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The Hunting Bill

Bill 2 of 2000-2001

(Revised Edition)

The issue of hunting has provoked much Parliamentary debate and several Private Members Bills over the past decade. The Government made a Manifesto Commitment to provide Parliament with a free vote on the prohibition of hunting.

The Government established a committee of inquiry, headed by Lord Burns, into hunting to look at potential effects of a ban which was used to inform the drafting of the current Hunting Bill.

In this Bill, the Government has proposed a multiple-choice bill that contains three options: supervision, regulation and prohibition.

This paper updates and supplements earlier research papers on the subject of hunting and discusses the details of the present Bill. Comment is also made on previous multiple option bills.

This Bill extends only to England and Wales

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Summary of main points

Hunting with dogs often provokes robust debate and diverse views. The long-standing dynamic between the pro-hunting groups and anti-hunting groups has been disturbed by the Middle Way group which aims to seek a compromise that could be acceptable to both.

After a series of Private Members' Bills to ban hunting failed and Labour won an election with a promise of a free vote on the subject the Government have introduced a multiple option Bill. The Bill provides Members of Parliament with a choice of three options – each representing the proposals of one of the three protagonist groups.

The Government has already announced that it intends to amend the Bill it has introduced and there is no firm indication of what procedure the Bill will follow.

The general issues that surround hunting have often been clouded by claims and counter claims of the protagonists about the effect a ban would have on animal welfare, the rural economy and the general fabric of rural life. The Government commissioned an inquiry, headed by Lord Burns, which reported earlier this year, to provide facts and figures to inform the debate.

An estimated 230,000 people in Great Britain participate in hunting, of whom 180,000 are principally involved in hunting foxes and deer, 33,000 hares and 14,000 other animals such as mink.

Two previous Library Research papers have provided detail concerning fox biology¹ and the controversies surrounding the hunting of various animals.²

¹ Library Research Paper 95/26, *Hunting - Wild Mammals (Protection) Bill [Bill 14 1994/95]*, 23 February 1995

² Library Research Paper 97/122, *The Wild Mammals (Hunting with Dogs) Bill [Bill 7 1997/98]*, 19 November 1997

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I Previous Hunting Bills

A. Wild Mammals Bills

There have been several Bills over the past decade that addressed the subject of hunting with dogs. They have been introduced under two different Bill titles. The most recent have been Private Members' Bills entitled *Wild Mammals (Hunting with Dogs)* introduced by Ken Livingstone³ and Michael Foster⁴ respectively. Ken Livingstone's Bill, the most recent, never received its second reading though it was debated in April 2000⁵ and Michael Foster's Bill foundered on report⁶ in the House of Commons after 10 committee sittings.

Michael Foster's Bill was introduced soon after Labour entered into power in 1997 with a manifesto promising a free vote on the issue of hunting. The vote on second reading⁷ was 411 to 151 in favour of the Bill and this was taken to fulfil the manifesto commitment.

Mr. Mackinlay: To ask the Prime Minister what plans the Government have to (a) introduce legislation relating to fox hunting and (b) provide opportunities for legislation relating to fox hunting.

The Prime Minister: We have kept fully to our Manifesto commitment on this issue, which was to allow a free vote. Members made their views clear with a huge majority in favour of banning hunting. My right hon. Friend the Home Secretary has met with my hon. Friend the Member for Worcester (Mr. Foster) and others to look at ways of dealing with this issue.

The Government's priority is to ensure the successful passage of the full legislative programme which was set out in the Queen's Speech.⁸

It was felt in some quarters that, whilst fulfilling the letter of the commitment, it betrayed the spirit:⁹ a Private Member's Bill is unlikely to bring such a controversial issue into law.

Earlier Bills to ban hunting were laid under the title *Wild Mammals (Protection) Bills*. Kevin McNamara's *Wild Mammals (Protection) Bill 1991/92* was defeated at second reading¹⁰ by 187 to 175 votes.

In the 1994-5 session John McFall introduced a similar *Wild Mammals (Protection) Bill* [Bill 14 1994/95]. This was passed at Commons second reading by 253 votes to nil.¹¹ The unopposed division should probably not be taken as implying unanimous support of the Bill but that its opponents sought to avoid the propaganda victory of a contested division in favour of the Bill.

³ *Wild Mammals (Hunting with Dogs) Bill 1999/2000*

⁴ *Wild Mammals (Hunting with Dogs) Bill 1997/98*

⁵ HC Deb 7 April 2000 cc 1264-333

⁶ HC Deb 6 March 1998 cc 1286-359, HC Deb 13 March 1998 cc 851-913

⁷ HC Deb 28 November 1997 cc 1199-271

⁸ HC Deb 17 December 1998 cc 649W

⁹ Discussion with RSPCA Parliamentary Office.

¹⁰ HC Deb 14 February 1992 cc 1214-1285

¹¹ HC Deb 3 March 1995 cc 1297-1368

Since Mr McFall's Bill was fairly low in the ballot (seventh) and with the expected opposition to it from pro-hunting Members, it was never likely to succeed. Before the Bill entered Standing Committee Mr McFall amended it substantially to increase its chances of success. In essence, he removed all clauses except Clause 1, dealing with cruelty to wild mammals. The clauses removed included those banning hunting and prohibiting the setting of snares.

If enacted, Clause 1 would have closed the perceived loophole in the *Protection of Animals Acts* which then provided protection against cruelty only to captive or domestic animals. However, the Bill ran out of Parliamentary time after, it was alleged, delaying tactics had been employed against it in both Houses. There were concerns that even in its substantially reduced form the Bill could be used against hunters or those committing inadvertent acts.

Alan Meale introduced the third Bill of the same name in the 1995/96 Session, with intentionally limited ambitions. It did not seek at all to ban hunting but was based on the amended version of John McFall's Bill. It sought simply to amend the Protection of Animals Acts and was also subject to intense negotiation before it entered Parliament. This resulted in it being unopposed and passing through all of its Commons stages in one afternoon.¹² The Act received Royal Assent in February 1996.¹³

The *Wild Mammals (Protection) Act 1996* did not ban hunting, which was the initial aim of the two earlier Bills, but it gave protection against cruelty to wild, non-captive mammals which were previously unrecognised in law. It has since been used successfully to prosecute a 16 year old youth who kicked a hedgehog with steel toe-capped boots and beat it with a stick before stabbing it to death. The RSPCA inspector involved pointed out that a few months earlier such acts would have been legal.¹⁴

On the other hand, a Court ruled in November 1997, in a case brought by the League Against Cruel Sports (LACS), that a fox trapped in a drain by terriermen of the New Forest Foxhounds was temporarily captive and not covered by the 1996 Act.¹⁵

B. Party Positions

Labour's Election Manifesto promised a free vote on the issue of hunting with hounds.¹⁶ Its manifesto for animals pamphlet, published in December 1996,¹⁷ stated

Labour is strongly opposed to the so-called sport of hunting with hounds. Labour is the only party with a long-standing commitment to have a free vote in the House of Commons to ban it.

¹² HC Deb 26 January 1996 cc 553-74 second reading debate; all other stages formal

¹³ HC Deb 29 February 1996 c 1013; CAP 3 1996

¹⁴ *RSPCA Parliamentary Digest* 27-31 January 1997

¹⁵ LACS News Release, *Captive fox proves need for new law*, 10 November 1997

¹⁶ Labour, *New Labour because Britain deserves better*, 1997, p .30

¹⁷ Labour Party, *New Labour new Britain: new life for animals*, 1996

No one Labour member has voted against attempts to abolish hunting with hounds. This cannot be said of the Tories or the Liberal Democrats.

We would also support European moves to ban bullfighting and other cruel rituals.

In response to a Parliamentary Question in advance of the Countryside Rally in Hyde Park, the Prime Minister indicated that he would personally be voting for the Bill:

The Prime Minister: I have voted before in favour of a ban on fox hunting, and I shall continue to do so. I believe that a ban may be imposed without the massive destruction to the countryside that some people fear. We are all entitled to make up our minds according to the evidence. That is what I intend to do, and I suggest that other hon. Members do likewise.¹⁸

The issue was most recently re-ignited when Mr Blair appeared to commit himself, and his Government, to banning foxhunting in response to a question posed to him on the BBC current affairs programme *Question Time* in June 1999.

Reiterating his determination to see the blood sport abolished, the Prime Minister said: 'It will be banned - as soon as we possibly can.'¹⁹

Attending the Hyde Park rally the Leader of the Opposition William Hague stated:

'I do not go hunting but I defend people's right to do so. I think freedom is important even if it is unpopular'.²⁰

The Liberal Democrats have undertaken to 'Ban the hunting of animals with hounds, and coursing, by a free vote in the House of Commons'.²¹

The free vote is important as there are people within each party that oppose the broad thrust of general party policy on the issue. Potentially the most high profile is Ann Widdecombe²² who is anti-hunting but there has also been press speculation that Robin Cook is not keen to see the sport prohibited.²³

Conservative sources last night insisted that Miss Widdecombe's views were 'just not an obstacle'. On BBC Radio 4's *The World This Weekend*, Mr Hague said: 'Ann Widdecombe has had long-held views on these things. There will always be a free vote on this although most of the members including me will be objecting most strongly to such legislation.'²⁴

¹⁸ HC Deb 9 July 1997 c 935

¹⁹ "Blair makes new hunt ban pledge", *The Guardian*, 09 July 1999

²⁰ "Heseltine condemns hunt ban as bigoted", *Times*, 11 July 1997

²¹ <http://www.libdems.org.uk>

²² "Should we ban hunting?; YES says Ann Widdecombe; NO says Henry Porter", *The Observer*, 11 July 1999

²³ "Hunt lobby says Cook and Jay 'are on our side'", *The Daily Telegraph*, 12 May 2000

²⁴ "Hunting gag on Widdecombe; Hague steps in after outburst angers supporters", *The Guardian*, 12 July 1999

A third option has been provided by the ‘Middle Way’ group. The group, chaired jointly by Peter Luff (Conservative) Lembit Opik (Liberal Democrat) and Llin Golding (Labour), believes that its proposals address concerns about animal welfare while protecting the right to hunt.

In October 1997 the *New Statesman*²⁵ sent a written survey to all MPs asking whether they supported Mike Foster’s *Wild Mammals (Hunting with Dogs) Bill*. Of the 61% of MPs who replied to the survey; 74% replied that they would support the Bill, 20% that they would not, with the remainder being undecided. 89% of those who replied and expressed support for the Bill were Labour MPs, including 11 cabinet ministers.

II The Debate

An estimated 230,000 people in Great Britain participate in hunting, of whom 183,000 are principally involved in hunting foxes and deer, 33,000 hares and 14,000 other animals such as mink.²⁶

After Michael Foster announced his intention of introducing an anti-hunting Bill the organisations on both sides of the debate marshalled their forces to begin an intense campaign. This has continued through to the present day where mass marches and demonstrations have been carried out in protest at talk of bans and further demonstration is promised.

The table and figure below show the estimated annual mortality of foxes from different causes.

