

# **RURAL AFFAIRS COMMITTEE**

Tuesday 13 June 2000  
(*Afternoon*)

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2000.

Applications for reproduction should be made in writing to the Copyright Unit,  
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ  
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate  
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The  
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now  
trading as The Stationery Office Ltd, which is responsible for printing and publishing  
Scottish Parliamentary Corporate Body publications.

---

# CONTENTS

Tuesday 13 June 2000

Col.

NATIONAL PARKS (SCOTLAND) BILL: STAGE 2 .....	863
---	-----

---

## RURAL AFFAIRS COMMITTEE

17<sup>th</sup> Meeting 2000, Session 1

### CONVENER

\*Alex Johnstone (North-East Scotland) (Con)

### DEPUTY CONVENER

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)

### COMMITTEE MEMBERS

\*Alex Fergusson (South of Scotland) (Con)

\*Rhoda Grant (Highlands and Islands) (Lab)

\*Richard Lochhead (North-East Scotland) (SNP)

\*Irene McGugan (North-East Scotland) (SNP)

\*Des McNulty (Clydebank and Milngavie) (Lab)

\*Mr John Munro (Ross, Skye and Inverness West) (LD)

\*Dr Elaine Murray (Dumfries) (Lab)

\*Cathy Peattie (Falkirk East) (Lab)

\*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

\*attended

### THE FOLLOWING MEMBERS ALSO ATTENDED:

Sarah Boyack (Minister for Transport and the Environment)

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

Robin Harper (Lothians) (Green)

Dr Sylvia Jackson (Stirling) (Lab)

Nicol Stephen (Deputy Minister for Enterprise and Lifelong Learning)

Mr Murray Tosh (South of Scotland) (Con)

### CLERK TEAM LEADER

Richard Davies

### SENIOR ASSISTANT CLERK

Richard Walsh

### ASSISTANT CLERK

Tracey Hawe

### LOCATION

Festival Theatre



## Scottish Parliament

### Rural Affairs Committee

*Tuesday 13 June 2000*

*(Afternoon)*

[THE CONVENER *opened the meeting at 13:34*]

**The Convener (Alex Johnstone):** Ladies and gentlemen, it is my pleasure to welcome you to the committee. Before we resume the process of dealing with stage 2 of the National Parks (Scotland) Bill, I remind committee members that our agenda also contains two other items. It is unlikely that they will take much time, but we will have to deal with those short items when we have finished today's stage 2 consideration of the bill and non-members have left the meeting.

### National Parks (Scotland) Bill: Stage 2

#### Section 1—National Park proposals

**The Convener:** Item 1 is the continuation of stage 2 of the National Parks (Scotland) Bill. Last Wednesday evening, we finished by agreeing to amendment 5, which deleted section 1(3) on page 1. The next three amendments on the marshalled list—amendments 31, 32 and 33, in the name of Mike Russell—have already been debated. I understand that Mike Russell does not want to move them, but he is not present today, so I ask Irene McGugan to confirm that.

**Irene McGugan (North-East Scotland) (SNP):** As Mike Russell intimated at the previous meeting, he will not press those three amendments, given the assurance from the Minister for Transport and the Environment that she will suggest suitable amendments with the same effect when we come to consider section 33.

*Amendments 31, 32 and 33 not moved.*

*Section 1, as amended, agreed to.*

#### Section 2—Reports on National Park proposals

**The Convener:** I call Alex Fergusson to speak to and move amendment 100 and to speak to amendment 101. After that, I shall invite the minister to reply.

**Alex Fergusson (South of Scotland) (Con):** I shall speak briefly to amendments 100 and 101, the purpose of which is, I hope, fairly self-explanatory. They are designed to ensure that the minister, when considering a national park

proposal, would cast the net wider than just Scottish Natural Heritage and would have to take account of the opinions of other public bodies. Replacing “or” with “and” would introduce an element of compulsion and remove some of the vagaries of the bill.

I move amendment 100.

**The Deputy Minister for Enterprise and Lifelong Learning (Nicol Stephen):** The issue is not about those who will be involved or consulted. Alex Fergusson mentioned casting the net wider than SNH. We will always go wider than SNH in relation to the establishment of a national park. Section 2(1) is about who has the lead responsibility at the initial stage, and amendment 100 seems to have the effect of always requiring two or more bodies to report jointly, with one of those bodies always having to be SNH. We think that that is unduly limiting.

Section 2, as it is currently drafted, allows Scottish ministers to require SNH or another public body to consider a national park proposal and then to prepare the formal report. I do not feel that amendment 100 is necessary, as section 2(4) already provides for Scottish ministers to ask two or more persons to address the requirement under section 2(1). There is therefore no need to duplicate that provision.

Amendment 101 is also unnecessary because of the amendment on the aims of the bill that was agreed to by the committee last week. The revised aims section ensures that all aims must be met, and that has been achieved by adding the word “and” between the second last and final aims. Any reporter undertaking work on a national park proposal must appear to have expertise relevant to all the aims set out in the aims section.

I hope that that reassures Alex Fergusson and that he will agree to withdraw amendment 100 and not press amendment 101.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** It seems to me that amendment 100 is worthy of serious consideration and possibly of support, because the aims of the national parks include considering the economic and social needs of communities in national park areas.

It must be plain that the function of SNH is not to be the arbiter of economic or social matters—its job is to advise on environmental matters. Therefore, it appears that the balance is skewed, unless we can achieve a balance where an appropriate agency—one that is able to consider economic and social matters—has an input to this important stage. Amendment 100 is worthy of serious consideration and of possible support.

**Cathy Peattie (Falkirk East) (Lab):** Is not that

provision in section 2(1)(b), which refers to “any other public body” with expertise? SNH has a key role to play, but other agencies equally have roles, and it is important that we are not prescriptive about those other agencies, as they may vary from area to area. I think that the bill covers that issue, as it not only refers to SNH, but it acknowledges that other agencies will need to be involved as well.

**The Convener:** As there are no further comments, I invite the minister to wind up, before handing over to Alex Fergusson.

**Nicol Stephen:** I emphasise that SNH has formal statutory responsibilities in this area. There is already provision to ask for input from more than one body and, where appropriate, such action will be taken. However, the impact of these amendments, by requiring both SNH and other public bodies to be jointly responsible for the report, is too limiting.

**Alex Fergusson:** I want to make a few comments.

As always, Fergus Ewing found a level of eloquence to which I can only aspire. He put much better than I can the reasons for amendment 100. I am slightly perplexed that the minister finds the amendment to be limiting, because it is certainly not designed to be so. I am minded to press amendment 100. Am I required to move amendment 101 at this stage?

**The Convener:** No.

The question is, that amendment 100 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** In that case, there will be a division.

**FOR**

Fergusson, Alex (South of Scotland) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)

**AGAINST**

Rhoda Grant (Highlands and Islands) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**The Convener:** The result of the division is: For 4, Against 6, Abstentions 0.

*Amendment 100 disagreed to.*

**Alex Fergusson:** Given the minister's reassurance, I am happy not to move amendment 101.

*Amendment 101 not moved.*

**The Convener:** If members agree, I shall put the question on amendments 6 to 8 en bloc, as they were debated together.

*Amendments 6 to 8 moved—[Nicol Stephen]—and agreed to.*

**The Convener:** We now come to amendment 34, which is grouped with amendments 35 and 42, on the scope of reports and statements.

**Robin Harper (Lothians) (Green):** These three amendments have been lodged in order to ensure that the process of proposing, designating and managing national parks is inclusive. The National Parks (Scotland) Bill is radical in that it aims explicitly to integrate conservation and development objectives, and it should be just as radical in supporting the Government's aim of social inclusion. To achieve that, Scotland's national parks should demonstrate commitment to, and best practice in, participation.

The Executive stated that

“an indicator of a thriving National Park will be the active participation, through a range of mechanisms, of interested people and organisations.”

At present, that range of mechanisms is restricted to the traditional, passive approach of consultation through making proposals available to those who have the time, capacity and resources to take such an interest.

13:45

International experience shows overwhelmingly that the active engagement of local communities in the management of national parks is the way to ensure their success. Amendments 34 and 42 will ensure that those who have legitimate interests in how the national park is managed are identified objectively from the earliest possible stage and that there is an understanding of the level, degree and type of interest that they have. The bill has enshrined in some detail the interests of some of these stakeholders, notably those of local authorities and community councils, but it omits others entirely.

A requirement to undertake a subjective stakeholder analysis, at the beginning of the establishment of a park, will redress that imbalance. Such analyses would also identify already existing institutions that could represent those interests. Techniques exist for such analyses and the process of undertaking them is an important first step in proposing a national park on the firm foundation of an inclusive process. Without an analysis of those interests, important partners in the future of a national park could be excluded, which would lead to the conflicts in designation and management that have been

seen in many parts of the UK and the rest of the world.

I draw members' attention to the wording of amendment 34, which would insert into section 2:

"the question of who and what are the key interests in the area of the proposed National Park".

That question would be addressed when the park was being established.

I move amendment 34.

**Rhoda Grant (Highlands and Islands) (Lab):**

Amendment 35 would ensure that the financial implications of the park are taken into account when the report is drawn up. Allowing the Scottish ministers to consider those implications, and thus to inform the decision-making process, is important. That would make the position of the park clearer and it is fundamental to the park to have an idea of the financial requirements.

**Nicol Stephen:** These amendments seek to specify further what a report on a national park proposal under section 2, or a statement made by the Scottish ministers under section 3, should cover. As members know, the bill sets out four such matters: the area that it is proposed should be designated; the desirability of designating the area in question; the functions that it is proposed the national park authority should exercise; and such other matters relating to the proposal as the requirement may specify or as Scottish ministers think fit.

The first three matters are absolute musts. That follows on from section 1(4), which specifies that a national park proposal must include the proposed area of designation and the functions that the national park authority should exercise. The report under section 2, or a statement by ministers under section 3, will, logically, report on those issues and on the overall desirability of designating the area. However, there may be other matters that it seems sensible to cover in the report or in the statement, and that is allowed for under the fourth catch-all provision.

I find Robin Harper's comments helpful in understanding the intention of amendments 34 and 42, but their legal implications are somewhat imprecise. I am not clear of the consequences of including them in the bill, nor am I clear what they would add to it. In conducting meaningful consultation, the reporter or the Scottish ministers will need to seek comments from everyone with an interest in the proposed national park. As with all public consultations, we would expect the report on the consultation to list all respondents and to make public their responses.

I cannot quite see what would be achieved by a statutory requirement to address in the report or in the statement who the key interests are. I accept

that all those with an interest must be able to comment, but that is a slightly different matter and is to do with the quality and the inclusive nature of the public consultation. Those issues are well covered elsewhere in the bill. Requiring the reporter to state a judgment on who, in his or her opinion, was or was not a key interest could be difficult and divisive. It could also fail to achieve the intention of the amendment, which is to be inclusive, rather than divisive.

I suggest, therefore, that these amendments are unnecessary. It will be very important to the successful running of a national park that everyone with an interest and with something to contribute is involved, but it should be for the national park authority to make certain that key interests are identified and involved in the running of the national park.

