

Updated

Hunting Act 2004

# The Case For REPEAL





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# The Hunting Act

## INTRODUCTION

Following many years of debate and numerous parliamentary Bills the Hunting Act finally came into force on 18th February 2005. The prejudice, misuse of science and abuse of parliamentary process that saw the Act onto the statute book and, now, clear evidence that this law is unworkable has led to criticism from politicians of all parties, including the Prime Minister at the time, senior civil servants, the police, the judiciary, veterinarians, the media and the public.

The Hunting Act is unique in that its effects are entirely negative. It diminishes respect for Parliament; it diverts police attention from serious crime; it brings no benefit to the environment; it is a blatant example of political prejudice and it does nothing for the welfare or conservation of the species it claims to 'protect'. In fact it is detrimental to their welfare.

The Hunting Act is a law that fails at every level – it is confusing, illiberal, unprincipled and divisive. The question now is not whether hunting should, or should not, have been banned, but whether the Hunting Act is a piece of legislation that should remain on the statute book. In other words, should the Act be scrapped?

This document makes the "Case for Repeal".

# The Hunting Act

## A CONFUSING LAW



From the outset, the practical application of the Hunting Act has been surrounded by confusion. Hunting is an 'intentional' activity. So it is the intention of a person engaged with a dog or dogs, not the action of those dogs, that is criminal. The fact that a dog is pursuing a fox, or another mammal, does not necessarily mean that an offence is being committed.

The series of 'exemptions' designed to allow some types of hunting to continue were the result of political wrangling and are both illogical and unclear. For instance it is legal to hunt a rabbit, but not a hare unless it has been shot; a rat, but not a mouse. It is legal to use two dogs to flush a wild mammal to be shot by a waiting gun, but not three dogs. It is legal to use a terrier to flush a fox from below ground to be shot if it is threatening game birds, but illegal to use the same method if the fox is killing lambs.

Defining these exemptions has been left to the police and the courts and experience has demonstrated both are confused. Not surprisingly so too are huntsmen.

The Hunting Act has the same status as a minor road traffic violation. The police have said that they will investigate allegations of illegal hunting, but that they can only police hunting in the context of existing policing priorities. The situation is made even more confusing by spurious allegations of illegal hunting encouraged by anti-hunting groups, even though only a tiny number of Hunting Act prosecutions have involved registered hunts. The vast majority of convictions under the legislation are not connected to registered hunts and could have been achieved under legislation that pre-existed the Hunting Act. Unfounded allegations of Hunting Act offences are wasting police time and resources that could be better spent tackling serious crimes that affect the lives of ordinary people.

THEY SAID IT... 

“Parliament's vote for an outright ban on hunting with dogs fills many of my fellow officers with dread. Not because the police are pro-hunting – the service is determinedly neutral – but because of the practical implications of enforcing such a ban.”

Alastair McWhirter, Chief Constable of Suffolk and ACPO spokesman on hunting, *The Times*, 3<sup>rd</sup> July 2003.

“ Unfortunately the wording of the Act is ambiguous. ”

Professor Sir Patrick Bateson appearing as a witness for the League Against Cruel Sports against the Quantock Staghounds, 22<sup>nd</sup> May 2007.

“

We observe at the outset that the experience of this case has led us to the conclusion that the (Hunting Act) is far from simple to interpret or to apply: it seems to us that any given set of facts may be susceptible to differing interpretations. The result is an unhappy state of affairs which leaves all those involved in a position of uncertainty.

Judge Graham Cottle and two lay magistrates overturning the conviction of Tony Wright. Exeter Crown Court, 30<sup>th</sup> November 2007.

”

“ The Act is difficult to enforce, as there are so many exemptions... ”

Joshua Rozenberg, Legal Editor of the Daily Telegraph and BBC commentator on law. April 2007.

“

I might have been found guilty but I certainly don't feel like a criminal. We had two hounds; a marksman and we shot a fox. I don't know what else we were supposed to do to comply with the law.

Tony Wright, huntsman of the Exmoor Foxhounds, on being the first huntsman to be convicted under the Hunting Act, 4<sup>th</sup> August 2006. This conviction was overturned on appeal.

