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HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

WILD ANIMALS IN CIRCUSES (NO. 2) BILL

Third Sitting

Wednesday 22 May 2019

CONTENTS

CLAUSES 1 to 4 agreed to.
New clauses considered.
SCHEDULE agreed to.
Bill to be reported, without amendment.
Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Sunday 26 May 2019

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The Committee consisted of the following Members:

Chairs: SIR DAVID AMESS, † MRS MADELEINE MOON

- | | |
|--|---|
| † Carmichael, Mr Alistair (<i>Orkney and Shetland</i>)
(LD) | † Pollard, Luke (<i>Plymouth, Sutton and Devonport</i>)
(Lab/Co-op) |
| † Chalk, Alex (<i>Cheltenham</i>) (Con) | † Reeves, Ellie (<i>Lewisham West and Penge</i>) (Lab) |
| † Debbonaire, Thangam (<i>Bristol West</i>) (Lab) | † Rutley, David (<i>Parliamentary Under-Secretary of
State for Environment, Food and Rural Affairs</i>) |
| † Duffield, Rosie (<i>Canterbury</i>) (Lab) | † Seely, Mr Bob (<i>Isle of Wight</i>) (Con) |
| † Harrison, Trudy (<i>Copeland</i>) (Con) | † Stewart, Iain (<i>Milton Keynes South</i>) (Con) |
| † Heald, Sir Oliver (<i>North East Hertfordshire</i>) (Con) | † Turley, Anna (<i>Redcar</i>) (Lab/Co-op) |
| † Hoare, Simon (<i>North Dorset</i>) (Con) | |
| † Latham, Mrs Pauline (<i>Mid Derbyshire</i>) (Con) | Anwen Rees, Kenneth Fox, <i>Committee Clerk</i> |
| † McCarthy, Kerry (<i>Bristol East</i>) (Lab) | |
| † Martin, Sandy (<i>Ipswich</i>) (Lab) | † attended the Committee |
| Newton, Sarah (<i>Truro and Falmouth</i>) (Con) | |

Public Bill Committee

Wednesday 22 May 2019

[MRS MADELEINE MOON *in the Chair*]

Wild Animals in Circuses (No. 2) Bill

9.25 am

The Chair: Before we begin, I have a few preliminary points. First, gentlemen, given the warmth of the room, please feel free to remove your jackets. Please switch electronic devices to silent. Tea and coffee are not allowed during the sitting.

Today we begin line-by-line consideration of the Bill. The selection list for today's sitting, which is available in the room, shows how the selected amendments have been grouped for debate. Amendments grouped together are generally on the same issue or similar issues. Decisions take place not in the order that amendments are debated but in the order that they appear on the amendment paper. The selection list shows the order of debate. Decisions on amendments are taken when we come to the clause that the amendment affects. I plan to use my discretion to decide whether to allow separate stand part debates on individual clauses and schedules following debate on the relevant amendments.

Clause 1

PROHIBITION ON USE OF WILD ANIMALS IN TRAVELLING CIRCUSES IN ENGLAND

Luke Pollard (Plymouth, Sutton and Devonport) (Lab/Co-op): I beg to move amendment 1, in clause 1, page 2, line 3, at end insert—

“‘travelling circus’ means a company or group of entertainers which (i) travels, whether regularly or irregularly, from place to place for the purpose of giving performances, displays or exhibitions, and (ii) as part of which animals may be kept or introduced (whether for the purpose of performance, exhibition, display or otherwise).”

This amendment would ensure the inclusion of circuses which tour venues other than a traditional circus tent, or which use animals for exhibition or display away from the circus site, or which do not regularly travel.

It is good to see hon. Members back in their places for another fun sitting. I am not sure this sitting will be as exciting as yesterday's second evidence session, but I will try to make it as enjoyable as I can for everyone involved. This is an important piece of legislation to free the 19 wild animals currently used for human entertainment in British circuses.

The Opposition's amendment 1 would insert into the Bill a clear definition of “travelling circus”. It is necessary to have legislative certainty about what a travelling circus is to ensure that there are no loopholes or “get out of jail free” cards for people who use wild animals for our entertainment.

Simon Hoare (North Dorset) (Con): Does the hon. Gentleman share my concern about Mr Jolly's evidence yesterday, which—no pun intended—slightly let the cat out of the bag? He said, “We don't have to be in a tent.

We could go to a county show. We could do exactly as we do at the moment and we wouldn't fall under the auspices of this Bill.” The hon. Gentleman makes a key point, and I urge the Minister to consider a broader definition.

Luke Pollard: I am grateful to the hon. Gentleman, who makes a good point. The narrow scope of the Bill means that we need to ensure that the circus element is tightly drawn and understood. A good point was made in the evidence session about the other environments in which wild animals can be displayed, but, although I am a fan of broadbrush interpretations and including as much animal welfare as we can, I fear that that might slip slightly outside the scope of the Bill. However, I echo the hon. Gentleman's request for the Minister to respond to the points that were raised in evidence yesterday.

It was obvious that the Government were not prepared for the level of cross-party concern that was raised on Second Reading that the Bill was missing a definition of a travelling circus, which was also raised a number of times by the organisations that we took evidence from yesterday. Our amendment seeks to use established wording, which will be familiar to people who have looked at other pieces of legislation that ban wild animals in circuses.

The Minister has a number of options. I think we have established that having a definition of a travelling circus would be beneficial. That definition can sit either in the Bill—in primary legislation—or in the guidance that accompanies it. There are merits to both options. If the definition sat in the Bill, it would be clear, it would have good legal standing and there would be legal certainty about it. Putting it in the guidance, however, would give us greater flexibility and perhaps allow us to include some of the environments that the hon. Member for North Dorset mentioned.

There are advantages to both approaches, and it would be worth the Minister reflecting on how the definition should be drawn. My preference is for a clear definition in the legislation. However, I know that the Minister has strong thoughts on this matter, and I would like to hear his views before deciding whether to press the amendment to a vote.

Sandy Martin (Ipswich) (Lab): I fully concur with my hon. Friend, but does he agree that it is a little anomalous that there are definitions in clause 1(5) of “animal” and “circus operator” but no definitions of a circus?

Luke Pollard: I agree with my hon. Friend about the Government's choice of definitions to include, or not to include, in the Bill. Indeed, in evidence, we heard stakeholders' concerns about the missing definition of what a travelling circus looks like and broad concerns about what “wild animal” means.

Having heard the evidence yesterday, Members on both sides of the Committee will think it important to ensure that we can comprehensively ban the use of wild animals in circuses. That means making sure that the legal definition is correct. We need to ensure, whether in the Bill or in guidance, that performances outwith a typical circus tent, such as on a tour of arenas or activity involving touring from place to place and not returning to the home location, are within scope. Our suggested definition refers not to a place but to the

group of people and animals making up a circus. That reflects more accurately how circuses work, as we heard yesterday.

