

MEETING OF THE PARLIAMENT

Wednesday 12 March 2003

Session 1

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Scottish Parliament

Wednesday 12 March 2003

[THE PRESIDING OFFICER *opened the meeting at 09:30*]

Time for Reflection

The Presiding Officer (Sir David Steel): To lead our time for reflection we welcome the Rev Donald Reid, who is the director of the Scottish Civic Forum.

The Rev Donald Reid (Diocese of Glasgow and Galloway in the Scottish Episcopal Church and Director of the Scottish Civic Forum): I am sure that the one thing on which we all agree is that we wish the people of Scotland to believe in themselves. Perhaps we are familiar with the occasional description of Scotland as a place where people have little self-confidence and lack self-belief. The question is: how can we change that?

Antony de Mello, the Jesuit guru, if you like, tells the story of a nomadic Bedouin tribesman whose task each evening after the day's journeys by the tribe was to tether the camels. One evening, after he had tied up 15 camels, he found that the 16th camel had lost its rope tether during the day, so there was nothing with which to tie it up. After being thrown by that for a moment, he realised that all that he had to do was go through the motions of tying up the camel. The camel saw that and believed it, and, sure enough, the camel appeared content to stay rooted to the spot. The next morning, the tribesman untied 15 camels for the day's journeys. The 16th camel refused to move until the tribesman went through the motions of untying it. After that, the camel felt that it was fine for it to move.

That reminds me of what I believe to be a prime task of the church and of faith communities: not to tether people, although I confess that they have often done that. The prime task is not to tether, but to free people. The prime task is not just to untie people, but to help them to perceive that, in terms of their human worth and their self-will, they are deeply free to be themselves and to say who they are. They would be free if only they would perceive that.

For all of us in public life or in any leadership position, the same choices arise about how to lead, how to exercise leadership in an empowering rather than a disempowering way and how to be part of the solution, not the problem. In what we call the new Scotland, the Parliament, our new institutions and all those who work in them can

provide the way to rebuild slowly in ourselves as a nation and as individuals a means of unlocking people, of taking decisions not for them, but with them, and of helping people to believe that they are valued and that their future is in their hands. May whatever has given us the will to set out on this journey give us also the will to realise our vision.

Points of Order

09:33

The Presiding Officer (Sir David Steel): I have notice of two points of order.

Murdo Fraser (Mid Scotland and Fife) (Con): On a point of order, Presiding Officer, of which I have given you notice. At First Minister's question time on Thursday last week, I asked the First Minister about an Executive minister whom *The Scotsman* quoted as saying that Scottish Enterprise was like

"an oil tanker running out of control".

The First Minister's reply was:

"I will make two straight, factual points. First, no minister made to any newspaper the comment that Murdo Fraser has cited. That will be confirmed in due course."—[*Official Report*, 6 March 2003; c 19174.]

Notwithstanding the First Minister's reply, I am unaware that any confirmation has been issued and I understand that *The Scotsman* sticks to its story.

The issue is serious, as it gives rise to the concern that the First Minister might have breached paragraph 1.1(c) of the ministerial code of conduct, as he might not have given

"accurate and truthful information to Parliament."

The same paragraph says that ministers should correct

"any inadvertent error at the earliest opportunity"

and that

"Ministers who knowingly mislead the Parliament will be expected to offer their resignation".

Presiding Officer, I would be grateful if you could advise me whether the First Minister has contacted you to request permission to make a personal statement to Parliament under rule 13.1 of standing orders, to correct the statement that he made at question time last week and to which I referred.

The Presiding Officer: I am grateful to the member for giving me notice of the point of order. The First Minister has not approached me about making a personal statement. On the wider point, I make it clear that the matter is not for my authority or for standing orders. The ministerial code of conduct is a matter for the First Minister and the member will have to pursue the issue with him.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): On a point of order, Presiding Officer, of which I gave you notice yesterday. We are to debate stage 3 of the Agricultural Holdings (Scotland) Bill today and we received 92 amendments to the bill from the Executive at

precisely 4.28 pm on Friday—two minutes before the deadline for lodging amendments.

I understand that the Executive has offered an informal deadline of five days for lodging amendments. [*Interruption.*]

The Presiding Officer: Order. I am being addressed on a point of order. Let us hear it.

Fergus Ewing: That informal deadline of five days has no clear status. I would like guidance on whether the Executive gave an undertaking to comply with that deadline by ensuring that all amendments were lodged by it, or whether it is merely an aspiration.

The SNP accepts that, with issues that need extensive consultation and which are politically sensitive, compliance with the deadline might not always be possible, even with the best will in the world. However, the present situation is different. At least 90 per cent of the amendments are purely technical and one expects them to be agreed to unanimously. Why were those technical amendments not lodged by the five-day deadline? The clear and inescapable conclusion is that those 80 or 85 technical amendments were deliberately withheld until the last minute.

The serious disadvantage of such action is that those with a serious interest in the topic have not had a proper opportunity to consult us and to ensure that we do our job properly. The consequence is that, without bad intent on anyone's part, we might pass bad law that is technically imperfect, because the Executive flouted its undertaking and deadline.

The Presiding Officer: I thank the member for giving me notice of the point of order, which has allowed me to consider it. I confirm what he says: the Executive's amendments were lodged very close to the deadline on Friday, but they were lodged by the deadline, so the Executive has done nothing that is inconsistent with standing orders. Like the member, I have noted that the Executive has its own target of lodging amendments five days before proceedings. That is normally met, but on this occasion it was not, for reasons that I do not know. That is a matter not for me, but for the member to pursue with ministers.

I have considerable sympathy with the point that the member makes. In the past, I have accepted manuscript amendments only when they were last-minute amendments to correct an obvious flaw, but as members have lacked time to consider all the amendments to the Agricultural Holdings (Scotland) Bill, I have selected all the manuscript amendments that have been lodged. I think that that is the right thing to do in the circumstances and I hope that that will enable the Parliament to proceed to the debate in an orderly manner.

Alex Fergusson (South of Scotland) (Con):

Further to that point of order, Presiding Officer. I hope that it is in order to say that, during stage 2, I as convener of the Rural Development Committee had more than once to ask the Executive to lodge amendments as timeously as possible. Once, the Executive lodged amendments after the deadline had passed, which put me in a fairly difficult position. I sought your guidance at the time and I think that we reached a happy conclusion.

I appreciate that the Executive has worked with other groups to produce positive, consensual amendments, but consistent late lodging of amendments makes proper scrutiny by committees and the Parliament extremely difficult. *[Interruption.]* Labour members might groan and moan, but the Parliament and its committees are meant to undertake proper scrutiny. I hope that they agree about that.

The Presiding Officer: I have some sympathy with the point that the member has made as convener of the Rural Development Committee. I have noticed criticism of the Parliament—in which, let us all face it, we are all involved—by people outside the Parliament that the legislative process from one stage to another is too hasty. People say that they would like more time between stages.

I know that the Parliamentary Bureau, the Scottish Parliamentary Corporate Body and the Conveners Group have all been applying their minds to how we can pace things a bit better in the second session. There are lessons to be learned; this is a new Parliament and a new institution and we are not perfect. I hope that in four years' time we will not have such a rush and a logjam at the end of the four-year period as we have had this time. That is the basic root of the problem.

Everything is now in order and we can now begin.

Business Motion

09:40

The Presiding Officer (Sir David Steel): The motion before the Parliament today is the timetabling motion for the Agricultural Holdings (Scotland) Bill.

The Deputy Minister for Parliamentary Business (Euan Robson): I would like to refute Mr Ewing's suggestion that the Executive amendments to the bill were delayed deliberately. That is not the case and I take exception to the suggestion.

I move,

That the Parliament agrees that, during the Stage 3 proceedings on the Agricultural Holdings (Scotland) Bill, debate on each part of those proceedings shall be brought to a conclusion by the time-limits indicated (each time-limit being calculated from when Stage 3 begins and excluding any periods when the meeting of the Parliament is suspended)—

Groups 1 to 9—no later than 1 hour 10 minutes

Groups 10 to 17—no later than 2 hours and 40 minutes

Groups 18 to 20—no later than 3 hours and 30 minutes

Groups 21 and 22—no later than 4 hours

Groups 23 to 28—no later than 5 hours

Motion to pass the Bill—no later than 5 hours and 30 minutes.

Motion agreed to.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): On a point of order, Presiding Officer, further to the remarks made by the Deputy Minister for Parliament. The minister said that he takes exception to the statement that I made that the Executive amendments must have been deliberately withheld. Can he tell the chamber whether all of the 92 amendments were drafted on Friday? If that was not the case, they must have been deliberately withheld.

The Presiding Officer: We are getting into the debate itself. That is not a point of order. Members might wish to continue that argument during the debate, which we should now begin.

Agricultural Holdings (Scotland) Bill: Stage 3

The Deputy Presiding Officer (Mr George Reid): The next item of business is stage 3 proceedings on the Agricultural Holdings (Scotland) Bill. For the first part of the stage 3 proceedings, members should have a copy of SP bill 62A, as amended at stage 2; the marshalled list and the groupings. Members should also have a separate sheet containing a manuscript amendment in the name of Fergus Ewing, which was distributed with the groupings. Additional copies are available from the reference point at the rear of the chamber.

I will allow an extended voting period of two minutes for the division following the debate on the first group of amendments. Thereafter, I will allow a voting period of one minute for the first division after a debate on a group. All other divisions will be of 30 seconds duration.

Section 1—Application of the 1991 Act to agricultural holdings

The Deputy Presiding Officer: Group 1 amendments concern the application of Agricultural Holdings (Scotland) Act 1991. Amendment 43 is grouped with amendment 44.

Murdo Fraser (Mid Scotland and Fife) (Con): I have not lodged some 25 amendments to the bill because I have developed a sudden, desperate political interest in agricultural holdings. That said, I had some experience in the field of agricultural leases in my time as a solicitor. All my amendments originated from the Law Society of Scotland. In most cases they were lodged to seek clarification of and, in some cases, improvement to the bill. I declare an interest as a member of the Law Society of Scotland and as a solicitor, albeit that I am not currently practising. If the Executive can answer some of the concerns that the Law Society has expressed, I may not need to press some of the amendments.

Amendment 43 seeks to preserve the status of section 2 leases that were current at the commencement of the Agricultural Holdings (Scotland) Act 1991. The intention behind the amendment is to provide a transition period for leases of less than a year to a year that were entered into under section 2 of the 1991 act. This is a saving provision, as it is not clear from the wording of section 1(3) what will happen to such leases that are extant at the date on which the bill comes into law. If the minister can answer that point it may not be necessary to press amendment 43.

My colleague Alex Fergusson wishes to address amendment 44.

I move amendment 43.

The Minister for Environment and Rural Development (Ross Finnie): The Executive understands the intention behind amendment 43. I wish to assure Murdo Fraser that the policy is for existing section 2 lets to be allowed to continue until the end of their current term. In the context of the bill as drafted, we believe that we should rely on the general interpretative provisions to that end. Amendment 43 is not consistent with other provisions of the bill. We do not make savings elsewhere in instances when we repeal provisions. I am grateful to Murdo Fraser for raising the point, but with the assurance that I have just given, I hope that he will withdraw amendment 43.

Amendment 44 is a consequential, technical amendment. I hope that it will not cause difficulties.

09:45

Alex Fergusson (South of Scotland) (Con): I declare an interest, which declaration I hope will see me through the rest of the day. I am involved in a limited partnership in a hill farm in south Ayrshire.

Does the minister intend that all the provisions relating to the 1991 act that are covered by amendment 44 should apply not only to secure tenancies, but to any other form of tenancy under the 1991 act? I think that I am right in saying that the implication of the amendment is that the provisions would apply to grass parks. Murdo Fraser and the minister have referred to section 2 leases, but I think that the minister will find that grass parks and other arrangements are also affected.

I find it hard to believe, and I know that most people in the industry find it impossible to believe that the Executive's intention is to extend the provisions of the bill to grass parks. I welcome his clarification of the issue. If I do not get it, I will have to oppose amendment 44.

Ross Finnie: I must confess that I am not aware that amendment 44 has that ramification. I do not believe that that is the case, but this is the first time that the matter has been raised.

Alex Fergusson: I should say that it was not my own tactical brilliance that led me to the discovery. The matter was brought to my attention by one of the major stakeholders with whom the Executive has worked over the past months.

Ross Finnie: My interpretation of the provision is that it applies to the principal tenancy and not to lets subsequent to it. If that is the case, we are not talking about grass lets. I do not believe that the provision applies to those lets.

Alex Fergusson: I would like to be able to take the minister's word on that, but I find it slightly

worrying that we have such a prolonged, pregnant pause at this stage. I have to ask whether that is not a consequence of the somewhat belated amendments that the Executive lodged last Friday, to which Fergus Ewing drew the chamber's attention. I am afraid that the uncertainty surrounding the provisions of amendment 44 means that I will have to oppose the amendment.

The Deputy Presiding Officer: I am not sure whether you want a further cut, Mr Finnie.

Ross Finnie: I apologise. The point that Mr Fergusson made is technical and I do not think that in any way it casts doubt on amendment 44. As Mr Fergusson very kindly admitted, the point was not immediately apparent to him. Amendment 44 seeks to amend section 1(4)(a) of the bill, by inserting a reference to tenancies under the 1991 act. Because the amendment refers only to subsection (a), that excludes the point that Mr Fergusson made. It is clear that amendment 44 does not apply to grass lets.

Amendment 43, by agreement, withdrawn.

Amendment 44 moved—[Ross Finnie].

The Deputy Presiding Officer: The question is, that amendment 44 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollak) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)

Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLetchie, David (Lothians) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 75, Against 11, Abstentions 0.

Amendment 44 agreed to.

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab): On a point of order, Presiding Officer. There seems to be a problem with the temporary cards. I have been trying dutifully to vote, but my vote has not been registering. I wonder whether some inquiries can be made into the matter.

The Deputy Presiding Officer: Yes, of course. You have made the point on the record and, in the meantime, we will look at your card.

Section 2—Conversion from 1991 Act tenancy to limited duration tenancy

The Deputy Presiding Officer: Amendment 4 is grouped with amendments 45, 5 and 46 to 48. I must point out that if amendment 4 is agreed to, amendment 45 is pre-empted.

Murdo Fraser: Amendment 4 seeks to clarify the provisions in section 2(1). As drafted, the wording of that subsection seems to imply that the landlord and tenant cannot, by agreement, bring to an end a tenancy under the Agricultural Holdings (Scotland) Act 1991 unless they enter into a 25-year limited duration tenancy. However, at the moment, tenancies are often terminated by agreement without notice being given. Amendment 4 seeks to enable 1991 act tenancies to continue to be terminated without the landlord and tenant having to enter into a fresh lease.

I move amendment 4.

The Deputy Minister for Environment and Rural Development (Allan Wilson): What I am about to say will—[*Interruption.*]

The Deputy Presiding Officer: I should say to the chamber that we are considering a bill this morning. A lot of chuntering and private conversations are going on. I would be so grateful if members who wished to engage in such activities would do so outside.

Allan Wilson: Thank you, Presiding Officer. We are about to discuss and debate some very complex and technical matters, and a degree of silence in the chamber would be useful in that regard.

I want to preface my remarks by pointing out that my colleague Ross Finnie and I will be saying consistently that, after further consultation with the industry since stage 2, the National Farmers Union of Scotland and the Scottish Tenant Farmers Action Group have argued that it remains too easy for an unscrupulous landlord to attempt to coerce a tenant into agreeing to convert a 1991 act tenancy into an LDT. That is despite the fact that the minimum term of a new LDT created in such a way is 25 years, instead of the usual 15 years. I should also make it clear that that industry consultation took place before the Executive amendments were lodged, which partly explains the earlier comments on that matter.

Amendments 45 and 46 reflect a suggestion by tenants groups that a cooling-off period should be introduced to offer greater protection for 1991 act tenants who agree to convert their tenancy into an LDT. As a result, the amendments introduce a

period of 30 days after a conversion agreement has been entered into for the parties to withdraw without penalty. Although that right will apply to both parties, we expect that it will be particularly helpful for tenants.

Although amendment 5, in the name of Fergus Ewing, is similar in scope, it seeks to provide for an extended three-month cooling-off period. I should point out that the 30-day period reflects a time frame that the STFAG suggested to our officials. It also compares favourably with cooling-off periods in other circumstances. For example, where a person signs a regulated consumer credit contract in their own home, the cooling-off period ends five days after they receive a notice of their cancellation rights. Furthermore, where a person signs a timeshare agreement in this country, there is a 14-day cooling-off period during which the debtor can cancel the contract and any related credit agreement. As a result, I ask Fergus Ewing to give way in favour of amendment 45.

Amendment 47 seeks to build on section 2(3), which entitles the tenant to compensation at waygo for improvements. The amendment seeks to ensure that any such compensation that the tenant receives at that time can include compensation for improvements that arise out of non-agricultural activities. Amendment 48 is simply a technical adjustment.

Amendment 4 seeks to clarify that section 2(2) must be followed where a 1991 act tenancy is converted into a 25-year LDT. However, we cannot support it as it would conflict with amendment 45, which is more substantive and better fits the bill. As a result, I ask Murdo Fraser to withdraw amendment 4 in favour of amendment 45.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I should begin by declaring a potential interest as a member of the Law Society of Scotland. However, I never quite had the courage to practise in the area of agricultural holdings law because, as the minister has pointed out, it is one of huge technical difficulty. I am sure that members will understand my approach in that regard.

In amendment 45, the minister has proposed a cooling-off provision that differs from the provision in my amendment only in the length of time involved. I lodged amendment 5 because last week I was unsure whether the Executive was going to lodge such an amendment, although I had understood that it would do so. I am happy not to move amendment 5 and will support the Executive amendments in this regard.

Throughout today's proceedings, the SNP will argue that tenants have had a poor deal over the past period and that they should have a better

deal. Our approach is to ensure that that happens, which is why we will oppose the Conservatives' amendment 4. Such a pattern might well emerge throughout the day.

George Lyon (Argyll and Bute) (LD): I should begin by declaring an interest. My family have been tenants on the Bute estate on the isle of Bute for 230 years.

I support amendments 45 and 47, because I believe that a cooling-off period is vital. Over the past 20 years, a number of tenants—almost 30 per cent on our estate—have converted from full-blown tenancies to partnership agreements. I am not sure that many tenants realised what they were signing away. As a result, it is essential that tenants have a cooling-off period to allow them to reflect on the matter and to give them a chance to withdraw.

We also need as much information as possible to go out to both sides of the arrangements—to tenants and landlords—to make it clear what the bill's provisions will mean in practice. On too many occasions in the past, tenants have signed away their rights under the Agricultural Holdings (Scotland) Act 1991 without knowing what they were doing. They need better information about their rights, particularly those that they will have under the bill, which will strengthen the tenants' side of the argument.

Amendment 47 is also an excellent amendment, which would ensure proper compensation if tenants invest in diversification projects. Amendment 47 is welcome, and my party and I support it.

10:00

Alex Fergusson: I thank Fergus Ewing for withdrawing amendment 5 because that saves me from speaking against it. That trend will become more apparent, because of my reaction to his amendments, as the debate goes on.

We welcome amendments 45 and 46 and the proposed provision of a cooling-off period. We will welcome almost all the measures that were proposed by the cross-industry stakeholders group, which worked so hard during the bill's earlier stages.

The Deputy Presiding Officer: I do not know whether you want another cut, Mr Wilson.

Allan Wilson: I do not want to interfere in the private squabbles of the Opposition parties.

The Deputy Presiding Officer: In that case, I ask Mr Fraser whether he is pressing his amendment 45.

Murdo Fraser: I was a bit confused by Fergus Ewing's approach because it seems to me that

amendment 4 is purely technical and would make no policy difference or provide any advantage to landlord or tenant. I cannot understand why Fergus Ewing opposes amendment 4.

The minister said, if I remember correctly, that my amendment 4 addressed a legitimate point but, because it conflicted with the wording of Executive amendment 45, the Executive would not support amendment 4. I ask the minister, in all seriousness, why on earth the Executive did not take any conflict into account when it lodged its own amendments, which were lodged subsequent to the amendments that I lodged. If there is a serious point to be addressed, it is a pity that the Executive did not take that conflict into account when it became apparent that the wording of my amendment 4 sought to cover the same points as are covered by amendment 45. The situation is rather unfortunate.

Allan Wilson: As I said, we think that our amendments 45 and 46 better reflect how we envisage the bill acting in concert with existing legislation. It is unclear how section 2 would work alongside—dare I say it—section 21 of the 1991 act, if amendment 4 were agreed to. That is why we ask Mr Fraser to withdraw amendment 4 in favour of Executive amendment 45.

Murdo Fraser: I press amendment 4.

The Deputy Presiding Officer: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLetchie, David (Lothians) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
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 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)

Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
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 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
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 Home Robertson, Mr John (East Lothian) (Lab)
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 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
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 Lyon, George (Argyll and Bute) (LD)
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 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
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 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
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 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 11, Against 77, Abstentions 0.

Amendment 4 disagreed to.

Amendment 45 moved—[Allan Wilson]—and agreed to.

Amendment 5 not moved.

Amendments 46 to 48 moved—[Allan Wilson]—and agreed to.

Section 6—Assignment, subletting and termination of short limited duration tenancies

The Deputy Presiding Officer: That takes us to group 3, which contains amendments to provisions for the assignment, subletting and termination of short limited duration and limited duration tenancies. Amendment 6 is grouped with amendments 7 and 8.

Murdo Fraser: Amendment 6 would insert the phrase

“Unless otherwise agreed in writing,”

at the beginning of section 6(1). The effect would be to give landlord and tenant the freedom to contract out of the provisions in section 6, which I believe are too restrictive and for which flexibility should be provided. Amendment 6 would give flexibility to both parties to contract out of the statutory provision, if they so agree.

Amendment 7 would require the agreement between a landlord and a tenant to terminate a short limited duration tenancy on a date that is different from the originally agreed termination date to be “in writing”, because a degree of formality is surely preferable. Putting the agreement to terminate in writing would provide clarity and certainty and would enable the easier resolution of any disputes that might arise.

Amendment 8 would ensure that a tenant must give a landlord at least 60 days’ notice of any intention to assign a lease. The bill as drafted specifies no such notice period. A 60-day notice period is a practical time scale, which would allow for the 30 days in which the landlord is entitled to object under section 7(4) and for a further period that would allow any dispute to be resolved before a proposed assignment took place.

I move amendment 6.

Ross Finnie: As Murdo Fraser said, his amendment 6 would provide for a tenant in an SLDT to assign their interest or sublet the land, and his amendment 7 would require any termination to be in writing. I am reluctant to make changes at this stage on matters for which there has been no demand for change from the tenants and landlords who were involved in the inclusive process of developing the bill. I share Fergus Ewing’s view that the thrust of the bill is to improve the balance between tenant and landlord. A feature of the NFU Scotland and Scottish Landowners Federation agreements was that

SLDTs should not be assignable, and a tenant should not be able to sublet their interest in an SLDT. We have received no calls from the industry, including tenants, either against that proposal or in favour of the proposal that the termination of SLDTs be in writing. Accordingly, I cannot support amendments 6 and 7.

I am also not persuaded by the case for amendment 8, which is unnecessary because it does not affect the 30-day period that section 7(4) provides for a landlord to withhold consent to a proposed assignation. If a landlord does not respond within that time scale, either to withhold consent or to acquire the tenant's interest, there appears to be no point in delaying further the tenant's ability to assign. Crucially, I understand that we have received no expressions of concern—other than from the Law Society of Scotland—about either that issue or the grounds on which a landlord may withhold consent under section 7(3). If landlords are comfortable with the existing provisions, I can see no reason for extending them.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I oppose amendment 8 because Murdo Fraser seems to be slightly unbalanced—perhaps that is not so strange for him. However, amendment 8 would unbalance the bill. Murdo Fraser was happy with and did not oppose the 30-day notice period that amendment 45 proposes. As the minister said, a landlord will have 30 days in which to register his objection, so the proposed 60-day notice period is unnecessary and rather unbalanced.

Fergus Ewing: I do not agree that there is a case for amendments 7 or 8. However, amendment 6, which is sponsored by the Law Society, raises a serious point to which there cannot be any possible objection: if both landlord and tenant agree, an SLDT should be capable of being assigned. Amendment 6 would create the facility for that to occur, but it could not occur without the agreement of both parties. For that reason, we support, on this occasion, the Law Society's amendment 6, which is in Murdo Fraser's name. However, I do not promise that we will break the trend too frequently during the debate.

Ross Finnie: I have nothing to add. The relevant sections were drafted as part of the NFUS-SLF agreement. The clear indication was that SLDTs should not be assignable and I am not persuaded that we have had evidence to back any proposed change at this stage.

Murdo Fraser: I listened with interest to the minister's comments, on the basis of which I have decided not to press amendment 8. However, I believe that amendments 6 and 7 would provide some clarity in the law and, as it is the view of the

Law Society that they would improve the bill, I intend to press them.

The Deputy Presiding Officer: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North-East Scotland) (Con)
 Lochhead, Richard (North-East Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 McLetchie, David (Lothians) (Con)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)

Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 30, Against 55, Abstentions 0.

Amendment 6 disagreed to.

The Deputy Presiding Officer: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLetchie, David (Lothians) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
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 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)

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 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
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 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 12, Against 73, Abstentions 0.

Amendment 7 disagreed to.

Section 7—Assignment and subletting of limited duration tenancies

Amendment 8 not moved.

The Deputy Presiding Officer: Amendment 9 is grouped with amendments 10, 49, 11 and 12. If amendment 10 is agreed to, amendment 49 is pre-empted.

Fergus Ewing: Amendments 9, 10 and 12 serve the same purpose. Section 7 provides for the assignment and subletting of limited duration tenancies and the amendments deal with the issue of the landlord's consent to any proposed assignment. It is important that, under the new vehicle of limited duration tenancies, tenants should have the freedom to assign their interests to another party. That is a freedom that is enjoyed, by and large, by commercial tenants of shops, offices and other commercial premises. The SNP simply believes that what is right for such businesses should also be right for the farming community and that we should not unduly constrain the tenant.

The effect of the amendments would be to ensure that the onus of proof in relation to the vital commercial issue of withholding consent to an assignment should plainly rest on the landlord and that the landlord should be in a position to thwart the assignment of the tenant's interest under a limited duration tenancy only if there is clear evidence for doing so.

Currently, the landlord can withhold consent if they are not satisfied on various issues. That is a subjective test. If the landlord declares that he is not satisfied, it is up to the tenant to demonstrate that the incoming tenant, or assignee, has the ability to pay the rent and maintain the land, and that they have the skills and experience required to maintain the land. I do not believe that the onus of proof should be on the tenant.

Furthermore, such issues can be used as negotiation tools in relation to other matters, and it would be wrong to give landlords that extra power. Equity demands that the tenant should have as wide a degree of freedom as possible in matters relating to the assignment of limited duration tenancies. My three amendments would achieve that.

I move amendment 9.

10:15

Allan Wilson: I note what Fergus Ewing has said about amendments 9, 10 and 12. He is seeking to adjust the basis on which a landlord can withhold consent to a proposed assignment so that the onus is on the landlord to demonstrate that the tenant would not have the ability to pay necessary costs or did not have the necessary

skills and experience. However, we cannot support the amendments. Our approach is characterised by a desire to redress what we perceive to be the imbalance in the relationship between the landlord and the tenant in favour of the tenant, but to do so within a wider context of industry agreement.

I do not think that even Fergus Ewing would suggest that a landlord would voluntarily let land to a person whose skills, experience and ability to pay their dues were in doubt. However, his amendments could bring about a situation in which a landlord had to accept as a new tenant an assignee whose qualities could reasonably be questioned. I fail to understand why, in such a situation, a landlord would have to prove that the person to whom the lease is to be assigned has the ability to pay the rent, the ability to pay for adequate maintenance and the skills and experience to manage and maintain the land, when all those facts are within the knowledge of the tenant-to-be. The effect of the amendments would be to ask the landlord to prove a negative, when, all the while, the tenant-to-be would have the answers at his or her fingertips.

The provisions have been the subject of on-going consultation. We have not been aware of any concerns expressed by tenant representatives about the landlords' grounds for withholding consent under section 7(3).

I am not persuaded of the case for including amendment 11. That amendment is unnecessary because it does not affect the 30-day period that section 7(4) already provides for the landlord to withhold consent to a proposed assignment. If the landlord does not respond in that time—either to withhold consent or acquire the tenant's interest—there would appear to be no point in further delaying the tenant's ability to assign. Crucially, I understand that we have received no expressions of concern on this issue or on the bases on which a landlord may withhold consent under section 7(3), other than from the Law Society. If landlords are comfortable with those grounds, I see no reason to extend them further.

Amendment 49 is a drafting amendment that clarifies that the landlord may withhold consent from assignment if not satisfied that the proposed assignee will be unable to pay and so on.

Murdo Fraser: Fergus Ewing drew a comparison with the commercial lease of a shop or factory premises. Of course, in such leases, it is always the case that the onus is on the tenant to prove the case of an assignment—that was my experience of commercial law, at least.

Amendment 11 would add an additional provision to ensure that the assignee's ability to meet any of the tenant's other obligations under

the lease was a further ground on which the landlord could object to the assignee. The reason for that is that the lease might have other clauses, such as a residence clause, to be complied with as well as the requirement to pay the rent due and to maintain the land adequately. The landlord should not have to accept the assignee if he does not believe that the assignee would be capable of fulfilling the terms of the lease. The amendment deals with an important point and would provide clarification.

With regard to the minister's comments, it may well be the case that landowners have not expressed concerns about this matter, but the fact is that the Law Society has. The Law Society represents solicitors who, on a daily basis, are involved in disputes between landlords and tenants and who advise landlords and tenants on aspects of the law. The minister cannot discount the Law Society's opinions out of hand. After all, it represents those who will have to deal with the bill when it is enacted—they will have to seek to interpret it and work with it daily. It is therefore important that the Law Society's views are taken into account, notwithstanding the fact that the landowners may not have picked up on technical points in the bill.

Mr Rumbles: I oppose amendments 9 to 12. It was interesting to hear Fergus Ewing talking about a negotiating chip. He and Murdo Fraser are each, from their own perspectives, trying to unbalance the bill. The provisions that we are debating are about allowing the landlord to

"withhold consent to the proposed assignation if there are reasonable grounds for doing so".

