

# **MEETING OF THE PARLIAMENT**

Wednesday 19 September 2001  
(*Afternoon*)

Session 1

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## Scottish Parliament

*Wednesday 19 September 2001*

*(Afternoon)*

[THE PRESIDING OFFICER *opened the meeting at 14:30*]

Goodness is stronger than evil,  
Love is stronger than hate,  
Light is stronger than darkness,  
Life is stronger than death,  
Victory is ours, victory is ours,  
Through Him who loved us and  
gave his life for us, Jesus Christ our Lord.

Amen.

## Time for Reflection

**The Presiding Officer (Sir David Steel):** I welcome Rev Alison Simpson, who is the Episcopalian minister of St Mary on the Rock, Ellon and St James's, Cruden Bay, to lead our time for reflection.

**Rev Alison Simpson (Episcopalian Minister of St Mary on the Rock, Ellon and St James's, Cruden Bay):** A little under a year ago, I made a pilgrimage with a group from our church to visit our companion parish of St Paul's, Woodbury, in Connecticut. Over the years, several exchange visits have taken place and firm friendships have grown out of them.

I have very happy memories of that trip. One thing in particular has stuck in my mind. After a tiring and somewhat frustrating day in Manhattan—where we seemed to spend most of our time stuck in traffic—we climbed to the top of the World Trade Center to watch the sunset. It was a beautiful, warm evening and surprisingly peaceful away from the noise of the street. As the sun went down, the sky changed to all the shades of pink and orange and was made more vibrant by being reflected in the Hudson river. The lights came on as the sun went down and the city took on its very different, but no less spectacular, night-time hue. That was one of those special moments that I will never forget.

The past week has brought to our minds other images that we will never forget. Images of tragedy, death and destruction—on a scale of which people of my generation have no conception—have shocked the world. Alongside the horror, stories of tremendous courage have emerged—of fire crews and those who phoned from the aircraft to express their love, knowing that they were about to die. We must keep those images of humanity and compassion in our hearts and minds even—perhaps especially—when anger and grief are overwhelming.

What we cherish in our society and our nation—freedom, equality, justice, peace and love—are the real strengths in the fight against evil. Archbishop Desmond Tutu wrote a very simple prayer that summarises those thoughts:

## Parliamentary Bureau Motions

14:35

**The Presiding Officer (Sir David Steel):** We have a couple of Parliamentary Bureau motions to deal with before we start the debate. I ask Euan Robson to move motion S1M-2229, in the name of Mr Tom McCabe, on behalf of the Parliamentary Bureau, on the business programme for today.

*Motion moved,*

That the Parliament agrees as a revision to the Business Programme agreed on 13 September 2001:

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after Decision Time, delete all and insert

*followed by* Members' Business—debate on the subject of S1M-2088—Irene McGugan: Waste Incinerators.—*[Euan Robson.]*

**The Presiding Officer:** Does Mike Russell want to speak against the motion?

**Michael Russell (South of Scotland) (SNP):** No.

**The Presiding Officer:** Then do not press your button. Tricia Marwick also pressed her button.

**Kay Ullrich (West of Scotland) (SNP):** They are too keen.

**The Presiding Officer:** Order.

The question is, that motion S1M-2229, in the name of Mr Tom McCabe, be agreed to. Are we all agreed?

*Motion agreed to.*

**The Presiding Officer:** I ask Euan Robson to move motion S1M-2230, in the name of Mr Tom McCabe, on behalf of the Parliamentary Bureau, on the remit for the Local Government Committee.

*Motion moved,*

That the Parliament agrees that with effect from 20 September 2001 the remit for the Local Government Committee should be—

To consider and report on matters relating to (a) local government (including local government finance) and (b) other matters (excluding finance other than local government finance) which fall within the responsibility of the Minister for Finance and Local Government.—*[Euan Robson.]*

## Protection of Wild Mammals (Scotland) Bill: Stage 1

**The Presiding Officer (Sir David Steel):** We come to the debate on motion S1M-2078, in the name of Mike Watson, on the general principles of the Protection of Wild Mammals (Scotland) Bill. There are two amendments to the motion.

Before we start I will make a number of things clear on behalf of my colleagues, who will be in the chair this afternoon. We will apply strict time limits to the speeches in the open debate. Members will have four minutes. A bit of grace will be allowed for brief interventions, but there will be no interventions in the last minute of any speech. We have agreed with the three members who do not belong to the main parties, but who also want to speak, that they will have a slot of six minutes between the three of them in the middle of the debate. In that way, we will be fair to everyone in the chamber. I apologise in advance to those whom we will not be able to ask to speak. I know that there will be many of you.

I am speaking to the people in the gallery now. The gallery will be full this afternoon; there is a large queue outside. Some people in the gallery will have strong feelings—on both sides—about the subject of the debate. I remind them that there must be no participation from the gallery: no applause and no disapproval. The occupants of the chair will ask people to leave if there is any breach of that rule. You are welcome as spectators, but only as spectators.

Let us start the debate, because we are tight for time.

**Alex Neil (Central Scotland) (SNP):** On a point of order, Presiding Officer. I believe that the Rural Development Committee has decided in private that if the bill passes stage 1, the committee will not be prepared to take it to stage 2. What implications does that decision have for the next stage of the bill?

**Alex Fergusson (South of Scotland) (Con):** On the same point, Presiding Officer. The Rural Development Committee has taken no decision, in private or otherwise. I speak safely on behalf of the committee on that score.

**The Presiding Officer:** The answer to Alex Neil's point of order is that, even if a decision had been taken, that is not a matter for the Rural Development Committee, but for the Parliamentary Bureau. The bureau will consider that matter if and when the bill goes to stage 2.

14:38

**Mike Watson (Glasgow Cathcart) (Lab):** I preface my remarks by saying that the words of Rev Simpson and the events to which she referred put everything that we will do this afternoon, tomorrow and for the rest of the term into context.

On 4 August 1999, I stated my intention to introduce a member's bill—the Protection of Wild Mammals (Scotland) Bill. On 1 September 1999, I lodged a motion, which attracted sufficient signatures. On 1 December 1999, Sir David Steel issued the bill with its certificate of legislative competence. On 1 March 2000, the bill was formally introduced; on 4 April 2000, the Rural Affairs Committee, as it was called, began taking evidence; and on 12 July 2001, the Rural Development Committee published its stage 1 report.

No other bill in the Parliament has taken more than 107 days to complete its passage from introduction to legislation, but the Protection of Wild Mammals (Scotland) Bill is on its 409<sup>th</sup> day. Whatever criticisms are aimed at the bill, it cannot be accused of being rushed through Parliament.

I intend to comment on the Rural Development Committee's stage 1 report—and how it was arrived at—and on the general principles of the bill. The purpose of today's debate is to consider that report. The committee's view—or, I should say, the view of six of its 11 members—is that the general principles of the bill should not be agreed to. The question for members is whether to endorse that view or to allow the bill to proceed to stage 2 for amendment. I hope that members will choose the latter course.

I want to return to the report and examine what I regard as its rather strange conclusions. It is fair to say that the committee got itself into a bit of a fankle attempting to decide what the aim of the bill is. At stage 1, the committee is required merely to report its views on the general principles of the bill. Those are quite succinct, as I explained to the committee when I gave evidence to it on 4 April 2000. They are contained in the bill's long title, which states:

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

When I returned to give evidence to the committee on 14 November last year, I clarified what that meant. I said:

"The first principle of my Bill is to ban mounted fox hunting; the second principle of my Bill is to stop hare coursing; the third principle of my Bill is to ban fox-baiting where dogs are used to bait and fight foxes underground".

As the third principle has proved by some distance to be the most contentious, I went on to say that it was not my intention to

"restrict the legitimate activities of gamekeepers and landowners".

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Mike Watson is correct to say that he mentioned mounted hunting and hare coursing and talked about terrier work. I have heard Mike Watson talk about dog baiting only today. That is not what he said.

**Mike Watson:** I have quoted the words that I used in the meeting of the committee on 14 November last year. I am happy to clarify that now, should that be necessary.

On gamekeepers and landowners, it is my understanding that if the bill reaches stage 2, an amendment carefully prepared by my colleague Rhoda Grant would have the effect of achieving that aim. No doubt she will elaborate on that when she has an opportunity. I hope that that will give some comfort to those of my colleagues who have expressed general support for the bill but are concerned about individual issues.

What makes the committee's conclusions strange—some might even say bizarre—is that its report supports the three general principles of the bill. Paragraph 66 of the report confirms that

"mounted hunts are primarily a form of sport and may involve unnecessary suffering."

Paragraph 72 states that

"The Committee makes clear that it abhors any such form of 'fox-baiting'".

Paragraph 93 states that

"there is clearly no need for hare coursing in terms of pest control"

and that

"A majority of the Committee felt that hare coursing is cruel."

So, in its report the committee agrees with me and accepts that the general principles of the bill have been met. That is all that is required of a committee at this stage. It then goes on to reach contradictory conclusions, which appear to have been decided before the report was finalised. That is an odd, back-to-front process, which helps to explain the predicament in which the committee now finds itself.

I have to say that I am at a bit of a loss as to why so many people have described the scope of the bill as being wider than they had anticipated and also as being flawed. Let me make it clear that my bill closely resembles the bill that Mike Foster MP presented to the House of Commons in 1997. Had Westminster not been hidebound by anachronistic procedures that allow a determined group of MPs to sabotage a private member's bill, all the activities that my bill seeks to bring to an end would have been illegal throughout the UK

before the Parliament was established and this bill would not have been necessary. However, the drafting of my bill took into account the amendments made to the Foster bill. Its contents should not have surprised anyone with an established interest in this issue. It is neither more nor less flawed than its Westminster equivalent.

The committee also concludes that the bill is "difficult or impossible to amend".

It does not explain why, which perhaps is not surprising. The Housing (Scotland) Bill that we dealt with in the chamber earlier this year had no fewer than 500 amendments. The Abolition of Feudal Tenure (Scotland) Bill had more than 300 amendments. Those were Executive bills, which were drafted with the expertise that is available to the Executive. Every bill in every legislature, no matter where, is amended during its progress through Parliament. This one is no different. No bill is incapable of amendment. I suggest that it is fatuous to say otherwise.

I suspect that much will be said in the debate about the importance of the committee system and the primacy of committees. I am happy to say that I am a champion of the modern procedures and practices that this legislature employs. It is important that the Executive is genuinely held to account within our democratic structures and that the opinions of back benchers are given due account as well. Democratic structures are very important.

Democracy requires two tests to be met. The first is for notice of any vote to be taken to be given appropriately; the second is for the decision that is arrived at to carry with it the majority of the body concerned. Unfortunately, on 1 May neither of those tests was met in the Rural Development Committee. The members were not informed that the question of whether the committee should make a recommendation was to be dealt with. There was no need to deal with it on 1 May. The committee's report was not completed until 26 June, so there was plenty of time.

Furthermore, crucially, on that day, one of the 11 members of the committee was not present. Elaine Smith, who was ill, was known to be in favour of the bill's general principles. I find it a matter of great disappointment and concern that Alex Johnstone, who was convener of the committee at the time, allowed the vote to go ahead, knowing that it would not give an accurate reflection of the committee's views as a whole. When he did so—and I make no apologies for going into the matter in a little detail—the vote on whether the committee should make recommendations was split 5:5. Had Elaine Smith been present, the vote would have been 6:5 against making recommendations and today's

debate would have been quite different.

Mr Johnstone then proceeded to use his casting vote in a manner that is quite contrary to custom and practice and, I would argue, to the whole ethos of the Parliament and the standards expected of its committee conveners. He voted—for the second time—to ensure that a recommendation should be made, and did so in the knowledge not just that there was no majority on the committee for such a view but that there was a majority on the committee against such a view.

If that is Mr Johnstone's interpretation of democracy, I am afraid that he will have to reconcile it with his conscience. He will find that his interpretation is not shared by many Scots, who had higher hopes for the integrity of the representatives that they elected to the new Parliament.

**Alex Fergusson:** Will the member give way?

**Mike Watson:** No.

That said, it seems that Mr Johnstone has learned the error of his ways. When he appeared with me before the Parliament's Procedures Committee on 29 May to discuss the precise question of how a convener should use his or her casting vote, he said:

"The suggestion ... that a simple majority in the initial vote was always required to effect change—that is a firm guideline that we should stick to."—[*Official Report, Procedures Committee*, 29 May 2001; c 743.]

**Ben Wallace (North-East Scotland) (Con):** Will the member give way?

**Mike Watson:** I will give way in a moment.

If Mr Johnstone had adhered to those firm guidelines three weeks earlier, we would not be seeking today to overturn a committee recommendation. But hard politics came into play. Mr Johnstone made a hard political decision to ignore the impartiality expected of conveners in order to drive through a decision which he knew did not reflect his committee's decision.

**Alex Fergusson:** I intervene because I may be able to help Mike Watson on this point. I hope that he will take my word that I was assured by a committee member that, on the day when the vote in question took place, he or she—I am not prepared to say which—would not have allowed the committee not to have made a recommendation. Therefore, the situation to which he refers—that this debate might have taken place differently—does not apply.

**Mike Watson:** I am not sure that Mr Fergusson's intervention takes us any further forward. Its point is certainly not clear to me. However, Mr Fergusson's comments are



interesting. Although Mr Johnstone might now be a wiser man, it seems that Mr Fergusson is not. Mr Fergusson did exactly the same thing with the convener's casting vote in yesterday's Rural Development Committee meeting, which has led to the lodging of the amendment before the Parliament this afternoon. It seems that they do not learn. Perhaps Mr Tosh of the Procedures Committee will help us to clarify these points.

**Ben Wallace:** On a point of order, Presiding Officer. Lord Watson has made a number of allegations about two conveners of the Rural Development Committee. If those allegations concern improprieties, he should make them known in writing either to the Standards Committee or to the Procedures Committee. I think that it is inappropriate for him to make them in this place.

**The Presiding Officer:** Order. This is holding up the debate. The two members that Mr Watson has mentioned will be speaking shortly, and will no doubt have something to say on the matter.

**Mike Watson:** Certainly my points about Mr Johnstone have been made to the Procedures Committee, which is considering them.

As for the bill itself, out of the many reams of newsprint that have been used to report critically on its very existence, far less its progress, one particular barb has stuck in my mind. It was a charge against the so-called anti-cruelty movement, which was characterised as

"the intolerant in pursuit of political correctness".

Far be it from me to ask the rather obvious question whether we should try and be politically incorrect. I state unequivocally that if that is the charge against me, I plead guilty to intolerance. However, I am being intolerant only of a deliberate cruelty perpetrated against a sentient animal in the name of sport, personal gratification and a "pursuit" that merits that description only if it is preceded by the word "leisure".

As the Rural Development Committee itself exposed, fox hunting is an unnecessary activity that, by its specific design, causes the most intolerable compromise of an animal's welfare. Hounds are bred for stamina not speed, to ensure a protracted chase for participants and supporters. As a result, the fox suffers immense and deliberate stress even before it is caught and killed in the most gruesome manner. Even adherents of hare coursing do not dare to claim that their leisure activity is necessary. How could they, when they force a hare into an arena, set dogs upon it and award points for the amount of time it takes to reach the kill?

As a result, if the charge is that by opposing those sort of cruel activities, I am intolerant, I

plead guilty. However, in the eyes of some, I am also guilty of attempting to end that cruelty by introducing legislation in the Parliament to prevent the continuation of the practices in their current form.

Despite the more outlandish claims of my opponents, there are no sections in the bill that would require the handing in to police stations of red coats as part of a general amnesty. Nor are there sections that preclude the ownership of horses or the public walking of dogs. It will become an offence to set a pack of dogs on a wild mammal, and the bill will force hunt enthusiasts to make the transition to drag hunting, an issue that I have talked to them about. Drag hunting is a genuine sport that is becoming established in England, although not yet in Scotland, and has been long popular in France, in which dogs and mounted participants follow an artificial scent. I have met individuals who engage in benign sports using hounds, and I am satisfied that, despite what they say, many fox hunters will choose to join them.

The bill will also end the practice of fox baiting, the so-called sport in which men armed with dogs and spades locate fox earths, dig down to fox families and set their dogs against them. I offer the caveat of my comments in relation to gamekeepers whom I have met and whose work I have seen. I hope that that will be the subject of a suitable amendment at stage 2. The fox has been increasingly targeted since badger baiting was outlawed in 1992. My opponents—most prominently the Countryside Alliance—have told members that fox baiting is both necessary and humanely conducted. They have said that if it was shown to be a cruel activity, they would advocate that it should be banned.

The question of whether fox baiting is cruel seems to be a rhetorical one. For guidance, we might turn to an experienced hand, an individual with years of expertise in the field. In a magazine article, he talked of the effect that the practice has on his dogs. He said:

"It's no big deal to tag along to a terrier show with a handful of dogs, all showing horrific scars of battle but, alas, to some they are the ultimate status symbol. That a dog is punished underground in the line of duty is inevitable."

Members may ask who we have to thank for those illuminating comments and whether we can regard that account as reliable. The author is Adrian Simpson, who happens to be the Welsh director of the Countryside Alliance. The Countryside Alliance's Scottish director may be less candid, but even he would find it difficult to maintain that the use of terriers underground is always benign or humane.

I introduced a bill to reduce, if not to end, forms

of cruelty that have continued for far too long and which should have no place in a modern, cultured Scotland. I am glad to be able to offer this opportunity of facilitating those changes—although the Parliament must vote for them before they can come into effect. I know that many members will share these sentiments in voting with me in support of tackling the exploitation.

Over the past two years, members have received hundreds of letters on the subject. I have received more than 3,000 letters, and yesterday received a petition with 13,000 names collected by Scottish Wildlife Action. The Rural Development Committee also received more than 4,000 letters. I have been asked a hundred times why hunting is a priority issue: the answer is that it is not a priority issue. It is not more important than tackling issues relating to poverty, housing, health or education: it never has been and never will be. Those are the real priorities of Scotland, which is why, in the two years since the bill was introduced, the Parliament has passed 24 acts, most of which relate to the real priorities that I have enumerated.

