

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Wednesday 19 November 2003
(Morning)

Session 2

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ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE 12th Meeting 2003, Session 2

CONVENER

*Sarah Boyack (Edinburgh Central) (Lab)

DEPUTY CONVENER

*Eleanor Scott (Highlands and Islands) (Green)

COMMITTEE MEMBERS

*Roseanna Cunningham (Perth) (SNP)
*Rob Gibson (Highlands and Islands) (SNP)
Karen Gillon (Clydesdale) (Lab)
*Alex Johnstone (North East Scotland) (Con)
*Maureen Macmillan (Highlands and Islands) (Lab)
*Mr Alasdair Morrison (Western Isles) (Lab)
*Nora Radcliffe (Gordon) (LD)

COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)
Janis Hughes (Glasgow Rutherglen) (Lab)
Jim Mather (Highlands and Islands) (SNP)
Jeremy Purvis (Tweddale, Ettrick and Lauderdale) (LD)
Mr Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING ALSO ATTENDED:

Brian Adam (Aberdeen North) (SNP)
Susan Deacon (Edinburgh East and Musselburgh) (Lab)
Marilyn Livingstone (Kirkcaldy) (Lab)
Des McNulty (Clydebank and Milngavie) (Lab)
Christine May (Central Fife) (Lab)
Alex Neil (Central Scotland) (SNP)

THE FOLLOWING GAVE EVIDENCE:

Douglas Batchelor (League Against Cruel Sports)
Duncan Burd (Law Society of Scotland)
Bert Burnett (Scottish Gamekeepers Association)
Dave Dick (RSPB Scotland)
Eleanor Dickson (Whale and Dolphin Conservation Society)
Superintendent Mike Flynn (Scottish Society for the Prevention of Cruelty to Animals)
Ian McCall (Game Conservancy Trust)
Dr Colin Shedden (British Association for Shooting and Conservation)
Alan Stewart (Association of Chief Police Officers in Scotland)

CLERK TO THE COMMITTEE

Tracey Haw e

SENIOR ASSISTANT CLERK

Mark Brough

ASSISTANT CLERK

Catherine Johnstone

Roz Wheeler

LOCATION

Committee Room 1

Scottish Parliament

Environment and Rural Development Committee

Wednesday 19 November 2003

(Morning)

[THE CONVENER opened the meeting at 10:03]

Nature Conservation (Scotland) Bill: Stage 1

The Convener (Sarah Boyack): I welcome members, witnesses, the press and members of the public. I ask people to switch off their mobile phones. Given what happened at our last meeting, I ask members to mention that quietly to other committee members when they come in.

This is our fourth of five planned evidence-taking sessions at stage 1 of the Nature Conservation (Scotland) Bill. Our job is to assess the bill and consider our response to the Parliament. We have an open call for written evidence and we have tried to get as representative a selection of witnesses as possible in the time we have for stage 1.

Today we are moving to part 3 of the bill, and our key focus is on the provisions on wildlife crime. We have three panels of witnesses this morning. I welcome the first panel: Douglas Batchelor, chief executive of the League Against Cruel Sports, and Eleanor Dickson, Scottish manager of the Whale and Dolphin Conservation Society. Thank you both for coming this morning.

We have received written evidence from the witnesses, so we will not take oral statements at the start but will go straight to members for questions. As ever, in the light of time constraints, I ask members and witnesses to keep their questions and answers to the point and focused.

Do members have any relevant interests that they wish to declare?

Eleanor Scott (Highlands and Islands) (Green): I am a member of WWF and Friends of the Earth Scotland.

The Convener: We move to questions. Would any member like to kick off this morning?

Eleanor Scott: In its submission, the League Against Cruel Sports asked for a ban on snares, rather than just a tightening up of the regulations. Could you expand on why you feel that that is necessary?

Douglas Batchelor (League Against Cruel Sports): The principal problem we have with snares is that people are indiscriminate in their use. The snare is not an intelligent device, and an animal caught in a snare can suffer seriously. I gave the clerk a couple of photographs showing the sort of things that can happen when a perfectly legal snare is used. The first one shows a badger that has been caught in a snare and is suffering from pressure necrosis as a result. The second one shows what happens when an animal caught in a legal snare starts to struggle and the snare gets into a knot, so that what started off as a free-running snare becomes a trap from which they cannot escape. Our concern over snares is simply that they cannot be used in a humane manner and that they cause unnecessary suffering. That is why we believe they should be banned.

I also brought a couple of snares so that you can see just how simple a device they are. The snare I am holding started off as a legal, free-running snare. You can see that it is basically just a garrotte. The wire has become slightly kinked and bent. How would someone moving about the countryside know whether it is legal? If you put it round your wrist, I could not guarantee that you would be able to get it off with one hand. That is what is suggested as a legal form of pest control, but we say that it causes unnecessary suffering.

We notice that the bill suggests that checking snares once every 24 hours is enough. For a wild animal caught in such a snare, 24 hours is an incredibly long time. I know that the British Association for Shooting and Conservation has suggested that snares should be checked once every 12 hours but, in reality, that assumes that people work seven days a week and go round all their snares twice a day. That just does not happen in the real world, and that is why we believe snares should be banned.

Maureen Macmillan (Highlands and Islands) (Lab): Could not good management practices mitigate the effect of the snares? For example, what if legal snares were allowed to be used only once, so that they would not deteriorate and cause the problems that you talked about? What if land managers were allowed to lay only as many snares as they could get round in 24 hours? I believe that there are developments such that one can get an electronic signal from a snare, which would alert the land manager that an animal had been caught, so they could go and see to it immediately. Is the problem the snares themselves, or the fact that the animals are left in them for a long period of time?

Douglas Batchelor: It is both. The free-running snare—which is the only one that is legal—can lead to the animal being caught for a considerable period of time. If you or I knew that we were

caught and could not get away, we might stop struggling and, in effect, accept that we had to wait until somebody came to let us out. That is not true for an animal. It will just carry on thrashing around until it chokes to death, suffers some severe injury or dies in the process. Intelligent snares are possible, but we are talking about snares that cost pence. They are basically just a piece of twisted wire. An electronic snare that will transmit a signal across a 3,000 acre estate is fairly serious high technology. It might also be quite a trek for somebody to get to the relevant snare. So, yes, that would be possible, but we do not think that it would be practical in economic terms or in any normal working situation.

Maureen Macmillan: I have no idea how expensive it would be, but if it were possible to get a device that could be detached from a snare and put on to a new snare, so that it would not have to be thrown away with the snare, and if the animal could be dealt with speedily, would that take away a lot of your worries?

Douglas Batchelor: It would reduce our concerns, but we would still be worried about how speedily that could be done. With one gamekeeper dealing with 3,000 or 4,000 acres of estate, speed is relative, and some estates have hundreds, if not thousands, of snares laid out. We are not talking about one snare on one estate being used to trap one rogue animal. We are talking about a programme of control that is applied to hundreds of predators across the estate. We think that, in those circumstances, what you suggest just would not work.

Maureen Macmillan: A good land manager would not lay so many snares that he could not look after them. Presumably, there would need to be guidance about that in the bill, so that people lay only as many snares as they can deal with and do not lay snares that will be left unattended.

Douglas Batchelor: Our experience is that people lay an awful lot of snares. There will be a relatively small number of staff with a large area of land to cover, so they lay out hundreds of snares. They struggle to see them on a routine basis, they are clearly unable to manage huge areas and they are not selective enough in the way that you describe. It is not as if they target one place one day and then take up all the snares and target another place the next day. That is not the way they work. Some of those estates have thousands of snares laid out round them, and people genuinely struggle to inspect them. The difficulty when it comes to enforceability is how on earth we can know whether somebody has inspected a snare or not. There is no record; there is no punch card to say, "I've been checked 12 hours ago."

Maureen Macmillan: The police have said in evidence that if snares were banned there would probably be more poisoning. What do you think?

Douglas Batchelor: Poisoning is already illegal. It is not correct to suggest that we should not ban something cruel because something that is already illegal might take place more often. If we look at what has happened in the countryside, we see that there are concerns about the poisoning of raptors. Rabbits are the main elements in the diet of raptors, and particularly of buzzards, and people are now snaring rabbits because there are not enough buzzards to deal with them, and so it goes on. There is not much logic in saying that we should allow snaring to continue, although there are problems with it, simply because other people might do worse things that would lead to more problems. That is an unusual defence.

Nora Radcliffe (Gordon) (LD): I have more questions about snares. Some of the written evidence that we have received suggests that, instead of describing prescribed snares as self-locking, we should describe them as not free-running, which would include legal snares that had been rendered illegal by becoming rusty. Would you agree that that is a better definition?

Douglas Batchelor: It helps. The point that we were trying to make is that what starts off as a free-running snare can very easily stop being one. That can happen because the wire gets kinked or because the animal's fur gets tangled up in it so that it will no longer run free, and the little check grommet that sits on the wire and stops it running to total closure can come loose and run down the wire.

On enforceability, it is very difficult to check whether the snare that you are looking at fits the bill. It might have started off legal and become illegal just because it has become rusty and broken down. That is a real enforcement problem, and it would be much simpler just not to have them, so that everybody knows exactly where they stand. If it becomes a case of saying, "Maybe it is; maybe it isn't," we would be testing snares individually to see if they still fit the law today, whether or not they fitted it last week or on some other occasion.

Nora Radcliffe: The Scottish Society for the Prevention of Cruelty to Animals also suggested that snares should have some sort of identity tag to relate them to the person who had set them. Would that be a good provision?

Douglas Batchelor: If we are to have snares, yes, at least—

Nora Radcliffe: I am asking the question on the basis that we are not talking about a total ban.

Douglas Batchelor: On that assumption, something that can at least show whose snare it is would be useful. At least one could go back and say, "What's your snare doing in that space?"

Nora Radcliffe: I would like to raise another issue. We have been told that there is a type of snare that is being used in the United States that is like a spring trap but which is padded with neoprene or rubber. It is not like the old gin traps, which were really quite revolting. Do you think that something of that description would be better as a form of restraint that would not kill? Would that be a better mechanism for trapping wild animals?

10:15

Douglas Batchelor: In our experience, when a wild animal is caught in any trap from which it cannot escape, it will thrash around until it can escape, and may do itself considerable damage in the process. I suppose that it is better to be held by a gloved hand than by a straight piece of wire, but that is still a prolonged restraint, which will cause problems.

When more humane alternatives are available, they should be used. The matter comes down to proportionality. How can the selection of a more cruel method be justified when a more humane one is available? We argue that people should not be free to make such a selection.

Nora Radcliffe: Are we sticking with snares, or can I ask about other matters?

The Convener: We will keep to snares until people have exhausted their questions, which are detailed.

Mr Alasdair Morrison (Western Isles) (Lab): I would like further clarification about snaring. Do you oppose the indiscriminate nature of snaring or snaring per se?

Douglas Batchelor: We oppose both. We are against snaring because we do not believe that it can be done humanely. We are also concerned about the fact that it is indiscriminate. It is on the record that not only the target animals but all sorts of animals, from domestic pets to protected animals, are caught in snares, because snares have no intelligence to discriminate between the animals that are caught in them.

We are concerned about the legality of snares under the Bern convention. The convention allows restraint by snare, but it does not allow killing by snare. We and others have evidence that snares kill. The exemptions that the Government registered under the Bern convention do not cover killing by snares, yet our evidence suggests that animals die in snares and as a result of injuries that they receive in snares. Those two facts call into question the legality of the snaring process, which is cruel and unnecessary.

Mr Morrison: Do you not accept that it is possible for a responsible crofter, for example, who wants to protect a valuable crop that is in its

early stages and is fenced, to dispatch rabbits humanely using snaring? That is not indiscriminate and requires the crofter's attention.

Douglas Batchelor: I take the point, but the guidance that the Department for Environment, Food and Rural Affairs issued about the most effective methods of rabbit control in areas with a rabbit control problem says that gassing should be used in warrens at the right time of year. If that is undertaken at the right time of year, it is massively effective and is discriminate. The only possible collateral damage could be to something else that had taken refuge in a warren. DEFRA recommended that as a more effective method of controlling a localised rabbit problem; it certainly did not recommend snaring.

Mr Morrison: Do you also accept that some who snare eat the product that is ensnared?

Douglas Batchelor: That is true, but people also go out to shoot rabbits that they eat. Saying that people need to snare so that they can eat moves the discussion from being about pest control to being about one for the pot. The issue is a matter of scale.

Rob Gibson (Highlands and Islands) (SNP): The subject raises questions about land management in general. You said that it would be impossible for people to look after snares that are spread over tens of thousands of acres, because thousands of snares might be involved and not enough manpower would be available. You have now answered a question about what might happen on a croft, which is a small piece of land, by suggesting another argument against snares. Without snares, how will people manage land on the large scale that exists in Scotland to maintain biodiversity?

Douglas Batchelor: If you are asking the question in the context of land management on what we might call sporting estates, which are concerned with grouse shooting, pheasant shooting and possibly partridge shooting, I would point out that they are relatively extensive areas of land with relatively small numbers of staff. In such areas, nature manages biodiversity quite satisfactorily. The problem is that, when people start picking on particular animals, they start to unpick the chain of nature. That is what has caused the problems. I talked about the shooting and poisoning of raptors, which takes out the top end of a natural chain and forces people to start snaring to deal with the problems that are caused by that. In terms of the wider aspects of land management, there are good arguments for leaving the job to nature and not over-interfering. As soon as you interfere at one level, you cause a problem at another because you have interrupted the natural process that was there before you came along.

Our view was that the majority of people do not like to see cruelty in the countryside and that they value wildlife and biodiversity. The possibility of banning snaring gives us an opportunity to help to guarantee biodiversity and restrict cruelty to animals.

Rob Gibson: The common agricultural policy's tendency as regards farms is, perhaps, towards land management activities and away from farming. However, there is still a need in a farm to control vermin. The need to interfere in the process comes from the fact that the farmer is creating an artificial environment. The artificial environment of a farm, whatever stock or crops are concerned, necessitates vermin being dealt with. We cannot leave the management of vermin to nature unless we give up farming. I take it that that is what you are suggesting.

Douglas Batchelor: No. I am saying that people should be a lot more discriminate in what they do and how they do it. The area of fox predation has been particularly well researched. Papers that have been published concerning three-year studies of losses to foxes on Scottish sheep farms show a loss of between 0.6 per cent and 1.2 per cent. However, there is a question about whether those lambs were taken after death or before death. In other words, is the fox the cause of the death or is it a bit like a rural dustbin man who goes around collecting animals that have died? The research also showed that attempts to reduce fox numbers have almost no impact on the losses to foxes from sheep farms, except in those odd cases in which someone with a rifle goes lamping and targets the right fox at the scene of the crime. The same is true in a lot of other situations. The suggestion that, somehow, snaring a rabbit in the middle of the breeding season will make a difference to the overall rabbit population does not make sense. The population is controlled by natural predators in that season, to an extent. DEFRA recommended that, to have a significant effect on the numbers, you should gas the rabbits when they are in their burrows during the winter. The snares that you see throughout the year all over the estates that we are talking about make no significant difference to the overall numbers; they just cause suffering.

Rob Gibson: I am not talking about a particular kind of estate; I am talking about land management, which involves farms and crofts as well. They are a natural part of our landscape. I question whether gassing is something that everybody can afford and I suspect that it would be extremely difficult to organise. I would like to hear about some other alternatives to snaring. It is important to have that information on the record so that we can have a practical view of how land can be managed.

Douglas Batchelor: For rabbits, DEFRA said that gassing was far more cost-effective than snaring, was selective and could control a rabbit infestation problem, with which one can be required to deal by law. Therefore, there was a practical solution to the problem.

