

OPINION: As another hunt prosecution fails, defence solicitor calls for the repeal of the hunt ban

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By Jamie Foster

Two Somerset huntsmen were earlier this month cleared of illegal fox hunting after evidence provided by hunt saboteurs failed to persuade a judge. Defence solicitor Jamie Foster says the case is another blow for the League Against Cruel Sports.

George Milton, the Master and Huntsman of the Weston and Banwell Harriers, has earned himself a special place in legal history. He has been unsuccessfully accused of four offences by the League Against Cruel Sports in a twelve-month period. He has been through two trials, costing hundreds of thousands of pounds, and remains as innocent as he was before the League decided to target him. The most recent trial ended at Taunton Deane Magistrates' Court on April 3. I was George's advocate. His amateur Whip, Toby Lee, was accused of a fifth offence, and was also found to be not guilty. Make no mistake; this was not for lack of trying on the League's part.

So determined was Joe Duckworth, the Head of the League, to make an example of George and the Weston and Banwell that he tasked six of his top monitors to each trespass on private land and capture hundreds of hours of footage of the hunt going about its lawful business. What the footage proved beyond doubt is something the League has been trying to claim for nearly eight years doesn't happen. It proved that the Weston and Banwell trail hunt, and, if a fox appears, they call off their hounds and wait until it is safe to trail hunt again.

In many ways George owes a debt of gratitude to his trail layers in this regard. Julian Masters and Kelly Weaver both volunteer to lay trails. They do it out of a love of hunting, the Weston and Banwell and, I suspect, George. They lay trails from a quad bike and they do something that every hunt in the country ought to be doing. They video some of the trails that they lay. They do this by Julian sitting backwards on the quad and filming the scented rag that makes the trail as it bounces across the ground. They do not film all the trails they lay, after all there would be no need to, but by filming some of them they are able to remind themselves of the dates, times and general areas in which trails are laid. Given that it is often several months after the event that a Hunt is first made aware that the League has been spying on them it is essential to for the trail layers to be able to look back at the footage they have captured and remind themselves of this information.

The League sought to argue in George's case that trails had not been laid, and that trail hunting was a massive subterfuge that hunts engage in to cover up the fact that they are actually breaking the law. The very experienced District Judge hearing the case rejected this argument and accepted that trail hunting was exactly what George and Toby were engaged in. Backing up their case the League relied on the evidence of a man called Professor Stephen Harris. He is an expert on foxes based in the Bristol University and he has given evidence in several high profile hunting cases. His evidence is extremely dangerous to anyone seeking to defend a Hunting Act case because it is expert opinion evidence. It was Professor Harris's opinion that trail laying could not have taken place, partly due to the fact that a quad bike moved more quickly than a fox so the trail would have been laid too quickly. The judge rejected this argument, accepting that it is the speed that a trail is followed, not that a trail is laid, that is important.

Professor Harris also formed the view that hunting horn calls were standard sounds that were always the same and had clear unambiguous meanings. He managed to get hold of a bluffers guide to hunting published in the 1940s which came with a 78rpm record on which a number of horn calls had been recorded. Armed with this book and record he decided that he was able to interpret the single horn call that George gave during the course of the alleged hunt as a doubled call designed to encourage the hounds on. George said in his own defence that he had blown his horn to get the hounds to lift their heads up and come back to him. I suspect one of the reasons that the judge preferred George's version of events to Professor Harris's was that, looking at the covert footage of the incident, what George said was exactly what happened.

This case involved four minutes of action. A fox was sighted and two minutes later hounds appeared moving in roughly the same direction as the fox. By the time George was told by a person who had seen the fox that it was in the vicinity he took less than a minute and a half, and the length of a single field, to stop his hounds. The defence expert said this was one of the most impressive examples of a huntsman bringing his hounds under control that he had ever seen. The Prosecution expert said there was no doubt this was unlawful hunting.

In a way this case illustrates the real problem with hunting prosecutions. Those involved in the investigation of allegations of illegal hunting are feverishly opposed to hunting in any form. They are zealots who have devoted their life to a cause. They are simply unable to see anything that points towards people on horseback in red coats behaving lawfully. While I have nothing against anyone's deeply held beliefs, the criminal court is not the place for those beliefs to be relied upon. A court demands cogent evidence, and, yet again, the League was unable to provide it.

I was very pleased for George and Toby. I do not underestimate how difficult it is for people who have no experience of the criminal process to be accused of a crime they did not commit. It placed an enormous strain on them and their families, but they withstood the pressure extremely well and made a very good account of themselves in court. One very amusing thing did happen during the course of the trial and I can't blame my opponent for it entirely as neither he nor those assisting him clearly know much about hunting. It was that, at the beginning of cross examining George, my opponent made the cardinal error of saying to George " You are a hunt servant aren't you Mr Milton?" George being a very mild and tolerant fellow managed to restrain himself and said, "That is very rude, Sir, I am a Master and Huntsman." I couldn't help wondering wryly if my opponent had asked the same question of Captain Ian Farquhar or Captain Brian Fanshawe in their prime whether he would have emerged from the trial unscathed.

In the end, justice was done but at a considerable cost. The League must have spent in excess of £100,000 of charitable donations on the case. The police, the CPS and the court all had to commit public money to it and the taxpayer faces a hefty bill for the legal costs run up by George and Toby in their defence. It is impossible to see how any of this expense can possibly be justified by a case in which a fox, two minutes ahead of the hounds was pursued for less than the length of a single field and would never have been aware of the existence of its pursuers. Surely it is time to repeal this legislation and allow the League to go back to waving placards and gnashing their teeth freeing up the criminal courts to deal with matters that really are in the public interest to prosecute.