The Parliament will continue to pass such acts, and I have played my part in that process. However, over and above that, I have tried to target the cruel and barbaric practices that are associated with hunting with dogs. If we were to await the eradication of poverty in Scotland, in all its forms, before trying to tackle those practices, that would never happen—which is precisely the aim of those who urge such a course of inaction.

So, here we are at last. I hope that, in years to come, social historians will record the fact that, in its first term, the Scottish Parliament was possessed of the will to do what Westminster failed to do for so long. I urge members to pass the bill to stage 2 when, if appropriate and with the will of Parliament, it can be amended.

I move,

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

**Mr Murray Tosh (South of Scotland) (Con):** On a point of order. I seek your guidance, Presiding Officer, for the rest of the debate and the process in the event that Parliament agrees to the motion.

I have here an *Official Report* from the former Rural Affairs Committee in which Mr Watson is quoted as saying that the purpose of his bill is

“to ban fox hunting, hare coursing and terrier work.”—*[Official Report, Rural Affairs Committee, 21 November 2000; c 1397.]*

That is not how he has defined the third part of the bill today. The matter will be important when we come to debate the admissibility of amendments. Can you tell us what precisely we will be

approving in terms of the principles of the bill? Are we approving a ban on terrier work or a ban on fox baiting?

**The Presiding Officer:** The Parliament is being asked to support the general principles of the bill, which are laid out in the text before us. Members must draw their own conclusions as to what the principles are. It is not for me to give textual guidance on the bill.

I call the convener of the Rural Development Committee, Mr Alex Fergusson, to move the amendment.

14:55

**Alex Fergusson (South of Scotland) (Con):** In lodging the amendment on behalf of the majority of the Rural Development Committee—therefore, in any democratic world, on behalf of the committee—it is right and proper that I should extend thanks to officials and others who have played a significant part in the process that has led us to today's debate. In particular, I thank the clerking staff who, while never at full strength, worked long and hard to ensure that the committee kept on track during what, in anybody's language, has been a long and arduous stage 1 procedure.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Will the member take an intervention?

**Alex Fergusson:** Yes, but this is the only one that I will take.

**Elaine Smith:** I would like to clarify a point. Alex Fergusson said that the amendment was agreed to by the majority of the committee. Will he confirm that the vote was decided yesterday on the casting vote of the convener?

**Alex Fergusson:** No, I will not. The vote on the amendment was not won by the casting vote of the convener. The casting vote was used in relation to the question whether the committee wanted to support Elaine Murray's amendment. If my recollection is wrong, I am sorry. Nevertheless I have, in any democratic process, the right to speak to the amendment on behalf of the Rural Development Committee.

As I say, I want to thank the staff—

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** On a point of order, Presiding Officer. I am not sure whether there is such a thing as a committee amendment. As a member of the Rural Development Committee, I want clarification of that issue. I understood that Mr Fergusson had lodged the motion in his name.

**The Presiding Officer:** How the committee voted is not a matter for me. The committee voted on an amendment that was lodged and which I

selected.

**Alex Fergusson:** I am sorry that this discussion has taken us away from the thanks that are due from every member of the Parliament to the Parliament's staff. They have done a magnificent job, as did my predecessor as convener of the Rural Development Committee, Alex Johnstone. I will leave it to others to determine whether he and I have acted in a proper manner. Alex Johnstone did a magnificent job of chairing the committee in such a fashion that everybody involved—members and witnesses—felt that they were able to have their say, make their points and get a fair hearing as the committee went about its business.

That business began about 17 months ago—although it seems longer—when Mike Watson appeared before the committee on 4 April 2000 to present his Protection of Wild Mammals (Scotland) Bill. We realised the problems that awaited us when the promoter of the bill, in his opening statement to the committee, drew attention to changes that he wanted to introduce at stage 2. It seems to me now—as it seemed to me then—that for the promoter of the bill to talk about the changes that he wished to make before he had introduced the bill to the lead committee was tantamount to a tacit admission that the bill was flawed in that it did not address the proposal, which was the perfectly laudable aim of ending cruelty to wild mammals. That is an aim with which not one member of the committee would disagree.

**Trish Godman (West Renfrewshire) (Lab):** Will the member give way?

**Alex Fergusson:** I would like to, but I do not have time.

It is on that apparent admission that the committee has met with difficulty and that is why the stage 1 process has been arduous. The bill focuses on the use of dogs and therefore equates the use of dogs to cruelty. However, the committee agreed unanimously that the use of dogs cannot be a common factor in determining cruelty. That agreement is at the root of the committee's eventual majority decision, following all the evidence that it took, to recommend that the general principles of the bill should not be agreed to.

I would like to dwell on that evidence, because there is a considerable amount of it. Twenty organisations provided written evidence. Many of them were also later asked to give oral evidence. As Mike Watson said, more than 4,615 individuals felt concerned enough to take the trouble to write to the committee uninvited—about 60 per cent of those individuals were against the bill.

From that vast bulk of evidence, the committee had to determine a way forward. On 14 November 2000, Mike Watson stated to the committee that

“cruelty is the issue in this bill”—[*Official Report, Rural Affairs Committee*, 14 November 2000; c 1349.]

Given that, the committee sought to define cruelty and had no difficulty in agreeing with the Scottish Society for the Prevention of Cruelty to Animals' definition that cruelty means

“the infliction of unnecessary suffering”.

However, the committee was also forced to conclude that there is no absolute measure of suffering and that it can be considered only on a comparative scale of whether some activities appear to cause more suffering than others. In other words, suffering is a matter of individual judgment. I argue that something that is agreed to be a matter of individual judgment is not a matter for legislation.

The committee also took evidence on the economic impact that the bill would have if passed and considered studies that were carried out by the Borders Foundation for Rural Sustainability, the Macaulay Institute and Dr Sean Rickard. We were struck by the similarity of those reports, which gave an average projected job loss of 142 jobs, excluding gamekeepers, if the bill is passed and enacted.

When the Rural Development Committee met in Dumfries, it met informally with a group of tradespeople from the Borders. They included an hotelier, a farrier, a groom, a veterinary surgeon, a haulier and a stable owner. We would have had to be pretty hard-hearted not to have been struck by the genuine and heartfelt anguish that they displayed to us—the potential enablers of legislation that would take away their jobs or destroy their businesses. Under the bill as introduced, they would receive no compensation for that loss.

The loss of 142 jobs might not seem to be a lot to members who live in the central belt, but in rural Scotland, it is every bit as devastating as the closure of Motorola or any other major industrial plant.

I mentioned that the economic impact studies did not reflect on gamekeeping. We cannot consider the bill without examining its impact on that profession. The committee had to conclude that the bill is fundamentally flawed in that respect. Despite Mike Watson's stated intention to amend his proposals, he has said that he will not amend the ban on the use of terriers underground that the bill would bring about. The result of that would be, as evidence forcefully told us, that the so-called Protection of Wild Mammals (Scotland) Bill would actually remove protection for many wild mammals. Foxes are regularly shot as part of a pest control programme. Following the shooting of a vixen, the cubs are flushed from the den by terriers to be dispatched as humanely as possible.

I should point out that the SSPCA accepts—albeit reluctantly—the need for that activity. If that activity were banned, the keeper would have to dig down to the cubs or simply leave them to starve to death. Members will not be surprised to hear that most of Scotland's hills and uplands simply cannot be dug up because they are granite.

Everyone agrees that fox control is an integral part of maintaining the biodiversity of the uplands and mountains, the protection of which is now enshrined in the National Parks (Scotland) Act 2000. I am not being overly dramatic in suggesting that, if the bill as introduced were enacted, it would be in direct contravention of the National Parks (Scotland) Act 2000, which the Parliament passed so proudly in June 2000.

The Rural Development Committee considered the activities that would be affected by the bill, principally mounted hunting and hare coursing, which most people acknowledge are the real targets of the bill. Although a majority of the committee felt that coursing was cruel, we were unanimous in saying that mounted hunting might cause cruelty. That statement implies equally that it might not cause cruelty, as recognised in paragraph 101 of the stage 1 report, which states that the evidence is

“so inconclusive, that a moral stance has been adopted.”

Again, that is a matter of individual judgement, which I have already suggested should never be the subject of legislation.

Members will be aware of the story of the tourist who got lost in the countryside and asked a local worthy how best to get to his destination. “Well,” replied the local, “if you want to go there, I don't think you should start from here.” That is precisely what the committee is saying in its report. In paragraph 72, to which the amendment in my name refers, the report asks the Executive to revisit existing legislation so that examples of cruelty about which all members would agree could be successfully prosecuted. That would provide a measure of protection to wild animals, but the bill will not. Even if the bill is passed, foxes will continue to be shot and snared. Neither of those activities necessarily affords a quicker and cleaner death than being hunted and caught by hounds.

As a representative of the South of Scotland, I would be failing in my duty if I did not remind members of the utter devastation that foot-and-mouth disease has brought to that region.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** On a point of order, Presiding Officer. Is the member speaking as convener of the Rural Development Committee or is he speaking, as he just said, as a member for the South of Scotland? He is either speaking to a committee amendment

or he is not.

**The Presiding Officer:** The member is not out of order.

**Alex Fergusson:** I would be failing in my duty if I did not remind members of the utter devastation that foot-and-mouth disease has brought to the south of Scotland. I have said previously that, had the bill been honest enough simply to propose a ban on hunting and coursing, it would have been passed a year ago, but it is not honest enough.

If ever there was an example of the wrong bill in the wrong place at the wrong time, the Protection of Wild Mammals (Scotland) Bill is a strong contender. It is worth asking whether, if banning were really the right route to take, four previous chairmen of the League Against Cruel Sports would have changed their minds in recent years.

In closing, I offer a quote from the *Official Report*. Are we to tell

“the people of Scotland that although they fought long and hard to have this Parliament, we, the first generation of its politicians, are not prepared to let them continue to have the rights that they currently have. That would be wrong.”—[*Official Report*, 13 January 2001; Vol 4, c 72.]

That was a quote from Wendy Alexander—albeit on a different subject—but she was absolutely right and the quote is equally relevant to the debate today. I am proud to be a member of a Parliament that was hailed as being tolerant and inclusive. Those are two qualities to which I believe we all aspire. However, the bill is exactly the opposite of those worthy aspirations and I urge members to reject it.

I move amendment S1M-2078.2, to leave out from “agrees” to end and insert:

“does not agree to the general principles of the Protection of Wild Mammals (Scotland) Bill for the reasons set out in the stage 1 report of the Rural Development Committee; and because it considers that, as an alternative, the Executive should examine the issues identified in the report, in particular paragraph 72 thereof, in order to address whether the existing law against fox baiting provides adequate protection against cruelty to wild mammals.”

**Tricia Marwick:** On a point of order, Presiding Officer.

**The Presiding Officer:** We are getting rather a lot of points of order and they all take time out of the debate.

**Tricia Marwick:** It is important to clarify the matter of fox baiting. In his final submission to the Rural Affairs Committee, Mike Watson said—

**The Presiding Officer:** That is not a point of order. The general principle on which members will be invited to vote at 5 o'clock is set out in the long title of the bill. The arguments can rage backwards and forwards on that.

I call Dr Elaine Murray to speak to and move her amendment.

15:06

**Dr Elaine Murray (Dumfries) (Lab):** When the bill was originally proposed, I expected to support it. I did, however, undertake to listen to the views of my constituents and to the evidence that was presented to the then Rural Affairs Committee. The proposals generated much correspondence—as one might expect—expressing strong views divided evenly for and against the bill. That equality of division might not be typical of other members' postbags. However, there are two registered hunts in Dumfries and field sports are important to the economy of the region.

I also listened to the evidence that was taken by the committee. I visited gamekeepers and hunt kennels in my constituency and I was invited to attend local meetings. I learned about matters of which I would otherwise have known nothing. I found that contradictory evidence was presented on some matters and I changed my opinions on others because of the evidence that I heard. As a consequence, I present to Parliament an alternative approach for the Scottish Executive to consider as the basis for legislation.

I fully support the original intention of Mike Watson's bill, because the current situation is hard to accept on moral grounds. However, I believe that the bill would miss its target of reducing animal suffering. The bill has highlighted the need to change existing legislation and, through the evidence that was taken during stage 1, has brought an enormous amount of information into the public domain. The work that has so far been undertaken by the Rural Development Committee and others should not be lost. Instead, it could form the basis of a new and workable law, which could achieve the goal of giving greater protection to Scotland's wild mammals.

Unfortunately, the widely accepted principles of the Watson bill are not served by targeting hunting with dogs. My amendment recommends a comprehensive approach to the issue. It will address unacceptable practices while balancing fairly the rights and responsibilities of those who take part in wildlife management activities.

The current legislation includes the Protection of Animals (Scotland) Act 1912, which applies to domestic animals and captive animals, such as zoo animals. The act states that it is an offence to "cause unnecessary suffering" to such animals. In contrast, the Wild Mammals Protection Act 1996, which covers all wild mammals, restricts prosecutable offences to specific actions in which a person

"mutilates, kicks, beats, nails or otherwise impales, stabs,

burns, stones, crushes, drowns, drags, or asphyxiates any wild mammal with intent to inflict unnecessary suffering".

The 1996 act was brought in after a number of offences against hedgehogs. As well as protecting wild mammals in specific circumstances, it exempts people who are involved in hunting and coursing. My amendment, which is based on a proposal by Lord Donoughue, would enable the Executive to consider replacing the list of proscribed actions with a section stating that it would be illegal to cause unnecessary suffering to any wild mammal. That would treat wild animals in a similar manner to domestic and captive animals.

The committee heard of an incident involving cruelty towards a fox, which could not—and, under Mike Watson's bill, would not—be prosecuted because it did not involve dogs. Legislation along the line of my proposals would allow prosecution in such cases.

The Executive should also consider removing the exemption for hunting with dogs, thereby putting the law on that point on a level playing field and again bringing the law on wild mammals into line with the law on domestic and captive animals. Therefore, an individual or an organisation could bring a case against a hunt if there was sufficient evidence to show that there had been excessive suffering to the quarry.

Actions against activities such as hare coursing could, I believe, be successfully prosecuted, as could actions against sending dogs underground to bait a fox. If proven evidence of cruelty came forward, and if a case was successfully brought to court, mounted fox hunting could in effect be banned altogether. The law relating to the protection of wild mammals would then be similar in principle to the law that currently covers domestic animals, which dictates those actions that are viewed to cause an acceptable degree of suffering, and those that cause unnecessary suffering.

A change to the Wild Mammals (Protection) Act 1996 would not mean that illegal acts would be the same for all species. The law that covers domestic animals allows for different actions to be undertaken on different species, depending on the nature of each species. For example, actions that are acceptable in the case of a horse would be quite unacceptable if applied to a hamster. The crucial question is not just what was done to the animal, but whether it was acceptable in the circumstances and whether it went beyond what was necessary.

In animal welfare terms, prohibiting one control method—hunting with dogs—would merely allow that to be replaced by other methods, which are equally capable of causing suffering. The issue of hunting with dogs cannot be viewed in isolation.

As the Rural Development Committee report states, hunting

"dogs ... are not the common factor in determining cruelty."

**Brian Adam (North-East Scotland) (SNP):** Will Elaine Murray give way?

**Dr Murray:** I am sorry—I need the time to develop my arguments. Although Mike Watson has said that his intention in introducing the bill was to end cruelty, I believe that it is a mistake to predicate that on the use of dogs. The evidence that was taken by the committee convinced most of us that dogs may be used either humanely or cruelly. In some cases, the use of dogs might be the most effective and humane method of pest control. That is particularly true on difficult terrain. Examples of that might include the use of foot packs for the control of foxes in parts of the Highlands. Foot packs sometimes kill the fox. Another option is the use of terriers to flush foxes to waiting guns on rocky hill terrain, where lamping cannot be employed.

The use of dogs in controlled circumstances need cause no more suffering than other methods, including shooting, snaring and trapping. Being chased by a dog or dogs will obviously cause some suffering to the animal that is being chased and there would need to be enforceable guidelines to make it clear what is and is not acceptable. That could be resolved by a mechanism—perhaps licensing—that lays down a code of conduct that specifies fairly and workably the rights and responsibilities of those who work with dogs.

All dogs have a propensity to hunt, and the exact wording of any legislation must therefore be carefully considered. The wording of the bill as introduced could be interpreted in such a way that a person walking their dogs might be prosecuted were the dogs to chase a wild mammal. I appreciate that that is not the intention of those who support the bill. Unless it is specific in its intent and wording, courts could interpret the law—if the bill is passed—differently. It is generally accepted that the scope of the bill is wider than we originally expected.

Some members will argue that the problems that are inherent in the bill as introduced will be resolved by amendment at stage 2 and, if that is not possible, that the option of rejection at stage 3 remains. That is true, but I ask members to consider whether that would in the end produce the best legislation, and whether that would be the best use of committee time—whether the Rural Development Committee's time or another committee's time. Would not it be better to examine the body of evidence that the committee collected, to supplement it where necessary and to return with a more considered and reflective bill?

Let me make my own position clear. I find hare

coursing abhorrent, and the pursuit of one small, red wild dog by a gang of people, hounds, horses, quad bikes and so on is at the very least distasteful. I would not hunt, shoot or fish, because I have no desire to seek recreation in killing live creatures. I will not support the Rural Development Committee amendment, because I do not believe that it goes far enough.

Given the amount of committee and parliamentary time that has already expended on the matter, and that which is to come, I ask how far up our list of priorities the bill should be. Does it help one drug addict relinquish his or her habit? Does it lift one child out of poverty? Does it allow one elderly person to live in dignity? Does it house one homeless family or offer anybody better wages, education or training? Will it aid rural development or help my constituents overcome the problems that have been created by foot-and-mouth disease?

