of the year—

The Convener: I am sorry to interrupt, Mr Glover, but you made those points in your opening statement, although Mr McGrigor did not hear them. I am not blaming you for repeating them. Members will see the figures if they read the *Official Report*.

Mr McGrigor: I apologise, convener.

Mark Glover: If I may add to what I said before, Austria has already effectively banned fur farming—it is banned in each of Austria's regions. Italy has introduced a measure that will effectively ban fur farming there. The initiative is not simply UK-based.

Robert Morgan: I do not want to start a tit-for-tat argument—

The Convener: I would rather we did not.

Robert Morgan: Words such as cruel have been used. We have shown the status of animal welfare on mink farms, and we have tried to show that there is no real substance to the moral objection to fur farming. When committee members try to probe the real reason for the moral objection argument, we find that there is none. To say that fur farming is cruel is emotive; it is an expression of personal feelings. Fur animals reared on farms are said by scientists to have among the best welfare of any domesticated farm animals.

We have also heard that fur is, apparently, unnecessary. I have already dealt with the question of cold-weather climates, but the question of whether fur is unnecessary or not is a matter of personal opinion. It is not for Governments to intervene and say what is and is not necessary, and to ban what they deem not to be necessary. If there is harm done, that is a different matter.

When the English Government at Westminster introduced the fur farming ban, strong objections were voiced by four European Union member states, including France and Spain. Denmark also objected. It is not true that fur farming is banned in Austria. Representatives of the Austrian Government approached one fur farmer who, as far as I know, happened to be the only fur farmer in Austria. The Government offered to buy him out and bribed him. It gave him very big—or at least comparatively big—compensation. He took the money and moved his fur farm 9km away, over the border. He now has a thriving fur farm in the Czech Republic. What moral gain was there in that case?

15:00

I wish to quote Baroness Mallalieu, a Labour peer, who debated this matter in the House of Lords. Forgive me from quoting something that was said in Westminster. The baroness said:

“Ultimately, what is the moral difference between rearing an animal to eat it or to wear it? Mr Morley says that there is one, but to the animal there is none.”—[*Official Report, House of Lords*, 19 July 2000; Vol 615, c 1138.]

The Convener: This may not be much comfort to you, Mr Morgan, but I can assure you that, when it comes to definitions of cruelty to animals, this committee has experience like no other in the Parliament, as our next agenda item will show. However, I thank Mr Morgan for those comments.

Mr McGrigor: You mentioned a case of a fur farmer moving across a border, Mr Morgan. Is there not a danger that, if fur farming is increasingly banned in western Europe, it may be pushed into areas where animal welfare may be almost non-existent, at least in comparison?

Robert Morgan: I acknowledge that point, but it is important that we have asked a Scottish parliamentary committee to consider all the positive reasons for fur farming. There are a lot of fur farms in other EU countries. There are moves afoot in certain political parties to try to ban fur farming, but it is not a fait accompli. Why should we deal with speculation? There is no country apart from England and Wales where fur farming has been banned. Certain political parties in certain countries may want to ban it, but that is pure speculation. We should consider what the

justification for the bill is. I am repeating myself, but that is the point that I particularly wish to make.

Dr Elaine Murray (Dumfries) (Lab): I wish to return to the issue of animal welfare. What, in the opinions of Mr Glover and Mr Morgan, is the difference between the farming of a herbivorous herd animal that has been domesticated over centuries and selectively bred for the purpose and the farming of a wild carnivore that, in all probability, is not a pack animal and finds it difficult to live in an area where there is a high population density of the same species?

Mark Glover: You have almost made the argument. Mink and foxes—particularly mink—are solitary animals. In the wild, they go to great lengths to avoid each other. They scent-mark and defend territories. They have evolved to be solitary. In a mink farm, they are crammed together in their thousands within sight, smell and sound of other mink. That is a stressful experience for them.

To confine an inquisitive, highly active animal such as a mink in a tiny, barren cage is, by definition, cruel. It is not like other forms of farming and mink are not like other forms of farm animals, as the results of their confinement show. The rapid, stereotypical pacing—which, when it is seen in a zoo, is distressing and is recognised as a measure of poor animal welfare and cruelty—is commonplace in fur farms. The sight of mink mutilating themselves and foxes eating their own cubs indicates that there is a real problem that cannot be overcome simply by increasing cage sizes or through the other trivial kinds of measures that are discussed by the fur trade. There is an inherent, severe problem.

Robert Morgan: Mink are almost completely domesticated animals. It would not be legal to farm them if they were wild animals. Mink in the wild live on their own to protect their food source, but we are talking about animals that have been bred on farms over many generations and are used to farm conditions. The reverse applies. When mink are let loose from a farm, few of them can survive. Increasingly, they cannot even find their own food. It is wrong to portray them as wild animals.

Fergus Ewing: I feel that we have not had an explanation of the huge conflict between the evidence that we have received from Mr Glover and Mr Morgan. Perhaps that is because Mr Morgan is representing the trade—he is not a farmer representing farmers—and is therefore not in a position to tell us exactly what goes on at farms. Mr Morgan can correct me if I am wrong.

For me, the key issue is whether, as Mr Glover states, the mink are kept in small cages and suffer from the repetitive behaviour that we have heard

about or whether Mr Glover is misleading us and exaggerating. Do you accept that part of his evidence, Mr Morgan? What is your view on his suggestion that there is widespread cannibalism among foxes that are farmed? I would not oppose the bill if I felt that Mr Glover's evidence was correct.

There seems to be a huge gulf between the two sets of evidence, and I would like to hear what the farmers have to say in response to Mr Glover's allegations, which are serious and have been described graphically. Can you help us in that respect, Mr Morgan?

Robert Morgan: Yes, of course I can. It matters what members of the Rural Development Committee think, but it does not matter what Mark Glover thinks. It is what scientists think that is important. The Council of Europe has a process for producing recommendations—guidelines—for all sorts of agricultural activities. Mink farming and other types of farming come under the remit of the Council of Europe. The Council of Europe discusses with scientists and others the type of housing that mink need, the type of food that they need and all that sort of thing. It is quite right for members of the public to question mink farming, but surely the ultimate judgment must be based on science, not on emotion.

We have heard the word cruel used more than once. Cruel is an emotive, personal expression of feelings; it does not mean anything very much. If the Council of Europe has certain recommendations on fur farming, and provided that those are followed by the farmers, that is fine. The cages are well-ventilated and there is no problem of cruelty. We can write to you further on that subject if that is what you wish. It seems to me that, if the Council of Europe says that fur farming is correct as long as it follows the guidelines, that is fine.

Mr Rumbles: The minister said earlier that the activity of mink and other types of fur farming produced no public benefit. The Parliament is therefore being asked to ban it. When I pressed him, he talked not about benefit but about disbenefit. I want to press the minister on that point, as it is important. Does the minister believe that fur farming causes harm and that it should be banned? I take the view that we should be in the business of banning things only if they are thought to be harmful. I would appreciate the minister using that terminology in his response.

Ross Finnie: We are talking not solely about mink farming, but about fur farming. We are concentrating on mink largely for the reason that was raised by Jamie McGrigor, which is that mink are a destructive species. As was pointed out, other environmental considerations have to be taken into account. In Scotland, we have some

control over that. The range of species, all of which are not natural, that live in Scotland include mink, fox, racoon and sable—it is not appropriate to farm them.

I cannot answer Fergus Ewing's question because, in so far as we have not had such a farm in Scotland, the only regulations that we have are the Mink (Keeping) Regulations 1975. The regulations specify the nature of the cages and enclosures in which the mink are kept, including the height of and the materials used for the cages. I am unable to reply, save only to say that fur farming is a caged regime. I do not know if that helps, but that is where we are. Given the current state of animal welfare, the regulations are quite old and we may have to look at them.

I can only say to Mr Rumbles that our position is that there is no advantage in promoting actively the fur farming of those species. That applies in particular to the destructive mink, because we do not have farms from which there is no risk of escape. As was alluded to earlier, there are regulations to prevent escape in areas where it is dangerous to the environment. In the Western Isles, because of previous incidences, it is clear that that is the case. In the round, I do not see the argument for promoting fur farming in Scotland.

The Convener: On that note, we will draw the session to a close. I am grateful to all the witnesses for giving their time this afternoon. For the witnesses' information, we take the written and oral evidence and draw up a stage 1 report based on the general principles of the bill. I hope that members are content to look at a draft of that report next week. Are we agreed?

Members indicated agreement.

The Convener: I repeat my thanks to the witnesses. Mr Morgan, in particular, has come a long way and we are grateful to him for doing so. I also thank Mr Glover and the minister for attending today.

We will now take a five-minute break.

15:13

Meeting adjourned.

15:25

On resuming—

The Convener: I thank members for coming back so promptly.

Protection of Wild Mammals (Scotland) Bill: Stage 2

After section 1

The Convener: Agenda item 3 is continuation of our stage 2 consideration of the Protection of Wild Mammals (Scotland) Bill. I am as determined as possible to reach at least amendments 94 and 94A, which will take us to section 3 and after section 3. We are not limited to that, but I am determined to reach that point.