The definition that we propose is in line with the guidance accompanying the Wild Animals in Travelling Circuses (Scotland) Act 2018. Scotland does not have regulations on licensing animals in entertainment. There is a chance that circuses in England could merely classify their animals as being used for entertainment. That might, for example, be the case for reindeers in the circus being used in Santa's grottoes. A definition of travelling circuses will provide clarity on what is in or out of scope. Without a robust definition of a travelling circus, there is a risk that wild animals could be used with entertainment licenses as part of performances that are travelling circuses in all but name.

In the evidence sessions yesterday, it was quite clear that the circus operators were keen to hold on to their animals and continue to use them in entertainment, perhaps under different licences, if only because of their close emotional bond with the animals that they currently own and use. There is overwhelming evidence that, if we do not define what a travelling circus is, that might create difficulties with enforcement, and there could be unintended consequences. As the hon. Member for Isle of Wight succinctly put it yesterday,

“unintended consequences are often the consequences of things that were not intended in the first place”.—[*Official Report, Wild Animals in Circuses (No.2) Public Bill Committee, 21 May 2019; c. 29, Q77.*]

The attempt to get a clear definition of a travelling circus is an attempt to prevent unintended consequences and to make the scope of the measure sufficiently tight to be legally enforceable.

I should be grateful if the Minister set out the options. Is primary legislation the right place for a clear definition of a travelling circus or would including it in guidance to be published by his Department carry similar weight and allow flexibility? I am interested in the end effect, and not necessarily the words on the page.

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (David Rutley): It is good to see you in your rightful place, Mrs Moon. Thank you for all the work that you have been doing on the Bill.

Amendment 1 would introduce a definition of a travelling circus into the Bill. We recognise the concerns about the absence of a definition, but we cannot accept the amendment. We deliberately chose not to include a definition in clause 1 because we do not feel it is necessary or helpful. In fact, a specific definition might actually be unhelpful. We considered several definitions and found that those that were drawn too widely, as in amendment 1, might ban activities that we do not want to ban, such as falconry displays with accompanying entertainers that might travel to different county shows. We discussed that issue at length in the evidence sessions yesterday. Such displays would fall within the definition in amendment 1, but it is not our intention to ban them. They are clearly not travelling circuses.

Moreover, the definition in amendment 1 includes a reference to animals being

“kept or introduced (whether for the purpose of performance, exhibition, display or otherwise).”

To reflect for a minute on the word “otherwise”, it could capture any number of activities, including keeping wild animals as pets. The amendment would greatly expand the scope of the ban beyond performance and exhibition in a travelling circus, which I think is the public's primary concern, by far.

Conversely, any definition that is drawn too narrowly is problematic. Setting out in detail what a travelling circus is or is not could create loopholes or a list of ways for a travelling circus to avoid a ban altogether. If we said, for example, that a travelling circus had clowns, trapeze artists and so on, but one of them did not include a clown, it might not be included in the ban. There are therefore challenges either way. Rather than trying to define the term, it is better to use its common meaning. We believe that the courts will have no trouble at all in understanding what a travelling circus is or is not, and a “common understanding” approach will mean that it will always be relevant and move with the times.

The Government note that neither the Scottish Government, in their Wild Animals in Travelling Circuses (Scotland) Act 2018, nor the Welsh Government, in their draft Wild Animals in Travelling Circuses (Wales) Bill, have attempted to define the term “circus”. Likewise, the DEFRA's interim licensing regulations for wild animals in travelling circuses do not attempt to define “circus”, and the enforcement of the regulations has effectively protected the welfare of wild animals in circuses over the past six and a half years despite that.

However, to reassure the Committee, and learning from what the Scottish Government have done, we will be producing detailed guidance to accompany the introduction of the Act, to assist inspectors and circuses. It will set out clearly the types of activity that we consider will and will not be covered by the ban.

I note that the hon. Member for Plymouth, Sutton and Devonport has accepted that there are arguments in favour of putting the definition in either the legislation or the guidance. I am grateful to him for our conversations in this debate and outside the Committee. As he knows, we have been looking at this matter very carefully in DEFRA. I would like to reassure him that we have not taken the decision lightly, but we feel that taking the approach of having guidance will enable us to address his concerns and, I think, the concerns of the Committee in a pragmatic way.

It became clear in the evidence sessions yesterday that this is probably a more flexible approach as well. The challenge of defining the term tightly or expansively in the Bill is that that makes it more difficult for us to make changes. We know how long it has taken to get the legislation before us today, so the more pragmatic approach will be to list excluded activities, as we have seen in the Scottish guidance, which obviously is available to colleagues. It is interesting that bird of prey displays, festive reindeer displays, school and educational visits, animal handling sessions and animals being used for TV, community celebrations or zoo and safari park outreach activities are not included in the Scottish arrangements.

We would look to do something very similar. I cannot say definitively what it would be, because the other thing that I would like to assure the hon. Member for Plymouth, Sutton and Devonport and other members of the Committee of is that we want not only to learn from the Scottish Government's approach—it has been

[David Rutley]

very important for us to learn from that—but to seek the views of and engage with the animal welfare organisations that we heard from yesterday. I had a quick conversation with a number of them at the end of their session, and what they said then—obviously, it is for them to say this more formally once we reach a conclusion on this—was that they would be open to being engaged in helping to shape the guidance.

Luke Pollard: I am grateful that there is a willingness to engage with the people who gave evidence to the Committee yesterday. Will the Minister say whether other stakeholders, who were not able or not invited to attend the Committee yesterday, could also be involved in that process? Having a broad range of views could be helpful in doing the defining or at least creating guidance that would be as comprehensive as is required to do the job.

David Rutley: I agree with that. We do not want to have a cast of thousands, but I think that the hon. Gentleman was talking about people with expert knowledge and understanding particularly of animal welfare, rather than about extending this to people with other experience. From an animal welfare perspective, yes, we will do that. On that basis, I hope that the hon. Gentleman will feel able to withdraw his amendment.

Luke Pollard: Based on the assurances that the Minister has given, I am happy to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Luke Pollard (Plymouth, Sutton and Devonport) (Lab/Co-op): I beg to move amendment 5, in clause 1, page 2, line 4, leave out “commonly” and insert “normally”.

This amendment would align the definition of “wild animal” with that used in the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 and the Zoo Licensing Act 1981.

The Opposition are moving the amendment to ensure legislative consistency across the different pieces of animal welfare legislation and to avoid creating any legislative conflicts or loopholes. The Bill defines a wild animal as one that is “not commonly domesticated”. Although protected animals in the Animal Welfare Act 2006 are defined as “commonly domesticated”, the Zoo Licensing Act 1981 defines a wild animal as one that is “not normally domesticated”. I am not normally one to go into the minutiae of the meaning of words, but I would be grateful if the Minister set out why the definition is not aligned with the 1981 Act and gave a clear reassurance that there is no legal interpretation in the difference between “commonly” and “normally”, to make sure that we are consistent across our legislation.