The bill before us might be iconic, but the icon is one of a bygone age. The problems of workers in the global capitalist system will not be addressed by banning hunting with dogs. If members seek to improve the welfare of wild mammals, I urge them to support my amendment.

I move amendment S1M-2078.1, to leave out from "agrees" to end and insert:

"does not agree to the general principles of the Protection of Wild Mammals (Scotland) Bill because, while accepting the desire of the sponsors to end cruelty to wild mammals, it does not believe that this Bill adequately addresses the issues presented in evidence to the Rural Development Committee and considers that the Scottish Executive, as an alternative, should examine the existing law in relation to wild mammals, in particular the Wild Mammals (Protection) Act 1996, in order to take action against any unnecessary suffering caused through the provisions of this Act and to bring the legislation covering wild mammals into line with that which applies to domestic animals."

15:14

**The Deputy Minister for Environment and Rural Development (Rhona Brankin):** I have decided to keep my remarks brief, as I am aware that many MSPs feel very strongly about the issue, whatever those views are.

The Rural Development Committee has been grappling with a complex and difficult subject over the past 18 months or so, which cannot have been an easy task. Its members and the members of the then Rural Affairs Committee conducted a thorough and rigorous investigation.

The committee took evidence from an enormous range of interests, over a long period. That was appropriate, given the nature of the issue under consideration. This afternoon Mike Watson has clearly set out his reasons for introducing the

Protection of Wild Mammals (Scotland) Bill. I hope that members will also have considered with care the report of the Rural Development Committee and its supporting evidence.

Today Parliament has an opportunity to debate some of the issues and to vote on whether to allow the bill to proceed to stage 2 or to let it fall. The Scottish Executive has consistently maintained a neutral position in relation to the bill and believes that it is for the Parliament to determine the bill's fate.

**Bristow Muldoon (Livingston) (Lab):** I recognise that, as the minister has said, the Executive maintains a neutral position on the bill. Is it possible for her to outline her personal position?

**Rhona Brankin:** I will come to that when I have finished setting out the Executive's position.

The Executive has also said that, if it is Parliament's will that the general principles of the bill be approved, it will be necessary to consider in detail the changes that are needed to make the bill workable. That is the function of stage 2, but I assure members that the Executive will assist with the process as far as possible. The Executive will not frustrate further passage of the legislation, should Parliament vote it through. That remains the Executive's position.

I turn now to my own position, as a member of the Scottish Parliament. As the MSP for Midlothian and as somebody who has lived virtually all her adult life in the countryside, I shall support the Protection of Wild Mammals (Scotland) Bill.

15:16

**Alex Neil (Central Scotland) (SNP):** I rise to support the general principles of the bill. In doing so, I would like to make several points.

First, in all parties there are very strong feelings both for and against the bill. However, I hope that some of the features of the debate outside the Parliament will not be seen inside the Parliament. In some quarters, there has been an attempt to portray the debate as a fight between urban and rural Scotland. That is entirely the wrong thing to do. I know people who live in urban Scotland who are not in favour of this bill, and I know people who live in the countryside who are in favour of it. I speak as a country boy who was brought up in a village in south Ayrshire. *[Interruption.]* Frank McAvennie—I mean Frank McAveety—was in a different village. It was called Glasgow. It is extremely important for the tone of the debate in the Parliament that we speak on the rights and wrongs of the issue. In Scotland we must not try to divide and rule by differentiating between the countryside and the town. People are either in

favour of the principles of the bill or they are not.

Secondly, I do not see the bill as creating a precedent for banning other sports such as fishing and angling, as some have claimed. The bill relates solely to the specific issue of hunting, which according to those who support the bill constitutes cruelty to animals.

Thirdly, if I believed that the implementation of the bill would wreak havoc in or destroy the rural economy, I would not rise to support it. I do not believe that the implementation of the Protection of Wild Mammals (Scotland) Bill will destroy the rural economy of Scotland. I have considered the matter thoroughly. The excellent paper that was produced by the Scottish Parliament information centre considers the impact of the bill on jobs. Table 3 on page 18 of the paper, headed "Direct employment associated with mounted fox hunts in Scotland", indicates that between 83 and 87 full-time equivalent jobs would be lost.

**Mr Tosh:** Will the member give way?

**Alex Neil:** I am sorry, I have only four minutes. It's like being at hame—I cannae get a word in edgeways.

The SPICe note referred to full-time equivalent jobs, which is an important qualification. If 83 individuals were made redundant, I would be even more wary of the bill. However, that is not the case, as those jobs are part-time. Although they are important to the jobholders, it is a gross exaggeration, to say the least, to attempt to paint the bill as one that will cause economic devastation in the countryside.

**Alex Fergusson:** Will the member give way?

**Alex Neil:** I am sorry, but I have only four minutes.

My final points will address the amendments that have been lodged by the Rural Development Committee and Elaine Murray. I will not criticise the Rural Development Committee—it had a difficult job to do and members of the committee, whether they are for or against the bill, did that job with reasonable motivation. However, I strongly advocate that members vote for neither amendment, for two reasons.

**The Deputy Presiding Officer (Mr George Reid):** Please be brief.

**Alex Neil:** It is important to establish the principle today, once and for all, and for the Parliament to make a loud and clear decision one way or the other. To support either amendment would kick the issue into touch and we would spend the next two or three years debating it when we should be getting on with many other important matters.

For all those reasons, we should support the bill

today. By all means let us improve it during stage 2 and stage 3, but let us support its general principles. That would give out the loud and clear message that, at long last, we have been able to make a decision on the matter.

15:21

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

I do not know whether it is necessary for me to declare an interest, as I do not hunt with a dog or otherwise. In fact, I have never seen an organised fox hunt. However, I know that there is a fox problem in Scotland, both in the countryside and in our cities. During the first 25 years of my life, which I spent on a farm in deepest Kincardineshire, I did not set eyes on a fox. In the past 15 years, foxes have become so common that they can be seen any day. During that period, the population of ground-nesting birds, such as lapwings and partridges, has suffered enormous decline.

**Richard Lochhead (North-East Scotland) (SNP):** Will the member give way?

**Alex Johnstone:** Unfortunately, I do not intend to give way during my speech.

It is ironic that, at the same time, the brown hare and the wild rabbit have also become somewhat rare. That is my experience of life on a farm in the north-east. If that means that I have an interest, I declare it.

**Richard Lochhead:** Will the member give way?

**Alex Johnstone:** No. I do not intend to give way during my speech.

I spent two years as convener of the Rural Affairs Committee and subsequently the Rural Development Committee, during which my committee colleagues and I spent a great deal of time examining the crisis that hangs over rural industries and communities. We saw our fishermen forced to the wall and farm incomes collapse and we addressed the foot-and-mouth outbreak. However, during those two years, we spent most time on the Protection of Wild Mammals (Scotland) Bill.

I firmly believe that the committee report is a well-researched and balanced view of the issues raised by the bill. The evidence on the need to control foxes was overwhelming. The committee spent some time on the economic justification for hunting and members should be aware that there are two distinct aspects to that issue. Jobs lost and economic activity curtailed as a direct result of ending mounted fox hunting are of concern, obviously, but in paragraph 39 we stated:

“as long as individual circumstances are taken into account when the detail of this Bill is considered, these economic factors alone are not enough to justify

unnecessary suffering.”

We must consider the economic impact of fox predation on our hard-pressed rural industries. Foxes take lambs. While I do not keep lambs, as an arable farmer in a valley bottom I have planted seed in the springtime and ploughed up my neighbour's lambs, which foxes had carried, dead, from the hills and buried on my ploughed land. The idea that foxes do not kill lambs—apparently, they wait for them to die of natural causes—is ridiculous. Next, I will be hearing that that they are vegetarian.

The impact of foxes on game birds is also a serious problem for gamekeepers and sporting estates throughout Scotland. In truth, the means of dealing with the fox problem are limited. I have acted as a referee for applicants for shotguns and firearms certificates. How many of the members who support shooting as an alternative will be prepared to commit themselves to do that to ensure that there are adequate numbers of guns available?

Lamping—shooting at night—works only on suitable terrain. Do we therefore poison foxes or gas them or snare them? No. The most important of the committee's findings is that the use of dogs is not the common factor in cruelty to wild animals. On the contrary, we found that using hounds on the hills or terriers underground or even using lurchers to back up the stray shot that only wounds a running fox are more humane than many of the alternatives. The bill's proposer has told us that he intends to introduce amendments to remove some of those practices. What would that leave in? I believe that the bill's sole aim is to ban men in red coats from riding to hounds. If that is the case, to my mind and to the minds of many others, the bill is nothing more or less than a politically inspired offensive in a continuing class war.

15:26

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** I will not talk about class war.

No one can say that the bill has not been thoroughly examined by the Rural Development Committee in the 18 months since its introduction by Mike Watson in March last year.

Soon after the 1999 elections, it was quite clear to me that a bill to end the sport of fox hunting would be presented to the Parliament in one form or another. I distinctly remember answering an opinion poll of MSPs—I am sure many others will remember it—which was published in *The Scotsman* that summer, in which I came down in favour of legislation to do just that. As one who was in favour of fox hunting reform, I saw no need for what I regarded as a sport whose only



objective was the elimination of foxes for pleasure.

I was therefore extremely disappointed when Mike Watson eventually published the bill in March last year. The words “leisure”, “activity” and “sport” were completely absent from the bill. It was immediately obvious to me that although the bill would indeed end fox hunting, Mike Watson had chosen to present it in a way that ensured that it would go much further than just hitting his own target of ending cruel sports. It was obvious that the bill would hit at any form of tackling vermin that used dogs in the process. Whatever the bill is aimed at, it is certainly not aimed at only ending mounted fox hunting.

The media has portrayed the bill as having the simple objective of ending the tally-ho fox hunts. Today, we have heard Mike Watson say the bill’s general principles are aimed at ending three activities: mounted hunts, hare coursing and fox baiting. That is certainly not what he said in evidence to the Rural Affairs Committee. He said

“The bill is primarily intended to end three cruel and barbaric practices ... fox hunting, hare coursing and terrier work.”—[*Official Report, Rural Affairs Committee*, 14 November 2000; c 1349.]

There is the problem.

**Mike Watson:** If it is helpful to the debate, I will clarify that, in January of this year, I made a written submission to the committee that qualified what I said in response to the points that were raised on 14 November. The clerks to the Rural Development Committee will have a record of that.

**Mr Rumbles:** We asked Mike Watson; that is what he came forward with.

The Rural Development Committee found that

“mounted hunts are ... a form of sport and may involve unnecessary suffering”.

We also found that hare coursing was cruel. Our problem with the bill related to terrier work, on which I assume Mike Watson is now backtracking. The issue of hare coursing is of crucial importance because the principles of the bill cannot be amended at stage 2.

The whole thrust of the bill is wrong. The evidence that was presented to us shows that 70 per cent of foxes are killed by shooting and only 3 per cent are killed by mounted fox hunts. The evidence shows the overwhelming need to control the fox population. The bill’s supporters argue that the loss of a method that kills only 3 per cent of foxes is insignificant. That is a simplistic argument, which is just not true. When shooters shoot, they often miss or simply wound the fox. Dogs are a necessary part of the process of dispatching wounded animals. The bill will not allow that humane activity.

In the Highlands, fox control is largely carried out by the hill packs. Each year, the Scottish Executive gives £60,000 as a grant to those organisations. It would not do that if the organisations were involved in cruel activities. The hill packs use packs of dogs to flush foxes from cover to be shot by experienced marksmen. Many wounded animals are dispatched. Evidence given to the Rural Development Committee indicates that dogs take 10 per cent of the foxes, which are chased, caught and killed. As that is the primary objection of the promoter of the bill, the bill would scupper the work of the Scottish hill packs. That is true. Practical evidence given to the committee by people such as gamekeeper Peter Fraser, from Braemar in my constituency, is especially telling. He said:

“If there was anything we could try, I think we would have done it by now. I get no pleasure from lying out on the hillside for days on end at a fox den, freezing my backside, shivering, wet and thoroughly miserable. If we could do something else, we would have done it by now.”—[*Official Report, Rural Affairs Committee*, 28 November 2000; c 1450.]

Mike Watson has said that it is not his intention to restrict such activity provided that the aim is to flush foxes so that they can be humanely shot. It all sounds very well and good; but what Mike does not accept is that dogs need to be used to cover the ground in the upland areas of Braemar and the Cairngorms and they need to be used to dispatch wounded animals. Even to say that dogs can be used above ground but not below ground is bizarre. Mike obviously does not understand how dogs behave—which I find incredible given the subject of the bill.

**The Deputy Presiding Officer:** You must close now, Mr Rumbles.

**Mr Rumbles:** I will close on this point. If the bill goes through, 13 per cent of gamekeepers will lose their jobs. That is why I have consistently asked Mike Watson to withdraw the bill and resubmit it to address the real issue. The real issue is ending cruelty, not ending working with dogs. Mike Watson has got it completely wrong. The committee has found that the bill is inappropriate. It does not deserve to go forward. If it were on any other subject, we would throw it out and we would not be having this debate. I say to members, please support either of the two amendments so that we can get effective legislation that is produced by the Executive.

**The Deputy Presiding Officer:** I call Richard Lochhead, to be followed by the troika.

15:32

**Richard Lochhead (North-East Scotland) (SNP):** I hope that the bill will allow the Scottish Parliament to help to drag Scotland into the 21<sup>st</sup>

century by outlawing a number of cruel and barbaric activities. Speaking as one of the bedraggled members of the Rural Development Committee, I am delighted that we have finally reached this stage today. I have been on the Rural Affairs Committee—later the Rural Development Committee—since day one. However, I will vote against my committee's recommendation and against its amendment. I will also vote against Elaine Murray's amendment.

The bill has been a nightmare for our committee. It has been a highly controversial and emotive issue. As the committee's report indicates, members took a moral stance. As I am sure that we are all aware, it has been difficult for some members to change any of their views, despite hearing two years-worth of evidence. A lot of the committee's deliberations were trench warfare—in some cases, we fought over every letter of every word of every sentence of every paragraph. We fought ourselves to a standstill on some issues, which can be seen from some of the conclusions and recommendations in the report.

In the end, we made a recommendation only on a casting vote of the convener and we lodged an amendment today only on the casting vote of the convener. All we have is a snapshot of the views of some of the 20 members of the Rural Affairs Committee and Rural Development Committee over the past two years.

It is important that the Parliament and its committees learn the hard lessons from our committee's experience. For example, we did not have an independent inquiry in Scotland as there was south of the border. Under such circumstances, when the committee is split right down the middle, we should not be making any recommendations at all.

Today's debate is about whether we will allow the bill—which is a vehicle for change—to go ahead. If people are against hunting with dogs in any shape or form, they should vote for the bill; if they are not, they should vote against it. It is as simple as that—members should ignore the amendments. The whole purpose of stages 2 and 3 is to allow amendments to be introduced. There have been volleys of amendments in connection with the many bills that have come before the Parliament.

I will support some significant amendments. Gamekeepers persuaded the Rural Development Committee and members of all parties that they should be allowed to use dogs to hunt foxes in certain conditions, such as rocky terrain, where it is impossible to use shooting alone, and underground to kill cubs that have been orphaned and that would otherwise starve.

**Mr Tosh:** Can Mr Lochhead be absolutely certain that if the principles of the bill are approved the amendments that he has mentioned will be ruled to be admissible?

**Richard Lochhead:** I suspect that Murray Tosh's version of the principles and my version will be completely different. As far as many people are concerned, the general principle of the bill is to ban hunting with dogs. We can make amendments to the final design of the bill.

Although pest control is important, mounted fox hunting—as the committee identified—is sport, as is hare coursing. I have always been against hunting with dogs as a sport and the evidence that the committee heard reinforced my views. One of the representatives of the mounted hunts tried to persuade the committee that foxes do not suffer stress during hunts by saying:

"I have seen foxes stop, sit down, scratch their ears and watch what is going on while they are being hunted."—*[Official Report, Rural Development Committee, 21 November 2000; c 1416.]*

I was waiting for him to say that the fox had sat on a bench to smoke a Hamlet cigar while it waited for the hounds to catch up with it.

Very few foxes are killed by mounted hunts. It is a sport—it is not pest control. I urge members to reject both amendments and support the motion to help to drag Scotland into the 21<sup>st</sup> century.

**The Deputy Presiding Officer:** I referred to the troika; as Messrs Harper, Canavan and Sheridan have all asked to speak, on this occasion, the Presiding Officer has awarded them six minutes en bloc. How they choose to police that is up to them.

15:36

**Robin Harper (Lothians) (Green):** We have to be absolutely clear about what we are considering in today's stage 1 debate. I am saying exactly what Richard Lochhead was saying. We are considering a fundamental point of principle. We are considering whether the Parliament will uphold the principle that the hunting of wild mammals with dogs for sport is wrong and should not be permitted. That principle has long been upheld by the Green Party.

I am sure that I am not alone among MSPs in having received an overwhelming amount of correspondence from constituents on hunting with dogs. The vast majority of that correspondence has supported the outlawing of the activity. Recent opinion polls also indicate that the great majority of Scots support an end to hunting with dogs.

We must also be clear as to what is not being considered in today's debate, which is the precise mechanism by which the prohibition of hunting

with dogs for sport will be achieved. As Richard Lochhead pointed out, that is a matter to be decided when the Protection of Wild Mammals (Scotland) Bill progresses through the next stage and beyond.

**Mr Rumbles:** Will the member give way?

**Robin Harper:** No. I look forward to a point, perhaps in 2010, when the legislation in an amended form has been passed and people no more think of reintroducing the hunting of wild mammals with dogs than they would think of reintroducing bear baiting or cock fighting.