”



# The Hunting Act

## AN ILLIBERAL LAW



The Hunting Act never had the support of the majority of parliamentarians who voted during the passage of this law – in fact, more parliamentarians voted against it than for it. After some 700 hours of parliamentary time the Act was eventually driven through the House of Commons in a single day following a blatant breach of parliamentary protocol. It was then forced through using the ultimate constitutional sledgehammer, the Parliament Acts, which was used for only the fourth time since 1949.

The measure of a true democracy is tolerance: tolerance of minorities and, in particular, tolerance of activities that the majority might not support. Legislation, especially legislation that prohibits an activity of profound cultural importance, should be considered only if it can be proved to remove a demonstrable harm.

Despite years of consultation and debate, and a government inquiry, there was never any evidence that hunting created that harm. Scientific evidence was either ignored or invented to suit the argument for a ban. Meanwhile, there was clear evidence that the motivation of many who supported the Act was straightforward prejudice and the settling of old political scores.

As long as the Hunting Act remains on the Statute Book, it will be a contradiction of Britain's claim to be a tolerant and moderate society.

THEY SAID IT... ►



“

This is what happens when democracy goes wrong.  
 BBC Political Editor Andrew Marr during a pro-hunt demonstration  
 in Parliament Square, 15<sup>th</sup> September 2004.

”

“The fox hunting subject resulted  
 in one of the domestic legislative  
 measures I most regret”

Tony Blair, A Journey (2010).

“

I struggle to see how the Hunting  
 Act 2004 passes the Minister, Alun  
 Michael's, test that the legislation  
 should be soundly based on  
 evidence and principle and that it  
 should stand the test of time. ”  
 Lord Burns, Chairman of the Inquiry  
 into Hunting with Dogs, House of  
 Lords, 12<sup>th</sup> October 2004.

“

Tony, if you invoke the Parliament Act it will  
 be the most illiberal act of the last century.

Former Labour Home Secretary and mentor to Tony Blair, Roy Jenkins to Blair  
 shortly before Lord Jenkins' death in January 2003.

”

“Now that hunting has been banned, we ought  
 at last to own up to it: the struggle over the Bill  
 was not just about animal welfare and personal  
 freedom, it was class war.”

Peter Bradley MP, PPS to Defra Minister Alun  
 Michael, Sunday Telegraph, 21<sup>st</sup> November 2004.

“Over the last 20 years, the public and the media have come to regard several  
 events as notorious examples of bad government: the Community Charge  
 (now remembered as the Poll Tax) in 1990, the Dangerous Dogs Act 1991,  
 the failure of the Child Support Agency, the Hunting Act 2004, the story of the  
 Millennium Dome.”

Good Government a report by the Better Government Initiative, January 2010.

# The Hunting Act

## A CRUEL LAW



The Hunting Act does not protect wild mammals from unnecessary suffering, nor does it promote their conservation. It simply bans most forms of hunting despite the fact that there is no scientific evidence that the alternatives are better for wild mammal welfare. Indeed hunting is the only form of wild mammal management that is inherently both selective and non-wounding. The impact of the Hunting Act has actually been that more foxes, deer and hares are being killed.

A pack of hounds has a unique “search and dispatch” function so hunting can truly be regarded as the natural means of managing wildlife. However, the Act limits the options available to farmers and land managers for controlling and managing wild mammals, which makes it difficult to find animals that are suffering and almost impossible to protect lambs and other livestock in many areas.

Hunting with dogs is a combination of wildlife management, pest control and recreation and has also played a crucial role in the creation and management of the British countryside for centuries. The Act threatens the conservation work that hunts, and land managers who support hunting, have carried out for generations.

Despite the millions of pounds spent on the anti-hunting campaign and given the difficulties that the Hunting Act creates for the management and welfare of wildlife, neither the previous Government nor any animal welfare group has been willing to assess the impact of this legislation.

THEY SAID IT... 

“Hunting is the natural and most humane way of controlling the population of all four quarry species.”

Supported by over 560 members of the Royal College of Veterinary Surgeons – June 2004. [A Veterinary Opinion on Hunting with Hounds.]

“

Naturally, people ask whether we were implying that hunting is cruel... the short answer to that question is no. There was not sufficient verifiable evidence or data safely to reach views about cruelty.

”

Lord Burns, Chairman of the Inquiry into Hunting with Dogs.  
House of Lords, 12<sup>th</sup> March 2001.