The test of reasonableness is the key.

Murdo Fraser wants to take the provisions even further in the landlords' favour. The curiosity is that the Scottish Landowners Federation is quite content with the provisions.

Fergus Ewing wants to appear as the bastion of the anti-landlordism party in the Parliament—it seems to me that he is trying to carve out that niche for himself. If he does that and amendments 9, 10 and 12 are successful, he will unbalance the whole bill, which is carefully crafted to get the right results to free the tenanted sector in Scotland. I therefore oppose amendments 9 to 12.

Alex Fergusson: I am stunned by Mike Rumbles's supposition, which seems to be that, just because one body does not approve something, another body is not allowed to bring it up. It seems astonishing that Murdo Fraser is not allowed to lodge perfectly reasonable amendments on another body's behalf just because Mike Rumbles does not agree with them.

It will surprise nobody—certainly not Fergus Ewing—that the Conservatives will not support

amendments 9, 10 or 12, because they reverse the onus of responsibility where the assignation of a lease is possible. It is well established—and has been established already in this short debate—that a tenant who wishes to assign a lease should demonstrate that their successor is able and competent to fulfil the lease's terms, not, as Fergus Ewing's amendments 9, 10 and 12 would mean, that the landlord should prove to the contrary. I am not being in any way judgmental, but it makes perfectly practical sense that the onus should be on the outgoing tenant and his successor.

Mr Rumbles: I was interested in Alex Fergusson's comment that I said that Murdo Fraser should not have been allowed to lodge amendment 11. Does he accept that the interest groups and stakeholders have come up with the correct response to the process and that the Executive reflects that in the bill?

Alex Fergusson: They have come up with an agreed response, but that should not prevent others from challenging it if they feel that there is a challenge to be made. I cannot see any reason for Mike Rumbles's intervention on that point. He is obviously feeling touchy about some of the issues that we are discussing today. No doubt we will see more of that later.

As I said, I am not making a judgmental point, but it makes perfectly practical sense that the onus should be on the outgoing tenant and his successor. After all, the successor will take on responsibility for, and the future good management and husbandry of, the landowner's investment. It is only right that the successor should be competent to do so. As Murdo Fraser pointed out, that applies to a shop tenancy every bit as much as to a farm tenancy.

We will not support amendments 9, 10 or 12.

The Deputy Presiding Officer: Does the minister have anything to add?

Allan Wilson: I see no reason to intervene in that internecine strife between the landed gentry.

Fergus Ewing: The minister misrepresented the effect of amendments 9, 10 and 12 rather crassly. He said that, if those amendments were agreed to, the landlord would have to accept as an assignee someone whose financial standing he doubts. That would not be so. The landlord would have the right to establish that an assignee is not of the financial standing to be able to pay the rent or does not possess the capacity or the necessary skills and experience to maintain the land adequately. It is not a question of doubting or having to accept; it is a simple reversal of the onus of proof so that it rests on the landlord. I regard that as a step forward for the tenant. We will press amendment 9.

The Deputy Presiding Officer: The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
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 McLeod, Fiona (West of Scotland) (SNP)
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 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
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 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
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 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)

McCabe, Mr Tom (Hamilton South) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
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 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 20, Against 72, Abstentions 0.

Amendment 9 disagreed to.

Amendment 10 not moved.

Amendment 49 moved—[Allan Wilson]—and agreed to.

Amendment 11 moved—[Murdo Fraser].

The Deputy Presiding Officer: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)

Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Annesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
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 Hyslop, Fiona (Lothians) (SNP)
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 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
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 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
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 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
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 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)

Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 11, Against 81, Abstentions 0.

Amendment 11 disagreed to.

Amendment 12 not moved.

The Deputy Presiding Officer: Amendment 50 is grouped with amendments 51, 52 and 13.

Ross Finnie: Section 7(5) allows the landlord to acquire the tenant's interest in the tenancy on terms that are

“no less favourable to the tenant than the terms upon which the proposed assignation was to have been made.”

Amendment 52 will ensure that, where the landlord acquires the tenant's interest in place of a proposed assignee, the terms under which he or she does so relate to any reasonable terms that a proposed third party might have offered. I note that amendment 13 in Murdo Fraser's name seeks a similar purpose. I hope that the action that we propose in amendment 52 will allow him not to move amendment 13.

Amendments 50 and 51 are drafting amendments to better reflect the standard terminology that is used on interests under leases.

I move amendment 50.

Murdo Fraser: The purpose of amendment 13 is to ensure that any proposed assignation must have involved a bona fide third party. That is intended to avoid the possibility of collusion between assignor and assignee with a view to inflating the price. However, I listened with interest to what the minister said and, in view of the wording of amendment 52, I will not move amendment 13.

Amendment 50 agreed to.

Amendments 51 and 52 moved—[Ross Finnie]—and agreed to.

Amendment 13 not moved.

The Deputy Presiding Officer: Amendment 53 is grouped with amendments 68, 69, 107 and 108.

10:30

Allan Wilson: At stage 2, the Rural Development Committee accepted amendments from my colleague John Farquhar Munro that prevent the eviction of a tenant “on grounds of irritancy” for reason of their non-residence on the

farm. I undertook at that stage to lodge further amendments to reflect landlords' legitimate interests, and the package of amendments that we have lodged in this group tidies the issue up. Some of the amendments relate to section 17, which applies to limited duration tenancies and to short limited duration tenancies. Other amendments adjust section 57, which applies to tenancies under the Agricultural Holdings (Scotland) Act 1991.

Amendment 53 is a technical adjustment, which adds a definition of "good husbandry" to section 7. Amendments 68, 69, 107 and 108 clarify for the avoidance of doubt that a landlord cannot use the fact that a tenant is undertaking diversified activities—which are of course permitted under the bill—as a ground of bad husbandry, which would enable the landlord to irritate the lease.

I move amendment 53.

Amendment 53 agreed to.

Section 8—Continuation and termination of limited duration tenancies

The Deputy Presiding Officer: Group 7 is on the provision of notice for termination of limited duration tenancies. Amendment 54 is grouped with amendments 55 to 57.

Murdo Fraser: Amendment 54 deals with the question of notice for the termination of limited duration tenancies. Amendments 55 to 57 are all consequential on amendment 54, and the effect of the amendments, read together, is to require a minimum period of notice to be given by the tenant and to eliminate the requirement for the landlord to give two notices to bring the LDT to an end. The aim is to simplify the proposed legislation in relation to the termination of LDTs. As they currently stand, the procedures in section 8 are unnecessarily complex, as they require a double notice to be given by landlords. They are also inadequate in that they make no provision for a period of notice to be given by the tenant. My amendments seek to turn that situation round and to make the law clearer and simpler.

I move amendment 54.

Ross Finnie: As Murdo Fraser says, the effect of his four amendments would be to delete the requirements for a double notice to quit under an LDT. However, I am unable to accept any of the amendments. The procedure for a double notice to quit under section 8 has a clear purpose: to give the tenant a long planning window to plan their next steps and to provide an opportunity for the landlord and the tenant to discuss the future of the lease.

I accept that some landlords might prefer it if only a single notice were required, but we must be

clear that the current drafting was agreed under a fundamental agreement with the NFUS and the Scottish Landowners Federation. With such industry backing for the current provisions, I must ask Murdo Fraser to withdraw amendment 54.

Murdo Fraser: I will press the amendment.

The Deputy Presiding Officer: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

FOR

Aitken, Bill (Glasgow) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
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 McNeill, Pauline (Glasgow Kelvin) (Lab)
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 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 11, Against 77, Abstentions 0.

Amendment 54 disagreed to.

Amendments 55 to 57 not moved.

Section 9—Review of rent under limited duration tenancies

The Deputy Presiding Officer: Group 8 concerns rent review for limited duration tenancies. Amendment 14 is grouped with amendments 58 and 15. If amendment 58 is agreed to, amendment 15 is pre-empted.

Murdo Fraser: Amendment 14 would add a new subsection after section 9(2), which states when a review is deemed to have taken place. Amendment 14 seeks to add clarification as to whether a rent review has in fact taken place and to determine exactly the circumstances under which one will have occurred.

Amendment 15 seeks to delete “lease” and insert “tenancy” in section 9(3). The purpose of that is to ensure that it is the terms of the tenancy, not just of the lease, that should be considered when the provisions under that subsection are applied. The lease will be only one of several pieces of documentation that will constitute a tenancy. A tenancy may be set up by a lease and

other subsequent memoranda and informal writings. In the interests of clarity and certainty, it would be more accurate to refer to a tenancy, as that would ensure that the terms that are referred to in subsection (3) cover not just the lease but the additional documentation.

Having said all that, I note that the wording of the Executive’s amendment 58, which will supersede amendment 15, contains “tenancy”. In view of that, I therefore do not intend to move amendment 15.

I move amendment 14.

Allan Wilson: In response to a number of concerns that were raised with us by tenants, we undertook at stage 2 to lodge amendments at this stage to cover outstanding action to implement the industry-wide agreement on the matter. One of those issues concerned the rent review formula for LDTs. At stage 2, the Rural Development Committee approved Executive amendments relating to tenancies under the 1991 act. Those provisions give greater weight to economic factors, which is what tenants wanted us to do. They make it easier for either party to use a wider range of comparable evidence for the rent review process. That should help to address concerns over the availability of suitable evidence, particularly for tenants, on how rents change in response to prevailing economic conditions.

Amendment 58 introduces corresponding amendments to section 9, which sets out the rent review process for LDTs. Section 9 does not apply to SLDTs, which are subject to rent reviews only where they are specifically provided for in the lease. That is recognised and agreed industry-wide.

As Murdo Fraser said, amendment 14 is designed to clarify whether a rent review has taken place. Our position is that the fact that a rent review has occurred would usually be apparent from the fact that there had been an alteration to the rent paid by the tenant to the landlord; that would be a de facto change. At this late stage, I am reluctant to change section 9 in a way that would not be consistent with the position that has been reached by the industry group on the rent review process. As is the case with similar amendments, we have not been made aware of any general concerns on that point by landlords or tenants.

As Murdo Fraser said, agreement to amendment 58, which I anticipate, will mean that there is no need for amendment 15, and I am pleased that he welcomes the reference to “tenancy” in amendment 58.

Fergus Ewing: The SNP supports amendment 58 and opposes amendment 14. We support amendment 58 because it leaves intact the

important provision under section 9(4)(d) that, when there is a rent review under the new vehicle of limited duration tenancies, it will be possible to take account of

“the current economic conditions in the relevant sector of agriculture.”

That is a major step forward for the tenant and I hope that it will address the serious matter that emerges from an analysis of the Scottish Executive’s own statistics about the relationship between rent and farm incomes over the past eight years, as is repeated in the relevant paper from the Scottish Parliament information centre, prepared by Tom Edwards. On page 10, the paper shows the relationship between rent and farm incomes between 1995 and 2001. It has emerged that, while rentals rose by a third in those years, farm incomes dropped by 60 per cent—more than half—over the same period.

Although the Executive’s statistical data on this topic may not be complete, it appears from the available data that there is a complete dislocation between the amount of rent paid and the amount that a farmer can make from the farm. If the current economic conditions are taken into account, that dislocation can and must come to an end. That is why my party supports the tenant in this matter.

George Lyon: I should also like to echo what Fergus Ewing said about taking economic conditions into account in a rent review. To my knowledge and from my experience in farming, rents have always gone up and have never come down. I suspect that my father’s generation would say the same because the costs involved made it virtually impossible for a tenant to go to arbitration to seek redress. Therefore, when times were hard it was especially difficult to secure a reduction in rents through the 1991 act. I welcome the fact that the current economic conditions will be taken into account.

However, I ask the minister to address one particular matter in his summing up. Seeking out information on comparable rents is a problem in any rent review. It is almost impossible at times to discover the comparable rents in one’s area, or indeed in the wider Scottish context. John Dale, a leading tenants’ lawyer, provided me with evidence that a landlord had used a short-term grass-let rent as a comparable rent. Of course, it was nonsense to take that into consideration in a rent review. Will the minister address the concern about how tenants discover the comparable rents in their area?

I, too, welcome the inclusion of the economic conditions as a key step forward in improving the lot of tenant farmers in Scotland.

The Deputy Presiding Officer: Before I call Mike Rumbles, I point out that the knife falls at

10.52 and I must get through group 9 by then. I ask members to keep their speeches tight.

Mr Rumbles: I shall keep my speech very short, Presiding Officer.

Amendment 58 is an indication of the real and radical reform that this Parliament supports. I am delighted that the SNP is supporting the Scottish Executive’s moves on the matter.

My colleague George Lyon talked about the difficulty in finding comparable rents. The amendment refers to what the tenancy would reasonably be required to fetch in the open market, which means that farms on the open market can also be used as a comparator. That is another string to the bow. I warmly welcome the amendment.

Allan Wilson: I welcome the support from the chamber for amendment 58. As has been outlined, the new provisions will give greater weight to economic factors and will make it easier for either party to use a wider range of comparable evidence. That should help to address concerns that George Lyon expressed about the availability of suitable evidence, particularly for tenants who in the past have often been unable to obtain helpful comparative information to support their case.

Murdo Fraser: Briefly, I am happy to advise that the Conservatives are content with the wording of amendment 58, and we will support it.

As far as amendment 14 is concerned, it is not satisfactory for the deputy minister to continue to parrot that, because the landlords and tenants have agreed, we do not need to worry about the detailed provisions of the bill. The Law Society of Scotland has expressed concern about the wording in section 9. Rent reviews can take place where there is no formal documentation of them and disputes can thereafter arise as to when the rent review took place and what the level of rent was. I am sure that anybody in legal practice is aware of such circumstances. Amendment 14 would provide a useful clarification of the law, which would make matters easier to deal with if the bill is passed. Therefore I press amendment 14.

10:45

The Deputy Presiding Officer: The question is, that amendment 14 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Davidson, Mr David (North-East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Miss Annabel (West of Scotland) (Con)

Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
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 Lamont, Johann (Glasgow Pollok) (Lab)
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 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
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 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)

Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
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 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 12, Against 81, Abstentions 0.

Amendment 14 disagreed to.

Amendment 58 moved—[Allan Wilson]—and agreed to.

The Deputy Presiding Officer: Group 9 relates to the meaning of improvements. Amendment 59 is grouped with amendments 60, 61, 80 and 82. Members should note that amendment 80 is pre-empted by amendment 23, which will be debated in group 17, which relates to factors to be considered in valuation.

Ross Finnie: Amendments 59, 60, 61, 80 and 82 introduce to the bill the definition of improvements that is set out in schedule 5 to the 1991 act. They build the definition into the bill and make related tidying changes.

I move amendment 59.

Alex Fergusson: I am perplexed by amendment 82. At times like this, I wish that I had a legal background, rather than an agricultural one. I have read the amendment several times and am instinctively opposed to it. Is it right that a tenant can farm in a way contrary to a landlord's wishes—indeed, to what the tenant and landlord have agreed in the lease—that could result in a coincidental increased value for which the landlord must provide compensation? If that is the case, is legislation in this area really necessary? The provision appears to remove any flexibility from the arrangements for compensation. I would be grateful if the minister would clarify those points.

Ross Finnie: Amendment 82 must be read as a whole. The first part of amendment 82 does exactly what I have described. It inserts in the bill the definition of improvements that we agreed needed to be included and that is set out in schedule 5 to the 1991 act. Paragraph (b) of the

new subsection inserted by amendment 82 relates to that.

Alex Fergusson is puzzled by the amendment, but I am puzzled by his comments. Paragraph (b) refers to

“the continuous adoption by the tenant of a standard of farming or a system ... more beneficial to the land than the standard or system required by the lease or, in so far as no system of farming is so required, than the system of farming normally practised on comparable agricultural land”.

That must be read in the context of paragraph (a) of the new subsection, which introduces the standard that is set in schedule 5 to the 1991 act. Given that there has been no disputation about that standard, its application is perfectly reasonable and does not give rise to the problem that Mr Fergusson perceives. I hope that that addresses his point.

Amendment 59 agreed to.

Amendment 60 moved—[Ross Finnie]—and agreed to.

Section 10—Increase in rent: landlord's improvements

Amendment 61 moved—[Ross Finnie]—and agreed to.

After section 11

The Deputy Presiding Officer (Mr Murray Tosh): We come to group 10, on the landlord's obligations on fixed equipment. Amendment 62 is grouped with amendments 63, 64, 64A, 16, 89, 90, 137, 100, 100A, 29, 30, 101, 128 and 131. If amendment 64 is agreed to, I will not be able to call amendment 16, on the basis of pre-emption.

Allan Wilson: This is a large group of amendments. I will endeavour to be as quick as I can, but it will take time to work through the group.

The Rural Development Committee made clear at stage 2 its concerns that tenants should be able to ensure that landlords fulfil their obligations under the terms of an agricultural lease statute or common law. As we explained then, a range of remedies will be available in instances where a landlord has failed to comply with a decree of the Land Court. I make it clear that a tenant can obtain those remedies in the Land Court rather than in the sheriff court.

Nonetheless, given the attention that was paid to the subject at stage 2, we have developed a new enforcement option, which is targeted at the specific issue that concerned committee members at stage 2—that is, non-compliance with a decree of specific implement or order ad factum praestandum in relation to the landlord's obligations in respect of fixed equipment. Amendments 62 and 101 provide for that.

Where the landlord has failed to comply with such an obligation within the time period ordered by the Land Court, the tenant will be able to apply to the Land Court for authority to carry out the works necessary to do so. The Land Court will also have the power to authorise the tenant to consign rent payments with the court, instead of paying them to the landlord. With the court's authority, the tenant can then use the consigned funds to pay for the reasonable costs of the corrective action. The landlord can apply to the Land Court to have the order terminated, but in considering such an application, the court must take into account whether any remaining works require to be done and whether the tenant has been reimbursed for the expenses incurred.

On terminating the order, the court will divide any remaining funds between the tenant and the landlord as it considers equitable. In order that the remedy will be available to all tenants, irrespective of the terms of the lease, any attempt to contract out of the provisions will be of no effect. In addition, the tenant's exercise of the remedy will not trigger irritancy of the lease.

Amendment 128 amends the power of the Land Court to grant orders of specific implement or orders ad factum praestandum, so as to require the court to set a date by which the order must be complied with. Landlords who attempt genuinely to comply with the court order are not penalised by the scheme. Where it can be demonstrated to the court that the landlord intends to comply, but requires more time to do so, the landlord can obtain an extension from the court.

Throughout stage 2, we made it clear that any power for the tenant or court against a recalcitrant landlord should maximise the prospects of the tenant's getting the necessary works to the land and buildings undertaken and, equally important, should be accessible to tenants regardless of their means. We believe that the new option meets both those objectives. As I said in our various debates on the subject at stage 2, that could not be said for simply allowing the tenant to withhold rent or allowing the Land Court to give the tenant a right to buy from the landlord.

Members of the Rural Development Committee will remember that I undertook at stage 2 to consider the impact of an amendment that was lodged by John Farquhar Munro to delete section 15(3). As it stands, section 15(3) deems that the tenant accepts the condition and suitability of fixed equipment when an LDT or SLDT is entered into, but that clashes with the terms of section 5(2) of the 1991 act, which is applied by virtue of section 15(4).

Section 5(2)(a) of the 1991 act requires the landlord to put fixed equipment into a thorough state of repair at the start of the tenancy or as

soon as is reasonably practicable thereafter. As it stands, section 15(3) requires the tenant to accept the condition of the fixed equipment, even though the landlord might not yet have put the fixed equipment into the said thorough state of repair.

The NFUS and the Scottish Landowners Federation both accept the need for adjustment to be made to section 15. However, they had hoped that a way could be found to maintain the principle, for the purposes of certainty, that neither party should be encouraged to question the standard of the fixed equipment at the start of the lease if a dispute arises later during the term of the tenancy.

Having given further thought to all that, I believe that the principle cannot be retained without cutting across the landlord's obligation under section 5(2)(a) of the 1991 act. As a result, amendment 64 will delete section 15(3). The effect of the change is that the landlord's duty to put the fixed equipment into a thorough state of repair at the start of the tenancy, or as soon as is reasonably practicable thereafter, is maintained. The opportunity is also then taken to reflect sections 5(2) and 5(4) of the 1991 act in the bill, rather than by simple indirect reference.

Amendment 100 provides an outcome in relation to the concern that was expressed by tenants on the use of terms in post-lease agreements to transfer responsibility for renewing fixed equipment from landlords to tenants. As we stated at the Rural Development Committee on day 2 of stage 2, we were unable, because of the time available, to provide for an amendment in that respect at stage 2, but we undertook to lodge such an amendment at stage 3. The repeal of section 5(3) of the 1991 act, allowing future use of such terms, is therefore moved to this provision from part 4 of the bill.

Although the agreement refers only to barring terms that prohibit transfer of responsibility for work from landlord to tenant, we believe that it is within the spirit of the industry agreement for terms that make the tenant liable for expenses incurred to the landlord in fulfilment of the responsibilities also to be debarred. Amendment 100 does that. Amendment 100 also adopts the agreed industry approach that the tenant should have a unilateral right to revoke the terms in bringing the land either into a reasonable state of repair or to a standard no less than when they assumed responsibility. If it could be argued that the standard was not reasonable, they bring it into a reasonable state of repair.

Fergus Ewing's amendment 29 has a similar effect to amendment 100. On that basis, I hope that he will feel able not to move his amendment.

Stewart Stevenson (Banff and Buchan) (SNP) *indicated agreement.*

Allan Wilson: Amendment 100 is more detailed and protects tenants' interests more effectively in certain ways. I will cut out some of what I was going to say about amendment 100.

Fergus Ewing has also lodged amendments 64A and 100A, which aim to make the landlord responsible for provision, improvement, replacement and renewal of fixed equipment as may be required by any enactment, not just of agricultural holdings legislation. We cannot accept that principle. Surely it is for the Parliament to decide, on a statute by statute basis, the persons on whom it will place such responsibility. It would not be the job of this bill to determine that.

Stewart Stevenson: Just in case I misled the minister, I confirm that we will not proceed with amendments 29 and 30.

Allan Wilson: That is fine.

Amendment 89 fulfils part of the industry agreement about the payment of compensation at waygo to a tenant for improvements. In respect of existing agreements, the general position is that the statutory compensation formula should override the terms of a write-down agreement where the improvement was one that the landlord should have carried out under his or her section 5(2) duty. Section 37A provides for that. However, as I signalled to the Rural Development Committee at stage 2, the industry forum agreed that regard should be had to the terms of the write-down agreement where, and to the extent that, the improvement went beyond the section 5(2) responsibility. Amendment 89 gives effect to that agreement.

Amendment 90 deletes the repeal of section 5(3) of the 1991 act, which is moved from part 4, on compensation under agricultural tenancies, into part 5, on miscellaneous amendments to the 1991 act, by virtue of amendment 100.

We believe that amendment 16 is unnecessary, given that the terms of section 15 were closely scrutinised by the industry forum in deciding on the landlord's duties under section 5(2) of the 1991 act. Fergus Ewing's amendment 137 is also unnecessary, given that the write-down agreements that are entered into in the future to which the amendment refers would be outlawed by amendment 100.

I move amendment 62.

11:00

Fergus Ewing: I will refer briefly to amendment 62, which deals with the new remedy for the tenant of retaining rent where the Land Court has held that the landlord is in breach of his obligations. My colleague Richard Lochhead pressed that at stage 2, when he argued for a right of retention as a remedy.

I welcome amendment 62, and the SNP will support it, but I wonder whether the minister, in his closing remarks—or now if he wishes—could clarify one important point. The new remedy will apply only where the landlord has been declared legally to be in breach of his obligations by the Land Court. That means that the tenant has to make an application to the Land Court, which will involve an element of expense and delay. In the case of *Alexander v the Royal Hotel (Caithness) Ltd*, Lord Gill found in favour of the tenant. I referred to that during stage 2, at column 4090 of the *Official Report* of the Rural Development Committee. Lord Gill stated:

“when a tenant defends an action for payment of rent by asserting a right of retention, his liability for payment of the rent is not in issue but is on the contrary admitted. All that he is doing is inviting the court to exercise in his favour the discretionary equitable power”.

Under common law, the tenant has a recognised right to withhold rent. That right exists before it has been judicially declared by a court. If a landlord is not fulfilling his part of the bargain, the tenant is entitled not to fulfil his part of the bargain in exchange. Does that common law position remain in force, or will it be in any way diluted or amended by amendment 62?

My amendments 64A and 100A bring us to the important topic of slurry towers. The amendments relate to dairy farmers who are required by enactments of law to purchase and have constructed slurry towers. That may be because the farms are located in nitrate vulnerable zones, or because of other requirements in relation to purity of water. I understand that current practice is that the tenant farmer almost always has to pay the cost of the slurry tower, and that there may or may not be a grant of up to 40 per cent. That law is already in force. There is no provision, as I understand it, that the landlord must make a contribution towards meeting that cost. However, I believe that under section 5(2) of the 1991 act, the landlord may already be under a legal duty to provide that as fixed equipment in the sector in which the farmer is farming—in this case, the dairy sector. I am not sure that that has been judicially considered and determined; the practice is that the tenant, not the landlord, meets the burden.

The effect of amendments 64A and 100A would be to make it clear that the landlord must pay for the costs that are required because of our commitment to environmental standards. I would welcome the minister's comments on that serious issue. I gather that my colleague Stewart Stevenson will make further reference to the matter.

My other amendments—29, 30 and 137—were lodged before the Executive amendments were lodged. They were designed to achieve the

purposes that the minister has described; I will therefore not move them.

Murdo Fraser: My colleague Alex Fergusson will address in more detail the amendments in the group. In the light of what will be substantive changes to the wording of section 15, it is not my intention to move amendment 16.

Alex Fergusson: With this group of amendments, we start to get to the nitty-gritty of the bill. Within the group there are examples of what I believe to be the best, and the worst, amendments that are before us today.

Amendment 62 is a good example of a productive and progressive amendment. Some members might be surprised by my saying that, because the amendment paves the way for a tenant being able to withhold payment of rent. However, given that the circumstances that would allow him or her to do that would arise only when the landlord had breached an instruction to remedy, the amendment seems reasonable and fair. I understand that any rent so withheld would be paid into the Land Court, which might subsequently repay the tenant for work carried out by him or her that the landlord should have done. Given that—[*Interruption.*]

The Deputy Presiding Officer: Please put your microphone back in place and continue.

Alex Fergusson: Given that that would be work that the landlord was obligated to undertake, we will not oppose the amendment—if the machinery bears with me.

Ross Finnie: What does Alex Fergusson do when he opposes an amendment?

Alex Fergusson: The minister will find out shortly.

Amendment 64A is one of the poorer amendments to the bill. It would require the landlord to fund the entire cost of any improvements, which might be brought about even by future changes in legislation—about which more will be said later—irrespective of any alteration in either the purpose or period of time for which the holding is let. I also have considerable difficulties in accepting amendment 64, despite the fact that it is in accordance with the consensus that was achieved by the stakeholders working party, which has worked hard to achieve consensus on a number of contentious issues that relate to the bill.

My difficulties with amendment 64 stem from the fact that I believe that it will increase the cost of tenancies and the amount of rent that is paid under any new tenancies that are entered into. That would contravene the bill's stated aim of reinvigorating the tenanted sector; the Conservative party very much welcomes that aim,

but we do not believe that the bill will achieve it. We will resist any amendments that will, in effect, make tenancies in the future more exclusive.

Amendment 64 would also militate against circumstances in which a person is keen to let land on which the fixed equipment has, for one reason or another, become less than perfect, but where there is a perfectly willing prospective tenant—perhaps a neighbour who wants to expand. I cannot see the landowner being willing to let such a property if the amendment is passed. I therefore view the amendment as overly restrictive, because it will tend to reduce the amount of land available for rent, rather than increasing it as we should be trying to do.

We welcome amendment 62, which is fair and reasonable, but we will oppose amendments 64, 64A, 137, 100, 100A, 29 and 30 as being exclusive and against the reforming principle, which the bill purports to embody.

Stewart Stevenson: I draw members' attention to the fact that I have a three-acre field, which is let at no consideration to a local hill farmer. I understand that if I did get a rent, it would be £15 a year, so it is hardly worth collecting.

I speak in support of amendments 64A and 100A. It is always interesting what one discovers when one gets into technical areas. I did not know previously that a dairy cow could produce 10 gallons of slurry per day. With the introduction of new regulations on nitrate vulnerable zones, the amount of slurry that can be stored on a dairy farm over the winter is substantial. That creates a pungent argument for amendments 64A and 100A.

Members may recall that we debated at stage 2 an amendment that would have permitted the Land Court—after due warning and in the most extreme circumstances—to grant to the tenant the right to buy their property when the landlord's behaviour had become entirely unreasonable. I regret that Parliament has not progressed with that proposal; it was clear that there was not support for it at stage 2, so we have not brought it back at stage 3. Nonetheless, amendments 64 and 100 represent substantial moves forward and we very much welcome them.

However, a practical difficulty remains; I return to the slurry towers and the pungent arguments. The cost of those towers is likely to be substantial, even after the provision of grants, and it may well be that even if rent is withheld, or rather consigned to the courts—so the tenant is still paying it—it may take some time to cover the capital cost of providing new slurry towers.

Nonetheless, amendments 64 and 100 are welcome. Many farmers in my constituency will experience substantial costs in the nitrate

vulnerable zones along the Moray firth; my colleague Margaret Ewing will be in a similar position in her constituency. We are happy to support the amendments.

George Lyon: I speak in support of the Executive amendments, which go to the heart of the bill.

The good work that was done by the Scottish Tenant Farmers Action Group in lobbying for the changes has been listened to by ministers, who have responded to concerns that were raised by the Rural Development Committee at stage 2. I welcome the amendments that have been lodged at stage 3. Clearly, ending the abuse of contracting out through post-lease agreements and write-down agreements is fundamental to improving the lot of tenant farmers in Scotland.

Let me give an example of the write-down agreements that are currently in force on my estate. Before erecting a £50,000 shed, the tenant must seek permission from the landlord that the improvement can go ahead. One of the conditions for getting the landlord's agreement is to sign a write-down agreement. The write-down agreement—of which I have many examples that I could show members—says clearly that the value of the shed is to be written down over 10 years and that, at the end of that period, the landlord will take ownership of the shed for the sum of £1 and then seek a rent review of the property that is now his, which is the shed that the tenant has constructed.