Amendment 91 is grouped with amendment 91A.

Mike Watson (Glasgow Cathcart) (Lab): I gave a commitment last week to lodge amendment 91. As I said, it was never my intention to penalise or affect the legitimate activities of those who shoot for sport, or of falconers. I originally expected amendment 53 to provide a comprehensive exemption for such activities, but it transpired that amendment 53 is not as comprehensive as it might have been. For example, it exempted the use of birds of prey when the mammal being hunted was intended for food, but it seems that a wider exemption is required. Last week, I undertook to bring forward a suitable amendment and I now present amendment 91 to the committee.

Amendment 91 is designed to exempt the activities of shooters and falconers, except the retrieving of mammals. That is covered by amendment 92, which amends section 3. Amendment 91 would require people who use dogs for shooting or falconry to be responsible and to use them in a responsible way. That is why there is a requirement for a firearms certificate and for permission from the landowner. The amendment also imposes a requirement for reasonable humaneness. That is designed to do nothing more than mirror the good practice that representative bodies reasonably expect from their members.

I have a comment on amendment 91A. Last week, I had a brief discussion with David Mundell to tell him about my proposal. Following that, he lodged amendment 91A, which relates to written permission. I do not accept the amendment. In written evidence at stage 2 the Scottish Gamekeepers Association stated that it approved of the requirement for written permission. The organisation stated that it

"accepts that 'Written Permission' from Landowner or Occupier is a sensible precaution against those who may mistreat dogs or wild mammals."

For that reason, I hope that amendment 91A will not be supported, but I ask for support for amendment 91.

I move amendment 91.

David Mundell (South of Scotland) (Con): I thank Mike Watson for discussing with me last week the principles of amendment 91. As he indicated, I am happy to support the terms of amendment 91, except on the issue that was raised with the committee during a debate on earlier sections, which is whether permission should require to be in writing. As members will recall from that previous occasion, the need for written permission, rather than permission, was deleted. Therefore, I believe that amendment 91A is consistent with earlier sections.

Secondly, I believe, for the arguments previously rehearsed, that it would be draconian and over the top for the bill to require written permission. We have heard previously about the nature of activities that take place in the morning or are sometimes unplanned. We have heard also about the complicated nature of the countryside and the difficulties in contacting people in a written format. I believe that legislation has generally been moving away from the requirement for written permission because we have been taking into account the fact that people use electronic means much more, such as mobile phones and other modes of communication. I believe that the bill is not of such import that it would justify moving back from the general principle of accepting non-written permission as opposed to written permission. That is why I offer the committee the opportunity to make that amendment to amendment 91.

I move amendment 91A.

15:30

Fergus Ewing: I welcome the fact that we are making a new effort to have falconry removed from the scope of the bill. I believe that there is a common purpose among members to achieve that. However, looking at the specific wording of amendment 91 it seems to me that there are three issues that must be addressed. If they are not, amendment 91 cannot be supported and, at best, would need to be amended at stage 3. I hope that Mike Watson will respond explicitly to each of the three points, which have been made to me by Mr Andrew Brown of the Scottish Hawk Board, and also by Mr Hallgarth of Perthshire Falconry Services, to whom I spoke this morning.

The first point is on the definition of the phrase "under control," which appears in line 3 of amendment 91. It has been put to me that in

falconry dogs often run ahead of the owner and go out of sight, over a hill. Is the dog under control at that point? It seems to me to be stretching the definition of under control to include a dog that one cannot see and that cannot see its owner.

Secondly, if the dog is in sight, but at a distance of 200yd or 300yd, is it under the control of the owner by means of a whistle? Depending on wind direction the dog might not be able to respond to the whistle or the direction of the owner.

In those two circumstances a practical problem must be addressed, in that the phrase under control creates a restriction that would prohibit falconry. I assume that that is not what we want to do. I hope that Mike Watson will respond to that. It is not really for any member to define the phrase under control; the question is how a court would define it. A court would probably say that a dog cannot be under control in the circumstances and therefore that falconry is illegal.

Thirdly, I understand that although falconry is traditionally a sport, it has been developed more recently for pest control purposes. Mr Watson's amendment 91 states that falconry is accepted but "for the purpose of sport".

I understand that members will want to know how falconry is used for pest control. This morning, I spoke to Mr Hallgarth of Perthshire Falconry Services. That company carries out pest control using falcons. Mr Hallgarth tells me that there are a number of situations where falcons must be used rather than guns. One such situation is the control of hares and rodents in stables where there are valuable horses that would be frightened by the use of guns to control pests. Amendment 91 would make those activities illegal.

Guns cannot be used on plantations with young trees because the trees would be damaged. Falcons are therefore used. I understand that falcons are also used on landfill sites where it would be inappropriate to use guns. There might be other circumstances.

The point is that falconry is now used for pest control as well as sport. Perthshire Falconry Services would go out of business under the proposed legislation. That seems to me to be neither desirable nor necessary and it must be dealt with by an alteration to the proposed section.

I understand that there are a large number of businesses that have now developed through providing falconry for the purposes of entertainment. That brings revenue into the rural economy. As we know, the rural economy is having many problems. It would be absurd if the committee was to add to those problems by possibly banning the practice of falconry as a business. Plainly, where falconry is carried out

primarily for commercial purposes, then the fact that it is providing sport does not detract from the fact that it is being carried out as a business and not as sport.

Those are my three objections and I hope that Mike Watson will agree to withdraw amendment 91. I will be happy to work with him to find a way to bring the issue back to the committee, perhaps next week, and to have consultations with Mr Brown and Mr Hallgarth. I hope that Mike Watson will recognise that my three points are well intentioned and that he will agree that it might be helpful to bring the issue back at a later stage.

Stewart Stevenson (Banff and Buchan) (SNP): It is quite valuable to have an amendment that addresses falconry. There is probably a consensus that we do not want to close down falconry. I am mindful of what Fergus Ewing has said about the difficulties with amendment 91. If we find ourselves voting on the issue, I would like to hear how we might ensure that the bill refers specifically to the protection of the sport of falconry.

Elaine Smith: This might be unusual but I would like to ask Fergus Ewing something.

The Convener: It is all right with me but I cannot answer for Fergus Ewing.

Elaine Smith: I would like him to explain what he said about falconry services being used in a barn where there might be horses and where guns would not be suitable. Are you talking about sending a dog or a bird of prey in there?

Fergus Ewing: As I understand it, it is not acceptable to use rifles and guns around horses being kept in a stable. It is dangerous and cruel to horses, who are susceptible to fright.

Elaine Smith: I understand that, but what are you suggesting?

Fergus Ewing: I understand that dogs are used to flush the pests out and that the falcon disposes of the pest. Falcons are birds that dispose of mammalian and avian pests.

Elaine Smith: I understand all that. However, surely subsection (1) of the new section inserted by amendment 53 would cover that point because it mentions birds of prey.

Fergus Ewing: It may do, but it may not.

Elaine Smith: I think it would.

Fergus Ewing: I am not sure whether the new section will remain in the bill after stage 3. Who knows? Elaine Smith has said that she is not happy with the new section that was inserted by amendment 53, as amended, although she did not vote against it. Be that as it may, we are agreed that we have a section about falconry. It seems

sensible, if we are having a section about falconry, that we should try to get it right. I have identified three points that have been put to me by people who know about these things. They are serious points, and I hope that the committee will feel that it is sensible to work together to find a means of dealing with the three—

Elaine Smith: I was curious about that. Convener, as Fergus Ewing mentioned that I voted for amendment 53, as amended, I have to put it on the record that there was no choice at that time. Frankly, we can examine the issue at stage 3.

The Convener: With respect, we will have to stick with the amendment that we are considering at the moment. I do not doubt Mike Watson's genuine desire behind amendment 91, but three problems have been put to us by the Scottish Hawk Board, and it is right that the committee should examine them.

Mr Rumbles: Would not it be best to get this measure into the bill now, and amend it at stage 3? At least then it would be in the bill.

The Convener: That is a procedural possibility.

Dr Murray: I tend to agree with Mike Rumbles. The wording can be examined again if necessary.

The normal method of controlling rats and mice in stables is with dogs. My understanding is that that will not be affected by the bill. The normal habit would be to use Jack Russell terriers in stables, for example, rather than falcons. I am surprised to hear of falcons being used in that way.

I wish to return to the business side of falconry. Clearly, going out to watch the sport of falconry is increasingly enjoyed by people. However, I would have thought that such spectators are involved in the sport, in the same way that football fans who go to a football match are involved in the sport, even though they are not actively engaged in it.

The Convener: Minister, it is not my habit to invite you to comment on groups of amendments when you have not given formal notice that you wish to comment on them, if that is okay with you.

Ross Finnie: A splendid arrangement.

The Convener: I assumed that it would meet with your approval. You should catch my eye if you wish to comment.

Ross Finnie: Indeed.

The Convener: Does David Mundell have anything further to say on the amendments?

David Mundell: No. I have made the points that I wished to make.

The Convener: In that case, I ask Mike Watson

to wind up on this group.