I am sympathetic to the intention behind amendment 35, which seeks to include in the bill a presumption that a reporter, in considering a proposal, should take into account the financial implications of establishing and running a national park and the effects on other relevant agencies. On many previous occasions, including during the stage 1 debate two weeks ago, the minister has said that core funding for national parks will come from the Scottish Executive. That is provided for in the bill. It will also be possible for national parks to raise additional funds from other sources, such as commercial activity or the national lottery. They will be genuine additional funds, on top of the core funding that will come from the Scottish Executive. We give the assurance that the core grant for national parks will not displace funding for other environmental programmes.

Like other public bodies, national parks will be subject to the annual expenditure round, at which their budgets will be agreed. All public spending must be approved by the Parliament. To inform that process, I would expect that ministers will want to make an estimate of the costs of establishing and running the national park. I suspect that that is what will happen with the first two national parks.

**The Convener:** Thank you. The floor is now open to any other member who wishes to comment on this group of amendments.

**Cathy Peattie:** I thank the minister for his explanation. I have a great deal of sympathy with what Robin Harper is saying. It is important to identify stakeholders at the start and to have a mechanism in place to consult and involve local people in the planning of the parks. I am not sure that it is appropriate to wait until further down the line before doing that. I am happy to hear that consultation is a key element of the bill, as it is vital that local folks are stakeholders and given a key role. There will be debate about how we

engage local people and ensure they are represented. We must keep in mind structures or processes such as future search conferences, which include a mechanism for involving local people as stakeholders at the start of a process, rather than later on.

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Robin Harper has made some good points, but having heard what the minister has said I do not think that it would be appropriate to change the bill as he suggests. However, we should support amendment 35, in the name of Rhoda Grant. It is important that when national parks are established, we identify what the anticipated resources are.

**Fergus Ewing:** I support amendment 35. Rhoda Grant is proposing that the report should detail

“the anticipated resources (both revenue and capital) required for establishing a National Park”.

If such information is not in the report, people will not know what the money is to be spent on or for what purpose, how much is to be spent or what benefits will accrue. There would be no means of assessing whether the report on the functions can be funded. Quite frankly, the bill would be a pig in a poke without this amendment. It introduces clarity and, as Rhoda Grant said, it is intended to be helpful to the Executive.

**The Convener:** As no other member has indicated that they wish to comment at this stage, I will invite the minister to wind up.

**Nicol Stephen:** Identifying and engaging with the key stakeholders is crucial. Section 2(5) ensures that all interests will be fully consulted on the proposal. I stand by my earlier remarks on amendments 34 and 42, although I now have a clearer understanding of what Robin Harper is seeking to achieve. I hope that my comments go a considerable way towards reassuring him.

I sense that there is strong support from all parties represented on the committee for a formal requirement on the reporter to make an assessment of the likely financial implications of setting up a park. I have sympathy with that view. Such a requirement would—although I am not sure to what extent the supporters of the amendment see it in this light—allow ministers to specify the process of estimating costs and to ensure that the estimate took all relevant factors into account and paid proper attention to the need to achieve value for money. I suggest that the best way to proceed is for the Executive to undertake to re-examine this issue and to bring back our conclusions at stage 3. Amendment 35 could in some respects be regarded as technically or legally imprecise—for example, what is the definition of “relevant existing agencies”?

I hope that Rhoda Grant will accept the assurance that I have just given and will not move her amendment. I sense a genuine desire on the part of the committee for some movement on this issue. Clearly, finance is a crucial element of any national park proposal; it would be difficult to envisage circumstances in which it would not be. We accept that it would be a good idea to examine it further.

**The Convener:** I invite Robin Harper to wind up on this group of amendments.

**Robin Harper:** It is just as important to address as early as possible the inclusion parameters when setting up a park as it is to address the financial parameters. In section 2(5)(d), the reporter is required to consult

“(iii) such persons as appear to the reporter to be representative of the interests of those who live, work or carry on business in the area”

and

“(iv) such other persons as the reporter thinks fit”.

It would be safer and more productive to have an open discussion of who those people are at an earlier stage than when the reporter starts work.

**The Convener:** Thank you. The question is, that amendment 34 be agreed to. Are we all agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Fergusson, Alex (South of Scotland) (Con)  
Johnstone, Alex (North-East Scotland) (Con)

**AGAINST**

Grant, Rhoda (Highlands and Islands) (Lab)  
Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**The Convener:** The result of the division is: For 2, Against 8, Abstentions 0.

*Amendment 34 disagreed to.*

**The Convener:** Does Rhoda Grant wish to move amendment 35?

**Rhoda Grant:** On the basis of the assurances that the minister has given, I will not move the amendment.

**Richard Lochhead (North-East Scotland) (SNP):** I would be happy to move the amendment, as I am persuaded by the arguments in favour of it.

**The Convener:** You are free to do that.



*Amendment 35 moved—[Richard Lochhead].*

**The Convener:** The question is, that amendment 35 be agreed to. Are we all agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**AGAINST**

Fergusson, Alex (South of Scotland) (Con)  
Grant, Rhoda (Highlands and Islands) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**ABSTENTIONS**

Alex Johnstone (North-East Scotland) (Con)

**The Convener:** The result of the division is: For 4, Against 5, Abstentions 1.

*Amendment 35 disagreed to.*

**The Convener:** It made no difference that I abstained; I would have had the casting vote anyway.

14:00

**The Convener:** We now come to amendment 36, in the name of Ben Wallace, who is not present.

**Mr Murray Tosh (South of Scotland) (Con):** I have no knowledge of where Ben Wallace is or why he is not here to move this amendment. Since he is not here, I will move it.

In one of my past incarnations, I was a community councillor. I was unfortunate enough to be a community councillor in a local authority area where community councils were regarded as the lowest of the low and were given nothing in the way of information, participation or consultation. Although I hope that that practice does not exist anywhere in Scotland now—that was some years ago—it is a reasonable proposition that if a national park is being established, the community councils in the area, which are properly constituted and recognised, should be notified.

I move amendment 36.

**The Convener:** For the purposes of debate, this amendment has been grouped with amendments 43 and 48.

**Nicol Stephen:** I do not wish to second-guess what Ben Wallace intended, but I think that the amendments are based on a misunderstanding. They all seek to place an obligation on the

Scottish ministers to send a copy of any national park proposal and designation order to every community council that might be affected by the order. The bill is clear that community councils should be statutory consultees. It follows that, as named statutory consultees, they will on each and every occasion receive a copy of the proposals that are being consulted on. We fully recognise the importance of the involvement of community councils and their critical and central role in the success of national parks.

The bill was amended in light of the consultation on the draft bill, to strengthen the involvement of community councils by making it a statutory requirement that they be consulted on national park proposals in sections 2 and 3, the national park plan in section 11 and appointments to the national park authorities in schedule 1. A considerable amount has been done in this regard.

Those amendments deal with the part of the bill that requires local authorities to be sent copies of a proposal or designation order and for them to make those documents available for public inspection. If that same legal responsibility was placed on community councils, they would almost certainly regard it as an unwelcome legal burden. For those reasons, I hope that I might convince Ben Wallace to withdraw his amendment.

**Rhoda Grant:** The sentiment behind the amendments is correct, in that community councils should be given their place and consulted whenever possible on national parks, but it is clear from the minister's explanation that we are not proposing to impose a legal responsibility on unpaid volunteers.

**Fergus Ewing:** I did not really follow the minister's logic. The first argument was that community councils will get copies anyway. If that is the case, should not we recognise the importance of community councils in national park areas by recording their significance in the bill? What trouble would that cause?

Secondly, there was the curious argument that there would be obligations on community councils. That is not what amendments 36 and 43 say. They say that the reporter must send a copy of the national park proposal to community councils. The obligation is not on the community council; it is on the reporter.

Section 3 states that the Scottish ministers must send a copy of the national park proposal to every community council. The obligation is not on the community council; it is on ministers. Section 5(3)(b) states that there is only six weeks for consultation after publication of the statement—or 12 weeks if the minister's amendment is carried. I can tell the committee categorically that in

Badenoch and Strathspey, many people were not able to get a copy of the national park document for some weeks after the consultation period opened. One of them is in the room today. It is a very short space of time, minister. The very least we can do is recognise that community councils, many of which have responded to the consultation document, should have their position and standing recognised by receiving copies of those vital documents.

**Mr Rumbles:** Community councils deserve the higher status they would get by being included in the bill. I echo Fergus Ewing's comments; I know from my experience in the Cairngorms area in my constituency that it was felt that even the consultation exercise was rushed. We should recognise the importance of community councils, so it would be a good thing to support this amendment.

**Des McNulty (Clydebank and Milngavie) (Lab):** I am considering section 2(5)(a) in the context of section 2(5)(d). In paragraph (d) there is a requirement that community councils be consulted. I assumed that paragraph (a) referred to the planning requirement, that local authorities are required to be formally consulted in a specific way and that that was separate from, and additional to, the general consultation to which paragraph (d) refers. I presume that the minister will include as part of the consultation that reporters will be expected to carry out under paragraph (d)(ii) that community councils receive a copy. I presume that that was the intention. If the minister could make it clear that the consultation would involve ensuring that community councils get a copy under paragraph (d), that would take care of the issue raised by Ben Wallace's amendment.

**Nicol Stephen:** It is important to repeat that every community council within the area of a national park will receive a copy of the proposal. Section 2(5)(d)(ii), which is on page 2 of the bill, makes it clear that there will be a duty on the reporter to consult

"every community council any part of whose area is within the area to which the proposal relates".

The community council will receive a copy of the proposal. The amendment would place an additional—and I think onerous—duty on community councils. I invite members to consider section 2(6), which is at the top of page 3 of the current bill. It states:

"A local authority receiving a copy proposal and requirement under subsection (5) must make them available for public inspection for the period referred to in subsection (5)(b)."

Amendment 36 would place an additional liability on community councils, so I urge the committee to

resist it. I repeat that significant steps have been taken to emphasise the importance of community councils to this process.

**The Convener:** Murray Tosh moved amendment 36, I will give him an opportunity to comment.

**Mr Tosh:** You will appreciate that I had not seen or considered the amendments before this meeting. I admit that I am confused about the minister's last point. I had not understood that amendments 36 and 43 necessarily put an obligation on local authorities and community councils at the top of page 3 in section 2(6). Will the minister spell out precisely how that burden falls on a community council?

**Nicol Stephen:** The intent, I believe, of the amendments is to add "and community council" where the responsibilities of local authorities are mentioned. Section 2(4) provides:

"The reporter must, on receipt of the National Park proposal—

(a) send a copy of it and of the requirement to every local authority any part of whose area is within the area to which the proposal relates".

Amendment 36 would add "and community council" after "local authority".

Section 3(3) provides:

"Before preparing the statement the Scottish Ministers must—

(a) send a copy of the National Park proposal to every local authority any part of whose area is within the area to which the proposal relates".

Amendment 43 would add "and community council" after "local authority".

Section 6(5) provides:

"The Scottish Ministers must send a copy of the designation order and any deposited map to every local authority any part of whose area is within the area designated as a National Park".

Amendment 48 would specify the community council as well as the local authority in that sentence.