That is how the iniquity of write-down agreements has left tenant farmers in the difficult position of having to make decisions on whether to make improvements. They have been faced with investing huge capital sums that would be subsequently written down much faster than the real value of the building. Tenants have also found themselves having to pay rent on those improvements at the end of the 10 years. That is an utterly outrageous abuse of the Agricultural Holdings (Scotland) Act 1991.

Post-lease agreements are another example of how landlords have invalidated the whole of the 1991 act. Under post-lease agreements, before the tenant can enter into an agreement for an extra bit of land, the tenant is required to sign an agreement that results in the tenant being left to carry responsibility to repair and renew the property. Post-lease agreements have allowed landlords to contract out to the tenant all their responsibilities under the 1991 act. I am delighted that the minister has responded so well to the proddings and lobbying of the Scottish Tenant Farmers Action Group on that issue.

The third, and most important, issue that I want to mention is that tenants will at long last have the

power of redress. We will now be able to go to the Land Court and withhold rent if the landowner refuses to make the farm fit for purpose. Clearly, it would be outrageous if public sector organisations such as housing associations or councils could contract out of their legislative duties and let flats that were not fit for purpose. The same principle should surely apply to the renting out of agricultural land.

Fergus Ewing posed a good question about the Scottish Environment Protection Agency's requirements on farmers to make improvements for the purposes of pollution control. Will the minister confirm that, under section 5 of the Agricultural Holdings (Scotland) Act 1991, "fixed equipment" will include pollution control measures such as slurry towers? At the moment, the provision of such buildings is the single biggest investment that tenant farmers are faced with. Such improvements are on-going because the requirements—whether they come from the bathing water directive or the recently passed Water Environment and Water Services (Scotland) Bill—are becoming ever tighter. The pressure will be on to improve the collection and control of slurry and effluent produced on farms. I ask the minister to address that fundamental issue when he winds up and to respond to the very good question that was asked by Fergus Ewing.

Mr Rumbles: At stage 2, the issues relating to this group of amendments caused us some concern, so I am absolutely delighted that the Scottish Executive has decided to put the details on the face of the bill.

Fergus Ewing pointed out that the common law already provides tenants with a right to withdraw rent, but I believe that it is an important principle that, on such a fundamental issue, the Scottish Parliament should decide what is in the law rather than leave it to the interpretation of the courts. I am delighted that the ministers have lodged amendments 62 and 64.

At stage 2, we asked what powers the Scottish Land Court would have. Amendment 62 states clearly that the Land Court has the power to authorise the tenant to carry out such work as the landlord is supposed to carry out. More important, amendment 62 will also provide in the bill a right for tenants to withhold payment of the rent payable to the landlord, provided that the tenant pays that money to the Land Court.

Alex Fergusson commented that the stakeholders group agreed with amendment 64, which the group thought was important. I, too, think that amendment 64 is important. The amendment requires that the landlord will

"at the commencement of the tenancy or as soon as is reasonably practicable thereafter, put the fixed equipment on the land into a thorough state of repair and will provide

such buildings and other fixed equipment as will enable an occupier reasonably skilled in husbandry to maintain efficient production".

That is what amendment 64 is all about, so I was astounded to hear Alex Fergusson say that the Tories will not support it. We want a sustainable economy in rural Scotland. We want our tenant farmers to have the fixed equipment on their land in a thorough state of repair.

11:15

Alex Fergusson: Does Mike Rumbles acknowledge that the situation to which I referred—albeit a hypothetical situation in the context of this debate—could, and perhaps does, exist? Of course everybody wants the fixed equipment to be in good working order, but there are conditions. Not all landlords are loaded—as some members would have us believe—and not all fixed equipment on farms is in tip-top condition. Does not the member agree that amendment 64, if it were agreed to, would restrict the amount of land that could come on to the market for let?

Mr Rumbles: I do not agree at all. Alex Fergusson says that not all landowners are loaded; of course they are not. People from other parts of the political spectrum have a go at landowners as if they were all bad, but not all landlords are bad either. We need a balance.

We must be focused on sustainable development in rural Scotland and on getting the best out of our tenant farms. Amendment 64 makes it absolutely clear that the fixed equipment must be in a thorough state of repair. We want to end this business of dilapidation, but that is exactly what we would have if amendment 64 were thrown out, as the Tories desire. Many of our tenant farms would continue to have dilapidated equipment and dilapidated holdings generally. Amendment 64 is an excellent amendment, and I am disappointed that the Conservatives do not recognise that. Given the fact that the Scottish Landowners Federation and all the stakeholders want the amendment, for goodness' sake why do the Tories oppose it?

Allan Wilson: Mr Rumbles is disappointed, but he should not be surprised at the Conservatives' intransigence. As George Lyon said, the amendments in this group will give effect to the aims and objectives of the bill, which are to transfer power back to the tenant and redress the imbalance between the landlord and the tenant that was introduced by the Conservatives in 1991. That is why the Conservatives oppose amendment 64.

On amendment 64A, let me simply reiterate that responsibility for carrying out and paying for statutory improvements is, and will continue to be,

set out in each of the relevant statutes. I see that Fergus Ewing shakes his head, but he may wish to know that the representatives of the Scottish Tenant Farmers Action Group, whom I met last week, have acknowledged that a tenant should have a duty to pay rent based on any increase in the value of a farm from such improvements. That dialogue is continuing.

On Fergus Ewing's substantive point about common-law rights, amendment 100 very much reflects my personal view—as he knows, I took a personal interest in the matter—about how we should redress the imbalances. A common-law right to withdraw rent exists but it is not absolute. The landlord's breach must be material and, without a court action, the tenant must make a judgment—as we discussed at length at stage 2—on whether that right exists. The tenant risks potential exposure to the claim of irritancy if he gets it wrong. Common-law rights, therefore, are not affected by amendment 100.

Amendment 100 adds a new right, which cannot then be contracted out of, to withhold rent. The amendment will build on the tenant's common-law rights and give succour and support to tenants, because—as we discussed at stage 2—many existing leases contract out of the common-law right to which Fergus Ewing referred and by which he set so much store. Amendment 100 will build on those common-law rights and provide an absolute right from which there can be no contracting out.

Schedule 5 to the 1991 act does not make tenants responsible for slurry towers. Its purpose is to list the types of improvement that a tenant can choose to make and receive compensation for. The 1991 act imposes no objection about slurry towers.

We have had a great debate about the rights and responsibilities of tenants and landlords. We have also talked about remedies and the Land Court and there was a suggestion that the Land Court does not have the range of remedies available to it to enforce its will and to ensure that tenants get justice. We asked Lord McGhie, the chairman of the Land Court, to advise on those issues. He has advised that, to date, the Land Court has not had to have recourse to the provision because parties have complied with the court's orders as far as he is aware; there has been no requirement for sheriff courts to raise a case against a so-called recalcitrant landlord who has failed to act.

Nevertheless, we have added a new weapon to our existing armoury, as we were asked to do. That weapon is targeted on non-compliance and the recalcitrant landlord, whether or not he is a mythical figure. We have made provision to slay the mythical beast. Amendment 62 gives added

power to the Land Court's existing armoury and so it should be welcomed by all parties, even the Tories, who I am sure would not want to side with recalcitrant landlords.

Amendment 62 agreed to.

Section 12—Written leases and the revision of certain leases

Amendment 63 moved—[Allan Wilson]—and agreed to.

Section 15—Fixed equipment

Amendment 64 moved—[Allan Wilson].

Amendment 64A moved—[Fergus Ewing].

The Deputy Presiding Officer: The question is, that amendment 64A be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)

Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 22, Against 72, Abstentions 0.

Amendment 64A disagreed to.

The Deputy Presiding Officer: The question is, that amendment 64 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 80, Against 12, Abstentions 0.

Amendment 64 agreed to.

The Deputy Presiding Officer: Amendment 16 is pre-empted, so we move to group 11.

Section 16—Resumption of land by landlord

The Deputy Presiding Officer: Amendment 65 is grouped with amendment 66.

Ross Finnie: At stage 2 we undertook, in response to a number of concerns that were raised by tenants, to return at stage 3 with amendments that would cover outstanding action to implement the industry-wide agreement. One of the key concerns that was raised recently by tenant groups related to tenants' ability to prevent a notice to quit when the landlord intends to take land back for non-agricultural purposes. Amendments that had cross-industry support were introduced at stage 2 in relation to 1991 act tenancies.

Amendment 66 will introduce parallel changes with respect to SLDTs and LDTs. The effect will be that a landlord of a SLDT or LDT will be able to resume tenant land for a non-agricultural purpose only where that purpose requires planning permission and such planning permission has been obtained. Amendment 65 will clarify that those are the only circumstances in which land can be resumed. Section 16(1)(b) will allow the parties to contract out of section 16 so that resumption would not be allowed even where the landlord required and obtained planning permission for a non-agricultural purpose.

I move amendment 65.

Alex Fergusson: Despite what the minister said, I seek further clarification as to why the word "if" needs to be followed by the words "and only if"; I remain unconvinced that they are necessary. It is entirely clear to me that the landlord may resume land if the resumption is for a non-agricultural purpose. To state that the landlord may resume land "if, and only if" that resumption is for a non-agricultural purpose seems to be unnecessarily prescriptive and somewhat irrelevant. I am prepared to be persuaded otherwise, but I am currently unconvinced about the necessity for amendment 65.

Ross Finnie: I am sorry—I disagree with Mr Fergusson. We wanted to be absolutely clear that we are dealing with a situation in which a landlord may resume land only if he has planning permission to use it for a non-agricultural purpose. Amendment 65 will make that clear. Amendments 65 and 66 will introduce parallel changes to SLDTs and LDTs and amendment 65 will clarify the only circumstances in which land can be resumed.

Amendment 65 agreed to.

Amendment 66 moved—[Ross Finnie]—and agreed to.

Section 17—Irritancy of lease and good husbandry

The Deputy Presiding Officer: Amendment 67 is grouped with amendment 102.

Allan Wilson: At stage 2, the Rural Development Committee accepted amendments from my colleague, John Farquhar Munro, that would prevent the eviction of a tenant through irritancy for non-residence on the farm. I undertook to lodge further amendments to reflect landlords' legitimate interests. Amendments 67 and 102 seek to tidy up that issue.

From discussions that officials have had with the industry since stage 2, it is apparent that tenants' main concern is that such grounds used for irritancy would prevent tenants from making another person responsible for the farm in their stead. That is reflected in a case that John Farquhar Munro cited at stage 2 where a son faced losing succession to a tenancy because his father had broken the residency clause by having to spend his declining years in a Kirk Care Housing Association Ltd home. Landlords argue that they have used the condition to ensure that the tenant is able to exercise proper standards of husbandry, animal welfare and security, which are legitimate objectives.

Amendment 102 seeks to amend section 54A. It applies to existing 1991 act leases and to any new 1991 act leases that are entered into after the bill comes into force, and which include a term that

would enable a landlord to irritate the lease owing to a tenant's non-residency on the farm. The amendment's effect would be to replace such terms with a more general obligation for the tenant to ensure that someone with suitable skills and experience resides on the holding in their stead. That should give tenants the freedom they have asked for and it should enable landlords to use if necessary any such irritancy term, but in a responsible way that reflects their legitimate interests.

We have lodged separate amendments to section 54B, which will be discussed later and which will allow tenants who have 1991 act tenancies to assign their interest to a member of their family. We will come to that in due course.

The Scottish Law Commission is reviewing the law of irritancy in leases of land as part of its "Sixth Programme of Law Reform 2000-04"; the review includes irritancy of agricultural leases. The commission's discussion paper on the issue—number 117—was published in October 2001 and I am reliably informed that the commission is on schedule to submit its report to the Scottish ministers in the first half of 2003.

Amendment 67 will provide that any term of an SLDT or LDT that provides for the lease to be irritated solely on the ground of a tenant's non-residence will be of no effect. The amendment will not incorporate into such leases a term that will require non-resident tenants to ensure that a suitably qualified person resides on the farm simply because no such leases will be entered into until after the bill comes into force. As the parties will know that a term that requires the tenant to be resident will be of no effect at that point they may, *inter alia*, make other contractual agreements.

I move amendment 67.

11:30

Fergus Ewing: The minister's latter remarks have clarified the difference between amendments 67 and 102, which is accepted. We will support both amendments.

George Lyon: I would like clarification of amendment 102, which will allow tenants to live away from a farm provided that they

"ensure that a person who has the skills and experience necessary to farm the holding in accordance with the rules of good husbandry resides on the holding."

Given that one general objective of the bill is to encourage diversification, is not amendment 102 too restrictive in requiring tenants to put a farm worker or farm manager into the house? The tenant might have decided to buy a house and might wish to use the farmhouse for other purposes. Should we be so restrictive? If the

minister wants to encourage diversification, he should not move amendment 102.

Mr Rumbles: I take issue with the Executive on amendment 102. At stage 2, the Rural Development Committee removed the requirement on tenant farmers to live in the house on the farm. We did so on the ground that, as George Lyon suggested, removal of that requirement would aid diversification and increase personal choice in the 21st century. In his summing up, I want the minister to convince me one way or the other on the issue. Should not the test be whether the tenant farmer's job is done appropriately and whether the land is farmed properly? The issue should not be about where the tenant farmer lives. What would happen if a tenant farmer moved out because of a problem at home, but his wife was not capable of running the farm? In that situation, the farmer would have to find somebody to manage the farm. The situation could result in the farmer being thrown out of his lease.

Allan Wilson: As I said, amendment 102 reflects agreement in the industry and takes on board John Farquhar Munro's point that non-residency should not be sufficient ground for irritancy. The proposal also takes into account landlords' legitimate interest in the good husbandry of agricultural holdings. Regardless of the diversification of a holding in the course of a tenancy, the property will revert to agricultural usage thereafter. Amendment 102 will build on the skills base of the farmer, as implied by diversification, and will ensure that the basic skills of good husbandry remain. The amendment will maintain the landlord's legitimate interest in the future agricultural usage of the land, while ensuring that the lease cannot be irritated as a consequence of simple non-residence.

Mr Rumbles: Surely, in the 21st century, we should not dictate where people live. The only test should be whether the farm is managed properly.

Allan Wilson: Indeed. The legitimate test that the landlord will apply is whether the tenant has for sound agricultural reasons placed a suitably skilled person in the property. On the question of telling people where to live, amendment 102 will address some of the issues of rural depopulation that were mentioned at stage 2 and will give new impetus to repopulation in rural areas and diversification of agricultural holdings.

Amendment 67 agreed to.

Amendments 68 and 69 moved—[Allan Wilson]—and agreed to.

Section 19—Section 16 of the Succession (Scotland) Act 1964

The Deputy Presiding Officer: Group 13 is on the transfer of interests in a tenancy to a legatee

or successor. Amendment 17 is grouped with amendments 18, 19, 70, 20, and 71.

Murdo Fraser: Sections 19 and 20 deal with the technical issues of succession to leases. Amendments 17 to 20, which originate from the Law Society of Scotland, seek to provide clarity in the bill's treatment of those issues.

Amendment 17 would allow executors to transfer SLDTs only to one of the deceased tenant's intestate heirs. The reason for that is that SLDTs are short and, under section 6(1), are not assignable. To permit the executor to assign to any person would give him powers that the tenant did not have in life. Surely such powers would conflict with the personal nature of SLDTs and with the approach that has been taken elsewhere in the bill.

Amendment 18 would delete the proposed new section 16(4E) in the Succession (Scotland) Act 1964, which raises the issue of the termination being in the best interests of the deceased's estate. The Law Society's view is that an executor is under a general duty to act in the best interests of the beneficiaries of the estate and that, if he does not do so, he will be personally liable for damages to the beneficiaries. That matter is purely between the beneficiaries of the estate and the executor.

New section 16(4E) of the 1964 act would introduce into the relationship with the landlord domestic issues that relate to the deceased tenant's estate, but surely those issues are not the landlord's concern. If the landlord receives notification from the executor of the termination of the lease, or of his acquisition of the lease from the acquirer following a transfer from the executor, the landlord should be able to rely on that and should not subsequently find that it might be invalidated because of a dispute among the tenant's heirs. Amendment 18 seeks to clarify the bill on that important point of law.

Amendment 19 would ensure that the grounds of objection to a proposed legatee of a limited duration tenancy are the same as those for an objection to a proposed assignee. The reason for that is that a legacy is a form of assignation. Because the tenant of an LDT has a qualified right to assign, it is right that the basis on which a legatee is or is not recognised as a successor tenant should be the same as for any other assignee, particularly given that the right of assignation is at large and is not confined to members of the family. Amendment 20 deals with the same point in relation to section 21.

We have no difficulties with Executive amendments 70 and 71.

I move amendment 17.

Ross Finnie: I read Murdo Fraser's amendments carefully and I listened to the arguments that he adduced, but I am unable to support his amendments.

Section 19 of the bill provides that, where a tenant of an SLDT or an LDT dies without leaving a will; or a bequest of the lease is rejected; or the Land Court, on upholding an objection by the landlord to the person to whom the lease was bequested, declares the bequest to be null and void, the executor—notwithstanding any term of the lease prohibiting assignation—may assign the lease to a member of the deceased's near family or to "any other person". A member of the deceased's near family is defined as any person who is

"entitled to succeed to the deceased's intestate estate"

under the Succession (Scotland) Act 1964.

Amendment 17 would restrict the application of new section 16(4B)(b) of the 1964 act to LDTs. Under amendment 17, although an executor would be able to assign SLDTs and LDTs to a member of the near family of the late tenant, in the circumstances that I have just described, only LDTs could also be assigned to "any other person". We see no reason in principle why a right to assign SLDTs on death should not be available to benefit the estate of a deceased tenant.

Amendment 18 would delete subsection (4E), supposedly because that subsection would introduce into the relationship with the landlord domestic issues that related to the deceased tenant's estate, which should not be concerns of the landlord. We believe that the provision in subsection (4E) is valuable. It reflects the tension that can emerge from the interrelationship between the laws of agricultural holdings and the laws of succession. It clarifies that the executor's duty remains directed to the estate, regardless of the existence of the landlord. The provision is important in signalling to the courts that, in any case in which conflict arises, greater weight is placed on the executor's duty to operate to the benefit of the deceased tenant's estate. It also builds on the executor's duties under the Succession (Scotland) Act 1964.

The argument behind Murdo Fraser's amendments 19 and 20 is that a person to whom a lease that constitutes an SLDT or an LDT is bequested should be treated as a kind of assignee and that a landlord's objections to such an acquirer should be restricted to the same grounds on which he may withhold consent to an assignation in life. We disagree with that. The assignation rights for the executor are based on those for an executor who transfers the interest of a deceased tenant under a 1991 act tenancy. In that situation, that is a more appropriate parallel than the assignation of LDTs by living tenants.

Section 7 of the bill, which deals with a tenant's right to assign their interest in a limited duration tenancy, allows the landlord either to challenge a proposed assignee on the basis of their qualities to work the land, or to acquire the interest. Section 19 of the bill will amend the Succession (Scotland) Act 1964 to enable the executor to assign the deceased tenant's interest in an SLDT or an LDT to a near family member—any person who could succeed to the late tenant's property on intestacy under the Succession (Scotland) Act 1964—or to “any other person”. As the bill stands, the landlord can challenge the proposed assignee on the basis of that person's capabilities as a tenant farmer, but cannot acquire the deceased tenant's interest in the tenancy.

Amendments 70 and 71 address that issue. They seek to allow the landlord to acquire the tenant's interest. It is important that that right will be available only when the proposed assignee is not a near family member—in other words, when it is someone who could not succeed to the late tenant's property on intestacy. That will ensure that succession rights are not affected.

Amendments 70 and 71 will build in landlords' rights without impacting on the rights of the deceased tenant's family. Indeed, being able to assign the interest straight back to the landlord could assist the executor in concluding affairs relatively quickly in situations in which a family successor to the tenancy cannot be found.

Murdo Fraser: I listened with great interest to the minister's comments. Although I understand the arguments that he makes, I feel that amendments 17, 18, 19 and 20, which originally came from the Law Society of Scotland, would make the law work better. Therefore, it is my intention to press the amendments.

11:45

The Deputy Presiding Officer: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scott, John (Ayr) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)

Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)

Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 8, Against 81, Abstentions 0.

Amendment 17 disagreed to.

Amendment 18 moved—[Murdo Fraser].

The Deputy Presiding Officer: The question is, that amendment 18 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)

Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 12, Against 78, Abstentions 0.

Amendment 18 disagreed to.

Section 20—Bequest of lease

Amendment 19 moved—[Murdo Fraser].

The Deputy Presiding Officer: The question is, that amendment 19 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)

Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)

Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 11, Against 82, Abstentions 0.

Amendment 19 disagreed to.

Section 21—Right of landlord to object to acquirer of tenancy

Amendment 70 moved—[Ross Finnie]—and agreed to.

Amendment 20 moved—[Murdo Fraser].

The Deputy Presiding Officer: The question is, that amendment 20 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)

Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)

Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 11, Against 84, Abstentions 0.

Amendment 20 disagreed to.

Amendment 71 moved—[Ross Finnie].

The Deputy Presiding Officer: The question is, that amendment 71 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
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 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)

Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 74, Against 21, Abstentions 0.

Amendment 71 agreed to.

Section 26—Transfers not requiring notice

The Deputy Presiding Officer: Amendment 72 is in a group on its own.

Allan Wilson: Amendment 72 replicates an amendment that was lodged during stage 3 of the Land Reform (Scotland) Bill. As drafted, the bill would trigger a right to buy where land was transferred on separation from one spouse to another as part of the fair sharing of matrimonial assets. If, however, such a transfer were ordered by the court in an action of divorce, it would fall within section 26(1)(c) and would not trigger a right to buy.

Public policy is obviously aimed towards encouraging spouses to agree wherever possible to fair sharing of their matrimonial assets on separation. Amendment 72 will allow parties to reach such agreement, rather than force them to seek in a divorce action an order for the transfer of land. That is something that one would obviously not want to do at such a period of personal stress to the individuals concerned. We do not want restrictive pressures in section 26 to get in the way of people who are in that unfortunate circumstance negotiating a fair and equitable distribution of their assets in a divorce settlement. Amendment 72 will, therefore, allow for transfer of property between spouses on separation to be excluded from triggering the right to buy under part 2 of the bill. The amendment also mirrors an amendment that was lodged on the previous occasion on which we discussed land reform.

I move amendment 72.

Amendment 72 agreed to.

Section 27—Right to buy

The Deputy Presiding Officer: Amendment 73 is grouped with amendments 21 and 74.

Ross Finnie: Amendment 73 clarifies that a tenant's right to buy exists when their interest in acquiring the land is registered at that particular point in time. I have looked at amendment 21, and I note Murdo Fraser's apparent concern—if I have understood his position—that the inclusion of the subsection might make it difficult for the landlord to enter into free discussions about a possible sale. He clearly believes that amendment 21 is required to address that problem.

I assure Murdo Fraser that part 2 of the bill does not commit the landlord to sell land to a sitting tenant simply because they have entered into negotiations with a third party. A landlord who does not want to sell land, even after having entered into discussions with a third party, will not be compelled to sell against their will. The tenant can exercise the right to buy against the third party purchaser only if and when the selling landlord has sold the land without giving the tenant the statutory opportunity to exercise the right to buy—a right that is provided by virtue of section 28(3). I fail to see how there can be any risk of a breach of article 10 of the European convention on human rights.

We must also ensure that the statutory right-to-buy process can operate smoothly for the benefit of both landlord and tenant. It is important that any undertaking that could reasonably result in the transfer of land should trigger the right-to-buy process. That will enable the tenant to take the necessary preparatory steps to ensure that the exercise of the right to buy does not unduly slow

down the sale process. That is a feature of part 2 of the Land Reform (Scotland) Act 2003. It is also worth highlighting the fact that neither ministers nor officials have received expressions of concern from landlord representatives on the issue. For all those reasons, I urge Murdo Fraser not to move amendment 21.

The National Farmers Union of Scotland and the Scottish Tenant Farmers Action Group asked that the period of time that tenants have to indicate whether they intend to exercise the right to buy be increased from 14 to 28 days after receiving notice of the landlord's intention to transfer the land. We have considered that matter further. Clearly, it is important that the right-to-buy process should operate as quickly as possible to minimise delay in selling land for landlords. However, we recognise that circumstances will arise from time to time in which a tenant would genuinely be unable to respond to a notice within a period of 14 days—for instance, if they are on holiday when the notice arrives. To extend the period by a further 14 days should not prove unduly burdensome for landlords. That is why we have lodged amendment 74, which extends the period for a tenant to respond from within 14 days to within 28 days.

I move amendment 73.

Murdo Fraser: Amendment 21 seeks to delete subsection 4(b) of section 27, which prevents the owner of land, or the creditor in a standard security with a right to sell the land, or a person acting on behalf of the owner or the creditor, from entering into

“negotiations with another person with a view to the transfer of the land”.

The bill as drafted provides no sanction against the owner of the land in respect of any breach of subsection 4(b), as the tenant is protected by virtue of section 28(3), as the minister observed.

The Law Society of Scotland's concern was that that might breach article 10 of the ECHR, and that subsection 4(b) was somewhat superfluous. However, in the light of the minister's comments—and I note the effect of section 28(3)—I intend not to move amendment 21.

Stewart Stevenson: I thank Allan Wilson for his letter on the cost of registration, in which he indicates that it is to be of the order of £50 to £100. In doing so, I simply observe that I shall hunt him to the ends of the earth should the cost be more than that £100 limit.

Alex Fergusson: It is probably fair to say that my sympathy is with the minister on that one.

Ross Finnie: We are obliged.

Alex Fergusson: I seek clarification from the minister, because I am not absolutely convinced of

the relevance of the phrase, “for the time being”. It may be a legislative requirement that I do not fully understand, but it seems to me that it could introduce an element of doubt into the existing clarity of the bill. At the moment, the bill is worded:

“Where a tenant's interest in acquiring land is registered under section 24”.

That seems a perfectly clear and unambiguous precondition. Why is the issue to be clouded by introducing the rather vague and confusing phrase, “for the time being”, to that equation? Good legislation should be simple legislation. On that ground alone, it is my instinct to oppose amendment 73, but I am sure that the minister will try to persuade me otherwise.

Ross Finnie: On Alex Fergusson's point about “for the time being”, I say to him and to Murdo Fraser that we recognise that situations will change. Interests will be registered and situations may change. There may even be different tenancy arrangements. We are simply trying to take account of the reality on the ground that might exist at any one time—that is what we are trying to reflect. I hope that the amendment does not muddy the water, but allows us to take account of changing circumstances. We must ensure that sections 27 and 28, and the right to buy, will reflect the actual situation at any one time. That clarifies, rather than muddies, the waters.

Amendment 73 agreed to.

Amendment 21 not moved.

Section 28—Exercise of right to buy

Amendment 74 moved—[Ross Finnie]—and agreed to.

Section 30—Appointment of valuer

The Deputy Presiding Officer: Amendment 75 is grouped with amendment 76.

Allan Wilson: Amendments 75 and 76 are straightforward technical amendments, which clarify how the process of right to buy will operate, particularly the interrelationship between the provisions concerned.

I move amendment 75.

Amendment 75 agreed to.

Section 31—Valuation of the land and price

Amendment 76 moved—[Allan Wilson]—and agreed to.

The Deputy Presiding Officer: Amendment 77 is grouped with amendments 22, 78, 79, 79A, 23, 81 and 24. I draw members' attention to the fact that amendment 79A is a manuscript amendment, which is reproduced on the additional sheet that

was made available along with the groupings this morning. I also remind members that, if amendment 23 is agreed to, I cannot call amendment 80, which has already been debated, as it will be pre-empted.

12:00

Ross Finnie: The valuation process in the bill closely reflects the process that applies to the community right to buy in part 2 of the Land Reform (Scotland) Act 2003. Amendments 77 and 78 reflect amendments that Parliament agreed should be made to that act so that the valuer is required only to assume that the buyer and seller are willing to conclude the transaction and not necessarily that they are “knowledgeable and prudent”.

Murdo Fraser’s amendment 22 strives to ensure that the valuer should have regard to the personal circumstances of the parties in assessing the price that is to be paid. I am not able to accept that approach. We believe that, if a valuer were to take account of such factors, an unfortunate element of subjectivity would be introduced, making the task of valuation more difficult and increasing the risk that the determined value would be appealed against. It would also be intrusive for the parties concerned. Under such an approach, factors such as the strength of the landlord’s marriage, their tax affairs or the fact that the long-standing tenant would be prepared to pay more to buy land that his or her family has farmed for generations would often become relevant. We do not believe that it is either fair or necessary that the parties should be required to disclose such details and the Royal Institution of Chartered Surveyors agrees with us. I also remind members that the valuation process that they approved for the community right to buy does not take account of such subjective and personal factors.

However, in advising that the valuer should not consider the parties’ personal circumstances in valuing the land, the RICS has suggested that the valuation mechanism should take account of one additional factor, concerning whether there is a reasonable likelihood that the landlord will receive vacant possession in the foreseeable future. That is a relevant factor in the calculation of a transaction price. The tenanted value of land is strongly influenced by the expectation that a landlord has of getting the land back. Where a landlord expects the tenant to give up the tenancy soon, the tenanted value of the land increases accordingly. As it stands, the bill leaves the valuer unable to take account of such circumstances in setting a price.

Amendment 79 responds to that suggestion and will achieve two key benefits. First, it is consistent with the principle that the right to buy involves a

willing buyer, a willing seller and a transaction at the full market value, as a landlord who reasonably expects a tenancy to end soon will get the full market value for the land and avoid a loss, which, in a few cases, could be substantial. Secondly, the amendment will ensure that the majority of tenants from whom the landlord could not reasonably anticipate getting the tenanted land back soon will have that expectation reflected in the transaction price that they pay.

Fergus Ewing’s amendment 79A would amend amendment 79 to specify age and the likelihood of the family remaining on the land through succession as the factors that the valuer is to consider in deciding whether a landlord has a reasonable expectation of getting tenanted land back. We believe that those factors are too restrictive. For example, the physical well-being of a tenant might have a greater effect on the likelihood of their remaining a tenant than their age. Furthermore, as well as the existence of family, the circumstances will be a relevant factor. I hope that Fergus Ewing will not move amendment 79A.