David Rutley: The hon. Gentleman suggests that he does not get involved in the forensic detail, but I suggest that he does. We have been in enough debates and statutory instruments for me to know that he takes a forensic approach, so I expect nothing less than for him to go through the technical detail, which is the right thing to do.

The Government do not believe that the amendment is necessary, however. Amendment 5 seeks to align the definition of a wild animal in the Bill with the definitions used in the Zoo Licensing Act 1981 and the Welfare

of Wild Animals in Travelling Circuses (England) Regulations 2012. Both pieces of legislation define a wild animal as an animal that is

“not normally domesticated in Great Britain”.

Ellie Reeves (Lewisham West and Penge) (Lab): In the evidence sessions yesterday, several circus owners made the point that the animals in their circuses were exotic animals, rather than wild animals. To ensure that there is no ambiguity about that, it would be helpful if the Minister confirmed that the definition of wild animals in the Bill covers the 19 animals in circuses today.

David Rutley: That is a very good question, and it is important to get it on the record, because there was quite a tangle of conversations about different definitions. We are clear that those 19 animals are wild animals. We can have all sorts of technical debates—I hope we do not have them today, because I think we discussed it enough yesterday—about domestication, but we are clear that those 19 animals are included in the definition.

The Environment, Food and Rural Affairs Committee’s report, “Wild Animals in Circuses”, also noted the slight difference between the definition of wild animal in the draft Bill and in the 1981 Act. The Government were happy to explain their thinking in response to the Committee then, and I will do so again.

The term “animal” or “wild animal” is used in several places in the statute book, but there is no common definition of either. Our approach is in line with the definition of animal in section 1 of the Animal Welfare Act 2006, which refers to an animal being

“commonly domesticated in the British Islands”,

rather than “normally”. To reassure hon. Members, any difference in the precise wording does not have any material impact on the workings of the definition; the terms “commonly” and “normally” are interchangeable. I note that the Scottish Parliament’s Wild Animals in Travelling Circuses (Scotland) Act 2018 includes

“commonly domesticated in the British Islands”,

in its definition of a wild animal, as does the Welsh Government’s Wild Animals in Travelling Circuses (Wales) Bill.

I hope that this is a probing amendment—I get the sense that it is—and that I have been able to reassure hon. Members that there is no material difference between using “commonly” and “normally” in the definition of a wild animal. I hope that the hon. Member for Plymouth, Sutton and Devonport will feel able to withdraw the amendment.

Luke Pollard: I am not commonly or normally pedantic about such things, except for apostrophes. On this occasion, given the reassurance that the Minister has put on the record, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 1 ordered to stand part of the Bill.

Clause 2

INSPECTIONS

Question proposed, That the clause stand part of the Bill.

9.45 am

David Rutley: The clause gives effect to the Bill's schedule, which makes provision for the appointment of inspectors and sets out their powers and duties under the Bill, including powers of entry, inspection, search and seizure. The Committee may wish to debate the inspection provisions when we consider the schedule.

Sandy Martin: It is a pleasure to serve under your chairmanship, Mrs Moon. The inspection regime, which is crucial—there is no point in passing legislation unless we can enforce it—does not enable police officers to take part in enforcement of the Bill. Members of the public would be a bit surprised to find out about there being areas of the law in which the police are not allowed to be involved, so I urge the Minister to reconsider whether the police should be involved and allowed to take part in inspections and enforcement of the Bill.

Kerry McCarthy (Bristol East) (Lab): I will be brief—if I had been a bit quicker off the mark, I would have intervened on the Minister. My concern is that, as with so many other aspects of the Minister's Department, although there will be powers for inspection, unless there is proper resourcing and people in place doing the job with the power to carry it through from start to finish, it all becomes pretty meaningless. We see that, for example, in the work of the Environment Agency. Will he reassure us that the power for action will mean something in practice?

David Rutley: I know that the hon. Lady has strong concerns about resourcing in other areas. In this case, we have inspectors with relevant experience based on what we do with zoos, and we will draw on those individuals for help. Given the small number of circuses we are talking about, we do not envisage that a huge amount of resource will be required for inspections. I respect her concerns on other issues, and no doubt we will debate those.

Kerry McCarthy: There have been reports that Anne the elephant, the subject of the *Daily Mail* campaign some eight years ago that led to the Bill, is not being kept in ideal conditions and is isolated. I had a conversation with the Minister about that after Second Reading and he undertook to check on her wellbeing. Has that been done?

David Rutley: It is an honour to be reminded in Committee of the commitments I have made. I will follow up that point, but I confess that I do not have that information to hand. I look to my trusted officials, who will get back to us on that later today.

The hon. Member for Ipswich raised the use of police. Paragraph 6 of the schedule allows inspectors to “use reasonable force” when necessary and also to take “up to two...persons” with them, which could include a police constable, when exercising the power of entry.

Sandy Martin: Paragraph 4 of the schedule repeatedly says “an inspector” and defines an inspector as someone appointed for the purpose of inspections. It does not mention police officers at all. I am not sure why the Minister thinks the police are being given any powers at all.

David Rutley: To reiterate, based on the work done by the Department, an inspector, or the persons whom the inspector takes with them, could be a police constable.

Sir Oliver Heald (North East Hertfordshire) (Con): Paragraph 8 to the schedule says:

“A person taken on to the premises”—

as one of the two other persons—

“may exercise any power conferred on an inspector...if the person is in the company of and under the supervision of an inspector”.

David Rutley: That is right. Just to confirm, one of those people could be a police constable.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 3

CONSEQUENTIAL AMENDMENT

Question proposed, That the clause stand part of the Bill.

David Rutley: Clause 3 makes a minor amendment to the Dangerous Wild Animals Act 1976. The Act requires persons who wish to keep dangerous wild animals as listed by the Act to be licensed by the local authority. However, the Act currently exempts any dangerous wild animal kept in a circus from that requirement. Once the ban set out in this Bill comes into force, no dangerous vertebrate wild animals should be used in performances or exhibited as part of a travelling circus. The clause takes a belt-and-braces approach, making it clear that using dangerous wild vertebrate animals in a travelling circus is not allowed.

The 1976 Act applies to England, Wales and Scotland. The effect of the amendment to it will be that the exemption will no longer apply in England and Scotland. The Scottish Government, who have already introduced a ban on the use of wild animals in travelling circuses in Scotland—which we are grateful for and which sets out important lessons for us to learn here in England—have asked us to extend the amendment in the 1976 Act to Scotland. We are pleased to facilitate that request; the Scottish Government have agreed in principle to lodge a legislative consent motion.

The Act's exemption for circuses will remain in place in Wales, where the Welsh Government are currently considering introducing their own legislation on travelling circuses. If they wish to remove the exemption, the Welsh Government can do so when they introduce their own circus legislation.

For completeness, I should add that we have also discussed the Bill with officials in the Northern Ireland Government, but they are not in a position to consider a ban at this point.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clause 4

EXTENT, COMMENCEMENT AND SHORT TITLE

Luke Pollard: I beg to move amendment 2, in clause 4, page 2, line 14, leave out “on 20 January 2020” and insert

“on such day as the Secretary of State may by regulations made by statutory instrument appoint, and no later than 20 January 2020.”