Mike Watson: On David Mundell's amendment 91A, we covered the aspect of written permission last week. Without it, we would be relying on a nod-and-a-wink arrangement, which is too loose. We need written permission. I reiterate the view that was expressed by the Scottish Gamekeepers Association.

Fergus Ewing has come up with some detailed points, which I admit had not occurred to me, but bearing in mind their source, I take them as serious points and worthy of consideration.

The definition of "under control" is an issue that we have come up against several times. I said at a previous stage 2 meeting that the description that I gave of under control when we took evidence from the Scottish Gamekeepers Association, the Scottish Hill Packs Association and the National Working Terrier Federation seemed to be accepted, given the vigorous nodding at the time. The description was that the same arrangement would apply as applies to a shepherd with a sheepdog—that is, somebody who regards a dog as being under his or her control while either within sight of a hand movement or hearing of a whistle.

I cannot see that the situation of dogs that are involved in falconry is any different. I cannot see why there should be a different test for that, because the weather conditions that Fergus Ewing outlined could happen anywhere, in any situation. It is up to the person who is taking the dog out to know whether he or she is in control of it. It has been said before that if it is necessary to provide a definition of "under control", such a definition could be inserted in section 7, if that was helpful. However, I do not think that asking what "under control" means is a reason for opposing amendment 91. It means the same as it has done in other circumstances when we have talked about having a dog under control.

I had not hitherto been aware that dogs were used in stables; that seems rather odd. As Elaine Smith said, one would not necessarily want to discharge a gun in a stable, but I do not see why the matter is a stumbling block to amendment 91. I am not sure what the point was, although I noted down three points. I ask Fergus Ewing to clarify what he meant by the use of dogs in stables.

Fergus Ewing: One of the three examples that I gave involved falconry that was intended to be carried out for the purpose of pest control, rather than as a sport. Amendment 91 says that falconry is excepted only for the purpose of sport, not for that of pest control. The use of falconry in stabling is relevant because it is one of the three examples that I gave of the activity being pest control and not sport, according to our evidence. That is why I

think that amendment 91 needs further amendment.

Mike Watson: I would have thought that pest control was covered by subsection (1)(e) of the new section that was introduced by amendment 53, as amended, and the penultimate part of that amendment. On the question of falconry being entertainment, I echo Elaine Murray's point. While falconry is being performed for entertainment, the people who watch and are entertained by it indulge in a spectator sport. Whether falconry is performed for entertainment or commercial purposes, people are there to be entertained. As such, falconry could be described as sport.

15:45

I hope that Fergus Ewing accepts that the points that he raises are covered. If he does not, I agree with Mike Rumbles that the appropriate place for dealing with those specific points—if wording can be arrived at to deal with them—is stage 3. I hope that, on that basis, amendment 91 will be supported. I do not dismiss the points that have been made, I just do not think that they are serious—sorry, I do not mean that. I do not think that the points are big enough to prevent us from proceeding with amendment 91.

The Convener: Do I take it that you would be sympathetic to a properly worded amendment at stage 3 that took into account further concerns?

Mike Watson: Yes, if such an amendment clarified the matters that Fergus Ewing thinks require clarification and if it did not cut across the bill's current provisions.

Fergus Ewing: I will clarify one point, which is not minor. The phrase "under control" is important and we want to be clear about its meaning. I, too, recall the evidence that was given three weeks ago by expert witnesses who said that a dog is under control when its owner believes that it is under control. Mike Watson said that a dog is under control when someone regards it as under control. Are you absolutely clear that that is what the phrase means? The definition seems extraordinarily subjective. Is a dog under control when someone believes that it is under control? I may not be unhappy with that definition, but it introduces a subjective test that a court would be unlikely to regard as having any purpose.

The Convener: We will debate the definition of "under control" when we debate amendment 89—but not today. That definition will cover the whole bill. The point is well made, but we can move on and bring the debate on the grouping to a close.

Mike Watson: I may repeat later what I will say now. When I say that a dog is under control when the person in control of it regards it as such, I refer

to a dog that has been trained to do some tasks. When the person who is in control of that dog takes it out, he regards himself as being able to control that dog as a result of the training that it has undergone. That is the point that I made. People who use dogs do so because they believe them to be under their control. Otherwise, they would not use them.

The Convener: As I said, I hope that we will return to that subject next week. At this point, I ask David Mundell to press amendment 91A or to withdraw it.

David Mundell: I will press the amendment.

The Convener: The question is, that amendment 91A 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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)

AGAINST

Grant, Rhoda (Highlands and Islands) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Murray, Dr Elaine (Dumfries) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)

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

Amendment 91A agreed to.

The Convener: I ask Mike Watson to press or withdraw amendment 91 as amended.

Mike Watson: I am thinking about what happened with amendment 53 and how it has consistently been used against me in the intervening period. I will press amendment 91 because of the other aspects of it.

The Convener: I do not think that amendment 53 has been used against you. You were true in stating last week that another member had signed the amendment and would also have been able to move it. You made that plain.

Mike Watson: I accept that, but it has been said again today—as Elaine Smith noted—that an argument is being advanced against that amendment. I can understand that, but obviously I do not accept it.

The Convener: Very well. However, you are moving amendment 91 as amended.

Mike Watson: Yes.

Amendment 91, as amended, agreed to.

The Convener: Amendment 71, in the name of Rhona Brankin, is in a group of its own.

Ross Finnie: Although it can fairly be said that section 3(1)(b) seems to cover the circumstances with which amendment 71 deals, the Executive has decided to lodge amendment 71 to cover the possibility of Mike Rumbles's amendment 4 being agreed to. Amendment 71 also gives powers specifically to the police and local authorities—something that is not in the bill at present. Our concern is that police officers and local authority pest control officers can be faced with circumstances in which they need to deploy dogs to find or catch a wild or escaped animal. That can happen when the animal has become a danger to itself—say, by finding itself trapped in a place of danger—or has become a nuisance or danger to the public.

Trained dog handlers can use dogs to find or catch the animal so that it can be removed to safety or—if, for example, it is injured—put down humanely. That practice should be permitted to continue and amendment 71 is constructed to allow authorised persons to continue to carry it out.

I move amendment 71.

The Convener: Do any other members wish to comment on amendment 71? Does Mike Watson have a comment?

Mike Watson: No.

Amendment 71 agreed to.

The Convener: Amendment 86, in the name of Elaine Murray, was debated with amendment 60—which was disagreed to—on day 3. Is anyone prepared to move amendment 86?

Mr Murray Tosh (South of Scotland) (Con): In the interests of consistency, if amendment 86 requires to be moved, it is obviously open for any member to move it at stage 3.

The Convener: That is absolutely true. However, any member can move amendment 86 today, given that it was debated a while ago and members might not remember what it is about.

Fergus Ewing: Dr Murray is not here. Amendment 86 does not appear at this point on the grouping of amendments for day 4, so perhaps she is not aware that she has to be present to debate her amendment. Some of her colleagues might know whether she is coming back. If that were the case, I would be disappointed if any member—

David Mundell: I do not think that she intends to

come back.

Fergus Ewing: She is not coming back.

David Mundell: Ever.

The Convener: Amendment 86 has been debated, Mr Ewing.

Fergus Ewing: I hope that Elaine Murray is coming back. The thought of her permanent absence is sad.

David Mundell: Not, Mr Ewing, if it means that she is moving on to better things.

The Convener: She may well be moving on to better things, if the rumours are to be believed.

In the marshalled list, members will find that amendment 86 comes in this position. If the amendment is not moved, it is not moved and, as Mr Tosh has quite rightly pointed out—that is why he is convener of the Procedures Committee—it can be lodged again at stage 3.

I presume that amendment 87 will suffer the same fate as amendment 86, because it too is in Elaine Murray's name. I invite anyone who wishes to move amendment 87 to do so.

Amendment 87 moved—[Fergus Ewing].

The Convener: The question is, that amendment 87 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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)

AGAINST

Grant, Rhoda (Highlands and Islands) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)

The Convener: The result of the division is: For 6, Against 4, Abstentions 0.

Amendment 87 agreed to.

The Convener: Amendment 90 is grouped with amendment 90A.

Fergus Ewing: Amendment 90 would add a further exception after section 1, on injured or diseased mammals. The amendment states:

"A person does not contravene section 1(1) by using a dog to despatch a wild mammal for the purpose of preventing suffering to the mammal, where the person reasonably believes that the mammal is injured or

diseased."

The exception arises from evidence that we heard three weeks ago, principally from Paul Crofts of the Scottish Hill Packs Association. Paul Crofts also submitted written evidence at stage 1, which is included in volume 2 of our stage 1 report. At page 237 of that report, the evidence sets out why the amendment is necessary to the use of hill packs, in particular in the north of Scotland.

Mr Crofts's evidence is that the main aim when flushing the fox is to shoot it. However, in certain terrain, especially in the north of Scotland, shooting the fox can be extremely difficult. The possibility of the shot not killing cleanly always exists. The expert marksman who always kills the fox does not exist. The fox can therefore be shot, wounded and in great pain. In those circumstances, the dogs would follow the fox. Apparently, the stronger scent of the blood tells the dog that the fox has been injured and makes it likely that the fox will be caught and dispatched by a dog.