Amendment 81 inserts a provision to clarify that any increase in the value arising from the undertaking of non-agricultural activities is to be disregarded in calculating the price payable. That is appropriate, as the land is being sold as agricultural land.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): I apologise for taking the minister back a couple of sentences. He was talking about the physical well-being of tenants. How often do valuers assess tenants’ well-being? There are enough problems with the Department for Work and Pensions assessing people’s well-being for benefit entitlement. The idea of land valuers getting involved in that area surprises me. I wonder whether the minister can elaborate on the mechanisms that he envisages to allow that to happen.

Ross Finnie: If I heard his intervention correctly, Alasdair Morgan is referring to amendment 79A, so that question might be more properly directed to Fergus Ewing. We agree that the factors in amendment 79A are too restrictive, which is why we invite the Parliament to disagree to the amendment. If Alasdair Morgan is in agreement with me, I am grateful for that support.

Murdo Fraser’s amendment 23 seeks to clarify that the type of tenant improvement of which a valuer is to take no account in setting a price is the type of improvement for which the tenant is entitled to receive compensation from a landlord under schedule 5 to the 1991 act. We have lodged similar amendments—amendments 80 and 82—which we believe do a more comprehensive job in that regard. We also believe that it is preferable

that direct reference should be made to schedule 5 to the 1991 act in referring to a type of improvement that might attract compensation for the tenant. I hope that, on that understanding and in the light of the Executive amendments' reference to schedule 5 to the 1991 act, Murdo Fraser will not move amendment 23.

I cannot support Murdo Fraser's amendment 24. The aim of the amendment might be to reserve rights to the rest of the estate in instances when a farm is part of a larger estate, but the nature of those rights is not made clear. Splitting the ownership rights of land could lead to difficult and unintended consequences. For instance, it seems quite plausible that the power could be used to split off the sporting rights of an estate. Although I sympathise with some of Murdo Fraser's concerns, we cannot support an amendment the implications of which could be so far reaching.

I move amendment 77.

Murdo Fraser: Amendment 22 seeks to make the reference to "the" particular sitting tenant rather than to "a" sitting tenant—in other words, not to an abstract sitting tenant or a sitting tenant of other ground. The only relevant sitting tenant in any valuation is the sitting tenant of a particular ground that is to be sold. The specific circumstances of that sitting tenant will have an effect on the price paid by an outside party. The circumstances of a sitting tenant of other ground or an abstract sitting tenant are surely of no relevance whatever. It should be noted that the parties are already assumed to be reasonably "willing, knowledgeable and prudent"—although I see that the phrase "knowledgeable and prudent" is to be removed. Surely, those criteria already give suitable objectivity to the task of the valuer.

I listened with interest to what the minister said about amendment 23. In the light of his comments and of the wording of amendments 80 and 82, I shall not move amendment 23.

Amendment 24 would require the valuer to take account of any rights that are

"to be reserved for the beneficial occupation and use of other land"

that is owned by the landowner. Notwithstanding the minister's comments, that is an important issue. When a farm is part of a larger whole, it will frequently be necessary for rights to be reserved for the benefit of the remainder of the estate. Those rights might well affect the value of the farm that is being sold, and it is only reasonable that the valuer should be required to identify those rights as part of the valuation and that they should form part of the tenant's offer. I am not reassured by what the minister has said in relation to amendment 24, which deals with an important issue that still requires to be addressed.

Fergus Ewing: Amendment 79A deals with the way in which the land is to be valued. We all accept the fact that land that is subject to a secure tenancy, on which the pre-emptive right to buy will apply, is of lesser value than land that has vacant possession. Typically, a farm that is subject to a tenancy under the 1991 act might be worth half or 60 per cent of its value if it had vacant possession. Therefore, it is sensible that the valuer is directed to take account of the existence of a secure tenancy. Although it could be said that the original section 31, as agreed at stage 2, allowed that to happen, I believe that the best approach to legislative drafting is, "When in doubt, spell it out."

That is what the Executive has sought to do, and we welcome the aim behind amendment 79. The purpose of amendment 79A, which I lodged as a manuscript amendment after I saw the Executive amendment, which was lodged on Friday, is to cure what I believe is a defect in amendment 79.

Amendment 79 will require the valuer to take account of

"when the seller would in the normal course of events have been likely to recover vacant possession of the land from the tenant".

The point of secure tenancies is that they have the capacity to be perpetual. Provided that they are not in irritancy and that they pay the rent and practise good husbandry, tenants with 1991 act tenancies can pass on the tenure to their families. That has happened, generation unto generation. Members of the Scottish Tenant Farmers Action Group advised me of a lease that has been in one family for more than 300 years, which means that the family's progenitors had the happy experience of farming the land when Scotland was independent. I fully expect such families to farm the land when Scotland is once again independent.

That demonstrates graphically the serious point that 1991 act tenancies have the capacity to be—and might well be—perpetual, but amendment 79 does not say that and assumes that the landlord will recover vacant possession. That is the only possible interpretation of the words that I quoted. The valuer is being invited to make a valuation on the basis of a premise that we must accept is flawed.

The aim of amendment 79A is to acknowledge that, although the reasonable expectation in the normal course of events might be that the landlord will recover vacant possession, that will not necessarily happen. The minister said that it would be wrong not to take account of other factors, such as the tenant's physical well-being or otherwise. I do not consider such a factor appropriate for a valuer to consider. For the reasons that Alasdair Morgan suggested in his characteristically cogent fashion—

Alasdair Morgan: Quite right.

Fergus Ewing: I see that he agrees with that part.

It would be inappropriate for a valuer to perform a medical test on a tenant or to obtain medical evidence, so I did not suggest that. I am surprised that the minister introduced that red herring into the debate.

The minister has an amendment with a serious technical defect. If that is not corrected, it will skew the valuation process, because it will take as a basis the false premise that 1991 tenancies will end.

The Deputy Presiding Officer: I ask members to make brief comments.

Alex Fergusson: My comments will be as brief as they get. Will the minister be good enough to explain why he wishes to remove the words “knowledgeable and prudent”, which represent acceptable characteristics in the circumstances?

George Lyon: I seek clarification because, unfortunately, I did not hear the minister’s opening remarks on the group, which might have answered my question about Fergus Ewing’s amendment 79A. I take it that it is clear that the valuation will be of the land with the sitting tenant in place. As Fergus Ewing said, there is a significant difference between freehold value and the value of land with a sitting tenant, because of the right of succession under the 1991 act. Which valuation will the valuers decide to make? That is fundamental to the amount that the tenant will have to pay.

Ross Finnie: My response to Alex Fergusson is that the wording is being brought into line with the Land Reform (Scotland) Act 2003 and with what has previously been agreed, so that the bill is consistent. We are talking about the valuer assuming that the buyer and seller are willing to conclude the transaction. The valuer’s job is to reflect the price that would be available on the open market. That is what we require valuers to do. The provision does not inhibit that process.

I am deeply sorry that George Lyon missed my opening remarks, because they made it clear where the valuation is determined in the process. I made two points: the first about the question of disclosure and the second about the two key benefits that we are trying to achieve through amendment 79.

It is absolutely consistent with that aim that we should reasonably expect tenants to pay the full market value and that we should try to avoid losses, which could be substantial. I repeat that we also require the majority of tenants from whom the landlord could not reasonably anticipate getting the tenanted land back soon to have that expectation reflected in the transaction price that they pay. That is an important point.

I have dealt with amendments 77 and 78. I hope that George Lyon is clear that the amendments ensure that the value is reflected in the price. We are not seeking to introduce qualifications that will in any way diminish the value to the tenant in such circumstances. I am satisfied that the amendments reflect the kind of valuation that would be expected.

George Lyon: The minister is saying that a farm will be valued with the sitting tenant in place. Given the fact that the tenant is the purchaser, the tenancy ends with the purchase. Is the minister saying categorically—I want to hear him doing so—that the value of the farm will be judged on the fact that the farm is one with a sitting tenant in place and that the price would be much reduced if there was a freehold value? Can the minister give me that guarantee?

Ross Finnie: The valuation has to be judged to be reasonable and to take account of the circumstances of the tenancy at the time when the valuation is done. I struggle to see where George Lyon has picked up that the Executive seeks to introduce a different set of circumstances into the valuation from those that a valuer would normally be expected to take account of when they value a property. We are not trying to introduce any unreasonable or unusual circumstance save for the open market value at the time of the transaction.

The Deputy Presiding Officer: The question is, that amendment 77 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Grn)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)

Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North-East Scotland) (Con)

McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Wallace, Ben (North-East Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 84, Against 13, Abstentions 0.

Amendment 77 agreed to.

Amendment 22 moved—[Murdo Fraser].

The Deputy Presiding Officer: The question is, that amendment 22 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Wallace, Ben (North-East Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harper, Robin (Lothians) (Grn)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)

MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 13, Against 81, Abstentions 0.

Amendment 22 disagreed to.

Amendment 78 moved—[Ross Finnie].

The Deputy Presiding Officer: The question is, that amendment 78 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)

Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Grn)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)

Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Wallace, Ben (North-East Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 84, Against 13, Abstentions 0.

Amendment 78 agreed to.

Amendment 79 moved—[Ross Finnie].

The Deputy Presiding Officer: I draw members' attention to the fact that amendment 79A is the late-lodged manuscript amendment, which is printed on a separate sheet.

Fergus Ewing: I move, as an amendment to amendment 79, line 2, manuscript amendment 79A, to leave out from first "the" to end of line 3 and insert,

(if at all) the seller would, in the normal course of events, have a reasonable expectation of becoming entitled to recover vacant possession through the termination of the 1991 Act tenancy, having regard to—

- (i) the age of the tenant; and
- (ii) which persons (if any) would be, or would in any circumstances have been, entitled to succeed to the estate on intestacy by virtue of the Succession (Scotland) Act 1964 (c.41);.

The Deputy Presiding Officer: The question is, that manuscript amendment 79A be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Grn)
 Hyslop, Fiona (Lothians) (SNP)

Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Ben (North-East Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 23, Against 75, Abstentions 0.

Manuscript amendment 79A disagreed to.

Amendment 79 agreed to.

Amendment 23 not moved.

Amendments 80 and 81 moved—[Ross Finnie]—and agreed to.

Amendment 24 moved—[Murdo Fraser].

The Deputy Presiding Officer: The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Wallace, Ben (North-East Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)

Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Grn)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)

Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 12, Against 84, Abstentions 0.

Amendment 24 disagreed to.

Amendment 82 moved—[Ross Finnie].

The Deputy Presiding Officer: The question is, that amendment 82 be agreed to. Are we agreed? I think that that is agreed.

Members: No.

The Deputy Presiding Officer: Was there a no?

Bill Aitken (Glasgow) (Con): That “no” should have been a “yes”.

The Deputy Presiding Officer: So no means yes. Thank you.

Amendment 82 agreed to.

The Deputy Presiding Officer: In a similar vein, for our purposes 12:30 will fall at 12:42.

Section 31A—Special provision where buyer is general partner in limited partnership

The Deputy Presiding Officer: Amendment 83 is grouped with amendments 109, 110, 111, 111A, 112, 113, 114, 129 and 134. We might not finish this group of amendments before lunch, but I intend to proceed anyway.

Allan Wilson: I am conscious of the passage of time and will try to be brief. This is one of the more substantive measures to be debated, but I hope that we can move quickly to agree the new provisions of section 58A.

Section 58A was introduced to the bill at stage 2 to bring in protections for general partners within a limited partnership that is the tenant in a 1991 act tenancy. It was introduced to address a developing situation in which a number of landlords had served dissolution notices on partnerships pending the final shape of this legislation. That attempt by landlords to protect their position put the general partners in a situation of great uncertainty and faced them with the threat of imminent eviction.

The provision has already had the desired effect of plugging the flow of dissolution notices that were being served. However, we also undertook at stage 2 to consider refining the provision, including by extending its application to partnerships on which dissolution notices were served prior to 4 February. Executive amendments 111 to 114 reflect our response to that further consideration and consultation with the industry.

Amendment 111 makes important changes to section 58A. First, the scope of the section is extended to include limited partnerships on which a dissolution notice was served in the period between 16 September 2002, when the bill was introduced, and 3 February 2003. In those cases, section 58A will apply so that the general partner can apply to the Land Court to become a secure tenant where the partnership is or has been dissolved.

Exemptions will apply under subsection (5) to cater for situations where the rights of third parties might otherwise be affected. Those are any situation where the partnership had already been dissolved and the land was either re-let or sold to a new owner and instances where the landlord had entered into a binding contract either for the sale of the land with vacant possession or a lease with a new tenant, with a future date of entry.

I am conscious that there may be examples where a landlord served a dissolution notice prior to 16 September for a questionable reason. Amendment 111A attempts to address that by proposing an earlier date of 16 April 2002. After mature reflection, however, we believe that the use of the date 16 September captures the vast majority of dissolution notices served as a response to uncertainty about the contents of the bill.

Stewart Stevenson: Does the minister know how many notices were given between 16 April 2002—the date that is proposed in amendment 111A—and the date that he proposes?

Allan Wilson: Not precisely. Neither do we know precisely the number of dissolution notices that were served per se.

Fergus Ewing: Is the minister aware that yesterday the Scottish Tenant Farmers Action Group estimated that around 60 notices were issued between April and September last year? If he accepts that in good faith as likely to be a fair estimate, the figure represents a serious justification for supporting amendment 111A and backdating the provision to April rather than September.

Allan Wilson: I will come to the substantive point. I would accept the figure in good faith. All I would argue is that the figures are not precise but are estimates of the problem.

Alex Fergusson: Does the minister accept that the limited partnerships on which notices to quit were served in the run-up to 3 February were partnerships whose initial period had run out, many of which could have been dissolved before but had run on on a voluntary annual basis? Does he accept—I believe it to be the truth—that those notices to quit were entirely triggered by the fears engendered by the bill?

12:30

Allan Wilson: I cannot accept that, as that would be to give moral justification to an act that I believe to have been immoral.

I am coming to the substantive point. I accept that legitimate notices of dissolution would have been served that were unrelated to any attempt by landlords to obviate the impact of the bill. I also accept that the circumstances that then prevailed, with SNP members promoting the absolute right to buy, was an influence in that process. However, that did not give the moral justification to landlords to act in that manner.

In the instances to which I referred earlier, proposed section 58A(8A) imposes a strong onus on the landlord to demonstrate that, where a partnership was subsequently dissolved, the dissolution was for a reasonable purpose. We believe that a number of landlords might suffer undue hardship if the provision covered all partnerships on which dissolution notices were served on a date before 16 September 2002, including, for example, 16 April.

I agree with Stewart Stevenson and Fergus Ewing that, in many respects, any date would be arbitrary. The normal period of notice for dissolution is six or 12 months, depending on the terms of the partnership. There will always be deserving cases that fall on the wrong side, no matter how early a date is set. For example, when I pressed the Scottish Tenant Farmers Action Group on the matter, reference was made to a case that predated the April date and was set in motion way back in November 2001. Equally, however, it must be agreed that the setting of an earlier date might catch landowners who had acted reasonably in dissolving partnerships. However, the earlier the date is set, the greater the likelihood of unintended consequences arising. On balance, and after mature reflection, Mr Finnie and I concluded that the appropriate cut-off point that would catch most of the 150 to 200 examples that we have heard about would be 16 September.

Where a notice to dissolve a limited partnership has been served in the period from the day of introduction of the amendment relating to section 58A, which was 4 February 2003, to a date to be set by ministers by order—which is as yet unspecified but is described in the bill as “the relevant date”—section 58A, in its present form, will apply. In practice, we intend that the relevant date will be on or shortly after the commencement date for the provision.

The provisions will provide a strong disincentive for landlords who might be considering action to dissolve a limited partnership in the period before the new legislation comes into force. We have taken care to develop the bill in a way that

respects landlords’ legitimate rights. As Alex Fergusson will no doubt remind us, there is no reason why a landlord should want to dissolve a limited partnership in order to avoid the consequences of the bill. We hope and believe that landlords and their agents will soon recognise that fact. As the situation settles down, the need for section 58A will diminish. That is why the provisions are to apply until the relevant date.

Of course, there are circumstances where the landlord has legitimate reasons for wanting to dissolve the partnership. That is why a limited right would be introduced in proposed subsection (8A) for the landlord to apply to the Land Court for an order stating that the rights given by section 58A should not apply and should be set aside. That is to cover instances in which the landlord genuinely needed the land back in hand and could suffer loss if the land were not returned quickly. I trust that, having considered the arguments in a mature way, Fergus Ewing is comfortable about the way in which the test of reasonableness will work and is sufficiently reassured not to press amendment 111A.

Recent events have demonstrated that many general partners are in an insecure position in the longer term. That is unacceptable. That is why we propose to introduce a new section through amendment 113. The new section will require a landlord to serve the same double notice to quit on a general partner as they would on a tenant with a limited duration tenancy, regardless of the length of the dissolution notice period. As a result, the general partner will then have up to three years’ notice to quit and the double notice procedure will also provide a window for the landlord and general partner to consider their next steps.

We hope and believe that amendment 111 will be acceptable to the Parliament. If, for any reason, the Parliament felt unable to accept the changes to section 58A, we would ask that a technical adjustment be made to the existing section through amendment 112. That would delete section 58A(8)(a)(ii), which allows the Land Court to make an order providing that the tenancy is to continue with the general partner as tenant with effect from

“such other date as the order may specify”.

We are concerned that occasions on which the provision took effect before the partnership was dissolved might fall on the wrong side of the law of partnership, which is, of course, a reserved matter. If amendment 111 is agreed to, amendment 112 falls.

As it stands, section 58A also extends the pre-emptive right to buy to general partners. Because of the changes that amendment 111 would make to section 58A, we have taken an opportunity to

place the right-to-buy provisions, which are currently in section 58A(3), in a new section. Amendment 114 provides for that. Amendment 129 adds to section 75 a reference to the order-making power.

As an anti-avoidance mechanism, the right to buy will continue for a period of time after the partnership has dissolved or the tenancy has otherwise terminated. However, that provision raises issues of its own. For example, we must work out what should happen if the tenanted land is subsequently re-let to a tenant who has—or who does not have—a right to buy. To set out the detail of how the right to buy is to work in such cases would take time—of which we do not have an awful lot. However, amendment 114 introduces a regulatory power for ministers to set out the detail of the right-to-buy provisions as they affect general partners. The power would be narrow in its scope and deal with technical issues. It would also be subject to the affirmative resolution procedure.

I genuinely believe that this package of amendments ensures that section 58A can provide the necessary protections for general partners currently and in future, without impacting unduly on the rights of landlords who had legitimate cause to dissolve. I hope that Fergus Ewing will not move amendment 111A.

I move amendment 83.

The Deputy Presiding Officer: I am grateful to the minister for pointing out that amendment 111 would pre-empt amendment 112.

I will make a judgment call. I will call Fergus Ewing to speak to amendment 111A. I intend to suspend thereafter until the afternoon, having noted the names of the other members who wish to speak in the debate.

Fergus Ewing: I speak to amendment 111A in the knowledge that, although this might not be the most important provision of the bill in the long term, in the short term it could have the most concrete impact on a number of secure tenants throughout Scotland.

The matter was debated at stage 2. Shortly before the stage 2 debate on 4 February, a great deal of publicity was attracted by the unfortunate event of a number of landowners issuing notices to quit or notices of dissolution to seek to bring limited partnerships to an end for, it is believed, the express purpose of circumventing the bill's aims.

Dr Sylvia Jackson (Stirling) (Lab): Will Fergus Ewing give way?

Fergus Ewing: No—it is too early.

At stage 2, I lodged an amendment to backdate to the date of the bill's publication the provision to

entitle those secure tenants to apply to the Land Court. I argued that 16 September was a reasonable date to pick because that was the date on which the bill was published.

However, I pointed out that, on the day on which I spoke to the amendment—and only on that day—it had been drawn to my attention that, prior to 16 September, there were also a number of cases of secure tenants receiving notices to quit. Had I been aware that there was a serious problem before 16 September, I would have argued for an earlier date at that point.

At stage 2, the minister was good enough to say that he would return to the matter at stage 3. He has now chosen to adopt the amendment that I lodged at stage 2. I hope to take the minister a further mile—or back a further six months in this case—towards what I think would be a fair, just and reasonable result.

I do not start from the premise that all landlords are bad and intend to carry out some sort of clearance of secure tenants. That is manifestly not the case. When issuing notices, many landlords said—either themselves or through agents—that that was a legal procedure and that they intended to enter into new arrangements once the legislation was in place. In other words, they suggested to secure tenants that the notice was being issued for certain legal purposes but that there was no intention to seek to go through with an eviction. In many other cases, however, that was not done. In one case, notice was delivered on the eve of 4 February—in another case, it was even delivered in the early hours—and the tenants had been asked to stay in their house to receive the notice.

In many cases, notices to terminate the limited partnership were served to tenants who faced not only the loss of their livelihood and their business, but eviction from their house. It was a double whammy. According to the Scottish Tenant Farmers Action Group, around 60 such notices were issued between April and September 2002.

If the Executive has accepted in principle that tenants should have the right to go to court to argue that it is unreasonable for them to be evicted and for new tenancy arrangements to be entered into, surely it must accept that the provision should date back to 16 April 2002, which was the date of the publication of the draft bill. It is perfectly clear that some landowners, acting between April and September last year, before the bill was introduced, took it to be the case that there would be a pre-emptive right to buy, as promised in the consultation paper.

Alex Fergusson: Will Mr Ewing give way?

Fergus Ewing: I will certainly give way at this stage. I will also be happy to give way to Sylvia

Jackson, now that we have moved on a wee bit, if she still wishes to intervene.

Alex Fergusson: Does Mr Ewing now consider the April date, to which amendment 111A refers, to be the fair and just one? If so, why did he not ask for such a change to be made at stage 2, when he called for the September date?

Fergus Ewing: With respect, I think that I have fully explained that. The reason is simple. At stage 2, I expressly said—I have checked my remarks—that I had chosen 16 September because that was the date of the introduction of the bill. As I pointed out in the course of our stage 2 discussions, I was made aware—

Allan Wilson *rose*—

Fergus Ewing: I ask the minister to hang on a second, as I am responding to Alex Fergusson's point. Having lodged the relevant stage 2 amendment, I was made aware that there were a number of cases—I did not know at the time that it was about 60—that would not be caught and in which tenants might, in extremis, face eviction from their home. That is why I did not push back the date from September to April at stage 2. I hope that that position will be accepted. I am not sure whether any other members wish to intervene. Perhaps Dr Jackson wants to intervene.

Dr Jackson *indicated disagreement.*

Mr Rumbles: May I intervene on that point?

Fergus Ewing: Well, okay.

The Deputy Presiding Officer: Let us not have a bidding system.

Mr Rumbles: Fergus Ewing said that 60 applications to dissolve partnerships were made between April and September 2002. How many were made before April?

Fergus Ewing: The figure of 60 was cited by the Scottish Tenant Farmers Action Group. I believe that there may have been some dissolutions prior to April, but there has to be some dividing line. The reason why 16 April should be chosen is clear: it was the day on which the Executive's legislative intentions were published. Before that date, it was not clear that the Executive was planning to proceed with a statutory right to buy. That was the date when consternation was caused and from which some land agents and advisers started advising clients that, in order to ensure that they could get vacant possession back under limited partnerships, they should issue notices of dissolution. The relevant date is 1 April, which is why I am arguing for it to be specified in the bill.

12:45

Allan Wilson: I entirely accept the reasons that Fergus Ewing has given for moving his preferred date from September to April. He referred to the Executive's acceptance in principle of the movement of the date. At stage 2, I said that the Executive would look at retrospection. The principle that the Executive has accepted is not in relation to the movement of the date for catching consequential dissolution notices. We are confident that there is no substantial number in the period between 4 February and 16 September that would cause unintended consequences to third parties and others. We cannot agree to further extension beyond 16 September.

Fergus Ewing: I hear what the minister says, but I am not sure that further backdating would cause unintended consequences. For example, matters may have progressed and notices may have been issued that were not triggered by the revelation of the Executive's legislative intentions. A limited partnership may have been brought to an end in the normal course of commerce—perhaps because the duration of the lease ended—and other arrangements may already have been made with a new let to a third party.

In such circumstances, the provisions proposed in amendment 111, particularly new section 58A(5), protect that position and prevent the tenant from proceeding with a spurious grievance. Only those tenants with a genuine grievance would be entitled to apply to the Land Court. That court would be entitled to make an order only if it was satisfied that the landlord's behaviour was effectively triggered by the bill and designed to circumvent the Parliament's avowed intentions.

I heard the minister's earlier argument, but I do not accept what he said. As I said, I have some fairly substantive legal comments to make, although I may be preying on the Presiding Officer's patience.

The Deputy Presiding Officer: Mr Lyon—I mean Mr Ewing—I am concerned at how much of the time that is available for us to debate groups 18, 19 and 20 has already been used up. After you have finished speaking, we will need about 20 minutes to debate the remaining amendments. You may speak for another two or three minutes. If you speak for any longer, we may be in difficulty.

Fergus Ewing: Very well. I am especially pleased that you have realised who I am, Presiding Officer.

The Deputy Presiding Officer: As long as you know who you are, Mr Ewing.

Fergus Ewing: I anticipated that the Executive or the Conservatives might object that my proposal contravenes the European convention on

human rights. I do not know whether that argument will be advanced, but I understand that ministers have received from the Scottish Tenant Farmers Action Group a substantive opinion from Sir Crispin Agnew of Lochnaw QC, an acknowledged expert in this field. Citing the relevant authorities, he makes it abundantly clear that the ECHR would provide no comfort to any challenge to the provision. As ministers have received a copy of the opinion, I will spare members a word-for-word recitation of it.

Ross Finnie: We are not advancing the argument that the provision contravenes the ECHR.

Fergus Ewing: I hear that the Executive is not advancing that argument, but perhaps the Conservatives are.

Alex Fergusson: No.

Fergus Ewing: Perhaps the Conservatives have eschewed an argument that others may make. The Royal Institution of Chartered Surveyors has made hugely exaggerated claims based on the ECHR, so the topic is serious. However, I am pleased that all parties that have an interest in the debate appear to recognise that the ECHR is not a problem.

It would be wholly unacceptable for the Parliament to fail to take a measure that could prevent the possible eviction of secure tenants. I thought that the ministers had recognised that we should avoid such evictions at all costs, so I am surprised that they will not go the extra mile to do so. I hope that they will reconsider their position. If the Scottish Tenant Farmers Action Group is correct, the future of 60 families is at stake. It would be ridiculous for us to accept the principle of preventing evictions but to fail to put that into practice. Time will tell whether landlords go through with eviction, but some of those who do may not be caught by the Executive.

The Executive's initial change of stance is welcome. I hope that, before we vote on amendment 111A, ministers will reflect on what I have said. This is a serious matter that may affect a number of families in our farming communities.

12:49

Meeting suspended until 14:30.

14:30

On resuming—

The Deputy Presiding Officer (Mr George Reid): Welcome back. We will pick up where we left off on the Agricultural Holdings (Scotland) Bill, but first I have a brief announcement to make. This afternoon, there will be a camera on the floor of the chamber for the "Working for You" parliamentary video, which is being made for secondary schools and other organisations.

Fergus Ewing has spoken to amendment 111A.

Alex Fergusson: I gather that time is pretty tight, so I will rattle through what I am about to say, if I may.

The Conservatives remain resolutely opposed to the extension of the provisions of the bill to cover existing limited partnerships. We believe that that constitutes moving the goalposts so far from the bill's original intentions that the Parliament will send out entirely the wrong message if we intend truly to reinvigorate the tenanted sector. Like the right to buy, the extension of the provisions on limited partnerships was not an original aim of the bill.

We should make no mistake. Limited partnerships were devised as a way round the secure provisions of the Agricultural Holdings (Scotland) Act 1991. They were a dodge—albeit a legal dodge—to ensure that vacant possession could be regained at some point in the future. We should be clear that they were entered into voluntarily by a willing lessee and a willing lessor. Agreements that had already come to the end of their period continued almost without exception on a year-to-year basis until it became clear that the bill would impact on them in a manner that would make eventual vacant possession almost impossible. The natural reaction to that was the unseemly issuing of notices to quit that has been referred to, which reached a peak on 3 February as landowners sought to retain their rightful property, just as an individual will always seek to retain what is rightfully theirs when they perceive it to be under threat. To portray the issue differently is to cloak it in a cloud of political dogma and rhetoric that is as dishonest as it is obfuscating.

Dr Jackson: Will the member take an intervention?

Alex Fergusson: I would like to do so, but I do not have enough time. I am sorry, as I would welcome hearing the views of a Labour member—we did not hear from one all morning other than the Deputy Minister for Environment and Rural Development. I hope that we will hear from a Labour member later.

The minister has extended the bill to impact on limited partnerships and we must deal with that

reality. The Scottish Landowners Federation recently put forward a highly imaginative and constructive proposition to the minister that would effectively have removed limited partnerships from the equation altogether by simply converting them all into limited duration tenancies with a minimum term of three years. That would have allowed the bill to focus entirely on secure tenancies and the proposed new tenancies, which would have been hugely beneficial to all parties.

Amendments 111, 112 and 113 go some way towards that aim, but they fail to provide the clarity that the SLF proposal would have provided; instead, they deal with each limited partnership as and when it comes to the end of its term. Although we do not see the amendments as perfect by any means, they constitute an improvement to the bill as amended at stage 2 and we will not oppose them. However, we will oppose amendment 111A, with which Fergus Ewing seeks to have his cake, eat it and then get some more cake.

Amendment 114 essentially confers a right to buy to partnerships and new tenancies, as well as conferring unacceptable powers on future ministers to extend the provisions of the bill through subordinate legislation at any time in the future. I will say more about that when we debate amendment 130, but I oppose amendment 114.

The Deputy Presiding Officer: I ask Stewart Stevenson to keep his comments tight.

Stewart Stevenson: This is probably the first time that I have delivered a speech that is written on a napkin from the Parliament's canteen. The fact that the minister, tenant farmers and I were able to sit around the table and discuss issues says something about the Parliament.

