



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Wednesday 3 November 2010

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RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

23rd Meeting 2010, Session 3

CONVENER

*Maureen Watt (North East Scotland) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

Aileen Campbell (South of Scotland) (SNP)

Karen Gillon (Clydesdale) (Lab)

*Liam McArthur (Orkney) (LD)

*Elaine Murray (Dumfries) (Lab)

*Peter Peacock (Highlands and Islands) (Lab)

*Bill Wilson (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Rhona Brankin (Midlothian) (Lab)

Jim Hume (South of Scotland) (LD)

Jamie McGrigor (Highlands and Islands) (Con)

Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Roseanna Cunningham (Minister for Environment)

Hugh Dignon (Scottish Government Rural and Environment Directorate)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Committee Room 2

Scottish Parliament

Rural Affairs and Environment Committee

Wednesday 3 November 2010

[The Convener *opened the meeting at 10:02*]

Decision on Taking Business in Private

The Convener (Maureen Watt): Good morning, everybody. I welcome you to the committee's 23rd meeting of the year. I remind everyone to turn off mobile phones and BlackBerrys, as they impact on the broadcasting system. We have apologies today from Karen Gillon and Aileen Campbell.

The first item is consideration of whether to take in private item 4, which is consideration of a draft letter on fisheries to the Cabinet Secretary for Rural Affairs and the Environment. Is that agreed?

Members *indicated agreement.*

Subordinate Legislation

Plant Health (Scotland) Amendment (No 2) Order 2010 (SSI 2010/342)

Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2010 (SSI 2010/343)

The Convener: Item 2 is subordinate legislation. We have two negative instruments to consider. The Subordinate Legislation Committee has made no comments on the instruments, and no motions to annul have been lodged.

I see that members have no questions. Does the committee agree to make no recommendations on the instruments?

Members *indicated agreement.*

Wildlife and Natural Environment (Scotland) Bill: Stage 1

10:03

The Convener: Item 3 is evidence on the Wildlife and Natural Environment (Scotland) Bill. I welcome the panel from which we will hear today: Roseanna Cunningham MSP, Minister for Environment; Kathryn Fergusson, bill manager, wildlife management team, natural resources division; Hugh Dignon, head of wildlife management team, natural resources division; and Andrew Crawley, solicitor, food and environment division. They are all from the Scottish Government.

I believe that the minister wishes to make a short opening statement.

The Minister for Environment (Roseanna Cunningham): I will say a few words about the bill as a whole, because there are so many different parts to it that it is easy to forget that it is a single piece of legislation.

The bill is about management of the countryside and contains three recurring themes that relate to how that management will work: modernisation, animal welfare and balance. I will say a little about each theme in turn.

The modernising aspects of the bill are clear. It aims to update what is sometimes archaic legislation on matters such as game birds; to modernise and make fit for purpose legislation on issues such as snaring and muirburn; and to reflect changes in organisational structures such as the merger of the Deer Commission for Scotland with Scottish Natural Heritage.

Animal welfare concerns also run through the bill. For example, we are making significant proposals on deer welfare, with provisions to bring about a competence system for deer shooters. The snaring provisions recognise that snaring remains a necessary tool for land managers but seek to ensure that it is carried out to the best standards of animal welfare. The muirburn provisions also have a welfare element in that they seek to protect ground-nesting birds that are starting to build nests earlier in the year, due to the effects of climate change.

The last of the three themes is balance. Members all know fine well that the Scottish countryside is so much more than the views and the scenery. It is a place where people live and work, often making a difficult living in remote places. It is also a place of recreation for many people, including walkers, bird watchers and hunters—forms of recreation that often represent economic activity as well. That wide range of

activities inevitably results in a similarly wide range of objectives and consequent demands on the legislation. We have tried to steer a careful course between those competing demands to strike a balance in the provisions of the bill. Sometimes, that balance is achieved within a particular topic, but often that is not possible and we have to try to strike a balance considering the bill as a whole.

There are clearly some issues, such as invasive non-native species, in relation to which the conservation lobby feels more satisfied than the land management organisations, and other issues, such as deer management, where the position is reversed.

I have followed with great interest the evidence that has been given to the committee and have been struck by the wealth of experience and knowledge of the witnesses as well as by the wide range of views on many of the subjects. One of the issues that was discussed at considerable length was wildlife crime. I was interested to hear the various views on that as it is a subject that the Government takes extremely seriously. We had not included anything new on wildlife crime in the bill as we took the view that the legislative framework was sufficient as it stood and that the focus, particularly as regards the poisoning of birds of prey, should be on working to improve the effectiveness of enforcement.

Since that decision, we have been through what is likely to be a very bad year for bird poisonings, which has featured some high-profile cases at well-known estates in the Highlands. I have also heard some of the powerful arguments that have been presented to the committee. I recognise that those circumstances are likely to produce amendments on the subject and so have decided that the right thing to do is to lodge a Government amendment, introducing a new vicarious liability offence. I have asked for that and I will be happy to say more about it when we come to the relevant part of the evidence session.

We will also have a small number of Government amendments in other areas. They are mostly of a technical nature or are designed to clarify or improve the provisions in the bill as originally introduced. Again, I will be happy to refer to those as we go through the bill.

Lastly, I would like to thank the wide range of stakeholders who have contributed so much to the development of the bill, from the consultation stages, through informal discussions with officials to the evidence-taking sessions in committee. Without that expert input, the bill would not represent the relevant and balanced approach to management of the countryside that I believe it does. Of course, I also thank committee members for the work that they have done so far.

The Convener: Thank you, minister.

Liam McArthur (Orkney) (LD): I welcome what the minister has said in relation to wildlife crime. I know that my colleagues will want to explore the detail of her proposal, but I should say that it is good that the minister has recognised an issue that has occupied quite a bit of our attention during this process.

Minister, you set out three key themes, but one of the observations that has been made about the bill is that there seems to be a lack of narrative behind it. There have also been concerns about the complex and somewhat fragmented nature of law in the area of wildlife and the environment.

Do you believe that there is a clear and coherent framework of wildlife and environmental law in Scotland? If so, how does the bill support that and move it on?

Roseanna Cunningham: I believe that there is, and an enormous amount of work has been done in the past couple of years in the area of wildlife crime. We must not forget that a huge amount of what goes on in this area is not necessarily about *prima facie* legislation. In the past year or two, the Crown Office and Procurator Fiscal Service has been doing extremely good and helpful work that will, I believe, result in improvements.

The bill is primarily about regulation and management. It is as well to remember that not every piece of legislation must take a high-flown approach. The bill is about the practicalities of what happens in the countryside and of various aspects of management in the countryside. I accept that it is one of those bills that apparently cover a wide range of subjects, but the only other approach would be to have separate legislation on each subject, which would not be practical. We need to find the right balance, by keeping a theme throughout the argument, but bring measures together in a single piece of legislation rather than treat them separately. It is important to remember that much of the work that takes place will not necessarily be printed on the face of any legislation.

Liam McArthur: You mentioned the expertise that the witnesses we have had before us have demonstrated. That was particularly true of Sheriff Drummond and Professor Reid. Sheriff Drummond had criticisms, which were echoed by Professor Reid, about the fragmented nature of the law. He said that the legislation is difficult to find and that it is difficult to see the direction in which it is going. The observation was made that there is a need for a general consolidation of the law. Has that been considered? Do you envisage that future Governments will have to wrestle with that?

Roseanna Cunningham: In the area of law that we are discussing, and in others, there is probably

a good argument for consolidation. However, consolidation bills are not easy at all—they are not easy to draft and there are huge implications for any civil service in dealing with them. I have a great deal of sympathy for the people, particularly the lawyers—as you might imagine given my background—who must deal with the fragmented nature of what are in effect criminal justice provisions. They are scattered throughout legislation. However, it is difficult to see how else we could manage that. I am not sure what the alternative is. Many pieces of legislation include sections that deal with criminal offences. The only alternative to putting them into different pieces of legislation is to decide that, every 10, 15 or 20 years, we will scoot around gathering in all the provisions and put them into consolidated legislation on criminal justice, or whatever the subject is. However, doing that is not as easy as saying that it needs to be done.

That is not to say that, in some areas, we do not need to consider consolidation fairly strongly. Wildlife crime is probably one area in which we are at the stage of perhaps considering a consolidated piece of legislation to bring all the provisions together for the criminal justice people. I repeat that that is not as easy as it sounds and would take a considerable amount of careful thought and effort. Consolidation bills, by their nature, are bills that are amendable, and people try to bring in all sorts of other measures. The issue is difficult. Wildlife crime is not the only area of legislation that I have come across, even in the two years in which I have been a minister, in which I can see that a consolidation bill might be the right way to go in theory but in practice might be harder to achieve than we imagine.

Liam McArthur: I will move on before we get back into the Crofting Reform (Scotland) Bill.

Roseanna Cunningham: I could not possibly comment.

10:15

Liam McArthur: To be fair to Sheriff Drummond, I do not think that he underestimated the complexity of achieving that. Indeed, your announcement on vicarious liability only serves to reinforce his observations.

On parliamentary accountability, the Subordinate Legislation Committee has expressed concern at the lack of a requirement for parliamentary approval of the code on sustainable deer management and the decision not to make regulations on competence in the code for invasive non-native species subject to affirmative procedure. Would you care to comment on what are, I suppose, criticisms from that committee?