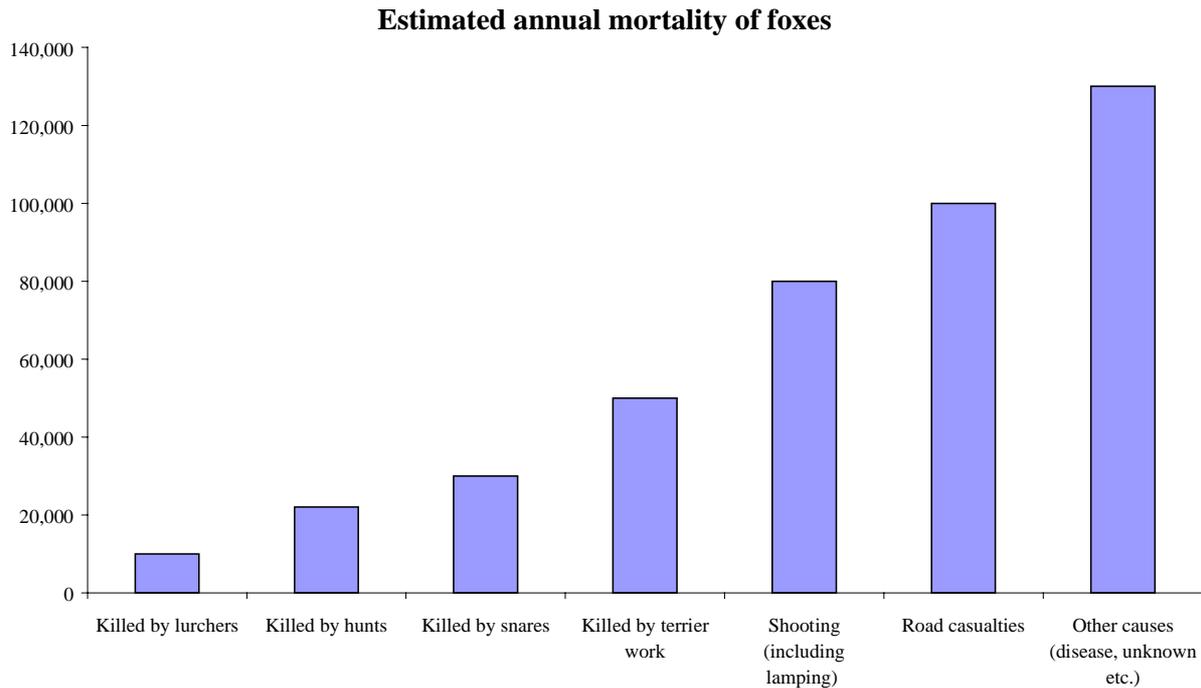
Estimated annual mortality of foxes

Killed by lurchers	10,000
Killed by hunts	22,000
Killed by snares	30,000
Killed by terrier work	50,000
Shooting (including lamping)	80,000
Road casualties	100,000
Other causes (disease, unknown etc.)	130,000
Total	412,000

Source: *Fox-Hunting: Beyond the Propaganda* Charlie Pye-Smith 1997

²⁵ “Ban Hunting, say MPs in our poll”, *New Statesman*, 31 October 1997

²⁶ *Countryside sports – their economic, social and conservation significance* Review and Survey by Cobham Resource Consultants, Standing Conference on Countryside Sports 1997



Annually there are an estimated total of 410,000 fox deaths. Of these, approximately 24% are road casualties, 19% attributable to shooting, 7% to terrier work and 5% to hunts: 31% are attributable to other causes.²⁷

A. Countryside Alliance

The British Field Sports Society (BFSS), the Countryside Business Group and the Countryside Movement have formed the Countryside Alliance.

In 1996, the Countryside Movement commissioned a *Report of a Review of Hunting with Hounds*²⁸ to review the 1951 Scott Henderson report.²⁹ (This had recommended that all wild animals should be brought within the provisions of the *Protection of Animals Acts*, but that all hunting activities should be exempt unless accompanied by unnecessary suffering. Hunting and coursing for the purpose of sport would be lawful while conducted under the approved rules of the sport.)

The *Report of a Review of Hunting with Hounds* recommended that a supervisory authority be appointed for hunting. This would, *inter alia*, monitor hunts, investigate alleged breaches of rules and codes, redefine hunt territories to keep them away from towns, change the rules

²⁷ Charlie Pye-Smith, *Fox-Hunting: Beyond the Propaganda*, 1997

²⁸ Phelps *et al* May 1997

²⁹ *Report of the Committee on Cruelty to Wild Animals* Home Office/Scottish Home Department Cmd 8266 June 1951

for digging out foxes and provide transparent and accountable supervision.³⁰ This recommendation is reflected in one of the three options presented to Members of Parliament by the current Bill.

The Alliance organised a Countryside March, ending in a Countryside Rally in Hyde Park on 10 July 1997, supported by 150 organisations including the British Shooting Sports Council, the British Horseracing Board, and the Country Landowners' Association.³¹

The Labour Peer Baroness Mallalieu of 'Leave Country Sports Alone' said that the Government had not been elected to 'criminalise hundreds and thousands of decent law-abiding people'. Leave Country Sports Alone was formed some years ago by Labour supporters, including Melvyn Bragg, David Puttman and Jeremy Isaacs. They were keen to counter the animal rights lobby within the Labour Party and play down the perceived class divide between hunt opponents and followers.³²

While the Countryside March attracted large numbers of protestors, the rally's organisers hoped to exceed the total of 92,000 poll-tax protestors who gathered in Hyde Park in 1990,³³ and it is widely said that the rally attracted 100,000 protestors. The Metropolitan Police put the number closer to 80,000.^{34,35,36}

B. Campaign for the Protection of Hunted Animals

The RSPCA, International Fund for Animal Welfare (IFAW) and the League Against Cruel Sports (LACS) joined forces to form the Campaign for the Protection of Hunted Animals, with the intention of banning the use of dogs to hunt foxes, deer, mink or hares.

The CPHA launched their Deadline 2000 campaign to end hunting for the new millennium. Their stated aim was to persuade the Government to make a commitment to introduce legislation to this effect by the turn of the century.

The aims are outlined in the campaign brochure:

[Deadline 2000] will work with supporters in rural and urban areas throughout the country to underline the overwhelming opposition to hunting with dogs having any role to play in modern Britain.

Outside Parliament the campaign will work with:

³⁰ op cit p.75

³¹ Countryside Alliance advertisement, *Independent*, 9 July 1997, p 11

³² "Labour's celebrity followers rally to the hunting horn", *Independent*, 23 June 1996

³³ "Blair backs hunt ban on eve of rally; blow to countryside supporters", *Daily Telegraph*, 10 July 1997

³⁴ "Heseltine condemns hunt ban as bigoted", *Times*, 11 July 1997

³⁵ "Hunting bill given little chance of success", *Financial Times*, 11 July 1997

³⁶ "Faithful gather in countryside blood feud", *Guardian*, 11 July 1997

Country organisations which are seeking to protect animal welfare and the countryside through developing wide areas of land across which hunting will be prohibited

Local authorities who want to ban hunting on their land

The equestrian sports community to promote alternatives to hunting with dogs, such as drag hunting

But the ultimate objective is to persuade the Government to introduce legislation to ban hunting with dogs before 2000.

The CPHA would argue that they represent the mainstream view of hunting in the UK. The large majority of opinion polls (see Appendix) would tend to support that view when the choice is simply between a ban or the status quo. With the added complication of regulation as an option there is some doubt whether they represent a majority of people.

C. The Middle Way Group

A third main group has now entered this debate, adopting a middle ground. The All-Party Parliamentary Middle Way Group have put forward proposals for more regulation of hunting which would improve animal welfare but stop short of banning the sport.

The Middle Way thesis is presented in their policy document.

The basis of a middle way approach is one of reforming and perhaps ending certain practices, introducing licences and forming a truly independent hunting authority to govern the whole activity. Particular areas of hunting, such as terrier-work, which have the potential to cause excessive suffering, would be addressed and the body would have the powers to tightly control and regulate such practices. The Authority would have as part of its remit a duty to develop guidance and recommendations for all other legal methods for killing the relevant quarry species. This means that the whole spectrum of methods currently available to kill wild mammals (e.g., snares, traps, firearms) would be addressed, as well as competence tests, upholding best practice, types of ammunition and recording activities.³⁷

In some respects, the Group's proposals resemble those of the Countryside Movement's *Report of a Review of Hunting with Hounds*, and also reflect some of the practices of the Welsh Farmers Fox Control Association. The WFFCA represents Welsh farmers who hunt in upland areas with hound packs but without horses, so it is separate from the Masters of Foxhounds Association (MFHA).

When a farmer reports problems with foxes during lambing the chairman will recruit local farmers to help the huntsman. The WFFCA estimate that 85% of the foxes they kill are shot

³⁷ All-Party Parliamentary Middle Way Group, *Wildlife and Hunting: A Way Forward*, September 2000

above ground with shotguns. Terriers with radio collars are sent after foxes gone to ground, and four packs accounted for almost 10 000 foxes from 1983-1996. The WFFCA sees terriers as essential for fox hunting in Wales since once a fox has gone to ground it is 'essential to the sheep farmer that it is eradicated'.³⁸ It is interesting to note that the rates of foxes killed per km² by upland foot packs monitored by the WFFCA are an order of magnitude higher than for mounted hunts anywhere.³⁹

This practical need to utilise dogs on foot cause a problem in the drafting of legislation designed to ban the hunting of foxes for pleasure. One of the strengths of the Middle Way proposals is that they would avoid having to draft convoluted legislation. A Bill that bans the hunting of foxes for pleasure while but allows those necessary activities on farms and game estates that involve the hunting and killing of foxes, is likely to be complicated to draft.

The advantage this route has over the traditional narrow 'ban hunting' stance is that the cause of animal welfare is undoubtedly served and this would be across a much broader front. An important factor is that most of the individuals and groups who are in positions to ensure that the new laws work would not be alienated.⁴⁰

The Middle Way group concludes its policy document stressing the need for compromise and constructive debate. They accept that their proposals may not be immediately perfect. They believe however that they provide a positive and constructive starting point which may be built upon as opposed to the 'decades of stalemate' that have preceded the introduction of the current Bill.

D. Recent Comment

A hunting Bill in the Queen's Speech was widely anticipated. This led to a flurry of claims and counter claims from the various protagonists in the debate.

The Middle Way group was first, announcing a licensing option for the regulation of hunting. This option put forward the idea of fining those who abused animal welfare and public safety while hunting.

[The Middle Way Group] proposes that up to 20 inspectors would be employed by a new statutory Hunting Authority.

They would ensure that hunts did not breach a code of practice designed to safeguard animals and public safety and avoid trespass.

³⁸ Phelps *et al*, *Report of a Review of Hunting with Hounds*, May 1997, pp 93-95, Appendix E

³⁹ Eds. Taylor and Dunstone, *The impact of sport hunting: a case study*, Macdonald and Johnson in *The exploitation of mammal populations*, 1996, pp 161-207

⁴⁰ All-Party Parliamentary Middle Way Group, *Wildlife and Hunting: A Way Forward*, September 2000

The hunting fraternity would pay licence fees of £100 a year each to meet the costs of the authority – estimated at £800,000 to £1.2 million a year.⁴¹

The article went on to report that the Middle Way group did not believe a ban could be enforced and would achieve little as farmers would simply control foxes by other methods.

The Countryside Alliance established a new authority to monitor hunts:

A team of monitors has been appointed to make spot checks on hunt kennels and to attend hunt meetings to ensure strict rules are followed.

The monitors, all experienced huntsmen, have been told that there must be no cover-ups when things go wrong and any breach of the rules must be reported to the Independent Supervisory Authority for Hunting, chaired by Sir Ronald Waterhouse, the former Court of Appeal judge.⁴²

The Times reported this as an attempt to make the sport more acceptable to the general public by assuring them that the pursuit was not unnecessarily cruel. At the same time the International Fund for Animal Welfare was launching a website⁴³ where they hoped to publish graphic footage of the hunting field in an attempt to do just the opposite.

There have also been claims that the new human rights legislation might be utilised by pro-hunting groups to declare a ban on hunting as prejudicial to their human rights.

The Countryside Alliance claims that the proposed Bill would breach up to five articles in the European Convention on Human Rights. These include ‘enjoyment of property’ and to peaceful assembly and association’.

[...]