The drafting advice that we have been given is that there is a logical connection between those references. Because the earlier wording prepares the ground for the reference in section 2(6), there would be a natural follow through, and the reference to the community council would be appropriate or could be implied at that stage as well. We have based our thinking on the advice that we have been given on the drafting consequences. Local authorities are being given specific statutory responsibilities in this part of the bill.

If the issue is of concern, I could undertake to look at it further, but I hope the committee

understands the reasons for emphasising the statutory lead role of the local authority in each of those sections. That is not in any way to exclude the community councils, but in certain aspects of the national park proposals we believe that the local authority should take on lead responsibility and have identifiable legal duties.

**Des McNulty:** It is important that residents of an area who are not members of the community council should have the right—as would be the case for any planning consideration—to go to the local authority and see what was being proposed. I think that that is the intention of the bill. Had the reference in section 2(6) been more specific, and referred to subsection (5)(a) instead of to subsection (5), the intention would have been clearer.

I would like an assurance from the minister that community councils will receive a copy of the document to deal with in their own way. Subsection (5) talks about consulting community councils, but it does not specifically say that they will be given a copy of the document as part of that consultation.

14:15

**Dr Elaine Murray (Dumfries) (Lab):** A number of other people to be consulted are mentioned in section 2(5)(d). Will they, too, receive copies of documents?

**Mr Rumbles:** Ben Wallace is not here to speak to his amendments. We cannot read the mind of someone who is not here, but the wording of his amendments makes it clear that he simply wants the bill to instruct Scottish ministers to deliver a copy of the proposals to community councils. I hear what the minister is saying and I understand the advice that he has been given, but Ben Wallace's amendments would not amend the part of the bill that deals with local authorities' responsibilities. It is quite clear to me—reading this as a lay person, if you like—that Ben Wallace simply wants the community councils to receive a copy. The minister has said that they will get a copy anyway, so I do not understand what the problem is.

**Nicol Stephen:** I suggest that we bring back proposals that make it crystal clear that community councils will receive copies of all the reports and statements that members of this committee clearly want them to receive. I think members want that to be crystal clear in the bill. We will bring back proposals that achieve that without introducing the concerns that have been raised with us by those who are responsible for drafting the bill.

**Mr Tosh:** After raising the issues in Ben Wallace's amendments, I had intended to withdraw them, which would have given him the

opportunity, once he had read today's discussion, to reintroduce them at a later stage if he felt that appropriate.

When I heard Nicol Stephen explain why he opposes the amendments—in terms of an amendment that was not made to section 2(6)—I became quite concerned. To judge from the fact that Ben Wallace has proposed amendments in certain sections but not in that one, he was clearly not seeking to put any obligation on community councils—other, perhaps, than to give an address at which they could be contacted. It seems to me that he put thought into not referring to section 2(6).

There are two options. If ministers feel that the other amendments would convey an expectation that community councils ought to be included in section 2(6), they could insert some declaratory statement, by means of a further amendment, to say that community councils were not being so burdened. However, we may have arrived at a better solution, with the minister agreeing that something should go in the bill at a subsequent stage to make it an absolute requirement that community councils be notified. If that were done, the spirit of the amendments would be kept to. I am therefore happy to withdraw amendment 36. The committee will understand that, if Ben Wallace is not happy about that, he might decide to bring this issue up again.

*Amendment 36, by agreement, withdrawn.*

**The Convener:** We now come to amendment 9, in the name of Sarah Boyack, which has been grouped for debate with amendments 37, 38, 39, 13 and 44, which relate to consultation on and participation in park proposals.

**Nicol Stephen:** I welcome the opportunity to discuss what I believe to be an important group of amendments that set out the process of consultation that either the reporter or the Scottish ministers must go through before publishing a report or statement on a proposal for a national park.

Amendments 9 and 13 are in the name of the Scottish Executive. They would ensure that a consultation on a national park proposal must be for a minimum period of 12 weeks. That is covered in section 2(5) and section 3(3). Section 2(5)(b) does not at present state a minimum period for consultation that a reporter would be required to give on a national park proposal. The Transport and the Environment Committee raised that point during a stage 1 debate, and we undertook to consider the point further.

There is genuine concern that proposals could be proceeded with by a reporter without allowing the public adequate time to consider them. We would consider it unlikely that a reporter would

proceed with undue haste, but we have agreed—and the amendment ensures—that a reporter must allow a minimum of 12 weeks for the public to inspect a national park proposal. I emphasise that that is a minimum period. A reporter may feel that a longer period is necessary in certain circumstances. A maximum period is not included, so a reporter will have considerable discretion to ensure proper public consultation.

Amendments 37 and 44 would require the reporter or Scottish ministers to “positively engage” the listed bodies in a “fully participatory process”. While the sentiment is right—consultation should be conducted in a proper manner that actively engages all the consultees—the terms “positively engage” and “fully participatory” are of doubtful legal standing. They have not been used in other primary legislation and could be open to interpretation, argument and challenge.

We believe that departing from a tried and tested formulation on consultation could leave the reporter vulnerable to accusations and possible legal challenges that the steps taken by the reporter were not positive enough to satisfy the uncertain legal test. However, that is not to say that we are in any way discouraging full and high-quality public consultation.

Amendment 39 seeks to achieve something similar. It applies to section 2(7)(c), which requires a reporter to take account of comments made on the national park proposal during the consultation on the proposal. The amendment adds the requirement that the reporter must seek the views of the local community by carrying out “comprehensive planning consultation.”

We agree that we need to encourage the good example of full and inclusive consultation provided by the planning for real exercises. We can use statutory guidance to help do that. I doubt whether “comprehensive planning consultation” is, in legal drafting terms, sufficiently precise to have the meaning the committee might desire.

We all agree with the requirement that the views of the local community should be taken into account. As I hope I have already assured the committee, the bill provides for that in section 2(5)(d), which sets out the different bodies that must be consulted; community councils are part of that. Section 2(7) requires all comments received during the consultation to be taken into account. What is sought through amendment 39 is already adequately provided for in the bill.

Amendment 38 would replace the requirement that a reporter must “take into account” the views expressed during a consultation with a requirement to “address” the views. Any consultation process throws up a wide range of

views; inevitably, they will sometimes conflict. They must be recorded and reported by the reporter, who must take them into account. That is not the same as addressing them, in the sense of dealing with them or reconciling them. Ultimately, addressing or responding to views is a matter for political consideration and resolution. That is where the Scottish ministers, when considering the report and introducing a draft designation order, must make the hard decisions.

I move amendment 9.

**Mr John Munro (Ross, Skye and Inverness West) (LD):** The intention behind amendments 37 and 44 is to ensure that local interests are considered and positively engaged during the preparation of the detailed national park plan proposals. Twice in one week I have heard questions raised about the form of words and statements, and their legality and clarification. Last week, I was berated for using the phrase “reasonable demand”; it seemed to exercise some minds when it could not be clarified.

Further on, there was a debate on exceptional circumstances. I am not too happy to hear the minister say that he is not clear about what is meant by “positively engage” and “fully participatory”. I am sure that everybody understands that the communities that will be included in a national park are worthy of consideration in the proposals for that national park.

It is essential that in preparing any detailed proposals for a national park, local communities are fully engaged in a positive way to minimise any sense of imposition at a later date. It is not adequate that the reporter should merely consult, since that could be carried out in a relatively minimal way. The amendments would ensure that more appropriate community participation methods are used in preparing reports on national park proposals. They apply to the four categories listed in section 2(5)(d).

**Rhoda Grant:** Amendments 38 and 39 are along the same lines as other amendments—they are intended to strengthen the role that communities play in a national park. I will understand any comments the minister might make about the drafting of the amendments; not being practised in legal drafting, I make no excuse for that. I appreciate what he is saying about “take into account”, but I ask for an assurance that if that were not replaced by “address”, the reporter would account in the report to ministers for the concerns that were raised by communities.

I seek an assurance that the minister will reconsider section 2(7)(ii) and consider whether there is any way the role of communities can be strengthened. That is what all these amendments

are about—it is important that that is reflected in the bill.

**Dr Murray:** Everybody is anxious to ensure that communities are properly consulted in the plans for a national park. As this is a legal document, we have to be careful about the terminology that is used in it. Imagine that, despite everybody else's views, a couple of individuals were totally opposed to the national park. How would they be positively engaged in the process?

Rhoda Grant said that she may not press amendment 38. If there are divergent points of view, it may not be possible to address them all. It may be possible to take them into account, but not every point can necessarily be addressed. Despite the desire that I am sure we all share to ensure that the plans are as participatory as possible, we have to be careful about the terminology that is used in the bill.

**Cathy Peattie:** Wide participation has been mentioned. I am happy to hear the minister talk about planning for real. That process works by getting everyone round the table and involved in the planning; it is not simply a matter of consultation at a later date. It allows people to have different views about the way forward. Such an approach is important, to allow for the participation of local people.

14:30

**Fergus Ewing:** I support John Farquhar Munro's amendment. It is obviously important that people should be consulted. Equally, if not more, important is the requirement that people's views are listened to and acted upon.

I say this in all candour, minister: in Badenoch and Strathspey, there are concerns about the procedures that are set out in section 2. It would be very helpful if the minister could assure the committee that while the wording in amendment 37, to

"positively engage in a fully participatory process",

may not be in the normal legal lexicon, the sense is there, as John Farquhar Munro rightly argued.

It might be helpful to have some Executive amendments to show that, for example, the reporter will visit every community council in the area, will hold public meetings in the various parts of any proposed national park area, and will have the chance, as we elected people do, to find out what people say when we are open to question in a public place in an accountable fashion. I hope that the minister might consider providing demonstrable proof that the Executive is willing not only to consult but to listen.

**Des McNulty:** I go along with the intention

behind John Farquhar Munro's amendment, although I do not think that I can support the substance of it. The various sub-paragraphs of section 2(5)(d) are intended to identify the list of consultees. The route for giving weight to amendment 37 and for suggesting how consultation might be carried out is perhaps the approach indicated by Fergus Ewing. The process is of course for ministers to consider, possibly in the context that they have already accepted—that of ensuring that community councils get a copy of the document. They might consider what might be required beyond that to give flesh to a consultative process.

I suggest that ministers might also consider something that has clearly been omitted: there is nothing in the bill that requires the reporter to record the views of the people who are consulted. It is quite common with education consultations, for example, to get a list of who has made formal representations and a brief note of what the representation was. I know that it is a methodical process, but it would be a valuable adjunct to a consultation process if people felt that what they had submitted in written form was recorded somewhere.

In due course, those who receive the report from the reporter could see, when the matter came before the Parliament, what representations had been submitted. I put that to the minister as something that he may wish to consider in the context of section 2.

**Alex Fergusson:** I endorse those remarks and Fergus Ewing's point of view on this group of amendments. I have said before, and I am sure I will say again, that the best chance of success for national parks is to make communities and people feel as involved as possible and to give them a real sense of ownership of the national park.

The best way to achieve that will be to be as inclusive as possible in the consultative and planning procedures prior to setting up a national park. I am sure that that is what this group of amendments is aimed at. I hope that the minister will take that into account when he sums up. I think that the whole committee agrees on this matter.