Roseanna Cunningham: I understand exactly where the committee is coming from and have every sympathy with its view. However, in these circumstances, the code is not some kind of theoretical guidance; instead, it provides day-to-day practical guidance, which means that we need to be able to change it quickly if some aspect of it is simply not working. If we are to be able to update it quickly to keep it relevant to the reality on the ground, we need to ensure that the procedure that we choose does not get in the way.

That said, I am keeping an open mind and await with interest any views that the committee might have and its decision on the matter. I understand the driving force behind the other argument, but I am concerned about producing codes of conduct that are locked up in a system and cannot be changed as quickly as we might otherwise wish. In that regard, I ask the committee to keep in mind that these are meant to be practical management codes not codes of a bigger, more visionary nature. We have to strike the right balance and ensure that we have something that in practical terms can be changed as and when necessary.

Elaine Murray (Dumfries) (Lab): I appreciate that the bill is largely about practicalities but, as has been pointed out to the committee, the bill gives us the opportunity to do on land what we did in the Marine (Scotland) Bill—which we amended with a requirement for an ecologically coherent marine system—and have coherence among habitats, presumably with a programme of restoration and protection, with all the beneficial effects that such a move would have for climate change, prevention of disease and habitat loss. Moreover, it would mean that, instead of being in small pools of protected area, species would be able to expand further into the countryside. Have you considered that suggestion? I realise that it is more of a high-level strategic matter, but would you favour such an approach?

Roseanna Cunningham: As you might imagine, we have had conversations on that issue and have listened to and heard some of the views that have been expressed. As I said in my opening remarks, people need to remember that the bill is about management and regulation and has not been designed to be other than what it is. I take on board the comparison with the Marine (Scotland) Act 2010. Of course, I was not as intimately involved in that legislation as I have been in this bill, but my understanding is that the 2010 act does not create criminal offences in the way that this bill seeks to do.

In any case, we need to remember that, however strategic, theoretical and visionary a provision might be, it is still in legislation and so is capable of being interpreted by the courts and ending up the subject of considerable discussion,

the consequences of which might open up all sorts of areas that one might not have envisaged being opened up. I understand the drive to put such a statement in the bill, but I ask members to remember that doing so makes that very statement subject to argument, interpretation and application in ways, perhaps, that might not have been foreseen in the first place, particularly if the provision gives rise to a lot of liabilities and resource issues that have not been clearly thought through. Depending on the provision itself, we should be aware, conscious and careful of all of that.

Bill Wilson (West of Scotland) (SNP): You will probably not be able to answer my follow-up question now, minister. There is concern that our current reserves set-up might not be adequate to deal with the changing climate, given the rate of climate change and basic biogeography theory on species' extinction, immigration and emigration rates. It would be reassuring if you could tell us that there will be checks or that studies have confirmed that biogeography theory was considered in how our reserves are set up. I appreciate that you will not be able to answer that question now.

Roseanna Cunningham: I can certainly ask for a much more detailed response to the question, but my immediate response is that we are constantly having conversations on such matters. I have separately chaired the Scottish biodiversity committee. As you might imagine, those are precisely the kinds of discussions that take place constantly in it.

We are aware of the dynamic tension in the situation, particularly with respect to non-native species. Climate change will bring non-native species here, and in some cases there will be little that we can do about that. The climate will have changed and so there will be changed habitats. In those circumstances, there are big issues to do with the pressures on our native species. We constantly review such matters and try to be vigilant about them.

Equally, a big message that we have to get out to the general population is that, when we make designations, for example, we are not just trying to be horrible to local communities; rather, there is a bigger purpose, and there is a bigger picture behind those designations.

We face a number of challenges in this area, but I promise members that we are grappling with them. If members wish, I can ensure that lengthier background information is provided in writing on how the thinking works through the various aspects of government.

The Convener: Okay. We shall move on to the investigation of wildlife crime and enforcement.

Peter Peacock (Highlands and Islands) (Lab):

I want to cover a few matters before I come on to the issue of vicarious liability, in a wee while.

We have heard that, even with the existing statute and provisions, which can be quite powerful, there is often great difficulty in getting the police to give sufficient attention to investigating wildlife crimes that are brought to their attention. There is an inevitable conflict of priorities for them. What is your judgment on that? Are the police investigating wildlife crimes sufficiently? I am aware that constabularies' practices vary quite markedly. The worry has also been put to us that the pressures on the police will become even greater in the current economic and public expenditure climate. What is your view on that?

Roseanna Cunningham: That is a challenge. The number of police forces in Scotland means that there are better responses in some of them than there are in others. I should say on the record that a number of policemen, including at very senior levels, are extraordinarily committed to the investigation of such crimes, and I record my thanks and gratitude for their work in proselytising in their forces and professional bodies. However, I will not pretend that the situation is perfect, because it is not, although it has been helped by the changes made by the Crown Office and Procurator Fiscal Service. I suppose that, in those circumstances, the police will become more confident that they will not waste time doing investigations that will not result in the criminal cases that should ideally result. That may help.

Through the partnership for action against wildlife crime, I encourage, in so far as it is possible for me to do so, all police forces to take the matter seriously. A number of cases have started off as wildlife crime cases and have ended up exposing many other criminal offences. We know that some wildlife crime is driven by groups and individuals who are connected to other forms of crime, so it is important that the police understand that a crime is a crime, and that investigating one crime will frequently assist them with a wider range of crimes. I will not pretend, however, that there not challenges in some parts of Scotland.

Peter Peacock: That is helpful. I share your view that there has been a significant improvement in recent years, but there is frustration that a sufficient amount is not being done. I suspect that there will be greater pressure in times to come, which brings me to my next point.

The Scottish Society for the Prevention of Cruelty to Animals currently has powers in relation to the care and welfare of animals, but not in relation to wildlife crime. The SSPCA and others

have told us that its resource of about 60 people who go out to attend incidents can deal with those under criminal law only in relation to the welfare of animals. If they find a bird in a trap that is still alive, they can deal with it and deploy their powers, but if they find the same bird in the same trap and it is dead, they cannot.

Extending the powers in the way that we have done for welfare issues would contribute to wildlife crime detection in a regulated and controlled way.

Roseanna Cunningham: I am very open to that idea. It was not raised early enough to be considered as part of the bill process; it came up quite late on. I am not sure that we can progress such a change through this particular piece of legislation at this point; it would need considerable consultation and care, as there are all sorts of issues around it. However, I certainly think that we should consider it very carefully. It would be a significant step, which is why it must be taken very seriously, but I am not sure that it would be appropriate to address it at this stage. It could well be done in future, and could well have the result that you suggest. I am open to the idea, as is the Government.

Peter Peacock: Is the impediment to doing anything about it in this bill simply the need to give people the chance to observe it in a proper manner? Is it a procedural rather than a technical issue?

Roseanna Cunningham: It is a bigger issue of practice. If we were to embark on making such a change, we would need to be content that we understood all the consequences. We would need to be certain that there was widespread stakeholder support, and we would need to consult—as you might imagine—the police and Crown Office officials at the very least. There would need to be a process to bring the change on board.

We were talking earlier about bringing together provisions on wildlife crime. I am now simply ruminating on the matter, but it might be possible to make that change the headline part of our consolidation bill, which would give that bill more to do than simply consolidate things.

I would worry about making such a change in a five-line amendment at stage 2 or stage 3 of a piece of legislation on which we have consulted so heavily with no consultation on the change itself. It is a significant step rather than just a small thing.

The matter could be addressed in a separate criminal justice bill; the current bill is not the only form of legislation that could be used. There would be other potential avenues. If any Government was a little wary about a consolidation bill, there would still be opportunities for the change to be made.

Peter Peacock: In order to encourage anyone who might wish to lodge an amendment such as you have just described not to do so, would it be possible for the Government to give a commitment to actively progress the matter rather than leaving it hanging?

10:30

Roseanna Cunningham: I am perfectly happy to set about looking at that. I understand that there is perhaps a desire to have the debate in a slightly wider forum. As I said, I am open to that, because the proposal might be one of the fixes that we have going forward, particularly in the next three or four years.

Peter Peacock: That is helpful.

I move on to the state of the law itself. I want to come to vicarious liability in a moment, but before I do, Sheriff Drummond set out in close detail some of his thoughts about how the law on the crime of wildlife crime—that is not the right way to express it, but you get my drift—could be tightened up. At present, we depend on detecting the use of poisons to catch people for something that he argues should be a crime in its own right. He began to draw parallels between the structure of the law in relation to convictions that are sought for drug dealing and those who are behind it, and the application of that approach in the law on wildlife crime. Have you thought about the points that he has raised? Do you have any plans to take that approach?

Roseanna Cunningham: Sheriff Drummond works actively with us through the PAWS set-up, so we have discussions regularly, and they have shown that the proposal is not quite as straightforward or easy as might be imagined. We need to remember that.

We have looked at a variety of matters that were raised in evidence on the bill not just by Sheriff Drummond but by others, and our view is that taking some of them forward at this stage might create more problems than they would solve, particularly in the context of where we are with the bill. That is why we have decided to go down the road of vicarious liability. However, that does not rule out other changes in the future.

We have grappled hugely with the poisons issue. One difficulty is that, although there has been an assumption that the illegal poisons have been sitting in sheds or lock-ups for a long time, we now have a lot of evidence that they are being illegally traded from other countries. That is a slightly different thing to deal with, and we would not catch it if we went down the road of having poison amnesties or whatever.

We have looked at the other suggestions. Sheriff Drummond will undoubtedly keep up his pressure on us, but there are a lot of different voices in the area and we have to be careful that, if we go down certain roads, we do it with a lot of thought and consideration for the consequences. As I said, having looked at all the alternatives that have been canvassed with the committee, I took the view that the vicarious liability approach is a more robust way forward, and we have worked hard to get it to the stage that it is at now.