[An Alliance spokesman] said that the legal battle could last more than four years if the matter were brought to court. “But the alliance would definitely take legal action,” he added.⁴⁴

There have also been statements from the Alliance that they will follow up on the first countryside march with another:

Countryside supporters are threatening to bring London to a standstill with a pro-hunting demonstration involving up to half a million people unless MPs give way to their demands.⁴⁵

⁴¹ David Brown, “MPs unveil ‘middle way’ licence plan for hunting”, *Daily Telegraph*, 8 August 2000

⁴² Valerie Elliot, “Huntsmen set new controls to win over public”, *The Times*, 30 October 2000

⁴³ <http://www.banhunting.com>

⁴⁴ Clare Dyer, “Hunt ban ‘breach of rights’”, *The Guardian*, 13 December 2000

⁴⁵ Marie Woolf, “Fox-hunters say they will bring capital to a halt”, *Independent*, 20 October 2000

This became a firm promise after the legislation was announced in the Queen's Speech:

Hunting supporters promised to embarrass Downing Street in the run-up to the expected spring general election by mobilising the 'largest ever' civil liberties demonstration to protest about a government bill giving MPs the chance to ban hunting with dogs.⁴⁶

There were rumours that the Countryside Alliance had decided not to confront the Government over the legislation⁴⁷ but this was quickly repudiated:

Richard Burge, chief executive of the alliance described as 'grossly untruthful' reports that it might accept the abolition of hunting in return for assistance on other rural issues such as farming.⁴⁸

Early indications about the Bill in the press showed that one of the possible options would not appear in the Bill. Early speculations had included local referendums whereby local areas would be given the opportunity to decide for themselves whether hunting should be banned in their locality.⁴⁹

There have also been reports that the proposed legislative efforts have caused disagreements between the RSPCA and SSPCA (Scottish Society for the Prevention of Cruelty to Animals). The SSPCA want to take a firmer view on the killing of foxes during a close season while allowing the use of dogs underground to find, and kill, the cubs of shot vixens during periods when foxes could be controlled. The reasoning was that the cubs would otherwise be likely to starve to death. The SSPCA suggestion was not welcomed either by the RSPCA nor farmers who believed that the close season too closely matched the lambing season.

Simon Hart, of the Countryside Alliance, said: "Advocating a close season for fox control at the biggest time of year for shepherds and keepers will further inflame an already angry situation".⁵⁰

The issue has continued to draw controversy as anti-hunt groups sabotage hunts and extreme elements vandalise property of hunts while members of hunts are accused of causing deliberate harm to protestors.⁵¹

Baroness Mallalieu wrote an article on potential legislation on hunting entitled "A vicious outbreak of metropolitan bigotry":

⁴⁶ Cathy Newman, "Countryside Alliance promises big protest", *Financial Times*, 7 December 2000

⁴⁷ David Hancke, "Rural group gives in on fox-hunting", *The Guardian*, 4 December 2000

⁴⁸ Charles Clover, "We'll fight to the end, says hunt lobby", *Daily Telegraph*, 5 December 2000

⁴⁹ Roland Watson, "Bill denies public a say on fox hunting", *The Times*, 23 November 2000

⁵⁰ Charles Clover, "Fox-shooting ban splits hunting's opponents", *Daily Telegraph*, 27 November 2000

The law in respect of animal welfare and wildlife management is a mess and needs reform. It should be unlawful for anyone intentionally to inflict unnecessary suffering on any mammal. At present it is not. The necessity to control fox numbers is generally accepted. The Burns Inquiry found that hunting caused no more suffering than other methods which are not always possible to use. The courts would then decide whether hunting failed the test of necessity.

Instead of a miserable little bill which seeks to criminalise a swathe of the rural population and do nothing to improve animal welfare, the Government would have the support of all reasonable people inside and outside Parliament if it reformed the existing Protection of Animals Act to criminalise those who deliberately inflict unnecessary suffering on an animal, whatever the context.⁵²

Support came in an article in the Independent:

There is always an alternative available to people in a democratic and tolerant society. It is called persuasion. It is open to the animal rights people to argue with hunters, to distribute leaflets putting their case, to highlight incidents of undue cruelty, to picket hunts, to shout slogans, to appear on TV and radio or take ads in newspapers. Not liking something is not always sufficient reason for banning it, and in any case – as the Queen’s Speech has shown – there’s always plenty of banning to do just to protect us from each other.

Don’t alienate your fellow human beings unless you really have to. And we don’t. So for God’s sake, let’s leave the bloody hunts alone.⁵³

A Times editorial took more of a middle way:

Adverse opinion polls this summer (subsequently reversed) have obliged a reluctant Jack Straw to promote a crude Bill with a loaded choice between an outright ban, decent but dull reform, or the status quo. This will cause more needless trouble than it is worth.

Hunting is not to be defended as a noble pastime that saves the countryside from an onslaught of foxes. There are parts of Britain where foxes are a real threat but they do not coincide with the most-attended hunts. The best testimony is different. This is, first and foremost, a question of liberty. The right to hunt could be negated only by the argument that the practice involved is cruel and unusual. This is transparently plausible for cocks fighting each other with spurs or bears forcibly obliged to wrestle. In the wild, nonetheless, animals pursue each other and the Queensbury rules have scant jurisdiction. There are grounds for tighter regulation to avert needless cruelty – hunts would be wise to accept these swiftly – but not for a total ban.

⁵¹ Jamie Wilson, “Hunt was grows as kennel is attacked”, *The Guardian*, 4 September 2000

⁵² Ann Mallalieu, “A vicious outbreak of metropolitan bigotry”, *Sunday Telegraph*, 26 November 2000

⁵³ David Aaronovitch, “Me? I would put children ahead of foxes every time”, *Independent*, 8 December 2000

There is also reasonable argument to be made about community and diversity. The notion that the drive to ban hunting is a ‘metropolitan plot’ is crude and unhelpful. Many opponents of hunting have nothing against their country cousins.

[...]

The better course remains one of incremental reform and not the sledgehammer of criminality.⁵⁴

On publication of the Bill, the Campaign for the Protection of Hunted Animals (CHPA) commented in a press release that

The next stage, likely to be in January, will be a Committee of the Whole House. At this stage MPs will be asked to vote on three different possible options. The CHPA is adamant that the only acceptable option is legislation to prohibit the hunting of wild mammals with dogs. Regulation and/or the status quo would simply allow cruelty to continue.⁵⁵

The Countryside Alliance view of the Bill was that

We have made it quite clear in our evidence to the Burns Inquiry and in all our submissions to Government that any form of ban on any form of hunting would be utterly unacceptable to the Alliance, all the people it represents and a large additional minority in this country. The Schedule 3 option is grossly illiberal, illogical, unworkable and unenforceable. The whole thing smells of intolerance, retribution and vindictiveness – in a word bigotry. If MPs are unwise or prejudiced enough to vote for this option they will go down in history as those who have used the power of the elected chamber to legitimise bigotry. We therefore will not dignify this option by giving any more detailed comment.⁵⁶

Discussion with the press office of the Association of Chief Police Officers revealed that they did not have a detailed opinion of the Bill or options therein. They simply stated that the police were there to enforce the laws of the land and that they would enforce any legislation that came from the Bill.

⁵⁴ Editorial, “Field of conflict”, *The Times*, 7 December 2000

⁵⁵ Campaign for the Protection of Hunted Animals Press Release, *Hunting ban is the only option*, 8 December 2000

⁵⁶ Countryside Alliance Press Release, *Hunting options Bill – the Alliance’s response*, 8 December 2000

E. Hunting in Scotland and other Countries

The Burns Inquiry provides more detail on the occurrence of hunting in other countries but the situation was summarised succinctly within the Economist:

What and how you can kill⁵⁷

	Number of participants ^a in thousands (% of population)	Minimum age
Austria	110 (1.4)	18 (16 with permit)
Britain	945 (1.7)	None ^b
France	1 650 (3.0)	16
Germany	325 (0.4)	18 (16 with permit)
Italy	1 150 (2.0)	18
Netherlands	33 (0.2)	18 (16 if accompanied)
Poland	99 (0.25)	18
Spain	1 300 (3.3)	18 (16 if accompanied)
Sweden	322 (3.7)	18 (16 if accompanied)

a – Excludes fishing b – 14 years for rifle

What and how you can kill (continued)⁵⁸

	Qualifications	Main legal means of killing, shooting apart	Main animals shot or hunted ^c
Austria	Theoretical and practical exam, no criminal record	Falconry, trapping	Deer, boar, fox, hare, chamois
Britain	Police licence and character certificate for gun	Falconry, trapping, hounds	Deer, fox, hare
France	Theoretical exam and practical training, no criminal record	Falconry, trapping, hounds, bow	Deer, boar, fox, hare, chamois
Germany	Theoretical and practical exam, no criminal record	Falconry, trapping	Deer, boar, fox, hare, chamois
Italy	Examination, medical certificate, no criminal record, marksman's certificate	Falconry, trapping, hounds, bow	Deer, boar, fox, hare, chamois
Netherlands	Theoretical and practical exam, no criminal record	Falconry, trapping, hounds	Deer, boar, fox, hare
Poland	A year in game-shooting club, exam, no criminal record	Falconry, trapping	Deer, boar, fox, hare, moose, wolf
Spain	Regional exams, no criminal record	Falconry, trapping, hounds, bow	Deer, boar, fox, hare, ibex, barbary sheep
Sweden	Theoretical and practical exam, no criminal record	Trapping	Deer, boar, fox, hare, moose, brown bear, beaver

c – as well as game birds and waterfowl

An interesting question is what will happen in Scotland. The Scottish Parliament have been considering legislation on hunting but there remains the possibility that there will be distinct differences in the legality of hunting between Scotland and the rest of mainland Britain.

⁵⁷ “Bang Bang - and tally-ho”, *The Economist*, 8 November 1997

⁵⁸ “Bang Bang - and tally-ho”, *The Economist*, 8 November 1997

On the 20 July 1999 Mike Watson MSP announced his intention to introduce a Members Bill in the Scottish Parliament to ban fox hunting in Scotland. On the 21 July 1999 Tricia Marwick MSP agreed to co-sponsor Mike Watson's Bill. The SNP press release of 21 July 1999 stated:

The proposed bill is expected to attract cross-party sponsorship, and will be drafted in co-operation with Advocates for Animals. The scope of the bill will be limited to hunting with packs of dogs. The Bill will not affect control of foxes by farmers.

The Scottish Bill is designed simply to prohibit the sport though there have been reports that a licensing scheme has been considered. A *Daily Telegraph* article reported that the Bill (*Wild mammals (Scotland) Bill*) was still in its first stage and the general principles were still being discussed by the rural affairs committee.

The Bill's sponsor, the Labour MSP Lord Watson of Invergowrie, said he considered withdrawing it because the vague nature of its wording encompassed a much wider range of potential offences than just hunting.⁵⁹

The Scottish Bill has also drawn castigation⁶⁰ and support⁶¹ in the press along with the speculation that has followed the issue in England.⁶²

The Scotsman recently reported that the Scottish Executive would be 'forced' to reveal its stand on hunting. The rural affairs committee is to discuss land management and pest control issues on executive-owned land and it is believed that the deputy minister for rural development, Rhona Brankin, may be 'forced' to discuss hunting.⁶³

III Burns Inquiry

The essential debate surrounding the issue of hunting is the conflict between personal liberty and animal welfare. Those who are pro-hunting would argue that hunting does not significantly affect the welfare of the hunted animals and so a ban would be an infringement of personal liberties. Anti-hunting groups are convinced that hunting is detrimental to the welfare of the hunted animals.

As a result of this there have been conflicting reports, research papers and polls on the subject of fox populations and their predatory habits, the stress caused by hunting, the economic impacts of banning hunting and various peripheral topics. The controversy caused by the

⁵⁹ Nick Britten, "Scots may consider foxhunting licences", *Daily Telegraph*, April 2000

⁶⁰ Katie Grant, "The beastly folly of Watson's Wild Mammals Bill", *Scotland on Sunday*, 24 September 2000

⁶¹ Mike Watson, "Barbarity and cruelty of hunting foxes with dogs", *Scotland on Sunday*, 1 October 2000

⁶² Nick Britten, "Anti-hunt Bill 'faces three-year setback'", *Daily Telegraph*, 6 September 2000 and Murdo MacLeod, "Pro-hunt group says ban will cost £127m", *Scotland on Sunday*, 6 August 2000

⁶³ Alison Hardie, "Executive to reveal stance on hunting", *The Scotsman*, 9 October 2000

Prime Minister's declaration⁶⁴ that the Government intended to ban hunting was defused by the Home Office establishing an inquiry,⁶⁵ headed by Lord Burns, to provide further insight into some of the major claims made during earlier debates. Lord Burns' Report,⁶⁶ published in June 2000, should provide a touchstone for conflicting arguments around the subject of hunting with dogs.