**Nicol Stephen:** The first point to emphasise is that the approach we have tried to take on the development of the bill and of the whole national parks initiative has been open. We have tried to be inclusive and we certainly want to develop a clearer and better understanding of what full, proper and appropriate public consultation should mean.

I am sorry that John Farquhar Munro is having the issue of legality thrust at him again. Perhaps if he had used "reasonable" this time round,

everyone would have been happier. [*Laughter.*] The phrases “positively engage” and “fully participatory process” bring new and potentially difficult terms into the text of the statute. As Elaine Murray said, they could be used by people who are trying to block the overwhelming view of most consultees, to block, delay or otherwise thwart the progress of a national park. We have to be careful.

It is appropriate that the reporter, as Rhoda Grant suggested, should outline all the concerns of individual consultees. As Des McNulty said, the views of all consultees should be recorded and all that should form part of a high-quality consultation process. In that regard, I think that the way forward is for ministers and the committee to make it clear that it is essential for all interests to be brought into the process to voice their concerns and make their comments to the reporter.

We have already lodged amendments to set a minimum period of 12 weeks’ consultation. That has been extended and we will debate it in relation to the statutory requirement for consultation on the draft designation order. We are already doing a lot to extend the consultation and ensure that it is adequate.

I agree that we should ensure that the process is full, is of the appropriate quality and engages the right people, taking account of all the views that are expressed. Rather than try to describe everything that is in the bill, I think the appropriate way ahead is to assure the committee that the Scottish ministers see the possibilities and the importance of developing statutory guidance on the issue. Given previous debates, I am a bit nervous about suggesting statutory guidance on section 2 of a bill, but I think that that could offer a good way ahead.

Section 14 confers powers to introduce statutory guidance. I assure members that many of the issues that have been referred to could be included in the guidance to ensure that we achieve what is, I think, the intention of everyone around this table.

*Amendment 9 agreed to.*

**The Convener:** Amendment 37 has been debated. Does John Munro wish to move it?

**Mr Munro:** In view of the minister’s statement and his assurances on the redrafting of section 2 to satisfy the aspirations of amendment 37, I would be agreeable to not moving it.

**Fergus Ewing:** Can I seek a point of clarification, convener? I was sympathetic towards the minister’s assurance that directions and guidance could be offered under section 14, but I have had a brief look at it. Does not it—unless I have misread it—entitle the Scottish ministers only to

“give a National Park authority directions”

and guidance?

We were discussing guidance to the reporter on how he or she carried out his or her functions. There is possibly another means to achieve the aims the minister has generously undertaken to consider, but it does not seem to be in section 14, which is what I understood him to say a minute or so ago.

**Nicol Stephen:** Let me clarify. If an amendment is required to enable us to issue the sort of statutory guidance that I am talking about and to make it clear that such guidance would be appropriate in the context of the consultation, we will bring that forward at stage 3. I believe that the powers to issue such statutory guidance are already contained in the bill, but we will check that with the drafters and bring forward an amendment if there is any doubt. I can give an assurance that statutory guidance, covering the sort of issues that we have discussed, will be brought forward.

*Amendment 37 not moved.*

*Amendment 10 moved—[Nicol Stephen]—and agreed to.*

*Amendments 38 and 39 not moved.*

**The Convener:** We move to amendment 11, in the name of Sarah Boyack, on the procedure for a national park proposal, which is grouped with amendments 40, 12, 41, 45 and 15. I ask the minister to move amendment 11 and to speak to the group.

**Nicol Stephen:** As you said, convener, this group of amendments deals with the role of Parliament in the report or statement following a consultation on a national park proposal or a report of a local inquiry. Each of those documents is required to be published by Scottish ministers. At the suggestion of the Subordinate Legislation Committee, we have lodged three amendments, which will ensure that those documents are laid before Parliament as well as being published. The intention is to ensure that a copy is available to Parliament at the same time as the document is published.

It does not follow that because a document is laid before Parliament, the Parliament or a committee must vote on it. Amendments 40 and 41 would require there to be a vote. We believe that that makes little sense at that stage in the process. The report or statement is only a step on the way to a single set of arrangements for a national park. Each is a report on the outcome of a consultation on what is, at that stage, still a proposal. Scottish ministers will still have to consider the proposal before they can introduce a draft designation order. It is the designation order that represents the decision of Scottish

ministers—that is what it would be appropriate for Parliament to consider.

We acknowledge fully the views expressed by the Subordinate Legislation Committee on the possible need for a strengthening of the consultation arrangements on the designation order. I have already mentioned that. We have therefore lodged amendment 77—we will discuss that amendment later—which will provide for a minimum period of public consultation of 12 weeks. That consultation will take place before the order is formally presented to Parliament for affirmative resolution. In light of that assurance and the strengthening of the arrangements, I suggest that amendments 40 and 41 are inappropriate at that stage in the process and would place too great a bureaucratic burden on the process.

The final amendment in this group, amendment 45, relates to the holding of a local inquiry and would, in effect, take away from Scottish ministers discretion to hold a local inquiry following the publication of a report or statement. That may be the committee's intention, but I suggest that it is inappropriate, as it would take place before ministers had taken the final decision to issue a designation order. The timing is inappropriate.

I move amendment 11.

14:45

**Mr Tosh:** I lodged the amendments following discussions in the Transport and the Environment Committee, the Rural Affairs Committee and the Subordinate Legislation Committee about the way in which the Executive has introduced the bill—all the moves, subsequent to the primary legislation, will be made in the form of statutory instruments.

Concern was expressed in all committees that that to a degree took the Parliament and its committees out of the detailed process of establishing specific national parks. I lodged the amendments once I had seen what ministers had suggested by way of amendment. I recognise that laying the report before Parliament is a concession on informing and involving Parliament. On reflection, however, I felt that simply laying the report before Parliament did not really give MSPs, whether in plenary or committee meetings, any part in the process.

I expect that Parliament and the Executive will, by and large, agree on the establishment of specific national parks, but I thought it reasonable and not at all bureaucratic to lodge amendments that would require the published report to come before Parliament at that stage for discussion. I interpret approval by resolution simply to mean that the Parliament should accept that it is broadly content with what is being proposed and sanction

the Executive to go ahead and produce a designation order. I simply seek a way to involve the Parliament in shaping and commenting on what happens, by giving it an opportunity in debate to express a view on the report. I believe that that stage, when ministers are likely to accept or reject a report, is the appropriate time for MSPs to have the right to express a view and for ministers to have to ask the Parliament for approval of their actions.

Amendment 45 does not follow a ministerial amendment, but is self-standing. It relates to the proposal on ministers requiring a local inquiry to be held. It occurred to me that there were certain issues on which Parliament might take a different view from that taken by ministers, not least on the areas to be included in a national park. That could be an issue on which Parliament genuinely has a different point of view and a stage where it might be appropriate for Parliament to decide whether it wants to instruct an inquiry. That does not take the right away from ministers—ministers would still exercise the right and make the decision, except in what would be the fairly unusual circumstances of Parliament distinctly disagreeing with ministers on what is an important matter. If Parliament disagrees, it should be entitled to register that disagreement in some way and to call an inquiry.

**The Convener:** Before I ask the minister to sum up, does anybody else want to comment on this group?

**Dr Murray:** I am not convinced of the need for Parliament to debate and approve the reports when that is part of the consultation process and when committees will presumably be able to take part in the consultation process and put their view to ministers. In a sense, we would be debating and reaching resolutions on the same thing twice. I am not sure that it is necessary for Parliament, as well as the committees, to take part in the consultation process.

**Fergus Ewing:** I do not quite know what the Scottish Parliament is for unless we have debates. The idea that the first Scottish Parliament should not have a debate about the final designation order is so preposterous as to be hardly worth addressing.

**Dr Murray:** On a point of information, this is about the report, not the designation order.

**Fergus Ewing:** Certainly it is about the report but it is also about an amendment to give us a say in whether there is a local inquiry. Amendments 40, 41 and 45 are related, although 45 is slightly different. It seems to me an inalienable principle that a member representing part of an area that is either in or out of the proposed national park boundary should be able to have the issue debated in Parliament, not just in committee. That

should not give us any problem because, as has been suggested, it may be that there is no disagreement. We had a members' business debate about whether the Cowal peninsula should be in a national park. It would be odd if we could have a members' business debate but no other kind of debate. I see the amendments as sensible. We should not be arguing about whether Parliament should have a say on whether there should be a local inquiry into any aspects of the proposal.

**Mr Rumbles:** As I understand it, when the designation order comes before this committee, we will have a full debate and the matter will then go to the whole Parliament. If that is not the process, please correct me.

**Rhoda Grant:** There may be some confusion about what stage we are speaking about. We are speaking about the report that will go to Scottish ministers. That report will be prepared by the reporter and will outline the comments that have been made, with which the reporter may agree or disagree. The report is not the designation order; it is the information gathered to allow Scottish ministers to draw up a designation order. If we voted on it in Parliament, that would make it more difficult for ministers to take up the parts that they believed had more weight. I do not think that anyone could take a line on the report or vote on it, because it is a report on a consultation, not a designation order, and will reflect hugely different points of view.

**Des McNulty:** I support the idea of a debate at the designation stage, but the effect of Murray Tosh's amendment might be the reverse of what he intends. I see the job of the reporter as consulting the community and presenting an impartial report on the findings. Parliament and ministers can look at the report and consider their responses to it. If ministers were required to lay a report before Parliament for approval at that stage, the report would have had to go to ministers before Parliament saw it so that it could be amended to take account of what ministers saw as the answers. That would achieve the exact opposite of what Murray wants. We should maintain the integrity of the role of the Parliament and the role of the reporter. We should see the report when it is produced, whether ministers agree or disagree with it; it should come into the public domain at the earliest possible opportunity.

**The Convener:** I ask the minister to comment on this group of amendments.

**Nicol Stephen:** In response to Murray Tosh's comments, let me say that the proposals are not about taking Parliament or the committees out of the process but about bringing Parliament and the committees into the process at the right stage. That is a matter of judgment on the depth and

detail of the role of Parliament.

I will not respond to Fergus Ewing's stronger comments except to reassure him that there will be debate and that, in the Executive's opinion, the Parliament's formal role begins at the designation stage, once there is a definite proposal. We see that as the key stage.

Mike Rumbles was right in his description of the process, but—and it is an important but—amendment 77, which we will come to later today, requires a 12-week consultation on a draft designation order. That provides plenty of scope for the committee or the Parliament to add views during that period. As well as the formal stage in which Parliament has a role, that additional opportunity is being created. That is a better alternative. The proposals in the bill are sufficient, provided that amendment 77 is agreed to later today.

*Amendment 11 agreed to.*

**The Convener:** Amendment 40 has been debated. Murray, do you wish to move amendment 40?

**Mr Tosh:** Yes. The point that I am trying to get at in the amendment is that, when the designation order for a national park is brought forward, it will be in the form of subordinate legislation. It will go to a committee where it cannot be amended. If parliamentarians are to have a significant chance to influence the final designation, the means to do so must be found earlier in the process. In looking at how that might be possible—

**The Convener:** I remind you, Murray, that we have debated the amendment.

**Mr Tosh:** Sorry—I thought that you were asking me for my response to the debate.

**The Convener:** No, I am asking you to move the amendment.

**Mr Tosh:** So I do not have any opportunity to respond to the points made in the discussion?

**The Convener:** Within the debate—

**Mr Tosh:** Convener, you have confused me, because you allowed me to respond to the discussion on the amendments lodged by Ben Wallace.