15:38

**Dennis Canavan (Falkirk West):** Perhaps I should begin by saying that I like horse riding. I also like the countryside and, like Alex Neil, I am concerned about the attempts to polarise the debate between the interests of town and country. There have been exaggerated claims of thousands of rural jobs being threatened by the bill. The Macaulay Institute produced a more modest estimate of about 250 people employed in hunting and related activities. However, even that is probably an overestimate and if hunting were banned, surely many of those people could be employed in other rural activities.

Opponents of the bill also claim that pursuits such as fox hunting are necessary for pest control, but I find that difficult to swallow because most areas of Scotland are not covered by a fox hunt at all. I presume that farmers in those areas have alternative methods of fox control.

It has been alleged that town and city dwellers are interfering with the rights and freedoms of country dwellers. The fact that someone lives in the country does not give them a licence to kill or torture foxes or any other animals, just as someone living in a town or city does not have a licence to kill or torture stray cats or dogs that may be roaming the streets.

The aim of the bill is to outlaw unnecessary cruelty to animals. If a fox is hunted by a pack of dogs and a posse of human beings on horseback and the chase takes place over many gruelling miles, to the extent that the fox, in a state of utter exhaustion, eventually is caught and ripped apart by fox hounds, one does not have to be a rocket scientist or a veterinary scientist to realise that that will cause extreme distress and unnecessary cruelty to the animal.

What is even worse is that the human participants take such pleasure in fox hunting that they call it a sport. Such a cruel activity has no right to be called a sport. It is an affront to the dignity of animals and human beings. As Robin Harper said, like cock fighting and bear baiting, it

must be outlawed. The Scottish Parliament has an opportunity today to take a lead by helping to ensure that such a barbaric practice has no place in a civilised society.

15:41

**Tommy Sheridan (Glasgow) (SSP):** Mr Alex Johnstone referred to the class war. It is quite unusual to hear a representative of the bourgeoisie mention the class war, because usually they are too busy conducting the class war to talk about it.

Robin Harper and I are representatives of two political parties—smaller political parties, but growing all the time—that fought the 1999 election on manifestos that included a commitment to campaign against fox hunting and blood sports. It is from that point of view that, despite the numerous cards I have received and the meetings I have had with opponents of bill, I am obliged and pleased to vote in favour of it.

As Dennis Canavan and Robin Harper have said, it is time that we took a lead on this issue. Although it is not a priority of the Parliament, I wish that we got as many cards and letters on some of the issues that are priorities of the Parliament as we have received on this issue.

I received a letter this morning that adequately and concisely sums up my opinion on why we must support the principles of the bill. It is from a woman in Jordanhill in Glasgow, who wrote:

“Please vote to bring Scotland into the 21<sup>st</sup> Century and get this barbaric practice stopped now!! Let us show a lead to England.

Killing is disgusting but enjoying it is totally depraved.”

15:43

**David McLetchie (Lothians) (Con):** I am a townie, born and bred in this fair city of Edinburgh, and as a child my acquaintance with foxes was limited to Basil Brush and Glacier Mints. Although I am related through marriage to families who have farmed for generations north and south of the border, which has given me an insight into rural life, my interest has never extended to country sports. I do not hunt. I do not shoot. I do not fish. I have no interest in those activities and indeed, like Elaine Murray, I do not think that I would or could kill another creature for sport. I also regard myself, like many people here, as an animal lover. I share my home with three cats and although my son's pet rabbit was killed by an urban fox 10 years ago, neither he nor I bear any ill will against the species as a result.

I make those preliminary points because in those respects I am typical of many people who live in our towns and cities, in that I love our

animals, I am concerned about animal welfare and I know very little about country sports and pursuits. It is important to say that because I do not have any natural disposition against Mike Watson's bill—quite the reverse. Indeed, I applaud Mr Watson's concern for animal welfare, his desire to combat cruelty and the concerns that he shares with many others who support his bill.

Cruelty is the substantive issue and it goes to the heart of the matter. When I read the report of the Rural Development Committee, I find no clear consensus of opinion among members of the committee or the people who gave evidence to it as to whether the practices that the bill seeks to outlaw are intrinsically or necessarily cruel. Moreover, there does not seem to be a clear view as to whether the fox is a pest that needs to be controlled. However, the fact that many methods of controlling the fox population are to continue even if the bill is passed suggests that its promoter and sponsor accept that it is a pest and that there is a need for control.

Accordingly, I find it difficult to see how it can be acceptable to Mr Watson and supporters of the bill to shoot and snare foxes, but not to hunt them with horses and hounds or through the use of terrier packs. Given the agonising deaths that can result when foxes are wounded by shots or trapped in snares or the prospect that many cubs who have lost their mother by those practices will starve to death, I cannot see why a relatively swift death following a hunt is any more cruel.

**Helen Eadie (Dunfermline East) (Lab):** Has the member or any of his committee members seen a hunt? I have seen a hunt.

**David McLetchie:** I do not have any committee members. I have not witnessed a hunt and, as I do not have any committee members, I cannot speak for them.

We have to recognise that fox hunting as a sport developed out of a perceived need to control foxes as a pest. It has been part of the fabric of our rural communities for centuries. Accordingly, the burden of proof should not be on people to prove that they should be allowed to hunt, but on the supporters of the ban to demonstrate why they should not. Unless there is convincing and overwhelming evidence to support the ban—and such evidence is not to be found in the report of the committee—I do not see why the Parliament should interfere with what until now has been a perfectly legitimate pursuit, which people of all social backgrounds follow. That is an important point to make because the debate about fox hunting seems—among some of its opponents—to have more to do with outdated notions of class warfare than it does with any true concern for animal welfare.

I noticed at the weekend that Mr Michael Russell

announced his intention to vote against the bill at the conclusion of today's debate on the basis that it was

"the wrong thing at the wrong time".

Mr Russell's conversion is always welcome, but when the bill was first proposed in the summer of 1999, it was the wrong thing at the wrong time. It was the wrong thing at the wrong time last year, when the bill was published, and it is still the wrong thing at the wrong time today.

It is the wrong thing because it is the symbol of this politically correct Parliament, which is the despair of many who voted for it. It is wrong because many hundreds of thousands of people who live and work in Scotland's countryside and who have an interest in country sports are astonished and appalled that at this time of financial crisis and difficulties for our rural community, Scotland's first Parliament for 300 years should be focusing on an issue that country people regard as an irrelevance and an unwarranted interference in their lives and which betrays a perverse set of priorities. For those reasons, I will vote against the bill and for the amendments. I invite fellow members to do the same.

15:48

**Scott Barrie (Dunfermline West) (Lab):** I am glad to be the first Labour member to participate in the debate. Members who know me well will know that one of my great heroines in British politics is Barbara Castle. I remember meeting her when she was still a member of the European Parliament and I was still young enough to be chair of the Edinburgh South young socialists. I admired her then and I have a great deal of affection and respect for her now, so when I was approaching this debate, one of the first things I did was to look up a speech that she made in the House of Lords on 12 March this year. She made two points that are relevant to our debate, but in different ways.

First, she exposed the lie that those who support hunting are the only true guardians of the countryside. Barbara Castle is of the countryside and still resides in it. She said:

"I love, have been brought up in and will protect to the very end this lovely countryside but I do not include in its sacred values the right to pursue living mammals with a pack of hounds."—[*Official Report, House of Lords*, 12 March 2001; Vol 623, c 540.]

Barbara Castle, not for the first time and, doubtless, not for the last time, was right. There is nothing precious about life in the countryside. I know that life is currently tough in rural areas. Life in our towns and cities can be tough. Animals will die and their deaths often will be hard. As intelligent animals, we have the ability to assess

situations and to tell right from wrong. Surely the Scottish Parliament aspires to something better than cruelty for pleasure, which is what so much of hunting clearly is.

The second key point that Barbara Castle made in her speech is relevant to our debate in a different way.

**Miss Annabel Goldie (West of Scotland) (Con):** Will the member give way?

**Scott Barrie:** No, thank you.

Barbara Castle referred to a practice that is still illegal in Scotland—the hunting of stags. Stags are majestic creatures—the lions of the glens. Even if wild red deer numbers need to be controlled, we would not think of killing one by a chase that lasted several hours, involved an average run of more than 10 miles and ended in the deer, utterly exhausted, standing at bay in a stream to reduce its inflamed body temperature as the killers close in. We would think such a practice unspeakable, but the English Countryside Alliance—which funds many hunting interests in Scotland—thinks that that is a satisfactory way for a deer to die. It does not think that the hunted deer—chased to exhaustion—suffers any more than a stalked deer.

The people that the alliance represents—the English hunters who pay their salaries—are the very redcoats who will flood over the border from England if hunting is banned in England but not in Scotland. People who wish to hunt stags with packs of dogs are not people whom I want to come to Scotland.

Prior to today's debate, there has been a fair amount of political hypocrisy. Apparently, we are supposed to follow the Rural Development Committee's recommendation, but we have heard that that recommendation was arrived at by a slightly dubious route and was urged by a party that did not support the formation of the Parliament and which is in Parliament only by a voting system that it did not want. It is a bit rich that the argument that the proposal is politically correct is used against it—the same argument was used in last week's debate on smacking children. If that is the best argument that someone can come up with, they do not have many arguments.

The committee's recommendation should be rejected. When hunting is banned south of the border—as I am sure it will be—I do not want Scotland to become a haven for low-life fox baiters, high-life mounted hunters and frustrated stag hunters. I want to ban hunting. I ask my comrades on the Labour benches and in other parties to take a step forward today, not just for animal welfare, but for human morality and the reputation of our country.

15:52

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** I should clarify for Scott Barrie that stag hunting with mounted packs or hounds is currently a criminal offence.

Initially, I gave serious consideration to supporting Lord Watson's bill, but I changed my opinion when I read the draft bill.

Many different views have been expressed in the chamber, but the debate depends on the emphasis that is put on each argument. Should cruelty, vermin control, the town-versus-country argument or libertarian arguments be emphasised?

It has been mentioned that proper vermin control is a valid argument for keeping the status quo. Nobody disputes that it is vital that foxes are kept within acceptable numbers so that farming is not affected. Farmers have enough problems. We can debate methods of control, but everyone has their views, which are jaded by their own perspective. The truth is that different methods are suited to different parts of the country or different situations. Shooting a vixen—which is quick and humane—might leave the cubs to starve underground. The use of terriers to bring them above ground is then necessary.

Vermin control is valid as an argument only if the case holds water. I heard conflicting evidence on mounted packs during the committee's collection of evidence. One group would argue that their hunt was effective at controlling large numbers of foxes and others would say that they killed only a few. In England, a hunt is actively engaged in fox conservation and management. I do not approve of mounted packs because I think they pursue an activity that is considered to be a sport and that causes suffering for amusement.

On the other hand, the use of dogs in foot packs is not a sport—I say that seriously. They reduce fox numbers as effectively as possible. In fact, the Three Straths pack at Kilmartin beyond Inverness was sponsored to a large extent by the Scottish Executive. By all accounts, the exercise was effective. Using dogs is perhaps the only method by which one can flush out foxes from some of the vast plantations in rural Scotland. It is a necessary pursuit in that area and it is the most effective way of hunting foxes. It is carried out for genuine land management reasons and it must be allowed to continue.

I am sure that most people have made up their minds about what position they take and how they will vote today. The bill is a crude piece of legislation that sets its sights on far too broad a range of country activities. Accordingly, I support Dr Elaine Murray's amendment, which recognises the Protection of Wild Mammals (Scotland) Bill to

be flawed and inappropriate in its current form.

15:56

**Michael Russell (South of Scotland) (SNP):** We have heard a wide range of arguments in what has been a crowded and, at times, a passionate debate.

I find myself in some discomfort because I am going to go against what is an important, clear and long-standing policy of the Scottish National Party. Others have said that it is also policy in other parties. It is not something that I have done before and I might not do it again, but I am doing it for clear reasons. Those reasons are not dissimilar to those we heard from Elaine Murray.

Two years ago I stood in for my friend Alasdair Morgan when I attended a Countryside Alliance hustings in Castle Douglas. It was one of the worst evenings of my life. If members have seen the film "The 39 Steps", they will remember Richard Hannay when he found himself in front of a League of Empire Loyalists meeting by mistake. It was an horrific experience. Elaine Murray is nodding because she remembers it.

I entered the Countryside Alliance meeting convinced that I would support Mike Watson and Tricia Marwick's bill. I respect them for having the courage to promote and sponsor the bill. During that meeting I became more convinced that I would support the bill. The quality of questioning was awful and we listened to people who were completely out of touch with Scotland. Many of them had no interest in the Scottish Parliament and were using the bill as an excuse to say that they did not like the institution.

Then something happened. A farmer called Jim Wylie stood up to speak. He was an ordinary farmer from Lockerbie and was a man who would not stand out in a crowd. During his speech he said, "I wanted this Parliament and now it is going to make me a criminal." I was struck by that remark because I suddenly realised that that would be the effect of the bill. Therefore, in the past two years, I have toured the south of Scotland, as has Elaine Murray, and have talked to a lot of people who are involved in hunting and discussed with them their problems. I have talked to gamekeepers, people who own hounds, farriers and people who run stud farms. This is a simple argument that does not go into the technicalities in the way that the Rural Development Committee has but, as I spoke to people, I realised that by voting for the bill, we would be voting to make people criminals.

The bill says that. Section 1, which is entitled "Prohibition and offences", states:

"A person must not hunt a wild mammal with a dog."

Section 5(1) states:

"A person guilty of an offence under this Act is liable on summary conviction to imprisonment for up to 6 months or a fine of up to level 5 on the standard scale or both."

**Maureen Macmillan (Highlands and Islands) (Lab):** Will the member give way?

**Michael Russell:** I am sorry; I have little time.

We will decide whether to accept the principles of the bill in a free vote. There are 129 of us and we are the only people who can decide. That principle will make people criminals. Such people undertake an activity—some of them have done so all their lives—that I do not like and which to some extent I find reprehensible, but we are making them criminals.

**Tommy Sheridan:** Every bill changes the law. That is called progress.

**Michael Russell:** I am sorry, Mr Sheridan. The class war is one thing, but allowing people to be made criminals for an ordinary activity that they have done for most of their lives is another. They are not criminals, but the bill would criminalise such activity.

I would go further. I would have been uncertain about how to vote on the bill until March this year, when I—as a South of Scotland member—saw the devastation caused by the foot-and-mouth outbreak. Anybody who experienced the stench of burning carcasses and saw the distress in the rural community will have said to themselves, "We cannot do things that are going to upset people more."

**Michael Matheson (Central Scotland) (SNP):** That is the counsel of desperation.

**Michael Russell:** I am sorry. I do not like to have to say this to a member of my own party, but I understand the moral argument. I am not arguing against the strong moral objections that Michael Matheson has; I am arguing a case after spending two years talking to people.

After the foot-and-mouth outbreak, it would be wrong to put an extra burden on so many people who are suffering. The right thing would have been to take the matter away for a time, because things are too bad in the Scottish countryside. That has not happened and I am left with a simple choice.

David McLetchie said that I was quoted as saying that this is the wrong bill at the wrong time. It is the wrong bill at the wrong time. I have to say as an individual MSP—not with any whip—that I cannot support it. I hope that members realise that the process of coming to that decision has been long and difficult.

16:01

**Des McNulty (Clydebank and Milngavie) (Lab):** It is fair to say to Mike Russell—and several other members—that this is not the final word on the bill. This is stage 1. There will be stage 2 and stage 3, when the bill can be amended.

Having listened to the evidence as a member of the Rural Affairs Committee, I have reservations about the scope of Mike Watson's bill. Countryside people have raised genuine issues such as pest control, which Alex Hogg of the Scottish Gamekeepers Association gave evidence on. There are also problems with the enforceability of the bill.

Whether the bill is acceptable or not will depend on how it is amended and how workable it is when it emerges from stage 2 and stage 3. That is the point at which the final decision will be made. It was clear from listening to the evidence that many existing practices in the countryside are barbaric and unacceptable. Read the account of deerhound coursing that Mrs Taylor gave in evidence to the committee. I defy anybody who reads that to see that activity as acceptable in this day and age. What happens to the hares—the animals that are used as bait for the dogs—is unacceptable. We must put a stop to that practice.

I take umbrage at the reasons given to defend mounted fox hunting, which even the people who advocate it admit is essentially a sport. It is an ineffective way of dealing with the fox problem.

We need a credible position, which strikes an appropriate balance between what will work in the countryside and what is morally acceptable and does not involve unnecessary cruelty.

The legislation that eventually emerges must tackle three issues. First, we must extend the provisions of the Wild Mammals (Protection) Act 1996 so that wild animals are given the same protection as domestic animals. There is no reason why we should separate out wild animals and give them less protection than other animals. Secondly, we must be clear about which forms of hunting are acceptable and which are not. The bill as it is written is too broad and extensive, but there must be an honest debate.

I say to members of the Rural Development Committee that their objections to the Watson bill would have been more honest had they come forward with a committee bill that recognised the public mood, the needs of the countryside, the wishes of people to ban cruelty and which was a better alternative to the Watson bill. Had the committee produced such proposals, many members in the chamber—including myself—might have been more inclined to go with the committee.

**Alex Fergusson:** Des McNulty talked about the committee being honest. Would not it have been easier for the committee if the bill had been honest enough in the first place to seek simply to ban fox hunting and hare coursing?

**Des McNulty:** The Rural Development Committee had a particular responsibility to take forward the legislation in the context of Mike Watson having put forward his view in the bill. We would have ended up in a better position if the committee had taken a more proactive stance and recognised the will that exists to ban unacceptable activities, among which I include mounted fox hunting and the use of captured live animals as bait for hunting with dogs.

We must proceed with a proper framework and a properly constituted regulatory authority that would oversee all aspects of permitted hunting—because some hunting activities will still be permitted even if the bill in its present form is passed—and ensure that appropriate standards are set and enforced. We need a proper response to the issue, instead of the dialogue of the deaf that we have had up until now.