One thing that emerged from that discussion is that there certainly are tenants who were given notice between April and September last year who would not be caught by amendment 111. For that reason, I rise to speak in support of amendment 111A. I understand that the NFUS is minded to support the amendment; the Scottish Tenant Farmers Action Group certainly supports it. The issue of unintended consequences appears to be impeding progress to accepting the April cut-off. Are there people who would be caught who were part of the normal turnover of tenancies in that period and to whom notice was given other than as a move to avoid the bill's provisions? Certainly there are, but SNP members believe that new section 58A(5), as proposed in amendment 111, is sufficient to address the issue. We urge the minister to give serious consideration to our amendment 111A. We hope that he can accept it.

Dr Jackson: I will speak to amendment 111 and about the issue of limited tenancies and the many people who had notices served prior to 16

September. I know that there are two such people in the gallery today. I understand that the figure that Fergus Ewing gave may not be far short of the total.

There has to be a way around the issue. I accept that, for legal reasons, we may not be able to alter the date. However, there has to be a procedure or a review by which we can consider the issue. We must try to alleviate the real concerns of the tenant farmers whose landowners indicated that their position was to be reviewed and that notices were being given for the reasons that were mentioned. However, the notices have not been rescinded and tenant farmers have been given no reassurance that they will be. It is important that we do something to help those tenant farmers by means of a review or some other procedure.

George Lyon: I, too, will speak to amendment 111. It is clear that one of the key objectives of the bill is to give added protection to tenants in a limited partnership. It is also clear that, over the past few months, landlords have been taking action to deny tenants the protection that is offered in the bill. I am afraid that, by their actions, landlords have given the game away. They have destroyed their argument that partnership tenancies were a legitimate business arrangement and were entered into by willing partners. We need to be clear about the subject: partnership tenancies are nothing more than a crude device that were invented by landlords and their factors to deny tenants their rights under the 1991 act.

I am glad that Alex Fergusson recognised that fact, because the practice arose under Tory stewardship. Partnership tenancies allowed landlords to put tenants out of their farms at any time. Landlords used the legal device of ending the partnership agreement, which had the effect of making the tenant disappear. Alex Fergusson said that tenants entered into partnership tenancies willingly, but that is not the case. No other option was available—if tenants wanted extra land, partnership agreements were the only game in town. No landlord offered agricultural tenancies under the 1991 act.

We all share the concern about how far back we should go to give protection to those tenants. I listened to the minister's arguments against Fergus Ewing's amendment 111A and heard him say that we should not go back to April. As the third-party agreements that were entered into are covered by new section 58A(5), that removes the obstacle of going back a little further to the April date that Fergus Ewing's amendment 111A proposes. I ask the minister to address that fundamental concern, which is, I think, shared by all members. I ask the minister to ensure that protection is given to all tenants who have been

given notice to quit by landlords who want to circumvent the provisions of the bill.

Allan Wilson: In conclusion, I should perhaps say one more thing about the extension of the pre-emptive right to buy under section 58(2). In contrast to the remainder of that section, the extension is not a retrospective provision. It can be exercised only from the commencement of the section; it cannot be exercised between now and commencement, not least because a tenant will not be able to register an interest yet. Registration is an essential precondition of exercising the right to buy. The reason for the cross-reference to subsection (5) is not to make the provision retrospective, but to protect third parties that might have acquired legally enforceable rights.

I will be brief, as we have had an opportunity to debate the matter fully. Wherever the line is drawn, there will always be deserving cases.

Stewart Stevenson: Will the minister give way?

Allan Wilson: I am sorry; I have to conclude now.

The Deputy Presiding Officer: We are very tight for time, Mr Stevenson.

Allan Wilson: Equally, there might be cases of landowners acting reasonably in dissolving partnerships.

After the bill has been passed, the solution would be an industry agreement to rescind dissolution notices that have been issued inappropriately or to convert tenancies into LDTs. The earlier the date we choose, the more likely we are to face unrelated consequences and disputes with third parties. That is why, on balance and after mature reflection, we believe that 16 September is the appropriate cut-off point and will cover the vast majority of the 150 to 200 cases that we know about.

Amendment 83 agreed to.

Section 33—Appeal to Lands Tribunal against decisions of valuer

The Deputy Presiding Officer: I am anxious to get through group 19 as quickly as possible to leave some time for group 20. The knife falls at 14:53.

Amendment 84 is grouped with amendments 85 and 86.

Ross Finnie: I will be very brief, Presiding Officer.

Section 33 was amended at stage 2 to ensure that jurisdiction over appeals from a determination of the price payable on the exercise of the right to buy by a valuer was transferred from the Scottish Land Court to the Lands Tribunal for Scotland.

Amendment 85 seeks to clarify that there is no further appeal from the Lands Tribunal on such matters.

The Lands Tribunal is a specialist valuation body, and the Land Court has specialist expertise in matters of agricultural law. As a matter of policy, we believe that the Land Court should be able to assist the tribunal with questions of law that arise in valuation appeals. Amendment 86 seeks to amend section 33A for that purpose, and to provide that the Lands Tribunal should refer such matters to the Land Court unless it considers that it is not appropriate for it to do so. Amendment 84 is a drafting change.

I move amendment 84.

Alex Fergusson: I am slightly concerned about amendment 85, which seems to end the appeals route at its starting point—in other words, at the Lands Tribunal. After all, in most cases of appeal, the appellant has a right to go to a higher authority if they are not satisfied. I would appreciate it if the minister would give us his thoughts on that matter.

Ross Finnie: We are simply saying that, as a matter of policy, the Land Court should be able to assist the Lands Tribunal. As a result, there is no further right of appeal. Once one has exhausted various questions of detail and expertise in dealing with a valuation, the Land Court is as far as one can go. That is common policy in relation to the bill.

Amendment 84 agreed to.

Amendment 85 moved—[Ross Finnie]—and agreed to.

Section 33A—Referral of certain matters by Lands Tribunal to Land Court

Amendment 86 moved—[Ross Finnie]—and agreed to.

Section 34—Use of land for non-agricultural purposes

The Deputy Presiding Officer: We have 11 minutes left for the next group of amendments. Amendment 25 is grouped with amendments 87, 88 and 26.

Murdo Fraser: Amendment 25 seeks to amend the wording of section 34. Indeed, it is a technical clarification and I hope that the minister will provide some helpful guidance on it. As I understand it, the wording of section 34 in relation to subletting was intended to catch short-term holiday accommodation and in effect to allow it as a form of diversification. There is no dispute that such an objective is desirable, but the Law Society was concerned that, as drafted, the subletting provision was drawn too widely. If it was intended that the provision should apply only to subletting short-term holiday accommodation, it would be

better for everyone if the legislation said so specifically instead of leaving the matter in such general terms.

Amendment 26 seeks to clarify in section 35 that if the “non-agricultural purpose” referred to is

“the planting and cropping of trees”—

notwithstanding the provisions in section 35(11) and (12)—the landlord is

“deemed to have objected to the notice of diversification”.

It appears that there is a lacuna in the legislation, in that the matter is not specifically dealt with. I hope that the minister will address those points. I should also point out that we have no difficulty with amendments 87 and 88.

I move amendment 25.

14:45

Allan Wilson: In moving amendment 25, Murdo Fraser is right to state that the tenant should not be able to use the diversification provisions in the bill simply to sublet land and buildings in a way that overrode any prohibition in subletting within the lease under common law. We want to encourage non-agricultural activity by tenants and if such activity meant that tenants gave people access to land or buildings, the tenants would be involved in active management and service delivery. In such a context, subletting would not be a diversified activity.

I disagree with Murdo Fraser’s contention that a tenant might legitimately use land in a way that could be construed as subletting only when the tenant provided short-term holiday accommodation. I can think of examples of other activities that might be regarded as involving an element of subletting. I believe that it is important that we do not at a stroke prevent tenants from undertaking such activities.

We are also uncomfortable with amendment 26, which seeks to amend section 35(13) so that a landlord who did not respond to a notice of diversification relating to the planting and cropping of trees would be deemed to have objected to the proposal. It seems wrong that a landlord who did not send notification should be deemed to have objected, when he or she might, in fact, be relaxed about the proposal.

Amendments 87 and 88 are consequential and relate to compensation payments at waygo.

The Deputy Presiding Officer: I am somewhat surprised that no other member has asked to speak on this group.

Murdo Fraser: In relation to amendment 25, the minister said that he had in mind other examples. Can he elaborate on those?

Allan Wilson: I can think of numerous examples, such as a barn being used as a warehouse or for storage, or a facility being used as a training or conference centre. There are examples in addition to the example of the subletting of accommodation for holiday purposes.

Murdo Fraser: I am obliged to the minister for that clarification, although the examples seem to go a bit beyond amendment 25’s intention. However, in view of what he said, I will not press amendment 25. I remain concerned about the lacuna to which I referred in relation to amendment 26, so I will move amendment 26.

Amendment 25, by agreement, withdrawn.

Amendments 87 and 88 moved—[Allan Wilson]—and agreed to.

Section 35—Notice of and objection to diversification

Amendment 26 moved—[Murdo Fraser].

The Deputy Presiding Officer: The question is, that amendment 26 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fergusson, Alex (South of Scotland) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Goldie, Miss Annabel (West of Scotland) (Con)
Johnstone, Alex (North-East Scotland) (Con)
Mundell, David (South of Scotland) (Con)
Scott, John (Ayr) (Con)
Tosh, Mr Murray (South of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Canavan, Dennis (Falkirk West)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)

Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 10, Against 82, Abstentions 0.

Amendment 26 disagreed to.

Section 37A—Agreements as to improvements and compensation for improvements

Amendments 89 and 90 moved—[Allan Wilson]—and agreed to.

Mr Rumbles: On a point of order. I know that you have discretion as to the time scale of the debate, Presiding Officer, but I must point out that not all members were called to speak in the debate on group 18, which dealt with an extremely important issue. However, as we are now 15 minutes ahead of schedule, I feel that something is wrong with the stage 3 process.

The Deputy Presiding Officer: There is nothing that we can do about that. In fact, the only member not called to speak in that debate was you, Mr Rumbles. I am managing the debate to the best of my ability.

After section 37A

The Deputy Presiding Officer: Amendment 91 is grouped with amendments 92 to 94, 27 and 135.

Ross Finnie: With regard to your remark to Mr Rumbles, I must say that it is rare to hear a Presiding Officer trying to curry favour with the whole chamber.

Amendments 91 and 93 address two issues that were raised at stage 2. Amendment 91 applies to the 1991 act tenancies and amendment 93 applies to SLDTs and LDTs.

Amendment 91 relates to a tenant's right to compensation at waygo for improvements made to the holding. In the course of the on-going discussions with the industry, landlords asked that, in return for the change introduced guaranteeing a tenant's right to compensation at waygo in respect of certain improvements regardless of write-down agreements to the contrary, acknowledgement be given of circumstances where either the tenant's improvement goes beyond what was necessary or where the landlord has offered the tenant a benefit in return for the write-down agreement. The amendments provide for the second of those circumstances; the first circumstance has already been provided for in the bill.

Amendment 93 covers a tenant's right to compensation for improvement where the cost has been assisted by public grant. At stage 2, I undertook to consider provisions to allow a tenant at waygo to receive compensation from the landlord for a part of an improvement funded from grants and public money, the alternative being that the tenant receives from the landlord no compensation for the element of improvement funded with public money while the landlord has the full benefit of the publicly funded improvement and can increase rent on the basis of that improvement. Let us consider an example of the operation of the amendment. A new structure is built with £5,000 of the tenant's money, £2,500 of the landlord's money and a £2,500 grant. The proportion of the grant to be taken into account in assessing the compensation that would be

payable to the tenant under section 36(1) of the 1991 act is not the full £2,500 but £1,666, which is 66 per cent of the £2,500. Put another way, the share of the grant money is apportioned between the tenant and the landlord in the same ratio as their contributions to the structure—in this case, a ratio of 2:1.

The amendment ensures that the value of the improvement, including the element attributable to the grant payment, is to be apportioned between landlord and tenant based on their respective contributions to the cost of the improvement, unless the conditions of the grant scheme stipulate otherwise. At present, the value of the grant benefit tends to remain with the landlord even though they can charge rent on the added value to an incoming tenant.

Amendment 27 would require a tenant under the SLDT or the LDT to give notice in writing three months before undertaking an improvement, were compensation to be payable for that improvement at waygo. Section 42(1) requires the tenant to give notice in writing to the landlord before undertaking the improvement. However, I question the need for such an amendment. Section 42(3) requires the tenant to give the landlord 60 days in which to respond to the tenant's notice if they wish to object to the carrying out of the improvement or the manner in which the tenant proposes to undertake it. Provided that the tenant provides that period of notice and assuming that the landlord does not complain within the 60-day period, it is not apparent to me why the tenant need wait a further month before starting work on the improvement.

Amendments 92, 94 and 135 are consequential.

I move amendment 91.

Murdo Fraser: As the minister identified, amendment 27 would require the tenant to give the landlord three months' notice in writing specifying any intention to carry out an improvement and the manner in which it was proposed to carry out the improvement.

The reason for that is that section 42(1) does not specify the length of notice that the tenant is to give the landlord. In the interest of fairness, it seems reasonable that the landlord be given a time frame in which to consider the tenant's notice of his or her intention to carry out improvements. As three months is the period that section 38 of the 1991 act requires, it reflects what is already in the legislation. Some notice period is required in such instances, so amendment 27 is worth considering.

Fergus Ewing: Compensation would be computed on the basis of the value of the improvement to the incoming tenant. The Scottish Tenant Farmers Action Group and the NFUS have argued that, in the past, improvements carried out

where grant assistance has been available have resulted in the landlord receiving the benefit. The SNP therefore welcomes amendments 91 to 94 and 135. My colleague Richard Lochhead raised the issue at stage 2. I am delighted that the Executive appears to have adopted the methodology that I suggested at stage 2. Not surprisingly, I will support the product.

Euan Robson (Roxburgh and Berwickshire) (LD): I am grateful to the minister for clarifying a point that a number of constituents have put to me. As I understand it, the impact of amendment 91 is that the compensation value of grant aid will be apportioned by the relative contributions of the tenant and the landlord. That is an important point to have clarified, and I am grateful to the minister for his help.

Ross Finnie: I confirm that Euan Robson has entirely understood the provisions of amendment 91. I am grateful for Fergus Ewing's support. In response to Murdo Fraser's point that there is a need for a period of notice, I again draw his attention to section 42(3), which requires the tenant to give the landlord 60 days to respond to the tenant's notice. I believe that that is a due period of notice. I again invite Murdo Fraser not to move amendment 27.

Amendment 91 agreed to.

Section 38—Right to compensation for improvements

Amendment 137 not moved.

Amendment 92 moved—[Ross Finnie]—and agreed to.

Section 40—Amount of compensation

Amendment 93 moved—[Ross Finnie]—and agreed to.

Section 41—Consent required for compensation in certain cases

Amendment 94 moved—[Ross Finnie]—and agreed to.

Section 42—Notice required for certain improvements

Murdo Fraser: In light of the minister's comments, and as I have got my legal head round the wording of section 42(3), I will not move amendment 27.

Amendment 27 not moved.

Section 44—Compensation arising as a result of diversification etc

The Deputy Presiding Officer: Amendment 95 is grouped with amendments 96 to 99.

Allan Wilson: Amendment 97 builds on provisions that we introduced at stage 2 in connection with a tenant's right to receive compensation at waygo in respect of improvements from non-agricultural activities. I indicated to the Rural Development Committee at stage 2 that I would introduce such an amendment.

Proposed new section 45A(4C) of the 1991 act states that compensation to the tenant is payable only where the diversified activity does not render land unsuitable for agricultural use and does not leave the landlord unable to fulfil their obligations to provide the incoming agricultural tenant with fixed equipment to the statutory standard. That is because our aim is to foster the use of agricultural land for non-agricultural purposes and not, it is important to stress, to convert agricultural land to land to be used for non-agricultural purposes.

Proposed new subsection (4B) says that account shall be taken of public grant received for agricultural improvements and proposed new subsection (4D) confirms that, as is the case in relation to compensation for agricultural improvements,

"Where the tenant has remained in occupation of the holding during two or more tenancies",

they are entitled to compensation covering the entire period of their occupancy of that tenancy.

I move amendment 95.

15:00

Alex Fergusson: I oppose amendments 96 and 97 on the grounds that amendment 96 seems somewhat unfair and amendment 97 seems somewhat inconsistent. Amendment 96 removes from compensation negotiations any loss to the value of the holding arising from the carrying out of conservation activities, the increase of which has in recent years been encouraged, and which we would all welcome as sound practice by whoever carries them out.

Amendment 96 has to be seen in conjunction with the criteria governing the question whether the landlord's consent is specifically required under grant schemes associated with conservation activities. It is by no means inconceivable that a landlord will have consented to the creation by the tenant of, for example, an area of wetland under an agri-environmental scheme. That would almost certainly devalue the holding in terms of agricultural productive capacity. It is therefore surely illogical to require the landlord's consent on the one hand, yet on the other hand to deny him or her the right to compensation where that is justified because of a subsequent loss of value to the holding.

Amendment 97 includes conservation activities, and I do not see how that can work alongside amendment 96, which leaves out conservation activities altogether. Unless convinced otherwise, we will oppose both amendments 96 and 97, for the sake of clear legislation.

Allan Wilson: We expect that, in practice, tenants' reasons for entering into diversified activities will be similar to those that would apply if they had chosen to specialise in a niche agricultural market. Their goal is to generate income, not to receive payment for a capital asset. Compensation for improvements would be based on the value—a hypothetical value, admittedly—to the incoming tenant, whose interest could not necessarily be assumed.

On the substantive point that Alex Fergusson raises, I am confident that the conservation activities that he refers to are caught by the provisions in the bill.

Amendment 95 agreed to.

Amendment 96 moved—[Ross Finnie].

The Deputy Presiding Officer: The question is, that amendment 96 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)

Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 82, Against 13, Abstentions 0.

Amendment 96 agreed to.

Amendment 97 moved—[Ross Finnie].

The Deputy Presiding Officer: The question is, that amendment 97 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)

Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 83, Against 15, Abstentions 0.

Amendment 97 agreed to.

Amendment 98 moved—[Ross Finnie]—and agreed to.

Section 46—Compensation for other particular things

Amendment 99 moved—[Ross Finnie]—and agreed to.

Section 47A—Right to compensation for yielding vacant possession

The Deputy Presiding Officer: Amendment 28 stands in a group of its own.

Fergus Ewing: Amendment 28 would amend the terms of section 47A that create a right to compensation for yielding vacant possession. That provision was introduced at stage 2 by a narrow majority of six votes to five. The SNP was among that majority, and the Conservatives were in the minority.

We are delighted that interest groups, notably the Scottish Tenant Farmers Action Group and the

NFUS, supported the introduction of that measure in their many representations. It will have a substantial impact on tenant farmers who are presently unable to retire because there is no facility for them to yield the value that is inherent in the difference between vacant possession and land that is subject to secure tenancy.

However, the purpose of the amendment is to tighten up the provisions in section 47A(2) to make it clear that when the landlord proposes to sell the land and wishes to do so with vacant possession, he or she must give written notice to the tenant. Also, when the tenant agrees to quit the land, the landlord and the tenant must enter into a written agreement. No compulsion is involved because it is up to the parties, if they ultimately reach an agreement, as to whether the sale goes ahead. However, the amendment makes it clear that if there is to be a sale with vacant possession, there must be an agreement in writing to that effect after the landlord has given notice.

I move amendment 28.

Alex Fergusson: We oppose amendment 28, as it is a restrictive and proscriptive amendment that curtails the freedom of two parties to reach agreement. I find it strange that Fergus Ewing has chosen to lodge the amendment, given that he always welcomes consensus when it is reached. Amendment 28 would make consensus less likely. The process for which it provides would be counterproductive and would promote tension unnecessarily, leading to frustration and lack of co-operation, rather than enable genuine development opportunities to open up when agreement is reached.

Ross Finnie: I listened to Fergus Ewing's introduction to amendment 28, which would amend section 47A, but I am not persuaded by his arguments.

Since stage 2, we have considered carefully the value and risks of section 47A. We have concluded that, provided that Executive amendments to section 54B are agreed to, we can live with the provision. In coming to that conclusion, we have given weight to the comments that Rhoda Grant and Stewart Stevenson made in support of the amendment that inserted section 47A at stage 2. They emphasised that that amendment was designed to create the opportunity for a landlord and tenant to agree on the basis for a tenant's quitting the holding and to enable that to happen in a balanced way, regardless of whether the landlord or the tenant had initiated the move.

We believe that the principles of opportunity and balance are important, but amendment 28 would work against them. Fergus Ewing recognises that neither landlord nor tenant would benefit from the introduction of compulsion when the tenant wishes

to quit the land, but thinks that compulsion is appropriate when the landlord wishes to take the land back. The element of compulsion that Fergus Ewing seeks—and with which I disagree—is somewhat curious.

Amendment 28 provides that where the landlord wishes to sell tenanted land with vacant possession and the tenant agrees to quit the land, they would be compelled to enter into an agreement that would provide that the landlord will pay the tenants an amount calculated in accordance with section 47A. The parties may be willing, but they would not be able to negotiate how much the tenant was to receive. The tenant would be compelled to accept the sum provided in accordance with section 47A(3), no matter whether he could have negotiated a higher sum.

Security of tenure is a strong negotiating tool in the hands of the tenant. As the NFUS has made clear, a number of tenants would expect to receive more than half the difference between the tenanted value and the vacant possession value of the land before they would agree to quit the holding. Amendment 28 would constrain the negotiating position of tenants and therefore I can see no reason for it. I ask Fergus Ewing to withdraw amendment 28.

The Deputy Presiding Officer: Do you want to say anything else, Mr Ewing?

Fergus Ewing: I press amendment 28.

The Deputy Presiding Officer: The question is, that amendment 28 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)

Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Mr Murray (South of Scotland) (Con)

Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 20, Against 75, Abstentions 0.

Amendment 28 disagreed to.

Before section 52

Amendment 100 moved—[Ross Finnie].

Amendment 100A moved—[Fergus Ewing].

The Deputy Presiding Officer: The question is, that amendment 100A be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)

Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 22, Against 75, Abstentions 0.

Amendment 100A disagreed to.

The Deputy Presiding Officer: The question is, that amendment 100 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)

Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)

Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 85, Against 16, Abstentions 0.

Amendment 100 agreed to.

Section 54—Variation of rent

Amendment 29 moved—[Fergus Ewing].

15:15

The Deputy Presiding Officer: The question is that amendment 29 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)

Paterson, Mr Gil (Central Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)

Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 22, Against 79, Abstentions 0.

Amendment 29 disagreed to.

Amendment 30 not moved.

After section 54

Amendment 101 moved—[Allan Wilson]—and agreed to.

Section 54A—Termination of tenancy

Amendment 102 moved—[Allan Wilson]—and agreed to.

Section 54B—Terms of leases

The Deputy Presiding Officer: Amendment 103 is grouped with amendments 138, 31, 139, 33, 34, 104, 35, 36, 37, 38, 105 and 106.

If amendment 34 is agreed to, I cannot call amendment 104 and if amendment 36 is agreed to, I cannot call amendment 37 because of pre-emption. Amendment 103 would not pre-empt amendment 138.

Allan Wilson: The Rural Development Committee inserted section 54B at stage 2 to give 1991 act tenants a right to assign their interests in the tenancy. I opposed that at stage 2 because we were concerned that the amendment had been lodged without much consideration being given to its practical effects. We have consequently given a lot of thought to the new provision since stage 2, in consultation with the industry. Our considered view at the conclusion of that consideration is that section 54B will not in its current form benefit tenants generally, but could prove to be damaging to the sector as a whole.

I will make it clear what the effect of section 54B as it stands would be for tenants. The only tenants who would benefit from the right that section 54B gives would be those who plan to leave the industry fairly soon. However, even for those tenants there is no guarantee about what the value of the assignation might be. Not even the

Scottish Tenant Farmers Action Group is able to predict whether the provision would in practice leave tenants with the funds that would help them to retire.

What about tenants who intend to stay on the land? Any prospect of an assigned value in the future would be cancelled out by the prospective increase in rent that a tenant would be required to pay to reflect the existence of the new right. Assignees who become new tenants would find that the effect of section 54B would be to deprive them—through a combination of increased rental payments and the initial assignation payment—of the valuable funds that they would otherwise put into their business.

Section 54B does not make sense from the tenants' perspective. I should add that further problems would arise if the right to assign were to attract significant value. In that case, the immediate loss to the tenanted value of land, to a landlord with a tenant who was liable to exercise the right, could be substantial—perhaps up to 40 per cent or 50 per cent in some cases—because the landlord would lose the expectation of reclaiming vacant possession in the foreseeable future. Over time, that loss would be eroded as a result of the increased rent that the land would attract; that would mean that the tenant would have less to invest in the agricultural benefit of the land. We are concerned that, in the initial stages, a genuine risk of challenge under the European convention on human rights for a loss of property rights would emerge in those circumstances.

Just as we question section 54B as it stands, we also question some of Fergus Ewing's amendments. The National Farmers Union of Scotland raised with us the point that a tenant will lose the statutory right to compensation at waygo if the tenant assigns his or her interest. In amendments 31 and 139, Fergus Ewing appears to be trying to ensure that the outgoing tenant receives full compensation at waygo from the landlord, despite having assigned the interest.

However, amendment 139 contains a material ambiguity that we believe would make the provision technically defective. The amendment refers to the tenant's right to compensation at waygo on assignation, but who would be the tenant at that point—would the tenant be the assignor or the assignee? Who would pay the compensation—would it be the assignee or the landlord?

In amendments 33 to 35, Fergus Ewing seeks to adjust the basis on which the landlord may withhold consent to a proposed assignation. The effect would be to place the onus on the landlord to demonstrate that the proposed assignee did not have the ability to pay the necessary costs, or did not have the necessary skills and experience. The

issues are similar to those that were debated this morning in our debate on amendments to section 7; our response remains the same. We have received no criticism on that aspect of the bill from tenants or their representatives. As with section 7, the current drafting also reflects the principle of *delectus personae*, which recognises that in such leases the landlord has some flexibility in selecting a tenant based on his or her comfort with that person.

I turn to the Executive amendments. Although I said that section 54B as drafted would not be beneficial for tenants, I acknowledge the concern that has been expressed by the Scottish Tenant Farmers Action Group, which I met last week. That group pointed out that it can be difficult for a tenant family to manage a farm effectively when the tenant is unable to pass on the position of tenant to a son or daughter as heir, who might be better able to develop the land effectively, productively and imaginatively. In those circumstances, it can be difficult for an aging farmer to obtain finance to invest in the land, whereas one or other of his offspring might be in a better position so to do. At present, the tenant remains the tenant until his or her death—until his or her physical demise—and must assume all the responsibilities of the tenant until that day. That is not right.

Executive amendments 103 to 106 will adjust section 54B to allow for assignation, but only between family members. That will enable a tenant to pass on their interest in the farm to a family member without waiting until succession on the death of the farmer. The tenant would acquire no financial interest in the tenancy, thus avoiding the practical difficulties that that would present. The landlord would suffer no loss because the new tenant would simply take up the position earlier than might have been the case under the 1991 act.

Beyond that right, any term in a lease that prohibits assignation would remain valid by virtue of amendment 105. Amendment 106 is a drafting amendment, which will delete section 54B(7), which is irrelevant for those purposes.

The Executive will support Fergus Ewing's amendment 36, which is an important addition to the whole. The amendment will remove the right of the landlord to acquire the tenant's interest on assignation. That is an important provision because allowing for such a right in a transfer between family members would cut across the tenant family's right to security of tenure, which is what we are trying to achieve. We are happy to accept Fergus Ewing's amendment 36. Indeed, we lodged a similar amendment, which was not accepted because it closely paralleled his amendment. If amendment 36 is agreed to, I

understand that amendment 37 will not be necessary.

Fergus Ewing's manuscript amendment 138 would offer an alternative definition of a family to that which is offered in the Succession (Scotland) Act 1964. Let me make it quite clear that the relevant definition is the one in that 1964 act. After all, we are responding to a call from tenant farmers that a tenant should be able to bring forward succession rights—the succession rights that are laid out in the 1964 act—that would otherwise have had to wait until the farmer's death.

I move amendment 103.

Fergus Ewing: I am delighted that the Executive will accept amendment 36—I feel as if we are now making some progress.

I want in speaking to the amendments to emphasise that the committee decided to support the measure by a vote of six to five. Rhoda Grant lodged the amendment that the Executive now feels would be dangerous and would have severely adverse consequences for the sector.

However, the principle that Rhoda Grant supported at stage 2 and which the SNP continues to support at stage 3 is very simple: secure tenants in Scotland should have security of tenure. They have an asset that they cannot pass on or transact, but those who hold commercial leases for shops and offices are able to transact that asset by selling it on. The principle would create a market that would allow those tenants who Ross Finnie described as being "stuck" to become unstuck and able to sell off their assets. It would also mean that they would be able to create opportunities for new tenants to come into the market. I advance my argument in such terms because I understand that certain Conservative members generally support markets and the ability to transact with assets, but I suspect that that will not apply to the agricultural sector today.

My second serious point is that the Scottish Tenant Farmers Action Group supports the combined effects of my amendments. At a meeting yesterday John Kinnaird—the National Farmers Union of Scotland's new president—also supported them. I will explain the basis of his reasoning. He believes that a combination of amendments 31, 139, 36 and 138 would allow assignation with compensation to the outgoing tenant, and would give the landlord the benefit of conversion.

By mirroring section 2 provisions—which allow conversion from a secure tenancy to a LDT—we are saying that the incoming tenant would acquire a 25-year LDT. As John Kinnaird acknowledged, that would mean that there was something in this for everyone; the landlord would acquire the right to vacant possession. We lodged amendment 31

because of the argument that if that provision was not contained in the bill, we would be creating what might amount to a perpetual tenancy, so the landlord would never have any prospect of getting back vacant possession.

I do not intend to move amendments 33, 34 and 35 because we have in effect debated those amendments, which were reflected in amendments 9, 10 and 12, if my memory serves me correctly.

The provision that is contained in my amendments is vital for tenant farmers. If we really want to give secure tenants in Scotland a better deal, we must give them the opportunity to free up their assets so they can retire, and so that new people can come into the farming sector in Scotland.