**The Convener:** That was because you moved the lead amendment in the group on Ben's behalf.

**Mr Tosh:** I see—but the minister got to respond, although he did not lead the group.

**The Convener:** The minister replies to each group.

**Mr Tosh:** So there is no chance to respond to points made about one's amendment?



**The Convener:** The opportunity to do so exists during the debate. Any intervention can be made then.

**Mr Tosh:** I see. I move amendment 40.

**Alex Fergusson:** On a point of order, convener. Given that the committee is fairly new to stage 2 procedures and that Murray Tosh would, I am sure, have come back during the debate if he had realised that he had no opportunity to respond to points at the end, is there no way in which he can be allowed to respond to those points now? We will bear in mind the correct procedure from now on.

**The Convener:** I will allow Murray the opportunity to sum up on the issue.

**Mr Tosh:** I have said most of what I was going to say, but I thank the committee for its indulgence. I have one further point. I do not represent a constituency that is likely to be within an area designated as a national park, but if I were a local member in such an area I would want every opportunity to debate the designation and to play the maximum possible part in shaping it. An appropriate time to do that would be when the reporter made the recommendations from the consultation.

**The Convener:** The question is, that amendment 40 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Fergusson, Alex (South of Scotland) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)

#### AGAINST

Grant, Rhoda (Highlands and Islands) (Lab)  
McNulty, (Des Clydebank and Milngavie) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**The Convener:** The result of the division is: For 5, Against 5, Abstentions 0.

The casting vote will be used to support the Executive's position. However, I hope that the debate will be noted.

*Amendment 40 disagreed to.*

15:00

**The Convener:** We now move to the next group. I call Fergus Ewing to speak to and move amendment 102, which is grouped with amendments 103, 104, 105, 106, 108 and 119.

**Fergus Ewing:** The amendments seek to simplify and improve the consultation procedure and the way in which we progress from there to a designation order. At the moment, there are three possible procedures: a report can be ordered under section 2; a statement can be made under section 3; or a local inquiry can be conducted into certain matters under section 4. I assume that the power to have the alternatives of a report or a statement is designed to provide some flexibility, depending on which procedure is appropriate. However, I shall explain why my amendments should be accepted.

Amendment 1, in Sarah Boyack's name, which was agreed to at last week's meeting, incorporated in the aims of the national park the aim

"to promote sustainable economic and social development of the area's communities."

In other words, the minister recognised that one of the distinctive Scottish features of a national park will be to promote sustainable development. If the report procedure is used, the arbiter of an area's economic and social development will be Scottish Natural Heritage. I believe that that is inappropriate for two reasons.

First, the duty of SNH is not to become involved in matters relating to jobs, livelihoods or employment. Its job, quite rightly, is to be the custodian of the environment, to offer advice to Government ministers about the environment and to make proposals regarding designations. If the procedure set out in section 2 is employed, the predominant body will be SNH, because only SNH is mentioned in section 2(1)(a). Indeed, SNH might be the only body involved, now that amendment 100, in the name of Alex Fergusson, has been rejected. That amendment would have improved the bill by providing that a body capable of assessing the economy of an area could be required to be included.

I was pleased that the minister accepted my amendment on recreation—amendment 1D—last week. I would have thought that sportscotland had a legitimate role to play; that is one of the bodies that might be included. The local authority and the local enterprise company should also be consulted about the economic and social needs of the area. Under section 2, SNH has the whip hand. That would be wrong, as it is inconsistent with proper recognition of the economic and social needs of the area.

My second reason for believing that it is inappropriate for SNH to be the arbiter of an area's social and economic development—and I shall make no bones about it—relates to the economy of the Badenoch and Strathspey area. As we know, that area is likely to be included, in whole or

in part, in the Cairngorm national park. The phrase that has been used by the local chamber of commerce is, "We are hanging on by our bootstraps." Businesses in the area are heavily reliant on tourism, farming and small business. The last thing that they need is that steps should be taken that would present greater threats than already exist.

I know that the Executive is aware of the problems faced by businesses in rural Scotland, and I do not need to canvass the ministers again about that. However, many people in Badenoch and Strathspey feel that SNH is not an appropriate body to be the arbiter of their economic and social needs. The experience of 10 years of prolonged and protracted struggle, tension and conflict over the funicular railway has not left an indelible impression of uniform and undying trust between those communities and SNH.

The idea that SNH should be put in charge of the process that determines the economic and social needs of the area is one that ministers will find difficult to sell in that part of the world. It would be better to use the procedure under section 3; a statement by Scottish ministers would be a fairer and more democratic process. Of course, it would be open to ministers under that procedure to seek the advice of SNH, but SNH would have an advisory role rather than being in charge of the procedure. That is SNH's proper statutory role and its correct place and influence in connection with such matters.

I move amendment 102.

**Nicol Stephen:** It may seem strange for a minister to oppose an amendment that seeks to give all powers to Scottish ministers, and it may seem equally strange that Fergus Ewing is proposing such an amendment.

Amendment 102 and its consequential amendments seek to remove the whole of section 2 from the bill. The bill includes section 2 and section 3 to create alternative ways of dealing with the consultation on a national park proposal. Section 3 makes it clear that Scottish ministers can deal with the consultation, but section 2 provides the alternative of allowing ministers to ask a public body, or more than one public body, with relevant experience to conduct the consultation. It is still possible, under section 2 as drafted, to require more than one body to report. In all cases, whichever process is chosen, the procedure is the same and involves the same stages—publication of the proposal, the consultation, the consideration of responses and the publication of a report or statement. That is all set out in the bill.

Amendment 102 would narrow the options available to the Scottish Executive and would not

allow the necessary flexibility to address the different circumstances of different national parks. In any consideration of a national park proposal, it is vital that proper and open consultation is undertaken, and the bill makes that clear. Scottish Natural Heritage—which has a clear sustainable development remit—and other bodies have experience of undertaking that kind of work. They also have the local networks of staff and facilities that allow them to undertake such work very effectively.

I assure Fergus Ewing that the job is to carry out consultation; it is not to impose some sort of pre-existing view of the organisation on the process. It would not make sense to remove the option of using the expertise of such bodies. What we are talking about now is only the start of the process. The work of a reporter must be published and it is not a final decision. After the report, a designation order will be drafted, on which there should be consultation before it is laid before the Scottish Parliament. The Scottish Executive and the Parliament will play a significant role in the key decisions that will be taken at that stage.

I know that Fergus Ewing has concerns about the Cairngorms; he has mentioned some of them this afternoon. Leaving aside the merits of his views and the extent to which they are shared by committee members, the Scottish Executive does not believe that those concerns provide a good reason for preventing the use of Scottish Natural Heritage or any other public body in the reporting process. There are clearly situations in which it would be valuable to have that outside perspective and involvement.

I do not believe that we should impose a solution for every national park that involves only Scottish ministers. For those reasons, I hope that Fergus Ewing will be prepared to withdraw his amendments or that, if he wishes to press them, the committee has been convinced that retaining sections 2 and 3 is the best way ahead.

**Dr Murray:** I am a bit puzzled by Fergus Ewing's desire to remove the possibility of anyone other than Scottish ministers preparing reports on national park proposals. He might have his own reasons to distrust SNH; however, the legislation allows other public bodies with relevant experience to prepare those reports. We have had previous discussions about the bodies and individuals that must be consulted such as local authorities, community councils and representatives of the interests of those who live and work in the area, which could include LECs and area tourist boards.

The minister took on board the desire that the report should summarise various views of the parties that were consulted and be laid before Parliament before the designation order is made

and, indeed, before ministers produce a draft designation order for consultation. Any objections to SNH's possible standpoint could be overcome by the report's requirement to include the views of everyone consulted, which would mean that the report would state the results of the consultation process, not just SNH's position.

**The Convener:** Do members have any other comments on this group of amendments?

**Rhoda Grant:** Although I agree with much of what Elaine Murray has said, I understand Fergus Ewing's feeling that there is a degree of suspicion about SNH in some areas. However, when ministers appoint reporters, they should consider local views and perhaps ask that any local problems with certain organisations should be taken into account in the reports. Although I agree with Elaine that reporters, regardless of who they are, must take all views into consideration, some people might be prohibited from putting forward their views if they have strong feelings against the organisation that was asked to report.

**The Convener:** If there are no further comments, I will ask the minister to sum up briefly and then return to Fergus Ewing.

**Nicol Stephen:** There is not much else to add, except to give Rhoda Grant the assurance that she seeks. Before Scottish ministers decide on the appropriate organisation to appoint, they will assess all the relevant issues. Indeed, it may be that the procedure outlined in section 3 is the appropriate way ahead and that Scottish ministers themselves progress the issue. We will judge on those issues at the appropriate time.

**Fergus Ewing:** I respectfully disagree with the minister's interpretation of the procedures set out in section 3. Section 3 states:

"Where the Scottish Ministers do not require a report . . . in relation to a National Park proposal they must . . . prepare and publish a statement on the proposal dealing with the matters specified in subsection (2) of this section."

It is self-evident that, in carrying out that function of preparing a statement, Scottish ministers can ask and require advice from SNH, the LECs and local authorities. Although I do not dispute that there is benefit in having advice from all kinds of relevant Government agencies, the minister was wrong to state that, if the procedure in section 2 were removed, he would be prevented from benefiting from those bodies' input. Under the statement procedure, ministers can receive advice from whatever Government agencies they choose. I respectfully suggest that the minister's argument is incorrect. No doors are being closed off.

15:15

In relation to the Cairngorms national park, the

minister did not state whether he intends to use the SNH reporter procedure in section 2 or the statement procedure in section 3. However, I have the benefit of the Cairngorms Partnership report of the Cairngorms agricultural conference held on the 23 February 2000 and the written text of the remarks of John Markland, the chairman of SNH in the area, who said:

"At present, the Government is hopeful that the . . . order for the Cairngorms can be made in early 2001. . . . The Government has indicated that SNH is likely but not certain to be asked to undertake this statutory work".

It appears that, although an actual decision has not yet been made, the Executive is minded to give SNH the whip hand. I do not believe that the responses from the minister, Dr Murray and Rhoda Grant, to which I listened with care, have answered my central point. How can SNH deal with issues of employment in areas where jobs are really under threat? Does that not skew a process that would be more balanced if the ministers had the benefit of taking advice from all agencies, none of which would be predominant?

Sarah Boyack shakes her head at that. However, minister, I must tell you in all sincerity that there is very grave concern in Badenoch and Strathspey about putting SNH in charge of this process. The organisation is not seen as impartial; its role is not to be impartial. However, you are giving it a quasi-judicial role. For those reasons, I will not withdraw my amendment.