The Convener: You say in your evidence that the difference between legal and illegal snares is not always clear. Much of the discussion has focused on the situation if snaring were not made illegal. What is the difficulty with knowing what is and is not legal?

Douglas Batchelor: The principal difficulty with snares is that one can start off with a brand new, free-running snare that has a proper check on it and which is perfectly legal under current law, but if the snare becomes rusty, the check stops moving up and down the wire or the wire becomes kinked so that it is no longer free-running, the snare becomes illegal. That causes problems because nobody can be sure whether the snare is legal or illegal.

Other evidence raised the question of what happens when somebody realises that their snare, which was legal, is now illegal and tries to correct the situation by taking it back to be repaired. Would they be committing an offence in those circumstances? The problem is created by the fact that a snare can be either legal or illegal, depending on how it has been treated.

Rob Gibson: My question is for Eleanor Dickson.

The Convener: Is it on the same issue?

Rob Gibson: No.

The Convener: I want to gather the same issues together so that we deal with them properly.

Mr Morrison: As someone who has used snares, I am not familiar with the expression "kinked" in relation to a snare. If it is kinked, it is no longer effective. Anyone who uses snares ensures that they are free-running and effective. If it is kinked, it is no longer a snare; it is just a piece of wire hanging from a fence or attached to a peg.

Douglas Batchelor: You are right if the kinking occurred before the snare was set. Our problem is with the fact that an animal caught in a free-running snare can kink the wire. The snare might have been legal up to the point at which the animal was caught in it, but could become illegal in the process of the animal thrashing around—as the photographs show—because the snare is no longer free-running. Instead of operating in the way that it legally could under the Bern convention, by restraining but not injuring, it becomes illegal because of what happens to it. One of the principal problems is that a snare is

such a crude device and is so indiscriminate in its application that it can and does lead to deaths and cruelty.

The Convener: We have spent a lot of time on that matter, but it was important because members were interested in it and because of the different representations that we have received on that part of the bill. It was worth teasing out.

I am conscious that Eleanor Dickson from the Whale and Dolphin Conservation Society is with us. Who wants to kick off, or are there other issues to address in the evidence from the League Against Cruel Sports?

Nora Radcliffe: At the end of the submission, the League Against Cruel Sports states that reared birds such as pheasants fall between two stools under legal protection, in that they are neither farmed nor wild. What protection would they be afforded if they were regarded as farmed rather than as reared for shooting and so not fully wild?

Douglas Batchelor: If one treated pheasants as farmed animals—even if they are looked after and fed in the woodland after they have been released from the pens—the same animal welfare rules would apply to them as apply to any animal that is farmed. The alternative is to say that they are wild animals, in which case they should be subject to the same protection measures as are other wild animals in the bill. Pheasants seem to be classified as not farmed, but—exceptionally—not wild. We do not think that that makes sense. They should be either one or the other. Our argument is that they should be treated as farmed animals because they are introduced. The bill could go either way, but to have the pheasants nowhere seems wrong.

Nora Radcliffe: I would like to have a clearer understanding of what is meant by

“The issue of ‘catching up’ of birds ... for the purpose of shooting them or their offspring.”

Will you expand on that so that we are clear what we are talking about?

Douglas Batchelor: There should be control over such things because they get awfully close to other types of activity—people collecting birds or eggs and doing things with them—that we want to catch within the law. That creates all sorts of dangers and we suggest that there must be very clear boundaries for the catching up of birds. If it is going to be allowed at all, there should be a process for establishing the necessity of it and showing why it would be good for biodiversity. To leave the practice uncontrolled would leave a gap that we might later regret.

Nora Radcliffe: Thank you.

Alex Johnstone (North East Scotland) (Con):

Do you accept that the controls that you are suggesting would have a significant impact on the deliberate and direct management of game species in the Scottish countryside?

10:30

Douglas Batchelor: They might do. There are issues of ownership, but in Scotland there is also a feeling that the countryside is everyone's, which is what lies behind our suggestions. We have a structure for making decisions about wildlife that varies from prescription through to consultation through to licensing. It is appropriate that those issues should be considered within that process.

Releasing tens of thousands of pheasants into a given area has an impact on biodiversity and wildlife. There might be a perfectly good commercial reason behind it, but it has a significant impact nonetheless. If practices could lead to the persecution of animals and the reduction in raptors that we have seen, they should be considered before they are freely allowed.

Alex Johnstone: Do you consider species such as the pheasant and the red-legged partridge to be indigenous wild species or introduced aliens?

Douglas Batchelor: The pheasant is primarily an introduced species because there are approximately 30 million pheasants introduced into the UK countryside every year.

Alex Johnstone: Are you suggesting that we should treat them as a wild species, or should we continue to treat them as a species that is reared or supported in the environment for shooting purposes?

Douglas Batchelor: I suggest that they be treated as a farmed species, because they are introduced, reared and released, or farmed, for commercial gain. That is what happens. It is a big business, so why not treat it as such and expect the same animal welfare standards to apply as apply to other similar businesses?

Alex Johnstone: How far would you take that? For example, we do not rear poultry and release them into the countryside for shooting. That would not be acceptable. Are you suggesting that we should treat pheasants in the same way as we treat poultry?

Douglas Batchelor: That is for you to judge, not me. I see where you are going with your questions. The question is about whether it is humane to release free-range poultry into the countryside for shooting. If you apply that question to the other species that we are talking about, you would have to ask yourself whether you are satisfied that the methods involved in the rearing

and killing of those species are humane. If you are satisfied that the methods are humane, I presume that you would not have a problem with the practice. If you are not satisfied with the methods, surely you would be concerned.

The Convener: We move on to our second witness. I want to explore the code of conduct that Eleanor Dickson talks about. The submission mentions quite a lot about the potential benefit of a code that might have legislative backing. Will you say a bit more about the confusing variety of codes that is mentioned in your submission? Will you give a sense of how different those codes are?

Eleanor Dickson (Whale and Dolphin Conservation Society): Yes. In the Moray firth, a scheme called the dolphin space programme was set up in 1995. The code of conduct states that, if dolphins or cetaceans are seen, the operator should not go off their course but should maintain their course. That type of code of conduct would involve not approaching cetaceans. Another type of code of conduct might say that cetaceans should not be approached head on. That is an important component of many codes of conduct. Boat operators should approach at a no-wake speed if cetaceans are to be approached. If there are calves in the group, extra care should be taken. Some codes of conduct address the issue of how close boat operators should get to dolphins or other cetaceans.

The Convener: Should there be a standard code, or could there be problems because of local differences? How would you build in flexibility?

Eleanor Dickson: We ask for a generic code of conduct with the option of adding local clauses for particular species or particularly sensitive areas.

Rob Gibson: I would like to ask about your submission in relation to part 1, on biodiversity. You say that you

"assume that the provisions of the bill are to apply out to 12nm".

Do you think that an amendment to the bill should clarify that? If so, why?

Eleanor Dickson: We would ask that the bill state that provisions should apply out to 12 nautical miles.

Rob Gibson: And why?

Eleanor Dickson: Marine wildlife is very important to Scotland and we should protect it out to 12 nautical miles. At a later stage, we will be campaigning for comprehensive marine legislation through Scottish Environmental LINK.

Rob Gibson: Enforcement of the provisions in the bill to protect species will involve more training and resources. If the provisions extended to a limit

of 12 nautical miles, how many extra officers would have to be employed to deal with the marine end of activity as well as the land end? Wildlife officers have been mentioned.

Eleanor Dickson: We think that the Maritime and Coastguard Agency could be involved, as it obviously has marine expertise. At the moment, many of the people who deal with this sort of issue are from a non-marine and non-conservation background. We need people who are familiar with the marine environment to deal with the issues.

Rob Gibson: Is that not the kind of job that the fisheries protection services do?

Eleanor Dickson: Yes, to a certain extent, but other issues arise. I have talked about the problem of boat interactions with dolphins and we mention it in our written evidence. That is a really big problem, which fisheries patrols do not deal with. I have given images to the clerk of a dolphin calf in New Zealand that was hit by a propeller and died. In the Moray firth, we have only 130 dolphins and they are seriously threatened. We must deal with the problem urgently.

Nora Radcliffe: In your evidence, you say that you broadly support an argument that others have made—that we should be wary of tacking too many things to do with marine environment protection on to this bill. You suggest that there should be comprehensive legislation in future, but should a generic code of conduct be produced in advance of comprehensive legislation on marine protection?

Eleanor Dickson: Whale watching in Scotland is worth more than £1 million a year in direct spend. In the Moray firth, we have gone up from one operator 10 years ago to nine operators now. We must deal with the issue as a priority. Many other countries with whale watching have gone down the legislative route and have been very successful. At the moment, we have a voluntary code of conduct through the dolphin space programme. The code of conduct has been going for eight years but we still find, through anonymous monitoring, that people are not sticking to it. The issue must be addressed.

Nora Radcliffe: So you think that we should address the matter now, as a matter of urgency, before taking the more comprehensive steps.

Eleanor Dickson: Yes—doing so would fit well with current measures on wildlife crime.

Nora Radcliffe: I wanted to ask you about enforcement, which you mention in your written evidence. You talk about

"a lack of bodies with appropriate powers"

and say that consideration should be given to the bodies that could enforce measures most

effectively. Should such things be left until we take a comprehensive look at the protection of the marine environment?

Eleanor Dickson: Illegal salmon netting in the Moray firth is a serious problem for dolphins. In the past few years, we have lost at least two dolphins to illegal salmon nets. A campaign called operation fish net was launched about a year and a half ago. I have submitted a leaflet about it to the clerk. Last season, the district fishery boards found 54 illegal nets in the Moray firth. One of the fishery boards has reported dolphin sightings in 30 per cent of cases when nets are being pulled in. The dolphin-watching industry in the Moray firth is worth a huge amount to local businesses. One operator alone has 20,000 people on his boat every year. An act by a small minority is seriously threatening the dolphin population. On top of that, it is threatening legal salmon fishing, which the fishery boards estimate is worth £25 million. The issue is serious and, if possible, should be addressed straight away.

Nora Radcliffe: Is there a body that could be tasked with doing that, if it were given appropriate powers to do so? What powers would such a body need?

Eleanor Dickson: We, and others, have found it difficult to report such wildlife crimes to the police because the police do not have the resources to deal with wildlife crime issues. On one occasion, it took six hours to get in touch with someone who could deal with the issue. When dolphins and nets are in the same area, it is a serious problem for us. We would suggest that more training is needed, so that there are more officers who know about wildlife crimes and how to deal with them. The wildlife liaison officer in our local area has many other police duties, so it is often impossible to get hold of him on wildlife crime issues. We need more resources and more training.

Nora Radcliffe: Do you think that better police resources and better trained police officers are the answer?

Eleanor Dickson: Absolutely.

Maureen Macmillan: When you talk about penalties, you suggest that the courts do not realise the seriousness of the offence and that, although they might fix a penalty that is commensurate with the financial gain that was accrued by, say, an illegal salmon fisher, they do not address the conservation impact of the offence. Presumably your contention would be that swingeing fines or imprisonment would make an impact.

Eleanor Dickson: The problem is that the penalties are so small and it is so difficult to get a conviction that there is little to deter people. Higher penalties would, I hope, act as a deterrent, and the

police could put more resources in because they would feel that that would result in convictions. The dolphins in the Moray firth are important at a European level. They are the only population in Scotland. The loss of one or two dolphins is serious. The most recent study, in the mid-1990s, estimated that each dolphin is worth £60,000 to the local economy. The conservation point of view is important, but if we also consider the matter economically, what is happening is very serious.

Maureen Macmillan: Do you have any examples of the sentences that are handed out for such crimes?

Eleanor Dickson: According to the local fishery boards, fines are in the region of a few hundred pounds.

Alex Johnstone: I want to clarify something that came up earlier. This is going to sound strange, but I am going to ask about it anyway because it is a side issue that is worth pursuing. How intelligent is a dolphin?

Eleanor Dickson: Very intelligent. I do not know whether you are referring to the nets, but the nets that are being used are so fine that dolphins cannot pick them up on their echo location.

Alex Johnstone: What I am concerned about relates to that, but it also relates to dolphin and whale watching. Where salmon are being affected by fishing nets, is there any extent to which dolphins are complicit? Do they approach nets to steal fish from them?

Eleanor Dickson: No. The dolphin does not know that the net exists.

Alex Johnstone: So it blunders in.

Eleanor Dickson: Yes. When you think about it, people are going to put nets where the fish are, which is also where the dolphins congregate. The link is the places that are rich in fish life—they attract dolphins and possibly also those who set illegal nets.

10:45

Alex Johnstone: We talked earlier about the punishment fitting the crime. The reason why I asked the question was to establish whether the dolphin could be responsible for the crime. I think that we have cleared up that issue to my satisfaction.

On a slightly different point, we are talking about codes of conduct for those who are involved in whale and dolphin watching. To what extent is there complicity between dolphins and those who are involved in watching them? I have heard that dolphins will regularly turn up at the same place to be watched, so to speak. I also understand that dolphins follow boats and that they can be injured

accidentally as a result of that. Are we talking about a code that is designed to protect a mammal that has no complicity in those activities or do we have to accept that dolphins will get themselves into situations in which it is conceivable that they could be injured by accident?

Eleanor Dickson: Absolutely. There is no doubt that dolphins approach boats. The key thing is to ensure that it is their choice to do so. I am not sure whether you saw the image of the calf that was hit by a propeller. That could have been the result of erratic behaviour. We need to implement a code of conduct that states that a boat should keep going in one direction and not move in different directions. If it does that it can confuse the dolphins.

If dolphins are bow-riding, they will be in close proximity to the boat. Any sudden movement by the skipper could impact seriously on the dolphin—it could result in death. I accept that dolphins approach boats, but they should be able to do that on their terms. If boats approach dolphins, the skippers need to do so carefully, at low speed and with a consistent direction, so that it is easier for the dolphins to know where the boat is.

The Convener: Okay. Members have asked all of their questions. I thank the witnesses for their submissions and for answering our questions this morning. I suspend the meeting for a couple of minutes to allow for the changeover of panels.

10:47

Meeting suspended.

10:50

On resuming—

The Convener: I welcome our second panel of witnesses: Dr Colin Shedden, the director in Scotland of the British Association for Shooting and Conservation; Bert Burnett from the Scottish Gamekeepers Association; and Ian McCall, director of the Game Conservancy Trust. We will not hear opening statements from the witnesses; we have already received written submissions, so let us move straight to questions. I ask members and witnesses to keep their questions and answers as focused as possible. It would be a good idea to focus on the key issues in the same way that we did with the previous panel.

Alex Johnstone: Let us turn straight to snaring, which we covered extensively with the previous panel, as you will have heard. The bill will make it illegal to set a snare in a way that is “likely” to cause suffering. That has the effect of transferring the onus or responsibility on to the setter of the snare. Is that an acceptable way to proceed in your view?

Bert Burnett (Scottish Gamekeepers Association): I think so. I invite Colin Shedden to give a full answer to that.

Dr Colin Shedden (British Association for Shooting and Conservation): We have made a number of comments about this. We are concerned about the use of the phrase

“likely to cause injury to wild animals”,

which the explanatory notes describe as being more objective than

“calculated to cause injury to wild animals”.

I disagree with that approach. Likelihood refers to probability, and I wonder what level of probability we are actually talking about. Do we mean a 1 per cent, 10 per cent or 20 per cent probability of an event taking place? The change places considerable emphasis on the operator of the snare, and it effectively increases the level of risk assessment that has to be undertaken before a snare is set—I point out that risk assessment is currently undertaken when a snare is set. The bill introduces a much greater onus on the person who sets the snare, and it could reach the point at which it would be impracticable to set snares in a large number of situations in which they are commonly set now.

