

Review of the Protection of Wild Mammals (Scotland) Act 2002 by Lord Bonomy

Submission by Prof AW Illius FRSE.

I am a scientist, an Emeritus Professor of Animal Ecology, with over 40 years' experience of academic research on animal physiology, behaviour, ecology and welfare of livestock and grazing animals. I live in the Borders and am a sheep farmer in my retirement. I have been a mounted follower of the Buccleuch Fox Hounds since before the above Act.

Firstly, I will comment on my experience of the workings of the Act. Secondly, I will review briefly some evidence on the use of hounds to flush foxes from cover.

Effects of the Act.

1 The Protection of Wild Mammals (Scotland) Act 2002 bans what those opposed to hunting regarded as unacceptable on animal welfare grounds, namely the chase and kill using dogs. It was accepted during the Rural Development Committee's scrutiny of the legislation that there were no welfare issues with using dogs to flush foxes, so the Act allows dogs to be used to flush to guns for fox control, subject to conditions which ensure there is no deliberate chase and kill by dogs.

2 It generally takes only a few minutes for a pack of hounds to flush foxes from cover towards guns¹. Even if a fox is followed out of the cover by hounds before they are brought back under control, a fox quickly leaves behind a hound following its trail² and so the flight distance of foxes evading hounds is short. It is reasonable to conclude that this is easily within foxes' physiological scope, given their long evolutionary history of evading predators³. Therefore flushing poses no welfare issues for foxes, and thus the Act affords them adequate protection, as indeed was its intention.

3 The Act made a major change for the fox and the activities of mounted followers, but surprisingly little change to their presence. Modern-day 'hunting' (as it is still called) differs radically from the traditional form, in that there is no chase and no long 'runs'. The greatly reduced distances horses travel at speed these days is evidenced by the fact that horses can maintain body condition under a regime of being taken 'hunting' more frequently now than was previously possible (*ie* several times a week instead of the previous maximum of three times per fortnight).

4 Mounted followers are present for legitimate reasons, namely for the pleasure of meeting, socialising and riding more-or-less skilfully together across country. Riding to hounds or 'hunting' is, thus, both a social and equestrian activity, training the horse to traverse rough terrain and obstacles safely and at speed and developing deep bonds of trust and understanding with the horse. Attendance is open to all, and comprises a diversity of people from a wide range of backgrounds and all ages. The exhilaration, exercise, and fresh air build a team spirit and loyalty amongst participants, as with many sports. The Common Ridings are a further example of how massed gatherings of people on horses have deep cultural significance in the Borders.

5 The Act therefore succeeded in banning traditional fox hunting with its perceived animal welfare issues, but does allow legitimate pest control to provide the context for the maintenance of a challenging yet harmless equestrian discipline. That seems to me to be a good outcome all round.

Use of hounds for flushing.

6 The Protection of Wild Mammals (Scotland) Act 2002 allows any number of dogs to be used to flush foxes towards guns for pest control where necessary. It predates legislation in England and Wales which limits the number of dogs to two. The alleged inefficacy of using only two dogs in many circumstances led to calls, particularly from Welsh hill farmers, to remove the limit in England and Wales. This was opposed recently by Scottish MPs at Westminster despite the fact that this would have brought the law into line with that in Scotland, where no such limit applies.

7 Debates about fox hunting and control serve so many different political purposes that scientific evidence, or lack of it, is often ignored. There is some evidence about the effect of pack size on flushing foxes from cover. Research funded by the Federation of Welsh Farmers Packs

(FWFP)⁴ was carried out by JRJ Naylor and JG Knott (*op. cit.*). Their data show that, when a pack of hounds was used to flush foxes from cover, more foxes were flushed in a shorter time and with less time between their being found and flushed than when only a pair of hounds was used.

8 The credibility of any scientific research depends on it being adequately scrutinised by peer review during the process of publication in the scientific literature. This is especially true of research sponsored by an interested party, such as FWFP, to detect possible bias or flawed methodology. The work of Naylor and Knott has recently been submitted for publication. Prior to this, I undertook for my own interest a peer review of the report of this work, to assess its validity. I am experienced in the design, conduct and analysis of field experiments of this sort, and of peer review and scientific publication.

9 In brief, my findings were as follows. The work appears to have been planned and carried out carefully and without obvious bias. The experiment was well designed, bearing in mind that experimental design is always a compromise between cost, effort, feasibility and the prior expectation of what variables will be most influential. The statistical analysis was of a high standard using current techniques. The original report needs to clarify some aspects of presentation and of experimental procedure and provide further details of the analyses before readers can have the fullest confidence in the results. In particular, I wanted further information on how the effects of covert size had been handled in the analyses, and whether there was an interaction between hound number and area of cover. Secondly, I wondered if the effects of different daily conditions could be assessed, because there were either pack days or two-hound days but no days on which both treatments were applied. However, the raw data presented show such clear patterns that I would be very surprised if the basic conclusions of the study were altered. The findings of this study support the common-sense expectation that two dogs will be less effective than a pack, particularly in large areas of dense cover.

10 The League Against Cruel Sports Scotland (LACSS) commissioned a report containing some comments on the use of hounds for flushing⁵ although the report is mostly on fox population dynamics, which is outwith the scope of this Review. I take none of it for granted, because its author has long-standing professional and personal relationships with the League Against Cruel Sports.