The Home Secretary subsequently committed himself to introducing a Bill to Parliament in the Autumn allowing Members to vote on a range of choices with regard to hunting.⁶⁷

Two previous Library Research papers have provided detail concerning fox biology⁶⁸ and the controversies surrounding the hunting of various animals.⁶⁹

A. Aspects of the Report

The Inquiry has stated that the Report could not and does not consider ethical issues and has tried to restrict comment to factual information wherever possible. The Inquiry believes there are a number of areas where they can inform the debate and clarify contested issues.

Inquiry Members

Lord Burns (Chairman)
Dr Victoria Edwards
Professor Sir John Marsh
Lord Soulsby of Swaffham Marsh
Professor Michael Winter

To arrive at their conclusions the Inquiry invited submissions of written and oral evidence from interested parties and commissioned material to supplement that evidence. A number of visits and meetings were also held to provide more direct first hand evidence for members of the Inquiry.

1. Employment

The threat that banning hunting would mean the loss of thousands of jobs has been one barrier put in the way of a Government considering implementing such legislation. Proposals leading to the generation of unemployment are generally subject to carefully scrutiny. The added consideration has been that the unemployment would be within the rural economy that has been suffering from a series of blows to farming incomes.

The table and figure below give the estimates of employment related to hunting with dogs from six research studies, summaries of which are reproduced in the Report to the Committee of inquiry into Hunting with Dogs in England & Wales.⁷⁰ The report also contains a regional

⁶⁴ Lucy Ward and Geoffrey Gibbs, "Blair makes new hunt ban pledge", *The Guardian*, 9 July 1999

⁶⁵ <http://www.huntinginquiry.gov.uk/mainsections/report.pdf>

⁶⁶ *Report of the Committee of Inquiry into Hunting with Dogs in England and Wales*, Cm 4763, June 2000

⁶⁷ Home Office Press Release 156/2000, *Home Office publishes report into hunting*, 12 June 2000

⁶⁸ Library Research Paper 95/26, *Hunting - Wild Mammals (Protection) Bill [Bill 14 1994/95]*, 23 February 1995

⁶⁹ Library Research Paper 97/122, *The Wild Mammals (Hunting with Dogs) Bill [Bill 7 1997/98]* 19 November 1997

⁷⁰ *Report of the Committee of Inquiry into Hunting with Dogs in England and Wales* Cm 4763 June 2000

breakdown of employment trends and estimated changes in rural areas between 1980 and 2010.⁷¹

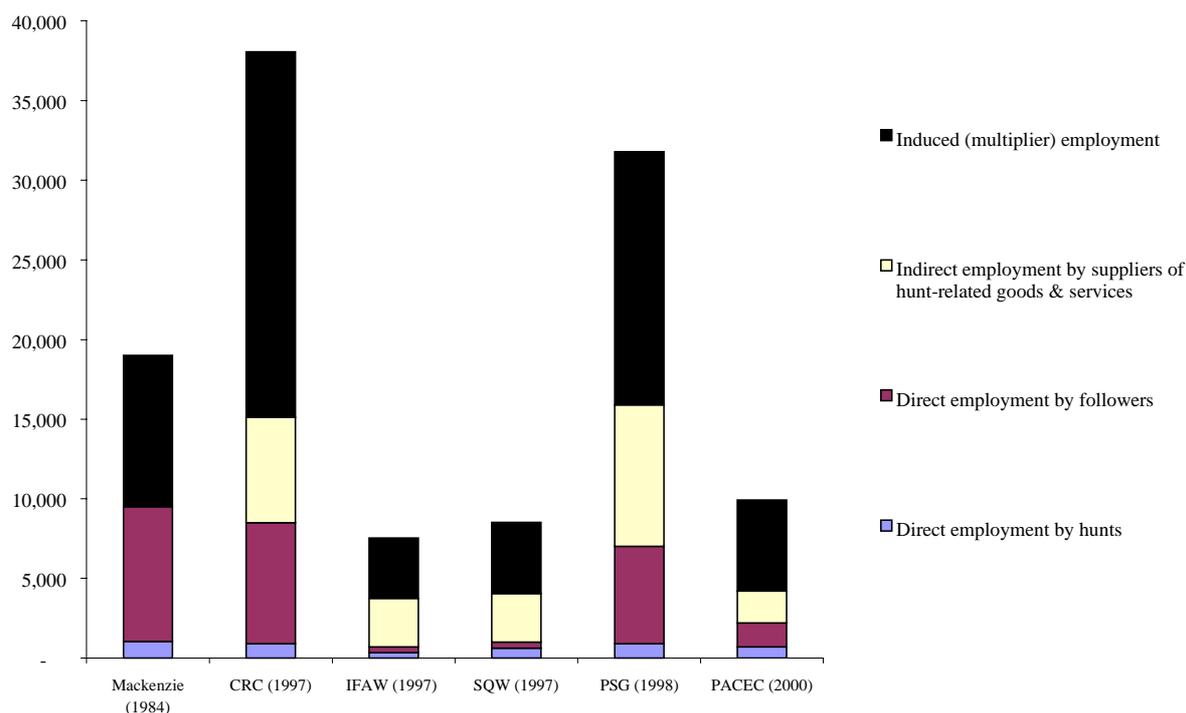
Summary of employment estimates from research studies

Estimated amount by type of employment, Full time Equivalent (FTE)

	Direct employment by hunts	Direct employment by followers	Indirect employment by suppliers of hunt-related goods & services	Induced (multiplier) employment	Total employment
Mackenzie (1984)	1,050	8,450	9,500
CRC (1997)	910	7,600	6,600	7,750	22,950
IFAW (1997) (a)	340	375	3,050	-	3,765
SQW (1997)	620+	375+	3,050+	445+	4,490+
PSG (1998)	910	6,100 (b)	8,885 (b)	..	15,900 (b)
PACEC (2000)	710	1,497	1,993	1,524	5,724

Notes: (a) Based on unpublished figures from IFAW and summarised in the SQW study
(b) Not FTEs

Sources: The Economic Effects of Hunting with Dogs, prepared by Public and Corporate Economic Consultants (PACEC) for The Committee of Inquiry into Hunting with Dogs (Table 2.1) June 2000



The table above shows that employment generated by hunting with dogs can be examined at three levels. First comes employment directly generated by those who organise and participate in hunting (hunts and followers). These include: professional hunt staff, fence builders, stable-staff including grooms and so on. The estimates of total direct employment

⁷¹ ibid Table 3.7

from these sources vary from the IFAW (1997)⁷² estimate of 715 FTE to the Mackenzie (1984)⁷³ estimate of 9,500 FTE.

In addition, estimates of the indirect employment sustained by the expenditure of organisers and participants in associated trades and services. These include; farriers, feed merchants, vets, saddlers, boot-makers, livery yards and so on, vary from the 1,993 FTE as estimated by PACEC (2000)⁷⁴ to the 3,050 plus FTE estimated by IFAW (1997).

The third stage is to look at employment that is generated indirectly by linkages between direct and indirect spending in hunting and the rest of the economy. This is defined as employment that is reliant on the spending of the first and second groups as identified above. In most of the studies mentioned above this is carried out by estimating a 'multiplier' effect.⁷⁵ The 'multiplier' represents employment in the supply chain behind each supplier, such as the tanneries that are behind the leather goods makers. The estimates of induced employment in the table above suggest that this figure is somewhere between 445 plus FTE, as identified by SQW (1997)⁷⁶ and 7,750 FTE estimated by CRC (1997).⁷⁷

This all suggests that total employment related to dogs is somewhere between the 4,490 and 22,950 FTE estimated by SQW (1997) and CRC (1997) respectively.

The number of jobs that would be lost were hunting to be supervised, regulated or prohibited is, of course, not necessarily the same as the number of jobs sustained by hunting, whether directly or indirectly. Organisations such as the League Against Cruel Sports argue that there may be no job losses if those participating in hunting with dogs simply switched to draghunting. They also argue that most horses used for hunting are primarily used for general riding and would still require saddles, livery and farriers whether they were hunted or not.⁷⁸ Others, however, argue differently. For example, a survey conducted the Leicestershire Branch of the Blacksmiths and Farriers Association⁷⁹ found that many respondents said that, without hunting, they would not be able to continue in full-time practice during the winter, with an average anticipated loss of work of 50 per cent.

The Burns Report concludes that 700 full-time equivalent (FTE) jobs would be lost directly as a result of banning hunting. This would be accompanied by a further 1500 to 3000 FTE places directly related to hunting activities. It is imagined that these would be mostly in the

⁷² Unpublished figures from IFAW summarised in the SQW study

⁷³ Mackenzie and Associates, *Survey of Employment and Participation in Hunting in Great Britain*, 1984

⁷⁴ The Economic Effects of Hunting with Dogs, prepared by Public and Corporate Economic Consultants (PACEC) for The Committee of Inquiry into Hunting with Dogs (Table 2.1) June 2000

⁷⁵ No estimates of induced employment are given for the Mackenzie and Associates (1984) study

⁷⁶ Segal Quince Wicksteed Ltd, *Review of the Estimates of the Employment Impact on a Ban on Hunting with Dogs*, 1997

⁷⁷ Cobham Resource Consultants, *Countryside sports - their economic, social and conservation significance* Review and Survey, Standing Conference on Countryside Sports, 1997

⁷⁸ League Against Cruel Sports, <http://www.lightman.co.uk/lacs/facts/facts-01.html>.

⁷⁹ British Field Sports Society (<http://www.bfss.org/foxhunting.html>).

rural workplace. A further 3800 to 4300 jobs would likely be lost through an indirect relationship with hunting. These would be more likely however to impact the urban job market rather than the rural job market and so of less consequence to the rural economy.

The Inquiry believes that job losses would continue to rise over the short to medium term, perhaps being offset by money, once spent on hunting, being spent in other country pursuits. The long term effects (maximum of ten years) would be negligible as the economy settled into the new situation.

2. Economic

The CRC (1997) study, identified in the table above, includes work on the more general economic impact of hunting, for example the amounts of expenditure generated and the income to the government that result. The effects of supervising, regulating or prohibiting hunting on these sums are unpredictable in the same way that the employment effects depend on the extent to which other activities would replace hunting as it is now. With this in mind though, direct expenditure on hunting with hounds in 1996 was estimated by CRC to total £176 million, of which £17 million was spent by those who organised hunting and the remainder by participants. This may generate another £110 million of indirect expenditure, calculated employing the multiplier. The income to central and local government from all countryside sports in 1996 was estimated to be £655 million, but 60% of this comes from angling, no separate figures for hunting are published.⁸⁰

PACEC estimated for the Report to the Committee of Inquiry into Hunting with Dogs in England & Wales that the expenditure of horse-owning household followers on hunting was in the region of £70 million and other supporting households £4 million giving a total of just over £74 million.⁸¹ 16% was spent on wages to employees, 16% on hunt-related social & recreational activities, 11% on horse transport and 11% on payments to hunts. However, the Report to the Committee of Inquiry into Hunting with Dogs in England & Wales suggests that this figure “understates the amount of economic activity that goes into supporting hunt followers”.⁸²

3. Fox Predation

Another statistic used to justify hunting has been that farmers and landowners welcome the reduction in fox numbers because of fox predation on poultry, young animals and game birds. It has been claimed there would be a rise in such predation or that farmers would have to spend more time and/or money to control foxes. However, recent studies claim that the

⁸⁰ *Countryside sports – their economic, social and conservation significance*, Review and Survey by Cobham Resource Consultants, Standing Conference on Countryside Sports, 1997

⁸¹ *Report of the Committee of Inquiry into Hunting with Dogs in England and Wales*, CM 4763, June 2000, p 54

⁸² *ibid* p 55

actual numbers of lambs taken by foxes is a very small proportion of those which die each year.⁸³

The Inquiry substantiated that there is a strong belief among farmers that predation avoidance necessitates control of the fox population. There is, however, recognition that in most parts of the country this is carried out mainly through shooting. In the event of a ban, alternative methods of fox population control would have to be found, but finding alternatives to dogs would be difficult in upland areas.