Alex Johnstone: I am concerned to bring out the fact that it is possible—I believe—for a snare to be an indiscriminate and dangerous way to trap animals. However, in the hands of someone who is experienced and an expert in setting them, I believe that snares can be a precise pest-control tool. It is important that, in the future, they will be in the hands of people who know what they are doing. I am keen to get the witnesses’ view on whether it is possible to make a snare a discriminating and useful tool that does not cause suffering, if it is set by someone who knows what they are doing.

Bert Burnett: Gamekeepers use such snares every day at the moment. You will have to ask other witnesses that question but, as far as we know, there have been very few instances of gamekeepers mal-using snares, for want of a better word.

When we set a snare, we take every effort to catch what we are trying to catch. We put up blocks to prevent deer from getting near the snare, and we set the snare in places where we think there are only foxes running. We adhere to all the codes and keep away from badger sets. We do not want to go back to a snare and find something in it that we did not want to catch, as that means that we have to set the snare again.

Alex Johnstone: Is it appropriate that more responsibility for the snare should rest on the setter of the snare than has previously been the case?

Bert Burnett: That is the current situation. If we were to set a snare and something happened that was against the law or the codes, we would be penalised.

Alex Johnstone: If the law were tightened up, would you simply have to observe a tighter regulatory process when you used snares?

Bert Burnett: Yes.

Dr Shedden: I have heard comments in the past, especially relating to situations in England, in which the impression was given that hundreds or even thousands of snares are used, and that there is a widespread problem. A question was answered in Westminster on 6 March this year relating to the number of wildlife offences and the number that had been brought to court. Between 1997 and 2001 in England and Wales, 11 cases were brought to court under section 11 of the Wildlife and Countryside Act 1981, of which six resulted in conviction. That suggests that there is roughly one conviction a year in England and Wales for snaring offences. As I said in our written evidence, we want to ensure that any legislative response is proportionate to the problem.

The Convener: Are you saying that those figures suggest that there have been no prosecutions in Scotland and that, therefore, the problem is not an issue in Scotland?

Dr Shedden: Unfortunately, the information for Scotland was not available, and I have not been able to track it down. The most recent information that I have uncovered came from England and Wales.

The Convener: It is difficult to assume that, because something is the case in England and Wales, it will automatically be the case in Scotland.

Dr Shedden: I agree, but I have no evidence that the incidence of snaring malpractice is much higher in Scotland than it is elsewhere in the UK.

The Convener: There is an issue about whether there is a problem in this regard. You are talking about convictions, but other witnesses this morning have talked about problems with snares. It is difficult to compare and contrast those aspects of the issue.

Roseanna Cunningham (Perth) (SNP): Was any information gleaned on the number of cases that had been reported rather than simply prosecutions? Criminal law is full of situations in which reported cases are not taken on to criminal proceedings, for example because of a lack of necessary evidence. The fact that there are evidential difficulties does not mean that something has not happened, of course. Whether we are talking about animal crime or rape, that can be a problem.

Dr Shedden: I suggest that the next panel of witnesses might be in a better position to give you a clear answer to that question.

Bert Burnett: As a professional who sets snares, I am led to believe that incidents of illegal snaring have been connected to people who are not professional gamekeepers. However, the statistics will just lump everyone together.

Roseanna Cunningham: With respect, your evidence contains a couple of contradictions. You say that people from outwith the profession are responsible for some incidents and suggest that some people harbour grudges against gamekeepers. However, you also say that the majority of cases of deliberate wildlife crime are connected to frustration.

Bert Burnett: With all due respect, I thought that we were talking about snaring at the moment. The comment about frustration relates to another matter. A lot of guys set snares for deer. Strangely enough, they set the snares and then do not go back to get the deer until later, so I do not know what the hell they do with the beasts when they get them. Snares that are set for deer invariably catch other things. As I say, that has nothing to do with gamekeepers.

Roseanna Cunningham: I presume that the law is not just about gamekeepers but about anybody who sets snares.

Bert Burnett: Right, but I am just asking you to make a distinction. If you are going to change the laws on snaring because poachers are catching badgers or whatever in their illegal snares, I do not see why we should be punished. We have a legal, well-managed way of catching foxes.

11:00

The Convener: One of my colleagues asked our first panel of witnesses whether snares could be identified so that people would know who had laid them. Do you think that that would be helpful?

Bert Burnett: If it solved the problem, yes.

Nora Radcliffe: It would not solve the problem of poachers.

Bert Burnett: No, but it would solve the problem of us being held responsible for other people's actions. A lot of things happen out there and are reported in the press along with the gamekeeper's name. Consequently, everybody marries the gamekeeper and the incident when, in fact, the gamekeeper may not have been involved.

Nora Radcliffe: I want to ask some general questions on the practicalities of snaring, and the witnesses can answer them as they choose. Some of the written evidence that we have received has pointed out that it may not be practical to check a

snare within 24 hours. For example, if you check a snare at 7 o'clock one morning, you would have to go back before 7 o'clock the next morning, even earlier the next morning and so on. Would it be more practical to specify 25 hours, to avoid the constant shifting to earlier times?

We have mentioned identity tags for snares, but what about the definition of what is a legal or an illegal snare? Should a snare be identified as being free-running as opposed to being not self-locking—if you see the distinction that I am making?

Dr Shedden: I will touch on the first two points. We have raised the time problem. If the law says that a snare or trap has to be checked within 24 hours, checking it at one minute past that time could constitute an offence. Our solution—that snares would have to be checked at least once in each 24-hour period after being set—goes some way towards addressing that. However, the solution that you suggest—which was also suggested by the Association of Chief Police Officers in Scotland—of making the period 25 or 28 hours, would certainly help.

Nora Radcliffe: I think that ACPOS said 28 hours.

Dr Shedden: I think that everyone agrees that leaving an animal in a snare for longer than 24 hours—that is, up to 48 hours, as can happen just now—is not appropriate. Our code of practice recommends that, ideally, snares should be checked twice a day. However, a good solution could be the police suggestion of something like 28 hours.

During questions to the previous witnesses, I was thinking about the identification of snares. If the legislation goes ahead as drafted, it would become an offence for any unauthorised person to set a snare. Therefore, the only person setting a snare on any bit of ground would be an authorised person. That may take away the need to identify each snare with a serial number or something similar.

In our written evidence, we included definitions for snares from our current leaflet. We feel that those definitions, which have been used in court, are adequate.

Nora Radcliffe: Another practical concern arises over snares. If a keeper finds illegal snares, picks them up and puts them in his pocket, and is then apprehended as he goes home at night, he is technically in possession of illegal snares. Is it possible to put an illegal snare out of use? I imagine that, if you are checking snares, you will have some kind of wire clippers with you anyway. If you picked up an illegal snare and snipped it in a couple of places, would that put it out of use so that you could not be charged with being in possession of an illegal snare?

Bert Burnett: We do not always carry pliers with us—we are not mechanics; we are gamekeepers. On our travels, we could find snares that had been set by somebody else. In those situations, I think that a gamekeeper would leave the snare—possibly after having pulled it—and then sit and wait to see who would come to look at it. The main idea is to catch the guy and prevent him from setting such snares.

If the snare has become self-locking by virtue of the fact that it is either rusty or damaged in some way, someone taking it home could be looked on in court as being in possession of a self-locking snare. If the gamekeeper wants to stay within the law, he will pick up the damaged snare and put it in his pocket—he might be able to repair it, and we often keep the swivels from old snares for repairing other ones—but if he is on his way home with the snare in his pocket and is stopped for anything, he will have committed an illegal act and will therefore technically become a criminal for having the thing in his pocket. I am not saying that the police would take it that far, but it could be done, and if somebody out there wanted to cause a bit of bother or if a policeman did not like you, you could be in trouble.

Nora Radcliffe: There are ways of dealing with a trap when you pick it up that would render it useless as a snare, and that would protect you from such a charge.

Bert Burnett: That is true, but you might want to take it home to repair it. If there is a kink, it would be quite hard to repair it with your hands, but you could go home and work on it properly with a pair of pliers until it came back into smooth-running action, or you could take the rust off it with a brush.

Nora Radcliffe: I would like to ask a separate but related question about snaring. The Game Conservancy Trust's evidence mentions the training courses that it makes available. What is the capacity of those courses, where are they available and would it be reasonable to expect people to have some sort of accreditation as a matter of course because such training is available?

Ian McCall (Game Conservancy Trust): The courses were started up about five years ago following a court case in the north of England in which a judge expressed concern that apparently no training was required before somebody could set a snare. In reaction to that, although we and other organisations already ran a number of training courses that covered snaring, we set up specific half-day courses throughout the United Kingdom. Those courses are available on demand; the only thing that controls the demand is the fact that there is a cost involved in setting them up, so we need between 10 and 20 people to make them viable.

The courses cover the law as it stands and best practice, and then there is a section in which people have to set a snare. That is not a particularly easy part of the course to run, because quite often you are trying to teach somebody who has been setting traps for 30 years and probably knows more about it than you do. It is a bit like teaching your grandmother how to suck eggs. That said, the gamekeeping fraternity in Scotland has taken to the courses extremely well. Although we issue a certificate, it has no legal standing; it is just a Game Conservancy Trust certificate to show that people have attended the course and have demonstrated that they can set a snare competently.

Roseanna Cunningham: I want to move on to the issue of recklessness. I do not know whether all the questions on snaring are finished.

The Convener: Have we picked up all the snaring issues?

Eleanor Scott: I have another question about snares. I want to ask all the panel members about their own experiences of snares. We have seen some photographs of animals that have died in snares that are meant to catch and restrain rather than to kill. In the witnesses' experience, in what state are the animals that they find in the snares? What steps do they take when they find non-target species caught in snares?

Bert Burnett: Well, if you get a non-target species, you let it go. You release it.

Eleanor Scott: Would you then not set a snare in that area again?

Bert Burnett: You would move the snare, because there would obviously be a problem.

Eleanor Scott: Is that a code of practice that is generally followed?

Bert Burnett: Yes. Most of the non-target species that we get in snares are rabbits, which, as you can imagine, are quite abundant. They run through the woods using the same tracks as foxes and other animals.

Eleanor Scott: Of the animals that you catch, what proportion is already dead when they are found?

Bert Burnett: Very few. Rabbits and hares are usually dead, because the traps take them around the neck. We are taking measures not to catch deer, and I personally set traps in such a way that the deer would have great difficulty getting into the snare, so the problem tends not to arise. If the trap catches a deer by the leg inadvertently, there is obviously damage and you could not possibly let the animal go. You just have to kill it humanely, and that is the end of the deer, unfortunately.

Eleanor Scott: Are the foxes that you catch usually still alive?

Bert Burnett: Yes.

Nora Radcliffe: This question is for the British Association for Shooting and Conservation. Your written evidence comments about something that should be cross-referenced to the outdoor access code. I presume that you have drawn that to the attention of the people who work on the outdoor access code.

Dr Shedden: I have drawn a number of things to their attention of late. The draft access code went to the board of Scottish Natural Heritage about two weeks ago, so it is probably too late for this point to be included in it. If a specific offence of crossing land in possession of a self-locking snare were to be created, for instance, that should be incorporated into the access code at some point, in the same way that other illegal acts are highlighted in the code.

Bert Burnett: There is currently a loophole in the law whereby somebody who comes along and sets a snare for deer can say in their defence that they were in fact out to catch foxes. There is apparently no law against someone setting a snare to catch a fox. The bill recommends that that should be changed, which would be brilliant, because that defence allows half of those people to get away with stuff.

The Convener: So you support the tightening up of those provisions.

Bert Burnett: Providing that that does not restrict the guys who use snares legally.

The Convener: Therefore, the challenge is knowing who is using such traps illegally and who is using them legally. There is an issue around how the legislation will help enforcement agencies to distinguish between legal traps and illegal traps and to ascertain how they are being used. Permission will be required for people to use traps in their own areas. It will be a huge issue to implement that in practice.

Bert Burnett: I cannot speak for anyone else; I am speaking from the point of view of the professional gamekeeper, who is only trying to look after wildlife in the countryside and protect it from predators. We have our codes, and many gamekeepers have been doing the job for years. We do not appear to have a problem with prosecutions. If it could be left that way, we would be happy.

The Convener: Let us return to the issue of recklessness, which Roseanna Cunningham raised earlier.

Roseanna Cunningham: It is obvious from the evidence that at least two of the organisations represented here are concerned about the bill's insertion of the term "recklessly". You have raised a number of concerns about what might happen

as a result of that. The criminal law is full of the term “reckless” in application to other crimes, so it is well understood in the courts.

Have you read the evidence from the Association of Chief Police Officers in Scotland? I see one witness nodding and one shaking their head. ACPOS welcomes that change because, in its view, it will make things more straightforward and transparent. It does not use those words, but I think that that is what the association means. It gives two examples of cases in which, if there had been a test of recklessness, convictions would have been secured. I assume that the cases outlined by ACPOS are actual ones, and most people, on reading them, would be surprised were a conviction not arrived at in them. I note that the British Association for Shooting and Conservation witness has read the ACPOS evidence. I am not sure whether Bert Burnett would be able to look at it now.

Bert Burnett: Do I have to speed read?

Roseanna Cunningham: It is actually just two paragraphs, so somebody could perhaps pass that to Bert while Dr Shedden is commenting. It seems that what ACPOS is saying is correct, and that your concerns about the word “recklessly” are unnecessary and unfounded.

Dr Shedden: The example given by ACPOS was a clear one, and I support the argument that it puts forward in that case. I am concerned, however, about something that is slightly less obvious. The best illustration of that would involve someone working in game management in an uplands area. For example, a gamekeeper might dig a grouse butt without realising that he was digging it on an area of ground where a very rare fern featured in one of the relevant schedules—the alpine woodsia or something like that—is growing. Those ferns are monitored annually. Imagine that someone comes along and finds that a small, important local colony of that plant has now disappeared because of the digging of that grouse butt. Would that keeper’s actions be regarded as reckless if he were totally unaware of that colony of very small plants? Under existing legislation, he would be innocent, as it was not his intention to damage the plants. However, under the new legislation, his actions might be regarded as being reckless.

Roseanna Cunningham: Would not the prosecuting authorities consider the likelihood of someone knowing that a red kite, as opposed to an extremely rare species of fern that hardly anyone has heard of, was a protected species? Do you accept that, when it comes down to it, there will still have to be evidence that the action was reckless? Recklessness is an accepted criminal concept and, therefore, requires evidence. It is not simply guilt by certification.

Dr Shedden: I agree, but I am still concerned as to whether each person undertaking land management in the countryside would be expected to have a full knowledge of the presence or otherwise of protected species of not only animals and birds but plants, whose presence it is much harder to identify.

11:15

Bert Burnett: On snares, occasionally—and unintentionally—we catch a species that we did not want to catch. Malevolent prosecutions could be brought because that could be regarded as recklessness. People could say that we should not have set the snare on a particular track because a deer was using that track. I might have taken all precautions to stop the deer going into the area, but it could still go in anyway and, in its thrashing about, remove the stuff that I had set up to stop it initially. The prosecutors would not be aware of the precautions that I had taken, and I would be charged with recklessness.

Roseanna Cunningham: Are you saying that you think that the Procurator Fiscal Service undertakes malevolent prosecutions?

Bert Burnett: No. Malelo— It is a difficult word to say, so maybe it is the wrong word altogether.

Roseanna Cunningham: It is in your evidence.

Bert Burnett: Yes, but in connection to another issue. I am pointing out that, even though a snare was set with the best intentions, it would be possible for us to be charged with recklessness and have no defence. How could we prove that we did not set it recklessly?