Peter Peacock: Can we move on to that, then? I very much welcome what you have said about it, and subject to seeing the detail I am sure that it will have my support and the support of my colleagues in the Parliament. However, I am equally conscious that Sheriff Drummond and others have expressed caution about the ability to make it stick, so to speak, because it is a complex area of law. It would be interesting to hear more of your thoughts about that complexity and the potential robustness of any provision that you are able to bring forward.

One thing that is absolutely certain is that the first case that comes to court—I hope that it will never come to that, but I assume that it might do so if we make the provision in law—will be robustly defended by some of the best and best-paid lawyers in the land, so we have to be pretty certain that the provision will work and be a strong instrument of policy. I am interested to hear your further thoughts on that.

Roseanna Cunningham: I am conscious of that, and it is why I flagged up some time ago that I wanted to see what the provision would look like and why we engaged the Crown Office proactively from the beginning in considering the matter. What we have drafted has precedent in legislation in Scotland in the Criminal Justice and Licensing (Scotland) Act 2010, so we are mirroring something that already exists. That helps with some of the issues that you are talking about.

We have what is effectively the first draft of an amendment. We are about 80 per cent of the way along the road with it, although we are considering a couple of issues in further detail. I am concerned that we do not allow loopholes to appear by including the draft provisions. As you know from a different piece of legislation, a canny lawyer can find loopholes in the most unlikely places, and fixing such loopholes can take a lot longer than it might have done to include them in the first place. We want to cover any such loopholes, and we do not want to have a loophole that allows people who are responsible to escape liability. We are working hard to ensure that that cannot happen. On the other hand, and to be fair, we must ensure that there is no scope for an employer to be liable

as a result of mischief. We need to be clear that there are two sides to the loophole question.

We are about 80 per cent of the way there, and so I am not in a position to circulate the draft amendment at the moment. The issue is active, and discussions are constantly taking place. As you might imagine, the lawyers are involved, and I have involved the Crown Office right from the start of the process to ensure that we arrive at something that is as robust as possible.

Peter Peacock: Given your comments about the change that would be effected if you allowed SSPCA inspectors to have a wider role, and given how fundamental that is, do you anticipate having to consult on that, or do you think that the evidence that has been drawn out in evidence to the committee is sufficient?

Roseanna Cunningham: A lot has been drawn out through evidence to the committee. We still need to get stakeholder input on some issues, particularly on the matter of due diligence. We know that we must continue to speak to stakeholders. Because I began the work in this area some time ago, we feel that we are quite a long way forward with it. The issue has been floating around for some considerable time. It is not that we have pulled something out of a hat; we were already looking into the matter.

I have spoken about the two sides of the loophole question, and we need to be able to sort that out. We have been speaking with stakeholders over recent months, and we know that people are aware that vicarious liability provisions might be introduced. It is important to continue to keep people on board in the discussion about the bill. However, we do not think that it is necessary to hold formal consultation on the matter.

Peter Peacock: I wish you well with tightening up the provision that is being drafted. I still have some concern about putting all our eggs in the one policy basket, because the first case that tests it might be struck down—it is entirely possible that such a case might not stand up, even with the best will in the world and even if the Parliament was fully behind the legislation. In that case, we would have no provision of the character that we have been discussing to support the policy of driving down and eliminating the poisonings that people have been concerned about.

Another concept has been raised in that regard: that of licensing estates for the activities that are pursued on them. The argument is that, if a licence were granted for grouse shooting on a moor, for instance, the licence could be removed in the event that it was proved that things had gone wrong on that grouse moor. That is a big issue in the context of the debate, but there seems

to be some merit in having provisions—even in reserve—to cover the eventuality that your primary point, minister, ultimately does not stand up. Ministers could move on to further provisions. Have you given thought to that idea?

Roseanna Cunningham: Yes, and obviously we have had discussions about it. I am a little puzzled about the idea that we put in legislation something to have in reserve. In effect, we would be putting into legislation a provision that gave ministers the power to do something thereafter, which, from my understanding of the past year or two, is something that people have not wanted to do. Peter Peacock might want to have that discussion with his colleagues—

Peter Peacock: I have never been of the view that we should allow policies to get in the way of sensible decisions.

Roseanna Cunningham: That is interesting, and we could have a conversation about the idea, but I am making the general point.

I will move on to the specifics—the homing in on vicarious liability, from your perspective, to the exclusion of other possibilities, such as licensing. We are doing what I think is proper at the outset: we are targeting the limited number of people who are involved in wildlife crime. The licensing process that you are talking about would affect everybody. There is a discussion to be had about using a sledgehammer to crack a nut. We would be introducing a process that would draw every single person in the industry into the net to deal with the small number of recalcitrant individuals who continue to carry out dreadful acts. I am wary of that. It would be a major step to take, and we should not take it unless the measures in the bill fail—which brings us back to the idea of ministerial powers.

The proposal would also be a complete change from an unconditional right to take or kill game—which is what we have at the moment—to something that is conditional on a Government licence. That would totally change the balance, and if we were going to do that, we would need to think carefully about what that said about our freedoms. Enjoyment of property claims could follow, so I am not sure that going down that route would take away from some of the big rows that there might be in court cases. There could still be challenges, although we might be able to find ways around them.

Peter Peacock: I hear what you are saying and your argument that you do not want a massive bureaucracy. I readily understand that and I do not want to argue for that bureaucracy—I want to argue for a provision that allows us to keep bearing down on the dreadful crime that continues to occur. I am not suggesting that everything can

be sorted in the next three months, but it might be worth having something—I am not entirely sure what yet—that could be triggered come the day that it was needed without our having to go back to primary legislation. I might come back to that point at a later stage.

I am conscious, too, that the Scottish Rural Property and Business Association and others are working on, and have written to us about, a code. I have discussed it with the SRPBA, and it is an excellent idea. It will go a long way to developing practices that are more appropriate, but the problem is that, in the end, it is voluntary. Given that the SRPBA will encourage every estate to go for the quality assurance system—if that is the right way of describing it—we are not far away from a licensing system, and I wonder—

Roseanna Cunningham: It will be voluntary.

Peter Peacock: Indeed, I accept that, but I wonder whether, at some point, you might use the same criteria to authorise licensing. I urge you not to close the door on that idea.

Roseanna Cunningham: This is a reasonable debate to have, but given that the SRPBA and the Scottish Estates Business Group are pursuing the initiative, I would want to give it an opportunity to work in practice before we moved to the system that you are talking about.

In fairness, I acknowledge that the vast majority of estates are well and properly managed, and they are not likely to fear anything from any offence that we are talking about. However, the licensing process would affect every one of them. Somewhere along the line, there would be a cost, which would have to be recovered in some way, shape or form. The cost would either be devolved to the businesses or be subsumed into the licensing authority's costs, which I doubt would happen in the current climate.

I could make many other arguments on the issue, which is why the committee needs to have a proper separate conversation about it. If Mr Peacock wants to lodge an amendment that reserves the right for ministers to come back with brand new things, we can have a productive discussion about that.

10:45

Peter Peacock: I will think about that.

I have one final point. Bird poisoning horrifies people. It is remarkable that any incident in which, for example, a dead eagle is found ends up on the front pages of just about every newspaper. The issue resonates with people in a remarkable way. Would there be merit in requiring ministers to report regularly to Parliament on that, so that

Parliament was afforded the opportunity to debate the issues regularly?

Roseanna Cunningham: I am happy to do that, and I see no reason not to do it, as long as the reporting is not so formalised that it becomes an exercise in cost and resources. If the member is making a plea for an early debate on wildlife crime separate from the debates on the bill, I am happy to consider that, too.

Peter Peacock: I was thinking of a device in the bill that would mean that ministers would have to report regularly.

Roseanna Cunningham: We will consider that. We need to be careful that we do not end up with too clunky a system, but I do not have a problem with the idea. The information is available and a lot of it is put before Parliament in any case.

The member is correct that people are horrified by such incidents. Often, what is not taken on board is the untold damage that is done to Scotland's reputation and, potentially, to the benefits that we are increasingly getting from wildlife tourism. People need to think about that. The destruction of such beautiful birds is intrinsically appalling, but there is an indirect cost that people often forget about. We need to remember that, too.

John Scott (Ayr) (Con): I declare an interest as a farmer and a landowner.

I share the abhorrence that others have expressed of poisoning and wildlife crime. I regret the fact that the minister feels driven to lodge an amendment on vicarious liability, although, from listening to her discussions with Peter Peacock, I understand why she feels that way. I regret that she has not chosen to explore the route that Sheriff Drummond offered to her and the committee, which would involve taking a similar approach to that taken to drugs and to people who are caught in possession. The position that the minister has arrived at on vicarious liability is not that the existing law is insufficient, but that it is not being properly enforced, because of the police's lack of ability to establish crimes.

The minister spoke—meaningfully, I thought—about the Crown Office and Procurator Fiscal Service. I was not quite sure what she was implying when she said that it was spoken to about taking a different attitude to interpreting the law. The existing law is not necessarily being implemented adequately, but the minister intends to introduce another piece of legislation, on vicarious liability. The question about that is the same as the question about the current law—it is mainly about the burden of proof and how it is established that a crime has been committed. How will that be established?

Roseanna Cunningham: It is not a question of the Crown Office and Procurator Fiscal Service having been “spoken to”. During the past year, the COPFS has put in place a much more rigorous approach to wildlife crime and has designated individuals in the service who are specialists in the matter. We hope that that approach will help to move us forward. It will take a little while to feed through, but it represents more than just a conversation. The COPFS has been proactive.