It is essential that it is permissible for dogs to be used to dispatch foxes in those circumstances, because the alternative is that the foxes would slink off to die a lingering death. That would surely be crueller, in that it would cause a far greater degree of suffering than quick dispatch.

On amendment 90A, which is in Stewart Stevenson's name, the question is whether a single dog can be sufficient for the dispatch of a fox. I will read from the evidence of Paul Crofts to press the argument that a single dog would not be sufficient in all circumstances, although it may be in many. Paul Crofts stated:

"It has been suggested in the Watson Bill that one dog could be trained and used to carry out the work If it were, it would be a great and considerable cost cutting exercise in hound feed and running costs. However, the truth is it is not feasible and in any case the scenario of using one dog to try and achieve the above operations would achieve the very thing the Watson Bill is claiming to prevent i.e. putting a wild mammal under duress.

One hound could in theory run a fox all day, in even a small 500-acre forestry block, until eventually he would expire of exhaustion. Hill Packs are looking for a quick, clean kill, using 15 to 25 purpose bred hill hounds a fox can be made to run out with his own pace and will therefore be more susceptible to making a mistake and getting shot."

I hope that members will bear in mind the evidence of the Scottish Hill Packs Association. It is essential that a pack of dogs be used. That evidence was given by people who clearly care a great deal about animal welfare and would not use any method that they regarded as cruel. The method is necessary in the case of a fox that has been wounded. Some—perhaps not many—foxes suffer from disease. I understand that mange is a problem that considerably weakens foxes and

renders them susceptible to a slow and lingering death. Surely it is better to have a swift dispatch than a slow and lingering death.

I move amendment 90.

16:00

Stewart Stevenson: I understand why Fergus Ewing has lodged amendment 90. It is important that we address the issue of injured and diseased mammals and that we prevent unnecessary suffering. Amendment 90A proposes the insertion of the word “single” to attempt—it is probably a failed attempt—to ensure that the provision does not drive a coach and horses through the bill by allowing packs once again to fox hunt. The reason that the insertion of “single” is probably flawed is that the pack itself will probably dispatch the fox reasonably quickly and a single dog can do that. However, it is impossible for those who control the pack to achieve the degree of certainty that “single” requires. I explored the possibility of inserting the phrase “up to two dogs” or “up to three dogs”.

The issue might require further discussion and perhaps amendment at stage 3. In the meantime, I want to record my desire to ensure that the provision is not a back door to the reintroduction of fox hunting. At the same time, I recognise the difficulty in defining the practice of using a single dog, because that would probably not be practical. I ask the committee to consider my amendment as a possible way forward.

I move amendment 90A.

Rhoda Grant (Highlands and Islands) (Lab): I have two observations. First, subsection (1A) of the new section that was introduced by amendment 53 as amended deals with the same issues as those in amendment 90. Secondly, my understanding of the quotation from the Scottish Hill Packs Association's evidence was that it referred to flushing a fox from forests, not to dispatching an injured fox. My understanding was that a lurcher was used to dispatch an injured fox, in which case one dog would be sufficient to the purpose.

Mr Rumbles: Amendment 90 is very important. I have been impressed by the evidence that we have had on the issue. The key words are:

“preventing suffering to the mammal”.

It would be immoral if we did not ensure that amendment 90, or the sentiment behind it, was incorporated into the bill—I hope that we can do that now.

The amendment says:

“A person does not contravene section 1(1) by using a dog to despatch a wild mammal for the purpose of

preventing suffering to the mammal”.

The purpose is quite clear. We should never put people in the position where they are out in the countryside, see that an animal is clearly wounded, send the dog in to dispatch it and are then arrested. We should not be thinking about putting people in that position, because it would be immoral. I support amendment 90.

Although I was heartened by what Stewart Stevenson said, I am disappointed that he intends to press amendment 90A. Inserting the word “single” would restrict the individual. If someone wanted to end an animal's suffering, that would best be done as quickly and effectively as possible. I ask Stewart Stevenson not to press amendment 90A.

The Convener: In my former occupation, I was present on occasions when the use of a single dog could have caused suffering to the dog. The use of more than one dog would prevent a dog's suffering. We have spoken about the dogs' suffering before, and there are circumstances—members must take this on trust—when the use of more than one dog can be kind rather than inflicting more suffering.

Elaine Smith: I could understand that if a small dog were involved, but a lurcher would be less likely to suffer injury.

Amendment 90 talks about using “a dog”, but Fergus Ewing seems to be talking about packs of dogs. Would a pack of dogs, in effect, tear the fox to shreds rather than leave it to suffer a slow and lingering death? Will Fergus Ewing comment on whether it would not be more humane to send a dog to scent out the fox and then use a gun? What would be wrong with that? I would also like to hear Mike Watson's view.

Fergus Ewing: The phrase “tear the fox to shreds” brings an emotive element to the debate. It is also misleading and inaccurate, as it does not square with the evidence that we have heard from people who care about animals.

Elaine Smith: I asked a question.

Fergus Ewing: I am answering the question.

The Convener: Mr Ewing is answering the question as best he can.

Fergus Ewing: Well, there we are. Who do we believe? Do we believe the evidence of the people who actually do the work, or do we believe somebody who uses an emotive phrase? I passionately believe the people who do the work, because they care deeply about doing their job so as to avoid inflicting suffering. For us to laugh and even sneer at those people is deeply unsettling. It is not a good advert for what we are trying to do with the bill, which is to sort it out.

Is it wrong to use packs? If it is, we may as well hand out P45 forms to the people who have given evidence to us, because they would be finished. They use packs because that is the only way in which they can operate in difficult terrain. I understand that Rhoda Grant is broadly supportive of the hill packs. I advise Elaine Smith that they are called hill packs because packs of dogs are needed to engage in the activity.

Elaine Smith stated that a pack of dogs would “tear the fox to shreds”. As Mike Rumbles said, the purpose of amendment 90 is specifically to prevent suffering. We are not talking about bringing back fox hunting by the back door. The first remark that I made at stage 2 was that I believe that the days of mounted fox hunting for sport are numbered. I said that deliberately, as Parliament made that absolutely clear. However, Parliament also made it clear that we should not hand out P45 forms to people who are doing their jobs and who care about animals—possibly more than members who are not engaged in such activities. In the evidence that those people have given—it is there for Elaine Smith to read—they have advised that having only one hound doing the job is more cruel, as the fox is chased for a longer period. It is cruel to the dog and the fox. Cannot we recognise that the evidence that we have received is from people who are well intentioned, who care about what they are talking about and who, unlike us, actually know what happens?

I understand that the dispatch is conducted swiftly. We are talking about a wounded fox that is not in a position to put up much of a fight. The alternative is for the wounded animal to die a lingering death—possibly from gangrene—over several weeks. I ask all members who, like Elaine Smith, are thinking of voting against amendment 90: is that what we want? I think that it is not what we want; it is what we have to prevent from happening. I feel passionate about this issue. Although not many people are involved in this activity, it behoves the committee to stand up and protect them and to ensure that what they do is not rendered illegal.

Rhoda Grant wondered whether we could deal with this issue in subsection (1A) of the new section that was introduced by amendment 53 as amended. Although that would be possible, I must repeat that committee members have already talked about amending that new section at stage 3. We all supported that section, or at least did not dissent. How can I—or any other member who cares about the future of the practices in question—rely on the new section remaining the same? If Mr Watson gives me an undertaking that he will not amend the new section that was introduced by amendment 53, I will happily withdraw the amendment. However, I assume that

Mr Watson will not do so—he can correct me if I am wrong—that he is not happy with the new section as it stands and that there will be amendments at stage 3. If that is the case, I say to Rhoda Grant that we cannot rely on the new section being around at stage 3. It will be completely altered. Why not deal with an amendment that specifically sets out, in a reasoned way, why the activity must go on to prevent unnecessary suffering to animals?

Elaine Smith: Although I will check the *Official Report*, I think that I did not make any statements; I asked questions. Perhaps Mike Watson will pick up one of the questions that was not answered. Why can we not use one dog to scent the fox and then shoot it?

Fergus Ewing: If I can answer that—

The Convener: You will get a chance to wind up on the grouping, Fergus.

Mr McGrigor: I will attempt to answer Elaine Smith's question. If a wounded animal goes into thick cover such as deep bracken in a forestry area, it might not be able to move if it has lost a lot of blood or is badly wounded. It would be quicker to find and dispatch the fox if more than one dog were used. It would be unforgivable for other people to stand around with their dogs on leashes while only one dog searched for the suffering animal.

Rhoda Grant: I remind Fergus Ewing of one of my comments that he did not address, about his quotation from the Scottish Hill Packs Association's evidence. My understanding of that quotation is that, although the packs use more than one hound to flush, they use one lurcher to dispatch an injured fox.

Mike Watson: I do not want Fergus Ewing to think—nor do I want the record to show—that, in smiling or laughing, I was sneering at those who gave evidence. I was not; I was simply responding to what I thought was an amusing remark in one of Fergus Ewing's replies. It had nothing whatsoever to do with the content of the question.

