



UK Gov't Still Fuzzy on Morals, Ethics

Special to Fur Commission USA by Simon Ward

THE BRITISH GOVERNMENT continues to demonstrate its inability to justify banning fur farming on moral grounds, a failing that could yet embarrass it before the European Community's highest judicial authority.

On May 15, the Fur Farming (Prohibition) Bill came up for its second reading in the House of Commons.⁽¹⁾ Backed by the ruling Labour Party, the bill seeks to ban the keeping or breeding of animals "solely or primarily for slaughter for the value of their fur." Its principal target is mink farms, of which just 13 remain in England.

Labour's justification for this draconian bill is that it will protect "public morality", but it has so far failed to argue its case convincingly in Parliament. With Labour's large majority, however, opposition parties will not be able to block the bill if the government decides to press ahead.

More significantly, the government may have to justify the bill before a higher authority, the European Commission, which has the right to vet domestic legislation affecting businesses to ensure it complies with European Community law. Five European countries have already objected to the bill, saying it breaches the Treaty of Rome's ban on measures that impede the free movement of goods, and that it goes far beyond what is permitted by a directive on the protection of farm animals.

The Commission must now decide whether to challenge the bill, issue non-binding "observations", or allow it to proceed. If it mounts a challenge, the British government may have to explain its position before the European Court of Justice.⁽²⁾

Animal Welfare Roots

When the bill was first introduced last year as a Private Member's Bill, its proponent, Labour Member of Parliament Maria Eagle, sought to justify a fur farming ban on animal welfare grounds. However, it soon became clear that any attempt to criminalize an entire farming sector on such grounds was not going to fly.

At the national level, there was no precedent for such a ban. Animal welfare concerns in livestock farming have always been addressed by imposing more stringent regulations and tighter controls, and the main opposition party, the Conservatives, and the

powerful National Farmers Union have indicated they would support tougher welfare standards if a need could be demonstrated. But a ban, they argue, would be both unjustifiable and set a dangerous precedent. At the European level, meanwhile, a ban on animal welfare grounds would likely fall foul of a raft of laws, including the European Convention on Human Rights, the Treaty of Rome, a European Council directive concerning the protection of animals kept for farming purposes, and general Community law principles of the right to property and the freedom to pursue a trade or business.

Since any attempt to ban fur farming on animal welfare grounds was almost certain to fail, when the government adopted Eagle's private bill, it also came up with a new defense, "public morality", hoping to exploit a slim opportunity presented in the Treaty of Rome. By banning fur farming for animal welfare reasons, Britain would effectively close its market to European farmers seeking to export breeding stock. This would be unconstitutional under Article 28 of the Treaty, which states: "Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States."

In the view of Labour, however, Article 30 gets it off the hook, stating: "The provisions of Articles 28 and 29 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of *public morality*, public policy or public security ..." [emphasis added]

The government has stressed that the legal advice it has received confirms it will be in compliance with the Treaty, provided the ban is based on the public morality defense. However, it has not published its legal advice, while other legal experts have published opinions stating that this defense could still breach basic principles of Community law, in particular those relating to non-discrimination and proportionality as defined by the Court of Justice.

Unconvincing

Thus the second reading of the bill was eagerly

awaited. Could the government come up with a coherent and convincing argument for banning fur farming on grounds of morality? Simply stated, no, it couldn't.

Junior Agriculture Minister Elliot Morley, who is in charge of the bill, was the sole speaker to even tackle the public morality issue. Almost every other speaker from his own party stuck resolutely to animal welfare arguments.

Even Maria Eagle, the MP who first introduced the bill, seemed to misunderstand her party's objective. "The argument that I think goes to the heart of the bill is the animal welfare argument," she said. She did add a new twist, however, intended to head off criticism that tougher welfare standards could address her concerns. Even though mink have been farmed for over a century,⁽³⁾ they are still "essentially wild" and require "territories of one to three miles", she said. Thus, "it is impossible to devise humane standards in intensive farming for the keeping of mink," and mink farming should therefore be banned!

None of which helped Morley any. He was in need of *moral* arguments, and had to rely on his own resources.

Hedging Bets

Paedophilia and pornography were identified by Morley as areas which are rightly subject to government legislation, with a view to protecting public morality. Another should be fur farming, he stated. On those points, at least, he was clear.

However, he made absolutely no attempt to define an issue of public morality, or to explain why a particular form of animal husbandry degraded public morals in any way comparable to sexually deviant behavior.

"A combination of factors make fur farming a matter of public morality," began Morley, hedging his bets. These included "welfare, the effect on the environment and the cost of dealing with escapes." (In highlighting the "very large public sums" spent on eradicating escaped mink, however, he made no mention of animals *stolen and abandoned* by animal rightists.)