There was a stronger case for fox predation on game estates where the enquiry stated:

It is clear that foxes kill a substantial number of game birds, both wild and hand reared.

[...]

While there are other factors that affect pheasant populations, it is probably the case that foxes are the most significant predator affecting pheasant shooting. Foxes can also have an impact on partridge populations.⁸⁴

4. Animal Welfare

The greatest argument against hunting has been that of animal welfare, though it has been argued that hunting is the most welfare friendly method of fox control. The welfare arguments have been posed both for and against hunting but are mainly seen as an anti-hunting stance. It is not possible to outline the whole extent of the argument within this paper but the following is a short summary of the Inquiry's conclusions.

Anti-hunt organisations claim that hunting is not only cruel to the animals hunted but to the hounds and horses used in the hunt itself and potentially to other wildlife and domestic animals caught up in the midst of a hunt. The Inquiry recognised that there were welfare implications for all of these animals. Any form of control, shooting or hunting, was seen to compromise the welfare of hunted animals. The use of hounds, however, was deemed a necessary component of husbandry, if only for flushing out foxes in upland areas.

Pro-hunt organisations claim that in the event of a hunt ban there would be mass destruction of both dogs and horses. The Inquiry believed this to be more of an ethical issue (and so outwith the remit of the Inquiry) than a true animal welfare issue. All hunt related animals

⁸³ For example, PCL White et al., "Fox predation as a cause of lamb mortality on hill farms", *Veterinary Record*, Vol 147 (2), pp 33-37

⁸⁴ *Report of the Committee of Inquiry into Hunting with Dogs in England and Wales*, CM 4763, June 2000, p 85

could be humanely destroyed if this was necessary and a suitable lead in time could minimise the numbers of animals destroyed.

5. Miscellaneous

The Inquiry looked at a number of other issues that have appeared in previous debates on the topic of hunting. Two of the more topical considerations are discussed below.

Social considerations were seen as a potential casualty of a ban though it was not seen that the social gathering required a hunt. Other events might be held to replace the hunt as a central cause of social gatherings. It was recognised, however, that such detrimental effects would be most severe in more remote areas.

Management of wildlife and nature conservation have been put forward as a benefit of hunting that would be lost if hunting was to be banned. The Inquiry recognised the role of hunting in the formation of the rural landscape and in the creation of areas of nature conservation. It was noted however that farmers and landowners practices were now far more likely to be influenced by agricultural market and policy trends. Agri-environment schemes under the Common Agricultural Policy are likely to have more impact on such concerns in the countryside.

6. Implementing a ban

The Inquiry looked at the various issues that might affect the implementation of a ban on hunting. A number of obstacles were identified.

Any ban would need careful scrutiny to ensure that it complied with the provisions of the European Convention on Human Rights. The Inquiry saw that a possibility was present that such a ban could be challenged under either property rights or respect for private life (Articles 1 and 8 of the Convention respectively). Legislation would require careful framing to ensure that it did not unjustly catch, and ban, unintended activities. The legislation would also have to consider how the use of dogs might be allowed in flushing out foxes yet banning the actual hunting of the fox. There was also some concern that the Government might allow different legislation to apply to various regions of the country. This was not seen as a desirable outcome. Enforcement of a ban on hunting would have to be carefully considered and could cause some difficulties for the police.

Another consideration if a ban was to be implemented would be the timing of the implementation. The inquiry felt that there were strong arguments for “allowing a reasonable period of readjustment.” Such a delay would provide the time for alternatives to be developed and to reduce the immediate need to destroy hounds. Opposition to a delay could be offset by curtailing peripheral activities of the Hunt that are detrimental to animal welfare such as cub hunting, digging out and stopping up.

B. Press Comment

The Burns Inquiry has been a rich source of comment for the press. There had been much speculation over what the conclusions of the Inquiry would be and publication led to a range of comment and analysis of both the conclusions of the Inquiry and the issue of foxhunting generally.

The Independent summarised reaction to the report, after its release, as follows:

But although Jack Straw told the House of Commons the Burns Report was a 'profoundly impressive study, cogent and well argued', critics claimed it was actually a woolly, confusing document with contradictory findings that supported pro-hunt and anti-hunt lobbies.

Some observers claimed the remit of the five member committee was so vague that it would in effect 'kick the whole thing into the long grass'.⁸⁵

The Guardian produced a useful summary of the findings of the Inquiry⁸⁶ outlining the various issues addressed by the report, e.g., jobs, social and cultural aspect etc. The Western Mail reported that the Welsh Assembly could be given the opportunity to decide differently from England:

After Mr Straw told Plaid Cymru's Simon Thomas that it would be up to MP's to table an amendment to the Bill he would bring forward in the next session to pass the matter to the Assembly, the Ceredigion MP said the Burns Report had proved there were real differences between hunting in Wales and England.⁸⁷

As discussed earlier, a Bill to ban hunting (*Protection of Mammals (Scotland) Bill*) has been introduced to the Scottish Parliament.⁸⁸ The Scotsman reported that Conservatives have called on Scottish MPs to abstain from voting on the proposed Bill for England and Wales as they have no representatives that would be affected by this legislation.

...the Tory home affairs spokesman David Lidington suggested that Scottish MPs should refrain from taking part in any English legislation. "This will be an important test of the principle that the laws of England and Wales should be made by the representatives of England and Wales."⁸⁹

A number of correspondents commented that the hunting issue was a distraction from other countryside issues⁹⁰ though it draws heat from both sides of the lobby. There was concern that the hunting issue was introduced by Labour as a way of providing a sop to labour voting

⁸⁵ Paul Waugh, "Burns Report cheers anti-hunting campaigners", *The Independent*, 13 June 2000

⁸⁶ "Hunting - the wider social context", *The Guardian*, 13 June 2000

⁸⁷ Nick Speed, "Hunting vote may rest with Assembly", *The Western Mail*, 13 June 2000

⁸⁸ http://www.scottish.parliament.uk/parl_bus/legis.html#10

⁸⁹ Jon Hibbs, "Straw rejects Tory call for Scots to abstain on English hunting bill", *The Scotsman*, 13 June 2000

⁹⁰ Editorial, "Fox hunting must not distract from the real issues of the countryside", *The Independent*, 10 June 2000

animal welfare groups,⁹¹ or backbench activists.⁹² John Mortimer, writing in *The Independent*, complained that the hunting debate is an emotional issue, not often aided by statistical analysis, and that the debate is so high profile simply due to a dearth of ideas and ideals in current politics.⁹³

Before the release of the Burns Report the *Daily Telegraph* reported that hunt supporters threatened civil disobedience in the face of a hunting ban:

Richard Burge, director of the Countryside Alliance said: “If MPs are going to follow their prejudices rather than look at what Burns has reported, there is going to be legal and prolonged campaign to ensure that the minority does not get their rights trampled.”

[...]

Robert Brierley, spokesman for the Worcestershire Hunt promised large-scale disobedience.⁹⁴

After the release of the Report the Countryside Alliance welcomed the findings,

But it warned that politicians must now be seen to take note of the report and act fairly on its findings if they were to be able to reassure increasingly frustrated rural communities that their concerns are being listened to. It also stressed that any future moves to end hunting despite the report's findings would be met both with a rapidly escalating, energetic and sustained protest campaign and a determined legal challenge under the European Convention on Human Rights.⁹⁵

Press comment along with most other comment on the report has focussed closely on fox hunting. This has drawn commentary from the *Daily Telegraph* as an example of how

...the Labour attack on foxhunting looks like nothing more noble than the spiteful persecution of a minority.⁹⁶

There were also claims that a ban on hunting would cost the Government ‘hundreds of rural seats’.⁹⁷ These came from members of a hunt in Wales where there is a worry that the ban on hunting will be economically devastating. Finally there has been comment on the right of the Government to impose a ban simply because of the fact that some people find the practice abhorrent. Simon Jenkins of the *Times* wrote:

⁹¹ Vicki Woods, “not even the fox can save you now, Tony”, *The Guardian*, 15 June 2000

⁹² Phillip Oppenheim, “A hunt ban won’t throw us off Blair’s scent”, *Sunday Times*, 18 June 2000

⁹³ John Mortimer, “How the hunting debate went from a view to an overkill”, *The Independent*, 12 June 2000

⁹⁴ Charles Clover, “Hunt supporters warn of civil disobedience”, *Daily Telegraph*, 10 June 2000

⁹⁵ Countryside Alliance Press Release, *Alliance Calls for an End to Intolerance for Hunting Following Burns Report*, 12 June 2000

⁹⁶ Tom Utley, “The real point of this report about hunting”, *Daily Telegraph*, 14 June 2000

⁹⁷ Olga Craig, “Margaret Thatcher took away my father’s job and now Tony Blair wants to take away mine”, *Sunday Telegraph*, 18 June 2000

To Jains, any living creature might be a reincarnated person and entitled to anthropomorphic respect. I might defer to a Jain by not spraying ants in his presence. But I would strongly resist the incorporation of Jainism into British law.⁹⁸

This was supported by Vicki Woods of *The Independent*:

In a free democracy, you oughtn't to ban minority pleasures because you're repelled by them. I'm repelled by massage parlours for a start.⁹⁹

The anti-hunt lobby has been less prominent since publication of the Report but not entirely silent. The Times report that 100 peers in the House of Lords are believed to be susceptible to persuasion on the issue which would facilitate the passage of an anti-hunting Bill through Parliament.¹⁰⁰ Anne McElvoy of *The Independent* argued that whilst she has been previously concerned about imposing the will of the majority, banning the hunt 'is the right thing to do.'

For too long the hunt escaped such scrutiny because it claimed a monopoly of wisdom on the matter and was given the benefit of the doubt. Huntsmen had tradition and the power of the land on their side. That time is drawing to an end – but slowly. First the fractious, semi-reformed Lords will worry at the Bill; after that the lawyers will disembowel it on the grounds that a ban may offend sections of the Convention on Human Rights. The Jack Straw who took cheers of the Commons on Monday for introducing the legislation is the same Mr Straw who warned Tony Blair that a complete ban would be unlikely to survive scrutiny in the courts. This kill will be far from swift, easy or painless. But it is the right thing to do.¹⁰¹

One of the arguments against banning hunting was the impact on the police. The Guardian reported however that it already costs an estimated one million pounds a year to police the hunts.¹⁰²

In general, anti-hunting feeling was best summarised in a leader in the Observer, that hunting should be banned because it was time to do so:

But that has not prevented the Countryside Alliance and other rural lobbyists from mounting a rearguard action against any legislative ban. They have campaigned on the chief elements on which their arguments depend - liberty, pest control, jobs and tradition - with calculated ferocity.

Last week's report on hunting with dogs, chaired by Lord Burns, the former head of the Treasury, removes much of the force of their argument. The estimates on job losses and the importance of hunting as a means of pest control have been vastly overstated, judges the report. There are no overwhelming economic or practical reasons to keep the sport alive. The argument now revolves around the issue of

⁹⁸ Simon Jenkins, "Fairness to hunters and other animals", *The Times*, 14 June 2000

⁹⁹ Vicki Woods, "Not even the fox can save you now, Tony: Blair the weathercock", *The Guardian*, 15 June 2000

¹⁰⁰ Tom Baldwin and James Landale, "Anti-hunt lobby in pursuit of hundred peers", *The Times*, 14 June 2000

¹⁰¹ Anne McElvoy, "I've changed my mind about the fate of foxes", *The Independent*, 14 June 2000

¹⁰² David Hencke, "£1m cost of policing fox hunting fuels row over ban", *The Guardian*, 16 June 2000

liberty and raises the old conundrum of how much a society should allow individuals to follow their own interests and passions, even if they are against the settled will of the majority. In the past, The Observer has taken the view that one way through the maze is to offer individual counties the opportunity to have local referendums. But our view against fox-hunting has hardened, in part because of the self-serving, overblown and sometimes hypocritical arguments of the pro-hunting lobby.