Alex Fergusson: We will accept Executive amendments 103, 104, 105 and 106. I have little else to say except that I find that, as always, Fergus Ewing's amendments seek to tilt the balance of the bill a little bit too far away from the consensus that the stakeholders group achieved. They would certainly tilt that balance too far for us to be able to support them.

George Lyon: The intention behind the concept of assignation was to free up the tenanted sector. In far too many cases, tenants are trapped in their tenancies. That is because what was always regarded as being of true value on a tenanted holding—the stock—has been significantly devalued in recent years because of the impact of BSE; much of the collateral and asset value has been lost.

Many people are trapped on their farms and are unable to realise enough money to buy a house so that they could move out and continue to farm. Creating the right to assign a tenancy to a third party would free up the tenanted sector, provide opportunities for new people to come in and allow third parties to access tenancies.

I am not convinced by the Executive's arguments on amendment 103, which seeks to limit third party assignations so that they can be made only to family members. The criticism that a more open system of assignation would create perpetual tenancies and that landowners could never expect to reclaim vacant land has been answered by Fergus Ewing's amendment 31, which would create a 25-year limited duration tenancy when a tenancy was assigned to a third party.

I want the minister to detail in his summing up why he thinks that it is wrong to permit all third party assignations. Unless I hear a good reason why we should not do so, I will not be minded to support the Executive on amendment 103.

15:30

Stewart Stevenson: In many ways, the same arguments apply on assignation to members of the family as applied to residency, which we debated earlier. Is assignation good for the tenanted farm or the landlord if an aging farmer continues working until he or she—I suspect that there are few shes—dies? Hardly: it is better that there should be a degree of planning about the assignation at an appropriate time for the farmer and his successor. On that basis, I support Fergus Ewing's proposals whole-heartedly, as I was happy to support Rhoda Grant's amendment 49 at stage 2—[*Interruption.*]

The Deputy Presiding Officer: Order. There is a lot of activity on the back benches. If members want to speak to one another, they should do so outside.

Stewart Stevenson: The tenanted sector depends for its vibrancy on the turnover of tenancies. Fergus Ewing's amendments would permit acceleration in the turnover of tenancies. If more tenancies are turning over, more people will be attracted to the sector, which will benefit tenants and landlords. I am happy to support Fergus Ewing's amendments.

Allan Wilson: Stewart Stevenson contradicts what he said at stage 2. Fergus Ewing's amendments run against what Rhoda Grant sought in lodging amendment 49 at stage 2, which was a right to assign, which would give tenants a way out of tenancies, and would liberate land for further tenancies and perhaps stimulate the market. However, it is perverse that, at the point of stimulating the market, the value of the assignation would decrease, whereas the value of the assignation would increase in direct proportion to the lack of tenanted land on the market.

The imposition of a payment obligation on the landlord ought to be an integral part of Fergus Ewing's proposals, but it is not, which runs counter to his stated objective. I accept that Fergus Ewing is trying to ensure that the outgoing tenant receives full compensation at waygo from the landlord, despite having assigned their interest. That has been sought by the NFUS and others. While he undoubtedly intends for the outgoing tenant—the assignor—to benefit, it is possible to read amendment 139 with the result that compensation at waygo is payable to the assignee, who would become the tenant

“On assignation of a lease”.

Furthermore, amendment 139 would not place a specific obligation to pay compensation at waygo on any party, which is a fairly major omission. As a matter of interpretation, Fergus Ewing will argue that the landlord is due to pay the compensation as normal at waygo, but that would obviously be a

matter for the courts to determine because of the lack of clarity in amendment 139. The amendment would not make for good legislation and is not something that George Lyon should support, despite his past support for—among other things—the absolute right to buy.

The Deputy Presiding Officer: The question is, that amendment 103 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)

Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 75, Against 25, Abstentions 0.

Amendment 103 agreed to.

Amendment 138 not moved.

Amendment 31 moved—[Fergus Ewing].

The Deputy Presiding Officer: The question is, that amendment 31 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)

Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)

McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 23, Against 77, Abstentions 0.

Amendment 31 disagreed to.

Amendment 139 moved—[Fergus Ewing].

The Deputy Presiding Officer: The question is, that amendment 139 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)

White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 25, Against 79, Abstentions 0.

Amendment 139 disagreed to.

Amendments 33 and 34 not moved.

Amendment 104 moved—[Ross Finnie]—and agreed to.

Amendment 35 not moved.

The Deputy Presiding Officer: I take it that you do not want to move amendment 36, Mr Ewing.

Fergus Ewing: No, I want to move it. Amendment 36 is my moment of triumph. [*Laughter.*]

Amendment 36 moved—[Fergus Ewing].

The Deputy Presiding Officer: I will put that to the test. The question is, that amendment 36 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)

Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)

Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 89, Against 16, Abstentions 0.

Amendment 36 agreed to.

Amendment 38 not moved.

The Deputy Presiding Officer: Does any member object to my calling on the minister to move amendments 105 to 110 en bloc, and to my putting a single question on the amendments?

Stewart Stevenson: I object.

The Deputy Presiding Officer: In that case, I shall extract amendment 106 and put the questions separately.

Amendment 105 moved—[Ross Finnie]—and agreed to.

Amendment 106 moved—[Ross Finnie].

The Deputy Presiding Officer: The question is, that amendment 106 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)

Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

AGAINST

Canavan, Dennis (Falkirk West)
 Smith, Iain (North-East Fife) (LD)

ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)

Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 80, Against 2, Abstentions 23.

Amendment 106 agreed to.

Section 57—Good husbandry and conservation activities

Amendments 107 and 108 moved—[Ross Finnie]—and agreed to.

Section 58—Rights of certain persons where tenant is a partnership

Amendments 109 and 110 moved—[Ross Finnie]—and agreed to.

Section 58A—Rights of certain persons where tenant is a limited partnership

Amendment 111 moved—[Allan Wilson].

Amendment 111A moved—[Fergus Ewing].

The Deputy Presiding Officer: The question is, that amendment 111A be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 22, Against 82, Abstentions 0.

Amendment 111A disagreed to.

Amendment 111 agreed to.

After section 58A

Amendment 113 moved—[Ross Finnie]—and agreed to.

Amendment 114 moved—[Ross Finnie].

The Deputy Presiding Officer: The question is, that amendment 114 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)

Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Canavan, Dennis (Falkirk West)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North-East Scotland) (Con)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)

Stevenson, Stewart (Banff and Buchan) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 68, Against 37, Abstentions 0.

Amendment 114 agreed to.

Section 59—Jurisdiction of the Land Court

15:45

The Deputy Presiding Officer (Mr Murray Tosh): We move to group 25, on matters that the Scottish Land Court may determine. Amendment 115 is grouped with amendments 116 to 127.

Ross Finnie: Amendments 115 to 127 make a number of changes in part 7, relating to dispute resolution.

Amendment 117 excludes from the Land Court's jurisdiction questions of fact relating to the determination of the price that is payable by the tenant in exercising a right to buy under part 2. When the landlord and tenant are not agreed on the price, the price is to be calculated by a valuer who is to be appointed under section 30. An appeal against the decision of the valuer on questions of fact will be determined by the Lands Tribunal for Scotland under section 33. Questions of law arising in such an appeal should be referred to the Land Court by the Lands Tribunal under section 33A, unless the tribunal considers that it would not be appropriate to do so.

The amendments to which I am about to speak will extend the jurisdiction of the Land Court to cover the range of disputes that might arise in relation to agricultural leases under the bill and the 1991 act. Amendments 119 and 125 include disputes between a tenant and a party wishing to acquire the tenant's interest by way of an assignation within the Land Court's jurisdiction.

The first paragraph that will be added by amendment 121 includes disputes arising when a tenant is exercising the right to buy from a creditor in a standard security with a right to sell land within the Land Court's jurisdiction. The second paragraph that will be added by amendment 121 and amendment 127 provides that, when the subject matter of a dispute arises out of the tenancy or in connection with the holding, the Land Court may still hear and determine the matter when the parties to the dispute are no longer landlord and tenant—for example, in a dispute arising in connection with the exercise of the right to buy that arises after the tenant has become the owner.

Amendments 118 and 124 will exclude disputes over who is entitled to succeed to the estate of a

deceased person on intestacy from the jurisdiction of the Land Court. Amendment 103 will provide that 1991 act tenancies may be assigned to such persons. Such questions concern an individual's status and, therefore, jurisdiction over such matters should remain with the ordinary courts.

Amendments 115, 116, 120 to 123 and 126 are consequential drafting amendments.

I move amendment 115.

Amendment 115 agreed to.

Amendments 116 to 121 moved—[Ross Finnie]—and agreed to.

Section 61—Resolution of disputes by the Land Court

Amendments 122 to 127 moved—[Ross Finnie]—and agreed to.

Section 68—Power of the Land Court to grant remedies etc

Amendment 128 moved—[Ross Finnie]—and agreed to.

Before section 75

The Deputy Presiding Officer: Group 26 is on the prohibition of certain terms of leases or agreements. Amendment 42 is in a group on its own.

Fergus Ewing: Perhaps the major defect of the 1991 act was the fact that it was circumvented. Its purpose was frustrated and landowners and their agents used various devices, such as write-down agreements and post-lease agreements, to pervert the purpose for which the 1991 act was passed. It therefore seems logical and necessary that the bill—the purpose of which is, in part, to set up new vehicles that can be used in the tenanted sector—ensures that that does not happen to the new vehicles, otherwise we could rightly be criticised for failing to achieve our purpose.

Amendment 42 would quite simply prohibit any attempts that might be made to disapply the rules and regulations that we are setting up for the new SLDT and LDT vehicles. The operative provision is subsection (2), which states that

“any term of the lease or the agreement which purports to provide that any right conferred on the tenant, or obligation imposed on the landlord, by this Act does not apply to the tenancy is ... of no effect.”

I hope that all members will agree to the amendment, as it is essential that, if the new vehicles are to be effective, they will act as we intend them to act and will not be overridden by smart lawyers' fancy agreements, which we have seen in the past.

I move amendment 42.

Alex Fergusson: I apologise to Mr Ewing for being absent from the chamber when he spoke—I was away on important business.

Our opposition to amendment 42 is entirely focused on the first word of its title—“Prohibition”. Any prohibition will surely have a limiting effect on the amount of land that is to be let in the future. That goes against the supposed aim of the bill, although I will argue in the debate to come that the bill itself will prevent the fruition of that aim.

The effect of amendment 42 would be to rule as void any clause that is entered into SLDTs, LDTs or 1991 act tenancies where that clause has the effect of bypassing some other section of the legislation relating to those leases. The amendment would not only have a limiting effect in respect of increasing the supply of land to the tenanted sector, but would undoubtedly increase the supply of work to members of Mr Ewing’s former profession, which has been given more than enough work by the Parliament already. If we are to amend the bill, we should do so in a way that frees it up rather than further restricts it.

The Deputy Presiding Officer: I invite Allan Wilson to comment.

Allan Wilson: Are we dealing with amendment 42?

The Deputy Presiding Officer: Yes.

Allan Wilson: I am sorry—I was elsewhere.

I share Fergus Ewing’s view that the protections that are afforded to tenants under the new legislation should be respected, but we are unsure in more ways than one about what the provision would add to the bill as it stands.

We have received no particular expression of concern from tenants and their representatives about the possibility that landlords and tenants might be able to contract out of the tenant’s statutory rights. The bill is explicit about the nature of tenants’ rights in a number of respects, such as in respect of the right to buy, the right to diversify and the right to compensation for improvements, which are all important changes that transfer the balance in favour of the tenant. It is important that the bill also removes some explicit get-outs that have applied to tenants’ rights under the 1991 act. In particular, landlords and tenants will no longer be able to contract out of the landlord’s responsibility for renewing fixed equipment, which section 5(3) of that act has explicitly permitted, while the various provisions that allow the parties to enter into a write-down agreement in respect of tenants’ improvements are also being removed.

We are principally concerned about the risk of unfortunate side-effects that could arise from the

adoption of amendment 42. Perhaps if the principle had been adopted at the outset, we could have framed the bill around it. Unfortunately, that did not happen and it is possible that introducing the principle at stage 3 could result in unfortunate side-effects.

At this stage, without further opportunity to consult the sector and revise the provision later if that were to prove necessary, I am nervous about making a change that could result in the unforeseen effects to which I referred. On this one occasion, I am going to be conservative, as we are also unclear about how tenants would benefit from the provision. I can see circumstances in which the amendment would not benefit tenants. On that basis, I ask Fergus Ewing not to press amendment 42.

Fergus Ewing: I have listened with interest in the hope that there might be an argument against amendment 42, but I did not hear any such argument.

Amendment 42 is a simple amendment that would provide for a non-contracting-out section. The amendment says that the

“right conferred on the tenant, or obligation imposed on the landlord, by this Act”

cannot be contracted out of.

I appreciate that the minister was distracted momentarily. However, he did not provide a single example of a right that the bill confers on tenants that he thinks the landlord should be able to overturn and subvert. The serious point to be made is that that is exactly what happened under the 1991 act. In a way, it is because of that fact that we are in the chamber today.

Allan Wilson: I could have given examples. I explained why we oppose amendment 42 in principle and why we oppose its introduction at this stage. Had amendment 42 been lodged at the outset, we could have drafted legislation round it. We have discussed at length the obvious advantage to a tenant of being able to contract out of the statutory notice period for quitting a tenancy in return for a cash payment that the parties agree to contractually. That is one obvious example—there are others. It would not serve the interests of the tenant to simply have a blanket ban on the parties’ ability to contract out voluntarily of those commitments.

Fergus Ewing: I disagree with the minister. I am not sure that that was indeed an example, as the minister did not say to which section he referred or to which right or period of notice. The bill contains no provision that the tenant would willingly wish to contract out of.

Amendment 42 speaks for itself. If it is not agreed to and successful attempts are made by

landowners to pervert the purposes of the act, that will be a result of the absence of the new section that amendment 42 would have inserted. I hope that the minister is confident in the arguments that he has made this afternoon.

The Deputy Presiding Officer: The question is, that amendment 42 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)

Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

ABSTENTIONS

Ingram, Mr Adam (South of Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 23, Against 77, Abstentions 1.

Amendment 42 disagreed to.

Section 75—Orders and regulations

Amendment 129 moved—[Ross Finnie]—and agreed to.

Section 76—Ancillary provision

The Deputy Presiding Officer: We move to group 27. Amendment 130 is in a group on its own.

Ross Finnie: I will be brief. Amendment 130 is a technical amendment, which ensures that, for the

avoidance of doubt, the ancillary provision power under section 76 can amend the provisions of any enactments that apply to 1991 act tenancies or to land that is held under 1991 act tenancies so as to apply them to short limited duration tenancies and limited duration tenancies, or to land that is held under such tenancies.

I move amendment 130.

Fergus Ewing: Briefly, I confirm that the SNP will oppose amendment 130. We feel that it should have been introduced at an earlier stage, particularly to allow its implications to be considered by the Subordinate Legislation Committee.

16:00

Alex Fergusson: I am not convinced that amendment 130 is quite as innocent as it looks. I fear that it hides a bit of a sting. It seems to me that to continue the power that has been given to ministers in future to use subordinate legislation to make further impositions on SLDTs and LDTs can have only a negative impact.

Surely by retaining the power to amend the new tenancies to make them more secure, the minister is sending out a clear message to those who have land available to let that they should do so entirely at their own risk, given that the new-style tenancies will be open to any alternatives under the 1991 act that any minister in the future sees fit to impose. We are therefore entitled to ask why anyone would consider letting land under any arrangement—never mind the widely agreed vehicles of the proposed new tenancies—in the light of the future uncertainty that amendment 130 promotes.

It is no wonder that, since May 2002, only one farm has appeared for rent in the pages of *The Scottish Farmer*. Amendment 130 is the epitome of what the very people who have it in their power actively to reinvigorate the tenanted sector—those who have land available for rent—fear from this legislation. With such amendments, I guarantee that those people will choose not to make their land available in such a way. Amendment 130 goes against everything that the bill pretends to support, and we will oppose it.

Ross Finnie: Given the note on which Alex Fergusson ended, I find it very difficult to see how he has managed to put such a draconian construction on an ancillary provision that simply calls on us to make

“incidental, supplemental, consequential, transitional, transitory or saving provision”.

I really think that he is overstating the case.

The Deputy Presiding Officer: The question is, that amendment 130 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollak) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)

Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Canavan, Dennis (Falkirk West)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North-East Scotland) (Con)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 66, Against 37, Abstentions 0.

Amendment 130 agreed to.

Section 78—Interpretation

Amendment 131 moved—[Ross Finnie]—and agreed to.

The Deputy Presiding Officer: Amendment 132 is grouped with amendments 133 and 136.

Allan Wilson: These are all consequential amendments.

I move amendment 132.

Amendment 132 agreed to.

Amendment 133 moved—[Ross Finnie]—and agreed to.

Schedule

Amendments 134 to 136 moved—[Ross Finnie]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Agricultural Holdings (Scotland) Bill

The Deputy Presiding Officer (Mr Murray Tosh): The next item of business is a debate on motion S1M-3867, in the name of Ross Finnie, that the Agricultural Holdings (Scotland) Bill be passed.

16:04

The Minister for Environment and Rural Development (Ross Finnie): I am very pleased to open the stage 3 debate on the passage of the Agricultural Holdings (Scotland) Bill. The bill was launched for consultation a long time ago and has been subject to a very inclusive process during its passage.

I congratulate particularly the Rural Development Committee on the amount of detailed work that it undertook to get us to where we are today. That work included the record-breaking session on the final day of stage 2 consideration of the bill, which members of the Rural Development Committee will treasure among their memories of the first parliamentary session.

The bill benefited hugely throughout its development from the substantial input and involvement of several bodies. The National Farmers Union of Scotland and the Scottish Landowners Federation were particularly closely involved in the development of the bill from the start. It was, of course, their historic and groundbreaking agreement that provided the basis for the provisions on the new tenancy options within part 1 of the bill, but their involvement encompassed all aspects of the bill.

Part 7 of the bill contains far-reaching provisions that will fundamentally change procedures for resolving disputes between landlord and tenant. Those provisions were hatched from a much-applauded report that the Scottish Law Commission produced at the request of ministers. In his earlier remarks, Fergus Ewing said that he had not given as much time as he might have to the law on agricultural holdings. He might be interested to know that Lord Gill, who was the author of the highly applauded Scottish Law Commission report, has moved on to be the Lord Justice Clerk. Fergus Ewing might have missed an opportunity there.

The efforts of ministers and my officials to ensure that the bill would be workable benefited from the professional advice of several organisations on developing the bill and underpinning policy. Bodies such as the Royal Institution of Chartered Surveyors in Scotland, the

Scottish Agricultural Arbiters and Valuers Association, the Valuation Office Agency, the Scottish Land Court and the Registers of Scotland provided valuable advice and input. More recently, as the bill progressed, groups emerged that offered a distinctive and valuable perspective on the debate. We were particularly pleased to work with the Scottish Tenant Farmers Action Group and the Scottish estates business group since those bodies were established in 2002. Our white paper in 2000 attracted almost 100 responses and about 250 people and organisations responded to the draft bill last summer. I am also aware that the Rural Development Committee received many statements.

Overall, I believe that the bill is an excellent example of industry-wide working. Since NFU Scotland and the SLF commenced discussions about new tenancy models, all parties have worked hard to bring the new measures into effect. We are convinced that the industry as a whole, and landowners and tenants separately, will see real gains from the bill.

It is clear that the passing of the bill will bring major benefits. The bill introduces new, modern tenancy arrangements that will help Scottish farming to adapt to the challenges facing it in the 21st century. The new limited duration tenancies and short limited duration tenancies will offer tenants and landowners alike opportunities for increased flexibility to invest in land. The bill will also correct many anomalies and inequities that have crept into existing 1991 secure tenancies. The position of tenants will be improved through measures that will stop landlords imposing unfair off-lease conditions on tenants, provide for better compensation for tenants' improvements at waygo, introduce more scope for tenants to diversify, remove one-sided avoidance measures such as limited partnerships and offer cheaper access for all to dispute resolution. I believe that those measures will redress an historic imbalance in power between landlord and tenant. However, the measures will, over time, work to the benefit of both parties by improving business relationships and fostering genuine business partnerships.

The fact that existing legislation continued virtually untouched for over half a century against a backdrop of fundamental change in Scottish agriculture shows the importance of the work that we are doing. Further, the fact that we have been able to attend to the issue is an important tribute to the real benefits of having the Scottish Parliament.

The amendment that the Conservative party lodged is slightly carping and, I genuinely believe, unworthy of the constructive contribution that Alex Fergusson and others in the Conservative party made to the debate. To end on such a sour tone, if I might say so, is a most unfortunate line to take.

The bill is a much-needed reform of a piece of legislation that was being badly abused and was rapidly becoming disused. In the thrust of the legislation, contrary to what has been said and has been implied by the lodging of the amendment, we have sought to redress the balance. However, we have not sought to ignore one party or the other. We have worked extraordinarily hard to be inclusive in the development and formation of this important bill. That is why I believe that it will command wide support from all sectors once it is approved today.

For the purposes of rule 9.11 of the standing orders, I have to advise Parliament that Her Majesty, having been informed of the purport of the Agricultural Holdings (Scotland) Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

I move,

That the Parliament agrees that the Agricultural Holdings (Scotland) Bill be passed.

16:10

Alex Fergusson (South of Scotland) (Con): Before I address my amendment, I thank the clerks to the Rural Development Committee and my colleagues on the committee. Everyone worked long and hard to progress the bill at stages 1 and 2. The clerks did a magnificent job and I am happy to place on the record my thanks to them. I am sure that I speak for all my colleagues on the committee when I say that.

I lodged my amendment in order to place on record something that I want to make absolutely clear to the Parliament: the Scottish Conservatives take no pleasure in voting against the bill, as we will, as we share the view that the tenanted sector of Scottish agriculture is in great need of reinvigoration and would have greatly benefited from the type of reforms that were originally envisaged when the bill was first mooted. We were promised a bill that would introduce two new types of tenancy that had been agreed by both the Scottish Landowners Federation and the NFUS. That was a revolutionary breakthrough in itself and greatly welcome. The way looked set for a progressive bill that would genuinely address the reform and relaunch of a sector, a move that almost everyone agreed was overdue and badly needed. That legitimate and welcome debate then became hijacked by another debate on the right to buy, which was not intended in the original proposal and was even denounced by the minister in Glasgow in May 2000. His complete about-turn on this issue is the sole cause of the tension that has built up around the limited partnerships that have become the focus of the on-going debate.

I have never denied that there have existed examples in which the relationship between landlord and tenant is far from perfect, although I notice that no one ever refers to the far greater number of examples in which the relationship is perfectly acceptable. Nor have I ever pretended that limited partnerships were anything but, as I said earlier, a perfectly legal dodge to circumvent the absolute security that the 1991 act confers.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I am interested in the explanation of why the Conservatives will vote against the bill. It appears to relate to the debate on the absolute right to buy. However, that is not in the bill at all. Could the member clarify why the Conservatives will vote against this progressive piece of legislation?

Alex Fergusson: I am about to do that. I have not yet given any reasons why we will vote against the bill. If Mr Rumbles bears with me, he will hear our reasons.

Mr Rumbles: We are waiting.

Alex Fergusson: Mr Rumbles will not have to wait long.

We have taken our eyes off the fact that all limited partnerships were entered into voluntarily and that most have continued beyond their initial period on an entirely agreed and mutually acceptable basis.

However, the provisions of the bill, which the minister originally denied would impact on limited partnerships, have done so in a way that has set partner against partner and—worse—friend against friend. Even when offered a sensible and innovative way out by the SLF, the minister has opted instead for a confused and confusing approach that will do little to lessen the tensions that now exist in almost all such partnerships.

I admire the Scottish Tenant Farmers Action Group for the way in which it has seized the moment and run with it. I also admire the industry stakeholders, some of whom were mentioned by the minister, for the way in which they have sought and—on almost all the contentious issues—achieved consensus. I suspect that members of the Scottish Tenant Farmers Action Group would, at the outset, happily have settled for the concessions that they have gained, and I believe that those concessions greatly improve the lot of the secure tenant. I welcome that now, as I do in my amendment.

However, the mixed messages that have been sent out by the minister overshadow all the benefits that have been brought by the bill. The pre-emptive right to buy talks of a willing buyer and a willing seller. That is fine but, given that willingness, who on earth needs legislation? The

minister has left the door to further change—by subordinate legislation, at that—wide open. Moreover, some members have made it plain that they intend to raise the absolute right to buy in future years.

I simply put one question to members: who in their right mind would risk the future of something of which they are in perfectly legal possession—that is, their land—to any form of meaningful tenancy, either new or old, under circumstances as vague as those that I have just described?

Dr Sylvia Jackson (Stirling) (Lab): Will Alex Fergusson give way?

Alex Fergusson: No, I am in my last five seconds.

I genuinely hope that I am proved completely wrong, but I believe that practically no one will take such a risk. In other words, a bill that set out to reinvigorate the tenanted sector is in great danger of killing it stone dead. I cannot and will not vote for that.

I move amendment S1M-3867.1, to insert at end:

“but, in doing so, regrets that, despite the worthwhile provisions in the Bill, the pre-emptive right to buy has undermined them; notes that there are indications that land to let is already becoming unavailable; believes that the present arrangement of allowing greater flexibility in the detail of leases between landlord and tenant is imperative for the tenanted sector, and considers certain provisions within the Bill are contrary to the interests of that sector and fail to provide opportunities for the next generation of farming tenants, thus failing to reinvigorate the tenanted sector of agriculture in accordance with the Bill’s stated intention.”

16:15

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I add my appreciation of the Rural Development Committee clerks, who were led on the bill by Mark Brough, whose work was of outstanding quality. I also say how much I enjoyed taking the evidence and meeting all those involved, particularly the farmers, and learning about the experiences and difficulties that they have had in the past.

The late Donald Dewar remarked on the plight of tenant farmers. He was impressed that action was needed and I am proud that action has been taken.

The bill has undergone more change in its passage through the Parliament than any other bill that I can think of—at least, more than any other Executive bill that I can think of. To a large extent, that has been because of the campaigning efforts of people who are watching the debate today and—dare I say it—some members, who have pursued some of the issues doggedly. Those

issues include securing a share of terminal value for tenants, which was not in the bill as introduced. They include improvements in the rent review to take account of the economic potential of a farm, which was not quite in the bill as introduced. They also include the ability to assign which, although it is too narrow for my liking, is a step forward in creating an opportunity for tenants who wish to retire to do so. They also include the setting aside of post-lease agreements and write-down agreements and the establishment of anti-avoidance measures. Those issues were all developed by hard work in the committee and I congratulate all who played a part in undertaking that work on the committee.

There will need to be a period in which we find out whether the bill delivers the improvements that I would like and whether the bill will end the economic stagnation about which the Scottish Tenant Farmers Action Group talked in its excellent initial submission to the Parliament. One of the spokesmen of that group said about the bill in today’s newspapers:

“What started life as an insipid bill creating new-style farm tenancies ... has evolved into a meaningful bill laying the foundation block for real reform in the future.”

It seems no more than common sense that, as the Parliament has carried out a piece of work through which the lot of the secure tenant farmer will be significantly improved, there should now be a period of calm in which we can assess the effectiveness of the measures that we will pass today. It is up to all parties—but most notably the landowners—to use the new vehicles in the way in which we have intended, not to seek to circumvent them or pervert their purposes. If all parties use those vehicles as intended, many of those who wanted to go further and along the route that Alex Fergusson mentioned may not be as determined or keen to do so if they feel that the mischief that has caused the difficulty in their cases has been resolved. That is why we need a period—the next year or so—over which to see the bill’s effect before it would be correct to go further.

That is a commonsense statement. I hope that all those who have played a major part in the debate will welcome it.

Alex Fergusson: By “go further”, does Fergus Ewing mean the imposition of an absolute right to buy?

Fergus Ewing: I mean going further in the way that I have described today in relation to a variety of the issues on which I have spoken, such as the ability to have a general right to assign or ensuring that no tenants may face eviction because we refuse to take steps that allow that to be avoided. I hope that the use of subordinate legislation powers could be considered in order to protect any tenants who may face eviction, such as the 60

tenants referred to during our consideration of amendments earlier this afternoon.

I take it that Mr Fergusson is referring to the absolute right to buy. I was pleased to take part in the debates on that subject at stage 2. We put the argument strongly and, when I spoke, it was, I think, the longest recorded speech of the Parliament—I am not saying that it was necessarily the most enthralling. One must recognise that when we cannot succeed in obtaining a majority to support us following a debate, it is pointless merely to have a rerun of the same debate at stage 3. We did not do that, because we wished to devote more time today to other arguments. I think that that was a wise decision.

In the period ahead we will want to reflect on the work that has been done now, and I am delighted that the SNP has played a fairly major role in winning for tenants in Scotland a better deal than they have enjoyed in the past. Parliament can be proud of itself in passing the Agricultural Holdings (Scotland) Bill today.

16:21

Rhoda Grant (Highlands and Islands) (Lab):

Like others, I thank everybody who worked so hard on the bill, especially the clerks to the Rural Development Committee. A special mention has to go to Mark Brough, who did so much work and who showed incredible patience throughout the process.

The Agricultural Holdings (Scotland) Bill brings about huge changes for tenants and gives them a lot more protection and security than they had at the start of this process. It gives them easy access to the Scottish Land Court, which avoids the costly arbitration that we heard about in committee. That involved farmers having to spend huge amounts of money to reach the stage of arbitration, sometimes on spurious grounds. The bill will save them money and will give them more security.

Write-down agreements will also come to an end. Those agreements have been made by landowners to avoid liabilities under the Agricultural Holdings (Scotland) Act 1991, and we came across cases of people investing huge amounts of money in their farms but not getting the benefit when leaving them. The committee noted the benefits that people derived from handing their land on to their successors before their death, and from being able to see their farms passed to future generations and to retire comfortably and play a part in that.

One of the new sections introduced earlier today allows the Scottish Land Court to withhold rent. That is highly important for tenants of absentee landlords, who will perhaps not carry out Land

Court directives. The Land Court may take the rent and use it to put right things right that the landowner has not put right.