Roseanna Cunningham: It would have to be proved that you did. That is the basis of criminal law in Scotland—the prosecution must prove that you did it recklessly; you do not have to prove that you did not.

Bert Burnett: I would not have a defence against the charge if the area of the snare was churned up because the animal that was caught was walking around and around. Recklessness is a dangerous word.

Roseanna Cunningham: As I said earlier, the concept is well known in Scottish criminal law and I would be astonished if it were applied differently to wildlife crime than it is to other crimes.

I think we have explored the issue sufficiently.

Rob Gibson: The Game Conservancy Trust expressed concerns about the powers of wildlife inspectors and said that they should not be given powers that are currently reserved to trained police officers. Could you elaborate on that?

Ian McCall: I am led to believe that we might have misunderstood part of the bill, but we are

concerned that the powers to search for and seize evidence that are reserved to trained police officers might—if we read the bill correctly, which I hope that we did not—be transferred to non-police officers. We are concerned about that from the point of view of our liberties and of the operation of the law. It is quite understandable that police officers should be allowed to do that sort of thing and that they should be accompanied by experts. I hope that I can be reassured that what I thought was in the bill is not in fact in the bill.

Rob Gibson: That is something that we will have to clarify. Let us take the example of pesticides, which are searched for at the moment. You do not comment in your evidence on the proposal regarding the possession of pesticides. Is that because you are content with the proposals?

Ian McCall: Yes.

Rob Gibson: What about the likes of Carbofuran, which RSPB Scotland and others mention as a major source of problems?

Ian McCall: What is the question?

Rob Gibson: Carbofuran is licensed as a soil treatment for a limited number of crops—mainly root crops—so why would a gamekeeper or a land manager on a shooting estate have access to it?

Ian McCall: They should have access to it only if they have a chemical store, and there is already a whole suite of legislation governing that. I know a bit more about that because I also happen to be a farmer, albeit a part-time one. There is no justification for gamekeepers or land managers to possess such chemicals.

Rob Gibson: Yet that is one of the main sources of problems at the moment, particularly with regard to the poisoning of raptors.

Ian McCall: It is true that it is one of the main chemicals found in cases of illegal poisoning, but it is not legal to possess it unless you have a good agricultural reason to do so. It must be kept in a chemical store and you must have documentation to show how much you have used; if you have used a certain amount, any that is left should be in the chemical store. That is the law as it stands and I am familiar with it because, as I said, I am a farmer.

The Convener: Perhaps that is more a question for Colin Shedden. The British Association for Shooting and Conservation is uncomfortable with the inclusion of the new section on the possession of pesticides and has concerns about the fact that what were once common garden pesticides will come under the remit of the legislation. Presumably an amnesty would be a way of dealing with the situation. People could hand in pesticides that are not required and for which they have no use and the bill could then come into operation.

Dr Shedden: You are right that that is probably the way of handling the situation, but there is no indication in the bill that the consequential provisions would actually come into play. We just wanted to highlight the fact that, although introducing open-ended legislation that could ban a number of pesticides may seem good on paper, the practicalities have to be fully explored, as you pointed out. Substances such as Paraquat could fall into that category and a large number of garden sheds probably contain proprietary drugs of some description containing Paraquat, which would then fall under the legislation and have to be destroyed in some way.

The Convener: The problem is not so much with the legislative provisions in the bill; it is more about making people aware of them. We would not be comfortable with the fact that such chemicals were in people's garden sheds anyway, so the bill could be a good way of getting rid of dangerous chemicals that should not be out there.

Dr Shedden: There may be benefits such as that. Depending on which chemicals are mentioned in the legislation, there could be practical problems for the people who currently use them. Without knowing or even having an indication of which pesticides could be included, it is difficult to say.

The Convener: That is clearly something that we can put to the minister when we get to our wrap-up session.

Alex Johnstone: I want to follow through one or two of the things that we have been saying to see whether we can come to a conclusion on one specific issue. We have not said a lot about the possession of pesticides, because I do not think that we have a lot to disagree on. The provisions in the bill are useful and I suspect that scrutinising them will do a lot of good to both sides.

The witnesses on the earlier panel talked at some length about snaring and suggested alternatives to snaring. You may have varying experiences of the matter, but what chemicals are generally used in the gassing of rabbits?

Bert Burnett: Cymag is off the market now, so only Phostoxin tablets are used.

Dr Shedden: Phostoxin can be used only by approved persons. I think that Ian McCall may be able to tell us whether only those with training can use it.

Ian McCall: Yes, that is the case. A more worrying feature is that, although Cymag—which is, in our experience, far more effective—is still available, it will no longer be manufactured because of licensing difficulties. For moles, Phostoxin is probably the safer pesticide but its effectiveness is debatable. Many people who use it do not think that it works.

Alex Johnstone: If snares were progressively replaced by chemicals for gassing rabbits, that would lead to a significant increase in the number of people, and in the amount of chemicals, required for the task. Is that a logical assumption?

Ian McCall: Yes, I think that it is.

Alex Johnstone: I have no expertise in this matter, but you gentlemen may have some knowledge of what is possible. Is it reasonable to assume that chemicals could be misused in a way that would contravene the bill?

Bert Burnett: No more so than they are today.

Ian McCall: Except that there would be more reliance on the chemicals and therefore more use of them. When there is use, there is opportunity for abuse, so I am afraid that your assumption would be correct.

Alex Johnstone: I stress that I am not asking anyone to incriminate themselves or the people whom they represent, but is it reasonable to assume that such chemicals could be misused as poisons in wildlife crime?

Ian McCall: For mole control, strychnine is licensed and the controls on it are extremely tight. To my knowledge, Phostoxin is not a chemical that can be easily misused. Cymag is in a slightly different category; it would probably be more dangerous in the wrong hands or when not used correctly.

Bert Burnett: If you ban snaring, including the snaring of rabbits, you will have to remember that there will be areas on marginal ground where Phostoxin tablets cannot be used. The rabbits there cannot be gassed; if not physically impossible, it would require a hell of a lot of manpower. The same would be true in woods. We have to snare in the open ground where rabbits are moving from woods or rough ground to wherever it is that they are doing damage. We can try to shoot them at night, but that cannot last for ever—rabbits quickly get used to a lamp coming in at the bottom of the field and they just get out at the top. They are not stupid.

Alex Johnstone: Are you saying that the products that are licensed for use are an inadequate replacement for snaring?

Ian McCall: There is no question about it. We have tried to make that clear in our evidence. The fact that the police evidence—the police put the point especially well—was very similar is interesting. If you remove legitimate means of controlling pests and predators beyond a certain level, that may be counterproductive, because people are encouraged to take the law into their own hands in desperation. Obviously, we want to minimise any risks of damage or cruelty, but we acknowledge that pest and predator control are

necessary, not just for agriculture but for other reasons as well.

The number of methods of control of many pests and predators—particularly the snaring and control of foxes—has reduced markedly already. Within the life of the Scottish Parliament, there have been reductions not only in that respect, but in other, more important respects. Access legislation has been mentioned; 24-hour access will make night control—which is one of the most effective methods of rabbit control that we know of, as it is of fox control—much more difficult. There is an expanding fox population and a reducing arsenal of control measures. We hope that that will not lead to people abusing the law more. That is an important point and I was delighted that ACPOS raised the issue.

Eleanor Scott: On your last point, I was wondering whether the access laws would affect where you could set snares. However, what I really wanted to ask Mr Burnett was how long it would take to shoot 100 rabbits at night and how long it would take to catch 100 rabbits in snares.

Bert Burnett: How long is a piece of string? As I suggested, we can go to a field of rabbits on the first night, when they are pretty naive, and take out our guns and get a lot of rabbits. We could kill 100 rabbits in a couple of hours, whereas the snares would be sitting there all night.

Eleanor Scott: It would take you a long time to set 100 snares.

Bert Burnett: It would, but they will sit there and catch rabbits all night. If I go into a field at night for the second time to shoot rabbits—which is my only other option—they will not be as stupid as they were on the first night. Certainly, when the light comes through the gate on the third night, they will know what is going to happen and will head back to their homes. That is when snares come into their own, as a rabbit will have no idea that a snare is there. It will come out to feed and we will catch it. However, we are talking about the difference between six and half a dozen. Shooting is great, but only up to a certain point.

11:30

Eleanor Scott: On access, is it an issue that there will be places where it would be inappropriate to set snares, as people make recreational use of the land?

Ian McCall: It is inevitable that there is an issue in that respect. People often like to be accompanied by their canine friends, and foxes and dogs could be a problem. Keepers already try to snare where there is less risk to livestock or to human companions. The issue is important, which is why we are concerned about the gradual

diminishing of the armoury with which we can deal with problems. There seems to be little progress with or research into alternatives.

Bert Burnett: We could set up a couple of hundred snares for an evening's catch of rabbits, but there is access legislation and people can run about with their pets. If we put up a sign that says that there are snares, somebody will say, "Oh, are there? Let's go and look for them." There will therefore be interference with the snares. However, if we do not put up a sign and a person's pet gets damaged, will we be sued for not putting up a sign?

Eleanor Scott: So it could be argued that it would be easier to use signage and keep people off land for a short time when shooting is taking place rather than for a long time during which there is snaring.

Bert Burnett: The strange thing about people is that, if a sign is put up that says that something should not be done, they will usually do it. If there was no sign, they would not know what was happening and would stay away.

Rob Gibson: I would like to move on to a more general issue, as we are expending a lot of energy on a small part of countryside practice. SNH studies have shown the correlation between the distribution of poisoned eagles and the distribution of managed grouse moors. Moreover, 80 per cent of people who are convicted of persecution of birds of prey have game-rearing interests. Does the panel accept that those issues, as well as the number of unprofessional wildlife managers in the profession, need to be addressed? What are your organisations doing about such matters?

Dr Shedden: I certainly agree that the evidence indicates that, to a considerable extent, there is a correlation between detected persecution of protected wildlife and game-rearing and game-shooting interests. However, we must also recognise that game-rearing and game-shooting areas act, to a certain extent, as honeypots for predatory birds and even predatory mammals, which is why we have been talking about foxes and game interests for so long this morning. It is inevitable that a higher density of predatory species will be found in areas where there is an abundance of prey, which are usually game-shooting areas.

There is a correlation. A small number of people involved in game shooting or game management have been implicated and convicted for wildlife crime offences in the past. When courts have reached decisions and such people are brought to our attention, they are dealt with by our disciplinary committee. Usually, they are expelled from membership for a considerable number of years.

Rob Gibson: You talk about a "small number" and "a considerable number of years". Can you give us any figures?

Dr Shedden: Over the past three years in Scotland, I think that I have had to refer three or four members to our disciplinary committee—unfortunately, one member had to be referred to it as recently as last week. In each case, the member has, in effect, been blacklisted from membership for around three, four or five years. A decision is taken by the disciplinary committee and not by me.

Bert Burnett: Our organisation has done the same. If someone is done for a serious crime, they are out.

Rob Gibson: So, for example, Douglas Ross—

Bert Burnett: He is no longer a member.

Rob Gibson: Ronald Allison?

Dr Shedden: Mr Allison's case is currently before our disciplinary committee.

Bert Burnett: Is he one of your members?

Dr Shedden: Yes.

Rob Gibson: What is the Game Conservancy Trust's view of the issue?

Ian McCall: I echo what Colin Shedden said. You mentioned the SNH study. Its conclusions are no surprise to us because, as Dr Shedden pointed out, prey attracts predators. There is equal evidence that, in certain places, birds of prey thrive under game management conditions. The Game Conservancy Trust took part in the Langholm study, which demonstrated a massive increase in the number of hen harriers when a moor was kept for several years. Interestingly, since the grouse and the keepers have gone, the hen harrier population has shrunk back to below its previous level. That suggests that game management, when it is conducted according to the law, is exceedingly good for all those species. It is important that we do not throw the baby out with the bath water.

The Game Conservancy Trust's rules are similar; if any of our members are convicted of wildlife crime, they are expelled for ever.

You also asked what our organisations are doing about persecution of birds of prey and unprofessional management. I return to the critical point that the best way of reducing wildlife crime is to provide a sensible and practical method of predator control that works and does not put other wildlife at risk. A classic example from the past 15 years involves the popularisation of the Larsen trap, which is an effective method of taking crows at the critical time of year when they do damage to game. I argue that the development, introduction

and popularisation of the Larsen trap, along with training in its use, has done more to reduce illegal practices involving pesticides than any other activity carried out by any of our organisations, whether together or independently. That is the way forward.

Rob Gibson: I would just like to get one more comment out of you. On Sunday's "Landward", there was an item from Mull describing the popularity of sea eagles among visitors. A sheep farmer was interviewed and he said that approximately 20 of his lambs had been taken by the sea eagles. Clearly the fact that people come to watch the sea eagles is seen as far more valuable to Mull's economy than shooting or the other activities with which you gentlemen are involved. Do you agree that the economic value of wildlife visits, education and tourism might be better for biodiversity than the activities that you are taking part in?

Dr Shedden: The two interests are compatible. During the winter, the gamekeeper is taken up with the shooting season; at other times of the year, he may act as a wildlife ranger and will escort people out to show them the wonders of biodiversity in Scotland—that happens on several estates. It is acknowledged that biodiversity thrives in several areas that are well managed for game and wildlife; there is a good deal of compatibility between management for game and shooting interests and wider biodiversity. We have been focusing on how to ensure that that continues.

Bert Burnett: As for the sea eagles, the guy on the television would have had a different opinion if he had been interviewed a few years ago when he was not getting compensation for his sheep.

Rob Gibson: Indeed. We are interested in the question of costs. Nevertheless—

Bert Burnett: It is wonderful to see sea eagles, red kites and so on, but there are other things out there that are not tourist attractions and might be causing someone somewhere a problem. If a problem is big enough for people to feel that they have a grievance and they cannot deal with it legally, they will take the law into their own hands. To a great extent, that is what is happening. There will be a few idiots who hang on to the past, but in general people are trying to solve a problem themselves because they see no other way of solving it.

The Convener: To what extent is training part of the solution? In a couple of the submissions, you refer to the training that people who work on the land have to undertake. Surely that is one way of making people aware of their duties and responsibilities and of the legal methods that are open to them.

Bert Burnett: We can bring in a law to ban people who have telephones in their cars from

driving with one hand while their mind is somewhere else, which is stupid, but that will not prevent some idiot from doing it. We are in the business of educating our members and folk such as our members who work in the countryside. We hope that our message is getting through, but if it does not there is obviously a problem that we cannot reach. If we cannot reach it, there must be another way of doing so.

The Convener: Presumably a new act would concentrate the mind.

Bert Burnett: One would hope so. However, in all other walks of life people break the law. Education does not always solve all the problems.

The Convener: We may be able to explore those issues with the third panel of witnesses, who represent the people who will enforce the law.

Roseanna Cunningham: My question relates directly to a phrase in the written evidence from the Scottish Gamekeepers Association, which I would like Bert Burnett to quantify. You say that bad feelings are shared by gamekeepers across Scotland and that

"this unfortunately leads to non cooperation between some of our members and the police."

Will you put an estimated figure on the number of your members who are not prepared to co-operate with the police?

Bert Burnett: They will co-operate with the police up to a point, but they will not tell the police anything voluntarily. If the police ask them questions, they will answer those questions as they see fit. However, they will not co-operate actively with the police, because in the past gamekeepers have been raided unjustly. If something bad happened to someone in your street, the word would go up and down the street very quickly and many people would want nothing to do with the person responsible.

Roseanna Cunningham: What percentage of the SGA's members takes that view?

Bert Burnett: About 20 per cent of them.

Roseanna Cunningham: So about 20 per cent of the members of the Scottish Gamekeepers Association will not co-operate with the police.