“Yet it may come as a surprise to those whose understanding of wildlife conservation is shaped by beguiling television images of ‘wild nature’ that field sports, as practiced over the last 50 years, have been almost universally good for the hunted species and the non-hunted, non-predators that thrive in the same habitat.”

Robin Sharp; Chair Emeritus of the International Union for Conservation of Nature and Natural Resources (European Sustainable Use Specialist Group), *Silent Summer*, (2010).

“Describing, as we did, the final moments of a hunt as ‘seriously compromising the welfare of the hunted animal’ should not be taken as a suggestion that hunting was measurably worse than other legal methods, or that abolition would improve the plight of wild animals in the countryside.”

Professor Sir John Marsh and Professor Michael Winter, members of the Committee of Inquiry into Hunting with Dogs, a letter to Environment Minister Margaret Beckett, May 2005.

“[There] are a range of reasons why I concluded that it was difficult to reach a very clear view on the issue of welfare, and that to use that argument in a very strong position, one way or the other, continues to fall some way short of the sort of evidence needed to make substantial political interventions... there is no clear scientific support for the animal welfare implications of a ban.”

Lord Burns 12<sup>th</sup> October 2004.

“

The Government have no plans to evaluate the effects of the Hunting Act.”

Defra Minister Ben Bradshaw, House of Commons, 24<sup>th</sup> May 2005.

”

# The Hunting Act

## A DIVISIVE LAW



Every law should start with a principle. Seeking to reduce the suffering of any animal is desirable, but to choose to remove one activity without proper understanding of its process and without consideration of what may fill the vacuum is irresponsible. To do so against the united view of a sizeable body of law-abiding citizens means that the measure will never work and will inevitably create a profound division in society. The Hunting Act, which was based on ignorance, prejudice and ill informed moral stances, is just such a measure and the outcome was always going to be bad, not least for the animals involved.

At a time of profound social and economic change in rural communities it was this issue that dominated the then Government's agenda and cemented the view that it did not understand, or care about, the real issues of the countryside. Worse, it became quite clear that Prime Minister Tony Blair and other senior ministers knew that there were more pressing issues and felt that a ban was wrong. Unfortunately, backbenchers who were obsessed with what they saw as a need for a total ban on hunting would accept no compromise.

Repealing the Act and removing the running sore at the heart of rural policy need not be complicated or time consuming and with the list of critics growing, many people increasingly see its demise as inevitable. A Government determined to focus on working for the countryside could send no clearer signal than scrapping the Hunting Act.

THEY SAID IT... 

“ My own view is that the ban isn't working. It's a farce really. ”

David Cameron MP, as Leader of the Opposition,  
1<sup>st</sup> May 2007.

“ Although what has been prohibited by the Hunting Act is a specific set of practices what has been put under threat, from the perspective of those who hunted, is a cherished way of life. ”

International Journal of Cultural Property (2007)  
Garry Marvin, Professor of Human-Animal Studies, Roehampton University.

“ The more I learned, the more uneasy I became. I started to realise this wasn't a small clique of weirdo inbreds delighting in cruelty, but a tradition, embedded by history and profound community and social liens, that was integral to a way of life... Fox hunting mattered profoundly to a group of people, who were a minority but had a right, at least, to defend their way of life. ”

Tony Blair, *A Journey* (2010).

“ Be clear. Only one argument matters on hunting: that it doesn't matter... if politics is the language of priorities, then our politicians have never got it so badly wrong. ”

New Statesman editorial, 7<sup>th</sup> July 2003.

“ This is a dispute we must win, having long ago ceased to be about the fate of a few thousand deer and foxes. It's about who governs us. Us or them? ”

Chris Mullin (former Labour MP) – *A View from the Foothills* (2009).

“ This has nothing to do with animal welfare – this is for the miners. ”

Dennis Skinner MP, Labour Party Conference, 26<sup>th</sup> September 2004.

# Hunting Act 2004 (Repeal) Bill

A

## BILL

TO

Repeal the Hunting Act 2004.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

### 1 Repeal of Hunting Act 2004

- (1) The Hunting Act 2004 (c.37) is hereby repealed.
- (2) The Secretary of State may be order make such consequential provision in connection with subsection (1) as he considers appropriate.
- (3) A statutory instrument containing an order under subsection (2) is not to be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

### 2 Short title

This Act may be cited as the Hunting Act 2004 (Repeal) Act.

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