John Scott: You said that the Crown Office is being “more rigorous”. Is it fair to say that the Crown Office was not hitherto being rigorous in its approach to wildlife crime? If the existing legislation had been rigorously and properly implemented in the past, would not most people regard it as adequate and would not there be no need to introduce vicarious liability?

Roseanna Cunningham: I am not sure that that is the case. There are a number of problems in respect of pursuing wildlife crime cases, which are not unknown in the pursuit of other criminal cases. We have to be able to establish a proper evidential chain. We talked about possession. The difficulty is how we prove in whose possession are poisons that are found in a lock-up.

In a sense, vicarious liability is a mechanism by which we make that more straightforward. It is not lessening the burden of proof—we are still looking for the same standard of proof—but it points the arrow a little more clearly at the people who ultimately benefit from the crime, as opposed to people who are caught between a rock and a hard place, by virtue of their employment or another reason. We are widening the net a little, in the hope that doing so will enable us to take a better and more targeted approach to pursuing cases.

For the reasons that you outlined, I did not want a much wider response at this point. We know that we have effected some change. There are still issues in relation to the police, so we are still trying to do the institutional things that require to be done if we are to ensure that we can pursue wildlife crime cases. In reality, we are taking a small step. Wildlife crime would not be the only area of criminal law in which vicarious liability applied. The concept is understood. However, I want to give the approach time to bed in before we consider going any further, for the reasons that you gave.

We could not have done nothing. When I came into this job, my predecessor had done an enormous amount of good work to bring together stakeholders who would not normally want to sit around the table and discuss things. We had got the discussion going. However, I made it very clear during the past year that I was looking for a significant improvement in the wildlife crime figures, and that if such improvement was not evident it was inevitable that there would be a

debate about vicarious liability during the passage of the bill. There came a point at which I felt that if such a debate was inevitable, it would be better to have it with proper input and drafting support and to have a properly targeted approach, rather than have the kind of debate that we would have had if we had simply left the matter to a third-party amendment—

John Scott: I agree.

Roseanna Cunningham: Frankly, I was in a position in which doing nothing was not an option. The question, then, was how to approach the matter. Some people will feel that I could have gone a lot further, while some will not be happy that I have gone even this far, and that simply indicates the kind of compromise that we are having to make in this area. I hope that most people understand that.

John Scott: I absolutely understand why you felt that you had to do something, but I think that we all agree that it is a matter of regret that the existing law has not been adequately implemented. That failure is down to lack of proof, but the amendment that you say you intend to lodge will introduce another legal element that, with the lack of resources, might also fail because of the same issue.

Roseanna Cunningham: The thing is, Mr Scott, that one could say the same thing about any crime or any law that we introduce. Either the prosecution proves the case or it does not. That is the test. It is not a case of whether a particular individual did or did not do something; it is a case of whether the prosecution can prove it, and the same applies to statutory and common-law offences. The sentiments that you have expressed could be used to argue against any new criminal offence, and I am not sure that this conversation takes us any further forward, except in allowing me to point out that the bill gives the Crown the option of looking at another offence, which might help in a number of cases. I do not want to sit here and give the impression that I think that the measure is a fix for every incident. Oh that we had been so lucky to find such a golden bullet, but we were not.

John Scott: I just want to put on record that I hope that the voluntary licensing proposals that the SRPBA and others have come up with work.

Roseanna Cunningham: So do I.

John Scott: Undoubtedly, we all share the view that these crimes are abhorrent and that it is a great disaster that they continue to be committed. However, we need to keep a sense of proportion about them.

Roseanna Cunningham: I am so enthusiastic about the estates initiative that I am helping to

launch it. I want to reassure you that I am doing my best to encourage the voluntary activity that is going on. It is greatly to be commended.

Bill Wilson: It has been put to us that if a hillwalker stravaiging across the mountainside found evidence of poisoning, it could qualify as evidence in court. However, that might not be the case if he informed another organisation that sent someone out to try to collect the evidence. Have you considered that issue?

Roseanna Cunningham: I have not looked at that specific issue. I have to say, though, that the argument is a little similar to that used by Mr Scott in that it could be used about almost any criminal offence. The question of admissibility of evidence is a fundamental part of Scots law: in any criminal offence, every piece of evidence is tested for admissibility and might or might not be admissible in court. I understand that the argument emanates from the Royal Society for the Protection of Birds. We have discussed this issue in relation to the SSPCA, but the fact is that extending powers to the RSPB would be a huge step that would require the most careful consideration and thought and is certainly not a matter that should be encompassed in the bill.

Bill Wilson: I suspected that you would say as much, minister, but I wonder whether, if you decided to consult more widely on issues in relation to the SSPCA, you would also consider looking at this issue.

Roseanna Cunningham: At the moment, I am not inclined to do so. The SSPCA already plays such a role and is trained and involved in evidence gathering, albeit in a narrower way than one might consider appropriate. To extend that to another organisation that does not come from that background potentially would be an even bigger step than simply expanding the powers of the SSPCA, and it would need far more fundamental consideration than we can provide in the context of the bill. That would involve a fundamental conversation about the nature of criminal justice and how it is provided in Scotland, as it could be argued that it would have implications not just for the handling of wildlife crime, but for many other different areas.

11:00

Bill Wilson: To be honest, if a decision were made to extend the relevant power to the SSPCA, it would probably quieten a lot of the concern. I am sure that you are aware that when evidence is found in remote areas, with the best will in the world, the police cannot get there to pick it up within a reasonable timescale.

Roseanna Cunningham: Absolutely. With the best will in the world, that applies to any police

activity in any criminal investigation. We are always dealing with such issues. If we had such a conversation, it would involve consideration of criminal justice, the philosophy around it and how we make the criminal justice system in Scotland work. If we are to make decisions about such matters, it is extremely important that we do so only after the most careful consideration. I would want to give as much thought as I could to the issue before we considered that suggestion.

Expanding the powers of the SSPCA is a more obvious and logical next step than extending powers to the RSPB. I do not know how that organisation thinks that it would manage the process, because if, by definition, any member of the RSPB were involved, the implications would be huge.

Bill Wilson: I am not entirely sure that the RSPB was suggesting that it should be able to gather evidence. I think that it was highlighting the anomaly whereby if someone found evidence by accident out on a hillside rather than in a back garden or someone's immediate dwelling place, it could serve as evidence, but if an individual was told that that evidence was there and they went to find it and photograph it or whatever, it might not be admissible as evidence.

Roseanna Cunningham: It might not. In such circumstances, a court might decide that the chain was not robust enough. The issue is to do with admissibility of evidence, and that is a criminal justice matter, which should be considered in the context of a criminal justice conversation rather than a conversation about the bill. You raise bigger issues. Those concerns would apply to any piece of evidence in any case.

The Convener: Bill Wilson might progress his point by going on to talk about single witness evidence.

Roseanna Cunningham: I just make the small point that Sheriff Drummond's evidence has been widely cited in respect of other aspects of this morning's discussions. He, too, flagged up what he considered to be the serious implications of the proposal.

Bill Wilson: I will take up the convener's invitation to move on to single witness evidence.

We have had evidence from Sheriff Drummond to suggest that single witness evidence is never used, so its use should not be permissible. There is also the question why single witness evidence cannot be used in cases of wildlife crime, given that it can be used in cases of poaching or egg crimes. There seems to be an anomaly whereby single witness evidence can be used for some crimes, on the basis that those crimes are carried out in remote areas, but not for other crimes, to

which the same logic applies. Would you care to respond to that?

Roseanna Cunningham: That is an interesting case in point: the minute some change is introduced, logic leads to a desire to expand the parameters of the process that has been started. I believe that that is called mission creep. If we were to allow single witness evidence in cases of wildlife crime, it could equally well be asked why we should not allow it to be used in dealing with other crimes as well. Again, that takes us back to a bigger issue about the criminal justice process.

I have noted with interest the various debates and the variety, shall we say, of stakeholder input, which has ranged from those who think that we may as well do away with the provision to allow single witness evidence altogether, as it is used on only a few occasions, to those who think that the provision should be extended. There was no overwhelming weight on either side of the debate, and no compelling argument was presented in respect of either of the choices. In those circumstances, I am content simply to stick with the status quo.

Liam McArthur: You mentioned the problems that arose for the police in relation to gathering evidence. Those are well understood, and we know that the problem arises from the fact that wildlife crime tends to take place in areas that are difficult to get at. Amid the welter of priorities that we place on the police, you are right to point out that some forces have a more impressive record of performance than others, with Grampian Police and Lothian and Borders Police apparently performing best in that regard.

Could it be argued that, if wildlife crime were a recordable crime, the attitude of Grampian Police and Lothian and Borders Police would be more likely to be reflected in the attitude of the other forces? Do you agree that, with regard to the suggestion that we move to having a single police force, the best way of ensuring that we get a levelling up instead of a levelling down in relation to the priority that is attached to wildlife crime would be to ensure that wildlife crime is a recordable crime, against which police performance can be measured?

Roseanna Cunningham: We have been having that conversation through the PAWS network for quite a while. The Association of Chief Police Officers in Scotland has told us that wildlife crime is now recorded. I cannot tell you off the top of my head when that started, but I can find out and get back to you. I agree that, as a result, we should start to see a better response in future.

However, I know that there has been considerable discussion around what would be defined as wildlife crime, as a variety of offences

could be argued to be included in the definition of wildlife crime. We must remember that there still remains a difficulty around that issue of interpretation and what crimes will be recorded under that category.