Bert Burnett: They will not come forward to tell the police about incidents. I have not spoken to every member. However, from speaking to my local members and to committee members, who have spoken to their members, I know that the general feeling is as I have described. Because of particular incidents that have taken place, there is distrust of the police among our members. To their minds, people have been unjustly raided.

Maureen Macmillan: I want to ask about wildlife inspectors. I hear what you say about the police. Although in the written evidence all three of the organisations represented here say that they are happy to have the police come on to land to examine items or to search for evidence, they are not happy to have the police accompanied by someone who is not a policeman. I find that rather strange. What are you worried about?

Bert Burnett: Why should someone who is not a policeman be in my house? I assume that the wildlife inspector is there only as an expert witness. If evidence is found in my house or buildings, that can be taken to him. If the issue is the identification of a bird's egg, a dead bird or a particular kind of trap, the inspector is required only to comment on that. As far as we are concerned, his job is then done. There is no need for him to walk through my house. It is an invasion to have police come through one's house in any case. That invasion is made worse by involving a member of the public.

Maureen Macmillan: Are you worried only about inspectors coming into your house, rather than about their coming on to the land?

Bert Burnett: If an inspector comes on to the land to carry out identification—to help the police and accompanied by the police—there is no problem. However, once his job is done he should have no more to do with the case.

Maureen Macmillan: So you are happy to have a vet, for example, come on to the land to identify what has happened to a bird or animal, but you are not happy about their coming into your house.

Bert Burnett: Yes.

Maureen Macmillan: Do Ian McCall and Colin Shedden agree?

Ian McCall: We understand the need for expert witnesses and that it may be necessary for them to enter a house. In an ideal world, a warrant would be available, but there might be occasions when it is not possible to obtain one. There is no problem with expert witnesses—we understand that aspect of the bill. We were under the impression that powers were to be extended and that was what concerned us.

Maureen Macmillan: Why were you concerned about powers being extended?

Ian McCall: Because we believe that the powers held by the police should rest with the police and the police alone. Policemen have the necessary training. We would be worried by the implications of having some sort of second tier of police officers. If they are there as experts, that is quite understandable, but the police are there to do their job. Hopefully, we have enough police. If not, that is something for the Executive to consider.

11:45

Dr Shedden: We are also interested in an academic sense. Does such a measure establish a precedent, in that the powers of the police to search and seize are effectively conferred on civilians for a short period of time? I am not aware of any parallels in other legislation, but they may well exist.

Maureen Macmillan: How does that compare with the powers that bailiffs have when they are chasing poachers?

Ian McCall: To my knowledge, bailiffs operate on private property, with the permission of the landowner. That is substantially different from going on to somebody else's property.

Bert Burnett: In all probability, the bailiff would be making a sort of civil arrest at the riverside, or wherever, rather than going into somebody's house and dragging the person out. They would not have the powers to do that.

Alex Johnstone: Is it not the case that the powers conferred under the bill are closer to those already held by fisheries protection officers?

The Convener: Are you asking the clerks that question? We will be able to obtain an answer to that.

Alex Johnstone: I think that there is a precedent there.

Maureen Macmillan: We could perhaps get that information checked.

The Convener: Okay.

Nora Radcliffe: In your written evidence, you mention the provision to trap game birds for breeding. We have not discussed that issue yet, so could you expand on it?

I am not sure whether this issue is related, but you might have heard the previous evidence about treating pheasants that have been reared for shooting as farmed, rather than wild. I invite you to comment on issues around that distinction as well.

Dr Shedden: I heard the earlier evidence. Under section 5(5) of the Wildlife and Countryside Act 1981, gamekeepers and others can catch stock at the end of the season for breeding purposes. That practice has carried on for the best part of 100 years. As far as I am aware, it has presented no problems with respect to wildlife crime and there has been no abuse.

The only situation of which the police officers to whom I have spoken can think is a pigeon occasionally getting into a catcher because it has been attracted by the food in it. The pigeon is released when the pheasants are gathered up. The birds are retained and the eggs are hatched. Local stock is used for local shooting. The system

is a good one, and has worked well. If we were to change the system completely, that would effectively mean either that we would need to have closed flocks of birds, kept purely for breeding purposes, or that there would be an increase in the importation of game-bird eggs from countries such as France.

The question was asked whether game birds should be considered as wild animals or farmed animals. Our understanding is that a considerable number of pheasants breed in the wild—they are wild birds anyway. Those that are reared on sporting estates will basically be farmed animals until they are released. Once they have access to the wild, they become wild birds, like any other birds, and they can be reduced into possession only by the act of killing.

Ian McCall: I can confirm that last point, which relates to the laws on poaching. It is important that anything that is kept in a pen is deemed as farmed. Therefore, taking it is theft. Once it is outside a pen, it is a wild animal, and we may then talk about poaching. I cannot see any great need to change that situation, which I think is quite clear already. I was a bit mystified about the earlier discussion on that.

The Convener: There are no other questions. I thank the witnesses very much for coming along this morning. I suspend the meeting briefly so that the third panel of witnesses can assemble.

11:48

Meeting suspended.

11:53

On resuming—

The Convener: I welcome the third panel of witnesses, who are Superintendent Mike Flynn from the Scottish Society for the Prevention of Cruelty to Animals; Alan Stewart, who is a wildlife and environment officer from the Association of Chief Police Officers in Scotland; Duncan Burd, who is a member of the Law Society of Scotland's rural affairs committee; and Dave Dick, who is a senior investigations officer with RSPB Scotland. I thank the witnesses for their written evidence, which members have read in advance. We will go straight to questions from members. I ask members and witnesses to make their questions and answers as focused as possible.

Roseanna Cunningham: I will return to the issue of recklessness, which I raised earlier. The witnesses will have heard the concerns of the Scottish Gamekeepers Association and the British Association of Shooting and Conservation about that issue. The Game Conservancy Trust raises concerns about the matter in its written evidence. The concerns range from a feeling that the

recklessness provision may catch people who are in effect in ignorance, through to the Scottish Gamekeepers Association's view that it will result in "malevolent prosecutions". I ask the witnesses, particularly those from the police and the SSPCA, to comment on those concerns. Are any of them justified?

Alan Stewart (Association of Chief Police Officers in Scotland): I understand the concerns, but there are ample precedents in law on the concept of recklessness, as you said in questioning the previous witnesses. There is a clear difference between intentional or reckless acts and careless or accidental acts. It would be unreasonable to expect a court to convict a person of an accidental or careless act—we want to take to court only reckless or intentional acts. I understand the worry but, given the existing concept of recklessness and the way in which courts work, that worry is not realistic.

Superintendent Mike Flynn (Scottish Society for the Prevention of Cruelty to Animals): I have a couple of points. First, many of the protected ferns are probably on sites of special scientific interest, which are designated by SNH, so people will know of their existence. With normal species, the gamekeepers work in the countryside—it is their patch—so if they do not know that something is there, nobody else will. Secondly, if one knew what the Crown Office and Procurator Fiscal Service requires these days to prosecute, one would realise that the idea of malevolent prosecutions is absurd.

Roseanna Cunningham: To what extent are you aware of non-co-operation being a problem in attempting to detect and prosecute wildlife crime?

Alan Stewart: In Tayside, we have not found it to be a great problem. We work closely with the Game Conservancy Trust, BASC and the Scottish Gamekeepers Association. When we carry out inquiries, we get the help that we require. We try to ensure that committee members of those organisations try to police their members to ensure that they stay within the law. Those organisations assure us that they do their best. I will stop at that.

Roseanna Cunningham: Please feel free to go on. Are there things that those organisations could do better?

Alan Stewart: I sometimes think that they are a wee bit soft on their members. I would prefer it if they threatened to expel members who do not comply with the law. The situation is sometimes compared to police officers who break the law being thrown out, which is entirely correct. All police officers try to ensure that officers who do not toe the line are brought to book. That is entirely different from being a member of an organisation, but if it is clear to the organisation

that certain members are not fulfilling their obligations and are bringing the organisation into disrepute, those people could be put out. That power could be used a wee bit more to bring one or two people into line.

12:00

Superintendent Flynn: I would go along with that. We have worked well with BASC and the SGA over the years and believe that the vast majority of their members are good and that it is only a small number of people who bring the organisations into disrepute.

Gamekeepers do not tend to resist anything that we do. The only time that they do is when evidence connected to an incident for which they are not responsible is found on land that they operate. We always ensure that we do not indicate that we think that the gamekeeper is necessarily responsible for the incident that we have found simply because the incident occurred on a gamekeeper's estate. Some of the provisions in the bill are relevant in that regard, such as the one that says that you cannot set a snare on any land unless you have the landowner's permission. The gamekeeper has control of the land, but he might not have set the snare.

Rob Gibson: I want to deal with issues relating to sites of special scientific interest. The Law Society of Scotland talks about the idea of making site management statements available on the internet or in public libraries, but that is not specifically mentioned in the bill. I would like you to comment further on that.

Duncan Burd (Law Society of Scotland): First, I have to declare that I am a member of BASC and am also a crofter and, therefore, an occupier of land.

The Law Society of Scotland believes that if the concept of recklessness is to be used in the bill, it must be possible to say to the general public that they should know about factors relating to the area and therefore that information should be available in several public forums. The internet is an obvious forum, as it is accessible by most people these days, and public libraries are a recognised resource. Our suggestion brings an element of transparency to the situation.

Rob Gibson: Would you like there to be a specific list of local bodies, such as community councils, that should have the information to ensure that the public are as well informed as possible?

Duncan Burd: Yes.

Nora Radcliffe: With regard to section 6, which deals with the review of operations requiring consent, your submission says that everyone

having an interest in the land, not only the owners and occupiers, should be involved. Specifically, who do you suggest should also be involved?

Duncan Burd: We felt that some people who have rights to be on the land might be affected by any review of operations. For example, the landowner may have transferred some of his or her rights to third parties who will have a legal right to be on the land for any particular purpose and it might be that that purpose will be impinged on by developments that others are involved in. We are trying to ensure that everyone who might be affected by a development is at least told about it in the first instance.

Nora Radcliffe: Are we talking about a significant number of people? I presume that you would not have mentioned the matter if you did not think that it was likely to be a significant number.

Duncan Burd: The number will vary across Scotland. In some areas, it will be quite significant but it will be miniscule in others.

Nora Radcliffe: Do you have in mind, for example, someone who has a pony trekking business and has permission to cross someone's land?

Duncan Burd: Yes.

Nora Radcliffe: On section 19, which deals with offences in relation to sites of special scientific interest, you seem to be suggesting that there will be a two-tier system in that regard. Am I picking that up rightly or wrongly?

Duncan Burd: That part of the submission came from the criminal law committee, which is our brother committee. If you want, I can get back to you on that matter after I have consulted its members.

Nora Radcliffe: I will clarify what I am trying to find out about and ask you the question in writing.

You drew attention to the fact that there is no definition of biodiversity in the bill. Others have raised that point and we will probably take it on board.

Your submission says that nature conservation orders

"appear to duplicate the powers SNH already have."

Could you say a little bit more about that?

Duncan Burd: A wee bit. We analysed these sections fairly critically and it was felt that there could be areas of concern if the sections became enactments. The input on that came pretty much from the Law Society's criminal law committee. However, there is a general perception that there will be difficulties in interpreting that in courts.

Nora Radcliffe: So, it is something that we should look at a bit more critically.

Duncan Burd: Yes.

Nora Radcliffe: Under "Offences in Relation to Nature Conservation Orders", you suggest that

"there should be some degree of knowledge on the part of the person involved in the alleged commission of the offence".

If we ensure that, would that make ignorance a defence, and would that be desirable?

Duncan Burd: It would put the emphasis on the Crown to show that there was some knowledge of the offence. I do not think that ignorance would be construed as a defence.

Nora Radcliffe: So, you are drawing a line in the sand and saying that the issue is helping people to know where that line should be.

Duncan Burd: Yes.

Nora Radcliffe: I am sorry that this is legalistic—

The Convener: I am letting you have the floor, here. Other members will get in.

Nora Radcliffe: Right. On section 38, the Law Society says that there is

"a lack of specific appeal provision in this section".

I do not know whether you want to expand on that, or whether you are just drawing our attention to something that we should look at.

Duncan Burd: What we have tried to do in our submission is put down various markers that will be more relevant at a later stage in the proceedings. We have taken the view that there may need to be appeals provisions to ensure that the bill complies with European law.

Nora Radcliffe: Where there is provision for appeals to be made in respect of nature conservation orders, you do not think that a fair and impartial tribunal is identified.

Duncan Burd: I do not think that we are being so dramatic as to say that the procedure is unfair. We are saying that we need to be absolutely certain that the composition of the panel is bullet-proof.

Nora Radcliffe: Right. That is all that I had notes about. Thank you.

Rob Gibson: I would like to turn to the last section of RSPB Scotland's submission, concerning single-witness prosecutions. Other members of the panel may want to comment on this.

We understand why the tightening up of the law went in the direction of single-witness prosecutions for egg taking. You recommend that the committee should consider extending that provision to other wildlife offences that may take

place in remote areas where it is unlikely that there will be multiple witnesses. Why should there be a different standard of proof in wildlife crime from the standard that would be required in a case of murder or robbery?

Dave Dick (RSPB Scotland): It would be better to point out that the same standard of proof is required in crimes to do with poaching and littering in Scotland. Under the Environment Act 1995, only one witness is needed. The suggestion to apply the single-witness provision across the board was a late addition by the RSPB. However, it is an anomaly that although it has been possible since 1830 for certain offences against wildlife, such as poaching, to be dealt with by relying on a single witness, nowadays, when wildlife is seen as being of far greater importance to the entire community in Scotland, judging from what has come out in evidence today, other types of offences against wildlife are dealt with in a lesser way.

I cannot, of course, comment on the level of proof that is required for other types of crime, such as murder, as I am not an expert in that area. What I do know, from 20 years of looking at wildlife cases, is that there is not a snowball's chance in hell of a case going ahead when somebody has seen a man putting poisoned bait out but there is no other evidence. The single-witness evidence would be part of the chain of evidence that would occur anyway, and there are strong checks and balances all the way through from the police officer who reports the case, to his superior, to the procurator fiscal and, finally, to the sheriff. Those checks and balances ensure that there would be no threat to anyone who was not a serious wildlife criminal.

Rob Gibson: I suppose that it could be argued that the poaching legislation emanated from another place and another system of law.

Nora Radcliffe: And very different priorities.

Rob Gibson: Indeed. We have to be careful to be specific when we talk about crimes including those to do with poaching and littering. We have to find better ways of getting people in remote areas involved in spotting wildlife crime.

Dave Dick: We have a law that states that only one witness is needed to prosecute crimes of taking or destroying an egg. If a gamekeeper stamped on a nest that contained hen harrier eggs, it would be a single-witness offence. If one accepts that as a good piece of law, it is an anomaly that two witnesses are needed to prosecute the person who poisons the bird that laid the egg.

By definition, most of the rare birds in Scotland are in remote and inaccessible places. I have said this before in the committee and although it might sound a jovial thing to say, it is not: Mrs Eagle

does not report the crime. There are no witnesses to many of the crimes, except occasionally when a hill walker sees something.

There have been cases in England where somebody has taken a snapshot of somebody in the middle of robbing a peregrine nest. That photograph then gets shown on the BBC's "Crimewatch", the person is identified and we get a conviction. That could be happening in Scotland all the time. The RSPB is certainly not in the business of undermining the basic tenets of Scots law. The need for corroboration is powerful and corroboration would be necessary to get a conviction of this sort.

Rob Gibson: Is anyone else on the panel interested in commenting on the fact that wildlife crime is being treated separately from other streams?