**The Convener:** The question is, that amendment 102 be agreed to. Are members agreed?

**Members:** No.

**The Convener:** There will be a division.

#### AGAINST

Grant, Rhoda (Highlands and Islands) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

#### ABSTENTIONS

Fergusson, Alex (South of Scotland) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)

**The Convener:** The result of the division is: For 0, Against 6, Abstentions 4.

*Amendment 102 disagreed to.*

*Section 2, as amended, agreed to.*

### Section 3—Statements by the Scottish Ministers

*Amendment 103 not moved.*

*Amendment 12 moved—[Nicol Stephen]—and agreed to.*

*Amendments 41 and 42 not moved.*

**The Convener:** Amendment 43, in the name of Ben Wallace, has been debated with amendments 36 and 48.

**Mr Tosh:** In view of the effusive guarantees that the minister gave about the matters that are addressed by those amendments, amendment 43 is not moved.

*Amendment 43 not moved.*

*Amendment 13 moved—[Nicol Stephen]—and agreed to.*

**The Convener:** Amendment 44, in the name of John Munro, has been debated.

**Mr Munro:** In view of the guarantees that the minister gave in relation to amendment 37, I will not move that amendment.

*Amendment 44 not moved.*

*Amendment 14 moved—[Nicol Stephen]—and agreed to.*

*Section 3, as amended, agreed to.*

#### **Section 4—Local inquiries**

*Amendment 104 not moved.*

**The Convener:** Amendment 45, in the name of Mr Murray Tosh, has been debated with amendments 11, 40, 12, 41 and 15 on procedures for park proposals.

**Mr Tosh:** I crave the convener's indulgence so that I can ask for guidance from the clerk. Amendments 40 and 41 have been disagreed to and not moved, respectively. Is there, therefore, any locus for the Parliament to express an opinion, much less to force a decision on an inquiry? If the answer is yes, I will move the amendment.

**Richard Davies (Clerk Team Leader):** That was not an amendment that was flagged up as one that might be pre-empted when I examined the amendments this morning. You may move the amendment if you wish.

*Amendment 45 moved—[Mr Tosh].*

**The Convener:** The question is, that amendment 45, in the name of Mr Murray Tosh, be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Fergusson, Alex (South of Scotland) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
McGugan, Irene (North-East Scotland) (SNP)

#### **AGAINST**

Grant, Rhoda (Highlands and Islands) (Lab)  
Lochhead, Richard (North-East Scotland) (SNP)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**The Convener:** The result of the division is: For 3, Against 7, Abstentions 0.

*Amendment 45 disagreed to.*

*Amendment 15 moved—[Nicol Stephen]—and agreed to.*

*Section 4, as amended, agreed to.*

#### **Section 5—Making of designation orders**

*Amendments 105 and 106 not moved.*

**The Convener:** Amendment 77, in the name of Sarah Boyack, is grouped with amendments 121, 107, 109, 110, 111 and 120.

**Nicol Stephen:** Amendment 77 is important—I have referred to it several times this afternoon. It would provide for consultation on a draft of a proposed designation order before the designation order is formally laid before Parliament for approval. The bill, as it stands, provides in sections 2 and 3 for extensive consultation on a national park proposal. However, in the light of the comments that were made by committees, the Executive accepts that there might be a gap between the publication of a report or statement and the introduction of a designation order to Parliament.

The problem is that there is no explicit provision available through which people can comment on a decision that has been made by Scottish ministers which is based on the report or statement. That is potentially problematic and the Executive feels that that should be addressed. The amendment has been lodged in an attempt to fill that gap. It would, if agreed to, require Scottish ministers to consult on a draft designation order before such an order was laid before Parliament. The processes that would be provided for by the amendment replicate those in sections 2 and 3 and would also provide for publication of the consultation document and for consultation with a range of organisations and individuals. Scottish ministers would also be required to take account of comments that were made during the 12-week consultation period.

Parliamentary committees can, of course, become involved in that process by seeking further evidence from the Scottish Executive's ministers and officials or from others. Committees will, in any event, have the final say on designation orders when they are formally laid before

Parliament after the draft stage. The consultation period will allow committees to express their views before the order is formally laid and it will allow them to ascertain whether Scottish ministers have taken account of the view of consultees in amending an order prior to its being laid.

The reassurances that I gave about involvement of local communities in relation to sections 2 and 3 apply equally to the new consultation stage that the amendment would introduce. The approach of providing enabling legislation through the bill, which will allow individual parks to be set up by designation orders, has many advantages. We accept, however, that it is essential that the process for formulating each order must have the confidence of the people that would be involved in the park. That is why the amendment has been lodged. We believe that it would, if agreed to, strengthen the bill and I hope that it addresses the concerns that committees have expressed. I will not address individually the other amendments in the group at this stage. I will pick up on them in my summing-up if necessary.

I move amendment 77.

**Irene McGugan:** Although amendment 121 is in Kenny MacAskill's name, it is important to say that it reflects the opinion of the Subordinate Legislation Committee. I understand that the amendment does not conflict with the amendment that Nicol Stephen has just spoken to.

The amendment seeks to confer more rights and powers on MSPs and Parliament along the lines that were discussed during the debate on the amendments that were moved by Murray Tosh relating to section 2 of the bill. The amendment seeks to allow consultation and discussion within Parliament—for example, in committee—during the 60-day period. The draft report could still be accepted or rejected, but it would be possible to change it. The minister, Sarah Boyack, must justify her position following consultation and the amendments that have been suggested.

**The Convener:** Amendment 77 would, if agreed to, pre-empt the other amendments in the group, except amendment 111. Does any other member want to comment on the amendments in this group?

**Des McNulty:** I have one query for the ministers. Obviously, consultation under the proposed section 5(3)(d) would, as previously discussed, involve ensuring that people have copies of the document. Whatever changes are being made to section 2 would need to apply here too.

**The Convener:** That would be the case.

15:30

**Irene McGugan:** Does the minister agree with the clerk's interpretation of amendment 121? According to my reading of it, it does not conflict with the Executive's position. The minister was talking about additional consultees outwith Parliament, but this amendment is about giving MSPs and committees of Parliament the opportunity to have an input within the 60-day period.

**Nicol Stephen:** It would be wrong of me to comment on a clerk's ruling.

**The Convener:** Effectively, we are working on a draftsman's ruling.

**Richard Davies:** Amendment 77 seeks to leave out the whole of section 5(3). A number of other amendments occur within subsection (3), so if the committee decided that it wished to accept amendment 77 and leave out the whole of subsection (3), there would be nowhere for those other amendments to sit. That means that they could not be taken.

**The Convener:** In this group are amendments 107 and 109, in the name of Linda Fabiani. Would any member like to speak to those?

**Irene McGugan:** The amendments would replace the six-week consultation period with a period of 12 weeks.

**The Convener:** This group also includes amendments 110, 111 and 120, in the name of Fergus Ewing. Does the member wish to speak to these amendments?

**Fergus Ewing:** These are fairly radical and substantive amendments. The main one is amendment 111, which is entitled "Local referendum". It states:

"(1) Scottish Ministers shall arrange for a local referendum to be held on a draft designation order.

(2) All persons who are resident within the boundaries of the proposed National Park and are on the electoral register shall be eligible to vote in such a referendum on the question of whether or not support—

it should read "to support"—

"the draft designation order in question.

(3) Scottish Ministers shall publish and lay before the Parliament a report on the outcome of the referendum.

(4) Scottish Ministers may, by order, make further provision about referendums under this section."

The amendment provides for the ultimate form of consultation and asks people to vote in a referendum on whether, after all the processes have been completed and the draft designation order stage has been reached, they want their area to become a national park. We have heard members from all parties represented on this

committee emphasise the importance of consultation. Earlier the minister said that all obviously agreed that we should take account of the views of locals.

I believe that the case for a local referendum is very strong, for the following reasons. First, we want to have a distinctive, Scottish form of national parks. When the English national parks were set up there was no referendum. At a meeting that I attended in Fort William, a senior official from one of the English national parks who was present indicated that they were not very popular because of flaws in the original legislation and other factors. Steps have been taken to address those problems, but surely it is better to start off by asking people for their views, instead of being seen to foist on an area a designation that it may or may not want.

Secondly, assuming that a referendum, if one takes place, produces a majority in favour of national park status, that would allow a national park to start off life with an endorsement from the people who live in the national park. Surely it is desirable that national parks should be seen to be endorsed positively by the people who live in them. I suggest that that argument is as valid for the Loch Lomond and Trossachs national park as it is for the proposed Cairngorms national park.

Thirdly, national park status will, without a doubt, affect the lives and livelihoods of the people who live within the national park. Some may say that that will affect them for the better and some argue that property prices, perhaps in the Loch Lomond national park in particular, may be affected. However, others argue that the effects of national park status are deleterious, because of the possible effects on business. It does not really matter whether those arguments are right or wrong, as the people who live in the park will live there for the rest of their lives. Surely we should ask them whether they agree that the idea of granting national park status should be supported. That would be only democratic, and therefore I suggest that amendment 111 should be accepted.

**The Convener:** Are there any further comments on this group of amendments?

**Richard Lochhead:** I support amendment 111, as organising a local referendum would not be expensive. Such a referendum is the ultimate form of consultation with the people who live within an area that may be designated as a national park. Given the amount of discussion that has taken place on local consultation, the amendment is a positive step forward.

**Mr Rumbles:** On a point of clarification, does Richard Lochhead support the amendment because he believes that a referendum is the most important form of local consultation?

**Richard Lochhead:** It is a simple resolution to many of the debates that have taken place on how to consult local populations. It is a sensible way forward.

**Des McNulty:** I think that a local referendum is an absurd, laughable proposal. The point of national parks is that they are designed on the basis of what makes sense in relation to the beauty of the area and the other considerations that apply. By definition, relatively sparsely populated areas will be designated as national parks, although those parks will serve much broader areas—both in the local context, if I may use that term, and in a more general, national context. It seems rather strange that the relatively few people who live within a designated boundary should be the only decision makers. The wider constituencies should be taken into account.

In most areas, the majority of the local people who might be influenced by the existence of a national park would be excluded from the process proposed by Fergus Ewing, and there is something inherently inconsistent about his proposal. To be honest, Fergus, if you want to make that proposal, why are you supporting national parks? You would almost be better to describe them as local designated areas, as that is what they would become. I say that as someone who is broadly in favour of referenda as a way of deciding certain issues. However, I think that Fergus's proposal is, in its effect, a wrecking proposal, and to accept it would not be in the interests of progressing national parks in Scotland.

**Dr Murray:** Conducting a referendum—or an opinion poll, such as the one that took place recently—is not necessarily the same as undertaking consultation. In a consultation exercise, people respond to a report or document—they weigh it up and state their views for or against. A referendum could be taken up by individuals with no knowledge of the issues at stake, and it would not be necessary for people to have considered a report—they could vote on an issue on which they have no information.

What would be the purpose of such a referendum? We have talked a lot about Parliament debating issues and having the final say on the designation orders, and about the desirability of issues going to committee for debate. With a referendum, the people who took part would make the decision, and if they were to vote against national park status, the national park would not be set up. All the other arguments, about the desirability of debate in committee and so on, would be ignored under those circumstances.

**Dr Sylvia Jackson (Stirling) (Lab):** I come from the Loch Lomond and the Trossachs area, so I feel that I must respond, as Fergus Ewing

mentioned the area.