16:05

**Christine Grahame (South of Scotland) (SNP):** As an initial signatory to the bill, I supported the principle of banning fox hunting with dogs on the basis that it was a sport that used one animal to hunt another for the purpose of human entertainment and so was essentially cruel. At that stage, the bill did not have form; now, in its early stages, it has.

Of course the bill is not about fox hunting, but about wild mammals; it mentions neither mounted hunts nor the word "sport". However, this is a stage 1 debate on the bill's principles and on whether it can proceed to further scrutiny of amendments at stages 2 and 3, where it might be substantially reshaped. As it stands, the bill is definitely flawed; however, my question is whether it is so fatally flawed that it cannot pass the first hurdle. Although I remain prepared to support the bill at this stage, I will require to reassess my support if it proceeds beyond stage 1.

The scope of the bill is too wide. It encompasses other forms of pursuit and killing in the name of pest control, which would criminalise legitimate activities such as a gamekeeper using dogs to dig out and kill predatory foxes. Although the Justice and Home Affairs Committee was most concerned at such aspects—including the proposed flawed licensing scheme, which we immediately sought to amend—it did not consider them enough to sink the bill.

The committee also had reservations about the definition of the verb "to hunt", which is far too

wide. For example, section 1(1) of the bill makes it an offence for someone to

“hunt a wild mammal with a dog.”

A further definition of “to hunt” is

“to search for or course”.

There are substantial difficulties with the bill’s wide scope.

I have found limited evidence on the bill’s cruelty aspects in the Rural Development Committee’s report. That might be a consequence of the initial bill’s width. Just this afternoon, I heard evidence from Robrie Tully, a master of the hounds, which called into question my understanding of the concept of cruelty. I have not yet reached a view on that point; for me, the jury is still out. Perhaps more evidence should be taken on that aspect at stage 2, when the bill’s focus will be narrowed.

Separately—and reflecting a constituency interest—I refer members to the impact of the legislation’s success on the Scottish Borders if there is no investment in sustaining equestrian pursuits and ancillary industries. I do not accept Alex Neil’s comments on that point—which should make it clear to members that this is a free vote for the SNP. The Borders has an impoverished economy; even the much-vaunted delivery of 200 call centre jobs is on hold. Foot-and-mouth disease has had a substantial impact not simply on farming incomes but on income from equestrian pursuits.

**Mr Tosh:** Does the member accept that Alex Neil’s point that such jobs are part-time is utterly invalid and that he fails to appreciate the importance of part-time employment and of people gathering a series of part-time jobs to sustain small-scale rural economies and businesses?

**Christine Grahame:** I am quite happy to accept Mr Tosh’s point. I have already told the chamber that I disagree with Alex Neil on that issue.

Wendy Turnbull—who is a groom and a very ordinary, hard-working woman—told me today that since the foot-and-mouth outbreak there are only nine grooms working in Berwickshire instead of 15. If we extrapolate that situation across the five Borders hunts, we could be talking about 100 jobs, which is a lot in a small area with an extremely vulnerable economy.

Paul Allison, who is a farrier, has seen a substantial falling-off in income. Hotels, feed merchants, vets, grooms, livery yard owners, farriers, saddlers and others depend for much of their livelihood on sustaining horses through the winter months. That is what the hunt does. I am not supporting hunting when I highlight that aspect; I am just giving the economic picture.

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** Will the member go a little further and agree that in rural Scotland, country pursuits underpin vital jobs and—in response to Tommy Sheridan—the livelihoods of ordinary working people?

**Christine Grahame:** I have no difficulty with that view; indeed, it should be taken as read.

The bill contains no real alternative to substantive investment in the Borders. I will not mention the Borders railway line, but if we invested in the area, we could provide bridle paths and promote weekend horse riding, trekking and so on, and could offer something positive to the countryside. We cannot take away from such a vulnerable economy without giving back.

Nevertheless, with all those reservations, I support the bill.

**The Deputy Presiding Officer (Patricia Ferguson):** Before I call the next member to speak, I remind members that there should be no interventions in the last minute of a member’s speech. Members are beginning to drift over their four-minute time limit.

16:10

**Euan Robson (Roxburgh and Berwickshire) (LD):** In the few moments available to me, I shall make some points about the impact of the bill on the Scottish Borders and, in particular, on my constituency. It seems clear that my part of Scotland will be hardest hit economically by the passage of the bill. I shall briefly summarise some of the evidence that was presented by the Borders Foundation for Rural Sustainability.

Hunting activities were estimated by the BFRS to generate between £4 million and £5.5 million of expenditure annually in the local economy. Shooting, which would be partly affected by the bill, contributes direct expenditure of between £3.5 million and £4.8 million. In addition, the direct expenditure by participants in both formal and rough shooting is estimated to contribute between £3 million and £4.7 million to our local economy. To put that in perspective, I inform members that the total figure is at least 75 per cent per annum more than the notional annual expenditure from the European structural funds that are allocated to the whole of the south of Scotland.

Hunting accounts for up to 325 full-time or part-time jobs and shooting accounts for between 1,200 and 1,500 jobs. In terms of full-time equivalents, that is up to 156 and 315 jobs respectively. About 1,000 organisations service hunting activities in the Borders to a greater or lesser extent, of which 650 are Borders-based. Of those, 55 estimate that the initial job losses



caused by the passage of the bill would amount to some 21, without compensation of any type.

Hunting activity involves about 600 horses and 400 regular riders. Hunting sustains winter demand for trade services and direct employment. It protects the viability of the equestrian industry, which services the annual summer festivals and common ridings that are a part of Borders heritage and culture. The bill's impact will adversely affect the local economy—which, as has been mentioned, remains fragile—and could have an even more pronounced impact following the outbreak of foot-and-mouth disease. To impose the economic consequences of the bill on top of the impact of foot-and-mouth disease would tip certain sectors of our local economy into recession and would flatly contradict the public policy objective of diversifying rural and agricultural economies.

I appreciate the fact that the passing of the bill would have little or no measurable impact on the constituencies of many members. Nevertheless, people in my part of Scotland would not forget a vote today that would condemn some of them to unemployment and their businesses to closure not because of market failure, poor management, poor productivity or natural disaster, but because of the direct action of the Parliament.

Many members do not seem to understand the impact of voting for the bill. I shall illustrate it with a story that was told to one of the proposers of the bill by a farrier who is a constituent of mine. When he said that he might lose his job, the response he received was, "Well, you live in the Borders. There are plenty of textiles jobs available." From blacksmith to collar-linker in one short step—the ignorance is as incredible as it is profound.

I agree with Mike Russell that it is a serious matter to create a new criminal offence when a group of law-abiding people might become lawbreakers if they persist in a customary and hitherto legal activity. There are major flaws in the bill. I recognise the proposers' intention to lodge amendments at stage 2. The Justice and Home Affairs Committee's report suggested that extending police powers to situations in which someone is about to commit an offence would be "unnecessary and inappropriate". Even worse is the fact that section 5(6) imposes on the person who is charged with contravening the prohibition on hunting the burden of proving that one of the exceptions to that prohibition applies. There is no justification for departing from the principle in Scots law that the prosecution should establish guilt on every aspect of a charge and I entirely endorse the Justice and Home Affairs Committee's view that section 5(6) is "draconian".

I am worried that, if we approve the bill's principles today, there will not be amendments to

the bill.

I know the feelings of my constituents—they were clearly expressed in a poll run by the Tweeddale Press Group—but I want to summarise them with the words of Alan Tate, my constituent, who has distinguished himself at Murrayfield and at rugby grounds around the world. In a letter to me, he wrote:

"I am a very proud Scotsman and love playing in a Scottish jersey, but if this bill was to go through, I would feel cheated."

16:15

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** I rise to support the principles of the bill and to comment on the issues that have been raised in the Rural Development Committee and during the wider debate on the bill.

When I joined the Rural Development Committee, I ceased a number of my activities in relation to my public support for Mike Watson's campaign as I wanted an opportunity to listen to and take account of the evidence that was presented to me. I have changed my views on certain subjects during the course of listening to that evidence. For instance, I understand more clearly now the need for farmers to be able to protect their livestock. However, I do not accept that the only way to do that—or, indeed, the best way to do that—is by the continuation of mounted hunts. Nor do I accept, despite the assertions of the National Farmers Union of Scotland that were put to us in a recent briefing, that, if the bill goes ahead, the sustainability of Scottish agriculture is under threat. Yesterday, the Rural Development Committee had a full-day inquiry, during which we heard from a range of sources about what needs to be done to ensure that Scottish agriculture has a sustainable future. We talked about jobs, transport, infrastructure, subsidy reform and policy change. We did not hear much about the crucial nature of the continuation of mounted hunts.

It has been suggested that the SSPCA supports terrier work. I would like to correct that piece of misinformation. The SSPCA has made it clear that it continues to support the principles of the bill and that it does not agree that the bill is unworkable. It understands that amendments can be lodged at stage 2 and wants to refute the suggestion that the SSPCA consistently supports the use of terriers underground. The SSPCA witness who gave evidence to the committee in November 2000 accepted that, in some circumstances, for example following the shooting of a lactating vixen,

"it might be preferable to use terriers to kill dependent cubs rather than allowing them to die slowly below ground."

However, the SSPCA wants to point out that that

would be acceptable only in exceptional circumstances and that having a closed season when the cubs are young, as happens in a number of European countries, would avoid the need to use dogs in that way in the first place.

My colleague Elaine Murray, whom I have known for many years and for whom I have a lot of respect, has lodged an amendment. I understand that her amendment is designed to get some consensus in the committee and the Parliament, but I do not believe that consensus is possible on this issue. The views of members are polarised and we have to accept that. Today, we must make a decision on what we think is the correct course of action. I am therefore unable to support Elaine Murray's amendment.

This afternoon, we have heard a lot of talk about the fact that people have maintained certain practices for a long time. However, the fact that someone has done something for a long time does not make it right. For a long time, people used to send weans up chimneys, but that did not make it right. Today, we must use our consciences to decide whether something that many people consider to be a barbaric practice should be allowed to continue. My conscience tells me that it should not.

Like other members, I have received many letters on this issue. I received a letter from a constituent in the southern part of my constituency, an area in which there is some support for fox hunting. It read:

"I am not a so called 'townie' but country born and bred. I ride horses, own dogs and have kept poultry in an area surrounded by foxes.

There is no reason at all why wild animals should be persecuted and torn to pieces by dogs except for the sadistic pleasure of the people who follow on horseback.

Please, please support the ban."

I could not have put it better myself.

16:19

**John Young (West of Scotland) (Con):** I was asked the other day how I would be voting today. When I said that I would be voting for the bill, the response that I received from the questioner was, "Do you not feel like a fox among the hunters?" I have been in that position before in my party and I am still in it after 42 years. I have no intention of changing my party membership. The vote is free.

Some people have asked why we are debating hunting when there are many other important things that we should be doing. Let us go back to the Westminster Parliament in 1835. It is doubtful whether that Parliament would have had the compassion and mercy that we accept today in the Scottish Parliament—or indeed in the Westminster

Parliament—and yet that Parliament found time to outlaw bear baiting and bull baiting. Many of the fathers and grandfathers of the members of that Parliament had been involved in those practices. Bear baiting went on in bear gardens—hence the phrase. Even the royal family of the time was involved. The army used bear baiting and bull baiting events in villages, particularly in England, to recruit for the armies of George I right through to those of William IV. MPs found time in a Parliament that we would not even recognise to ban baiting. To find time for the bill is worthy. We agree that we must show some compassion.

We often hear from those in the country that those in urban Scotland do not understand. That has been mentioned several times today. I would not claim that we understand everything. I would not claim that the people in the country understand everything. The one thing that I accept is that farmers and livestock owners must have the right to protect their animals. We all accept that. The argument is about how that right should be pursued.

Mention was also made of the difficulty of legislating on such a matter. The estimated badger population in the United Kingdom is 300,000. It is also estimated that something like 15,000 of those badgers—roughly 5 per cent of the population—are cruelly and villainously slaughtered each year. Very few badger baiters are brought to trial. I hope that many more will be.

Hare coursing is a barbaric activity, yet I saw in some of the Countryside Alliance papers that the Deerhound Coursing Club stressed that the objective was not to kill the hare but to test the agility of the dogs. The club added that many of the hares were in poor condition. What sort of excuse is that? Members of the club would be in poor condition if they had been pursued by a pack of greyhounds, let us make no mistake about that.

I am a bit puzzled by the SSPCA's interpretation of the Protection of Animals (Scotland) Act 1912, which says that people must not terrify an animal. Presumably, the foxes and hares are terrified when they are on the run. We find that the committee was split on that.

When Foster's Wild Mammals (Hunting with Dogs) Bill was debated on 28 November 1997 in the House of Commons—I ask my good friends and party colleagues to listen carefully to this point, if they do not already know it—Ann Widdecombe, Teddy Taylor, David Amess and many other Tory MPs supported the bill. However, among those who abstained were John Major, Edward Heath, Liam Fox, Virginia Bottomley, Teresa Gorman and many more Tory MPs. They did not take a stance. They stuck in the middle, including the two former Prime Ministers.

SSPCA officers in the countryside should carry justice of the peace status, because the master of the foxhounds or his members could often be justices of the peace. The village bobby could have problems obtaining signatures and warrants. It is strongly suspected—rightly or wrongly—that if a member of a hunt were a JP, they could have conflict of interests. They could find themselves in some difficulties. That is understandable.

The vote is free. I trust that the 129 members of the Parliament will vote according to their consciences and allow us to make progress with the bill. Perhaps corrections will be made further along the line. The one way to get that process going is to vote for the bill.

16:24

**Brian Adam (North-East Scotland) (SNP):**

One of the dangers in any Parliament is that the views of the majority will override those of the minority. That may seem a strange thing to say in a democracy, because that is the way that democracy should be. However, when the rights of the minority are being swept aside by the majority for no good reason, we need to be very careful.

I suppose that is the view that David McLetchie expressed earlier, and it is a live-and-let-live philosophy. However, the problem is that no one is allowing the fox or hare to live and let live as a consequence of the bill. That is why, despite the fact that the views of the majority will overwhelm the views of the minority, I will support the bill. I do not think that stopping the practices of hare coursing and fox hunting on horses is anything to do with the suppression of rights. They are just cruel sports.

Others have highlighted the weaknesses in the bill. I am also concerned about the terrier work. I am not convinced by the arguments of the proposers of the bill and I am delighted that they are willing to consider the bill again. To those who are concerned that the bill might contain some flaws, I say that the bill will be available for amendment. Mike Watson pointed out, rightly, that we have just finished dealing with the Housing (Scotland) Bill. More than 500 amendments to that bill were lodged. Each of those amendments was debated at some length and we arrived at a conclusion.

I am certain that the Protection of Wild Mammals (Scotland) Bill will be amended significantly before it becomes law. If the bill is not amended effectively, those members who might vote for it today might not vote for it at stage 2 or stage 3. One thing is for sure—if we throw out the bill today, it will come back again. That has happened in Westminster; it is happening again in Westminster; and it will happen again in the

Scottish Parliament.

I am disappointed by the amount of resources—much of which came from far beyond the bounds of Scotland—that has been thrown at the issue by those on both sides of the argument. It might be that many people are interested in the issue. It is not high up on my list of priorities. Mike Watson dealt with that matter effectively in his opening speech. The Parliament has dealt with many other issues and I find it disappointing that those who believe that the issue is so important have hijacked the Parliament's agenda.

I do not want the Parliament to put off the issue for another day, as has been suggested by Elaine Murray. I can understand, perhaps, the reasons for her amendment. She has some hopes that the Executive will take up the issue. As no Westminster Government has done that up until now, and as the Executive's minister has given no such indication today, that is not a likely avenue.

I would prefer us to deal with the issue and to put it to bed. We have had 409 days of it so far and I appeal to those within and outwith the Parliament not to delay the process artificially, as they would not be held in high esteem for that. Let us deal sensibly with the matter and let us complete the process.

I appeal to the Parliament not to reject the bill, but to allow it to proceed so that we can amend it and deal with individual concerns such as fox baiting and terrier work. Those are perhaps technical matters—important technical matters—and we would not wish a flawed bill to come out of the process. However, the process must continue.

I intend to support the motion and to reject the amendments.

16:29

**George Lyon (Argyll and Bute) (LD):** The debate has raised strong emotions on both sides of the argument. A wide range of concerns has been expressed: issues of civil liberties; the rights of individuals to pursue centuries-old activities and traditions; the rights of individuals to walk their dogs in the countryside without the uncertainty of potential prosecution hanging over them; and the rights of farmers to protect their stock from predators.

The latter issue has not been addressed in any great detail. The sight of lambs torn apart by predatory foxes that can greet a farmer every morning when he goes out to tend his flock is just as devastating as the sight of foxes being torn apart by dogs. Protecting flocks from predators—from foxes—is an issue.

Most important, the debate has been about cruelty to wild animals. In introducing the bill, its

proposers seek to reduce or eliminate cruelty to wild mammals. That is a laudable aim, and I would support it fully—as would, I am sure, all my parliamentary colleagues. However, in pursuing that objective, one would have thought that the logical starting point would be to seek to strengthen or replace the current legislation that deals with cruelty to mammals. Elaine Murray expressed that opinion, and I fully endorse it. The Protection of Animals (Scotland) Act 1912 and the Wild Mammals (Protection) Act 1996 already exist: surely they should have been the starting points were we serious about eliminating cruelty, rather than about the wider issues that have arisen during consideration of the bill.

From evidence that was given to the Rural Affairs Committee, it is clear that the current legislation is ineffective and needs to be strengthened. I would have thought that Mike Watson and Tricia Marwick would have taken that fact as the starting point in introducing a bill to deal with cruelty. Such a bill would certainly have received my support. Instead, the bill's promoter and sponsor have chosen to pursue the banning of hunting with dogs.