Superintendent Flynn: I do not know whether it is a case of treating it separately. Dave Dick made a good point when he said that wildlife crime, by its nature, happens in remote and rural places where there are few people. There will be more people going about when the countryside opens up. Like the RSPB, we do not seek to make changes to the fundamental principles of the law. However, because wildlife crime is so rural and so few cases get to court, the ones that do are just the tip of the iceberg. Finding an offence, as we do quite often, and finding the offender are like chalk and cheese—they are totally different.

Rob Gibson: What sort of numbers are we talking about?

Dave Dick: We have provided a map at the end of our evidence that shows five years of positively confirmed persecution and poisoning incidents in Scotland. There are dozens of little dots on the map that represent such incidents all over the Scottish countryside, most of them in rural areas and without a witness. We have found the animal or bird later, after it has been killed, or we have found bait or other evidence. The problem is large.

Maureen Macmillan: As you heard, the previous panel voiced concerns about wildlife inspectors, who are not policemen, being able to enter people's houses. I see from the evidence from members of the present panel that you have concerns about that, although not of the same kind. For example, the Law Society is anxious about an inconsistency in the bill to do with the right of entry to somebody's house. The police are concerned to make the powers unambiguous so that when cases come to court, the defence will not be able to play games with other people's powers.

Superintendent Flynn: There has been a general misunderstanding about wildlife inspectors. They are employed or appointed by

DEFRA. The right of entry concerns people who deal in birds of prey and it is to do with the convention on international trade in endangered species of wild flora and fauna. If I were a bird-of-prey keeper keeping peregrine falcons and I ringed my chicks, I would have to get my rings from DEFRA, which would be entitled to check me through its wildlife inspector. If I wanted to sell a bird from an endangered species and I had an article 10 certificate to do so, that wildlife inspector could come to my address at a normal time and ask to see the certificate.

The powers would affect a gamekeeper only if the gamekeeper were also a falconer, breeding birds of prey and passing them off as captive bred. We are not talking about a new police force. Alan Stewart will be able to confirm this, but the original idea was to relieve the police of a lot of checking—paperwork checking and checking that rings have been put on properly. A ring on a captive-bred bird must be a closed ring that has not been falsified. That is different from dealing with wildlife crime.

Alan Stewart: Wildlife inspectors are experts. They are experts on the particular bird or animal that they are going to look at, so we would have absolute confidence in them. I am happy with the proposed new powers.

I spoke to one or two gamekeepers last week; they thought that yet another army of people would be coming to inspect them. The word "keepers" has cropped up but, as Mike Flynn said, it refers to keepers of birds of prey or birds that require a licence. It has nothing to do with game management.

12:15

Maureen Macmillan: So the inspectors would be specialised.

Alan Stewart: That is correct.

Superintendent Flynn: There are only six appointed inspectors in Scotland, or perhaps 10.

Dave Dick: They are Government employees, who are trained at an annual conference in Bristol. Wildlife inspectors have existed since the Wildlife and Countryside Act 1981 came into force.

The Convener: It is useful to have that clarified on the record.

Maureen Macmillan: The Law Society raised a point about entry into houses.

Duncan Burd: When that was discussed, we did not know of the existing wildlife inspectors. I would therefore like to come back to the committee on that point.

Eleanor Scott: I would like to ask about snaring.

Roseanna Cunningham: I would like to ask about that too.

The Convener: All right—we will move on to that.

Eleanor Scott: In its submission, the SSPCA said that its preferred option would be a total ban on snaring. However, the society welcomed some of the measures in the bill as being better than what we have at present. Will Mr Flynn outline briefly for us the society's involvement with snared animals and will he explain why the society has taken the view that it has taken? The police have taken the opposite view, feeling that a ban would be counterproductive—partly because of enforcement issues. How could the regulations brought in with the new bill be enforced?

Superintendent Flynn: Our board's policy for more than 30 years has been to oppose the manufacture and use of any snare that can cause suffering. In the cases that we deal with, we invariably see suffering caused by snares. We do not have inspectors going out to the countryside to search for snares; every time we go to a snaring incident, we do so because a member of the public has reported it to us. After finding the original snare, we will search for others in the area. Because a member of the public has called us, by the time we get to the snare, the animal will invariably be distressed, injured or dead.

Gamekeepers know where their snares are and may find that, out of 100 snares, two have caught an animal. Because we go to a snare only when it is reported to us, our situation is different: practically every time we go to a snare, an animal has been caught or something has gone wrong. I have no doubt that snaring causes injury and unnecessary suffering. Self-locking snares have been banned, but free-running snares can easily become self-locking. When a rabbit is caught in the small rabbit snares that are used in crofts, it is locked there because of the type of wire that is used.

I do not agree that enforcement is an issue. A total ban on snares would be dead easy to enforce. If you had a snare, it would be illegal, whether it was locking, self-locking, free running or whatever. However, we are not an anti-killing organisation. If there is a pest to be controlled, control it. All that we ask of people is that they do that in the quickest and most humane way possible. There are other ways of controlling foxes and rabbits. A total of 70 per cent of fox control is already done by shooting. I do not see why increasing that percentage would be a big problem.

I will stick up for the bona fide gamekeepers here. In another debate in another committee room, I heard a gentleman say that he covers the

same amount of land that it took 10 keepers to cover 10 years ago, yet he is still expected to control all the pest species. With the best will in the world, that just cannot happen.

However, we would support a ban, although if a ban is not introduced other measures above and beyond what is already in the bill, such as the identification of snares, could be brought in. For example, as far as identifying snares is concerned, we are lucky if we can link a person to one in every 100 snares where an offence has been committed, because after all a snare is only a piece of wire. If a snare is found on the doorstep of a croft, there is a very good chance that it will be the crofter's, but on an estate with three or four keepers we do not know which of them has set the snare. We cannot simply accuse the nearest keeper—we need proof. As a result, we recommend that snares should contain identification marks and that that information should be held by the factor along with maps of where the snares have been set. On one estate, we were told that although there were snares, they were set by a man who had been fired six months before. We cannot prove that, but it would mean that the snares had been sitting unchecked for six months.

We also believe that every snare should be fitted with a crimped stop which would prevent the snare from closing too tightly. It would also mean that deer would not be caught, because the snare would not be able to close around their leg. That said, we welcome the excellent measures that are proposed in the bill such as closing loopholes and requiring people to have permission to carry a snare for whatever reason.

The Convener: You mentioned resources. In paragraph 18 of your submission, under the heading "Causing and permitting", you refer to the requirement for gamekeepers

"to control extremely large areas of land"

and the potential

"pressure to use methods which appear less time-consuming."

We have explored that issue briefly with previous witnesses.

I note that the SSPCA also

"welcomes the proposal that responsibility for wildlife control lies equally with those who commission it."

I take it that you are referring to landowners or people who are in charge of an estate. Will you comment on that interesting statement?

Superintendent Flynn: Some land managers have unrealistic expectations of their keepers. We feel that if it can be proven that a head gamekeeper has acted under the instruction of a

factor, or that an underkeeper has acted under the instruction of a head gamekeeper and so on, everyone should share responsibility for an offence. It is common knowledge that the Protection of Animals (Scotland) Act 1912 makes procuring or causing any person to carry out a particular act as much of an offence as carrying out the offence itself. As a result, if we can prove that people have put keepers under so much pressure that they have had to carry out illegal acts or that people have commissioned them to do so, they should also be held responsible.

The Convener: That clarification was useful.

Roseanna Cunningham: I want to raise a specific point about snaring. Earlier, concerns were expressed about snares that have become self-locking and, indeed, self-locking snares themselves. I think that people such as you generally welcome the fact that the bill seeks to make it an offence to possess such snares. However, concerns were also expressed about the fact that people who remove snares once they have been identified will be in temporary possession of them.

ACPOS has suggested appropriate amendments, which refer to the deliberate design of a snare that is not free-running or that has been modified so as not to be free-running, but that approach would still not address the discovery and subsequent removal of illegal snares. There is a perception that picking up a snare to remove it will expose an individual to prosecution for possessing that snare. Do you think that snares should be removed only by the police and wildlife inspectors, or can we deal with the problem in some other way? I presume that the matter does not apply only to gamekeepers but to anyone who sees an illegal snare, picks it up to remove it and then is stopped by the police.

Alan Stewart: First of all, wildlife inspectors do not come into the scenario because they deal with birds or animals that are licensed.

The bill seeks to make it an offence to possess

"a snare which is capable of operating as a self-locking snare".

That wording is perhaps a wee bit broad-brush and needs to be narrowed down for the reasons that I have outlined in the submission. I think that we should seek to set out clear offences in the bill, not try to detail technical offences. Using rusty snares or snares that have caught a fox, are subsequently kinked and are then self-locking would fall into the category of technical offences. If we can get round that somehow, it would be a lot more satisfactory for everyone.

Roseanna Cunningham: That still does not deal with temporary possession, for example to

remove the snares. A responsible gamekeeper might discover illegal snares on land for which he is responsible and pick them up to remove them. The concern is that by taking temporary possession of the snares to remove them, the gamekeeper will be open to the accusation that they are in his possession. I do not know whether you think there is any way one can develop a sense of intent in such circumstances. Someone will have to remove the snares, will they not?

Alan Stewart: We have a similar situation just now. If a gamekeeper finds a bird of prey that they think might have been poisoned, we encourage them to contact the police about it. We would then go and collect the bird, which would be examined. The same applies with snares. If somebody finds snares on their land that are not theirs and they think that they are there illegally, they should contact the police.

Roseanna Cunningham: They should not touch them; they should contact the police.

Alan Stewart: Yes, and we will deal with them.

Roseanna Cunningham: That is what I was trying to get at. If in your view the police will be responsible for the removal of snares, that answers the concern. However, that assumes that the police can be called out fairly quickly. Will that always be the case or will the snare continue to lie there?

Alan Stewart: The alternative is to draw the snare so that it cannot catch anything. That would make it inoperable.

Roseanna Cunningham: Then the police could be called.

Superintendent Flynn: One of your colleagues made the sensible point that if someone comes across a snare, which they are going to remove, they should snip it in two so that it is incapable of being used as a self-locking snare. I do not see that it would be a major problem for people in the countryside to carry a pair of pliers.

Dave Dick: I am often asked to give people advice about what to do if they discover a wildlife offence being committed in the countryside. I tell gamekeepers and farmers who think they might come across something reasonably regularly always to carry a camera with them, because it corroborates what they find and people cannot say that something has been planted. They should gather evidence in the way that other people would. We are talking about an awareness campaign for wildlife crime. People such as Mike Flynn and me have a duty of care to the wildlife about which reports might be made. The courts should accept that if there was no possibility of a policeman arriving before something could get caught, the person who found the snare had to draw it.

The Convener: We will need to consider later a number of issues around implementation, the guidance that people will need and training for people who are involved in management, so that everyone is clear about what is in the eventual act. There is a real issue about what is expected of people in different parts of management. We will want to wrap up a few issues.

Dave Dick: For about the past 10 years I have been helping with a training course for gamekeepers at the Scottish Agricultural College at St Boswells in the Borders. I have been pleased to do so and I have seen hundreds of young men and women finish the course. However, very few of them end up in full-time employment as professional gamekeepers. There does not seem to be any need to have a professional qualification in that field. This is a big issue and perhaps it goes beyond our discussion of the bill, but people ought to consider more regulation of the education of people who handle dangerous equipment, whether snares or guns, as well as of the wildlife under their control.

Nora Radcliffe: My question is on the practical difficulties that checking snares every 24 hours imposes. ACPOS thought that a 28-hour period would be all right. Would a 25-hour period be enough?

Alan Stewart: The period should be more than 24 hours. People might religiously check the snares every day, but they might have to go out a wee bit earlier every day. If they go in different directions or something else crops up, they cannot fulfil their obligation to check the snares within the 24 hours. It is realistic to extend the period a wee bit beyond 24 hours to 26 hours or whatever period is agreed to be reasonable. Everyone accepts that if snares can be checked twice a day, so much the better, but if we must set a definitive time, it has to be a bit longer than 24 hours.

Nora Radcliffe: I imagine that most animals that are caught in snares are caught at dawn or at dusk, or during the hours of darkness. The bill stipulates that snares must be checked within a 24-hour period, but the daylight hours are self-eliminating, so to speak.

Alan Stewart: The snares are usually checked first thing in the morning, so that the animal is there for the minimum period possible.

Superintendent Flynn: It is widely accepted that the shorter the time an animal is in a snare, the better all round. The representative from BASC made that point earlier. I know that Professor Randal Munro would think that for an animal potentially to be in a snare for more than 24 hours is totally unacceptable in welfare terms. We believe firmly that snares should be checked at least once every 24 hours. If someone has set

so many snares that they cannot check them within that period, they should cut down the number of snares.

12:30

Nora Radcliffe: Do you take on board the point that if someone routinely goes out at 7 o'clock in the morning to check their snares and one day checks them at 5 past 7, technically they will be in breach of the law? Allowing 25 hours to check snares would give them some leeway and ensure that they were not technically committing an offence. It is desirable that people are within the letter as well as within the spirit of the law.

Alan Stewart: That brings us back to the issue of technical offences, which we want to avoid.

Nora Radcliffe: We want to eliminate technical offences, because they are not desirable.

Superintendent Flynn: I agree totally, but snares are not desirable either. If we have to have an undesirable thing, why not have something else that is undesirable that ensures that it is a bit more humane?

Nora Radcliffe: I have been told that in the States people use a type of spring trap with rubber or neoprene padding. It operates in the same way as the spring traps that are illegal in this country. Do you regard such a trap as more humane than a snare?

Superintendent Flynn: You are referring to the leg-cuff trap. It was tested as part of the badger cull recommended by the Krebs report and the Ministry of Agriculture, Fisheries and Food rejected it out of hand. I do not know the results of the trial and why MAFF rejected the trap. Some groups said that it was better for animals than being caught in a wire snare.

I have never seen a padded leg-hold trap, although I know about them. MAFF said that they were not suitable for catching badgers. I do not know whether its conclusion was based on the strength of a badger, compared with that of a fox. One would like to think that a padded trap that holds an animal is better than a wire snare, which could dig in—a snare is meant to be a restraining device; it is not designed to kill. We will have to reserve comment on padded leg-hold traps until we have seen the results of the trial.

The Convener: If it is possible for us to get that information, we will do so.

Alex Johnstone: I have never set snares, but I know people who have. In my experience, they are checked at first light every morning. Between August and November, in particular, first light does not happen every 24 hours in Scottish conditions—the intervening period is longer than

that. We do not dispute the proposal that snares be checked every 24 hours. However, we need to find a definition that can be implemented in Scottish circumstances. That is why we are suggesting that a 25 or 28-hour period might be appropriate.

Superintendent Flynn: It has been recommended that snares should be checked once in every 24-hour period, between dawn and dusk. Under that recommendation, if someone checked their snares an hour later than the previous morning, they would be complying with the law, as they would be checking their snares during the hours of daylight within a 24-hour period. If snares are set on lines, they cannot be checked at night anyway.

One of our arguments has always been that, as BASC says, one can only check that a snare is free running by testing its action. One cannot do that by looking through a pair of binoculars and hoping to see something. We believe that there should be physical checks every day. With such checks, there is not the potential for a snare to become rusty and to turn into a self-locker. A snare will not rust over 24 hours. If someone checks it, they will see whether it has been damaged.

We can accept the compromise that checks must take place within the hours of daylight, which are variable. However, the issue is the length of time that an animal is in a snare. An animal does not need to be in a snare for two or three days to become badly injured. I have seen a very bad injury on an animal that I know could not have been in the snare for more than 10 hours. If members would like information on that issue from Professor Ranald Munro, he would be more than happy to provide it.