This amendment would enable the Act to be brought into force earlier than 20 January 2020.

[*Luke Pollard*]

Since the introduction of the Bill, it has been clear from the Second Reading debate, the evidence sessions and cross-party discussions that hon. Members on both sides of the House support a ban on the use of wild animals in circuses. The only question is when that should take place. The last Labour Government had hoped to introduce legislation around the time of the 2010 general election; sadly, that general election got in the way and we have had to wait nine years. I thank hon. Members on both sides of the House who have promoted private Members' Bills during that time in an attempt to legislate sooner.

The Bill's enforcement date is 20 January 2020. The amendment seeks to explore whether that date can be brought forward, so that we can ban the use of wild animals in circuses sooner. During yesterday's evidence, the Born Free Foundation said that there was a risk of new species and new animals being brought into travelling circuses before January 2020.

Ellie Reeves: We also heard during yesterday's evidence that 45 countries have already banned or restricted the use of wild animals in circuses, so we are behind the curve. Does my hon. Friend agree that there is no need for further delay?

Luke Pollard: I entirely agree. If we as a country had taken this action in 2009 or 2010, as proposed by the last Labour Government, we would not be here and we would not be chasing the pack. In Britain we like to think of ourselves as a nation of animal lovers—indeed, I believe we are—but we have to put that into practice. Every animal matters. It has taken nearly a decade to introduce this ban on the use of wild animals in circuses, and it is being introduced at a time when the Government are light in legislation, including the missing fisheries and agriculture Bills, on which we really need to make progress. I agree with my hon. Friend that there is an opportunity to bring forward the Bill's enforcement date.

During yesterday's evidence we heard that many circus animals are not used for entertainment purposes over the winter season. Peter Jolly said that he stops touring around November. I understand from conversations with the Minister that there is concern that bringing forward the commencement date would overlap with the current licensing arrangements. I am sympathetic to that view. The Opposition want the ban to be brought into effect as soon as possible, but we do not want taxpayers' money being spent on compensation. There is a balance to be struck and I would be grateful if the Minister could set out his thoughts on that.

I would also be grateful if the Minister could set out a clear direction for those circus operators who may be thinking of introducing new animals before the commencement of the ban. I certainly do not want a final hurrah for circus animals: "Your last chance to see the raccoons, the zebu and the macaw!" Given that circuses operate in a commercial environment, there will always be that last PR sell.

We have an opportunity to send a message that no additional animals or new species should be introduced to any circus. As we heard from Born Free yesterday, a big cat exhibitor has applied for a new licence, but that flies in the spirit of what we are trying to do.

We want to ensure that the powers come into force as soon as possible. The period between now and 20 January 2020 is important because, every single day that goes by, those animals remain in travelling circuses and potentially in cruel and unusual environments that may damage their wellbeing. More people are encouraged to presume that it is normal for those wild animals to be in a circus and that we as a country accept that.

We have established from public polling, as set out in yesterday's evidence and during the Minister's comments on Second Reading about the weight of consultation responses received by the Department, that the general population do not support the use of animals in circuses and that it should be brought to an end as soon as is reasonably possible. I would be grateful if the Minister could set out whether there is an opportunity to bring forward the commencement date. Our amendment would not prevent 20 January 2020 from being the commencement date. It refers to bringing forward the powers

"on such day as the Secretary of State may by regulations made by statutory instrument appoint, and no later than 20 January 2020."

The Government's proposed date would remain in legislation but they would have an opportunity to bring it forward. Ministers need to retain that important tool, especially to prevent any circus operators from using the provision as a last hurrah for the use of wild animals in circuses, and from introducing new species and animals for a final show before the commencement date. I would be grateful if the Minister could respond to those concerns.

David Rutley: I need to update the Committee on an important point raised by the hon. Member for Bristol East. Everything is okay with Anne, who was rehomed at Longleat zoo, which is licensed under the Zoo Licensing Act 1981. Anne was recently moved to a new purpose-built enclosure. She is not currently housed with other elephants but she does have other animals for company, so she is in a much better place. I thank the hon. Lady for raising the issue and I apologise for not providing that update previously. I hope I have made up ground there.

I will move on to the Bill, unless there are concerns about other animals. I will try my best to find out, though perhaps not quite as speedily.

Simon Hoare: Tarka the otter.

David Rutley: My hon. Friend the Member for North Dorset—soon to be right hon. no doubt—shows his age by mentioning Tarka the otter. Or is it timely?

Mr Alistair Carmichael (Orkney and Shetland) (LD): A children's classic is timeless.

David Rutley: I remember it well. We will move on to amendment 2, if that is all right with you, Mrs Moon.

The Chair: Please do.

David Rutley: The Government understand the sentiment behind amendment 2 but are not able to support it. We have committed to having a ban in place when the regulations expire and that is what we intend to deliver.

It is important to recognise that the two remaining circuses still using wild animals are businesses, despite the fact that there are practices not approved of by Parliament, which will need notice of when they need to

stop using wild animals. Both circuses are currently licensed by DEFRA to continue using wild animal acts, until the interim Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 expire on 19 January 2020.

The commencement date in the Bill deliberately aligns with the expiry date in the 2012 regulations, to ensure that the two circuses have absolute clarity about when they must stop using wild animal acts. In the Government's view, that allows sufficient time for both circuses to adjust the rest of their circus shows.

10 am

The Government have always been clear that any ban should not come into force while circuses are out on tour, and that once a licence was awarded, the circus should plan accordingly for that touring season. Introducing a ban before 20 January 2020 would require us to revoke existing licences, which would entitle the affected circuses to compensation.

The interim licensing regulations were reviewed last year and have been found to be successful in securing and monitoring the welfare of those remaining wild animals used by travelling circuses. The licensing regime combined with the Animal Welfare Act 2006 will continue to protect the welfare of those wild animals while this ban comes into effect. While the animals' welfare is protected, the Government are satisfied that commencing the legislation on 20 January 2020 is reasonable.

Even if we had a power to commence by order, as per the amendment, the Bill still has to be considered by the other place, and there would be no reason for departing from the usual practice of allowing for two months between Royal Assent and commencement. At best, the earliest the commencement could be brought forward to would be October, leaving only a few months between the commencement date in our Bill and the commencement date suggested by this amendment.

I hope this is a probing amendment. Having spoken to the hon. Member for Plymouth, Sutton and Devonport, I know he understands both sides of the debate on this amendment. Given my comments and the conversations we have had, I hope he will withdraw the amendment.

The hon. Gentleman made an important point about the final hurrah. I hope and believe that the owners of the different circuses that appeared before us in the evidence session yesterday fully understood the strength of opinion in Parliament on this issue. They will also understand that if they were to bring wild animals into a circus event at this point in time, there would be a strong public reaction. There might be an economic cost, because they will need to consider how they will look after those animals in retirement. Notwithstanding differences of opinion about the efficacy or rightfulness of the work that they do, the circuses seemed to be concerned about the welfare of animals.