Liam McArthur: It is better to be in a situation in which we are discussing what particular crimes are to be recorded under the heading of wildlife crime than to be in a situation in which wildlife crime is not at all a priority.

Roseanna Cunningham: Yes, but you need to remember that it is precisely those variations in interpretation that will lead to the statistics being a little soft. You would not necessarily know that you were comparing like with like if various forces took a slightly differing view of what should be recorded under the heading of wildlife crime. Of course, with regard to the bigger debate in respect of the future of policing in Scotland, that might become less of an issue.

Elaine Murray: On species licensing, one of the excuses for the fact that certain wildlife crimes are committed that has been given to us by the Scottish Gamekeepers Association—it has been given to me privately, as well—is that it is difficult to obtain licences to control predatory birds such as buzzards and ravens, and that there are too many of those birds in some locations. We have heard that the process of obtaining a licence might be easier if pheasants in a release pen were considered to be livestock rather than game birds.

What is your view of the argument that there are too many predatory birds? Do you agree with those who say that, if people release large numbers of prey into an area, large numbers of predators are bound to congregate in that area? Do you think that there is a case for making it easier to obtain licences to remove buzzards and ravens?

Roseanna Cunningham: As everybody knows, that issue has been given serious consideration during the past year or so. Ultimately, I took the view that the balance of public interest was not at present in favour of issuing licences for the control of birds of prey to protect non-native reared game birds.

It would be interesting to hear the committee's views on the issue, because there is considerable debate among certain stakeholders. Raven licences are issued at present, so in some respects that control is already happening. The concern tends mostly to be about one specific species, which is the buzzard.

As far as I know, there is no sense that the buzzard population could currently be regarded as being out of control, but these things always involve a balance. At some point in the future our skies may be so thronged with raptors of one type

or another that we have to consider such an approach, but we are not there yet, and I suspect that we are a long way from it.

At present I do not feel that such a measure is necessary, but we are working with estates to ensure that they carry out practices to minimise the likely predation by raptors—buzzards, really. That is the point of places such as Langholm.

I currently have no intention of taking such an approach; Parliament may take a different view, but we are yet to have that debate.

Elaine Murray: The proposals to delegate species licensing provisions to SNH and local authorities have not been met with delight from some local authorities, which, it seems, do not want to take on that responsibility. Can you comment on the concerns that local authorities have raised?

Roseanna Cunningham: Do you want me to talk about local authorities rather than SNH?

Elaine Murray: The same concerns do not seem to apply to SNH.

Roseanna Cunningham: Yes. The proposals aim to introduce some flexibility to the system. Local authorities must currently consider the same factors as the licensing teams in the Government, so they are already looking at the matter. No specific concerns have been flagged up to me, although no doubt I will be passed a post-it note from my officials if that is not true.

The provision falls into the category of the things that Peter Peacock was talking about: we are legislating for it, but we have no immediate plans to do it. We could not delegate those powers without proper discussion with local authorities, so we will not wake up on the day that the bill receives royal assent or is implemented to find that local authorities suddenly have that responsibility. We have yet to discuss issues of capacity, but our view is that local authorities already have to consider a number of those matters.

The provisions relate to specifics rather than constituting the same powers that SNH would have; they do not mirror the SNH powers in totality. We are not saying that everything that SNH does in that regard could also be done by local authorities.

Elaine Murray: Is there any concern around the fact that local authorities might issue licences to themselves in some cases? They may need licences to control gulls, for example.

Roseanna Cunningham: We would need to have a serious conversation about that issue. Local authorities do that in a number of areas anyway, as they have to provide their own

planning consents and other such things. They have the mechanisms to deal with such situations, so it is not our foremost concern.

11:15

John Scott: The minister said that she would welcome the committee's views on buzzards. I am concerned about buzzard numbers, which, as we will all agree, are certainly on the increase. I am far from certain about what the right level should be but in my own area, which is quite attractive to wildlife, I am concerned about the loss of skylarks, meadow pipits, chaffinches and blackbirds. That is not happening as a result of predation by cats, because where I live is fairly remote; on a good summer's day, I can see out of my kitchen window five or six pairs of buzzards circling in the valley. They do not live on fresh air. I have to say that, in this regard, I am concerned less about partridge or pheasant rearing than about the bigger wildlife issue. Is there any known work, or are you thinking of instigating any work, on what a sustainable number of buzzards might be?

Roseanna Cunningham: First of all, SNH operates its own arrangements to protect wild birds and constantly considers the issue in deciding whether or not to grant licences.

I also caution against the assumption that buzzards are the problem.

John Scott: I quite agree.

Roseanna Cunningham: For example, I am currently dealing—or should I say not dealing—with a sparrowhawk, which is capable of leaving bloody remains all over my garden. This is not a species-specific concern.

The issue is quite difficult, because, after all, nature preys on nature. We cannot somehow take that out of the equation.

John Scott: It is about balance.

Roseanna Cunningham: Indeed, and the judgment then is whether the balance is still right. As I have said, it might not be in future, but I do not think that we have reached that point yet. I am well aware that, for some people, no raptor is a good raptor, but that is how we ended up with some of these animals being hunted to extinction in Scotland. If we accept that that was not the right course of action, we also have to accept that these animals will do what nature has designed them to do. It is simply a question of ensuring that nothing is out of kilter. Do small birds get eaten by big birds? Yes, and I cannot see what we can do about that.

The Convener: In any case, the issue is not under consideration.

I suggest that we discuss the provisions on deer and then have a break.

John Scott: Notwithstanding European convention on human rights issues that mean that the Deer Commission's proposed duty on sustainable deer management might not be workable, do you accept that there is an issue with this part of the bill, minister? What is your response to concerns that have been expressed by former members of the Deer Commission that the bill does not go far enough in delivering sustainable deer management? Surely if a landowner does not comply with the code of practice the whole situation will become extremely difficult.

Roseanna Cunningham: This is another area in which we are trying to balance rights and responsibilities. Although the original consultation proposed, among other things, the creation of a statutory duty on landowners and a new power to be employed where voluntary deer management fails, we ran into all sorts of legal difficulties with those provisions. As you know, the bill now provides for a code of practice for deer managers that, as I pointed out earlier, gives very practical guidance; introduces a duty on SNH to take into account compliance in considering enforcement matters; and refines SNH's intervention powers to make them more effective and timely, and applicable in a wider range of circumstances.

I know that there is considerable debate about what is seen as the continued voluntary nature of that approach, but we want to achieve an outcome, and if we can do that, it almost does not matter how it is done. We have to take an outcomes-based approach. Deer management is one of the areas in which I continue to want to achieve outcomes in as voluntary a manner as possible, working with rather than against those who run deer on their land in the hope that we are not required at a future point to become more draconian.

Basically, that is where we are. There are some considerable legal difficulties, and we hope that what is in the bill will act as a backstop. If it does not work out, we will obviously have to look at other approaches.

John Scott: I welcome the considered approach that you are taking to the matter and your belief that the voluntary route is the best way of pursuing it. I only regret, perhaps, that you are not extending that to other areas where you see a problem, but I am happy with your answer. Thank you.

Peter Peacock: Will you say a little about the legal difficulties that you ran into, minister? I take it that you are referring to the ECHR.

Roseanna Cunningham: Some of the difficulties were around the ECHR, because it completely changes the balance in relation to a person's enjoyment of their land and their right to do things. Also, the drafting of the original proposal was not precise enough for the lawyers. That takes us back to some of the other discussions that we have had. If we put things in that are too vague, we potentially open ourselves up to all sorts of unintended consequences. There was concern about the way in which things were drafted. I think I am right to say that you had an evidence session with our legal officials in respect of some of the provisions and the detail. When we put something in legislation, we have to be absolutely sure that it will not cause even more trouble than we have at the moment. That is why we took the time that we took over vicarious liability.

The other reason why there were some legal difficulties is that the bill contains a number of criminal offences. If we put in vague and imprecise wording that might have an impact on potential criminal offences, we run a big risk. On consideration, it was decided that what we had consulted on was not going to be as fit for purpose as we had hoped.

Peter Peacock: I accept that the legal advice that you had is that the proposal would impede people's personal enjoyment of their private assets, but it is when that personal enjoyment of private assets strays into conflict with what is in the public interest that the question arises.

We did not take evidence from Jamie Williamson formally, but we paid a visit to the Alvie estate, where he explained his position to us very strongly. He demonstrated his clear commitment to his deer management group and the effort that he puts into that, but equally he made it clear that some people just do not participate. Come the moment when that non-participation impinges on the public interest through, for example, the keeping of deer at a level that does not allow natural regeneration given the particular way in which someone manages their estate, putting up fencing or whatever, how do we protect the public interest if the matter still depends on a voluntary approach?

Roseanna Cunningham: That is a relevant question—up to a point, m'lud. People cannot be forced to work collaboratively in any part of our system if they do not want to. The same applies to mediation systems or to any other system to which we desire folk to respond in a positive way—it does not always happen. That is why I said that we are concerned about outcomes. For example, if an estate is doing the job that it is supposed to do and is delivering outcomes, but is not really interested in working with its neighbours, we would

not want to penalise it because it was not delivering the outcomes in what was thought to be the right way. The issue is getting the right outcomes.