11 The section in the LACSS report 'The welfare issues of using two dogs to flush foxes' quotes extensively in paras 50-53 from the Federation of Welsh Packs' (FWP) 1999 submission to the Committee of Inquiry into Hunting with Dogs in England and Wales. Part of this is summarised by LACSS as follows:

54. So it is clear from the submission of the Federation of Welsh Packs that, when using a pack of hounds to flush foxes from cover so that they can be shot by waiting guns: more than one fox is likely to be hunted by hounds when they are in cover; because they are working in dense cover the hounds are not under the control of the huntsman; that the hounds often catch and kill foxes; foxes are often hunted to ground and that around two-thirds of the foxes are dug out and killed with terriers; and foxes are often shot and wounded rather than killed humanely.

12 First, It is incorrect to say that "in dense cover the hounds are not under the control of the huntsman" (see also para 50). The Act requires that dogs must be under control during flushing, and defines control at 10(4): "... a dog is "under control" if—
(a) the person responsible for the dog is able to direct the dog's activity by physical contact or verbal or audible command; (etc)".

Therefore dogs in cover controlled by audible command are under control as a matter of law and fact, and the statement by LACSS is incorrect..

13 Second, there is no evidence presented that "the hounds often catch and kill foxes". The FWP submission is quoted as merely listing alternative outcomes: "*a fox may often avoid the guns and leave the area being hunted, with hounds in pursuit. Again once it has avoided the 'ring' of followers with guns, it is hunted by the hounds until it is caught, put to ground, shot or lost.*" The Act prohibits foxes being hunted.

14 Third, although I have no evidence of how frequently "foxes are ... hunted to ground", the Act permits flushing a fox from below ground to be shot.

15 Fourth, there is no evidence presented that: "foxes are often shot and wounded rather than killed humanely" The FWP submission merely says: "*In the event of the fox being wounded the close attendance of*

the hounds means that if injured it is quickly caught’ with no reference to frequency of wounding. Should it occur, the Act provides exceptions at 3(c): “where a wild mammal is shot and injured, that person takes all reasonable steps to retrieve it and, once retrieved, to kill it as humanely as possible.” It also provides for purely accidental killing by dogs in the course of lawful fox control activities.

16 None of the arguments put forward by LACS justify the assertions that “This pattern of hunting is contrary to the aims of the Protection of Wild Mammals (Scotland) Act 2002....”. Having quoted from the Act: “Section 3(b) of the Act requires a person to take reasonable steps to ensure that the fox... is flushed as soon as reasonably possible after it is located and shot as soon as possible after it is flushed” the LACS report make the quite incorrect assertion that: “As the [FWP submission] makes clear, it is not possible to achieve these goals when using a pack of hounds to flush foxes from cover.” The FWP submission as quoted by LACSS does not justify this conclusion.

17 The LACSS report offers a weak critique of the Naylor and Knott study (paras 56-59). This study was solely about the relative effectiveness of flushing foxes with a pack or pair of hounds. The LACSS critique is largely confined to listing topics that were outwith the intended scope of the Naylor and Knott study, such as the fate of foxes flushed. Despite saying: “There are also a number of methodological problems with the study” (para 56) and “Despite these methodological limitations” (para 57), the only example the report comes up with is “the assumption that vocalising by the hounds is a sign that a fox is being pursued”. Whilst this is fair comment on a questionable assumption, it is not a methodological limitation and is trivial. The report does not identify any methodological weaknesses in the work of Naylor & Knott.

18 The LACSS report does make the fair comment (para 57, 58) that Naylor & Knott have no evidence that there are adverse welfare consequences to the longer time a pair of hounds takes to flush a fox. There is indeed a dearth of good evidence on the welfare consequences of flushing, pursuing *etc*, but that has never stopped the opponents of hunting from claiming such activities are deleterious. For example, para 59 of the LACSS report returns to further assertions based on the FWP submission, and argues without any discernible evidence that using two dogs would be preferable for fox welfare prior to flushing and the likelihood of a clean kill afterwards. These are unsubstantiated, fanciful and without merit. The opposite might just as well be the case since two hounds take longer to flush a fox than a pack does.

Conclusion

19 When the Act was introduced, the mounted packs made the decision to move on, in order to preserve the cultural capital of the social and equestrian aspects of ‘hunting’. The debate about fox hunting is largely political, because there is so little hard evidence about the real animal welfare implications. Hunting, and its adherents, are widely abused for reasons that have little to do with the facts, and much to do with political posturing, distraction from more intractable problems the country faces, and the large amounts of money that animal lobbyists give to some political parties to buy influence.

20 The Act works: the mounted packs keep the police informed of their activities; they follow an agreed protocol; suspected infringements are investigated and prosecutions brought. That no prosecution has been successful, despite the intense scrutiny of mounted packs’ activities over 15 years, shows that the law is working.

¹ Naylor, JRJ and Knott, JG (submitted) *A pack of dogs is more effective at flushing red foxes (Vulpes vulpes) to guns than a pair*. <http://fedwfp.co.uk/wordpress/wp-content/uploads/2015/07/Jack-hunting-research.pdf>

² Lloyd, H.G. (1980) *The Red Fox*. Batsford, Lond. Page 204: “The initial pursuit of the fox is comparatively slow if the hounds are following the scent”.

³ Macdonald, D. (1987) *Running with the fox*. Unwin Hyman, Lond.

A disturbing illustration of inter-canid conflict - an Arctic fox being eaten by a red fox - was the winning entry for Wildlife Photographer of the Year 2015.

⁴ <http://fedwfp.co.uk/>

⁵ Harris, S. (2015) *The utility of killing foxes in Scotland*. LACSS.

[http://www.league.org.uk/~media/Files/LACS/Publications/1407-LACSS-A4-The-Utility-of-Killing-Foxes-in-Scotland-Report-AW-\(2\).pdf](http://www.league.org.uk/~media/Files/LACS/Publications/1407-LACSS-A4-The-Utility-of-Killing-Foxes-in-Scotland-Report-AW-(2).pdf)