Sandy Martin: Can the Minister give us a categorical assurance that those circuses that currently have licences to show animals cannot bring additional animals in for the last few months of the licence that they already have? Clearly, the close relationship between the two circuses that gave evidence yesterday and the gentleman from Circus Krone, who shows large numbers of big cats, suggests that he might want to bring his big cats over to this country, just to make a point.

David Rutley: I am going to wait for a little bit of inspiration to answer that question as fully as I would like. Any animals would need to be inspected first. The point that the hon. Gentleman raises is a good one, but there would be a requirement for those animals to be inspected.

Luke Pollard: I am trying to understand what the Minister said after his moment of inspiration. The implication is that there is a possibility that new animals and new species could be introduced, between now and the commencement date of the legislation on 20 January 2020. The only restriction in the licences is that these animals must be okay and subject to inspections; it does not prevent lions, tigers or elephants being introduced in the final few months of wild animals being allowed in circuses. Is that what the Minister is saying?

David Rutley: Clearly, those animals would need to be inspected. I understand the concerns that further animals could be introduced to those circuses in the last few months, but the circuses are licensed to use wild animals and we have no welfare grounds to refuse animals being added unless they are inspected.

Technically, Opposition Members have made an important point. However, I think circuses are under no illusions about public opinion on this, and certainly parliamentary opinion. It is also clear that there could be economic costs for them, so there is a disincentive to introduce new animals within the last few months. However, given the strength of concern, let me see what more we can do to raise awareness of and concerns about these issues.

However, as I have said, apart from the powers of inspection, that is where we are at the moment. The key thing is that we want to get this ban in place as quickly as we can. Given the journey that we have been on, the good news is that it will be in place by 20 January. That is not too far off now.

Luke Pollard: I am concerned that, between now and the commencement date, new animals and new species could be brought into circuses. I do not agree with the Minister that the strength of public feeling was adequately understood by the circus operators yesterday. In fact, we heard oral and written evidence from Mrs Brown—I fundamentally disagree with her written evidence on several grounds—that she does not believe the strength of feeling in the DEFRA consultation, due to the size of the response compared with the UK population, even though that was a very good response for a DEFRA consultation.

I worry that there is a risk of a last hurrah for wild animals in circuses. The amendment does not change the 20 January 2020 date, but it provides the Minister with a stick to use should we be under the impression that additional wild animals and new species could be brought into circuses. Certainly, based on the strength of feeling among my constituents in Plymouth, if there is a risk of an elephant or big cat—a lion or tiger—or even an extra zebu or raccoon being brought into our circuses, they would want the Government to take steps to stop that from happening. I am absolutely certain that, in the event that Government compensation is only paid for animals already there, plenty of the British public would be willing to chip in a fiver to prevent an elephant from being brought into our circuses for a last hurrah.

[*Luke Pollard*]

On that basis, I disagree with the Minister on this. Because of the risk of new animals being brought into circuses, the powers proposed in the amendment are important. The amendment would not substantively change the commencement date but would provide a stick to ensure that no new animals are brought in before that date. I will press the amendment to a vote.

The Committee divided: Ayes 7, Noes 8.

Division No. 1]

AYES

Carmichael, rh Mr Alistair	Martin, Sandy
Debonnaire, Thangam	Pollard, Luke
Duffield, Rosie	
McCarthy, Kerry	Reeves, Ellie

NOES

Chalk, Alex	Latham, Mrs Pauline
Harrison, Trudy	Rutley, David
Heald, rh Sir Oliver	Seely, Mr Bob
Hoare, Simon	Stewart, Iain

Question accordingly negated.

Clause 4 ordered to stand part of the Bill.

New Clause 1

DISQUALIFICATION

(1) If a person is convicted of an offence under this Act, the court by or before which that person is convicted may, instead of or in addition to dealing with that person in any other way, make an order disqualifying him under any one or more of subsections (2) to (4) for such period as it thinks fit.

(2) Disqualification under this subsection disqualifies a person—

- (a) from owning wild animals,
- (b) from keeping wild animals,
- (c) from participating in the keeping of wild animals, and
- (d) from being party to an arrangement under which that person is entitled to control or influence the way in which wild animals are kept.

(3) Disqualification under this subsection disqualifies a person from dealing in wild animals.

(4) Disqualification under this subsection disqualifies a person—

- (a) from transporting wild animals, and
- (b) from arranging for the transport of wild animals.

(5) Disqualification under subsection (2), (3) or (4) may be imposed in relation to animals generally, or in relation to animals of one or more kinds.—(*Luke Pollard.*)

This amendment would enable a court to disqualify an offender from keeping wild animals and other activities.

Brought up, and read the First time.

Luke Pollard: I beg to move, That the clause be read a Second time.

The new clause is an attempt to consider what will happen if an offence is committed under the Act, and if wild animals are still being used in circuses after the legislation has commenced. We seek to understand what type of punishment and consequences there will be for repeat offending. For those in breach of the Act, the new clause proposes disqualification from owning or

keeping animals, or from participating in the keeping of animals. Should someone break the law on keeping wild animals and using them for entertainment in circuses, the new clause would introduced sufficient punishment to ensure that those animals could no longer be used, because the circus owners would be disqualified from keeping animals.

We heard yesterday about a number of domesticated animals, such as horses, that are used in circuses, and their use can continue because they are not wild animals. That provision would remain, but the new clause sends a strong signal that if the law is breached and wild animals are used in a circus, the owner would be disqualified from owning a wild animal.

We heard yesterday from one circus owner about the possibility that some wild animals would continue to tour with the circus, even though they would not be used for entertainment purposes, because of the owners' close affection or concern for the wellbeing of those animals. Committee members may have different views about the wellbeing of animals who continue to be taken on tour around the country, rather than put into a habitat that is as close as possible to their natural environment, and where they could live out the rest of their lives in freedom. However, the new clause would prevent owners of wild animals from owning, keeping or participating in keeping those wild animals, should there be a breach of the rules.

Sandy Martin: Does my hon. Friend agree that the main thrust of the new clause is not automatically to disqualify anybody who has been convicted of touring with a circus with animals, but that it gives the court the opportunity to make that a factor if the treatment of those animals has been bad enough? There are all sorts of different gradations of offence, and if there is a particularly serious offence, people would want the courts to have the opportunity to disqualify the owner from having animals at all.

Luke Pollard: I agree with my hon. Friend, and that leads into a question about the powers and consequences of the Bill. As a country, we have a number of pieces of good animal welfare legislation. Indeed, we are on the cusp of considering what is animal welfare legislation—meaning in the welfare of the animal—and what is a moral ban. This Bill will be enacted on ethical grounds. We, as a Parliament and a country, have decided that keeping wild animals in circuses is no longer something that we as a society want to participate in or to see. That legitimate and genuine concern is held by Members across the Committee and by our constituents. Beyond that, people want to know about the consequences for breaching these laws. Under existing protections for wild animals and other animal welfare provisions, certain types of punishment are already available. The new clause seeks to explore what punishments would be available to the courts for those offenders who continued to offend under the Act. Beyond that might be a civil sanction. I am trying to understand the consequences if someone breaks this law.