The majority of Britons believe that animals should be treated with humanity. We have an exhaustive range of laws, covering everything from how we treat domestic pets to the conditions in which animals are killed in abattoirs. The liberty to visit fear, pain, mutilation and death on an animal is one that the majority are no longer prepared to grant. End of story.¹⁰³

An alternative look at hunting was proposed by Richard Mordrue, a former MAFF Director of Economics and Statistics. He proposed looking at the pursuit of hunting in economical terms. He estimated that the cost of a hunt might be £200 per head and so potentially £20,000 for a day's hunt. In economic terms, this is an extremely expensive way to control foxes. Having dispensed with the argument that the hunt is there for purposes of pest control he looked at the cruelty argument. In this he assessed the pleasure given (number of people involved) to the cruelty (number of animals killed). He found that hunting tends to provide far greater amounts of enjoyment per animal killed than either shooting or angling. This would suggest that any argument for the banning of hunting on grounds of simple cruelty would be more than 100 times more valid for shooting or angling.

So what should we conclude from this analysis? It says nothing about the amount of cruelty in absolute terms but it does indicate that if reducing cruelty to animals is the main motive for a ban then it should be logical also to ban shooting and fishing. Perhaps reducing cruelty is not the motive but if that is the case the Government and other supporters of a ban should make it clear why they wish to ban it. Equally, the supporters of hunting should admit that the pleasure they get from participating is the main benefit of hunting.

Both in commonsense and technical economic terms what they pay for their participation is a measure of that benefit and it far exceeds any of the so-called benefits to the countryside.¹⁰⁴

This analysis makes no reference to the potential supply of food from the shooting and fishing aspect of the equation. This part of the argument might justify a desire to ban hunting without also seeking a similar ban on shooting and fishing.

Lord Burns was interviewed by the Telegraph to give some insight to how the Report was put together. It was emphasised that the Report was meant to collect facts and not to make moral judgements. It was not the place of the Inquiry to decide whether hunting a fox was wrong or

¹⁰³ , "End this barbaric pursuit now: There is no case for fox hunting", [Leading Article], *Observer*, 18 June 2000

¹⁰⁴ Richard Mordrue, "The felicific calculus of killing things", *Sunday Telegraph*, 18 June 2000

cruel but merely to look at the various options and determine their relative impact on the welfare of the hunted animal. Thus it was possible for the Inquiry to say that the use of dogs might be acceptable in some circumstances but not in others. Obviously this has not made the answer to the questions posed by the hunting issue any easier to find, but hopefully made it easier to see what the questions are.

It looks pretty grim for hunting then? Lord Burns said there were other issues such as personal freedom, tradition, culture, whether the suffering was justifiable, and the possibility of illegal hunting, which Parliament had to evaluate. “It is a complicated business and not one that lends itself to very simple answers which are right in all circumstances or in all places,” he said.¹⁰⁵

IV Previous Multiple Option Bills

The *Hunting Bill*¹⁰⁶ is a ‘multi-option’ bill containing a series of self-contained and mutually exclusive options put forward by the main hunting interest groups. This is an unusual, but by no means unique, procedural mechanism which has been used before by governments, usually in order to let the House express an opinion on an issue which crosses party boundaries and on which there are diverse and deeply-felt opinions. Other examples of multi-option bills are given below.

A. The *European Assembly Elections Bill*

The *European Assembly Elections Bill* was introduced in the Commons on 24 June 1977 and was given its Second Reading on 6 and 7 July 1977.¹⁰⁷ The Bill was intended to be a vehicle for debate on the principle of direct elections and was an interesting product of the Lib/Lab pact then in operation. The Bill offered an alternative between two electoral systems; Clause 3 provided for a regional list system of PR and also for that system to be overridden by Schedule 1 (First Past The Post) by a later resolution of the House of Commons. To honour its pact with the Liberals the Government was to recommend to the House of Commons the endorsement of the PR system as set out in Annex B to the White Paper. However the Lib/Lab pact of March 1977 provided for a free vote on the choice of electoral systems in the Commons. The Bill proceeded no further due to lack of Parliamentary time. It was reintroduced in an almost identical form in the 1977/78 session with a Second Reading on 24 November 1977.¹⁰⁸

Clause 3 was as follows:

¹⁰⁵ Charles Clover, “MPs will rule if hunting is cruel”, *Daily Telegraph*, 14 June 2000

¹⁰⁶ Bill 2 of 2000-2001

¹⁰⁷ HC Deb. 6 July 1977 c1250-1382 and HC Deb 7 July 1977 c1436-1564 (Bill 142 of 1976/77). Six Cabinet Ministers opposed its Second Reading, along with 25 other Members of the Government. See Research Paper 96/55 *The Collective Responsibility of Ministers: an outline of the issues* for background on subsequent dissension

¹⁰⁸ HC Deb 24 November 1977 cc 1764-1914 (Bill 7 of 1977/78)

3.-(1) Assembly elections shall be held and conducted in accordance with the provisions of Part II of this Act under a regional list system such that each elector has a single vote and, in each electoral region-

(a) each vote is cast for a named candidate chosen by the voter from those shown in the ballot paper as candidates for election as representatives for the region and

(b) the seats to be filled for the region are allocated according to a system of proportional representation, subject, however, to the following subsection.

(2) If after the passing of this Act the House of Commons by resolution so directs, Part II of this Act shall not have effect and Assembly elections shall be held and conducted in accordance with the provisions of Schedule 1 to this Act (with Schedule 2) under the simple majority system (for Great Britain) and the single transferable vote system (for Northern Ireland).

The d'Hondt method was used for calculating the allocation of seats.¹⁰⁹

The candidates were listed alphabetically, as were the political parties. The White Paper had originally proposed that candidates be listed alphabetically, with party affiliations (para 5) but after consultation it was felt that this would be too confusing.¹¹⁰ This form of PR avoided the need for registration of parties since voters were still choosing individual candidates, grouped according to party label.

On a free vote by both Conservatives and Labour¹¹¹ the House declared its preference for a first past the post electoral system, against the Government's recommendation.¹¹² The proportional electoral system was therefore removed from the Bill. The academic Mark Hagger¹¹³ noted that "the debate itself was dominated by critics of the party list electoral system, a few of whom expressed sympathy with some form of PR but were unwilling to endorse a system 'discovered by a Liberal professor in the Forest of Finland'".¹¹⁴ "Even the Liberal Party argued that the party list system was a second-best solution and it was unable to persuade the SNP to give its support, for the SNP favoured the Alternative Vote System" (p.226).

B. The Sunday Trading Bill 1993-94

The Sunday Trading Bill was published on 19 November 1993¹¹⁵ and presented Parliament with three options for reforming the law on Sunday trading: total deregulation; a regulatory

¹⁰⁹ See Research Paper 98/80 *Voting Systems: the Government's Proposals* for a worked example of d'Hondt

¹¹⁰ See comments by Merlyn Rees, then Home Secretary, HC Deb 6 July 1977 c1259

¹¹¹ HC Deb 13 December 1977 c 1782

¹¹² HC Deb 13 December 1977 cc 418-20: 319-222. However, Brynmor John, junior Minister at Home Office stated that on a constitutional matter of that importance it was right and proper to have a free vote (HC Deb 13 December 1977 c 1771)

¹¹³ Eds Valentine Herman and Mark Hagger, *The UK: The Reluctant Europeans*, a chapter from *The legislation of Direct Elections to the European Parliament*, 1980

¹¹⁴ HC Deb 13 December 1977 c 319

¹¹⁵ Bill 1, 1993/94

scheme based on proposals supported by the Keep Sunday Special Campaign and the Retailers for Shops Act Reform; and a compromise scheme of partial deregulation based on the proposal of the Shopping Hours Reform Council (SHRC).

Clause 1 was worded as follows:-

1.-(1) The Secretary of State may by order made by statutory instrument do any one of the following-

(a) provide that sections 47 to 66 of, and Schedules 5, 6 and 7 to, the Shops Act 1950 shall cease to have effect on a day specified in the order,

(b) provide that schedules 1 and 3 to this Act shall come into force on such a day, or

(c) provide that Schedules 2 and 3 to this Act shall come into force on such a day; and in the following provisions of this section "the appointed day" means the day specified in an order under paragraph (a), (b) or (c) above.

(2) Nothing in Schedules 1 to 3 to this Act shall have effect except by virtue of the making of an order under subsection (1)(b) or (c) above.

(3) If an order is made under subsection (1)(b) or (c) above, sections 47 to 66 of, and Schedules 5, 6 and 7 to, the Shops Act 1950 shall cease to have effect on the appointed day.

(4) An order under this section shall not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

The Home Secretary, Michael Howard, explained at second reading the procedure that was to be followed:-

If the Bill secures a Second Reading, the House will be invited immediately to agree the motion on the Order Paper in my name and the name of my right hon. Friend the Lord President committing clauses 1 and 2 and schedule 4 to a Committee of the whole House. If agreed, that will have the effect, among other things, that clause 1 will be considered on the Floor of the House, ensuring that all hon. Members will be involved in the choice between the options.

So how is that choice to be made? Clause 1 enables the Secretary of State to bring into effect by order any one of the three options for reform. Deregulation would be achieved through repeals to the 1950 Act contained in clause 1. The substance of the other two options is contained in schedules 1 and 2.

Clearly, there will be a full debate in Committee of the whole House on the options' merits. To choose among the options, the Committee will vote on a series of amendments to clause 1, which will remove from clause 1 references to two of the three options for reform. So if any group of amendments secures a majority, clause 1 will be amended to refer to one option only. That option will then be the choice of the House.

The amendments would also remove the order-making power so that the chosen option and the rest of the Bill will ultimately be brought into force in the normal way, not through the affirmative resolution procedure.

It is not a question of which option gets the biggest vote. It is conceivable that only one option will be voted on if that were to secure a majority. Voting against earlier options is the only way in which hon. Members can seek to ensure that they can vote on their favourite option if it comes later in the order. Hon. Members cannot

fudge the issue by abstaining in a vote without risking that their preferred option may fail by default.

When the Committee of the whole House has completed consideration of clause 1, the Standing Committee will consider in detail the chosen option and other provisions of the Bill in the normal way. It will also remove those schedules that are no longer introduced by clause 1. Schedule 4, which deals with employment rights, will also be taken in Committee of the whole House.¹¹⁶

The device requiring an order was necessary as legislation cannot contain contradictory statements. MPs were to choose their preferred option by voting on amendments made to Clause 1. Each group of amendments would remove the order-making power and remove two of the options. Under the normal rules of procedure, if an amendment is successful, a later contradictory amendment cannot be taken. Thus, the process would stop as soon as one option received a majority.

The crucial votes took place on 8 December 1993,¹¹⁷ the first day on which the Bill was taken before a Committee of the whole House. MPs were given two extra options to consider in addition to the original three. The first, from Sir Peter Emery, would have allowed unlimited opening of shops after 1pm on Sundays while the second, from Simon Hughes, would have allowed local authorities to choose their own Sunday opening policy. The Deputy Speaker, Michael Morris, announced the order in which the five options would be taken and told MPs that the first option to receive a majority of votes would automatically be accepted.