This debate is important; indeed, the issue is very important to the Scottish Gamekeepers Association and the Scottish Hill Packs Association. I hope that I can answer Elaine Smith's question in my response. The answer is yes—as the briefing from the Scottish Society for the Prevention of Cruelty to Animals says:

“Where an animal is diseased or injured it is usually considered humane to despatch it. The intention should be for the dog to locate the injured wild mammal so that it may be shot, not to kill it. Allowing a dog to kill an injured or diseased wild mammal carries a risk of injury to the dog.”

That sums up the matter for me. Furthermore, although my memory of the evidence that Paul

Crofts of the Scottish Hill Packs Association gave three or four weeks ago is hardly photographic, my understanding is that, in relation to the points that Fergus Ewing has just raised, Mr Crofts talked about using a pack of dogs to flush a fox from woodland to stop the fox doubling back into the wood. It had nothing to do with actually killing the fox. I am sure that what he said was not what Mr Ewing outlined to us, but only the *Official Report* can settle that.

I am concerned about the use of lurchers to kill wild animals that have not been killed by the shotgun blast or bullet that hit them. It has been suggested that the alternative is to let the animals die a slow death from gangrene. I dispute that assertion on the grounds of humaneness and necessity. I cite scientific evidence from the Burns inquiry in England and Wales. Furthermore—and I apologise for going into this matter in some detail, but as Mr Ewing did the same, it is appropriate that I respond in kind—a larger study of 53 coursed hares conducted by the Universities Federation for Animal Welfare clearly showed that hares do not die quickly but often have to be killed by the dog-handler after being attacked by the dog. If a long dog such as a lurcher cannot kill a hare humanely, it is perfectly legitimate to ask about its chances of killing a fox, which is not only bigger but is much more likely to fight back. I accept that lurchers are frequently used to kill hares and foxes, but the alternative—to which Elaine Smith also referred—of using so-called scenting dogs such as hounds or terriers to track the injured animal so that it can be found and shot humanely is much more efficient.

16:15

I am not saying that if a fox or other mammal is shot and limps off into the distance, it must simply be allowed to die—that is not the alternative to the amendment at all. Scenting dogs are far more efficient than lurchers and other long dogs, which simply follow the line of sight. If an animal goes out of a lurcher's sight, the lurcher will not be much use whereas a scenting dog can follow the animal through rocks or scrub. There is a more efficient approach than to use lurchers. The amendment's success or failure will not determine whether the people in hill packs receive P45s. There are other methods.

Amendment 90A does not address the key problem, because killing with one lurcher is no more humane than killing with a pack of them.

I ask the committee not to support amendments 90 and 90A.

The Convener: I invite Fergus Ewing to wind up concisely, because he has already made many substantive points.

Fergus Ewing: That was delicately put, convener. I will be brief.

On Rhoda Grant's point, the primary purpose of the pack is to flush, but it is not always the case—although it is perhaps mostly the case—that only one dog is used to dispatch. One dog is likely to catch up with a wounded or diseased fox more quickly than the others. We are talking only about a fox that is injured or diseased and therefore weakened and not about a normal, healthy fox.

I disagree with Mike Watson's claim that the alternative does not involve the possibility or probability of much more suffering. Jamie McGrigor rightly said that if a fox is shot, it will limp off, probably into an inaccessible position deep in a wood, and will not be found by anything other than a dog. The alternative of having a period in which the fox is located and shot—possibly a long time afterwards—seems to involve more cruelty or pain rather than less. As the convener said, it is sometimes necessary to use more than one dog in an act of kindness to avoid additional suffering.

The Convener: We have reached the end of discussion on the group, so I invite Stewart Stevenson to press or withdraw amendment 90A.

Stewart Stevenson: I withdraw amendment 90A on the basis that I will return to the subject at a later date.

Amendment 90A, by agreement, withdrawn.

The Convener: The question is, that amendment 90 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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)

AGAINST

Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)

ABSTENTIONS

Grant, Rhoda (Highlands and Islands) (Lab)

The Convener: The result of the division is: For 6, Against 3, Abstentions 1.

Amendment 90 agreed to.

Section 2—Exception: control and protection of species

The Convener: Before we start on section 2, it would help us to deal quickly with the next two groupings if Mike Watson said whether he supports the deletion of section 2, as proposed in amendment 3.

Mike Watson: I do.

Amendment 72 not moved.

David Mundell: I will not move amendments 73 to 79, on the basis that, like Mike Watson, I support amendment 3.

Amendments 73 to 79, 23, 80 and 81 not moved.

The Convener: I apologise if parts of that procedure seem a little strange—sometimes procedure is strange.

David Mundell: Not in your hands, convener.

The Convener: Flattery will get you everywhere, Mr Mundell.

We come to amendment 3, in the name of Mike Rumbles.

Mr Rumbles: Amendment 3 would leave out section 2. Everyone is agreed that, given what we have done already, it makes sense to leave out section 2.

I move amendment 3.

Amendment 3 agreed to.

Section 3—Exception: retrieval and location

The Convener: Amendment 82 is grouped with amendment 15. The amendments deal with conditions for the use of a dog in retrieval and location.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): In the interests of brevity, I will say simply that most of the relevant arguments have already been heard. The amendment is self-explanatory: it would insert the words “under control” after the word “dog”.

I move amendment 82.

The Convener: I would ask Elaine Murray to speak to amendment 15, but I cannot. Does any other member wish to speak to it?

Mr Tosh: I would like to speak to Elaine Murray’s amendment in her absence, although I think that the ladies to my left—Elaine Smith, Rhoda Grant and Cathy Jamieson—are concerned that I am not a member of the committee.

The Convener: Any member of the Parliament can speak to an amendment.

Mr Tosh: The amendment removes the words “above ground”. I believe that we established that the use of dogs below ground is essential for the purpose of flushing foxes. Elaine Murray was quite right to lodge the amendment.

Fergus Ewing: Amendment 82 would add the phrase “under control”. I note that Elaine Murray’s amendment 89 attempts to define that phrase. Does Cathy Jamieson support that definition?

Cathy Jamieson: I have not yet heard the arguments that Elaine Murray will make in support of amendment 89.

Fergus Ewing: In that case, does Cathy Jamieson believe that there must be a definition of “under control”?

Cathy Jamieson: It is reasonable to think that there would have to be some definition of “under control”. We have rehearsed the arguments in earlier discussions and I am sure that people will acknowledge those.

Fergus Ewing: As the definition of “under control” has been the topic of a great deal of discussion, would the Executive be willing to assist the committee in drafting a precise definition? The committee seems to want such a definition in the bill to ensure that the bill does not cause difficulties for people who carry out pest control.

The Convener: The minister is welcome to answer that question if he so wishes.

Ross Finnie: I must confine my answer to whether the Executive is prepared to give some assistance. The answer is probably yes, but I do not want to enter into the debate now. Cathy Jamieson is right to say that the proper point for the debate is when an amendment is discussed. I do not want to anticipate arguments concerning how widely or narrowly the definition might be drawn and I am sure that Mike Watson will have an interest in the issue as well.

I understand the importance of the definition. I suspect that the words “under control” will be retained in a series of sections subject to the committee’s agreement of the definition. We would want to assist with the drafting of that definition and we will look at other legislative considerations.

The Convener: As no other members wish to comment, I ask Cathy Jamieson to add any final comments and to press or withdraw amendment 82.

Cathy Jamieson: All the comments have been made and I want to press the amendment.

The Convener: The question is, that amendment 82 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Grant, Rhoda (Highlands and Islands) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banff and Buchan) (SNP)

AGAINST

Fergusson, Alex (South of Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)

ABSTENTIONS

Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

The Convener: The result of the division is: For 5, Against 2, Abstentions 3.

Amendment 82 agreed to.

Amendment 15 moved—[Mr Murray Tosh]—and agreed to.

The Convener: Amendment 54 is grouped with amendments 55, 56 and 85. The group deals with the exemption of certain species.

Mike Watson: The removal of rabbits from the terms of the bill is a simple matter. I lodged amendments 54, 55 and 56 after crofters and gamekeepers had made strong representations to me. They convinced me that rabbits pose a significant risk to crops on a scale that is not comparable to that posed by hares. Moreover, rabbits are not hunted in the same way as hares are, as they do not sustain the chase but tend to go to ground. That is why it is appropriate to remove rabbits from the terms of the bill. I do not imagine that any member would query that, but I shall listen to their arguments if they do.

Amendment 85 is quite different. I strongly oppose the removal of mink from the terms of the bill. Although we do not have registered mink packs in Scotland, packs occasionally cross the border from England, where mink hunting is quite widespread. I have no doubt whatever that mink hunting is a cruel sport that is ineffective and damaging to other wildlife, notably otters and wildfowl, as the Burns inquiry report mentioned.

The Burns inquiry report concluded:

“There seems reason to suppose ... that being closely pursued, caught and killed by hounds, or being dug out or bolted, seriously compromises the welfare of the mink.”

Lord Burns had a certain style in explaining things. Nonetheless, the message is quite clear. As I said, research submitted to the inquiry proved that hunting mink for deliberate kill by dogs is ineffective.