We want to see the principle of collaborative working being used. We want people to come together where possible, although we recognise that that might not happen in some places. We will still consider whether what is being done in those places is effective. If neighbours are unable to reach an agreement or somebody is not doing something, SNH can intervene and use its powers. We are doing a lot of things to sharpen up SNH's ability to do that, but we have to be careful not to propose something that is not enforceable. Trying to make people work together in a mandated way would be almost unenforceable, because it would simply not work. There would then be a risk of having criminal offences for something that is not going to be manageable at all.

The issue is the achievement of effective outcomes, and our argument and proposal is that that is best done in a collaborative manner. However, there may be odd circumstances in which estates prefer to work individually, for who knows what reasons. As long as they do the right thing and achieve the right outcomes, we cannot really penalise them for that.

Peter Peacock: I understand the reasoning.

I have a point that is slightly tangential to that. Will participation in deer management groups be part of the code that the SRPBA is developing to encourage people to get accreditation? Perhaps you cannot answer that question.

Roseanna Cunningham: I understand the question, but I do not know the answer to it offhand or whether that is part of the estates initiative. However, I would be surprised if there was not something about that. We can find out for you. Like you, I have had conversations on the matter, but I do not have with me the detailed documentation on it. We will talk to the SRPBA about it.

Elaine Murray: The bill requires people who shoot deer to be able to demonstrate a certain level of competence. Under the Marine (Scotland) Act 2010, a degree of competence is required of people who shoot seals. However, the same requirement is not extended in relation to animals such as foxes, which are also shot using high-calibre rifles. Why has that provision been introduced for deer, but not for other species?

Roseanna Cunningham: Of course, that is voluntary now as well. Part of the answer is to do with the public interest. We are balancing many different interests, and we deem that there is greater public interest in deer welfare. I suppose that that does not rule out trying to make the

argument for other animals to be covered at some point in the future, but the issue has not come up in the same way for other animals.

Elaine Murray: From an animal welfare point of view, some animals are popular and others are not, but that is not necessarily an argument for why certain standards are required.

11:30

Roseanna Cunningham: I personally would hope that anybody who picked up a gun to use it for such a purpose was competent. I find it interesting that it is possible to get firearms licences without necessarily demonstrating competence in the actual practice of shooting. That is where we are, however, and it is not a matter for us. There is perhaps a wider argument to be had on that, but I do not know that we can really do much about it at this stage. As regards deer, we try to ensure, as far as possible, that people understand that they need to be good at their job.

There is also a big issue around deer carcasses, preparation and so on, which does not apply in relation to small animals—the discussion is wider than the discussion that you might have about small animals.

The Convener: The proposal from the Government and the Deer Commission for Scotland on closed seasons for deer was deemed to be controversial, and you have not developed it in the bill. However, the bill team indicated to us that the Government had not really closed the door completely on the issue. Might the Government return to it?

Roseanna Cunningham: Bearing in mind the stage that we are at in the parliamentary session, it is unlikely that we will return to the issue before May next year. It is of course open to any Government to return to an issue at any point, if it is considered that there is a continuing concern.

The Convener: But you have definitely ruled out developing that proposal under the Wildlife and Natural Environment (Scotland) Bill.

Roseanna Cunningham: Yes.

The Convener: Following a comfort break, we will go on to discuss snaring.

11:31

Meeting suspended.

11:39

On resuming—

The Convener: Elaine Murray has some questions on snaring.

Elaine Murray: I will kick off by asking about the decision not to ban snaring outright.

A number of animal welfare organisations, such as the SSPCA and OneKind, as Advocates for Animals is now known, believe that snaring cannot be justified, because of the levels of fear, cold, hunger and muscular exertion that can be experienced by an animal that is trapped in a snare for 24 hours. They believe that the technique should be banned altogether on animal welfare grounds. I know that you have taken the decision that snaring is justified in some cases, but how do you answer their arguments? For example, RSPB Scotland does not use snares on any of its land and is also trying to increase the numbers of capercaillie on its land, so it might argue that snares are not necessary to protect ground-nesting birds.

Roseanna Cunningham: I hear all the different arguments. I know that some estates do not use snares, but one could also argue that the RSPB is not managing its estates for the same purpose as others.

We have taken a view that, on balance, there is and will continue to be an economic interest that needs to be considered in the management of estates and any other land. In view of that, the Government's attitude has been that the case for a complete ban has not been made, because the consequences of a complete ban have not been thought through. There is a danger that we have a stereotypical view of whom the ban would affect. The fact is that it could affect the hill farmer as much as it would estate management. We have to be careful when we proceed down a particular road that we do not do something that has a worse impact.

I freely concede, as I have on many occasions, that nobody particularly likes to think about this method of animal management, but the truth is that we kill animals all the time. I suppose that the only people who can take the moral high ground are vegetarians—there may be some here today, but my guess is that there are not many. In view of that, we start with the premise that we are not completely opposed to the killing of animals in and of itself, so the question then becomes how to manage things in a way that balances all the interests.

The animals in question would still have to die. In my view—again, this is personal and not something that I have discussed with officials, which will make them twitchy—shooting the potential catch species for snares would be just as likely to end up in animal welfare issues, with animals being wounded instead of killed and going off to die elsewhere. A ban on snares would not eradicate some of the difficult questions. Once we become accustomed to the way in which the

countryside is managed, it is harder to take the purist hard line on an issue such as snaring.

I appreciate that there are strong views on all sides. The Government has not come to its view in a completely paradoxical manner: there was an extensive review in 2008, with a lot of discussion, and a considered position was taken.

Elaine Murray: Was the consultation actually on an outright ban?

Roseanna Cunningham: Yes. I well appreciate that the issue will never go away, because there are particular groups for whom a ban on snaring will be a campaigning position that is always brought back, but our view is that we would serve neither the economic interests of the countryside nor animal welfare issues by proceeding with a complete ban on snaring. Instead, we have chosen to go down the route of professionalising the whole of snaring and ensuring that mechanisms are in place that allow people who set snares to use them effectively. I have seen some of the work that is done with people who are involved in land management. We have to go down that route rather than impose an outright ban.

11:45

Bill Wilson: I am not a vegetarian, so I accept that we kill animals and I have no problem with that. For instance, I was supportive of the community areas management programme for indigenous resources—CAMPFIRE—agreements in Zimbabwe before Zimbabwe collapsed, so I accept that side of the argument. However, there is an ethical question about how we kill animals. The code of practice is a great step forward—I do not dispute that—but I have two issues. One is that we need some monitoring to ensure that it works, so I would like an amendment to say that, three years down the line, the Government will have an independent study to confirm whether the code of practice functions. Secondly, I would like the bill to provide the ability to ban snaring under a Scottish statutory instrument if, after that independent study into the effectiveness of the code of practice, we found that it did not function.

Roseanna Cunningham: That takes us back to the issue of ministerial powers, on which a bigger discussion is going on in Parliament. A decision to ban snaring should not be done via a Scottish statutory instrument, because the potential implications for changes in land management are huge and we cannot do that at the stroke of a ministerial pen without very careful thought. In my view, we are taking the right route, which is to continue to press for professionalisation of people who do snaring.

We should not underestimate the ability of peer pressure to have a huge impact. I have had conversations with individuals who have asked me what they should do if they know that one of the guys up on the hill is doing something wrong. That is where the question of peer pressure comes in. That is how we want to approach the matter. Who knows whether misuse of snares will ever be eradicated? One hopes that it will, but I do not know that that can ever be the case. However, an outright ban on snaring would not stop snaring. We are trying to ensure that those who do it do it properly.

Bill Wilson: What about my first point, which was about whether the Government will have a study, two or three years down the line, on how effective the code of practice is?

Roseanna Cunningham: We have a code of practice in operation and there are various courses. A study two or three years down the line would be a bit soon, because we are in the process of ensuring that the courses are available and as widely taken up as possible. There is a proactive approach from people in the industry.

It is open to any Government to review the situation and take a view on it. As I said, the argument about snaring will not go away and will continue to be brought back. At any point, any Government might have to reconsider its position. I am not of the view that we require a formal review in a set period of time, because the matter is unlikely not to be in a state of constant review in the intervening period.

John Scott: I welcome the minister's pragmatic approach on the issue, although I share some of Bill Wilson's concerns that non-target species can still be caught in snares, which is to be regretted.

Is more work being done to develop a code of practice on, for example, the breaking strains of snare wire, so that if foxes are being targeted but a badger, which is much stronger and bigger than a fox, is caught, it will be able to break free?

Roseanna Cunningham: All such matters are being addressed. Another issue is the appropriate use of snares; setting snares in the correct way is important. The training is all about ensuring that snares are set for the target species and affect non-target species as little as possible. The Game and Wildlife Conservation Trust is researching those issues at the moment. We need to remember that the technology that is associated with the practice is important and continues to change. Members of the committee who visited Langholm will have seen and discussed some of that and will know that technological improvements can change things.

I understand the concerns that exist about non-target species. That is why we have continued to

make improvements. We know that there continue to be concerns relating to dog walkers, in particular. We are seeking to ensure that best-practice guidance encompasses some of those issues. There is also an argument to be made about signage. We need to ensure that people are alerted to the fact that they are approaching an area in which there might be snares and that it is advisable for them to put their dog on a lead for that bit of the walk. We must think carefully about all of those issues.

John Scott: The publication of the Department for Environment, Food and Rural Affairs research that is being carried out has been delayed. Our information is that it will be published before Christmas. Have you received an early indication of where it may or may not be going? Ministers talk to ministers.

Roseanna Cunningham: We have not talked about that matter, unfortunately.