I am pleased that the bill has laid down the principle of the value of a secure tenancy. Most of the bill was uncontentious, which is why we have settled on some of the more contentious issues. We need to allow the bill to bed down and see how it works and the extent to which it opens up the tenanted sector.

There is a particular group of people to whom I wish to pay tribute: the Scottish Tenant Farmers Action Group. The group was set up in light of the bill's introduction in order to push forward the needs and wishes of tenants. The group had a steep learning curve, but it took on the challenge and worked well with committee members, ministers and all those involved. Its involvement shows how people who are not members of existing organisations can influence the Parliament. They can either join together or influence the Parliament as individuals, and they can play a huge part in shaping legislation. Much of the shape of the bill can be attributed to that group, which put forward evidence that has gone towards some of the changes that have been made. I hope that the group will remain and will be among the stakeholders in the agriculture industry—people who will be consulted as changes take place in the industry. I look forward to representatives of the group becoming part of the Rural Development Committee's usual suspects, as we call them.

I hope that the bill will open up the tenanted sector and that the protections that it affords will make farming an awful lot more secure for those who work in it. We all know that farmers have had rough times in the past, and I hope that the bill will go some way towards mitigating what has happened in the sector. We must continue to monitor the situation and give it time to bed in before we take further steps.

The Deputy Presiding Officer: We have time in hand, so I propose to call to speak the six members who are listed on the screen in front of me.

16:25

Stewart Stevenson (Banff and Buchan) (SNP): The lodging of the Tory amendment is quite the most deeply disappointing parliamentary manoeuvre. In the Tory world, nothing changes and nothing should change. That is the attitude that we have seen displayed. The Tory party's inability to recognise worthwhile change defines their position in the political spectrum and will define their political future in the weeks to come.

We have heard members of the Tory party discuss voluntary agreements in relation to the

Agricultural Holdings (Scotland) Act 1991. Of course one volunteers to sign an agreement when a big powerful laddie is holding a loaded shotgun to one's head. The power and the weakness of landlords and tenants have always been the issue in their relationship. The bill, which we welcome, redresses that imbalance. It does not do so as much as we would wish, but it does so to an extent that is more than adequate to justify our support.

We have introduced in statute a provision so that, in some circumstances, tenants can divert their rent from the landlord to the court. Tenants will not stop paying rent—they have to keep shelling out the money—but the provision will allow the landlord's shortcomings to be put right. That is worth while.

I am disappointed that new statutory requirements for equipment such as slurry tanks—of which I am deeply enamoured—will remain a matter for tenants rather than landlords. So be it—let us see how that plays.

I still have concerns that, because of the precipitate and unreasonable actions of a number of landlords, some tenants are at risk because, in the middle of last year, they were given notice to quit both their partnerships and their tenancies. However, the Executive will probably find ways of bringing considerable pressure to bear on the Scottish Landowners Federation so that it lives up to its promise that the issuing of notices was simply a tactic to put pressure on the Parliament during the debate on the bill.

On the positive side, the bill process has been very unusual. Like many who have been involved in it, I have often felt that, in this instance, the real Parliament was made up of—and the real debate was being conducted by—people outside this building. We often waited to hear what progress had been made by the organisations that were party to the discussions: the Scottish Landowners Federation, the NFU and the Scottish Tenant Farmers Action Group. All those organisations have played a significant part in delivering a worthwhile move forward for tenant farmers and landowners throughout Scotland.

Tonight, SNP members will vote for the bill with a glad heart.

16:28

George Lyon (Argyll and Bute) (LD): This is another historic day for the coalition parties, which believe passionately in land reform. We believe passionately in empowering the many ordinary men and women who live and work on Scotland's land by stripping away the power of the few. Fundamentally, that is what the bill is about. Fundamentally, the Land Reform (Scotland) Act 2003 was about the same key objective.

For too long, tenant farmers have played the game with the deck stacked against them. Until now, the landlords have held all the aces in negotiations. The bill waters down dramatically the powers of landowners and their factors. Those powers must be watered down, because landowners have seriously abused the provisions of the Agricultural Holdings (Scotland) Act 1991. The partnership tenancies created by that act were nothing more than a legal device that left tenants with no security and at the mercy of landlords, who could kick them out at any point during the partnership agreement.

Write-down agreements robbed tenants of the value of their investments and, to rub salt into the wound, the tenants usually ended up paying rent on their own investments. Post-lease agreements were designed to allow landlords to dump their responsibility for repairs, renewals and provision of fixed equipment on tenants.

The use of Queen's counsel and expert witnesses in rent arbitration meant that the cost of arbitration for tenants was prohibitive. The most recent rent arbitration that was carried out on Arran, of which the minister might be aware, cost £12,000. If a landlord has to balance that cost over 60 farms, because the precedent is set when the rent goes up, the cost is affordable, but if an individual tenant on a three-year rent review has to spread the cost of £12,000 over three years, it is a no-brainer—they do not do it.

I believe that the actions by landlords and factors that I have described drove a coach and horses through the 1991 act and left tenants powerless to fight for a fair and just deal. I hope that the bill will end that abuse. It will shift the balance of power back to tenant farmers and will be fundamental in ensuring the future of the tenant farm sector. The creation of two new tenancy vehicles and the provisions allowing diversification should reinvigorate the tenanted sector and act as a further spur to rural development.

I do not accept Alex Fergusson's portrayal of the great fear that landlords will not let land. In years gone by we have seen that landlords cannot make money out of farming the land themselves; they need tenants, and the new vehicles will give them the opportunity to let land on the basis set out in the bill.

Alex Fergusson: I share George Lyon's hope that the new vehicles will be used. However, several members have said that we need a little settling-in time before we move on and make further changes. Does he agree that that will affect the way in which people look on how they use their available land?

George Lyon: All the disquiet out there has been fuelled by the claims of Mugabe-style land-

grab tactics, which the Conservative party used day after day to try to frighten people. It is the Conservatives' responsibility that there is concern among landowners about what the bill means. I hope that the Conservatives will accept responsibility for the fact that it is fundamentally down to their party that there is disquiet.

I believe that the inclusion of the right to buy—albeit pre-emptive—is another major step forward in securing the coalition parties' objective of a wider pattern of land ownership in Scotland. I am sure that many members believe that we should continue to fight for that objective.

I pay tribute to the Scottish Tenant Farmers Action Group members, including Angus McCall, Malcolm McCall, Stuart Jamieson, Duncan McAlister and Evelyn McCall, the secretary to the group. It is only through the group's efforts that the bill has been toughened up and the balance of power has shifted so dramatically to the tenants. Every tenant farmer in Scotland tonight should thank their lucky stars for STAG. When it came to the bit, it was the only representative organisation strong enough to stand up and fight the tenants' cause.

16:33

Richard Lochhead (North-East Scotland) (SNP): I welcome the bill. We are making history today by giving new rights to tenant farmers the length and breadth of Scotland by dragging the appropriate laws into the 21st century. That vindicates all of us who supported the establishment of the Parliament and believed that it would deliver not just for urban communities but for rural communities. I believe that we are seeing that today.

I pay tribute to the SNP's lead spokesperson, Fergus Ewing, who has been a passionate advocate on behalf of tenant farmers in his constituency and throughout Scotland. We have all benefited from Fergus Ewing's passionate input at the Rural Development Committee. It was handy to have a lawyer on the committee dealing with this complex issue. I pay tribute to the Rural Development Committee, of which I am a member, because its 11 members made a huge difference to the bill. We are debating a bill that is very different from the bill that the Executive introduced many months ago, because of the work of the committee. The ministers also have to be given credit where it is due, because they listened to a lot of what the committee had to say and introduced stage 3 amendments, which have been passed today. That is thanks to the members of the committee raising issues on behalf of tenant farmers.

Like other members, I save my biggest tribute for the Scottish Tenant Farmers Action Group and

the other farmers who articulated strongly their views and many of the grievances that have been experienced not only by their generation but by many generations over the past few centuries.

It was brave of many of the people who are involved in the action group to put their heads above the parapet, especially when they have their landlords breathing down their necks and standing over their shoulders. We know from some of the horrific stories that we have heard how much pressure many of them were under when they came forward and gave their evidence to the Parliament. We congratulate them on doing that.

MSPs feel strongly about some of the issues that we have been debating today and over the past few months because of the many cases that have been brought to our attention by tenant farmers and other constituents. We have heard stories about absentee landlords who have never visited the tenanted farms. I have spoken to tenant farmers in the north-east of Scotland who say that the owner of the estate has never spoken to them—they may have visited the estate, but they have never spoken to tenant farmers on the estate. The only people whom the tenant farmers see are the factors, who turn up to tell them about the latest rent rise and collect the rent.

Many landlords and owners throughout Scotland have left the tenant farms to rot down the years. We have heard about many generations of the same family having invested in their farm and their land, knowing that there is no chance of them seeing the long-term benefit of all that investment. Down the decades, many landlords have taken the gain without sharing the pain.

The bill is also about delivering justice to tenant farmers in Scotland. It intends to ensure that they get a return for the investment that they put in. Compensation at waygo is one of the key features of the bill. How demoralising can it be for farmers to invest in their property and their land when they know that they will not get any compensation? I am thankful that that will change.

The bill is also about democratising rural communities and the ownership of our farms and our land. It is about giving tenant farmers equal status with the landlords in the tenant-landlord relationship; it is about changing the imbalance of power. That is why it is so important that the bill gives redress to our tenant farmers by addressing write-down agreements and post-lease agreements, and by giving them, for the first time, the ability in law to withhold their rent. That is an extremely important tool for tenant farmers in addressing the imbalance of power.

Finally, the bill is also about the economics of our rural communities. Setting rent in line with the

current economic climate in farming is important, and I am pleased that we have addressed that. That was one of the main concerns expressed by tenant farmers throughout Scotland.

The bill is about rejuvenating our rural communities by allowing diversification on farms. In some areas of Scotland, on one side of the road there is diversified land and land use as well as diversified land ownership, and on the other side of the road, there is no diversification and perhaps one estate owner. One can see the difference: on one side of the street, there is a vibrant economy, and on the other side of the street, nothing is happening. That is why we must promote diversification.

In conclusion, I say that I welcome the bill, but I must say a few words about the Tory party's amendment. The Tory party is stuck in the 19th century and at 10 per cent in the opinion polls in Scotland.

The Deputy Presiding Officer: I ask Mr Lochhead to conclude quickly, please.

Richard Lochhead: It is amazing to think that the Tory party is the only party that got a majority of support among the electorate in Scotland in the previous century, yet today it is at 10 per cent in the opinion polls and it opposes every progressive bit of legislation that is brought to the chamber. The Tories will pay the price for that in May.

I conclude by saying that this is a proud moment for Parliament and for our tenant farming community. I urge Parliament to reject the Tory amendment and to support the bill.

The Deputy Presiding Officer: If members are going to conclude three times, I would be grateful if they would start to do so after their second minute.

16:39

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): The bill is designed to stimulate a vibrant market in land, which is vital to the health of the agricultural industry in Scotland.

The bill is a progressive and radical piece of legislation. It is designed, among other things, to promote farm diversification throughout Scotland. I know that it will be welcomed specifically by our tenant farmers. In addition, the bill gives secure tenant farmers a pre-emptive right to buy, which they can exercise when their landlord wants to sell—in other words, they have a right of first refusal. I am particularly pleased about that because it was in the Liberal Democrat manifesto in 1999, on which I and all the Liberal Democrat MSPs were elected.

The debate—rather than the bill itself—has been somewhat disfigured by the red herring of the so-

called absolute right to buy. I am sorry to hear the Tories continue to go on about that. In my view, it could never be right for one private individual to be forced to sell his or her property to another private individual when no public interest is at stake. The important thing was to address the great many problems that tenant farmers encountered because of the way in which they were treated under existing legislation, much of which was introduced by the Tories.

The bill will make many changes to that legislation, but let me highlight a few of them. Post-lease agreements, under which tenants took on the landlord's responsibilities for repairs and maintenance, will be ended. Write-down agreements, under which the tenant had to write down the value of the improvements that he had made so that the landlord need not compensate him for them, will be ended. The basis for calculating rents has been clarified, so that equal weight is to be given to comparable farm rents and to economic conditions in agriculture.

At a time when income from non-farming sources is almost more important than traditional farming income, the bill will give tenant farmers freedom to diversify, while providing due safeguards for landowners. That is a radical, reforming and progressive step. The bill will remove the barriers to farm diversification that are faced by many tenant farmers. It will be good for our tenant farmers and for our rural economy in general.

On that point, I must mention amendment 64, which we passed this afternoon. Amendment 64 will mean that, at the start of the tenancy, the landlord must ensure that the fixed equipment on the farm is in a thorough state of repair and must provide such buildings and other fixed equipment as will enable the tenant farmer to maintain efficient production on the farm. As on many other issues, the amendment was secured after agreement was reached across the industry in the stakeholders group.

Amendment 64 will provide real benefits, so I was astounded to hear the Conservative party oppose that progressive reform. How disappointing, but how predictable. That is typical of the Tories, who seem to be the "No, no" party. Not only are they determined to vote against this progressive bill, but they seem to vote against every measure that seeks to drag us, not simply from the 20th century into the 21st century, but from the 19th century into the 21st century.

Before I conclude, I put on record my criticism of the stage 3 process in which we are engaged. Earlier this afternoon, the Deputy Presiding Officer curtailed debate on an extremely important and controversial issue concerning retrospective legislation. When we were debating when the

provisions in the bill should take effect—whether that should be from February of this year or from September, or even April, of last year—we had 15 minutes in hand when the guillotine fell. To compound matters, we also find that we finished the entire stage 3 consideration of amendments some 20 minutes ahead of schedule. I make no criticism of the Presiding Officers, but I am certain that the stage 3 procedure for scrutinising amendments is flawed. That issue must be addressed in the new session of Parliament.

The bill is progressive, radical and much needed. It is good news for our tenant farmers, for our farming industry and for Scotland.

16:43

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): I start by echoing the last point that Mike Rumbles made. We have a problem with the timetabling of the various groupings at stage 3 that needs to be looked at. Perhaps all parties—in which I include my own—might help matters if we did not insist on voting on every amendment once it has been made obvious whether the Parliament accepts the principle in each group of amendments.

We have come a long way since Ross Finnie introduced his first white paper—or glossy document—on agricultural tenancies when we were on holiday in Glasgow in May 2000. However, the time has been worth while spending.

I will make only a few brief points. In his introductory remarks, Ross Finnie referred to the anomalies that have crept into the 1991 act and talked about redressing the historic inequities. Particularly given the defeat of Fergus Ewing's amendment 42, which would have rendered null and void any attempt to make new agreements that would deprive tenants of their right under the bill that we are about to pass, we will need in future to be vigilant that people do not come up with avoidance measures to get round the provisions of the bill in the same way as they have got round the provisions of the 1991 act.

Even now, highly paid lawyers will be sitting down and examining the bill to find a way to help their landlord clients to get round the provisions that we are about to enact. I hope that the existence of the Parliament means that we will be able to address such problems more quickly than we have been able to address them in the past.

I was surprised to hear Alex Fergusson say that the Tories will vote against the bill, because the logic of their amendment is that they would have to agree to the motion that the bill be passed and then tag on their amendment, which says that it is unfortunate that we have wasted so much time on other matters. Alex Fergusson certainly seemed to

say that they would vote against the bill, and I am surprised at that. If that is the case, it indicates that the Tories are stuck in the past and have nothing to say to the people of Scotland.

In his initial speech, Alex Fergusson admitted that dodges have been used to get round the provisions of the 1991 act. He then said that that was okay, because those dodges were between willing partners. The fact that he believes that the two parties to such transactions are willing partners exemplifies the difference between his party and the rest of us. They refuse to see any of the structural inequalities that exist in the landlord-tenant relationship as well as in society. Earlier in the debate, George Lyon rightly said that the relationship is hardly equal. Indeed, it cannot be, because land is not a commodity—there is only a fixed supply of land.

Several members have rightly paid tribute to the tenant farmers' representatives. The bill has been significantly improved as a result of their input and that of some of the more enlightened landlord representatives. The fact that the two sectors have been able to get together is one of the good things to come out of the bill.

We will have to wait and see whether what we have produced is sufficient, and keep an eye on the issues.

16:47

Dr Sylvia Jackson (Stirling) (Lab): The bill is very important, particularly for tenant farmers. Their concerns have at last been heard and I am sure that that will continue to happen. For a long time, tenant farmers have been too silent, which gave rise to many of the issues that have been discussed during the passage of the bill.

Tenant farmers now have a truly representative body. The Scottish Tenant Farmers Action Group, members of which have been in the gallery all day, has done a valiant job. My constituent Duncan McEwen has kept me constantly in touch with what is happening. The group has started discussions with more established bodies such as the NFUS and the SLF. It is also now in discussions with the Executive. That shows how the Scottish Parliament is working today. I hope that the minister will continue to talk to all the various groups and that some of the issues that Fergus Ewing and Alasdair Morgan raised will be kept under review and attended to.

The new-style tenancies have already been mentioned. George Lyon talked about the difficulties with the limited partnership tenancies and how the new style of tenancy will invigorate the tenanted sector. Mike Rumbles spoke about amendment 64 and the importance of making it the landlord's duty to ensure that fixed equipment

is in a good state of repair and that buildings are replaced and renewed throughout the duration of a tenancy.

As Richard Lochhead said, the proposals to allow tenants to diversify and the measures on compensation rights are particularly important, because they brought the tenants' representatives into discussions with other groups. That helped to start the negotiations and we have come a long way in that respect. Alex Fergusson is not here, but I hope that the Tories will stop making fear-arousing statements about the bill.

Amendment 111 related to limited partnership tenancies and the notices that were served prior to 16 September 2002. I am pleased that the minister is moving towards industry-wide agreement on that issue. From the discussions that I have had with the various organisations involved, it appears that the matter will progress quickly. I hope that the new system will include an arbitration procedure, which will mean that tenants will not feel threatened, but will feel that the system is a good one.

I believe that the bill, in its totality, is worth while and I am sure that we will pass it today. The bill is good news for tenant farmers and for sustainable development in Scottish agriculture and it will provide justice for everyone involved. It is a pleasure that all the bodies in the industry are so much in agreement.

The Presiding Officer (Sir David Steel): I call Allan Wilson to reply to the debate—he can have up to nine minutes.

16:51

The Deputy Minister for Environment and Rural Development (Allan Wilson): I am grateful to everyone who has contributed to the parliamentary debate on the Agricultural Holdings (Scotland) Bill, but I must tell you, Presiding Officer, that I do not intend to detain Parliament by speaking for nine minutes. I know that that will disappoint some members, but we have had a fair crack of the whip.

Like other members, I thank the clerks to the Rural Development Committee, who have, as always, put in a sterling effort in helping with the passage of the bill. I am not sure that I was wholly enamoured with, or appreciative of, the six-hour session that the committee had in the chamber while debating the minutiae at stage 2. That session included the longest speech in the history of the Parliament—I say to Fergus Ewing that, although it was not quite up to Fidel Castro's standard, it was certainly long enough for me. If it is any consolation to members, it is my heartfelt and sincere wish that that record-breaking session should remain just that—a record.

I also thank the members of the Rural Development Committee. In particular, I pay tribute to Rhoda Grant, who worked hard behind the scenes—by her standards, she has been comparatively quiet today. She made effective contributions throughout the passage of the bill, as did other members, including those from the Opposition. I demonstrated my willingness to come and go with the Opposition members today when I accepted Fergus Ewing's amendment on the assignation of interests to family members. That was the shortest political honeymoon in history, to go with the longest speech.

I also thank the Executive staff who were involved, who are sitting at the back of the chamber. They put a tremendous amount of work into preparing policy advice and into the extensive consultation with all sides of the industry that was involved in every meeting. That consultation has been referred to constantly during the passage of the bill. Without the Executive staff's effort, we would not now have industry-wide agreement on all the major issues that have been discussed. The one sour note that was struck in the morning, which went with Alex Fergusson's sour note in the afternoon, was Fergus Ewing's suggestion that the Executive amendments had been deliberately withheld for some perceived short-term political purpose. That was not the case. The Executive staff worked extremely hard to ensure that the amendments were produced timeously.

The bill is a result of the work of all those people and of others whom I have not mentioned. The fact that the bill has been improved since its earlier stages reflects the strength of the consultative procedures and the Parliament's process of scrutiny.

The bill establishes significant new rights. It will give secure tenant farmers a pre-emptive right to buy their holding at market value when their landlord sells the land, on the basis of a willing seller and a willing buyer. Like George Lyon, I am not about to accept the strictures of Alex Fergusson on that issue.

My one disappointment about the day's debate has been the absence of Jamie McGrigor, an erstwhile Conservative spokesman. He likened the pre-emptive right to buy to another communist land grab, if members can believe that. That is based on the usual Conservative approach—if it is Wednesday, it must be another Mugabe-style land grab. The bill does not represent such a land grab. Bill Aitken and his fellow Conservatives should be honest and admit that they oppose it because it seeks to redress the imbalance in the relationship between the landlord and the tenant in favour of the tenant. The Tories created that imbalance in 1991; that is why they oppose the bill.

Sylvia Jackson made an important point about the erstwhile silence of the tenant farmers. The bill

will end that silence. We now know that their voice can be heard in the Parliament of the land. They will no longer be cowed into accepting unfair and unreasonable tenancy conditions. That is as it should be and it is a tribute to all those in the Parliament who have stood up to defend the tenants' rights. We in the Executive are proud to have been in the vanguard of that movement.

When it is passed, the bill will revitalise the tenanted sector in Scotland. It will introduce new tenancy options that are attractive both to landlords and to tenants and will offer more scope for tenants to diversify into non-agricultural activities. As George Lyon has mentioned, the quicker and cheaper dispute resolution arrangements that will apply in Arran and elsewhere will make it easier for tenants to enforce their rights. The bill includes a range of other measures that will strengthen the position of tenants, including measures that relate to several issues that the NFUS and the celebrated Scottish Tenant Farmers Action Group raised only recently.

I assure Sylvia Jackson and others that industry discussions will continue to address some of the issues that have been raised and that require not legislative change, but industry-wide agreement to ensure that the stimulation to the tenanted sector that we seek and desire will come to fruition. I say to Alasdair Morgan that we will monitor the progress of the bill in the months and years to come to ensure that those objectives are met.

The changes that I have outlined, as well as other measures, will widen the choices that are available to tenants and landowners. I assure members that, over time, they will lead to greater diversity of tenure and a rejuvenated tenanted sector in Scotland. It gives me great pleasure to recommend that the Agricultural Holdings (Scotland) Bill be passed by the Parliament.

The Presiding Officer: The minister was very good. He promised me that he would not take nine minutes and he took only eight and a half, which is very helpful indeed.

Point of Order

16:59

Fiona Hyslop (Lothians) (SNP): On a point of order, Presiding Officer. For the past four years, it has been my understanding that amendments to motions must be lodged by 4.30 pm on the day before a debate. Will you be accepting any amendments to the Scottish National Party's motion for debate tomorrow that are lodged after the 4.30 pm deadline?

The Presiding Officer (Sir David Steel): The 4.30 pm deadline is a target. [*Interruption.*] Order. I am bound by the standing orders and there is no 4.30 pm deadline in the standing orders. It is a mutual convenience that 4.30 pm is the normal time. I have not yet received an amendment to tomorrow's motion, but I will be in my office until 6 o'clock and ready to receive it.

Dennis Canavan (Falkirk West): Further to that point of order, Presiding Officer. I lodged an amendment earlier today, as did Robin Harper and other members.

The Presiding Officer: Absolutely. Let me clarify what I have just said. I have not yet received an amendment from the Executive, but I have received other amendments. I am anticipating that there might be one from the Executive and I shall therefore be in my office until 6 o'clock ready to receive it. I hope that that answers the point of order.

Decision Time

17:00

The Presiding Officer (Sir David Steel): There are two questions to be put as a result of today's business. The first question is, that amendment S1M-3867.1, in the name of Alex Fergusson, which seeks to amend motion S1M-3867, in the name of Ross Finnie, that the Agricultural Holdings (Scotland) Bill be passed, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Canavan, Dennis (Falkirk West)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)
 Young, John (West of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)

Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the amendment is: For 17, Against 93, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The second question is, that motion S1M-3867, in the name of Ross

Finnie, that the Agricultural Holdings (Scotland) Bill be passed, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)

Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)

The Presiding Officer: The result of the division is: For 93, Against 15, Abstentions 0.

Motion agreed to.

That the Parliament agrees that the Agricultural Holdings (Scotland) Bill be passed.

New Forth Road Bridge

The Deputy Presiding Officer (Mr George Reid): The final item of business is a members' business debate on motion S1M-3953, in the name of Dr Richard Simpson, on the new Forth road bridge crossing near Kincardine. The debate will be concluded without a question being put.

Motion debated,

That the Parliament welcomes the completion of the A907; notes the current intention of the Scottish Executive to reopen the Stirling to Alloa and Kincardine rail link by 2005 and construct a new Forth road bridge crossing by 2007; further notes the benefits to the economy of Clackmannanshire that will result from these infrastructure improvements; notes, however, that the recent decision for the favoured site of a new acute hospital for Forth Valley to be at the Royal Scottish National Hospital, Larbert, will have significant implications for the road networks to the south of the Forth road crossing, and considers that the Executive should ensure that the design of this network and its date of completion are expedited in order to ensure the safety of patients in Ochil and Stirling constituencies as well as those from the west of Fife.

17:05

Dr Richard Simpson (Ochil) (Lab): I thank members who have signed the motion and those who will participate in the debate.

I shall talk about the infrastructure in Clackmannanshire, which is part of my constituency. Clackmannanshire is the smallest mainland authority that was created by the reorganisation of local government in 1996. With a population of fewer than 56,000, it is smaller than many of the borough authorities that disappeared in the 1970s.

In 1999, when I was first elected, it was evident that a combination of the loss of traditional manufacturing and mining industries and a totally inadequate infrastructure rendered the prospect of economic recovery unlikely. Indeed, a list of the most deprived communities in the United Kingdom placed Clackmannanshire 15th in the UK. At the election, I pledged that I would do everything in my power to reverse the decline.

In 1999, we were faced with a partially completed A907 as the most glaring example of failure in co-ordinated planning. For the want of a couple of miles of road to connect the new Devon bridge to the mile of road that had been constructed at Manor Powis, commuters and business had to endure delays at many times of the day. That road had been partly built in 1995, but by 1999 it was collecting weeds and was known locally as "the road to nowhere". At the other end of the wee county, the old Kincardine bridge was producing hold-ups of one and a half to two and a half hours twice a day. When the Forth

road bridge is closed, there are delays all day, and the cost to the Scottish economy is substantial.

In 1997, Clackmannanshire had an unemployment rate of more than 11 per cent. It had, and has, no trunk roads and no rail link. By 2001, it had lost much of its remaining textile industry, including its 200-year connection with Coates Paton. The last deep mine closed last year and all major brewing has ended. Major engineering works, such as Weir Engineering Services, have largely deserted Alloa and have moved their work to eastern Europe. I know that such a picture is repeated in many constituencies, but, without good infrastructure, Clackmannanshire cannot easily compete with its neighbours: Stirling, Falkirk, Fife and Perth and Kinross.

Despite those handicaps, the local enterprise company, Ceteris, Clackmannanshire Council and Scottish Enterprise have tried to foster indigenous and modern businesses, such as ePoint Ltd, Omega Diagnostics, Landcatch Natural Selection, Stephen Clark Fabrications and Strategic Software Solutions Ltd. Unemployment is now down to 6.5 per cent, although male unemployment remains above 10 per cent. The seeds are there for regeneration, but without better infrastructure such regeneration is not merely hard but almost impossible. We need the Scottish Executive to take a holistic and cross-cutting view of development.

In 1999, I set about getting the necessary funding for the A907 and, as Minister for Finance, Jack McConnell agreed to that funding. That road is now complete and is making a difference. I record my thanks to Stirling Council, Clackmannanshire Council and the Executive for the completion of that work. I ask the minister to give further consideration to the additional bypass work that is proposed around Tullibody and to review the status of the A907 with a view to granting it trunk road status, because it carries heavier traffic than the motorway from Stirling to Falkirk.

The next issue is the rail link. A campaign to reopen the link from Stirling to Alloa, which was closed to most traffic after the Beeching reorganisation, began in the 1980s. The Strategic Rail Authority, the Scottish Executive, Clackmannanshire Council and Railtrack's successor have now put together a scheme, and a private bill has been presented to the Executive. The link to Kincardine should be open in 2005. However, I have a number of questions for the minister. Will he confirm the Executive's commitment to opening the rail link if the bill is passed? Will he confirm that the timetable for opening the link by 2005 will be adhered to? Will he examine the need to open an east-west link to

Dunfermline and Fife, especially to the new port of Rosyth? Is the environmental impact study on the reopened rail link to be published? Finally, will the minister meet the people in Clackmannan and Causewayhead whose safety and quality of life will be affected by the reopening?

The third part of the required infrastructure is the new road crossing upstream of the current Kincardine bridge. It has been talked about in the area for almost a generation, but the debate has been complicated by the question whether a new Forth road crossing at Queensferry should be the first priority. However, in 1999, just before the election, Donald Dewar announced on a visit to Alloa that the new bridge would be built. That boosted morale in the area.

I am pleased to say that successive ministers with responsibility for transport have helped steadily to advance the Executive's programme. Survey work on the river was undertaken in 2000 and construction of the new eastern relief road at Kincardine is about to begin this year. However, such a welcome step forward will not ease congestion in any way at the north end of Kincardine bridge until the new bridge is completed. Indeed, the congestion might be even worse, because northbound traffic to Fife will cross southbound traffic from Clackmannanshire at a set of traffic lights, which will make life difficult. Will the minister assure my constituents that, in the interval between the completion of the eastern relief road and the new bridge, there will be no significant worsening of traffic congestion?

The next infrastructure step relates to getting the line of the new bridge right. The SNP council in Clackmannanshire has tried hard to whip up opposition to the line that has now been approved, but has failed to make a realistic case. Will the minister confirm the current 2005 tendering timetable? Furthermore, will he undertake to advance that timetable if objections are not numerous and the planning inquiry is short? In other words, will he be flexible in bringing forward the funding that is necessary for the bridge?

Once the new bridge is opened, I understand that the old bridge will be closed. How long will the repairs on the old bridge take? How long will it be before my constituents and all those who access the wee county for work can expect to be free of traffic jams?