The scope of the bill is wide and it will have a substantial impact—some intended, some not—on rural Scotland. My problem is with the scope of the bill. If the scope had been much narrower, I would have had no qualms in supporting the bill. The bill as introduced will have an impact on the civil liberties of individuals throughout rural Scotland and a substantial economic impact on many of Scotland's rural communities, as my colleague Euan Robson has highlighted. The bill would introduce a large bureaucracy to give effect to the licensing scheme, which I do not think would be at all useful.

The bill could prevent legitimate control of fox populations—I refer here to a point that my colleague Mike Rumbles made in his speech. Because of the wide scope, it is clear that the Scottish hill packs, which are a fundamental predator control mechanism—in particular, a fox control mechanism—in the Highlands and Islands, would not be able to operate under the general principles of Mike Watson's bill. That is the fundamental issue that I have with passing the bill at this stage. The hill packs' inability to operate would, in turn, hamper farmers in their legitimate attempts to protect their stock from predators, and I have explained some of the damage that can be done by foxes during the lambing season.

It is clear from all the evidence that the bill is flawed and misses the target. If the target is cruelty, the bill does not hit it square on the head. After 18 months, that is the conclusion that the Rural Development Committee has come to. Indeed, Mike Watson has recognised that there

are fundamental problems in the bill and has proposed to lodge amendments at stage 2 to reshape and refocus the bill.

Even with that redrafting and rewriting, there are major concerns with the bill, especially in the definition of "close control". As Mike Rumbles said, under the general principles of the bill as introduced, the Scottish hill packs could not operate and continue their good work in the Highlands and Islands.

The bill is poorly thought out and, in its current form, too wide. When the Executive was in a similar position to the position that Mike Watson is in now, over the Education (Graduate Endowment and Student Support) (Scotland) Bill, it withdrew the bill and started again. That is what should have happened in this case. It has not, and the Parliament should therefore reject the bill, as recommended by the Rural Development Committee.

16:34

**Mr Murray Tosh (South of Scotland) (Con):**

George Lyon has touched on a most important question in the debate: how the bill can be changed in its later stages. We have heard a lot of talk about the possibility that the bill might be amended, perhaps substantially. That remains to be shown. This is not Westminster and we do not follow Westminster procedures. This is the Scottish Parliament, where amendments are not admissible at stage 2 if they conflict with the principles of the bill. That is why it is important for us to understand at the outset what can be amended and what cannot. It is clear that we cannot amend the bill so that it introduces the principle of compensation, for example, because it has no financial resolution.

We are here, in a rights-based Parliament, removing rights that people have. I agree with Cathy Jamieson that, just because something has always happened, that does not mean that it should continue to happen. However, if we are in a rights-based Parliament which embodies the European convention on human rights, I wonder whether we are not obliged to consider the people whose livelihoods we are removing, and whether they have a case for compensation. That, however, is an amendment that we cannot make.

**Richard Lochhead:** Does the member accept that if, for some obscure reason, certain amendments were not accepted, the Parliament would retain the option of chucking out the bill at stage 3?

**Mr Tosh:** Everything depends on the motivation of individual members and on the counting of heads at the end of the day. That is the core argument for saying that, at the outset, we should

have proceeded with a view to tackling the issue of cruelty, instead of focusing on hunting with dogs. Today we have no certainty about what is intended. I do not know whether an amendment allowing the use of a dog to take care of cubs underground would be admissible. The bill is quite clear that dogs may be used only when the fox is breaking cover above ground. If we cannot deal with cubs that are left underground to starve, the bill will add to animal suffering.

No one disputes the cruelty of fox baiting. If the intention is to stop fox baiting, I will put up my hand in support of that. If the intention is to stop terrier work, the bill is flawed, for the reasons that George Lyon has outlined. The question of admissibility then becomes fundamental. I hope that everything that has been said today about accepting broad and substantial amendments to the bill is borne in mind by the committee that deals with the bill at stage 2—whoever its convener—and at stage 3, and that later in the bill's passage we will not be precluded from dealing with the substantive issues that have been raised today.

I want to pick up on some of the points that have been made about the economic impact that the bill would have. Euan Robson spoke very forcefully about the impact that it would have in his constituency. The principle of taking money from a fragile rural community without offering compensation is flawed. It is a breach of the rights of the people who live in that community. The argument from conscience does not outweigh that. My conscience would not allow me to hunt. I have never hunted, and I have no interest in hunting. Personally, I see it as reprehensible. I am not in favour of hunting. However, I think that my conscience is my business. I know Mr Robson's constituency reasonably well now, and many people down there have no problem reconciling hunting with their conscience. Hunting is part of their way of life and of their culture. It is oppressive for people to impose their conscience on other people—to ignore the rights of other people and to make a judgment on the basis of what they do or do not like.

I want to highlight one further issue that has not been spoken about much in the debate, although Mike Russell touched on it. It concerns the criminalising of many people. As I understand it, statutory law does not require the prosecution to prove that there is criminal intent. That means that, under the bill as it stands, someone whose dog chases a rabbit while they are out for a walk is a criminal. That is a deep flaw, which needs to be put right. At this stage it is not clear to me whether an amendment along those lines would be admissible.

In summing up the debate, I hope that those

who support the bill will indicate that they intend to consider all the issues that have been raised and to accept substantial and significant amendments to the bill, should its general principles be approved today. At stake are the rights of the many people who are dog owners, landowners, land managers and gamekeepers. The bill's supporters also need to consider a range of important issues to do with sustaining the economy of rural Scotland. I hope that this Parliament will regard that, too, as something that ought to weigh on its conscience.

16:39

**Rhoda Grant (Highlands and Islands) (Lab):**

Before addressing the substance of the Protection of Wild Mammals (Scotland) Bill, I would like to consider the procedure that was followed for stage 1 of the bill. Members of the Rural Affairs Committee made statements about the bill before it was even published and before the committee had completed its deliberations. That meant that the committee was unable fully to take on board the evidence that it heard. Describing the bill as fundamentally flawed before trying to amend it was at best misguided. Other committees dealing with controversial legislation need to learn lessons from the procedure that was followed at stage 1 of this bill. During that process members should remain open-minded.

Because of members' public statements, it was impossible for that Rural Development Committee to reach a consensus on the bill. The way in which decisions were taken on the conclusions of the committee's report left an awful lot to be desired. I quote from the committee minute of 1 May 2001, as it appears in the committee report:

"The Committee agreed to consider the options for the conclusion to the report before resuming consideration of the detailed report."

I have never sat on a committee that voted on the conclusion of a report before concluding the writing of that report. At best, that was ineptitude; at worst, it was political opportunism.

As with all the legislation that has come before the Parliament, I am concerned about some of the issues that the bill covers. As the bill stands, it will outlaw the practice of using terriers underground to flush out foxes. However, as Mike Watson said, he has spoken to me about that and has accepted that an amendment should be lodged at stage 2 to allow the use of terriers underground to flush out foxes to waiting guns. It is obvious that conditions must be attached to such a measure. For example, an individual who flushes out a fox to a waiting gun would require the relevant licence for that gun.

We must ensure that fox baiting is banned.

Members whose only problem with the bill is that it bans terrier work underground have received assurances. I urge those members to support the bill today.

We must control fox populations, but that must be done humanely and in a way that causes the least possible suffering. I support the bill's aim of ending cruelty, but the bill must also be practical and enforceable. If it cannot be amended to make it workable, we will have an opportunity to vote against it at stage 3. I will vote for the bill at stage 1 in the knowledge that I can still vote against it at stage 3 if it cannot be amended properly. I urge other members to do the same.

**The Deputy Presiding Officer:** We now move to closing speeches. I reiterate the regrets expressed by the Presiding Officer at the beginning of the debate about its not being possible to call all those members who wished to take part. I call Mike Rumbles to speak to amendment S1M-2078.1.

16:42

**Mr Rumbles:** I commend Elaine Murray for lodging her amendment. She rightly identified that today's debate should have been about amending existing legislation on wild mammals in order to act against unnecessary suffering. That is what she wants to do; it is what I want to do; and it is what the vast majority of members in the chamber want to do. However, that is not what we are faced with.

The debate has been disappointing but not surprising. Des McNulty talked about a dialogue of the deaf, but the contentious issue in the debate was neither mounted fox hunting nor hare coursing but terrier work. Dennis Canavan was wrong: the aim of the bill is not to outlaw unnecessary cruelty to animals. Its aim is to end hunting with dogs. Robin Harper was wrong about the general principles of the bill, because he kept mentioning sport. I wish that the bill mentioned sport, but it does not. That is the point.

Richard Lochhead, Brian Adam and Rhoda Grant are mistaken if they believe that the general principles of the bill can be amended, as they cannot. They said that if we did not like the bill, we could throw it out at stage 3. Well, what an argument.

Des McNulty suggested that a committee bill should be introduced. I advocated that approach but did not find support for it in the committee. I wanted to proceed with the bill properly, so that we could examine the real issues and not spend I know not how long in future on a bill that even those members who are going to vote for it say is fatally flawed.

What will happen if the chamber decides to overturn the committee's recommendation? This is the first occasion on which the chamber might do such a thing. What will happen if we do not support Elaine Murray's amendment? In my view, if the bill is returned to the Rural Development Committee, it will be impossible for members successfully to beat off the charges that have been laid against them. Various pressure groups and lobbying groups have thrown personal insults at them, accusations of bias have been made and I have been accused of trying to frustrate the bill's progress. That is despite the fact that, as the *Official Report* shows, in September, October and November, I kept asking the committee to introduce a debate on the bill in the chamber.

I would like an ad hoc committee to be set up so that other back-bench MSPs can work on the issue. If the Parliament decides not to back Elaine Murray's amendment, it would not be right or proper to send the bill back to a committee that has made such clear recommendations about that bill. In the event of the Parliament proceeding with the bill, I hope that the powers that be will arrange an ad hoc committee.

At this late stage, I urge members who have listened to the arguments not to be swayed by the claim that the bill can be amended at stage 2. The general principles cannot be amended at stage 2 and it is not right that the bill should go all the way through the Parliament's procedures to stage 3 for us then to reject it because it cannot be amended. When it comes to the vote at decision time, I urge members to vote for the amendments and for Elaine Murray's amendment in particular.

**Elaine Smith (Coatbridge and Chryston) (Lab):** On a point of order, Presiding Officer. Is it in order that a member should be allowed to speak twice against the bill, when members such as me, whose name has been mentioned during the debate, are not allowed to speak?

**The Deputy Presiding Officer:** That is not a point of order. Mr Rumbles was winding up for the amendment. I call Fergus Ewing to wind up for amendment S1M-2078.2.

16:46

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I may not automatically spring to mind as the chamber's foremost animal lover, but I am. My wife and I had a pet dog, which was a black Labrador called Sgian. Because Sgian became rather elderly and incapable of climbing up the stairs to the third floor of the tenement in which we stayed at the time, we moved to a house with a garden, where he spent his later years in happy retirement being looked after by me.

At times, this debate has been fractious.

However, we would all accept that even in the most austere exterior there lurks a beating heart. We all want to see cruelty tackled. Elaine Murray's remarks were worth considering because the bill does not tackle cruelty in the widest way that we should. I would support Elaine Murray's amendment were it not for the fact that the final sentence ties us in too closely to equating the treatment of domestic and wild animals. That should be considered, but it should not be taken as a given when we set out to examine an issue.

I speak on behalf of the committee—

**Mr Kenneth Gibson (Glasgow) (SNP):** Will the member take an intervention?

**Fergus Ewing:** Not just yet, but perhaps later.

I stress that, apart from on the major decisions that were taken at the end, the committee did almost all its work by consensus. Only two issues of moment were decided by division. Most of the 102 paragraphs of the committee's report were reached by consensus. Not enough consideration has been given to that.

The issue of what is cruel is complex and needs to be considered carefully. I recommend that members consider the SSPCA's statement that

"Although there is much research into cruelty and abuse of animals, there is little to enlighten us on the responses of hunted animals."

We regard things with our faculty of reason and we have morality. Animals do not; they are different. The area is extremely complex.

I hope that the promoter of the bill accepts that his bill would have anomalous impacts that would cause greater cruelty. For example, the SSPCA accepted in its evidence that, without the vixen, orphaned cubs might die of starvation in a den over a long, lingering period. What could be more cruel than an orphaned cub dying of starvation underground, possibly over a period of weeks?

There is also clear evidence that the bill could lead to increased snaring. We would all accept that that it is a more horrible way for an animal to die than a quick dispatch is. We can surely all agree—as all members of the committee did—that we do not want an animal to die in that way.

I have already discarded 90 minutes of my speech, so I will move swiftly on to a couple of issues that arose during the debate. I hope that, in doing so, I will not breach my remit in speaking on behalf of the committee. There is a strong consensus that the bill that most people wanted was one that would tackle blood sports and would make a clear distinction between pest control and sport. That is not the bill that we got. I have grave reservations on whether the bill can ever be turned into a bill that the majority would want. I do not

believe that it will be possible to amend the bill in that way.

The bill has serious flaws. It has been put to me that all those flaws can be amended. Of course they can be amended—any bill can be amended—but can they be amended effectively? The first issue to be considered is that raised by Mr Rumbles, Mr Tosh and others, who say that for procedural reasons we will not be able to achieve what we wish. If we assume that that is true—I make no judgment on it, because it is not my place to do so—would it not be better for Mr Watson to withdraw his bill now? If he cannot correct the flaws, a far greater number of members will vote against the bill than will do so today. Members of all parties have already expressed severe reservations.

I have learned a lot during the progress of the bill and my views have changed a great deal—like Mr McLetchie, I am a former city dweller. We had to reach a conclusion on conflicting evidence, and rarely can evidence have been so conflicting. For example, all the animal welfare groups said that it was quite possible to carry out pest control in accordance with Mr Watson's bill. However, Mr Naisby, who controls foxes on hill farms in Argyllshire, told the committee:

"We could not operate without using terriers below ground ... If a fox goes to ground, that fox must be dispatched. We must have the means of dispatching foxes that go to ground."

At the same meeting, Robbie Rowantree—who I believe is here today—said:

"Without a dog, it is almost impossible for us to locate foxes."—[*Official Report, Rural Affairs Committee*, 28 November 2000; c 1443-44.]

The bill will make the job of gamekeepers, of members of the Scottish Hill Packs Association and of terriermen quite impossible. I think that we all know that. We must have a mechanism to allow the flaws in the bill to be taken into account.

Another serious flaw in the bill has not been touched on. Mr Watson has indicated that he is withdrawing the licensing provisions from the bill—on page 295 of the committee's report, members will see the amendment that he introduced a long time ago. However, Ian Gordon, the police officer who gave evidence to the Justice and Home Affairs Committee on 19 September 2000, said that the only thing that really commended the bill to him was that it proposed a licensing system, because that meant that he could go up to someone and demand to see their licence. With that piece of paper, the job of the police would be made much easier. We can therefore already see that one proposed amendment will take us backwards, making the bill worse and not better.

Some bills just cannot be made to work. I say

that having, as a practising lawyer, studied legislation in order to find holes in it for about 20 years. A bevy of lawyers will find this legislation riddled with holes if we are misguided enough ever to allow it to find its way on to the statute book.

16:53

**Tricia Marwick (Mid Scotland and Fife) (SNP):** Before I start, I wish to advise the Presiding Officer that I will not take any interventions from those members of the Rural Development Committee who have spent the past two years delaying and seeking to destroy the bill. They have had their say.

A majority of the people of Scotland oppose hunting for sport and wish to see it banned. To set one animal or more on another for entertainment or sport is a barbaric act that should be consigned to the past century and not continued into this one.

I will not waste too much time on the amendments. Alex Fergusson's amendment adds nothing to the debate. It was lodged to maximise the speaking time for members of the committee who have already spent 18 months delaying the debate in the Parliament. Elaine Murray's amendment, I am afraid to say, is confused. It is not an alternative to the bill. It is designed to kick the bill into touch.

It is no secret that I have had concerns about the wording of the bill—not because I disagreed with its aims or intentions, but because I feared that the apologists for hunting would use the imperfect drafting to tell lies, misinform and mislead. And so it came to pass—including the lie that someone out walking, whose dog chased a rabbit, would be liable to prosecution. It was hardly surprising that it was Mr George Lyon who raised that point today.

The bill has three aims: to ban mounted fox hunts, to ban hare coursing and to ban fox baiting. When we discuss the general principles of the bill, it is incumbent on the committee members to pay attention to what the member thinks are the general principles instead of making them up to suit their own conclusions. Mike Watson's final submission said:

"The first principle of my bill is to ban mounted fox hunting ...The second principle of my bill is stop hare coursing ...The third principle of my Bill is to ban fox-baiting".

The Scottish Countryside Alliance paid Jack Irvine and Media House £250,000 to halt or significantly water down Mike Watson's bill. Let me quote from Media House's chilling account of how it set about doing that:

"By providing the media with the 'sticks' with which to 'beat' the new Parliament we were able to capture the agenda and find a voice for pro-hunt arguments. An early

tactical decision was made not to address the issue of animal rights head on ... The SCA have been positioned as a formidable political force in Scotland and the delayed Bill is dogged with controversy. The conduct of the presenting member is in question".

The Duke of Buccleuch and David McLetchie said that the Scottish Parliament should concentrate on matters other than fox hunting. As someone who has campaigned all their life for a Scottish Parliament, I am not about to take lectures about what the Parliament will and will not discuss from people who have spent all their political lives opposing constitutional change.

**Mr Tosh:** I am reluctant to take Ms Marwick too far back, but the question for many members is whether the bill, as presented, bans terrier work. Can we be clear whether the bill's promoter and sponsor intend to ban the use of dogs underground or only fox baiting, important though that is?

**Tricia Marwick:** When Mike Watson made his final submission to the Rural Development Committee, he was quite clear that the third principle is to ban fox baiting.

Let us move on. Is the bill a class issue? No, it is not. It is a cruelty issue.