Eleanor Scott: I have a question for the police representative. Do you envisage difficulties in enforcing this measure? Do you believe that all the provisions of the bill will place an extra strain on police resources? Are there sufficient numbers of police officers trained in wildlife matters, or is there a resourcing issue that needs to be considered?

Alan Stewart: There are many questions there. Police strength is pretty strained as it is, but I am sure that we will cope adequately. The bill's provisions could potentially lessen some offences. Half the problem will be solved by the deterrent in the power for courts to imprison offenders. However, that is only half of the solution.

My main point in answer to your questions is the risk that people will be caught. People will realise that there is a severe risk that they will be caught, which should improve matters and provide a deterrent.

Dave Dick mentioned a previous problem

relating to enforcement. If a witness saw somebody committing a wildlife crime, that person could not be brought to a police station or detained under section 14 of the Criminal Procedure (Scotland) Act 1995, as the courts had no power to imprison. That has now changed, so a person can be brought to a police station and interviewed under caution or on tape and other corroborative evidence can be sought. We are gradually progressing so that we can detect more of the crimes that might have been committed. I hope that we will prevent many such crimes being committed.

An example is operation Easter, which we run from Tayside. The operation is aimed at catching egg thieves. We have hammered down on egg thieves over the past seven or eight years and have dispersed many of them abroad. Many people have pretty much stopped collecting eggs; this year, activity has been minimal compared with such activity in previous years. I am sure that that is the result of people thinking not simply that they will go to jail if they are caught but that there is a real risk that they will be caught. People's awareness has been heightened throughout the United Kingdom, as all police forces in the UK are involved in the operation. What we are talking about would be a wee bit similar to what happens with operation Easter.

Nora Radcliffe: Will the panel comment on the importance of being able to challenge people about the possession of certain pesticides?

Dave Dick: I have seen searches taking place since around 1989, when the Food and Environment Protection Act 1985 was first used by agriculture officers in Scotland. People have often been found to be in possession of the very pesticide that was taken from the victim and analysed and which led to the search taking place. In many cases, the pesticide is even in its original container. The classic case in that respect is a rodenticide called alphachlorolose, which can be used only for mice or in licensed operations against birds. However, a person who possessed that pesticide and had a motive for killing a bird would not have committed an offence. They would not even be charged for possession of the substance.

There have been similar cases this year. Carbofuran, which was mentioned earlier, is the chemical in use against wildlife whose abuse is most widespread in Scotland. It is now a non-approved chemical and cannot be used even by an approved user, but it could be used legitimately only by trained operatives—farmers—who would drill it into the soil. However, we see people with sacks full of the stuff in their stores. It might have been properly kept and so on, but the person does not use it because it is not used on farms at all.

Such situations arise time and time again when the police, the RSPB and agriculture officials are involved in searches. I draw members' attention to the map that shows where incidents have taken place.

The killing of birds of prey and other wildlife by illegal poisoning is the biggest identified wildlife crime problem in Scotland at present. It is always pesticides that are used—it is extremely rare for a pure chemical to be used rather than a pesticide. By changing the law on the possession of pesticides, the Parliament, with one fell swoop, would give the police the best piece of equipment in their armoury that they could want.

Superintendent Flynn: I agree with that. Our concern is more about domestic animals that are poisoned. In two areas in Fife, two years ago, 26 cats were killed in the space of a fortnight by carbofuran. Even if we could have found who had the carbofuran, we probably could not have proved who had put it down because it appeared that half of the people in Fife had it at the time. The person who was suspected had no reason whatever to have the stuff. We definitely support the inclusion of the prohibition of the possession of pesticides in the bill.

Alex Johnstone: Do you agree that now that a more heavily regulated system for the control and use of agrochemicals has been instituted, there is no grey area? Unless someone is licensed to use such chemicals, they will be guilty of a crime if they possess them, so we should not be concerned about grey areas.

Dave Dick: Doing searches over the past years, I have been appalled by the lax way in which legally held chemicals are often treated in farm stores and estate stores. In England in the past few years, there have been several prosecutions under health and safety at work legislation through the control of substances hazardous to health assessments. Under COSHH, employers must show that employees are trained in the use of chemicals.

In Scotland, I feel that we are at a primitive stage with that. The law is there but it is not being applied. It would be unreasonable to expect the police to be the lead force in that area. Under the bill, the police will be the lead force in following up wildlife crime, so making it an offence to be in possession of the chemicals if they are found during the follow-up to a wildlife crime would make the procedure much more streamlined than having to go the COSHH route and involve the Health and Safety Executive, although it will have to be involved at some point.

The Convener: As with other issues that we have been picking up today, the changes that will come about as a result of the bill will require a lot

of information to tell people what is in the legislation and what they are allowed to do. Perhaps some best-practice guidance will be required so that we do not get the poor practice that you are talking about. That might be another issue to sweep up with the minister.

I sense that we have reached the end of our numerous questions. I thank the members of our third panel for answering a varied set of questions and for their written submissions.

We will continue our consideration of the bill next week. That will be our final evidence session and we will hear from SNH and the minister, Ross Finnie. We have discussed many issues during the past few weeks and there will be a lot of cross-referencing for us to do.

Members should also note that our open call for evidence closes tomorrow and that all submissions that have been received by then will be circulated with the papers for next week's meeting. I know that members will look forward to reading those at the weekend.

I will let the witnesses escape now and I will suspend the meeting for a couple of minutes because there are colleagues who want to join us for the item on petitions.

12:43

Meeting suspended.

12:47

On resuming—

Petitions

The Convener: I think that we have sufficient committee members to reconvene and get on with our business. To our visiting colleagues, I say that this has been a bit of a marathon session, but we will plough on.

The committee has agreed to have an update on petitions every two months or so. This is our first such update and it pulls together a number of petitions. Our papers give us information on previous petitions and some newly referred petitions. We will consider the petitions on our agenda in turn and agree on any further action. We are not aiming to consider the subject matter of each petition in detail today; we are aiming to consider our next steps.

Predatory Birds (PE449)

The Convener: The first petition is PE449, from Mr Alex Hogg on behalf of the Scottish Gamekeepers Association. The petition calls on the Scottish Parliament to initiate an independent investigation into the impact of predatory birds on waders, songbirds, fish stocks and game birds. Since we last considered the petition, on 10 September, members have received a letter from the Deputy Minister for Environment and Rural Development, outlining the formation of a research group to investigate the issues that the petition raises. The letter also outlines a time scale for the consideration and commission of the research.

I invite members to consider the options for action on this petition, as laid out in the covering note. The key thing to note is that the minister has invited the Scottish Gamekeepers Association to take part in the moorland forum. That body has now been expanded to take on board some of the concerns that were raised in petition PE449. The clerks have outlined three options for us. Dealing with the petition will be straightforward, because progress has been made since we last considered it. I hope that we will be able to agree that what is suggested under option A in the paper will let the process advance. The petition might come back to us in the future, but we can now address the issues to the moorland forum. Do members agree to accept option A?

Members indicated agreement.

Maureen Macmillan: I agree, but I would like to be kept informed of progress.

The Convener: If the petition goes to the moorland forum, it is likely to return to us at some point. I am happy to conclude our consideration,

pass our thoughts back to the petitioner with a copy of the *Official Report* from our discussion this morning and inform the Public Petitions Committee. Are members happy with that on the basis of the information in front of us?

Members indicated agreement.

Waste Water Treatment (PE517 and PE645)

The Convener: PE645 is a new petition that calls on the Scottish Parliament to take a range of steps to ensure the control of offensive and noxious odours from waste treatment plants. The committee is required to consider the petition and to agree a course of action. Everyone will have read their papers, so I imagine that they have noted that the issues that are raised in the petition are broadly similar to those that were raised in PE517, although this is the first time that we have considered the new petition. Are members content to accept the referral from the Public Petitions Committee and to consider PE645 alongside PE517? The local member is here this morning.

Marilyn Livingstone (Kirkcaldy) (Lab): Petition PE645 relates to the Pathhead waste water treatment works in Kirkcaldy, which is affectionately known as the "Pathhead pong". Matters have moved on since the petition was submitted, but issues remain. The residents group, the council and I met Scottish Water, but we have reached an impasse. As members are aware, we are awaiting judgments and we are considering closely what the City of Edinburgh Council is doing. Fife Council will monitor the situation over six weeks and we have issued recording sheets as we did in the past. With the residents in Kirkcaldy who still suffer from the odours, although there are fewer of them now, we are looking at the measures we can take to address that impasse.

Roseanna Cunningham: I am concerned that we have two petitions from two widely different areas, but which seem to relate to the same problem. That might be evidence that the problem is much more widespread. Although we see that problem in the context of individual petitions, perhaps we need to take the bigger issue more seriously. I know that the committee's work load is horrendous for the foreseeable future, but I am wondering about option C in the paper on PE517, which proposes monitoring the situation. That option could also apply to PE645 and it would allow us to monitor developments that are wider than those in the two petitions. My guess is that they might only be the tip of the iceberg.

The Convener: The suggested action on PE645 addresses the broader issues with which we have been dealing under PE517. The two petitions relate to issues which, although they are experienced locally, are not local issues because

they raise broader issues throughout Scotland. I am keen that we agree to consider PE645, but that we consider it alongside PE517, which picks up the point that the issues are not isolated and that they are public policy issues.

Marilyn Livingstone: My constituents would have no problem with that. They know that, although their petition concerns the Pathhead works, broader issues are involved, as the convener said.

The Convener: So we would agree to pursue option A, which is that we accept the referral of PE645 and undertake further consideration of the issue in conjunction with PE517. I want to ensure that we deal with the petition properly, instead of simply closing it down.

Des McNulty (Clydebank and Milngavie) (Lab): I think that I am in the same position as other members, in that an existing sewage works in my area has been producing odours for a long time. The works have recently been renewed and the smell periodically worsens. Moreover, there is a proposal for a significant extension to an existing sewage works 500yd from the centre of Clydebank, which means that we will get the smells from the north side of Glasgow and from Renfrewshire in quite a narrow space.

I want to identify three action points in connection with this issue. First, I would like the committee to highlight that the matter should be taken into consideration in the proposed Water Services (Scotland) Bill. Legislation that relates to this matter is coming down the track and, given colleagues' comments about what is happening around Scotland, it is entirely unacceptable that only one abatement notice has been served since 1999. As the Executive will have an opportunity to examine legislation in this area when the proposed bill is introduced, an early indication from the committee that it would expect such an examination would send an important signal.

Secondly, the petition raises the significant planning issue of permitted development rights. There is no legislative obligation on water authorities to carry out normal planning scrutiny or to provide notification of proposals to develop an existing facility, however small it might be. As a result, planning authorities have no opportunity that is backed by legislation to enforce conditions as far as planning consent is concerned. Although such conditions were enforced with the proposed Erskine works, which are on the opposite side of the Clyde from my constituency, that was done largely on a grace-and-favour basis. We need to address the way in which permitted development powers are used in that respect and how they allow public authorities to bypass legislative planning mechanisms as opposed to mechanisms that address odour problems.

Thirdly, Scottish Water recognises that it could maintain higher odour-control standards. However, with the funding regime that it operates under the water industry commissioner and the Scottish Executive's policy direction, it is not funded to achieve such standards. Indeed, it could be criticised for imposing higher standards, which is a completely topsy-turvy arrangement. I suggest that the committee could flag up the issue to the Finance Committee, which is investigating the funding regime of the water authority.

I suppose that I am making three suggestions. First, I suggest that the committee writes to Ross Finnie in relation to his legislative powers; secondly, that it writes to Margaret Curran to ask about permitted development rights in the context of the on-going consultation on planning matters; and thirdly, that it writes to the Finance Committee in the context of its investigation into Scottish Water's funding regime.

The Convener: We know that you are the convener of the Finance Committee, so I take it that you are actively seeking that advice from us.

Alasdair Morrison was about to ask a question.

Mr Morrison: I have nothing to add.

The Convener: I seek members' agreement that we accept the referral of PE645 and that we wrap it up with PE517.

Members indicated agreement.

The Convener: It was important that Marilyn Livingstone was able to speak about how the matter has impacted on her constituents.

I want to pick up some of the other issues that were raised by Des McNulty in relation to the previous petition and which are also relevant to PE645. I will bring everyone up to date on the progress of PE517 and then bring in Susan Deacon, who is keen to speak on it.

This is the second time that we have considered PE517. At our meeting of 10 September, we agreed to write to the Minister for Environment and Rural Development to seek his view on all the issues that arise from it, including the effectiveness of the current system for regulating odour nuisance from water treatment plants, on which Des McNulty has just commented. The minister's response is attached to the petition cover note. We will try to sweep up some of the broader issues that Des McNulty and Marilyn Livingstone have raised and consider how to proceed with PE517.

13:00

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I attended the previous meeting at which this issue was raised, so

members will be aware of my interest in petition PE517. Seafield sewage works, which prompted the petition, is in my constituency.

The specific point that I would like to make is in direct response to the minister's reply. It is approximately 18 months since PE517 was submitted to the Parliament. I recognise that the petition has been progressed actively by the Public Petitions Committee and by the Transport and the Environment Committee before the election and by the Environment and Rural Development Committee since. Nonetheless, 18 months have elapsed since the issues were first raised.

It is more than six months since the Minister for Environment and Rural Development, Ross Finnie, acknowledged to the Transport and the Environment Committee that there were inadequacies in the statutory and regulatory regime and gave certain commitments in that regard. I am deeply concerned that we are not moving forward further and faster.

Other members are absolutely right when they say that this is not an isolated case—I have acknowledged that from the outset. We are hearing about more and more such cases across the country. Recently one Sunday newspaper investigated the issue and established from the Scottish Environment Protection Agency that in excess of 30 plants are subject to various forms of investigation. The four members present who have experience of the issue in their constituencies know that we are dealing with a major environmental nuisance to the community. The existing arrangements have proven somewhat inadequate in addressing that.

My fundamental point is that I have read the minister's response and do not believe it to be satisfactory. It is a reiteration of the situation that prevailed a considerable time ago. I understand that a House of Lords ruling is awaited, but I am not convinced that consultation on legislative change must await that. There is a wide range of issues on which discussion and debate could usefully be initiated. I echo Des McNulty's suggestion that we seek other vehicles for addressing the problem.

Even if the House of Lords rules that the statutory nuisance provisions of the Environmental Protection Act 1990 apply to odour from sewage treatment works, that does not deal with the wider legislative and regulatory issues that are involved—for example, the planning issues to which Des McNulty referred.

I can do no more than request that the committee, in its response to PE517 and PE645 and, indeed, to the minister, goes beyond simply noting the current position. Every further month or

six-month period that elapses during which work is not actively commenced to tighten up the regulatory and statutory regime in this area is time during which communities are suffering.

I realise that this is the third time that I have echoed Des McNulty—it is becoming worrying—but he was right to touch on the complex issue that is the nature of Scottish Water and to say that it must have a basis on which to invest time, energy and, crucially, money in the development of its infrastructure. Odour is not treated seriously enough at the moment. It has been seen as the cinderella in the major investment projects that have been carried out at a range of pre-existing and new waste water treatment plants.

Last week, several of us attended a briefing with Scottish Water and the chair, Professor Alan Alexander, essentially or loosely acknowledged that point, although I do not want to put words into his mouth. The Scottish Parliament has an opportunity to make a difference, but if the minister's response is accepted as it stands, people will start to lose faith in the Parliament's processes and powers to address an issue that affects thousands of people throughout Scotland.