Elaine Murray: The original proposal was that records should be kept of where snares have been set, but that has been dropped. When taking evidence, we visited an estate with one gamekeeper. If he goes on holiday or has time off, he can inform people of where snares have been set, but if he is taken ill unexpectedly and is rushed to hospital, the snares will be left out. There is no requirement for a record to be kept, which would allow other people to check them within the required 24 hours.

Roseanna Cunningham: The requirement to check snares remains in place. Any land management system will have to ensure that that requirement can be met. The fact that someone is off ill is not an excuse or justification for not continuing to ensure that snares are checked.

Elaine Murray: So, systems will have to be in place.

Roseanna Cunningham: We will address the issue through best practice guidance, rather than in the bill. As we have already discussed, we must be careful not to be too prescriptive, but record keeping will be covered in best practice guidance. I will expect land managers to ensure that their systems are such that they are able to comply with the legislation.

Elaine Murray: Will the guidance and training on snaring include training on animal welfare?

Roseanna Cunningham: Yes. Animal welfare issues were overtly discussed at the course that I attended. Those who attend the courses are left in no doubt that they must give constant consideration to such issues.

Animal welfare issues arise in almost any area of management and regardless of the pest control measures that are in place—which, after all, are

what we are talking about here—such issues will continue to come up. The public's interest in animal welfare will vary according to the animal in question: I have to say that I have not heard a great deal of concern about the welfare of rats when pest control officers are dealing with rat infestations. That said, those issues have to be at the forefront of people's minds, although I suppose that that applies to anyone involved in any kind of pest control. I also point out that the SSPCA is on board and has agreed that the approach is appropriate to meet the legal requirements.

Elaine Murray: Of course, there is nothing like a Jack Russell terrier to control rats.

Roseanna Cunningham: Is the Jack Russell greatly concerned about the rat's welfare? They are not, from what I have seen of Jack Russell terriers. Of course, the matter will be dealt with very speedily.

Elaine Murray: When is the training of all snare operators expected to be completed?

Roseanna Cunningham: I do not know whether we have an estimate for that. The training is taking place right now; 500 people have already had it and we think that there are about another 2,500 to go. It is going to take a couple of years to get everyone through it, but we are already doing it and are going as fast as we can.

Liam McArthur: You have said that the process will improve snaring records, which I welcome, given the divergent views on the extent of snaring. I wonder whether in relation to the chief constable's powers to grant applications for identification numbers there is a case for looking at how access to snares might be more closely monitored or limited. In the early stages of our consideration of the bill, we heard allegations that, on some estates, there are thousands of snares. However, when we took evidence on those estates, we found that the extent of snaring appears to be more limited by dint of the fact that, if there are any more than a certain number, there is no way that they can all be checked in 24 hours. Nevertheless, given that snares are often ordered in large numbers, it is easy to see how the situation might be misrepresented. Have you thought about that? Is the proposal workable?

Roseanna Cunningham: The 24-hour requirement limits the number of snares that can be set and used in practice. The fact is that, whatever land management system is in place, people cannot set more snares than can reasonably be checked over the course of 24 hours.

However, real difficulties would arise if we tried to be more prescriptive about the number of snares in use, which, after all, will vary hugely depending on the time of the year, the terrain and

all sorts of other factors. It would be very hard to lay down a way of prescribing snare numbers that would fit every circumstance. Instead of trying to come up with a theoretical figure that more likely than not would be inappropriate for any specific landholding, we are of the view that the 24-hour minimum requirement provides a better check on numbers.

We should also remember that the number of snares ordered does not necessarily equate to the number that are set. From what I have seen, what tends to happen is that if there is a particular problem in a particular area, snares will be set in that location. Estates simply cannot manage a system in which snares are all over the place at any one time. That is just not practicable. For a start, they do not have the manpower. Going out and setting snares is hard enough, never mind the manpower that is involved in checking them and all the rest of it. Those are all limiting factors, but for the Government to try to set a number would be taking things to an extreme that I do not think they can be taken to.

12:00

Peter Peacock: On the same topic, even if people accept that there could be a continuation of snaring, they are concerned about how we will know that the snares are being checked every 24 hours. That does not seem to be impossible with modern technology, including digital cameras, which we all have in our mobile phones these days, and pictures that can be dated to allow for photographic evidence of every time a snare is visited. A photograph could show the identification number of a snare, with a date stamp from the digital camera. Is that something that you have considered or would consider?

Roseanna Cunningham: That is subsumed within the general issue of record keeping and how one does things in the best way possible so as to strike a balance between one set of interests and another. I am not quite sure about how the technology would work as far as photographs are concerned—there would have to be somewhere to upload the photographs to.

Peter Peacock: A record would have to be kept of the photograph. It would be digitally stored, and it could be checked.

Roseanna Cunningham: It is an interesting point. Every single one of us is probably walking around with a camera in our mobile phone now. We will take the point on board and we can feed back to those who are involved. From one perspective, one could argue that it would not be difficult to do that. If ever anybody challenged the matter, there would be a record. We have not

considered that point specifically, but we will take it on board and have a think about it.

The Convener: These are probably famous last words, but we have now covered most of the more contentious issues. We have 10 more questions, and I want to finish this evidence session at about half past 12. I ask everybody to be as concise as possible with their questions and answers. I would appreciate that.

We come now to the subject of invasive non-native species, on which Bill Wilson has questions.

Bill Wilson: I am shocked that you should imply that I am not concise, convener. My goodness.

I read the draft code last night, and I thought that it was quite impressive. For the record, perhaps you could say how you are proposing to produce clear and unambiguous definitions of terms such as “into the wild” and “native range”.

Roseanna Cunningham: Okay; we are getting straight to the point about defining wild land. The phrase that we are using is already embedded in legislation. It is difficult to define. We are clearly saying that some things are not wild land, and some cases might be controversial. I was interested to discover that road verges, for example, are not classified as wild land, which I presume is because they are considered to be part of the road. They act as wild land, but they are not considered as such. It is easier to say what is not wild land than to say what is wild land. Attempting to define something in this regard might well create more problems through the definition than would exist if things were left as they are.

In the course of the consultation we spelled out some of the code, and the code will try to add to some of the exclusions, in effect, which will ensure that people are clear about what is not wild land. As for whether we will draw up a definition of wild land, I would say no. We are taking the customary legislative phrase that is used throughout the relevant legislation and will leave it untouched, for the reasons that I have suggested.

The code is important, and we will consult on it separately. Some of those issues might come up in the context of the code.

Bill Wilson: I understand you to be saying that, although road verges might not be wild land, if someone plants on the road verge that leads into a native forest, for instance a Caledonian pine forest, that could cause an invasion into wild land.

Roseanna Cunningham: You are taking my comment a bit further than I had intended. My point was that we are defining by exclusions, one of which is road verges. I found that surprising—my automatic assumption was that road verges would be considered to be just as much wild land

as anywhere else. That is where we get into issues of defining what something is and is not. The consideration is that road verges should not be classified as wild land.

Bill Wilson: I understood that, but there might be some concern over people thinking that they may do anything that they want on the road verge. My understanding is that people cannot. If planting is carried out on the road verge and the species that has been planted there moves on to the adjacent wild land—

Roseanna Cunningham: To a certain extent, we could make that argument about any piece of land, including the window boxes in our back rooms. I guess that we have to find what looks like the right distinction between what is and is not wild land and stick to it.

Bill Wilson: I was not debating the point—the definition is quite good and I like the way it works.

Organisations such as the RSPB acknowledge the value of shooting in the context of its advantages for the environment, through maintenance of hedgerows, ponds and so on. However, concern has been expressed that releases of pheasants and red-legged partridges on sensitive land, such as sites of special scientific interest, and releases at very high density can damage biodiversity. Have you considered a form of licensing, such as a licence that is triggered if a release will be above a certain density or will happen on or adjacent to sensitive land such as an SSSI?

Roseanna Cunningham: Remember that section 14 is about invasive non-native species. Although pheasants and red-legged partridges are non-native, they are not invasive, so the argument does not apply in quite the same way. Given that, we took the view that we would not include pheasants and red-legged partridges in the bill.

On more localised impacts, measures such as nature conservation orders are available to deal with impacts on protected areas. There are examples of areas where changes have been brought about, usually not so much because orders have been sought and made but because there has been discussion and consultation with the owner, who has been told that we will head down the road of a nature conservation order if we cannot find a better way to handle the issue. For example, at Craig Leek, in Aberdeenshire, discussions with land managers resulted in a change in red-legged partridge release practice, which solved the problem without people having to go down the nature conservation order route.

Bill Wilson: Such an approach solves the problem of releases on sensitive land, but high-density releases remain of concern.

Roseanna Cunningham: The issue is the impact, not the numbers. Quite small releases might have a big impact and quite large ones might not have a big impact. Where it is considered that there is a negative impact, discussions will take place. I think that I am right in saying—I might be corrected on this—that only about two cases have gone as far as an order, because cases are usually resolved in conversation. That is because people are often not aware of what is happening.

Bill Wilson: What is your view on SNH being the lead body in relation to INNS? You have probably seen the evidence that there is sometimes confusion about who is the lead body in that regard.

Roseanna Cunningham: We took the view that we did not want to put a single designated body in statute. However, we are working towards a memorandum of understanding with all the relevant bodies, specifically on their respective roles in connection with invasive non-native species. We can make that available to the committee when it is done.

The Convener: Will pheasants that are released from pens be regarded as livestock under the bill? I think that the SGA was concerned about that.

Roseanna Cunningham: Yes. They are livestock as long as they are in and around the pen and near it. The pheasants that we happen to see miles away from the pen while we are out for a walk—and the ones that show up in my garden—might not be regarded as livestock.