10.15 am

Mrs Pauline Latham (Mid Derbyshire) (Con): The hon. Gentleman mentions banning circus owners from owning wild animals. It was clear from yesterday's evidence session that those circus owners are very fond

of those animals and would be distraught if they were taken away. Will the hon. Gentleman clarify whether he intends that to be the consequence of what he said, or is it only following a breach that they would lose their animals? It seems unfortunate if he thinks that they should lose their animals instantly; they are obviously very fond of the animals and feel as if they are part of the family.

Luke Pollard: The hon. Lady raises a good point, which is worth getting on the record. It was clear from the evidence session yesterday that circus owners clearly have a genuine affection for their animals. Whether they should be able to use those animals for entertainment and, importantly, move them around the country in tight conditions is a different matter. I agree that circus owners have that affection, but I disagree with the way that affection is applied to their business model, if that makes sense.

We also heard that elements of cruelty accompany keeping animals in circuses. The new clause seeks to provide courts with an additional option to use in the event of a breach. Effectively, if a circus owner continued to exhibit wild animals as part of their entertainment, a court, on the basis of the regulations, the guidance and the Bill, would have the ability, on confirming a breach of the Bill, to apply a disqualification, should it see fit. That is important, because people who I have spoken to about this want to know that the animals are safe. If the law is breached and wild animals are used in a circus, and those animals continue to be owned and potentially used again by those operators, I imagine that most of my constituents would want those animals taken off those individuals.

The new clause includes the ability for the court effectively to decide to,

“instead of or in addition to dealing with that person in any other way, make an order disqualifying him under any one or more of subsections (2) to (4) for such period as it thinks fit.”

Disqualification under subsection (2) is from owning, keeping or participating in the keeping of wild animals. Effectively, the new clause provides a big stick for courts to ensure, if there is a breach, that there will be sufficient punishment, that those animals can be removed from that environment, and that there is a consequence for people who decide to keep wild animals and to continue to entertain people with them. Our new clause provides for not only the banning but the enforcement and the punishment.

Our purpose, in tabling the new clause, was to ask the Minister what potential punishments he envisages for a breach of Bill. I shall be grateful if he will set out what he anticipates will happen, in the event that a circus owner is in breach of the Bill.

David Rutley: The Government proposed a ban on the use of wild animals in travelling circuses on ethical grounds, as has been discussed. As a result, the penalties and enforcement powers in the Bill must be proportionate to the severity of the offence. The use of wild animals in a travelling circus has until now always been legal in this country. We seek to ban it because the Government, and I hope Parliament, recognise that it is an outdated practice.

The Bill is about sending a signal about the respect that we should show wild animals in the 21st century. If operators seek to be cruel to their wild animals—we

have not seen any recent evidence to suggest that they would—other laws are already in place to deal with those offences in a more proportionate way. The penalty for a circus operator found guilty of using a wild animal in a travelling circus is an unlimited fine. We think that is a proportionate penalty, as did the Environment, Food and Rural Affairs Committee when it undertook pre-legislative scrutiny of the Bill. The Committee also agreed that further disqualification powers were unnecessary. Where a travelling circus chose repeatedly to break the law—given the very public nature of the offence, we think that is highly unlikely—a court could hand out fines of increasing severity. A travelling circus would soon find it simply uneconomic to continue, in addition to the damage that would be caused to its reputation.

Of course, where evidence is found of a wild animal being mistreated in a travelling circus, the Animal Welfare Act 2006 will apply, as is currently the case. That Act already provides powers to seize animals and disqualify people from keeping animals should there be grounds for doing so. Those disqualification powers are proportionate to some of the wicked and cruel offences covered by that Act. Furthermore, the Dangerous Wild Animals Act 1976 contains powers to disqualify those convicted under that Act of an offence of not having sufficient licences in place.

The penalty in the Bill is an unlimited fine. As we have discussed, fines may increase in severity. It is useful to note that the Wild Animals in Travelling Circuses (Scotland) Act 2018 has a maximum fine of £5,000 and a criminal record, whereas the Bill will introduce for England a penalty of an unlimited fine plus a criminal record. The Bill empowers the authorities to put in place fines of increasing severity to make this activity not just illegal but increasingly uneconomic to pursue.

I hope that clarifies how the Government would seek to deal with the understandable concerns that the hon. Member for Plymouth, Sutton and Devonport has raised. I hope he understands that we do not need any disqualification powers in the Bill because there are disqualification powers elsewhere to address the other issues he raises. I hope that, on the strength of the points I have made, he feels he can withdraw the new clause.

Luke Pollard: On the basis of the Minister’s reassurances that there will be sufficient consequences for people who breach the law, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 2

POWERS OF SEIZURE: ANIMALS

“(1) Where an animal is seized under paragraph 7(k), an inspector or a constable may—

- (a) remove it, or arrange for it to be removed, to a place of safety;
- (b) care for it, or arrange for it to be cared for—
 - (i) on the premises where it was being kept when it was taken into possession, or
 - (ii) at such other place as he thinks fit.”—

(Luke Pollard.)
This amendment would enable an animal which has been seized to be removed and cared for appropriately.

Brought up, and read the First time.

Luke Pollard: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss amendment 3, in the schedule, page 4, line 38, leave out “except” and insert “including”.

This amendment would allow animals, held by those who are suspected of committing an offence under the Act, to be seized.

Luke Pollard: Effectively, new clause 2 and amendment 3 continue the theme we explored in our debate on new clause 1 about the potential seizure of animals. They seek to ensure that there are powers to seize an animal in the event of continued breaches of the Bill. Fundamentally, the constituents I represent want to know that, in the event of such a breach, it will be possible to take the animals to a place of safety. That is really important to them and, I imagine, to many Members.

New clause 2 would introduce a power to seize an animal in the event of a breach and would confer that power on an inspector or, as the Minister pointed out to my hon. Friend the Member for Ipswich, a constable. Amendment 3 would amend the schedule, which includes a curious form of words. It effectively states that an inspector may remove a number of things from any property where there is a wild animal, except the animal itself. Seizing evidence in support of a prosecution makes a lot of sense, and I imagine we all agree with that, but the schedule does not allow the removal of the animal itself. At what point does it become possible to rehome the animal in a safe and secure way? The Opposition are concerned that it is not clear that the Bill contains any powers to seize animals and ensure that they are rehomed satisfactorily.