**Karen Gillon (Clydesdale) (Lab):** Tricia Marwick has mentioned terrier work, about which there is some concern in my constituency. Would she and Mr Watson be prepared to support an appropriate amendment to allow gamekeepers and farmers to carry on with their legitimate work, should that amendment be lodged at a later stage?

**Tricia Marwick:** It is not the intention of the bill to restrict the legitimate pest control activities of gamekeepers, landowners and organised hill packs. What the three general principles have in common is a desire to end cruelty to those animals that are ripped apart, maimed and killed for sport.

Brian Adam asked whether it is right to impose the will of a majority on a minority. The answer is yes when those who indulge in barbaric acts for sport shame the rest of us. Society has a right to make that judgment, just as it did when cock fighting, badger baiting and deer hunting were banned. Surely no member is arguing that those bans should now be repealed. Is it not ironic that those who say that the majority should not impose their will on a minority are the same minority who imposed the poll tax on the majority of the people in Scotland?

Mike Russell and Euan Robson said that it was the wrong time for the bill to proceed. If it is the wrong time for the bill to proceed, we should consider the activities of those members of the Rural Development Committee who have held the



bill back and delayed its progress.

Christine Grahame raised the question of the Borders and regeneration. I have great sympathy for her point of view. I agree that much work needs to be done in that respect. However, I say to her that the future of the Borders economy cannot be based on a few full-time-equivalent jobs in hunting—there has to be much more than that.

The bill is not perfect. It was drafted at a time when the Parliament gave members no assistance in drafting their bills. No bill is ever perfect. The Housing (Scotland) Bill had more than 500 amendments between stage 1 and stage 3, but no one argued that that meant that the general principles could not be met. The Transport (Scotland) Bill had a whole section on workplace parking removed, but no one argued that the general principles could not be met.

Mike Russell asked about criminalising people. I quote Ann Widdecombe from the debate on Michael Foster's Wild Mammals (Hunting with Dogs) Bill:

"If this democratically elected House decides that hunting is against the law, it is our right to exact penalties against those who fight the law. We will be penalising not the fact that they like to hunt but the fact that they break the law."—  
[*Official Report, House of Commons*, 28 November 1997; Vol 301, c 1251.]

Finally, I quote Mahatma Gandhi:

"The greatness of a nation and its moral progress can be judged by the way its animals are treated."

If members are opposed to the Protection of Wild Mammals (Scotland) Bill, they should have the moral fibre and honesty to say so and vote against it, but if they believe that fox baiting, hare coursing and mounted hunting for sport is cruel, they must support the general principles of the bill. If they believe in a civilised, more humane society and a more humane Scotland, they should support the bill.

## Decision Time

17:01

**The Presiding Officer (Sir David Steel):** There are four questions to be put as a result of today's business. Before we start, I remind members to ensure that their cards are correctly inserted into their consoles, and that the flashing light in front of their card changes to a constant light once they have cast their votes.

The first question is, that motion S1M-2230, in the name of Tom McCabe, on the Local Government Committee, be agreed to.

*Motion agreed to.*

That the Parliament agrees that with effect from 20 September 2001 the remit for the Local Government Committee should be—

To consider and report on matters relating to (a) local government (including local government finance) and (b) other matters (excluding finance other than local government finance) which fall within the responsibility of the Minister for Finance and Local Government.

**The Presiding Officer:** The next question is, that amendment S1M-2078.2, in the name of Alex Fergusson, on behalf of the Rural Development Committee, which seeks to amend motion S1M-2078, in the name of Mike Watson, on the general principles of the—

**Iain Smith (North-East Fife) (LD):** On a point of order. Before you take the vote, Presiding Officer, have you clarified whether, if amendment S1M-2078.2 is carried, amendment S1M-2078.1 will be taken or fall?

**The Presiding Officer:** I thought that I clarified that at the beginning of the debate, but maybe I forgot. I certainly intended to make it clear that if amendment S1M-2078.2 is carried, amendment S1M-2078.1 falls. If amendment S1M-2078.2 falls, I will put the question on Elaine Murray's amendment S1M-2078.1. Whether that amendment is agreed to or not, the substantive motion will be put to the chamber.

The question is, that amendment S1M-2078.2, in the name of Alex Fergusson, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Aitken, Bill (Glasgow) (Con)  
Davidson, Mr David (North-East Scotland) (Con)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
Fergusson, Alex (South of Scotland) (Con)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Gallie, Phil (South of Scotland) (Con)

Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lyon, George (Argyll and Bute) (LD)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Ben (North-East Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)

Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeish, Henry (Central Fife) (Lab)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Young, John (West of Scotland) (Con)

#### ABSTENTIONS

Wilson, Andrew (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 27, Against 92, Abstentions 1.

*Amendment disagreed to.*

**The Presiding Officer:** The question is, that amendment S1M-2078.1, in the name of Dr Elaine Murray, which seeks to amend motion S1M-2078, in the name of Mike Watson, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fergusson, Alex (South of Scotland) (Con)

Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Johnstone, Alex (North-East Scotland) (Con)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Ben (North-East Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)

Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeish, Henry (Central Fife) (Lab)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Young, John (West of Scotland) (Con)

#### ABSTENTIONS

Wilson, Andrew (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 36, Against 82, Abstentions 1.

*Amendment disagreed to.*

**The Presiding Officer:** The final question is, that motion S1M-2078, in the name of Mike Watson, on the general principles of the Protection of Wild Mammals (Scotland) Bill, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### FOR

Adam, Brian (North-East Scotland) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)

Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeish, Henry (Central Fife) (Lab)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)

Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Wilson, Andrew (Central Scotland) (SNP)  
 Young, John (West of Scotland) (Con)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fergusson, Alex (South of Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lyon, George (Argyll and Bute) (LD)  
 McGregor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Russell, Michael (South of Scotland) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Iain (North-East Fife) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Ben (North-East Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)

#### ABSTENTIONS

Murray, Dr Elaine (Dumfries) (Lab)

**The Presiding Officer:** The result of the division is: For 84, Against 34, Abstentions 1.

#### *Motion agreed to.*

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

## Points of Order

17:05

**Tricia Marwick (Mid Scotland and Fife) (SNP):** On a point of order, Presiding Officer.

**Alex Fergusson (South of Scotland) (Con):** On a point of order, Presiding Officer.

**The Presiding Officer (Sir David Steel):** There are two points of order. I think that I heard Tricia Marwick first.

**Tricia Marwick:** The Parliament has just disagreed with the Rural Affairs Committee, which recommended that the Protection of Wild Mammals (Scotland) Bill could not be amended. In circumstances in which a committee has recommended that a bill cannot be amended but the Parliament does not agree, it is logical that the bill is not referred back to that committee for amendment at stage 2.

I ask you to take the matter to the Parliamentary Bureau and ask it, and the business managers, where the bill should go at stage 2.

**The Presiding Officer:** Strictly speaking, that is not a point of order, but you are correct to suggest that it is a matter for the Parliamentary Bureau to discuss, which it will do at its next meeting on Tuesday.

Is yours the same point of order, Mr Fergusson?

**Alex Fergusson:** I withdraw my point of order.

## Waste Disposal (Incineration)

**The Presiding Officer (Sir David Steel):** We move to the members' business debate on motion S1M-2088, in the name of Irene McGugan, on waste incinerators. It would be helpful if those who want to take part in the debate would press their request-to-speak buttons now. Those who are not staying for the debate should please leave us as soon as possible and do so quietly so that we can begin the debate.

*Motion debated,*

That the Parliament notes with concern that at least five large new incinerators are being planned for siting around Scotland, despite the growing evidence that they may frequently emit a cocktail of toxic chemicals which breach legal pollution limits and raise health concerns; further notes that the defect ridden Baldovie incinerator in Dundee reported 18 separate breaches of safety limits within a five week period earlier this year, which more than justifies the concerns of communities in Aberdeen about the planned Altens incinerator; is concerned that although 60% of the waste produced in Scotland is biodegradable, only 6.6% of it was recycled last year, thereby placing Scotland at the bottom of the European recycling league; commends the first area waste plan in Scotland which opts for the recycling of waste rather than the burning of it, and believes that the Scottish Executive should implement policies which promote a resource efficient, recycling society.

17:08

**Irene McGugan (North-East Scotland) (SNP):** There is widespread concern that the headlong rush to build incinerators may not, in fact, be the best long-term solution for dealing with Scotland's waste, for a number of reasons. First, studies have shown that incinerators produce toxic fumes and—

**The Deputy Presiding Officer (Mr George Reid):** I am afraid that you have gone off microphone. You are now back on.

**Irene McGugan:** Thank you, Presiding Officer. Should I start again?

**The Deputy Presiding Officer:** You were clear up to that point of interruption. Just carry on.

**Irene McGugan:** Many people who live and work near incinerators suffer serious health ill effects from the toxic fumes. Recent studies in *The Lancet* confirm that those fumes could be causing harm to children in particular. There is also growing evidence that incinerators frequently emit a cocktail of toxic chemicals that breach legal pollution limits. I accept that new incinerators must meet strict emission standards, but in real life things have a habit of going wrong. Things went very wrong at two of Britain's most modern incinerators 183 times between 1995 and 1998. An incinerator at Edmonton in London was the third worst polluter in a 1995 Environment Agency

league table.

The experience of Scotland's only large-scale operating incinerator at Dundee, where there have been numerous emissions of poisonous chemicals, simply fuels further concerns. The company that runs the Baldovie plant in Dundee notified the Scottish Environment Protection Agency of 18 separate breaches of the limits between 20 April and 28 May 2001. Those breaches included releases of nitrogen oxide, hydrogen chloride and volatile organic compounds that included dioxins. There was a further serious incident in June.

Despite that, at least five massive new waste incinerators are planned in Scotland—in Inverness, Fife, Ayrshire, Lanarkshire and Aberdeen. Aberdeen City Council has signed a 25-year deal with SITA—a waste management company—to incinerate 125,000 tonnes of domestic refuse. That total is far in excess of what is generated by the city alone and the deal is in conjunction with the company that not only managed the Edmonton incinerator but was implicated in the use of toxic fly ash in building and construction materials.

A planning application for a site between Torry and Nigg to the south of the city is to be considered in the next few weeks. Residents are extremely concerned at that and have mounted a vigorous campaign against the proposal. Their primary concerns are pollution and health implications for local residents.

Aberdeen should emulate other Scottish cities and increase its efforts to promote recycling rather than lock the council into the use of one technology—burning waste—for the next 25 years. The council's draft waste strategy document sets out a minimum target of 25 per cent recycling and composting by 2005. There is much to do, as Aberdeen recorded a recycling total of just 4.3 per cent this year. Local people and academics have argued that the construction of an incinerator undermines the city's chance of developing a sustainable waste strategy.

The nationwide plans have health concerns and are contrary to the national strategy to reduce and recycle more waste. Although around 60 per cent of our waste is biodegradable, Scotland recycled just over 6 per cent of waste last year and widely missed the target of 25 per cent by 2000, which was set by the UK Government. That compares with Switzerland's achievement of 52 per cent and the Netherlands' of 45 per cent. Scotland is at the bottom of the European recycling league—it is therefore arguable that we need more incinerators.

In Scotland, 11 area waste plans are being developed to deal with the waste that we dump in landfill sites. Under European Union law, that

option is rapidly vanishing.

Forth Valley Area Waste Group recently announced a strategy that opts mainly for recycling and composting. Targets have been set and mass-burn incineration has been rejected. That has surprised some local authorities, but it is hoped that others will follow suit.

The plan also recommends structured research on the applicability of advanced thermal treatment systems such as gasification, which is a cleaner method of treating waste to retrieve energy. Currently, such techniques are more expensive, but further research and development should reduce that financial burden. I hope that the Executive will pick up on that and commission research and development before it is too late and new incinerators are built.

If councils opt for waste incineration, they will put the health of their communities at risk. They should aim for waste reduction, recycling and composting. Dr Richard Dixon, who is head of research at Friends of the Earth Scotland, has said that the choices we make in the next 12 months will determine whether we spend the next three decades in a polluted, wasteful Scotland or change to the kind of resource-efficient, recycling society that we deserve in the 21<sup>st</sup> century.

I urge the Scottish Executive to acknowledge that with the development of cleaner technologies to deal with waste and a strong emphasis on recycling there is no need for further incinerators in Scotland.

**The Deputy Presiding Officer:** There will now be an open debate and contributions should be kept to three minutes.

17:14

**Dr Sylvia Jackson (Stirling) (Lab):** I congratulate Irene McGugan on securing this debate. My thoughts are similar to hers.

I have lodged parliamentary questions on dioxins, which are central to the debate. One asked

"the Scottish Executive what measures are in place to minimise public exposure to endocrine disrupters and other dioxins."— [Official Report, Written Answers, 22 August 2001; p 707-08.]

The minister's response—Rhona Brankin is here tonight—rightly mentioned the legislation that is already in place. It includes the municipal waste incinerators directives that came into force in 1996 and the Pollution Prevention and Control (Scotland) Regulations 2000. She also pointed out that the Food Standards Agency runs a programme of research and surveillance and that it will conduct additional research into the safety of dioxins in foodstuffs through the committee on

toxicology.

However, there is still growing concern about the release of dioxins, about the measurement of releases and about that information being made available to the general public. Friends of the Earth states that there is a need for a factory pollution inventory such as is available in England and Wales. Other literature makes it clear that dioxins are released not only by incinerators, but by chemical and fertiliser manufacturing plants. I ask the minister to comment on the development of a factory pollution inventory for Scotland similar to that south of the border.

Through parliamentary questions I have raised issues about cement manufacture—which is much more topical—and the use of cement-making kilns to incinerate waste. Again, a substantial amount of information is developing—latterly in the press—about Blue Circle cement and the possible use of cement in the new Parliament building. I am still awaiting a response, but I ask the minister to consider the work that is being done south of the border by the Environment Agency and how regulations might be made north of the border to help in that respect.

The first area waste plan was launched in Forth Valley, as Irene McGugan mentioned. In Stirling, we are proud that the Stirling Council biodiversity action plan—I have Robin Harper's copy—was inclusive of that area waste plan. It is clear from that that the people say yes to recycling, yes to composting, yes to minimising waste and no to mass-burn incineration.

As our area waste plan reminds us, we all have responsibilities for recycling and composting. I received my composting bin last Saturday, but I do not know whether many other members who are in the chamber have one.

**Nora Radcliffe (Gordon) (LD):** I do.

**Dr Jackson:** One. The Deputy Minister for Environment and Rural Development and the Scottish Executive have a responsibility not only to give direction, but to give the necessary investment. I ask the minister to think, today or later, about an advertising campaign to get over to the public the importance of recycling, which includes composting. It is important that supermarkets and industry start to minimise waste. Councils are an important factor, but they cannot succeed alone—all of us must be involved.

17:18

**Shona Robison (North-East Scotland) (SNP):** I congratulate Irene McGugan on securing an important motion for debate. The motion mentions future plans for incineration in Scotland. I will cast my eye over recent events at the Baldovie

incinerator in Dundee and offer some thoughts on how we can proceed.

Dundee has a long and troubled history of municipal waste incineration. The city had an incinerator to handle municipal solid waste in 1979, but that plant at Baldovie closed at the end of 1996 when stricter European Union emissions limits came into effect. Four years before the December 1996 deadline, Dundee City Council had to choose between upgrading the old plant to meet the new standards, building a new facility or revising its waste management strategy to increase its reliance on landfill. The council opted to construct a new energy-from-waste facility and entered into a joint venture arrangement with the private sector using the private finance initiative.

Despite the closure of the old plant five years ago, the fallout from the emissions continues. A heated debate has continued in the city over how to investigate the health impact of the emissions. Residents in the areas beside the site of the incinerator have genuine concerns. Theories abound about clusters of cancer and other impacts on health. Finally, after much debate and pressure from local residents, the administration in Dundee agreed to carry out a health study. I hope that, whatever the findings of the study, concerns can be abated and fears can be laid to rest.

The establishment of the new incinerator could have marked a fresh start for Dundee. Unfortunately, the promises of openness and transparency seem to disappear whenever a problem occurs. The recent batch of problems, which Irene McGugan highlighted, include 18 separate breaches of safety limits. When breaches occur they should at least be publicised immediately, with an appropriate explanation as soon as that is technically feasible. Unless that happens there is a culture of secrecy, which does nothing to allay fears because people think that there is a cover-up. That is what happened in relation to the breaches of safety that Irene McGugan mentioned.

On a more positive note, I have been told that the operational problems with the new incinerator have—in the main—been resolved and that electricity production is on-going. That is welcome, but it is up to all of us to keep an eye on the Baldovie incinerator. We will certainly do so.

17:21

**Robin Harper (Lothians) (Green):** I will concentrate on the positive aspects of the alternative to incinerators, which is intensive recycling.

Products that come from an incinerator include toxic ash, which must be landfilled, carbon dioxide and occasionally dioxins if the incinerator is not

worked properly. Incineration is also capital-intensive; it locks up capital for at least 25 years and does not create a tremendous number of jobs.

I will give figures from research done in London. One tonne of mixed municipal waste that is sent to an incinerator—some of it landfilled and some burned—will produce £27-worth of electricity. One tonne of mixed municipal waste that is recycled will produce up to £720-worth of reusable goods: that is waste that is recycled and remanufactured at the highest possible level. That is the possibility created by recycling municipal waste.

Intensive recycling creates more jobs and involves more people and communities. It is dispersed rather than concentrated, and is ideal for Scotland. It is no surprise to me that Aberdeenshire Council—in a rural area—wants to go down the intensive recycling route. It is a surprise to me that Aberdeen City Council, with a town plan, layout and construction that would lend itself to intensive recycling, has elected to propose to go down the incineration route for the majority of its municipal waste.

**Brian Adam (North-East Scotland) (SNP):** It is highly desirable that we have intensive recycling. What percentage is it realistic to recycle? What can we do with material that cannot be recycled, given the pressure on landfill?