The Convener: Why will the requirement to have a licence to deal in venison under the Deer Scotland Act 1996 be retained, even though the bill will repeal the requirement to have a licence to deal in other game?

Roseanna Cunningham: Sorry—can you say that again?

The Convener: The bill provides that people will still require a licence to deal in venison, but it will repeal the need for people to have a licence for other game.

Roseanna Cunningham: Basically, we took the advice of the former Deer Commission for Scotland on the issue. It wanted to retain the licence for venison because of poaching. It is a question more of why a licence for venison has been retained than of why the requirement has been repealed for other game.

The Convener: Okay. Why has the catching-up period been set at 14 days, and could the catching-up provisions include black grouse, providing some flexibility?

Roseanna Cunningham: The practice of catching up is currently illegal, and our advice is that the current position is unworkable. We are therefore using the bill as an opportunity to provide two weeks for catching up. The provision is based on the fact that the existing provision is not manageable.

I am not sure where the question on black grouse is coming from. We do not have specific information on that.

John Scott: The more important issue is catching up of partridges and, in particular, pheasants. As I am sure the industry would tell you, two weeks is a very short time for catching up. The practice is weather dependent, and there are other issues. For example, the end of the shooting season, when catching up happens, is the time when people have a break and gamekeepers go on holiday. I would seek a longer period, such as three weeks or 25 days, to be introduced.

Roseanna Cunningham: We can go on having conversations on where the cut-off will be. We are starting from the position of zero so, from our perspective, the bill gives another two weeks and that ought to be sufficient.

Hugh, do you want to comment on that—when gamekeepers might start and how in practical terms they might go about giving themselves longer timescales?

Hugh Dignon (Scottish Government Rural and Environment Directorate): I guess that it would always be feasible for gamekeepers to start earlier if they anticipated that catching up would take longer than two weeks. However, two weeks was the figure that came to us in discussions with stakeholders and, as the time is currently set at zero, two weeks seemed a reasonable figure to include in the bill.

John Scott: Okay, I will move on to another question. Do you have any strong views on the need to improve the system of reporting and recording bags of game and of quarry species? Is that a useful tool in understanding the economics, which the minister referred to earlier as important?

Roseanna Cunningham: I am not opposed to the principle of the idea but, again, I think that at this stage of the bill it would be difficult to introduce it as we could not have proper discussion and consultation with the people who would be most strongly affected. In the course of the bill's development, a number of substantive ideas have been brought up at quite a late stage in the process, which makes it difficult to manage the bill. I am not opposed to the idea in principle, but we would want to take it forward separately.

John Scott: For the avoidance of doubt, I say that I am only asking a question; I am not necessarily proposing the idea, in as much as I believe that it would just be a further piece of red tape.

Roseanna Cunningham: We do not oppose it in principle. My guess is that some people might be concerned that such a system would end up becoming licensing by the back door, which takes us back to our bigger discussion on licensing. Although it looks like a separate issue, it is caught up in a bigger debate.

The Convener: We will move on to badgers. Scotland is currently declared bovine tuberculosis free but, although we hope that that will always be the case, it might not be. Do you believe that the control of badgers legislation is robust? Could we use the bill to make provision for the control of badgers if they were proved to be the cause of the spread of TB?

12:15

Roseanna Cunningham: I will resist the temptation to get too caught up in that general argument, which is not one that goes uncontested. There is huge debate around that issue.

We believe that the existing legislation contains sufficient provisions to take action by licensing in the event of a disease outbreak. That goes back to the point that was made earlier on separate issues about using some of the existing processes to take things forward. At present, our view is that no overwhelming case has been made for adding extra provisions to those that already exist and those that we have suggested.

The Convener: What is your response to the SGA's call to amend the Protection of Badgers Act 1992 so that it would be possible to control foxes that have taken up residence in badger setts?

Roseanna Cunningham: I am aware of the issue that the SGA has raised. I am not sure how we could make practical changes to address it, but I am perfectly willing to continue to have conversations about that, if that would be appropriate.

The Convener: Okay. Thank you very much.

Let us move on to muirburn. When we were at Langholm estate, we heard calls for greater flexibility in when muirburn can be carried out. On the other side, there are concerns about the detrimental impact of muirburn per se. Do you share the concerns of Plantlife Scotland about muirburn? What can be done to ensure compliance with the muirburn code?

Roseanna Cunningham: There will always be an issue with compliance, regardless of what we

are talking about. The key message that I remind the committee of is that the provisions that we have represent the best compromise that we could reach, taking on board all the arguments of both sides, including those of organisations such as Plantlife. We worked extremely closely with the moorland forum to ensure that what we came up with was the best possible outcome.

The muirburn code will cover cross-compliance in respect of single farm payments, so there will be financial mechanisms for ensuring compliance. Such mechanisms are often the most effective.

The Convener: Bill Wilson has a question about areas of special protection.

Bill Wilson: You have probably guessed what it is. As you know, the RSPB is concerned that it is to lose certain powers on the Loch Garten reserve. Its argument is that the present arrangements have worked well, so it would like the status quo to be maintained. It suggests that some byelaws could be introduced to ensure that it retains the powers that the current ASP status gives it. Do you have any comments on that?

Roseanna Cunningham: I am aware of the RSPB's concerns and arguments in respect of Loch Garten. It is principally an access issue and, in our view, access issues should be dealt with in the appropriate way, which is through the Land Reform (Scotland) Act 2003 and in consultation and discussion with local access forums, rather than in the way that the RSPB has gone about it here.

The original ASP was set up to protect a single pair of ospreys, which was the first to be introduced as part of the process of recolonising Scotland. As we now know, that process has been a considerable success.

The RSPB needs to discuss such issues in the context of access, in the local access forum. The Cairngorms National Park Authority has invited the RSPB to the next meeting of its access forum, to discuss the issue. I think that the meeting will take place during the next couple of weeks. I very much hope that the RSPB will engage in the discussion, because the issue is more about access than it is about what the original ASP was for.

Let us also not forget that Loch Garten is—in the nicest possible way—an economic enterprise for the RSPB.

The Convener: I think that we have reached our penultimate question, which is on the financial memorandum.

Elaine Murray: The bill will place additional responsibilities on SNH without increasing the agency's resources. It is conceivable that SNH will face cuts in future budgets. Minister, are you confident that it will have the resources that it will

require in order to undertake its additional duties? Of course, we do not expect you to reveal details of the budget in advance of its publication.

Roseanna Cunningham: The short answer is yes, but I understand the concerns that are being expressed. We are working as hard as we can throughout the Government to ensure that, whatever the outcome of the exercises that are going on across the board, we do not affect the core function of each and every agency. That is important.

I have taken the view that, if existing resources are deployed as efficiently and effectively as possible, we can continue to deliver in respect of all aspects of the bill, but there is no doubt that the issue will have to be kept under constant consideration and review—no doubt that will be a feature of everything that the Government does during the next two or three years.

John Scott: In its letter to us, the Finance Committee provided SNH's evidence to the committee, which suggested that the agency will be inadequately resourced—and considerably so—to carry out the work. That fills me with concern. Will you reconsider the matter?

Roseanna Cunningham: There are areas in which it is fair to say that our view is not the same as that of SNH. For example, SNH estimated that species licensing will cost £24,000 per year more than it currently costs the Government, and I am not clear why that should be. We need to be clear about matters before we accept at face value every line of what SNH put forward.

The budget will be published on 18 November, so we must be careful not to make assumptions about funding for any agency. Although we can be certain that costs will be trimmed back across the board, we will not know the specifics until after 18 November.

As I said, I question why it should cost SNH more to undertake species licensing than it costs the Scottish Government to do. SNH's figure does not seem to be easily explicable at this point without further interrogation. That is an example of what I meant when I said that our estimates of the costs and the estimates that SNH has presented to the Finance Committee are not entirely in accord. However, I understand why that might be the case, given the current circumstances.

John Scott: I will leave it at that. Thank you.

The Convener: I will give some licence to Mr Peacock, who has another question.

Peter Peacock: A sting in the tail. Minister, you are aware that our honey bee population is seriously threatened by disease, in a variety of ways. I think that ministers would like to do something about the matter but are currently

unable to do anything. There are colonies on islands in Scotland that are free of disease, but the legislative framework has not yet provided a means by which we can better protect those populations.

Are you up for imaginatively using the opportunity that the bill affords to see whether we can find a solution to the problem? I would be happy to talk to you offline about some ideas.

Roseanna Cunningham: I am always available to discuss things with members, including Mr Peacock. However, bees are considered to be a farmed species, which puts them outwith the scope of the bill—

Peter Peacock: That is precisely the challenge that we might be able to address imaginatively.

Roseanna Cunningham: In that case, I look forward to hearing about specific issues and I will flag up to my colleague that there is a potential bee conversation in respect of the bill.

Bill Wilson: To bee or not to bee.

John Scott: May I be helpful by saying that there are many wild bee colonies in Scotland, which are well known to contain specific types of wild bee? That might give the minister and Peter Peacock the opportunity that they seek.

Roseanna Cunningham: The bill is not about farmed animals, so whether its scope is such that a reference to farmed animals would be allowed is a matter that would need to be taken up. However, I take on board what Mr Peacock said.

The Convener: That concludes our questions. The bill has been given a good ca-throu this morning—to use a good north-east term. There were a few areas on which we wanted a bit more information; I hope that you will be able to provide the clerks with that as soon as possible. I thank the witnesses for their attendance.

12:26

Meeting continued in private until 12:51.

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