New clause 2 and amendment 3 would set out clearly in the Bill that, in the event of breaches—in the event that wild animals are subjected to continued cruelty by being held in small cages in environments that are not suitable for their continued care—the animals can be seized and rehomed. From my understanding, that is not included in the Bill, and I would be grateful if the Minister set out under what circumstances he envisages any wild animal being seized and taken to a place of safety, from the commencement of the Act. I imagine that most people watching these deliberations would want to know that in the event of a breach, those animals are safe.

David Rutley: New clause 2 and amendment 3 seek to provide inspectors with powers to seize animals and make alternative arrangements to care for them. Although we understand the concern that, in some situations, animals might need to be removed from the premises on safety or welfare grounds, such powers are already provided for in existing legislation. As such, the amendments are not necessary.

The inspection powers provided by the Bill are only those that inspectors need to properly enforce the ban, including powers to enter and search premises, to examine animals and to seize objects. In this context, “premises” includes any vehicle, tent or moveable structure. In addition, inspectors have powers to video or photograph an animal, which would provide sufficient evidence of an offence.

We have not provided powers to seize animals during the course of an investigation or post-conviction penalty. In respect of pre-conviction seizure as evidence, that is

because it is unnecessary. If there are welfare or public safety concerns, animals can be seized under the Animal Welfare Act 2006 or the Dangerous Wild Animals Act 1976.

Sandy Martin: To use an analogy, it is often the case that if someone who owns a large tree that they want to remove hears that a tree preservation order is about to be placed on it, they will chop it down before the order can be placed. Is there not a real danger that if it is not possible to seize animals under certain circumstances when they are about to be removed from a circus, they may be destroyed before they can be rehoused?

David Rutley: That is an interesting point, but I think it is unlikely. There are protections, so if a circus owner was minded to do such a thing, I would have thought that we would have seen evidence of animal welfare concerns, which would be dealt with under the 2006 Act. I will explain in more detail as I proceed why we have come to that conclusion, which will hopefully answer the question more fully.

The Animal Welfare Act 2006 permits seizure if an animal is suffering, or if they are likely to suffer if their circumstances do not change. The Dangerous Wild Animals Act 1976 permits seizure of certain types of animals, including camels and zebras, if they are being kept without a licence under that Act or if a licensing condition is being breached. There is also no need to seize an animal to prove an offence has been committed under the Bill. As the Bill bans the use of animals in circuses, the evidence would need to establish that use. Simply establishing that the circus had a wild animal would not be sufficient.

We do not think that the seizure of an animal is appropriate post conviction. The only offence that a circus operator will have been convicted of is using a wild animal in a circus. To deprive them of the animal entirely would be unprecedented and clearly disproportionate, and would lead to the threat of or concern about legal challenge. I appreciate that there may be concerns about repeat offending, but there is no limit to the fine that can be imposed by the courts, as we discussed in relation to disqualification. The way to tackle the challenge is to escalate fines over time, so a repeat offender would soon find themselves out of business.

As I have already outlined, where there are welfare or public safety concerns, the Animal Welfare Act and Dangerous Wild Animals Act provide the powers to seize animals. On those grounds, I urge the hon. Member for Plymouth, Sutton and Devonport to withdraw the new clause.

Luke Pollard: Based on the reassurances that the Minister has given, that the welfare of the animals can be looked after, I am happy to withdraw the clause. However, I think there is a strong point about ensuring that none of the animals can be used should there be any breaches, and the welfare of those animals must be paramount. The reassurances that the Government Minister has given are sufficient to send a clear message on that point, so I beg to ask leave to withdraw the amendment.

New clause, by leave, withdrawn.

Schedule

INSPECTIONS

Question proposed, That the schedule be the schedule to the Bill.

10.30 am

The Chair: With this it will be convenient to discuss amendment 4, in the schedule, page 5, line 34, after “vehicle,” insert “including caravans, trucks and trailers.”

This amendment would ensure an inspector’s power of entry includes caravans, trucks and trailers.

Luke Pollard: Our amendment seeks to include the words “caravans, trucks and trailers” after “vehicle”, which comes under the broad definition that the Minister has mentioned in his previous remarks about movable structures. It aims to ensure the comprehensive nature of the schedule, and to ensure that all the areas where a wild animal could be stored or transported are covered by this legislation.

As we heard from yesterday’s evidence, some animals require larger travelling cages, and—I imagine—some require smaller travelling cages. Not knowing the precise size of a travelling cage for a raccoon, I imagine it is considerably smaller than that of a zebu. That means we need to make sure that the different types of vehicle that could transport and store any of those wild animals at any time are sufficiently encompassed in the law that we are scrutinising.

Sir Oliver Heald: I am slightly concerned about this from a legal point of view. Surely a vehicle is any instrument of conveyance, so if we qualify it by talking about “caravans, trucks and trailers”, are we not narrowing the definition?

Luke Pollard: I am grateful for that point; I think that the right hon. and learned Gentleman has got to the nub of what I am trying to get at with the Minister. I am trying to set out clearly what is included in the definition. We do not seek to qualify what a vehicle is; we stress “including” to make sure that definition includes those different movable structures and vehicles that could be home to any wild animals at any point. The right hon. and learned Gentleman has correctly identified my ruse: getting the Minister to put on record that all those different vehicles and movable structures would be included, to make sure that there can be no hiding place for any wild animal in the event of an inspection by an inspector or, as we heard earlier, a constable enforcing the requirements.

David Rutley: Amendment 4 seeks to add further clarity to a term that itself is already part of a definition. However, the Government do not believe the amendment is necessary. Paragraph 12 of the schedule provides a definition of premises, which already includes “any place”, but also

“in particular, includes—

- (a) any vehicle, and
- (b) any...movable structure.”

That is already a very broad list, which is also in line with the Police and Criminal Evidence Act 1984. The definition of premises in PACE includes “any vehicle” and

“any tent or movable structure”,

and those definitions are not further defined in the Act. Listing “caravans, trucks and trailers”, as in amendment 4, would not add anything to that definition, as those are already either vehicles or movable structures.

The purpose of a list within an inclusive definition is to extend that definition beyond what it might ordinarily be thought to include. It is not a list of examples, and including such a list runs the risk of inadvertently narrowing the definition, as my right hon. and learned Friend the Member for North East Hertfordshire has said. Specifying only vehicles that people might live in—a caravan, a truck or a trailer—suggests that the definition does not include, for example, cars or motorcycles. Again, I hope that this is a probing amendment, or at least one that seeks to clarify, and that the Committee is content that the explanation I have given means that further defining the phrase “premises” is not necessary. As such, I hope that the hon. Member for Plymouth, Sutton and Devonport will not press the amendment.

Luke Pollard: I thank the Minister for the reassurances he has given. I wanted to make sure that it was clearly set out on the record that any vehicles or potential locations where a wild animal could be stored were included in the definition, and I am grateful to the Minister for having set that out.

Mr Carmichael: I do not wish to detain the Committee for any great time, but the point made by the hon. Member for Ipswich about the power of police constables in relation to the exercise of search and seizure options is substantial and deserves the Committee’s attention. I come at it from the point of view of someone who, many years ago, made a living in the criminal courts as a solicitor, having worked as a procurator fiscal depute in Scotland and later as a defence solicitor.