Christine May (Central Fife) (Lab): Although my area has not submitted a petition, the Levenmouth sewage treatment works is experiencing similar problems. Scottish Water has been very good at coming to meetings, but one of my criticisms is about what I and the community perceive as its lack of urgency in taking steps. I echo what Susan Deacon said: unless Scottish Water comes under pressure from those who have the power to legislate—us—I suspect that it will feel no sense of urgency, particularly because of all the other pressures that it is under. If that happens, the situation will continue in which my constituency has been told that it might be up to a year before any remedial work can be planned and put in place. That is not acceptable to the community, but we cannot put any more pressure on Scottish Water and we hope that the committee can use its powers to do so.

The Convener: No member of the committee has spoken thus far. The options that we have available to us require a varying amount of work. Option A says that we are happy with the Executive's response and that we will defer further consideration of the petition until the House of Lords appeal is resolved. We have had representations from colleagues who have odour problems in their patch saying that that is unsatisfactory. The second option is for us to write to the minister outlining further views and asking how the Executive plans to address the issues relating to odour control on landfill sites. The committee has been picking up on that issue and announced that in the report that was published

yesterday. Thirdly, we could appoint a reporter to monitor developments in relation to noxious odours from waste water treatment plants and landfill sites, who could then report back to the committee.

Noting what has been said today, it seems to me that there are two issues. One is a short-term enforcement issue on local authority powers. I wonder whether it would be helpful for the ministers to write to local authorities and tell them what the Executive's powers are at the moment. Guidance might come along later this year in the form of a voluntary code, but it would be no bad thing if ministers were to tell councils what they think the current provision is and to reinforce the fact that the House of Lords ruling will be binding under Scots law. Local authorities are allowed to take enforcement action and it might be useful if that fact was reinforced.

Des McNulty has highlighted what we can do with the proposed Water Services (Scotland) Bill and the planning bill, which concerns permitted development rights. When we come to scrutinise those two bills—the water bill will be our responsibility and the planning bill will be the responsibility of the Communities Committee—we could gear up to make points at stage 1. Would it be worth it if we said now that that work had to be done? We could write to the ministers with our views and ask them to start considering those views in the context of both bills. Alternatively, we could appoint a reporter to do that for the committee and then we could tell Ross Finnie and Margaret Curran what we are looking for.

I seek members' views. Do we do it ourselves now or do we write to the ministers and tell them that we expect those issues to be considered in the bills that are being prepared? We could write the letter tomorrow, or we could do the scoping work for the discussion of the principles of both the bills.

Mr Morrison: The first option—writing to the minister—is the obvious first course of action.

The Convener: We have written to the Minister for Environment and Rural Development and have received feedback, so we would be writing to make a concrete proposal that the issue be addressed in the Water Services (Scotland) Bill. That would pick up Des McNulty's point that the current legislative framework under which Scottish Water works does not require it to address the issue to the extent that we think it needs to be addressed. We will flag that up now and, in effect, get the minister to do the work. Is that agreed?

Members indicated agreement.

The Convener: The second point is—this is an efficient use of time—permitted development powers under the proposed consolidated planning

bill. Following the same principle, we will write to Margaret Curran and say that the issue has been highlighted and that it should be picked up in the planning bill. We do not want the issue to be dealt with at stage 3 of the two bills; we want the work to be done now so that it sends the message to a series of agencies that the issue is one that the Parliament feels is important and on which it wants legislative action. We should ask for a response from the minister and, if we think that the response is lukewarm, we can appoint a reporter and do the work ourselves. We are firing a shot across the Executive's bows and saying that the committee expects the issue to be included in the bills.

Do members feel that that would be a good way to proceed? It picks up Susan Deacon's point about time scale and raising the issue up the agenda so that people outside the Parliament can see that we think it important and want it to be dealt with through legislation.

Members indicated agreement.

Des McNulty: I suggest a third letter, which would be to Ross Finnie in the context of the quality and standards consultation that he will be opening in February 2004 and would say that we seek higher standards of odour control, which would have to be factored into the way in which arrangements between the water industry commissioner and Scottish Water would be addressed as part of that consultation. Again, we would be asking the civil servants to do early work on how that could best be achieved.

The Convener: It might be worth copying our correspondence to—I have forgotten the technical term—the environmental regulator for the water industry, as opposed to the water industry commissioner. They are different: one deals with environmental standards and the other is about the water industry as a whole.

Des McNulty: You mean SEPA and the water industry commissioner: the WIC deals with economic aspects, which have been a barrier, and SEPA deals with environmental considerations and enforcement.

The Convener: We should flag up that we are taking an early interest in the matter and that it will be coming to those to whom we are writing. Is there anything else that we should do at this stage to ensure that we have swept up all the issues properly?

Marilyn Livingstone: You talked about a letter to local authorities outlining to them what measures can be taken at the moment. In my area, we have found that the most difficult thing is measuring the odour. That difficulty needs to be pointed out. Scottish Water is putting monitors around the site in my area at the moment.

Secondly, the definition of nuisance seems to be quite loose. We need to tighten up how we measure and define nuisance. My constituents who are living with the odour would say that it is a nuisance, but the issue is how the local authority determines nuisance.

I would appreciate it if those points could be clarified.

The Convener: Those are important issues to put in front of the ministers. I clarify that my suggestion is that Ross Finnie should write to local authorities to clarify the current legal position, but it is important to put your points about measurement and definition into a letter. The other ministerial letter that we need to write is to the Minister for Communities, and, out of courtesy, we should copy that letter to the convener of the Communities Committee. Des McNulty, as a local member, also requested that we write to the convener of the Finance Committee to recommend that the issue be addressed.

That is a lot of letter writing, but it is quite a concrete way in which we can flag up the issues. We will make a judgment on the responses that we get from the ministers and decide whether we are happy with them or whether we feel that we need to take ownership of the issue and appoint a reporter.

Des McNulty: I want to pick up on a point that Marilyn Livingstone made. There is an issue about the method of measuring odours and the standard that is set for that. There is also a related issue about having a cordon sanitaire around such plants, which is to do with how close they should be to residential and other areas. Planning is the other way in which the problem can be dealt with. It is probably worth flagging up that we want both those issues to be considered.

The Convener: We certainly picked up that issue during our waste inquiry. As members will be aware, we identified the need for minimum distances between new landfill sites and such areas, and suggested that the minister should adopt that.

I think that we have swept up all the issues that are raised by the petition for today. I hope that members of the Communities Committee will be able to read the *Official Report* of today's meeting and will realise that we were persuaded by the arguments that people have made, which need to be acted on. That picks up on Susan Deacon's point.

Are we agreed on the way forward for the petition?

Members indicated agreement.

The Convener: I thank members—especially visiting members—for their comments.

Greyhound Racing (Regulation) (PE604)

The Convener: We move on to petition PE604, in which the petitioners request the Parliament to deal with greyhound racing. The committee is required to consider the petition and to agree a course of action. I invite members to discuss the options for action that are laid out in the covering note on the petition.

13:15

Roseanna Cunningham: Over the past few years, I—like most members—have become aware that there is an issue with greyhounds, so I do not think that we can afford simply to turn the petition away. At this stage, the proposals in option A appear to me to be the most sensible way forward. I suggest that we pursue a combination of paragraphs 17 and 18.

Members indicated agreement.

Roseanna Cunningham: It seems that everyone is agreed.

The Convener: That seems to be a very sensible recommendation. Alex, would you be happy to sign up to that?

Alex Johnstone: Yes indeed. If possible, I would also like us to ask the minister for an indication of the time scale for the introduction of the proposed Protection of Animals (Scotland) Bill.

The Convener: That is a sensible addition to Roseanna Cunningham's recommendation.

I want to clarify whether everyone is happy to agree to consider the issues relating to the welfare of greyhounds that PE604 raises during our stage 1 consideration of the proposed Protection of Animals (Scotland) Bill, to conclude consideration of the petition on the basis that we will pick up the issues that it raises and to write to the petitioner to inform him of our decision. It has also been suggested that we invite the petitioner to give evidence to us during our stage 1 consideration of the bill, and I know that other people have written in about the welfare of greyhounds. Although we do not have a time frame for the introduction of the bill, I think that we should write formally to the Minister for Environment and Rural Development to ask for a view on the issue that the petition raises. It would also be useful to get from the minister a sense of what the time scale will be. It would be helpful to seek clarification on those points.

I invite members to agree that they are happy with that course of action.

Members indicated agreement.

Scottish Agricultural College (Restructuring) (PE653)

The Convener: We move on to PE653, which is a new petition on issues relating to the Scottish Agricultural College. As with the other petitions, the committee is required to consider the petition and to agree a course of action.

Members have a lot of paperwork in front of them. We received correspondence following the evidence that we took on the SAC from relevant interest groups at a meeting in the early summer, and we have now received subsequent correspondence from the SAC and the Minister for Environment and Rural Development, to which I draw members' attention. That correspondence outlines amendments to the original restructuring proposals; the amendments have been made in light of the concerns that we and other interest groups expressed during the summer. Members will also note that, in the past few days, we have had further representations from the SAC and from a variety of interest groups, which were aware that we would discuss the issue at our meeting today.

I invite members to discuss the three options that are laid out in the covering note on the petition. Alex Johnstone is first off the mark.

Alex Johnstone: I have considered the complications that have arisen during recent months and I am afraid that my view remains that the Deloitte & Touche phase 3 report differs from the phase 2 report only on cosmetic issues and that, in the long term, it will have the same result as the previous reports.

We are in a very dangerous situation, where it looks as if we could lose our structured agricultural environment education unless some action is taken. Consequently, I am of the view that we should continue our consideration of the petition at least until—as one of the letters says—the SAC releases its business plan in March.

As the local constituency member is here, I think that it is important that we have the opportunity to hear from him about the direct communication that he has had about the Craibstone campus.

Brian Adam (Aberdeen North) (SNP): Paragraph 6 of the paper that members have before them indicates that a large number of the stakeholders who were involved in the discussions on 25 June were significantly dissatisfied with the proposals. I am not aware that any of the stakeholders that are referred to in that paragraph have changed their view. I have had representations from agricultural interests, the staff and the students, all of whom still regard the proposals with significant reservations.

I have taken some trouble to go through

Professor McKelvey's letter to the committee dated 16 September. I note that he has offered to keep the minister fully informed of the details of the business plan as that takes shape. The committee ought to monitor that carefully as well. Perhaps you could invite the SAC to keep the committee informed, too.

I note also that, at the bottom of the first page of his letter, Professor McKelvey deals with the delivery of sub-degree education. He states:

"Initially this will be by our own hand on existing sites, but moving to partnership delivery as soon as possible."

As a consequence of that comment, I corresponded with several of the alternative providers who are potential partners. It is true to say that discussions have taken place between SAC and a number of the potential partners but, having spoken directly with Professor McKelvey and his deputy, Professor Atkinson, I think that it would be worth while to receive clarification from them of how that partnership delivery is to be achieved.

From my reading of the letter, I assumed that the work would be subcontracted to universities or colleges, although it is rather doubtful that a university would be interested in delivering sub-degree level courses. My discussions with Professors McKelvey and Atkinson lead me to suggest that the SAC intends to continue to deliver those courses by its own hand, but not necessarily on the same site. The partnership that is being sought is with a place with the appropriate facilities where the teaching could be carried out. Clarification of that point would be helpful.

The SAC does not appear to have considered the options that new technology presents. A big difficulty for people who want to continue with agricultural education, in particular at degree level, is the severe lack of student numbers and interest. The potential may exist for some of the appropriate coursework to be delivered by highly qualified people through the use of the new technology that is available, whereby classes can be arranged on different campuses and everybody can participate at the same time. That solution does not appear to have been considered, although other forms of distance learning seem to have been. Such developments could well mean that students who might have done only the first two years at Auchincruive or Craibstone could continue to do years 3 and 4 at those sites. That approach to education would be much more collegiate, rather than one that takes people away from their families and communities for the delivery of the last stage of their higher education.

That approach does not appear to have been considered, but staff and students have suggested it to me and I would like it to be explored. I know

that some potential partners would be willing to come and talk to the committee. I would be happy to advise the clerks about that after the meeting, if the committee so wishes.

There is general acknowledgement of overcapacity on all campuses. In his letter, Professor McKelvey refers to overcapacity at Craibstone. I am pleased to say that he has promised to work with local councils, politicians and the enterprise company to develop the estate in partnership with other organisations. That appears to be happening. There has been a change of atmosphere that I welcome. It is also generally acknowledged that developments on landholdings at Craibstone could be advantageous and would not necessarily adversely affect the capacity of the college to deliver research and development, teaching or advisory work.

I would prefer the committee to go with option A. The committee may be interested to know that, in response to written question S2W-3653, I learned that the student head count this year is 213 at Aberdeen—which is up from previous years, in spite of the doom and gloom of some members of the SAC's management team. The figure for Ayr, which is 376, is up as well. However, the picture from the SAC's preferred site for the concentration of education in future—Edinburgh—shows that the numbers are down, at only 130 students. That does not exactly support the idea that Edinburgh is an attractive campus or the idea that students would be willing to move to the area in the future. I hope that the committee will go for option A.

Roseanna Cunningham: I do not think that we want to rehearse all the arguments for and against the various sites. However, some letters that we have received in the past couple of days suggest that the consultation that the minister was hoping for either has not taken place or has taken place in a manner that was not particularly helpful. Option A is appropriate but, in the immediate future, it is unlikely that we will have time to carry out what it suggests. However, the SAC's business plan is published in March and that would be a suitable time for us to reconsider some of the issues. We would be able to look back over a number of months and consider whether things had gone as we might have expected them to go. In March, we might be better able to fit such consideration into our work programme.

Nora Radcliffe: I would not be happy for us to close down this petition. Any suggestion that events have moved on and that it is now irrelevant are demonstrably—if I am being kind—overstated.

The Convener: I am sorry, I did not catch that. Did you say that you thought that we should close down the petition?

Nora Radcliffe: I said that any suggestion that

we should close it down on the ground that it is now irrelevant in light of subsequent events is, to say the least, overstating the case.

The Convener: Right. I understand.

There seems to be consensus that we are prepared to accept the referral. It seems that progress is being made, but we need clarification on that. I suggest that we keep the petition open. When the SAC's business plan is prepared in March, we should invite the SAC to send it to us for our comments, as well as its being sent to the minister for his comments. If we then feel that we need to do more, that will be fine. If we keep the petition open, that means that we will be keeping a watching eye on it. Is that acceptable?

Members indicated agreement.

The Convener: That is not to accept option A as such; it is to accept referral of the petition and to come back to it after the business plan has been published. This morning's discussion will, I hope, give everyone who is interested in the petition a sense of our thoughts.

**Fishing Industry (Fixed Quota Allocations)
(PE365)***Meeting closed at 13:31.*

The Convener: The final petition is PE365 on fixed fishing quota allocations and property rights. Members will recall that the committee agreed on 10 September to conclude its consideration of this petition by noting the issues raised by the petitioner. We also agreed to write to the minister to seek further information on the current situation. Members will have seen the minister's response. Are members happy for us to send a copy of the minister's letter to the petitioner?

Members *indicated agreement.*

Alex Johnstone: Because of the problems in the fishing industry, the situation remains fluid. We may wish to return to it in future, but, in the meantime, we have dealt with the petition to the best of our ability.

The Convener: We have dealt with it and have to close our consideration of it.

We will consider European issues in the near future and we are bound to discuss fishing. We will have to consider the fisheries councils in more depth, possibly in the new year. On 2 December, Ross Finnie will attend the European and External Relations Committee. At least one member of this committee is also on that committee, but other members may want to attend that meeting. This committee will deal with the results of whatever the European fisheries ministers achieve. Any future regulations or monitoring issues will come back to this committee, and some of the information provided by the minister will be useful for future consideration.

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