The current single bridge has a capacity of 23,000 vehicles, but traffic is now more than 26,000 vehicles. I understand that the new single-carriageway bridge will carry 33,000 vehicles. However, under the current proposals, there will be significant problems at the southern end. The design is inadequate. To bring two roads from the old and new bridges together at a roundabout at Higgins neuk so close to both bridges is

inadequate. A flyover system that leads to a dual carriageway connection to the motorways is needed almost now, and certainly will be needed as traffic increases.

I want to conclude by saying something about the new hospital, which complicates the issue. The favoured site that has been proposed at Larbert will add to the traffic. The site at Larbert is being proposed partly on the basis of speedy planning consent, but also because of accessibility. However, unless the bridge and roads are built sooner to coincide with the opening of the new hospital, it is certain that the lives of patients from Clackmannanshire will be put at risk. Delays will prevent them from reaching the new trauma centre inside the so-called golden hour—it is called a golden hour because many more lives are saved if hospital can be reached within the first hour. I ask for an undertaking from the minister that his officials will have an early meeting with Forth Valley NHS Board to discuss access to a new hospital at either the Royal Scottish national hospital site or at Pirnhall. My colleague Dr Jackson will examine that matter in more detail. Will the minister also undertake to ensure that his colleague, the Minister for Health and Community Care, is fully apprised of the severe difficulties of access to Larbert by public transport? Will the minister's officials and those in the health department examine any transport and access reports that the board might submit?

In the next few days, I will present to the minister a petition that asks him seriously to consider naming the new bridge Clackmannanshire bridge or Clackmannan bridge. That is the wish of my constituents. Such a bold move would clearly show that the Executive is committed to reopening part of my constituency for business in the 21st century.

The Deputy Presiding Officer: A number of members have asked to speak, so speeches should be restricted to three minutes, plus a little time for interventions.

17:13

Dennis Canavan (Falkirk West): I welcome all the proposed road and rail improvements that are mentioned in Richard Simpson's motion. I also welcome Forth Valley NHS Board's unanimous decision that the RSNH site at Larbert should be the favoured site of the new acute hospital to serve everybody in the Forth valley area. It was the only site that met all four of the health board's criteria, including the accessibility criterion that at least 90 per cent of the Forth valley population should be within half an hour's drive by car from the hospital. The hospital site therefore already has good access, but that is not to say that access is perfect in every respect. The new Kincardine

bridge will undoubtedly improve access for people coming from Clackmannanshire and it will also help the local economies in the Falkirk area, Clackmannanshire and west Fife.

Better motorway links are also needed at Larbert; I have campaigned long for new access roads to and from the M876, even since before the suggestion that there should be a new hospital at Larbert. Better access is required for the business park at Glenbervie and for the Central Business Park, as well as for the new residential developments in the Bellsdyke area.

At present, traffic that is heading west can access the motorway at Larbert, but traffic that is heading east cannot. Conversely, traffic that is heading east can leave the motorway at Larbert, but traffic that is travelling west cannot. Although I welcome the fact that there are plans to provide additional motorway access and egress roads at Larbert, the new slip roads will not solve the problem completely. Motorway traffic coming from the north and heading for Larbert will still have to leave the motorway at Pirnhall or continue by motorway to Banknock or almost to Kincardine and then do a U-turn on the M876 to Larbert.

I urge the Executive to give positive consideration to a more comprehensive improvement of the motorway links to and from Larbert, and for such improvements to be carried out as soon as possible. That would be of great benefit to local residents and the local economy. It would also improve access to the new hospital at Larbert, which would lead to shorter travelling times to the hospital for many people in the Forth valley.

17:16

Dr Sylvia Jackson (Stirling) (Lab): I thank Richard Simpson for securing the debate. As the constituency MSP for Ochil, he rightly addressed issues about Clackmannanshire and its transport infrastructure in his opening speech. However, many of the issues also have a resonance for the Stirling constituency.

The A907, which was recently opened by the First Minister, has improved car, bus and cycle links between Stirling and Clackmannanshire and—as Richard Simpson pointed out—has put a stop to the endless congestion that was such a feature of the old road.

I gather that the Stirling to Alloa and Kincardine rail link is in the pipeline for 2005. I warmly welcome the passenger and freight services that are being developed. However, as Richard Simpson also said, it is important that local concerns are taken on board. Richard asked the minister whether he would meet residents, particularly those who live at Causewayhead. I say to the minister that those residents would

appreciate that very much; they are concerned about the disruption from too much freight traffic and they want details of the times that trains will run and so on.

I also want to raise the issue of junctions from the Kincardine bridge that will facilitate access to the RSNH site at Larbert, which is the favoured site at present for the Forth Valley NHS Board's new acute services hospital. Richard Simpson also mentioned that. Developments have taken place since last I spoke about the siting of the new hospital and the grave reservations of Stirling constituency residents. Dennis Canavan remarked that there are no such reservations and spoke about how good the site at Larbert is. I wish that he could read the many letters that I have received that express such reservations. I have always received such correspondence.

The lack of accessibility to the Larbert site from Stirling and anywhere in the hinterland to the north and west of Stirling is a big issue. However, as I said, developments have taken place. While Forth Valley NHS Board has been undertaking its traffic impact study around Larbert, Stirling Council has been in discussion about the Pirnhall site with the developer of that site who has made an offer to release the site to the health board free of charge. The proposal for the new hospital on that site is being put together, which means that planning permission could be granted by the autumn of 2003. If that is the case, we will call on the health board to revisit its recent decision and allow the Pirnhall site to be considered alongside the RSNH site at Larbert. Pirnhall does not have any of the transport-related disadvantages that are associated with Larbert. It would reduce some of the problems that Richard Simpson identified in respect of the Larbert site.

The debate on the motion is useful, because it allows us to look holistically at the transport issues in and around Clackmannanshire that affect my constituency.

17:19

Michael Matheson (Central Scotland) (SNP): I was interested by Richard Simpson's suggestion that the new bridge should be called the Clackmannanshire bridge. As it starts in Fife and ends in Falkirk, I imagine that the question of what the bridge should be called will give rise to some competition when it is completed.

I will focus my comments on issues related to the new hospital site at RSNH. This is the second debate in which members have highlighted concerns about Forth Valley NHS Board's decision to make the RSNH site its preferred option for a new hospital in the area. The need to improve transport links across the Forth is not a new issue; indeed, if I remember correctly, our own Deputy

Presiding Officer produced a document five years ago entitled "Connecting Clackmannanshire", which highlighted the fact that Clackmannan might be central to Scotland, but does not have the transport infrastructure to capitalise on that. I recognise—and have recognised for some time—that there are economic reasons why transport links to Clackmannanshire must be improved.

I also understand the concerns that have been expressed by people in Clackmannanshire and the Stirling area about the proposal to build the new hospital at the RSNH site in Larbert. I also acknowledge that a second bridge across the Forth would certainly help to enhance transport links for constituents in Clackmannanshire who want to make their way to Larbert. However, it would be wrong to give the impression that the Larbert site is somehow beset by transport problems; it already has very good transport links.

Dennis Canavan referred to the four criteria that the health board set when it was considering sites for the new hospital. One criterion was that 90 per cent of residents within the Forth Valley area should be able to access the new site by car within 30 minutes.

Dr Jackson: Will the member give way?

Michael Matheson: I am sorry; I have a lot to cover.

The accessibility analysis that was undertaken by Forth Valley NHS Board last August suggested that, according to that criterion, 93.43 per cent of residents could access the RSNH site. Furthermore, 63 per cent of residents in the Forth valley area live within a 15-minute car journey of the RSNH site.

Mr Keith Raffan (Mid Scotland and Fife) (LD): Will the member give way?

Michael Matheson: I want to finish this point.

I find it bizarre that Sylvia Jackson is able to suggest that the Pirnhall site does not have the same access problems that the Larbert site seems to have. For example, the Pirnhall site does not have a rail transport link, whereas the Larbert site is near a major train station. We must also bear in mind various socioeconomic factors in that regard. Many people who have health problems do not own a car and depend on public transport. As a result, good public transport links are essential, and are already in place at the RSNH site.

We must not attack the RSNH site at Larbert because it has some problems with its transport links. Instead, we must maximise the site's potential. The new bridge at Kincardine would help us to do that. After all, a strategic plan has already been introduced in Falkirk to ensure that two new subways are provided at Glenbervie, and the council has already provided funding for them. The

site is accessible and can be enhanced, and I hope that the minister will consider ways of bringing forward the timetable for constructing the new bridge to ensure that it coincides with the building of the new hospital.

The Deputy Presiding Officer: I call Brian Monteith.

17:23

Mr Brian Monteith (Mid Scotland and Fife) (Con): Thank you, Presiding Officer. Am I to take it that we have four minutes for our speeches now?

The Deputy Presiding Officer: Speeches should still be three minutes long.

Mr Monteith: After listening to Michael Matheson, I thought that the time had been extended.

The Deputy Presiding Officer: You would have heard me tapping my microphone—I was not that pleased.

Mr Monteith: I thank Richard Simpson for securing this most useful debate. It is important not only in its own right but in the context of my previous member's business debate on the location of hospitals in the Forth valley.

I, too, welcome the development of the new Kincardine bridge and of the Stirling to Alloa rail link. As far as the bridge is concerned, we owe a great debt of gratitude to Lord James Douglas-Hamilton, whose sterling work to prevent yet another crossing at Queensferry ensured that the new bridge at Kincardine was proposed and included in Conservative plans. Indeed, we might well have seen that bridge constructed sooner if things had not been delayed.

I also pay tribute to the good work of my former colleague Nick Johnstone who, as we all remember, did a great deal of work in pushing for a Stirling to Alloa rail link.

In wandering through the chaos that the battle for the location of Stirling hospitals has left, we heard from several members, including Dennis Canavan, about the difficulties that surround Larbert's link with the M9; it is clear that those difficulties need to be dealt with. In introducing such improvements as egress from and access to the M9 from Larbert, will the minister ensure that costs that his department might have to bear will be taken into account by the Minister for Health and Community Care when he is deciding on the location of the hospital? It is important that there is a holistic decision about the costs. We all hope that the proposed road improvements go ahead on time because, as Richard Simpson said, if they do not, that could impact on patients' health. In

addition, as Dennis Canavan said, access is not perfect.

Dr Jackson: What is Mr Monteith's view of the suitability of the A9, from Stirling and through Plein to Larbert, for emergency vehicles?

Mr Monteith: I share the doubts of Sylvia Jackson, who is the member for Stirling, about the suitability of the A9, which is one of the issues that must be addressed.

I draw to members' attention that St Johns hospital in Livingston and the new Edinburgh royal infirmary are not blessed by rail connections, but that is not the issue when judging where it is suitable for a hospital to be sited. Road access, for both public and private transport, is crucial. We need to hear from the minister that improvements to road transport will be made timeously and that they will be included in the costings that ministers must discuss.

17:27

Mr Keith Raffan (Mid Scotland and Fife) (LD): I congratulate Dr Richard Simpson on obtaining this important debate on a very important strategic transport project for the whole of central Scotland. With him and the Deputy Presiding Officer, Mr George Reid, I have regularly attended meetings with Clackmannanshire Council, and I am only too well aware of how much time at those meetings is taken up by discussing transport to, and, indeed, within, Clackmannanshire.

I have two objectives in the debate: I want to get from the minister assurances that work on the new bridge will be started as soon as possible and that it will meet the construction deadline. I will come to that matter in a second. I do not care a damn what the bridge is called. It could be called the Dr Richard Simpson memorial bridge or the Dennis Canavan bridge or anything that people damn well like—all I want is the thing built.

I might say the same about the single-site acute services hospital. We must decide on the hospital's location. I hope that there will be no bickering between Falkirk and Stirling members and Central Scotland and Mid-Scotland and Fife members, because, to be frank, I think that it is important that we all pull the same way. Forth Valley NHS Board has not yet taken the single-site acute services hospital project to the Executive. If we start bickering among ourselves about where the damn thing—excuse my language, Presiding Officer—is going to be located, that will ensure that the project will be delayed and that it will not be completed by 2008. I doubt, anyway, whether it will be completed by 2012.

I do not believe that the new Kincardine bridge will radically transform transport links in Forth

valley and central Scotland, as the Minister for Enterprise, Transport and Lifelong Learning said, but it will do much to improve those links. The new bridge will bring concomitant benefits to the local economy by creating new jobs north of the Forth and retaining existing jobs in both Clackmannanshire and west Fife. The new bridge will not do much to help congestion on the Forth road bridge, which is another matter. I met with the bridge master 10 days ago. The road bridge has serious problems that we will have to address sooner rather than later.

Let me emphasise the points that Richard Simpson made. I would be grateful if the minister could confirm that the draft orders for the new Kincardine bridge will be introduced this summer, that the contractors' bids will be in by the summer of 2005 and that the bridge will open to traffic by 2008. Can he also tell us if the cost of the project is still expected to be £71 million?

As Richard Simpson said, when the new bridge opens, the existing bridge will close, but for how long? I know that the replacement of the existing southern approach viaduct is part of the process and that the existing bridge needs a lot of work, but will that work take six months? Will it take a year?

The bridge is important in relation to improving access to Forth Valley NHS Board's favoured site for the new acute hospital, the Royal Scottish national hospital site in Larbert. Some 5,600 local people who participated in Forth Valley NHS Board's consultation process said that access by car and public transport was the crucial consideration in deciding where to build the new hospital.

Last Friday, I met Forth Valley NHS Board's chairman, Ian Mullen, and chief executive, Fiona Mackenzie, and I understand that the traffic impact assessment will be completed by the end of June. The onus is on Forth Valley NHS Board to show that access to the site is of a high standard. The alternative site, at Pirnhall, has better access to both the M9 and the M80 and, if the planning process can be shortened, that site should be reconsidered.

In any case, what is important is that we make progress on the bridge and that we all pull in the same direction on the issue of the hospital site. The hospital is the last part of the acute services review to be decided in the Mid Scotland and Fife region. Fife NHS Board and Tayside NHS Board have made their decisions and Forth Valley NHS Board must make a final decision this year.

17:31

Cathy Peattie (Falkirk East) (Lab): Before I start, I must say that it was my impression that

Forth Valley NHS Board had made a decision on the site, which my colleagues from the Falkirk area and I welcome.

I thank Richard Simpson for raising the vital issue of infrastructure. I want to congratulate the members of Airth community council who, after local consultation, produced a proposal for a new route for the bridge. I also want to congratulate the Scottish Executive for listening to local people.

I welcome the decision to build the new acute hospital at the RSNH site in Larbert, although, of course, work must be done to answer questions about infrastructure.

Dr Jackson: Does the member agree that the term that was used about that site was “favoured site”?

Cathy Peattie: I think that the decision has been made, although a lot of work has still to be done. People who pin their hopes on changing that decision are wasting their time. The folk in Falkirk would be up in arms if the decision was changed. However, let us not go into that.

I agree with Richard Simpson that infrastructure is important in that regard. As Dennis Canavan has already said, plans are underway to examine the motorway infrastructure in the area. I welcome the recognition of the need to examine issues around slip roads and so on.

On the issue of the name of the bridge, I suggest that it might be called the new Airth bridge, although I am in discussions with Scott Barrie about whether it should be called the Higgins neuk bridge.

I attended all the consultation meetings in my constituency at which many public transport issues were raised, in addition to the need for an acute hospital that can meet the needs of the local community. People in many of the villages in my constituency, such as Bo’ness, Blackness, Reddingmuirhead, Slamannan and Lauriston, have difficulty accessing public transport, never mind getting cars back and forward to hospital. Many older folk in Bo’ness, for instance, have difficulty getting a bus, and no buses go to Blackness. Not only do we have to examine access to the new hospital by car, we also have to think about public transport. Elderly people who go back and forward to hospital often need good public transport.

Michael Matheson is right to say that the siting of a railway station near the RSNH is important, and it would make a lot of sense to have good transport links between the railway station and the new site.

I welcome the discussion and the debate, the new bridge and the work that is being done in relation to the roads. However, I stress that it is

important that we also think about the buses and other forms of public transport that serve rural villages—I remind Sylvia Jackson that such areas exist in her area as well as in Falkirk East. Not everyone owns a car and we must bear that in mind when we consider ways to get to the new hospital.

17:35

Mr David Davidson (North-East Scotland) (Con): I shall not get involved in the family feud that we can see on the Labour benches.

I congratulate Richard Simpson on raising this matter, which is a continuation of a debate that Brian Monteith secured some weeks ago. My interest then was based on the health aspects of the issue, but I was a resident of the area and ran businesses there, so I know very well the need for the A907 to be finished and for the rail link. There was cross-party support on Stirling Council for pursuing both those projects. However, I still have issues about the time that they are taking.

When I was a student, the Kincardine bridge was the only road crossing that I could use to get back home. Even then, the congestion was horrendous. Imagine how much worse it has become. The bridge is important not only for the local economy in Clackmannan, but for businesses further north. It is an alternative route if the Forth bridge is closed, as it was the other week, when some people were faced with an awful journey. Some lorries could not make it—the drivers did not know how to get there. We must ensure that we have a full, interlinked transport infrastructure across Scotland. We must have the connections.

I return to the health issue. I believe that a clear choice should be made between the two hospital sites—Pirnhall and the site that is favoured at the moment. I cannot accept the validity of the report on which Michael Matheson commented. He claimed that 90 per cent of residents in the Forth valley area could get to the new site in a 30-minute car journey. One has to ask what time of day that refers to. I know from all the miles that I did in the area that the M80 often has standing traffic on it. How on earth can casualties be taken to the new hospital or to Glasgow if there is such a problem?

Mr Raffan: Will Mr Davidson give way?

Mr Davidson: I will in a moment.

I am still convinced that the minister must consider the totality, such as whether the infrastructure for the new site is for local people. As for the railway station, I do not know anyone who goes to hospital by rail—certainly not very often. However, it is important that bus routes go into the hospital site. That is the way forward.

Mrs Lyndsay McIntosh (Central Scotland) (Con): Will David Davidson give way?

Mr Raffan: Does Mr Davidson agree that, if the transport report to which Mr Matheson alluded was reliable and definitive, there would be no need for Forth Valley NHS Board to undertake the traffic impact assessment that it is undertaking?

Mr Davidson: Absolutely. I agree with that totally.

Mrs McIntosh: May I, David?

Mr Davidson: One moment, madam.

The site debate ought to be conducted on a fairer basis to ensure the safety of lives and access for all communities. Both sites should be compared and costed.

Mrs McIntosh: I will take us back momentarily to the transport problems. We must have decent access to the hospital not only for those who attend the hospital, but for those who visit.

Mr Davidson: I accept that point, but it could also involve the use of the taxi service.

Michael Matheson: We do not all have a Porsche.

Mr Davidson: I assure Michael Matheson that it is not possible to get many stretchers in a Porsche.

The new bridge will really be the fourth Forth bridge. It is long overdue. I am pleased that Brian Monteith reminded us that the proposal was in the Conservative transport infrastructure plans. However, not being at all party-political on the matter, I congratulate Richard Simpson again on securing the debate. I also beg the minister for a full consultation from the Executive to evaluate both the proposed hospital sites.

17:38

Scott Barrie (Dunfermline West) (Lab): I, too, congratulate Richard Simpson on securing the debate. I was pleased to sign the motion on the day that it was lodged, although having heard about the petition on the name of the new bridge, perhaps I will reserve my comments.

I live in west Fife and have the privilege of representing Kincardine village so, like everyone else who lives there, I know only too well the gridlock that affects the area daily, particularly at peak times. The case for a new crossing at Kincardine is irrefutable. The volume of traffic, particularly that heading to and from the Gartarry roundabout, is ever increasing. Indeed, more than half the traffic that uses the existing bridge heads west along the Fere Gait towards Gartarry. It must also be acknowledged that a considerable amount of the heavy eastbound traffic that uses the

existing bridge consists of coal lorries that head to and from Longannet power station, which remains the second-biggest coal-fired generator in the United Kingdom. The fact that those two existing routes come to a head at the existing bridge places considerable pressures on the village.

Although previous Administrations and ministers claimed to be addressing the Kincardine bridge's difficulties, it was not until the Executive was formed that we began to see real improvements and movement on the proposals for a new bridge and associated road works.

I twice invited Sarah Boyack, in her capacity as transport minister, to Kincardine so that she could see for herself the tremendous difficulties in the village. She also accepted my request for a meeting at Victoria Quay involving her, her senior officials and community representatives from Kincardine. Following that meeting, we secured community consultations at Kincardine, Airth and Alloa. Those resulted in the early start to work on the Kincardine eastern bypass, which will be of tremendous benefit—when it is completed, it will take about 45 per cent of the existing traffic out of the village. On behalf of my constituents, I place on record my thanks to Sarah Boyack for progressing work on that project.

It is important that we get the new bridge at Kincardine. Cathy Peattie was correct when she said that we seem to have overcome the objections from Airth, which is in her constituency. The people living there had a legitimate complaint about the route from the bridge. Now that there is a preferred option, we should be going full steam ahead to ensure that construction takes place.

As Richard Simpson's motion says, the issue is not just about making improvements to the road network in order to ease the traffic difficulties at Kincardine and to aid the economic regeneration of Clackmannanshire. The opening of the rail link between Stirling, Alloa and Kincardine is also crucial. I do not underestimate some of the difficulties associated with new build since the line was closed, but I think that those difficulties are small compared to the great benefit that the new link can provide.

If we are to increase the flow of coal to Longannet, it is important that we consider other means of transporting it than using the existing Forth rail bridge or otherwise transporting it by rail. The new ferry at Rosyth should also come into the equation if we are to maximise its potential for east central Scotland and to ensure that we achieve full economic regeneration from what is now a valuable international ferry link.

I finish with a plea for the name for the new bridge. The bridge will serve Clackmannanshire indirectly, although, as we have heard, the road

runs between Fife and Falkirk local authority areas. I suggest that we use the talents of the pupils of Tulliallan Primary School and Airth Primary School to come up with a new name, especially as people in those communities will see the real benefit of the new link in the future. I leave the Deputy Minister for Enterprise, Transport and Lifelong Learning with that thought.

17:42

Donald Gorrie (Central Scotland) (LD): Richard Simpson has raised an important issue. The Kincardine bridge is a vital part of our transport infrastructure. Brian Monteith made a brave effort to rewrite Conservative party history. Setting that aside for the moment, I believe that all those—of any party—who argued against the second Forth bridge agreed that part of the alternative package had to be a second Kincardine bridge.

A second bridge would be important locally. The traffic on bridges goes in two directions, so the new bridge would be beneficial to communities south of the Forth as well as north of the Forth. The bridge is to be welcomed as a local link; it is also important as a national link. The heavy lorries passing through the village cause a great deal of disruption. What happens once a lorry going north has crossed the bridge continues to be an issue. There is a good motorway system to the south, but not to the north. We have to look to better roads to help the traffic that uses the Kincardine bridge to go to Aberdeen or wherever.

If I may take a simplistic view with regard to the hospital site, there was a huge feud of the Campbell v MacDonald type between Falkirk and Stirling. I thought that the elegant choice was the location roughly halfway between, on a site that is already owned by the local health board.

Access, both by car and by public transport, is an important matter. I was amazed when David Davidson pooh-pooched the idea of people going to hospital by rail. That shows how antique our views are.

Mr Davidson: I was talking about going to hospital, not visiting hospital. There is a difference.

Donald Gorrie: People in London go to hospitals using the underground. What is the difference? We have a very strange view of rail here. I agree, however, that buses are probably more important and will carry more people. We must secure good public transport links to the new hospital. People are perfectly entitled to fight their corner about various sites, but Keith Raffan was correct to say that we want to get on with it. I personally think that the favoured site is good. However, we must concentrate on having good access to it not only by car, but by public transport.

I do not see the force of some members' arguments about the difficulty of access and traffic problems. It is as slow to go from A to B as it is to go from B to A. The site is good and the bridge is important not only for the hospital but for many other things. Like everyone else, I urge the minister to get on with it.

17:45

The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald): I congratulate Richard Simpson on raising this matter. It is parallel to another members' business motion some weeks ago about the proposed site of Forth Valley NHS Board's new hospital at Larbert. Several of the issues that have been mentioned this evening were also raised during that debate. Of course, infrastructure is of great importance to wider issues connected with economic development opportunity.

I shall come to some of those infrastructure issues in a moment, but I should like to say something about the proposed new hospital site at Larbert, the development of which will be significant. It is important that the services that it will provide are accessible to everybody—patients, visitors and staff. Members can be assured that my officials will be involved in discussions with the health department and the health board to ensure that transport impacts and costs are taken into account in the decision-making process.

Mr Raffan: The minister said that the hospital site will be taken into consideration. Does that therefore mean that the Scottish Executive has accepted that there should be a single-site acute hospital in the Forth valley?

Lewis Macdonald: It means that transport considerations will be taken into account in the decision that health ministers seek to take. That is as much as Mr Raffan would expect me to say this evening.

The Forth Valley NHS Board will carry out a transport analysis that will provide all partners with a clear view of what needs to be done to ensure that that site can be planned and delivered to best effect.

Dr Jackson: I should like clarification that when the costings are done, for whichever sites, transport and other costs will be discussed.

Lewis Macdonald: That transport analysis is critical to the decision that must be made on the siting of a new hospital in the area. Therefore I have no doubt that those costs, as well as other matters, will be taken fully into account.

Almost all speakers have referred to a number of specific infrastructure projects. Everyone who referred to the new crossing at Kincardine

welcomed that development. I will pause to touch on the issue of what the bridge may be called. Richard Simpson clearly has a view on the matter and will no doubt seek Clackmannanshire Council's support for his proposal. He may also want to canvass support more widely. Other speakers have indicated that there are a number of stakeholders around the upper Forth. We will listen carefully to all the views that are expressed about the appropriate name for the bridge.

A new road bridge is not a small undertaking—

Mr Monteith: To settle the differences, would the minister consider calling the bridge the fourth Forth bridge?

Lewis Macdonald: I cannot renege on my commitment to consider all possibilities. However, in this case I am tempted to do so.

Scott Barrie: Mr Monteith is miscounting. There are four bridges across the Forth in existence, so the new bridge will be the fifth Forth bridge.

Lewis Macdonald: Because I want to make progress, I will spend no more time on the question of the bridge's name. Instead, I would like to reflect on its purpose.

As a number of members have indicated, we consulted very widely on the route of both the bridge and the access roads. The final decision on the route was announced towards the end of last year. We aim to publish the draft orders this summer and design work is proceeding as we speak. The detailed design will seek to address potential congestion at the bridgeheads. The route that we have announced has been widely welcomed locally and planning for the additional jobs that the bridge will create in the area is already well under way.

We are also taking care to ensure that the bridge causes the least possible disruption to wildlife habitats and to people living in the area. Those are important statutory requirements and they are not small tasks. A local inquiry might be a necessity and if that is the case, we must ensure that all the facts are examined and all objections are dealt with fully and properly.

We hope that we can work through the process to start construction by summer 2005, with the new bridge open to traffic by the end of 2007 or early the following year. Closure of the existing bridge for repair can happen only when the new bridge is open. We expect that closure to be for a period of 10 to 12 months.

Those developments are a little way off, as is any major hospital development, but other developments are under way. The eastern link road at Kincardine is an important part of the infrastructure and construction on it will start this summer. It is part of an overall package to improve

traffic flows around the settlement of Kincardine. By replacing the small roundabout that has to handle all the traffic through the village with a new signalled junction, we aim to make a significant difference to the village and to traffic using the existing bridge, as well as avoiding the risk of congestion, which has been flagged up.

More widely, we have provided more than £20 million to a variety of projects through the public transport fund and we have provided funding to complete the reconstruction of the A907 in Clackmannanshire, to which a number of members have referred. That is on top of more than £2.3 million in additional funding in the most recent period for Falkirk Council, Stirling Council and Clackmannanshire Council to improve and repair local roads and bridges in their areas.

It is of course for councils to develop schemes for local roads and we expect them to do that, whether in relation to Tullibody or to other parts of the local road network.

Dennis Canavan: The minister was able to give us a helpful indication of a starting date and completion date for the Kincardine bridge. Will he give us a similar indication of starting dates and completion dates for the proposed new motorway links at Larbert, to which I referred earlier?

The Deputy Presiding Officer: You have 10 minutes maximum, minister.

Lewis Macdonald: The first stage of providing the new slip roads at the M876, which I think are the subject of Mr Canavan's question, is to put in place an indicative valuation of the economic case for construction. We expect that to be completed by the end of next month. That will provide the basis for a full and robust economic case, which will be required in the event of a public local inquiry. As members will know, a local public inquiry on the subject is currently sisted and will reopen if the project goes forward.

Mr Monteith: Will the economic case include the option of the hospital being located at Larbert?

Lewis Macdonald: By definition, if the economic case is brought forward in full, it will have to reflect the position that applies at the time and also the position that is expected to apply thereafter. It will take into account plans and proposals for developments in the area.

As far as the rail project is concerned, the leading body in bringing forward the Kincardine rail link is Clackmannanshire Council, rather than the Scottish Executive. We would expect the council to carry forward the proposal that came before the Parliament only a couple of weeks ago—the very first rail bill to be presented in the Scottish Parliament since devolution.

It will be for the council to justify and project manage the rail link in partnership with us and with other partners within the project execution team. I am of course always willing for local MSPs and residents who have concerns about these matters to meet me or officials, depending on the timing and the circumstances and I have no doubt that the matters that have been raised will continue to be raised.

Dr Simpson: Will the environmental impact study be published, or is it available now? It was supposed to be available at the time of the submission of the bill. I have certainly not yet been able to get hold of a copy.

The Deputy Presiding Officer: You have about a minute, minister.

Lewis Macdonald: It is intended that all such studies will be put in the public domain in the usual way. I hope that that will meet Dr Simpson's need.

The debate has been useful. It has covered a range of local infrastructure improvements, many of which are planned or are at a detailed design stage and some of which will clearly be required in the future.

There is increasing recognition of the importance of the interface between health and transport; Edinburgh royal infirmary is a good case in point. Another point that is current is the wider interface between transport and economic development. Today's debate has helped to address that matter.

All the issues that have been raised will be included within consideration of the transport assessment for the Larbert proposal, should that go ahead.

Meeting closed at 17:56.

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