I am aware of the presence of the right hon. and learned Member for North East Hertfordshire, who is a much more eminent source and should be taken much more seriously than me on these matters, but there is a small advantage from never having achieved such eminence: one perhaps has a better and fuller understanding of how things work at the sharp end and the practicalities of these matters. I am influenced in my thinking in particular by my experience working as a prosecutor, where the overwhelming number of reports we received—well in excess of 95%, I would guess—came from the police. However, there was always a small number from other reporting agencies including the Health and Safety Executive, the RSPCA—occasionally—the television licensing authority and the British Transport police.

It is fair to say that the approach taken by the other reporting agencies was not always as focused on a proper understanding of the laws of evidence as that evident from police reports. I say that gently, and not in any way to criticise those other bodies, because they all existed principally for other purposes. People do not become RSPCA inspectors or health and safety inspectors to gather evidence for prosecutions; people generally become RSPCA inspectors because they care about the welfare of animals, so that other focus is secondary.

To put it bluntly, people often do not understand the full legal significance of the way in which they go about their business. For that reason, there is substantial merit in giving police constables powers under the Bill. It is not necessarily desirable to leave it to the choice of the inspector to take along a police constable as one of the two other people they may take with them. If police constables are to be brought into inspections on a multi-agency basis, they should be there in their own right, able to exercise their own professional judgment

[Mr Carmichael]

as police officers and gatherers and observers of evidence, not simply as a bit of muscle behind the inspectors who have powers under the Bill.

The right hon. and learned Member for North East Hertfordshire points out, quite fairly, that anybody who is with an inspector has the powers of an inspector, but that is to be exercised under the direction of the inspectors, so in effect the only way in which a police constable can exercise the powers of an inspector is if they do so at the instruction of an inspector.

Again, my own background is as a procurator fiscal depute, so it was part of my job—because that is how the criminal justice system works in Scotland—occasionally to direct the police in an investigation. One always did that with extreme care and humility, because the police are exceptionally professional, but I, as a professional prosecutor, had a good understanding of the laws of evidence and that was how I was able to do it.

I just venture to suggest that an inspector given powers by the Department for Environment, Food and Rural Affairs under this schedule would not necessarily have the necessary background and understanding of the laws of evidence and procedure, and that ultimately, if things went wrong procedurally, we would not see successful prosecutions, which should be the outcome of a criminal offence.

I do not ask the Committee today to reject the schedule being agreed to as the schedule to the Bill, but I will say to the Minister that this is a serious matter requiring further consideration and that he should, if he can, undertake to give it that consideration. Otherwise, the House will, I think, want to revisit the matter on Report. Failing that, it will be, I suspect, given more rigorous and learned scrutiny in the other place.

Sandy Martin: Following the right hon. Gentleman's statement, which I largely concur with, I think that I ought briefly to make clear my view on this matter. We have a society in which people expect the rule of law to be maintained by the police. At the moment, the police face all sorts of problems, not least the lack of resources and of police officers. However, I think that most normal people in this country would expect that if any law were being broken, a police officer would be able to enforce that law, whether or not they had been invited in by somebody from DEFRA. I urge the Minister to think again about why it should be necessary for an inspector from DEFRA—an appointed inspector—to invite a police officer along with them before that police officer would be able to uphold the law.

Sir Oliver Heald: I thank the right hon. Member for Orkney and Shetland for the flattering picture that he painted of me.

Alex Chalk (Cheltenham) (Con): All true.

Sir Oliver Heald: I thank my hon. Friend very much. I just want to make a couple of points. It is true that in days gone by, there was perhaps a lack of attention to detail, but in recent times the Whitehall Prosecutors' Group has come together to try to ensure that there are high standards of training and effectiveness among prosecutors of all sorts. I wonder whether my hon.

Friend the Minister agrees with me that it is perhaps worth just mentioning to one of the Law Officers what has been said, just to ensure that this matter is brought to their attention and that there is proper superintendence of this legal process.

David Rutley: I thank right hon. and hon. Members for their contributions and I can assure them that we take seriously the comments that have been made, will review the points that have been made and will make sure that the most senior Law Officers look at this. They have done, and the general view that we have at the moment is that we do not believe that it would be appropriate or necessary for the police to enforce this legislation but, again, we will review that, based on comments that have been made. However, DEFRA-appointed inspectors are likely to be better qualified in identifying and, probably, handling species of wild animal. They have expert training and experience.

Given that the offence in clause 1 would have to happen in public, we do not believe that there will be many cases that will need investigating. It is quite an open offence that will be publicly obvious. It is also important to remember that police constables, when invited to take part in the inspection, if "in the company of an inspector" had been set out in the Bill, would have the same power of seizure of evidence as an inspector. They would be able to support the activities that go on there.

10.45 am

As I said, the primary matter to bear in mind is that there is a degree of expertise. That point was made yesterday by my hon. Friend the Member for Truro and Falmouth, who is not with us today: a number of experts in DEFRA have experience of dealing with animals. Although we respect the work that the police do—an amazing job across a wide range of activities—to expect them to have the same expertise as highly qualified DEFRA inspectors might be challenging. Notwithstanding that, I take the points that have been made, in what has been a very full and frank debate, and I will give that further investigation and review.

Schedule agreed to.

Luke Pollard: On a point of order, Mrs Moon. I am attempting a nebulous point of order so as to put on record my thanks to the DEFRA officials for the work that they have done. I also thank the animal welfare organisations and all those people who have fought for the ban on wild animals in circuses. Every wild animal matters. I hope the Minister will continue to push in his efforts to get the Bill through as fast as possible, so that we can get the six reindeer, four zebras, three camels, three raccoons, one fox—not for hunting—one macaw and one zebu into a place of safety, where they can enjoy the rest of their lives in as close to their natural habitat as possible.

David Rutley: Further to that point of order, Mrs Moon, regarding an oversight by the Minister in not recognising the important work by DEFRA officials who have been incredibly helpful in taking this forward over many years. I am grateful to countless Members of Parliament, who have not only supported this Committee and our work in the debate that took place about a week ago,

but those who have campaigned tirelessly on the issue. It is right to have done that and I am grateful to the hon. Member for Plymouth, Sutton and Devonport for bringing that to our attention. I also share in his thanks to those who participated in our evidence sessions and to you, Mrs Moon, for chairing our debate so well this morning.

The Chair: If there are no more spurious points of order, thank you everyone for your time.

Bill to be reported, without amendment.

10.48 am

Committee rose.

**Written evidence to be reported
to the House**

WAC 23 Petra Jackson, animal carer at Circus Mondao

WAC 24 Andrew Lewis

WAC 25 The Self Help Group for Farmers, Pet Owners
and Others experiencing difficulties with the RSPCA
(The SHG)WAC 26 Joint submission from the British Veterinary
Association (BVA) and the British Veterinary Zoological
Society (BVZS)