**Robin Harper:** I will give Brian Adam an example. On Monday night, I listened with intense interest to a programme on BBC Radio 4. It was broadcast from the village of Wye in Kent, where 80 per cent of the municipal waste is recycled. The village is moving towards recycling 90 per cent of its municipal waste. Only a tiny fraction of municipal waste would go to landfill. It is clear that a certain amount of waste will continue to go to landfill. We are talking about reducing that to an irreducible minimum as soon as possible.

Ten years ago, the United States started on an intensive recycling programme roughly from the same appallingly low recycling base of 6 per cent that Scotland has. After going down that route, the country has now reached 30 per cent recycling, and the idea of incineration is now anathema in many US states and across Europe. Every incineration proposal in the US is being blocked.

Finally, why has the Executive still set its mind against setting mandatory targets for recycling? The measure was introduced in England, and the country is now way ahead of us as far as recycling is concerned. If we let them do it voluntarily, a higher imperative will always get in the way.

17:26

**John Scott (Ayr) (Con):** I broadly welcome Irene McGugan's motion and compliment her on

securing the debate. Waste incineration ought to be a good idea. At first sight, the ability to extract energy from a waste product and to reduce the mass of the remainder significantly is an attractive proposition. However, things are not always as they seem and, like Robin Harper, I feel that waste incineration flatters to deceive.

Despite new technology and state-of-the-art filters, too many dangerous chemicals and by-products are still being released into the atmosphere in the form of heavy metals, unburned toxic chemicals and pollutants such as dioxins. Different combustion processes produce different problems. One that has already been highlighted is the burning of waste materials in cement-making kilns, which results in polluted cement. As Sylvia Jackson has pointed out, there are question marks over the cement being used at the Scottish Parliament, and I also want to find out whether we will be living in a sick building. However, that is probably a question for the Holyrood progress group.

Like other members, I want to nail my colours firmly to the recycling mast and to promote the elimination of waste at source by improving product designs. Like Robin Harper, I have been struck by how far behind we are with recycling measures when compared with America, which I have recently visited, and I know that all parties in the chamber accept that this is the way forward. Given that we have been able to land men on the moon for the past 30 years, it should not be beyond us to recycle our reusable products such as paper, plastic, glass, textiles, metals and compost materials.

**Brian Adam:** Does the member agree that setting targets to increase recycling is fine, but unless those targets are enforceable and local authorities receive appropriate funding, we will not make the progress that everyone wants?

**John Scott:** Once we examine the idea of targets, it becomes clear that they are to everyone's benefit. Local authorities do not need specific funding for recycling because, as Robin Harper pointed out, the measures are self-financing and they can make money out of them.

It should not be beyond us to start eliminating waste by improving product and packaging design; indeed, it is vital that we eliminate waste at source.

I honestly feel that we no longer need to debate this matter or even to think it through. We need only to recognise that recycling has been tried and tested and found to be cost-effective in almost every developed country in the world except Britain. All we need to do is find the best model, discover the best practice and copy them.

As a first step, the Scottish Executive must brief and encourage our councils and councillors to



start serious recycling programmes. Indeed, the Scottish Executive must be proactive on the issue and MSPs should extol the virtues of the policy and help to move it forward. Unless and until we do so, our children and our children's children will accuse us of dithering and of social and environmental irresponsibility.

I support Irene McGugan's motion.

17:29

**Nora Radcliffe (Gordon) (LD):** I also thank Irene McGugan for securing this evening's debate, which raises an important and topical issue.

As the motion points out—and as Irene McGugan and Sylvia Jackson ably highlighted—there are concerns about the health and safety aspects of incineration. I want to examine another cause for concern, namely, the fact that the incineration of domestic waste is a viable option only when it deals with very large volumes of waste. Going down the route of incineration does absolutely nothing to encourage responsible attitudes to waste; it does not encourage people to minimise waste, reuse or recycle. Indeed, incineration could offer an incentive to do the reverse.

Scotland produces 3 million tonnes of domestic waste a year, 60 per cent of which is biodegradable. Yet, as the motion says, last year only 6.6 per cent of that waste was recycled. South of the border the situation was slightly better, but other European countries do significantly better and recycle between a quarter and half of their domestic waste. Our record on recycling is pathetic, and that is only the third tier—if I can put it that way—of the so-called waste hierarchy.

The motion mentions local concerns about the proposal for an incinerator at Altens. My colleague Nicol Stephen, who is the local MSP, and Kate Dean of Aberdeen City Council can confirm that those concerns are real and widespread.

**Nicol Stephen (Aberdeen South) (LD):** The issue is of huge concern to many of my constituents. As Irene McGugan has rightly said, many of them feel strongly that the council's decision to enter into a long-term contract that involves the building of a major waste incinerator—or energy-from-waste plant, as it is called—before the area waste plan was agreed was putting the cart before the horse. Does Nora Radcliffe agree that the key is to have area waste plans with ambitious recycling and composting targets in place in advance of those applications?

**Nora Radcliffe:** I agree whole-heartedly with Nicol Stephen. Fortunately, the proposal is still just a proposal and will have to go through the

planning process. I hope that the incinerator will never be built. The best way to forestall it and all the other proposed incinerators is to change radically our attitude to waste and to recognise the cost of waste, both direct and indirect, in monetary terms and in terms of pollution.

Some waste is unavoidable—Robin Harper's "irreducible minimum"—but the level of waste that is currently produced and projected levels of waste production are not inevitable. Government and local government can provide incentives to business and structures to help the individual to deal responsibly with waste, for example, by collecting separated waste or initiating composting schemes. Manufacturers and businesses also have a role to play, through the design and packaging of goods. However, the responsibility for tackling waste rests fundamentally with the individual. An ounce of awareness of our wastefulness in this throwaway society could save a tonne of domestic waste. Recycle, yes; reuse, even better; minimise—in other words, do not create waste in the first place—best of all.

17:33

**Mr John McAllion (Dundee East) (Lab):** I also congratulate Irene McGugan for securing this debate on an important issue for the future of our environment. The issue will become increasingly important to political debate in Scotland as time goes on.

However, I regret the specific reference in the motion to the waste energy plant at Baldovie in my constituency. I am not an enthusiastic supporter of that plant. I have serious reservations about the fact that it was built under a public-private partnership that contains contractual terms that have a presumption against recycling and which therefore make it difficult to head towards the kind of recycling future that was described by Robin Harper. However, when concerns exist about a specific plant in a specific location, it is important to investigate those concerns before making any kind of public statement about it.

That is why I and the MP for Dundee East, Iain Luke, recently visited the plant at Baldovie to speak to officials and directors of Dundee Energy Recycling Ltd, the company that runs it, about the emissions that Irene McGugan referred to. That is also why we organised a meeting with officials from the Scottish Environment Protection Agency to discuss the problems, and why we will meet Friends of the Earth to discuss the same problems and speak at a public meeting in the area and talk to local people about their concerns about the plant.

Finally, that is why we support the local monitoring committee, which was set up by DERL

with local representatives, and which is advised by Friends of the Earth to keep people informed of what is going on in the plant. That is the right approach to take. We should not rush to judgment or make any public statement that is likely unnecessarily to raise concerns among people in that community.

I am concerned that the motion uses phrases such as

“emit a cocktail of toxic chemicals”

and “health concerns”, and that it talks about

“the defect ridden Baldovie incinerator”.

From talking to SEPA officials, I am not led to believe that there is any emission of toxic chemicals from the plant or that there are any health concerns. In fact, the SEPA officials described the emissions as purely technical and said that they present no health threat to anybody in that area.

I am not trying to make a party-political point. The new waste-to-energy plant at Baldovie is a PPP and exists on the basis of long-term contracts with local authorities. It has a contract to incinerate Dundee City Council's waste over the next 20 or 25 years, but it also has a contract to incinerate the waste of Angus Council, which is as close as we have to a one-party SNP state in Scotland and which is quite happy to have its waste incinerated over the coming years by DERL. The situation must be investigated thoroughly before alarmist statements are made.

I agree with Robin Harper: the future is reusing and recycling. I want a zero-waste Scotland. In the meantime, however, we have masses of waste that must be dealt with either by landfill or by incineration, before we can put into place the structures, the mechanisms and the market that can lead towards the zero-waste future.

The discussion should take place in the context of the area plans. We should ensure that, within every area plan in Scotland, there is a strategy that can help us move from our current position to where we want to be. Robin Harper is right to say that, unless the Scottish Executive sets out mandatory targets, we will never reach that future.

17:39

**Mr Jamie McGrigor (Highlands and Islands) (Con):** I support both recycling and Irene McGugan's motion, but I would like to add one or two caveats.

The minister might be aware that it was recently proposed that the town of Lochgilphead in Argyll and Bute should have a new compostor. The original plan was that rubbish would come from Oban, which is 30 miles away, from Campbeltown,

which is 50 miles away, and possibly also from Dunoon. That would make Lochgilphead the dump town of the west. Obviously, there was a lot of ill-feeling about that, especially when it was shown that that idea was in opposition to Executive guidelines, which say that rubbish should be dealt with where it is created and that it should not be transported too far. That is a notion that was particularly resonant in that case, because a decision had recently been made to cease transportation of timber by lorry, which had done a lot of damage to roads in the area, and to start to transport timber by boat. The previous reform reduced the number of lorries, but the new proposal would increase the number of lorries coming to the site.

**Robin Harper:** Does the member agree that Campbeltown should build on the experience and success of the Campbeltown Waste Watchers project?

**Mr McGrigor:** I agree entirely.

Some of the problems of Lochgilphead have been solved by the fact that there will now also be a compostor in Oban. The only problem that the residents now perceive is that the compostor will be situated in a beautiful area on the coast and will be seen by residents and tourists. I ask the minister to reconsider the siting of Lingerton waste disposal site. In future, will the minister ensure that new compostors are not put bang in the middle of beauty spots outside conurbations?

17:39

**Maureen Macmillan (Highlands and Islands) (Lab):** I thank Irene McGugan for securing this important debate. Soon after I was elected to the Scottish Parliament, I met a man on a train from London to Edinburgh. He sold incinerators and passed the journey trying to convince me that incinerators were a good thing, that the emissions were minimal and that incinerators could be used to run district heating schemes. I was 90 per cent convinced by the time I got to Edinburgh.

However, I also have a friend who is secretary of the Lochaber Environmental Group. She is responsible for promoting the recycling of waste and the minimisation of waste such as newspapers and glass and, of course, she now has me 90 per cent convinced that recycling is the way forward.

I cannot quite bring myself to agree with either side. We have a problem with recycling in the Highlands: distance. It costs more environmentally and in money to take newspapers, glass and other waste to the central belt for recycling than it does to incinerate them on the spot.

It is important that we try to set up local

environmentally sound schemes. I know that environmental groups in the Highlands are starting to do that. For example, I know that newspapers, which were taken down to Falkirk—I think—for recycling in the central belt, can now be shredded locally and used for bedding for cattle. Some lateral thinking is all that we need to get schemes going. As with other places in the country, compost bins have been handed out by the hundred and are being taken up enthusiastically. The local authority is also composting its grass clippings. That compost can be sold.

Although I am now 90 per cent convinced that recycling is the answer, I do not know if it can ever deal with all our rubbish. Can it deal with plastic, for example?

The problem in Highland Council's area is that we have almost run out of space in our landfill site and it is proving difficult to find another. At planning inquiry after planning inquiry, people have objected to applications for landfill sites. We have not found one yet. People are beginning to worry that there will be an incinerator and about the sorts of emissions that might come from it. Proposals are in the air for where that incinerator might be sited. People need reassurance about those issues.

I like to think that we could recycle. I would like the Executive to put resources into recycling to take it as far as we possibly could. We also need to put effort into persuading households not to throw out so much. I heard a statistic recently that said that households throw out more food than the food processing industry throws out and supermarkets waste. That is because of our affluent lifestyle. We want everything to be fresh. Unless people are like me and keep mouldy things in their fridge for a long time, they throw away a lot of food, which would have horrified my parents, who went through the war and never wasted a thing.

We need self-education to start with, but we also need support for environmental schemes that will minimise waste.

17:43

**The Deputy Minister for Environment and Rural Development (Rhona Brankin):** I welcome the debate on waste incinerators. It raises several important points. I realise that, within waste management, waste incinerators tend to be the most controversial issue and to receive most media attention and public opposition. In my response to the debate, I will refer to energy from waste plants. I do not consider that the mass burning of waste without energy recovery has a place in future waste management.

The adoption of the national waste strategy in

December 1999 marked the start of a new era in waste management in Scotland. That new era involves making difficult decisions. As we have heard, 11 waste strategy area groups have been tasked with preparing area waste plans. Those plans are being developed to identify the best option for waste management in each area. They will take into account environmental, social and economic factors as well as practicality. There are no straightforward solutions. We have to perform a difficult balancing act before we can reach conclusions on how to take waste management forward.

The motion asks the Parliament to note

"with concern that at least five large new incinerators are being planned for siting around Scotland".

As far as the Executive is aware, those incinerators are still speculative plans from private sector companies, none of which has been submitted for permission yet. It is also apparent that those companies are changing and adapting their plans regularly. If and when planning applications are received for such proposals, the national waste strategy and constituent area waste plans need to be regarded as material considerations in any assessment by the planning authorities.

**Brian Adam:** In the light of what Rhona Brankin has just said—which I wholly endorse—does the Executive intend to call in all those applications if planning permission is granted?

**Rhona Brankin:** Applications for planning permission for waste incinerators are a matter for the local authority as the planning authority. I repeat that the waste strategy and area waste plans have to be material considerations for decision makers to take into account when making development control decisions or preparing development plans. Where a local authority is the developer or has an interest in the development, the Scottish ministers might become involved and might have to determine the planning application. However, that would depend on the circumstances of the case.

As I said, the plans that the motion refers to are at the moment speculative. The national waste strategy acknowledges that there may be a role for energy from waste in our waste management system. Where energy from waste is used, I want it to be part of an integrated waste management system. That means doing what we sensibly can higher up the waste hierarchy. We need to work to minimise the waste that we produce—reusing, recycling and composting. Only then would we use the waste that cannot be dealt with in those ways by extracting the energy from it. If an area waste plan clearly demonstrates that energy from waste is a necessary part of the system and is required

to meet the strategy's objectives, I will support that decision.

The 11 area waste plans are currently at various stages. Two are complete and out to final consultation. Several others have produced issues papers that aim to gather public opinion on potential options. I was pleased to see that the Forth valley and Argyll and Bute area waste plans have focused heavily on recycling and composting options to enable a shift away from landfill. The point of preparing local plans is to find appropriate local solutions that are widely accepted.

The motion refers to the possible health effects of the chemical emissions from waste incinerators. The Executive recognises the public's health concerns about energy-from-waste plants. However, we want to keep the issue in perspective. Unlike more diffuse pollution, such as that from traffic, bonfires or even firework displays, stringent procedures are in place to allow the Scottish Environment Protection Agency to monitor emissions from energy-from-waste facilities.

Any new plants would have to be licensed under the new pollution, prevention and control regime. Shona Robison and John McAllion mentioned the Baldovie incinerator. As my colleague Mr McAllion said, SEPA is monitoring that closely and will take action if it becomes necessary to do so. The council might have to prepare the waste more before incinerating it.

This morning in Glasgow, I gave the opening address at the National Society for Clean Air conference on sustainable waste management. I made it clear that mass-burn incineration should not be considered a replacement for landfill and that we do not want to move from one form of dependency to another.

Last month, I announced a statutory consultation on the renewables obligation (Scotland). In response to an initial consultation, the Executive decided against supporting the conventional incineration of municipal waste under the ROS. It is proposed that newer, cleaner technologies such as gasification and pyrolysis will be supported where they fit in as part of an integrated waste management system.

**Robin Harper:** Does the minister agree that those systems can be more diverse and would lend themselves to combined heat and power systems?

**Rhona Brankin:** Yes, indeed. That is why the newer, cleaner technologies can be supported under the ROS.

The motion refers to Scotland's low recycling rates in comparison to other European countries and asks the Executive to implement policies that

promote a resource-efficient, recycling society. It is important to assure members that the Executive is committed to implementing such policies through the national waste strategy. Through the strategy, we provide a framework for moving towards sustainable waste management. This is the first time that waste issues have been addressed on a Scotland-wide level. That involves finding the best practicable environmental option for waste.

A strategy would be of little use without financial backing. We have therefore established a new strategic waste fund and £50.4 million has been made available to local authorities over the next three years for the implementation of area waste plans. That money will be available only for the implementation of those projects that are in line with the relevant area waste plan and that therefore accord with the best practicable environmental option.

During the past financial year, £3 million was distributed among all local authorities to allow them to increase their recycling and composting efforts. That funding has been put to many good uses, to establish new schemes or expand existing ones. Interim reports have suggested that many authorities will be able to show significant improvements in their recycling rates as a result of that funding.

Targets were mentioned; I am able to say that we are actively considering the issue. Sylvia Jackson referred to an issue relating to cement-making kilns. As she said, I have been in discussion with her on the issue. She referred to work carried out south of the border. I am not familiar with it, so I invite her to write to me or meet me about it—I will be happy to discuss it. She also mentioned an advertising campaign. I could not agree with her more about that idea. In fact, the Scottish Executive is about to launch a major television advertising campaign on environmental issues. The second part of that campaign will address the whole area of waste. We have to look to the longer term and the need to change public attitudes.

Today's debate has been a welcome contribution to raising awareness of an issue that has the potential to cause great controversy. We have to manage waste somehow and the decisions that are being made now are important. No waste management option will be completely risk-free. The task of each area waste plan is to select the best way forward. The Scottish Executive is committed to changing how we deal with waste and we fully acknowledge that a radical shift in attitude and awareness is required if we are to achieve waste management solutions fit for the 21<sup>st</sup> century.

*Meeting closed at 17:52.*

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