We covered some of this ground last week. Several conservation bodies, including the National Trust, do not allow mink hunting on their land if otters are present. The Environment Agency discourages mink hunting if otters and other wildlife may be disturbed.

In cases where mink are a nuisance, which, I accept, is often, we already use a humane alternative: trapping and shooting, with traps being checked every 24 hours. The bill does not prevent the use of scenting dogs or terriers to help to place those traps strategically. The Burns inquiry said:

“research shows that intensive trapping in an area can remove most of the local population.”

It is instructive to note that, in the Western Isles, where a serious attempt to eradicate mink has been made, the use of mink hounds is not being considered. I hope that, in the light of those arguments, David Mundell will not press amendment 85.

I move amendment 54.

16:30

David Mundell: I regret that I will disappoint Mike Watson, as I intend to press amendment 85. The committee discussed mink and took evidence on the issue. I know of no evidence of mink hunting in Scotland. Mink are a non-indigenous species that have escaped captivity and have gone into the wild. They are a serious threat to Scotland's native wildlife. We have heard evidence that mink are now prevalent throughout rural Scotland, in the south and the north. Dealing with mink is a serious issue and, in my view, amendment 85 should be agreed to so that a programme to eradicate the threat that mink pose to our indigenous wildlife and to livestock can continue.

Fergus Ewing: I support David Mundell's arguments. The number of mink in the Western Isles has increased—they pose an extremely serious problem. Some doubt the future efficacy of the measures that Scottish Natural Heritage apparently believes sufficient to eradicate mink. If amendment 85 is not agreed to, and if its provisions are not included in the bill, one method of controlling mink will become illegal. With respect, I do not agree with Mr Watson's arguments. I am happy to support this important amendment.

Mr McGrigor: I support amendment 85. The other day, I asked Lord Watson whether dogs were necessary to locate mink. I think that he said that they were.

Mike Watson: I did.

Mr McGrigor: Evidence from Iceland shows conclusively that dogs are necessary at least to

locate mink, so that the mink can be trapped. It is not a good idea to have a lot of civil servants crawling around in the seaweed looking for mink droppings; it is much better to use dogs for that.

The Convener: I am sure that civil servants would agree. Does Mike Watson wish to comment further?

Mike Watson: I am still trying to get that vision out of my mind.

The Convener: Mr McGrigor was talking about civil servants, not ministers.

Mike Watson: Using dogs to locate the mink is another matter. It is instructive that the examples that I gave of the difficulty with mink hunting come from the Western Isles and conservation bodies on both sides of the border. Mink hunting is undoubtedly cruel—a major part of the bill is to reduce if not eliminate cruelty. For that reason, I hope that amendment 85 will not be supported. It adds nothing to the bill.

Amendment 54 agreed to.

The Convener: Amendment 92, in the name of Mike Watson, is grouped with amendments 61, 88, 16, 93, 17, 83, 83A, 83B and 83C. Although some members might think that amendment 61 pre-empts amendment 88, it does not. Those amendments should perhaps be regarded as alternatives to one another when we come to vote on them.

Mike Watson: Amendment 92 is designed to allow shooters to use a retriever to retrieve animals that are shot and injured. Amendment 93 addresses the same point as amendment 16. It seeks to ensure that no animal is left to suffer as a result of its being injured during entirely legal hunting, such as hunting by hill packs. I am grateful to Elaine Murray for pointing out that gap in my original bill. I am not sure what the situation will be subsequent to her departure today, but I hope that she will withdraw amendment 16 and support amendment 93.

Amendments 61 and 88 deal with locating orphaned fox cubs. I do not have any difficulty about dogs locating cubs, but I prefer amendment 88 to amendment 61 because it would provide extra protection for cubs that are incapable of independent feeding. The inclusion of amendment 88 would also mean that people could not use section 3 to justify sending dogs to locate six-month-old cubs. I have already said that I support amendment 83 because it would provide the most humane method of using dogs to kill fox cubs underground, but I am happy with amendment 83B and I oppose amendment 83A for the same reasons that I opposed amendment 91A. I again cite in evidence the Scottish Gamekeepers Association, which said in its written evidence that

it approved of the requirement for written permission.

I move amendment 92.

Shall I speak to the other amendments now?

The Convener: I am happy for you to come back to them later. It is probably better if we do not speak to amendments 83A, 83B and 83C until Cathy Jamieson has introduced amendment 83.

I ask Fergus Ewing to speak to amendment 61 and the other amendments in the group.

Fergus Ewing: Section 3(1)(c) makes it plain that it is not illegal and is a legitimate exception to use a dog above or, now, below ground to retrieve or locate a wild mammal that a person

“reasonably believes is seriously injured”.

Amendment 61 would insert “or orphaned”. The alternative is to agree to amendment 88. The only difference between the two is that, in amendment 88, Dr Elaine Murray would add an extra provision to include

“an orphaned fox cub incapable of independent feeding.”

Agreement to amendment 88 would introduce a test that it would not be possible to satisfy in advance, although it can be argued that the reasonable belief provision provides some comfort. On the whole, amendment 61 is to be preferred because it does not place a gamekeeper or dog handler under an obligation to determine—before instructing a dog to retrieve or locate an orphaned fox cub—whether a cub is able to feed independently and without support. For those reasons, I urge members to support amendment 61 rather than amendment 88.

The Convener: I would ask Elaine Murray to speak to amendments 88, 16 and 17, but she is not here. If other members wish it, they are welcome to speak to the amendments.

Mr Tosh: I am not minded to move amendment 88 because I think that amendment 61 deals with the matter. I make that point in case other members, on thinking the matter through, feel that they want to move amendment 88.

The Convener: We are merely speaking to the amendments at the moment.

Mr Tosh: Sure, but I want to give members time to think about the matter. I would like to move amendments 16 and 17. Mike Watson said that amendment 93 takes care of Elaine Murray’s intention behind amendment 16, but there is something to be said for taking out the words,

“other than as a result of hunting with a dog”,

as amendment 16 suggests, given that the distinction is fairly spurious. The important matter is that an injured animal is involved, rather than

how the animal came to be injured.

We have had the argument before over amendment 17, which would remove “shot” and insert:

“killed as humanely as possible”.

In some circumstances it is impossible to get at an animal to shoot it and people must be able to dispatch such an animal humanely—the humanity of the action counts above all. Amendment 17 is good.

Cathy Jamieson: I regret that I will have to move amendment 83, but I acknowledge that a number of animal welfare organisations are concerned about the matter. For example, the Scottish Society for the Prevention of Cruelty to Animals is opposed to the use of dogs below ground, although it acknowledges that such use is humane in certain circumstances. A number of European countries have a close season during which there is a complete ban on seeking out and dispatching lactating vixens. I canvassed the opinions of various committee members, but it appeared that a proposal for a close season would not gain enough support. Therefore, I lodged amendment 83 as the least worst option. That amendment makes it fairly clear that the option would be used only in exceptional circumstances.

David Mundell: I will move amendment 83A. We covered the same ground when we discussed a similar amendment that I moved previously. I have nothing further to add.

Stewart Stevenson: We covered previously the use of single dogs to despatch cubs below ground and amendment 83B is in line with that discussion.

Fergus Ewing: On reflection, I support the term “as humanely as possible”. I had thought that it was inappropriately vague to be incorporated into the statute and my intention was to make it plain that despatch should be swift, hence amendment 83C would insert the word “quickly”. However, on reflection, I believe that “humanely” incorporates or entails “quickly” and for that reason I will not move amendment 83C. The phrase “as humanely as possible” is open to a charge of vagueness, so perhaps the Executive will enlighten us at stage 3.

16:45

Elaine Smith: Can I check something before we move on?

The Convener: Yes. I am just opening up the debate to other members.

Elaine Smith: David Mundell said that he would not move Elaine Murray’s amendment 88, so nobody has moved it, have they?

The Convener: The amendment is not moved

at this point. I will ask for it to be moved when we come to vote on it.

David Mundell: It was not me but Mr Tosh who said that he would not move amendment 88.

Mr Tosh: I make it clear that, in the event that amendment 61 is not moved or not agreed to, it would be appropriate to move amendment 88 and I would not be unhappy so to do.

Elaine Smith: I was about to say that I will move amendment 88. I want to say a few words about that. I am concerned about the word “orphaned”. We need clarification about when a cub ceases to be an orphan and becomes a grown-up animal. What is an orphan? An orphan is something or someone without parents. It is a difficult term to define. Elaine Murray’s amendment 88 gives some indication of the definition of an orphan.

The Convener: Does Mr Ewing want to respond to that?

Fergus Ewing: Not really.

The Convener: Do any other members want to contribute at this stage? Does Mike Watson want to wind up on this group of amendments?

Mike Watson: I did not speak to amendment 83C, which I oppose.

Fergus Ewing: Amendment 83C has not been moved.

Mike Watson: In that case, I have nothing further to add to what I said.

Amendment 92 agreed to.

Amendment 61 moved—[Fergus Ewing].