He also cited public opinion. "I have no doubt that there is wide public support for a measure of this kind," he said, without citing a reference. "Public morality comes into that, and we are taking account of the views of the public."⁽⁴⁾

But this was all smoke. What was Morley's central

thesis which could justify banning fur farming on moral grounds?

"Fur farming is not consistent with a proper value and respect for animal life," he pronounced. "Animals should not be destroyed or bred for destruction without a sufficient justification of public benefit. ...

"If the primary purpose of keeping animals is the production of food, that provides a sufficient public benefit to justify breeding them for slaughter. That is so even if the production of fur or hide is a secondary purpose to the keeping of the animal. ... It is one thing to breed and kill them for food, because we have to eat to survive. In the balance between respect for the dignity of animal life and our survival, we put our survival first."

In other words, killing an animal for food is moral, as is killing an animal for food and for its skin, provided food production is the *primary* reason for killing it. But killing the same animal primarily or solely for its skin is immoral, in Morley's opinion, because there is insufficient "public benefit".

The Conservatives might have quizzed Morley at this point on his understanding of the difference between morals and *ethics*. After all, he was presenting ethical arguments for when an animal may and may not be killed, but was yet to pronounce Labour's underlying moral position on the taking of animal life.⁽⁵⁾

They did the next best thing and enquired why killing an animal for meat is moral whilst killing it for fur is immoral, when neither is essential for human survival.

"Meat is a food source," Morley responded, sticking to ethics. "I recognise that some people do not eat it, but they are in a minority in our society, which depends on meat production as an important food source. There is a clear distinction in that sense."

The Conservatives weren't buying this argument. Was meat essential to our survival, or did it derive its importance simply from the fact that a majority of people eat it? By the same logic, was fur unimportant simply because most people do not wear it? "Food production is an essential part of our society," said Morley, "but the production of fur in this country is non-essential, because there are many other options."

And that was as good as it got.

Illogical

The Conservatives pounced on Morley, criticizing the bill roundly for its legal and conceptual failings.

But it was left to James Gray (Conservative, North Wiltshire) to expose the “fundamental illogicality” at the heart of the public morality argument.

If fur farming is immoral because, to quote Morley, it “is not consistent with a proper value and respect for animal life,” wouldn’t the buying, selling and wearing of fur be equally immoral?

“I would understand it - although I would disagree - if the government said that they believed the wearing, trading, farming and production of fur was immoral, wicked and distasteful, and that they intended to ban it,” said Gray.

“That would be a logical position ... but they do not propose to do so. It will be legal for me to buy mink pelts in Calais [France] and to sell them to retailers in this country and abroad. ... All they are interested in is the opportunity for some politically correct posturing. They can say, ‘We are brave animal welfare activists and we are going to ban 13 unfortunate farmers from making a living.’ However, hundreds of millions of pounds worth of fur will still be traded in London. Fur will still be worn here. We will still be able to buy fur from Mr. Al Fayed in Harrods. It will still be legal for honorable Members to wear fur coats in the Chamber, if they wish to do so.”

Passing the Buck

In summing up the debate, Morley made no response to Gray’s point. He did, however, pronounce himself winner.

“Some Conservative Members have argued that the government must justify the application of morality. I have done so,” he proclaimed.

He then concluded matters by passing the buck. “However, those Members should justify their ar-

gument that this is not an issue of morality.”

Should this case end up before the European Court of Justice, it will not be enough to place the onus of proof on the plaintiff. Labour will be required to define an issue of “public morality”, and if the latest debate was a dummy run, it still has some homework to do.

(1) For a full transcript of the debate see www.parliament.the-stationery-office.co.uk/pa/cm/cmhansrd.htm

(2) The European Community achieves unification through a new body of law, Community law, which is independent, uniform in all Member States, and separate from yet superior to national laws. The European Court of Justice is the backbone of the system of judicial safeguards when this law is challenged or must be applied, ensuring that it is not interpreted and applied differently in each Member State.

(3) Eagle chose the figure of 70 years for the time mink have been farmed.

(4) Morley did not specify a public opinion poll in support of this position, although another speaker told the House of a poll that showed 75% of the British public “believe that fur farming should be banned.” Not mentioned in the debate was another poll published three days earlier which found that 81% of British people accept the farming of animals for any purpose provided there is good animal welfare, while 41% either support fur farming, are ambivalent about it or have no view. See “New Consumer Research Questions UK Government Move to Ban Fur Farming”; www.furcommission.com/news/newsE99j.htm

(5) Morals are core values and beliefs, e.g. murder is wrong. Ethics are how one conducts oneself, and interprets rules, in relation to morals. Labour’s argument that raising livestock primarily for meat is acceptable but raising them primarily for fur is not, is an ethical argument, but one which is hard to evaluate since Labour does not back it up with a core value, or moral position, on the ownership and use of livestock for human benefit. Alternatively, Labour may have *no* core value, in which case arguing the “morality” of food versus fiber becomes highly problematical.