Sir Peter Emery's amendment was withdrawn without a vote. The option for total deregulation, which was supported by the Home Secretary and Prime Minister, was defeated decisively by 230 votes. The regulatory scheme was defeated by 18 votes but the option for partial deregulation secured a majority of 75 votes. The Bill completed its Commons stages and in the Lords at committee stage on 29 March 1994 the House was presented with the same three options for reform. The option for partial deregulation was agreed to by a vote of 206 Contents to 151 Not-Contents.

C. The *Human Fertilisation and Embryology Bill [HL] 1989-90*

A variation on the multi-option bill was the tabling by the Government of a series of amendments to the above Bill¹¹⁸ which in effect laid out a range of possible time limits on abortion on which the House could vote. This took place on the second day of Committee of the whole House stage in the Commons on 24 April 1990.¹¹⁹

By way of background, the *Abortion Act 1967* set out several different grounds for abortion and these are commonly numbered as follows:-

¹¹⁶ HC Deb 29 November 1993 c 816

¹¹⁷ HC Deb 8 December 1993 cc 326-433

¹¹⁸ HL Bill 1, 1989/90

¹¹⁹ HC Deb 24 April 1990 cc 166-305

1. The continuance of the pregnancy would involve risk to the life of the pregnant woman greater than if the pregnancy were terminated.
2. The continuance of the pregnancy would involve risk of injury to the physical or mental health of the pregnant woman greater than if the pregnancy were terminated.
3. The continuance of the pregnancy would involve risk or injury to the physical or mental health of any existing child(ren) in the family of the pregnant woman greater than if the pregnancy were terminated.
4. There is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Or in emergency, certified by the operating practitioner as immediately necessary:-

5. To save the life of the pregnant woman, or
6. To prevent grave permanent injury to the physical or mental health of the pregnant woman.

The Leader of the House, Sir Geoffrey Howe, put down a new clause (NC4) which in its original form would have imposed a time limit for abortion of 24 weeks for grounds 2 and 3 (and also 6 in respect of damage to mental health), no limit on grounds 1 or 5, or 6 in respect of physical health, and a limit of 28 weeks for ground 4. The Secretary of State for Health, Kenneth Clarke, put down a series of amendments to the new clause.¹²⁰ These substituted time limits for the 24 week period ranging from 18 to 28 weeks for grounds 2 and 3, and provided for various other permutations in other circumstances.

In successive divisions MPs rejected time limits of 18, 28, 20, 26 and 22 weeks. New Clause 4 as amended was carried, thus reducing the time limit from 28 to 24 weeks, and other votes removed altogether the time limit on abortions needed on grounds 6 and 4 above. Commons amendments were considered and agreed by the Lords on 18 October 1990.

¹²⁰ HC Deb 24 April 1990 cc 167-9

V *The Hunting Bill 2000-2001*

The Queen's Speech announced that there would be measures introduced to address the issue of hunting with dogs. The Bill was published on 8 December 2000 and the second reading will be on 20 December 2000. The Government have not taken a position on the issue and Members of Parliament will be allowed a free vote on what is a controversial issue on all sides of the House. There follows a discussion of the Bill structure and detail of the individual schedules.

A. Structure of the Bill

The Bill is arranged in six clauses and three schedules. The detail of the legislation is in the schedules. The Bill essentially provides the structure through which Parliament will be allowed to choose between the three options outlined in the schedules: supervision, regulation and prohibition.

Clauses 1 to 3 are present simply to bring Schedules 1 to 3 into effect.

As the schedules are contradictory, **Clause 4** is present to allow the Secretary of State to commence one of the options and revoke the other two. This would be done through statutory instrument following the affirmative procedure.

Clause 5 provides the Bill with its title and **Clause 6** limits its effect to England and Wales.

As written, the Bill is not internally contradictory as the three contradictory schedules would be resolved when a commencement order was issued by the Secretary of State. If the Bill achieved Royal Assent the contradictory schedules would have been replaced with the single chosen option of Parliament. There would still have to be a commencement order that would follow the affirmative procedure.

Under the affirmative procedure, both the House of Lords and the House of Commons would have to vote to allow the statutory instrument to come into effect. The main focus of debate, in the Commons, will be on the details of the schedule chosen therefore it is almost certain that two of the schedules will not be considered in standing committee.

The Government have, however, announced their intention to introduce an amendment to the Bill to modify Clause 4. The amendment, mentioned in the explanatory notes, will enable the provisions of the Bill to take effect one year after Royal Assent. Later reference to the amendment provides the reasoning behind the amendment. Speaking of Clause 4 it says:

This provision is required to ensure that the Bill, on introduction, is not internally contradictory but, as noted in Paragraph 15 above, the Government's intention is to replace this clause.¹²¹

While the provision in Paragraph 15 (of the explanatory notes) might simply be added to Clause 4, the implication is that the clause will be replaced, presumably in committee. There is no standard method of handling the debate on a Bill such as this.

There has been speculation that a Committee of the Whole House will choose between the three options and the detail of the schedule will then be debated in standing committee as normal.¹²² Mike O'Brien was reported in the FT as saying that the options discarded by the Commons will then be re-introduced to the Bill, through Government amendments, so that the Lords will be able to consider all three options.¹²³

B. Supervision

This option would be brought into force through choosing Clause 1 of the Bill bringing Schedule 1 into effect.

1. What is meant by supervision?

Supervision, as detailed in **Paragraphs 1 and 2**, essentially requires those partaking in the sports of hunting with dogs, or coursing, to register their activities. This option does not create new offences. It does however create a new form of hunting entitled 'supervised hunting'.

As discussed earlier, certain Acts of Parliament (e.g., *Protection of Animals Act 1911*) provide exemptions from their provisions if they occur in the process of hunting. **Paragraph 4(a)** of the schedule restricts those exemptions to those engaged in supervised hunting rather than just generally hunting. Other activities, also exempted from the provisions are listed in **Paragraph 4(b) to 4(f)**. As such, there is an incentive provided for those wishing to hunt, or course hares, to register with Independent Supervisory Authority for Hunting (ISAH) Limited and be subject to their supervision.

It will not be illegal to hunt as a result of this Schedule though those engaged in hunting without being supervised will be more open to legal challenge via *the Protection of Animals Act 1911* and the *Wild Mammals (Protection) Act 1996*.

¹²¹ *Hunting Bill*, Explanatory Notes, Paragraph 19

¹²² Valerie Elliot, "Compensation for hunt ban ruled out", *The Times*, 9 December 2000

¹²³ Andrew Parker, "Hunting with dogs set to end in two years", *Financial Times*, 9/10 December 2000

2. Who will supervise?

Supervision will fall to ISAH Limited (**Paragraph 3**). This body was established on 30 December 1999. Other bodies may be designated, by order of the Secretary of State, as the supervisory body, though only if ISAH ceases to exist or 'the statement of objects in its memorandum is altered'. Any order changing the supervisory body will be subject to resolution by both Houses of Parliament.

3. What are the responsibilities, powers, funding and membership of the supervisory body?

The current membership of ISAH Limited, listed in the explanatory notes, comprises entirely of bodies engaged in the sport. There is no representation of animal welfare groups, or veterinary organisations, nor any requirement in the Bill for such representation to be added. There is no information, within the Schedule, on how the supervisory body will be administered, funded or be open to scrutiny.

There are, however, details outlined in the explanatory notes.

These say that the costs of ISAH Limited will be borne by the member organisations but the Schedule provides for the Secretary of State to make grants or loans available out of money provided by Parliament (**Paragraph 5**). The work of ISAH Limited will be carried out by seven Commissioners appointed by an Appointments Panel. No information is available with respect to the Appointments Panel. One of the Commissioners will be the Chairman of the Hunting Committee of the Countryside Alliance or his nominee. Complaints made to ISAH will be referred to the appropriate hunting organisation for investigation and the Commissioners will be required to scrutinise the result of such investigations. If dissatisfied the Commissioners might issue a public warning or censure to the organisation involved and may also suspend or ban an individual from holding office in registered organisations.

Those groups that do register with ISAH will be required to provide a written statement to ISAH Limited,

undertaking to comply with all relevant rules, practices, codes of conduct which are in force, and agreeing to accept the final authority of the Commissioners.¹²⁴

The explanatory notes state that each member organisation will be required to provide a written report to ISAH Limited of the season's activities. There is no requirement in the Schedule to require ISAH to so report to the Secretary of State. If ISAH Limited does report, however, then the Secretary of State will be obliged to provide a copy to Parliament (**Paragraph 6**).

¹²⁴ *Hunting Bill*, Explanatory Notes, Paragraph 41

C. Regulation

This option would be brought into force through choosing Clause 2 of the Bill bringing Schedule 2 into effect.

1. What is meant by regulation?

Regulation under this legislation would comprise hunting with dogs and hare coursing to be made illegal unless licensed through a newly created independent corporate body.

Under this Schedule, there would be four categories: coursing, regulated hunting, prohibited hunting and unrestricted hunting. **Paragraphs 56 to 61** provide detail on activities that would be allowed to continue without need to acquire a licence. This would be known as unrestricted hunting. The Secretary of State would be able to amend Part VI of the Schedule to expand or restrict the list of activities under unrestricted hunting. Regulated hunting covers the hunting of foxes, deer, hares and mink using dogs (**Paragraph 21**). Coursing is not considered hunting, for the purposes of this part of the Schedule, and must be licensed as described in **Paragraph 22**. Prohibited hunting is essentially any form of hunting a wild mammal with a dog that is not covered under regulated or unrestricted hunting (**Paragraph 42**).

The administration, membership, funding and scrutiny of the corporate body are detailed in Part I of Schedule 2. The processes of obtaining licences and the contents of such licences are detailed in Part II. The form and content of Codes of Practice, prepared by the corporate body, are detailed in Part III.

Regulation creates new offences (Part IV of the Schedule). Prohibited hunting and unlicensed regulated hunting (as well as unlicensed hare coursing) will be offences under the provisions of this Schedule. Providing false information in applications for the licensing process will also be an offence. All offences will be liable to fines not exceeding level 5 on the standard scale (currently £5000). To assist in the enforcement of these offences the police will be granted powers to arrest those suspected of committing offences under this legislation, to search suspects and equipment carried and to seize equipment and animals involved in committing offences. Dogs and hunting articles used in committing offences may be forfeited by those responsible for committing the offence.

2. Who will regulate?

Part I of the schedule introduces the Hunting Authority (**Paragraph 1**) which will be established at an estimated cost of £500,000 and be self funding thereafter. This authority is not to be 'regarded as a servant or agent of The Crown'.

3. What are the responsibilities, powers, funding and membership of the regulatory body?

The establishment of the Authority and ensuring its impartiality and independence is important if it is to be afforded serious regard. The various aspects of the Authority and its licensing are laid out in detail in Parts I and II of the Schedule.

a. Membership of the Hunting Authority

The Authority may vary in size between seven and eleven members, each of whom is to be appointed by the Secretary of State (**Paragraph 2(1)**). A series of six interest groups are to be represented in the Authority: animal welfare, hunting, farming, land-owners, conservation, and veterinary (**Paragraph 5(1)**). The chairman, and any additional members of the Authority, should have, to the satisfaction of the Secretary of State, no involvement with either pro- or anti-hunting organisations (**Paragraph 5(2)**). No Member of Parliament may become a member of the Authority (**Paragraph 4**).

The Secretary of State is to appoint the chairman of the Authority, who may be replaced if that chairman is not carrying out the duties required of the position or can no longer be said to be free of involvement with pro- or anti-hunting organisations. Members of the Authority will be appointed for fixed terms, no greater than five years, and may resign by notice in writing to the Secretary of State.

The Authority will be supplemented by staff to which may be delegated administrative functions of the Authority and inspections of licensed hunting.

b. Responsibilities of the Hunting Authority

The Authority's main responsibility is the licensing of hunting activity. The details are provided in Part II of the Schedule.

The Schedule provides for three kinds of licence: two for hunting and another for coursing (**Paragraph 23**). The Authority has a responsibility to collect information about applicants for licences to hunt. That information should include the activity to be licensed (hunting or coursing), whether it is a personal or group hunting licence, details on the activities of a hunt, the persons to become members, servants or officers of the hunt, and those expected to participate in the hunt. For coursing, details should be collected on past events organised by the applicant and persons expected to be officials at events organised by the applicant.