I support what Des McNulty said. From the letters that I have received and the meetings that I have attended regarding Loch Lomond and the Trossachs, there has been no indication of the place for local referenda in the legislation.

Secondly, as Des McNulty said, it is clear that national parks have much wider boundaries than the physical ones. As a result, effective partnership with the council areas that make up the parts of the national park will be required if the park is to be effective. For that reason, I believe that local referenda are totally inappropriate in the context of the bill.

We are examining the bill and considering all the effective ways of undertaking consultation, and I wonder why Fergus Ewing has suggested local referenda. I can suppose only that the amendment has a wrecking aspect.

**Mr Tosh:** I do not know whether Fergus Ewing will have an opportunity to comment further on amendment 111, but it might be useful if he could specify whether the referendum would be advisory or binding. The drafting of the amendment does not make that clear.

**Mr Rumbles:** I am all in favour of anchoring the local community—those people who live and work in what will become our national parks—in the process of support for national parks. That should be done in the management structure for the parks, which we will debate in a few minutes time.

It would not be appropriate to have such a referendum. I have written down the word “divisive”—this is a divisive proposal. The idea of holding a local referendum has certainly never raised its head in my area of the Cairngorms national park, and I do not know where Fergus Ewing is coming from with the amendment. The way to anchor the support of the local communities would be to establish a direct link between the people who live and work in the parks and the management board of the parks. Anchoring that support would not be achieved by having a referendum.

**Rhoda Grant:** I agree with many of those comments. A referendum would cause people, early on, to come down on one side of the argument for or against a national park. That would remove the compulsion for people to work together, and to discuss the proposals and agree a way forward. If the parks are to work, there must be local ownership. If people are told that they can have their say at the end of the day, they will step back and take a line rather than attempt to have their views represented and have ownership of the national park.

**Alex Fergusson:** If the consultation process is

as good as we have been told it will be, it will be fairly extensive. However, if it does not pick up the feelings of people who live and work within a national park, it will have been very poor.

**The Convener:** Fergus, do you want to comment before I go back to the minister?

**Fergus Ewing:** I thought that the minister might speak first and that I would speak after that, as we have not heard the minister comment on the opening remarks. Is that possible?

**The Convener:** No.

**Des McNulty:** I have a practical question for Fergus Ewing, taking Loch Lomond as a case in point. If a referendum were to be held on the designation of Loch Lomond as a national park, would you allow the people of Balloch to participate in that vote, or would you exclude them? They obviously have a vested interest, but I suspect that they would not be included in the designated area. Their inclusion would have a significant influence on the outcome.

**The Convener:** I will pass back to Fergus Ewing. The minister moved the first amendment in the group, so he will wind up.

**Fergus Ewing:** I wondered whether I would have the option of responding to members after the minister had responded to my opening remarks. I thought that that was how we usually did this.

**The Convener:** No. The minister moved the first amendment in the group, so he will wind up.

15:45

**Fergus Ewing:** I shall try to answer the points that have been raised. Murray Tosh asked about the status of a local referendum. I think that it should be consultative, not binding, because—as Des McNulty said—some people who have an interest may live just outwith the national park. It would not be right that only those who live within the park boundaries should have a say. However, only those who live within the boundaries will be subject to the rules and effects of the national park status.

I admit that I was slightly surprised to hear Des McNulty say that the two proposed national park areas are sparsely populated. If he were to study more carefully the options for Cairngorm, he would see that many well-populated areas are within the proposed boundaries. Many people will therefore be affected.

I was also surprised to hear amendment 111, which proposes that there should be a referendum, described as a wrecking amendment. Funnily enough, I thought that democracy was about having a vote and participating in elections. I

have always been a fan of referenda on various topics. The use of referenda is a sign of many advanced countries, such as Switzerland and the United States of America, where people are consulted about all sorts of things. Only in the UK would an amendment that allowed a referendum be described as a wrecking amendment; I regard that as an unsustainable accusation.

If we are serious about consulting, we must be prepared to consult everybody and to recognise people's views. That will not necessarily be achieved by the consultation process, although I accept, in the spirit of generosity, that the minister is trying to devise an improved consultation process. Be that as it may, the consultation process will reach out to only a relatively modest proportion of those who live in the proposed national park areas. If the result of a local referendum were to support the establishment of a national park—as is likely in the Cairngorms area—that would not wreck the national park, but would show public support and approval for it in the most obvious and clear democratic fashion possible.

**Nicol Stephen:** If there were to be a referendum, one could argue about the stage at which it would be appropriate to hold it. I welcome Fergus Ewing's clarification that he intends a referendum only to be consultative.

There is a role for referenda, but they are generally used for important constitutional issues that affect the whole nation. As several committee members have said, national parks are not solely about local interests, although local views are important. The very description of national parks suggests that they are something that everyone in Scotland has a stake in. On such issues, we all believe in representative democracy with full consultation and openness, and with the involvement of the community. That democratic process is about the ultimate responsibility of this new Parliament and its committees.

Fergus Ewing mentioned referenda in other countries and the development of the role of the referendum. Who knows what the future holds? Who knows how our democracy might develop? For now, however, our determination is to make this Parliament and these proposals work and to take the local community along with us in that process. That is the key. If we go about this process without bringing the local community along with us, we will have significant problems. That is a challenge that we all want to respond to. As Fergus said, we must consult everybody and recognise their views. That is exactly what the bill aims to achieve.

**The Convener:** I remind members that agreeing to amendment 77 will pre-empt amendments 121, 107, 109 and 110. The question is, that

amendment 77 be agreed to. Are we all agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Fergusson, Alex (South of Scotland) (Con)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Johnstone, Alex (North-East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**AGAINST**

Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)

**The Convener:** The result of the division is: For 8, Against 2, Abstentions 0.

*Amendment 77 agreed to.*

*Amendment 108 not moved.*

*Section 5, as amended, agreed to.*

**The Convener:** Mike Rumbles has suggested that we have what could be described as a comfort break at this point. We shall call it five minutes, but I shall wait until everybody returns to the table before proceeding.

15:52

*Meeting adjourned.*

16:08

*On resuming—*

### **Section 6—Designation orders: further provisions**

**The Convener:** We move straight to the large group of amendments on the constitution of national park authorities. Within the group, there is a structure, to which I want to keep to ensure that everything is aired properly. I ask the minister to move amendment 79 and to speak to the other amendments.

**The Minister for Transport and the Environment (Sarah Boyack):** I want to say a few words about the importance of this issue. It is probably the issue on which we have received most feedback, and it is one of the issues that it is most important for us to get right in the detail of the bill.

I appreciate that the debate has been structured in the way that you outlined, convener. I will open with some general remarks, which set out the context in which the Executive has introduced its proposals. I will hold back on comments on the other amendments until we get to the other sub-



groups, according to the structure that has been outlined.

I will start by repeating what I have said at various committees: we need to get the right balance of experience and knowledge. It will therefore be important for national park boards to include people from within the parks. There is no question of us wanting to set up park bodies that ignore the essential role and contribution of people who live and work within the parks. I am sure that we all agree on that. The challenge is to find a wording that meets that general aspiration. We will debate a series of alternative ways of doing that this afternoon.

The bill allows for the involvement of local people, but, unamended, does not guarantee it. The focus this afternoon is on providing for the designation order to guarantee involvement. I understand that people are seeking that reassurance; that is why I have tried hard to find the right formula to represent that in the bill.

We received strong representations to guarantee that a minimum of 20 per cent of a national park authority is made up of local people who live in a park, represent a ward in a park, or belong to a community council in a park. A number of other amendments have been lodged that address the same issue in slightly different ways.

As a context for the amendments that I am about to move, I wish to explain the approach that we took on the bill as currently drafted. First, in achieving a balance in the membership of national park authorities, a number of tasks must be fulfilled. We need a mix of relevant expertise, experience and knowledge—including knowledge of the interests and concerns of the groups that are most likely to be affected by national park designation. However, the mix must be appropriate to each park—people who will think innovatively, who are open to the views and ideas of others, and who are capable of providing leadership in those areas.

Critically important, in all the national park areas that we designate, will be a willingness to engage in a constructive partnership. We will go on to discuss our experiences in some of the national park areas, which have shown the need for that constructive approach. It is recognised that the national park authority is there to serve the best interests of the park as a whole; that will be apparent in the legislation.

We wish to avoid a narrow, delegate approach, with members feeling that they represent only one category of interest, whether that is sectorally based or area based. We do not want a them-and-us approach among the different types of representatives on the national park board. We do not want an authority where every issue needs to

go to a vote. We want to be able to broker a degree of consensus and partnership working. We certainly do not want people to think that their views do not count.

The primary legislation gives us a framework that allows for more detail about membership to be included in each designation order; that gives us the flexibility to deal with the particular circumstances in each park area. Some of those flavours have already been explored in the discussions we have had in our two meetings.

The question is how we achieve a balance of interests. One option would have been to replicate arrangements from elsewhere, and to have a prescriptive bill that specified one member from this organisation, one member from that Government department, someone from that body, and so on. However, that would not give us enough room to ensure that we get the quality of person and the breadth of experience that we want. The mix of members that we would end up with would be set in stone for all time.

It is critical that we achieve the appropriate balance for the type of area, and for the community interest in that area; that is why a prescriptive approach would not be appropriate. Somebody has to take responsibility for making the right judgment on the balance of expertise and experience. That responsibility has—at least in part—to fall to Scottish ministers. National parks will receive their core funding from Scottish ministers and we will be accountable to the Parliament for that funding. Against that background, we will need to exercise significant discretion on the make-up of the authorities, to reflect the interests that are identified in the bill and the commitment that we added to the draft bill to ensure that we consult widely on the appointment process.

It is important that such decisions are not made in isolation and that there is broad consultation. A wide range of interests, including community councils—which are already included in the bill—must be consulted directly through that process.

At the moment, the bill requires half the appointments to be made on the nomination of local authorities, with the numbers specified in each designation order. That is not, as some would portray it, a national versus local split, but a way of tapping into the legitimacy of democratically elected bodies—local government and central Government—to make appointments that will achieve the balance that I suspect everyone wants.

16:15

An important part of that balance will be to ensure that members of the national park authority

have an understanding of the area and of local issues. I expect that to be achieved through both local authority nominees and appointments by the Scottish ministers.

I emphasise the importance that we place on local authorities as key partners in national park authorities. They will continue to provide, and be responsible for, local services and governance in national park areas. They will be aware of local issues and will set policies for their role in dealing with those issues. It is essential that national park authorities tap into that thinking.

Some of the people who are nominated by local authorities are likely to be serving councillors, for the reasons that I indicated. However, I expect local authorities to ensure that their nominees provide a genuine and direct local connection with the park, as well as relevant expertise, whether that be in planning, community planning, transport or other areas that are deemed to be important in each park.

Against that background, we have identified amendments to the bill that will ensure that a minimum of 20 per cent of the elected members of each national park authority are local people who represent local views. The Executive's amendments provide the guarantee, for which many of those who gave evidence to the committee asked, of that 20 per cent minimum. We define local as someone who lives in the park, who is a councillor for a ward that falls wholly or partly within the park, or who is a member of a community council that falls wholly or partly within the park.