The Convener: The question is, that amendment 61 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)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Stevenson, Stewart (Banff and Buchan) (SNP)

AGAINST

Grant, Rhoda (Highlands and Islands) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)

ABSTENTIONS

Lochhead, Richard (North-East Scotland) (SNP)

The Convener: The result of the division is: For 6, Against 3, Abstentions 1.

Amendment 61 agreed to.

The Convener: Amendment 88, in the name of Elaine Murray—

Mr Tosh is looking at me strangely.

Mr Tosh: Does not amendment 61 pre-empt amendment 88?

Elaine Smith: I would like to move amendment 88.

The Convener: I beg your pardon. Amendment 88 was not pre-empted by amendment 61, as I explained at the beginning of the debate on this group of amendments. However, members should regard the two amendments as alternatives to one another. The question on amendment 88 must be put to the committee, but members should bear it in mind that amendment 61 has been agreed to.

Elaine Smith: I wish to move amendment 88.

The Convener: It does not have to be moved.

Elaine Smith: Can I move it if I wish to?

The Convener: Yes.

Fergus Ewing: Just before the amendment is moved, is it absolutely clear that amendment 88 has not been pre-empted by amendment 61? It seems to me to be perverse to include both provisions in the bill.

The Convener: It has been made clear to me that there is no pre-emption. However, it was made equally clear that members should treat the amendments as alternatives and that if both were accepted, the section would not make very clever reading. I ask Elaine Smith whether she really wishes to move amendment 88.

Elaine Smith: I wish to move amendment 88 because I think it is better to clarify the word “orphaned”. The section might not make much sense, but at least it would achieve that.

The Convener: You are perfectly entitled to move amendment 88.

Amendment 88 moved—[Elaine Smith].

Cathy Jamieson: I would like clarification on whether, if amendment 88 was moved and defeated, that would mean that it would not be possible to lodge a similar amendment at stage 3.

The Convener: I will ask the clerk to answer that.

Richard Davies (Clerk): No. The amendment's being disagreed to would not preclude a similar amendment being lodged at stage 3.

Fergus Ewing: The Presiding Officer might not select that amendment.

Elaine Smith: In that case, I want to withdraw

amendment 88.

Amendment 88, by agreement, withdrawn.

Amendment 16 moved—[Mr Murray Tosh].

The Convener: The question is, that amendment 16 be agreed to. Are we agreed?

Elaine Smith: Does amendment 16 preclude—or whatever the word is—amendment 93?

The Convener: You are quite right to ask that. I should have pointed out that, technically, amendment 16 does not pre-empt amendment 93, although the two amendments are probably best regarded as alternatives to one another. If amendment 16 is agreed to, it would probably not be clever for the committee to agree to amendment 93. Does Murray Tosh think that my advice is wrong?

Mr Tosh: It depends on what one understands amendment 93 to mean. When Mike Watson spoke to amendment 93, he made it clear that he preferred amendment 93 to amendment 16, but I thought that amendment 16 was a perfectly reasonable way to proceed. Whether amendment 16 pre-empted amendment 93 depends on what one understands section 1(1) to mean.

The Convener: The fact is that amendment 16 does not pre-empt amendment 93, so we can vote on both. It is as simple as that.

Amendment 16 agreed to.

Amendment 93 not moved.

Amendment 17 moved—[Mr Murray Tosh].

The Convener: The question is, that amendment 17 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)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Stevenson, Stewart (Banff and Buchan) (SNP)

AGAINST

Grant, Rhoda (Highlands and Islands) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)

ABSTENTIONS

Lochhead, Richard (North-East Scotland) (SNP)

The Convener: The result of the division is: For 6, Against 3, Abstentions 1.

Amendment 17 agreed to.

Amendment 83 moved—[Cathy Jamieson].

Amendment 83A moved—[David Mundell].

The Convener: The question is, that amendment 83A 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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)

AGAINST

Grant, Rhoda (Highlands and Islands) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)

The Convener: The result of the division is: For 6, Against 4, Abstentions 0.

Amendment 83A agreed to.

Amendment 83B moved—[Stewart Stevenson]—and agreed to.

Amendment 83C not moved.

Amendment 83, as amended, agreed to.

The Convener: Amendment 4 is in a group of its own.

Mr Rumbles: I originally lodged amendment 4 when I wanted the bill to concentrate on the activities of sports that are perceived to be cruel. On the advice of the then Deputy Minister for Environment and Rural Development, the committee decided not to go down that route, so it would be inappropriate for me to move the amendment.

Amendment 4 not moved.

Section 3, as amended, agreed to.

After section 3

The Convener: We move on to amendment—

Fergus Ewing: Convener, the time is 5 to 5.

The Convener: I made it plain at the start of the meeting that I wish to get to amendment 94. I wish to press on with that, with members' indulgence.

Fergus Ewing: With great respect, will we have time? It is five minutes before the SNP group meeting is due to begin in this room. I do not mean any disrespect to the convener, but are we really going to get through amendment 94 this afternoon?

The Convener: I am open to the committee's suggestions. We have two further brief items on the agenda. I am content with the thought that we are likely to complete stage 2 next week. If the committee is happy to move on, I am happy to do so. Is the committee happy to move on?

Mr Rumbles: We should finish this item now and then leave the bill until next week.

The Convener: That is my view. I made it quite plain at the start of the meeting and nobody raised any objections at that point.

Amendment 94 is grouped with amendment 94A.

Richard Lochhead (North-East Scotland) (SNP): I think that we have all agreed that we want the bill to allow genuine pest control to continue. We have admired a lot of the evidence given to the committee by gamekeepers and various other organisations and groups of people who are involved in genuine pest control. The committee has been struck by the adherence to professionalism of people who are involved in genuine pest control. To set themselves high standards, the gamekeepers and others have emphasised time and again that they adhere to codes of conduct that their organisations have produced or have adopted.

Although licensing was originally proposed in the bill, it is generally accepted that that is not the way to ensure that people who are involved in pest control are genuine and are doing a professional job. Codes of conduct offer another route for the committee to go down. When we took evidence from gamekeepers and others on 6 November, they put a lot of store by their codes of conduct. Ronnie Rose from the Scottish Gamekeepers Association said that there is already

"an excellent code that the professionals have kept to and that looks after the welfare of the dogs and the fox."—[*Official Report, Rural Development Committee*, 6 November 2001; c 2334.]

Thomas Parker from the National Working Terrier Federation said:

"Amendment 53 does not go as far as the National Working Terrier Federation's code; it could go much further and include welfare provisions for the terrier and its quarry."—[*Official Report, Rural Development Committee*, 6 November 2001; c 2336.]

The committee should recognise the professionalism that has been adopted by individuals who are involved in genuine pest control. We will not be supporting a licensing system, so codes of practice offer a good alternative, in that people who are covered by the exceptions in the bill would have to be members of organisations that have a code of conduct that sets high standards for the welfare of their dogs and for genuine pest control activities.

It is clear that a role for the Scottish Executive would be involved. If codes of conduct were imposed as a condition for exemption from the provisions of the bill, that would have to be administered. The clerk has advised me on the wording of the amendment so that the Executive could play its role in vetting codes of conduct and ensuring that organisations that are to be exempt have their own code of conduct. Somebody would have to carry out that simple function, and the Executive is best placed to do that. I look forward to hearing members' comments.

The Convener: Do you wish to move amendment 94?

Richard Lochhead: I do not have to move it right now, do I?

The Convener: Yes—otherwise we cannot debate the group.

Richard Lochhead: In that case, I move amendment 94.

17:00

Fergus Ewing: Amendment 94A would amend subsection (2) of the section that amendment 94 would insert after section 3. Amendment 94 would provide a method of recognising organisations, which would ensure that those who perform pest control work are members of reputable organisations, such as the Scottish Gamekeepers Association, the Scottish Hill Packs Association and the NWTF, from which we have heard evidence in abundance.

The NWTF code, which is set out at page 125 of volume 2 of our stage 1 report, is supported by the SGA and the Scottish Hill Packs Association. I am sure that members have read the code of conduct by which members of those bodies abide, which goes into great detail. That is much to their credit. Richard Lochhead's purpose is to recognise the existing situation and perhaps to give those bodies official Government recognition, because at present they do not have that imprimatur for the necessary role that they perform.

I support amendment 94 in spirit, but it has several possible technical flaws. I have identified one in proposed subsection (2), which says that to be recognised,

"an organisation must be formed primarily for the purpose of pest control".

As I understand it, the SGA was not formed for the purpose of pest control. I see a representative of the SGA agreeing with me. The SGA was formed because a need was perceived for a body that would speak up for gamekeepers about legislation that might be brought before Parliament, for example. If I am right, the SGA could not be recognised under amendment 94. I am sure that

that is not Richard Lochhead's intention.

It is unnecessary to involve the Government in the minutiae of the code. We should leave the code to the NWTF, the SGA and the Hill Packs Association. I see again some gentlemen from those bodies agreeing with me. The Government does not have a useful role to play in the matter. Last week, Rhona Brankin said that she thought that the Government would not want to be involved in such detail.