Once an application has been received, the Authority will have a responsibility to deal with that application as quickly as reasonably practicable (**Paragraph 26**). If an application is refused, the applicant may appeal to a magistrate's court that may rule that a licence should be granted though may specify terms and conditions themselves or allow terms and conditions to be specified by the Authority (**Paragraph 28**).

Once established, the Authority will have to prepare and publish codes of practice for each category of regulated hunting and for hare coursing. These Codes of Practice should be reviewed and revised and any revised Code published. The content of the Codes of Practice is detailed in **Paragraphs 38 to 40**. The content of the Codes of Practice should provide a detailed guide to what is and is not acceptable for licence-holder to do in pursuit and dispatch of their prey. Whilst failure to comply with these codes of Practice will not be an offence under the law, such failures will be admissible in court as evidence in civil or criminal proceedings. As such, failure to abide by these codes may make it more likely that charges of animal cruelty will be successful.

Enforcement of the hunting legislation will be the responsibility of the police. No police powers will be provided to the Hunting Authority for the purposes of enforcing the legislation and so there can be no responsibility on the Authority to enforce it.

c. Powers of the Hunting Authority

Much of the power of the Authority is achieved through its ability to license. Licences may impose conditions on:

- the kind of hunting that may be undertaken;
- the manner in which horses and dogs are kept;
- terrain preparation;
- how many non-participants may accompany the hunt (even to disallow accompaniment); and,
- the behaviour of members, servants and officers of the hunt and of those simply participating. (**Paragraphs 29 to 31**)

The licence may also make conditions on the insurance cover obtained by the licence applicant. Cover can be specified to include:

- loss or damage incurred through the activity;
- the minimum sum to be insured in respect of each claim or class of claim; and,
- any other circumstance that the Authority believes necessary.

Each licence may vary with respect to the insurance cover required (**Paragraph 32**).

Further powers of the Authority can be expressed by their ability to revoke or suspend licences (**Paragraph 34**), vary the terms and conditions within the licence (**Paragraph 35**) and inspect animals, equipment, premises and the actual conduct of hunting under licence (**Paragraph 36**).

d. Funding of the Hunting Authority

It is envisaged in the explanatory notes that the establishment of the Hunting Authority will have to be financed¹²⁵ but that it will subsequently become self-financing through the imposition of fees. The Authority will not be allowed, as far as possible, to generate a deficit or surplus.

There is also provision for the Secretary of State to make loans or grants to the Hunting Authority (**Paragraph 13(3)**).

D. Prohibition

This option would be brought into force through choosing Clause 3 of the Bill bringing Schedule 3 into effect.

1. What is meant by prohibition?

This option essentially makes many of the activities associated with hunting with dogs an offence (**Paragraphs 1 to 4**) punishable by a fine not exceeding level 5 on the standard scale (**Paragraph 5**). Exceptions are made (**Paragraphs 7 to 11**) for those activities leading to reduced suffering by animals, e.g., rescuing and dispatching previously wounded animals. Exceptions are also made for:

- stalking and flushing out;
- rodent control;
- retrieval of game; and,
- recapturing animals.

These exceptions generally require that dogs used are under sufficiently close control that they do not inflict unnecessary suffering on the animal and that they do not involve the use of dogs underground.

2. What is prohibited?

It would be an offence under the provisions of this schedule to hunt a wild mammal with a dog (**Paragraph 1**). The term wild mammal is defined in **Paragraph 20** as including wild mammals bred or tamed, in captivity or confinement, or released from such captivity or confinement and any mammal which is living wild. It is also an offence to knowingly permit land, or a dog, to be used in the hunting of a wild mammal (**Paragraphs 2 and 3**).

It would also be an offence to act as an official at, or knowingly permit land to be used for, a hare coursing event (**Paragraph 4(1)**). Persons that enter a dog for a hare coursing event,

¹²⁵ Explanatory notes, Paragraph 163

permit a dog to be entered, or control/handle the dog in the course of the event would also be committing an offence (**Paragraph 4(2)**).

Definitions of hunting, land ownership and dog ownership, for the purposes of this Schedule are presented in **Paragraphs 21 to 23**.

Liability for offences can be laid at corporate bodies. If a piece of land is owned by a corporate body rather than a private individual then **Paragraph 6** allows the offence to be laid against an officer of the corporate body. Thus, if a director, manager or secretary of a corporate body that owns a piece of ground, consents to, or connives with, an offence under paragraphs 2 to 4 they (as well as the body corporate) will be guilty of the offence.

3. Effects of the changes to current legislation

The introduction of the offences under Schedule 3 will require the police to enforce them. Many of the exceptions described in **Paragraphs 7 to 11** have conditions where the intention of the dog handler is pertinent, for example:

Rescuing Animals

11. – (1) It is a defence for a person charged with an offence under paragraph 1 to prove that –

- (a) the conduct to which the charge relates consisted of searching for an animal which the accused believed was or might be seriously injured

Some require interpretation of earlier events:

10. – (1) It is a defence for a person charged with an offence under paragraph 1 to prove that –

- (a) the conduct to which the charge relates consisted of searching for an animal which had escaped or been released from captivity or confinement, and
- (b) the conditions in this paragraph were met

[...]

(4) The third condition is that the animal –

- (a) had not been released for the purpose of being hunted, and
- (b) had not, for that purpose, been permitted to escape.

This may make the enforcement slightly more difficult for police officers in certain circumstances. The exceptions are present however to allow the use of dogs in practical aspects of rural life while disallowing the sporting aspects of these activities.

Prohibition obviously creates new offences. All offences will be liable to fines not exceeding level 5 on the standard scale (currently £5000). To assist in the enforcement of these offences the police will be granted powers to arrest those suspected of committing offences under this legislation, to search suspects and equipment carried and to seize equipment and animals involved in committing offences. Dogs and hunting articles used in committing offences may be forfeited by those responsible for committing the offence.

In the spirit of this welfare-focused option, Schedule 3 allows a constable, without a warrant, to arrest someone about to commit an offence (**Paragraph 14(c)**). There is also provision to disqualify someone convicted under this legislation from owning or being in charge of a specified kind of dog. Contravening such a disqualification order will be an offence and make the offender liable for a fine not exceeding level 5 on the standard scale.

There are a number of Acts that contain exceptions for people engaged in hunting. Implementation of this schedule would amend the *Game Act 1831*, the *Game Licences Act 1860*, the *Protection of Animals Act 1911*, the *Protection of Badgers Act 1992* and the *Wild Mammals (Protection) Act 1996* to remove those exceptions.

Annex - Public Opinion Polls

IFAW published the results of a MORI poll in July 1997¹²⁶ just after the Hyde Park Rally had, according to some reports,¹²⁷ begun to swing public opinion in favour of hunting. The poll had been conducted for IFAW in early July, before the rally. 1000 adults, one third of whom lived in rural areas and two-thirds in urban areas, were interviewed by telephone. The overall data were weighted to be nationally representative.

Nationally, 68% of people would support, and 16% would oppose a bill to ban hunting with hounds. In urban areas the figures were 71% and 15% respectively, and in rural areas 50% and 35%. Nationally, 71% of people (74% in urban areas and 54% in rural areas) thought hunting wild mammals with hounds should be made illegal. When asked about individual species a legal ban on the hunting of deer attracted most support, with 84% of those polled nationally, 85% of urban and 73% of rural respondents supporting a ban.

From 17-28 October 1997 MORI conducted a further survey¹²⁸ for the Campaign for the Protection of Hunted Animals. Over 3000 people, including over 1500 people from representative rural areas were interviewed by telephone and the results compared to the July MORI poll.

For the rural survey (of 1500 people), 57% of people, compared to 54% in July, would support the Bill to ban hunting with dogs; 32% compared to 38% would oppose it. 74% compared to 60% in July, thought that if people wanted to hunt they should take part in drag hunting. 34% compared to 40% in July thought hunting with dogs was an important part of the rural economy - 61% compared to 48% disagreed.

Nationally (of 3000 people), the proportion who would support the Bill was 73% compared to 65% in July. 80% thought people who wanted to hunt should drag hunt and 21% thought hunting with dogs was an important part of the rural economy.

A research study for the Mail on Sunday carried out by MORI¹²⁹ in 1999 found that 52% of persons asked either strongly, or tended to, support a ban on hunting wild mammals with dogs. 24% either tended to oppose or strongly opposed a ban and 13% were either indifferent, did not know or had no opinion about a ban. The poll was based on telephone interviews with 801 adults across Great Britain carried out on 14 and 15 July 1999. 31% of respondents described the area they lived in as in the middle of a city or town, 38% in a suburb, 23% on the edge of the countryside and 9% in the middle of the countryside.

¹²⁶ MORI fax to Commons Library, 18 July 1997, IFAW/MORI Hunting Poll, July 1997

¹²⁷ for instance, "Hunting bill given little chance of success", *Financial Times*, 11 July 1997; Editorial, "Parliament in pursuit of the wrong priorities", *Independent*, 11 July 1997

¹²⁸ Campaign for the Protection of Hunted Animals, MORI Rural/National Surveys, Topline Results MORI/10743, faxed to Commons Library, 17 November 1997

¹²⁹ MORI website, <http://www.mori.com/polls/1999/ms990715.shtml>, 14 and 15 July 1999

A survey conducted by MORI,¹³⁰ and submitted by them to the Committee of Inquiry into Hunting with Dogs in England & Wales,¹³¹ found that 52% of respondents from four selected¹³² rural communities were in favour of continuing hunting with dogs. While 25% were opposed and the rest neutral. Only 25% of respondents felt hunting played an important part in their day-to-day life.

In all, 619 interviews were conducted across four rural communities. These took place in approximately 150 households in each area which were within Powys, Cumbria, Exmoor and Leicestershire between 11 March and 8 April 2000, with 48 follow-up interviews probing peoples' attitudes in more depth.

The introduction of regulation as an option provided an interesting change in public opinion, reported in a NOP poll for the ITN *Powerhouse* programme.

A new poll for ITN's *Powerhouse* programme on Channel 4 has found that 51 per cent of people in the UK are against a total ban on fox-hunting.

The research carried out for the political discussion programme revealed 37 per cent of these favoured the introduction of tough new rules to govern fox-hunting - the new compromise proposal to be included in next Monday's Commons vote.

Fourteen per cent said foxhunting should continue as it does today.

The poll showed that 48 per cent of the public wanted an outright ban and this is still the most popular view.

In a *Powerhouse* poll carried out six months ago, when the public was offered a straight choice between banning or keeping fox-hunting as it is, they voted two-to-one in favour of a ban.

The new compromise proposal therefore has the support of around a quarter of the people who earlier this year wanted to ban fox-hunting.

The poll also revealed that party divisions at Westminster are matched to some extent among voters.

Among Tory supporters, 31 per cent wanted fox-hunting to continue unchanged, 40 per cent backed regulation and 28 per cent wanted it banned altogether.

However, a majority of Labour supporters - 56 per cent - wanted foxhunting banned, 36 per cent backed regulation and just six per cent favoured maintaining the status quo.

¹³⁰ MORI website www.mori.com/polls/2000/hunting.htm 5 April 2000

¹³¹ *Report to the Committee of inquiry into Hunting with Dogs in England & Wales*, Chapter 4

¹³² All centred around individual hunts

Figures for Liberal Democrat supporters fall roughly midway between those for Labour and Tory voters.

The results of the NOP poll of [a random] 1,000 people will be featured on Powerhouse today.

The programme goes out at noon and this week is presented by Muslim writer and broadcaster Rana Kabbani.

Powerhouse is a live political chat show with a twist - presenters change on a weekly basis and are either politicians or high profile public figures.¹³³

¹³³ <http://www3.itn.co.uk/news/20001214/britain/01foxhunting.shtml>