Amendment 94 says that the Government would have to be involved if a recognised organisation wanted to change any provision of its code. That would involve a huge procedure of bureaucracy and consultation, so I do not support that part of amendment 94. However, I genuinely support Richard Lochhead's aim of recognising those bodies and recognising their members as performing a useful role. If amendment 94 is not voted on today, I hope that it can be brought back in a leaner, fitter form in future.

I move amendment 94A.

Mr Tosh: Amendment 94 would significantly narrow many of the exemptions and conditions that the committee has painfully discussed in the past two or three meetings and would negate much of the committee's work. Proposed subsections (2) and (3) would restrict the exemption to people who are busy acting

"primarily for the purpose of pest control".

The amendment does not appear to leave sporting aspects—shooting and falconry—in the realm of exempted activity. That is problematic.

I do not understand why proposed subsection (1) frames the measures to

"apply to a person who is not the owner or lawful occupier of the land".

The provision would therefore not cover people who are operating on their own land. That is strange.

In focusing on pest control, the amendment leaves out welfare and all the stuff that we have just debated about humanely dispatching an injured or diseased animal. It appears to give Scottish ministers much power. It is not sound in law to allow voluntary codes to be written into the law or to allow ministers to negotiate with outside organisations about what the law will say. If Parliament wishes to incorporate a code, ministers ought to issue that code for consultation and present it to Parliament as subordinate legislation for committees and the Parliament to approve. Richard Lochhead does not propose such a procedure, because amendment 94 says that ministers must approve all amendments to an organisation's code.

I am not sure that ministers would necessarily want those powers to be exercised without reference to Parliament. I see the minister shaking his head, so I will say no more and let the convener call him to speak. Incidentally, my comments apply even more to amendment 94A, because it seems to destroy many of the exemptions that we have agreed in the past two or three weeks.

The Convener: At this point, I would normally ask members whether they wanted to speak, but it might be helpful for the minister to respond now.

Ross Finnie: Thank you, convener. It is always slightly concerning when consensus emerges among Fergus Ewing, Murray Tosh and myself; it is a bit late in the afternoon for that kind of controversy, which may disconcert other committee members.

I invite the committee to reject amendments 94 and 94A. The committee knows that there are a number of pest control organisations and, as Fergus has properly pointed out, organisations that engage in pest control but were not necessarily formed for that exclusive purpose. A range of those organisations have demonstrated to the committee a great degree of expertise. Indeed, the expertise lies there, rather than with ministers. The evidence that those organisations have given has been compelling.

If a body in any sphere of activity demonstrates a degree of competence, we should not then introduce an element of ministerial control over it. There is no need for ministers to give their imprimatur. The Executive should not be placed in a position where it is required to agree to and then police pest control activity. The bill as amended will set out the permissible exemptions. It will then be up to the Crown to examine the facts of any particular activity to determine whether it is legal.

Pest control organisations already adopt excellent codes of conduct. It is not the responsibility of ministers to determine whether those codes should be part of primary or secondary legislation. Amendments 94 and 94A are an unnecessary step. The evidence that the committee has heard has shown that those organisations are capable, do a good job and, in many cases, have adequate codes of conduct. Ministers should not prescribe how they should take effect.

Stewart Stevenson: I was surprised to hear the minister reject the idea of devolving responsibility to these organisations—whose valuable role in the countryside we recognise—and try to retain that responsibility in Parliament. However, his remarks are probably directed at the detail of amendment 94 rather than at the sentiment behind it, which is to entrench the position of, and acknowledge, the

contribution of various organisations that work in the countryside. Even if we do not feel at this stage that this proposal is the right way of doing that, we should certainly return to the issue at a later date. The understanding embedded in the codes of conduct of the various organisations represents the best practice in managing the countryside. The amendment has appeared on the marshalled list today simply because of the difficulties that we have had in wrestling with the idea of any individual being permitted to undertake these activities even though we acknowledge that training and discipline are required to undertake them.

Rhoda Grant: I have a fair amount of sympathy with amendment 94, but I do not think that it is quite right. For instance, it says that a person who is

“not the owner or lawful occupier of the land ... must be a member of an organisation recognised for the purpose”.

That would preclude people who may be neighbouring farmers or crofters from assisting others to dispatch foxes and other pests. Under subsection (2) of the section that was introduced by amendment 53, such a person would hold a firearms or a shotgun licence. That provision should apply to the whole bill. That would be better than the new section proposed in amendment 94. Although I am sympathetic, I cannot support amendment 94 as it stands.

Mr Rumbles: I hope that Richard Lochhead, Stewart Stevenson and Fergus Ewing will forgive me, but it is remarkable that we have reached the stage that all three of them agree and everybody else seems to disagree.

Amendment 3, which was agreed to earlier, got rid of licensing regulations. However, Richard Lochhead seems to be proposing exactly the same thing through a different route. The minister and other members' comments that we should not vest in the Government responsibility for the detail of codes of practice of organisations such as the Scottish Gamekeepers Association were appropriate. Fergus Ewing's initial comments were absolutely apt. As we all know, members of the Scottish Gamekeepers Association are wildlife managers and conservationists. Their code of conduct does not, first and foremost, deal with pest control and it is inappropriate for it to be used. To give credit to Richard Lochhead, he has shown consistency, as he has persisted with a proposal for a code of conduct all the way through the proceedings.

I disagree with the approach that Richard Lochhead has taken on the amendment and urge members to vote against it. I hope that Richard will withdraw amendment 94.

David Mundell: Another unusual alliance is for

Mike Rumbles and Ross Finnie to agree.

The Convener: You might think that, Mr Mundell, and it is duly noted. I am sure that they could not possibly comment.

David Mundell: However, in previous discussions in the committee, it has been set out that people who are exempted from the provisions of the act are not necessarily people who are engaged in pest control. We have had assurances that dog walkers are not covered by the measures in the bill. I am not aware that there is a national association of dog walkers, but our colleague John Young might put me right on that.

As Murray Tosh alluded to, a number of other people, who are engaged in sport and other activities that are clearly exempted, are not covered in Richard Lochhead's amendment 94. That would lead to difficulties over and above those that have been raised by other members.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): I am surprised that Mr Lochhead has lodged amendment 94 as, on reading through it, it seems that it gives control of the activity to a Government department. In most of the evidence that we have taken to date from professional organisations, that was one of their main objections. They said that another over-burdening provision would be a requirement for licences for nearly all the activities that they currently undertake free of intervention or prohibition.

Members should not support much of what is in amendment 94 as it is fraught with danger. Proposed subsection (1) refers only to the

"owner or lawful occupier of the land".

Anybody else who undertakes an activity on the land would require documented proof of approval for the activity that they are undertaking. As Rhoda Grant pointed out, in much of rural Scotland, and in particular the Highlands, shepherds and gamekeepers regularly bypass neighbouring estates as they go about their lawful activity. At all times, they are prepared for any eventuality. I am sure that if they were to see a fox or any other mammal, albeit on a neighbouring estate, if they were given the opportunity to take it out, I am sure that they would do that. Under amendment 94, they would have committed an offence if they did so.

I point out to Jamie McGrigor that some of the activities that individuals such as me get up to on occasions would require lawful permission. That is absurd and I would not be happy to support this amendment at all.

The Convener: Thank you. If no other members wish to speak, I will ask Mike Watson to wind up.

Mike Watson: I have nothing further to say.

The Convener: Minister, would you like to comment?

Ross Finnie: I am sorry that David Mundell has left. I can understand why, as a Tory, he is unfamiliar with the concept of inter-party agreement.

Mr Tosh: Sometimes you can take a joke too far, minister.

The Convener: It is at moments such as this that I regret the neutrality of the convenership.

Before he left the room, Fergus Ewing intimated that he did not wish to press amendment 94A.

Amendment 94A, by agreement, withdrawn.

17:15

Richard Lochhead: I am overwhelmed by the unanimous support from members for this amendment. It was a popular amendment that obviously exercised people's minds. The message of the amendment is clear. There is a hope that gamekeepers and everyone else who is involved in pest control will adopt codes of conduct and abide by them. There should be a system of self-licensing in the sector rather than having the Government license the sector. However, I recognise that there are a few holes in the amendment and I will therefore be happy to withdraw it and lick my wounds.

The Convener: The amendment allowed us to have a useful debate and I thank you for that.

Amendment 94, by agreement, withdrawn.

The Convener: I point out to members that there is a distinct possibility that we will conclude stage 2 next week. This Friday is a parliamentary holiday, so any amendments referring to the remainder of the bill should be lodged by 2 o'clock on Thursday afternoon.

Sea Cage Fish Farming

The Convener: We have received a paper on sea cage fish farming from John Farquhar Munro, who is our reporter on the subject. I propose that we note the report and discuss it next week if we have time. Is that agreeable to members?

Members *indicated agreement.*

Petition

Protection of Wild Mammals (Scotland) Bill (PE419)

The Convener: The last item on the agenda relates to petition PE419, which is about the effects on groams of the Protection of Wild Mammals (Scotland) Bill. There will be a debate next week on compensation relating to the bill, so I suggest that members read the petition and note the contents in relation to that debate. Are members content with that?

Members *indicated agreement.*

Meeting closed at 17:17.

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