That 20 per cent minimum can be achieved through local authority nominations or through direct appointments made by the Scottish ministers. In practice, it is more likely that there will be a balance between the two. The designation order will be required to specify how many local nominees each local authority must provide, with Scottish ministers making up the difference between that figure and the 20 per cent, which is a minimum and not a maximum. Therefore, it is entirely possible that more than 20 per cent of the members of a national park authority would be what we all regard as local. The amendments guarantee that minimum in the bill.

It is important to have a degree of flexibility to ensure that we get the right balance among potential members. Many people will wear more than one hat—I am sure that members will be able to think of people who meet that description. For example, someone who farms within the park will bring with them relevant expertise as well as knowledge of the area.

As part of the group of Executive amendments on appointments, amendment 80 raises the

maximum size of a national park authority from 20 members to 24. I thought long and hard about that and, given the requirement for a minimum of 20 per cent of the members of a national park authority to be local, I decided that we would need slightly more headroom for the local authorities and the Scottish ministers, to ensure that we got the right balance. I remain firmly of the view that the national park authorities should be kept small enough to be effective.

In considering how best to accommodate the concerns about local representation, we must ensure that we get that balance right. That would not prevent a designation order from specifying a total that is lower than 24 members, but—given the range of authorities and interests in each park—that extra flexibility is important if we are to reassure people that we will achieve the right balance.

I will conclude on that point, convener, as we will move on to debate each sub-group of amendments. I wanted to put into context what we are trying to achieve in the bill and how the Executive's amendments will achieve what we want to deliver.

I move amendment 79.

**The Convener:** I now open debate on the sub-group that contains amendments 79, 80, 81 and 83.

**Mr Rumbles:** I welcome the amendments, as far as they go. They represent a great change of direction.

I refer to the committee's stage 1 report on this topic, which said:

"In conclusion, the committee agrees that the principle of direct representation of local community interests should be guaranteed,"—

that is the first point, which the minister acknowledged—

"and distinct from both the local authority nominees and those directly appointed by Ministers."

I welcome the minister's move, which is halfway towards the committee's view as expressed during stage 1. In particular, I welcome the move to a maximum of 24 members, rather than 20. That provides a great deal of flexibility.

**Cathy Peattie:** I welcome the minister's statement. Membership is an important matter, and I am pleased that she has listened to what people have said, about local people being involved.

The minister emphasised the role of partners. It is worth noting that local people have a whole experience of living in an area, and have a commitment to make things in general and national parks in particular work. It is therefore

important that those people have equal status, and are not seen merely to be there. The minister's message on partnership was therefore important.

The 20 per cent figure allows people to have a right to be take part, and does not take away from the representation of local councils. We have spoken all afternoon about the importance of consultation, participation and so on. It is vital that local people are involved not only in advisory groups, although that is important, but in decision making, and that they bring their skills and commitment to the partnership.

**Fergus Ewing:** I am pleased that the minister acknowledges the importance of having an essential bare minimum of locally based members, but I do not feel that 20 per cent is a significant advance. If there are 24 members, that means that five must be local members, which means that 19 will not. I do not think that that accords with any sense of balance.

We must recognise that people who have lived in Loch Lomond and the Trossachs or around the Cairngorms are perhaps the best guardians of those areas, and have looked after them long before statutory Government bodies were ever created. I have in mind farmers and crofters, many of whom have gone on to become councillors or otherwise involved in public life. I would have thought that such locally based people would be ideal candidates.

I am a wee bit puzzled as to why the proposal is hailed as a great advance: 20 per cent is a very small minority. I would have liked there to have been a majority of locally based people, as our maxim with national parks should be, "Trust the locals." We should trust them to be guardians and conservators of their own area. We should not assume that we need people from outwith the area to run the show. I welcome the minister's accepting the principle, but amendment 80 by no means goes far enough.

**The Convener:** There is a sudden rush of members wanting to comment. We do not want to go on too long with this debate, and I ask Des McNulty to make his comment very brief.

**Des McNulty:** I have had previous involvement with Loch Lomond Park Authority, and want to highlight the importance of council involvement in the operation of the predecessor authorities. It will be a vital adjunct to the way in which the new park boards work. It is particularly important to recognise that it has often been the local councils which have advanced the arguments for the designation of national parks and for the associated procedures.

In the case of Loch Lomond, we are building on mechanisms that are already there, which have been proven to be democratic and accountable. It

is a fallacy to say that the 20 per cent of reserved places are the only mechanism or route for local involvement or participation. People are involved, through the responsible local authorities and through their access to the procedures of the various mechanisms. There are different forms of accountability and different routes to decision making.

We should emphasise that the new boards which will be constituted will have a variety of systems of accountability. It is not the case that four or five people will provide the only mechanisms whereby local interests are put forward. I would argue that the mechanisms of local authorities have by and large delivered more effective ways, in principle, of transmitting local concerns than might five appointed individuals. There is a risk that we miss out on the richness of the democratic process.

**Dr Sylvia Jackson:** I agree with everything that Sarah Boyack said about flexibility during the debate. Based on the English experience, I gather that, if one writes into the bill that at least a fifth of the membership should come from a certain sector, it often works out at much more than a fifth. I think that that would also be the case in Scotland, and it is certainly the case on the interim committee in the Loch Lomond and the Trossachs area.

Fergus Ewing should remember that the proportion will probably be higher than a fifth. I have to take issue with him about his parochial attitude that everything has to be local. In a national park, it is important to have national representation, with the expertise and knowledge that is needed. National park boards should also work in partnership with council authorities; that is one of their most important aspects. Councils will be responsible for working effectively with the national parks.

I support what Des McNulty said. There must be more discussion about how communities and community groups can be involved in the national park authority. As yet, we have not discussed advisory committees or the other ways in which those groups can be involved. I am sure that we will discuss those mechanisms later.

**Dr Murray:** I appreciate that Fergus Ewing was not involved in the stage 1 discussion and might not have read the stage 1 report. At no stage was it ever indicated that 19 out of the 24 people—the majority—would not be local. The committee's concerns arose from the fact that the Convention of Scottish Local Authorities suggested that only councillors would be appointed to the 50 per cent of local authority places. The minister's amendment allows for a minimum number of local people to be included, because the local authorities were not persuaded that they had any

responsibility to include among their nominees representatives of other local organisations.

**Richard Lochhead:** Twenty per cent is not a high enough figure for local representation. I do not think that one can bank on the possibility that, because park boards elsewhere have happened to appoint more than 20 per cent of local people, that will happen in Scotland, too. We should perhaps set a higher minimum.

Would amendment 81 pre-empt amendments 112 and 113?

**The Convener:** The draftsmen certainly have not flagged that up.

**Richard Lochhead:** Amendment 81 states that the designation order must specify

"the number of members, being at least one fifth of the total number of members, who are to be appointed as local members,"

but amendments 112 and 113, if agreed to, would provide that a minimum of 50 per cent would be local people. In theory, two conflicting amendments could be passed. Am I right about that?

**Mr Rumbles:** I suggest, convener, that, when we come to vote, you should tell us what will be pre-empted by each amendment. If it is not pre-empted, it is not pre-empted.

**Richard Lochhead:** I just wanted to flag up a possible inconsistency.

**The Convener:** In a moment, I shall invite Mike Rumbles to introduce the next sub-group of amendments. At this point, I offer the minister the option to reply to the sub-group that we have just debated. Alternatively, she can reply to all the amendments at the end.

**Sarah Boyack:** I acknowledge the points that members have made about the importance of including in the bill a symbolic requirement that 20 per cent of the national park authority membership should be local people. That is part of a wider approach of involving local people. In making appointments, Scottish ministers must consult widely and must consult local people. We want to anchor in this part of the bill the requirement to involve local people, but it is part of a wider package throughout the bill.

**The Convener:** I ask Mike Rumbles to introduce the sub-group of amendments on direct elections, which includes amendments 64, 69 and 71 to 75.

16:30

**Mr Rumbles:** As the minister said, this is the most important issue for us to address this afternoon. I want to address my comments to the group of seven very reasonable amendments that

has been put together. As Des McNulty said just a few moments ago, the amendments deal with the richness of the democratic process.

I will start with the Executive's consultation exercise. As we all know, in the 343 responses to the consultation, the composition of the national park boards was the issue raised most frequently. Sixty-four per cent of those who responded to the consultation wanted either direct elections to or more local representation on the boards. In the analysis of the consultation that the Executive provided to us—I quote from annexe 1, on appointments—it said:

"Many views, often opposing, were expressed on the provisions covering appointments to NPAs."

I have gone through the analysis of each response very carefully, and only seven out of 190 respondents were opposed to elections or did not want more local representation. That hardly constitutes often opposing views. In the consultation exercise, there was overwhelming support for elections or more local representation.

Why am I proposing that local democracy be part of the process? I am doing so because it is right. Let us be quite clear about what we are doing. We are setting up a new quango system. Are we going to vote to do that? The Scottish Parliament will not exactly be igniting the bonfire of the quangos if it adds to them through the bill. We can, at least, make the quangos that we are setting up more democratic. That is what my group of seven amendments is all about. I am not asking for anything outrageous. The figure of 20 per cent is accepted by many as appropriate. In her evidence, Sheena Slimon, the convener of the community councils group of the Cairngorms partnership, talked about 20 per cent representation for the local community. She was, of course, referring to community councils, and I will come to those later.

The support of local people who live and work in the park areas must be secured. We have all said that. Some of us were elected on a manifesto commitment to democratise this process. That is what I am trying to do.

I want to pre-empt some of the questions that might be raised by addressing them. I have been asked why I do not accept a small advance for democracy in the first instance. In its analysis of the consultation exercise, the only argument that the Executive could cite against direct elections was that

"Separate local elections,"—

members will notice that my amendments do not propose separate local elections, but propose giving people another voting slip when they vote in local authority elections, which is hardly a huge change—

"if provided for in the Bill, would necessarily imply considerable expense and time".

The Executive uses the word "imply"; in other words, having got all that feedback from people, it has not even worked out how much it would cost.

I know that many people claim that direct elections to national park boards would detract from the democratic responsibility of our local authorities. What nonsense. Community councils throughout Scotland do not threaten the democratic responsibilities of our local authorities. I know that people will say that community councils are not elected, but many of them are—certainly in my area and the areas that the Cairngorms partnership covers.

Another argument that I have heard is that this would politicise the process. However, community councils are non-political in nature, so those elected to the board should be local people without a party political emphasis.

It is said that it would be difficult to organise the elections, but my amendment links the elections to elections for local councillors. Initially, of course, they would be called by a minister. The turnout for an initial election would be high, and future elections would be linked with local elections.

People also argue—and the arguments have already been made obliquely at this meeting—that they do not want 20 per cent of the boards simply representing their local community; they have to look at the broader picture. Although MSPs are elected for constituencies, whether single or regional, we take that broad view—despite some comments that I always mention West Aberdeenshire and Kincardine at every committee meeting. People elected to the national park board would take a similarly broad view. I cannot understand the oblique arguments that have been raised in preparation for today's meeting.

The committee agreed at stage 1 that there were two important issues to address. I welcome the minister's movement on the first issue of guaranteeing local representation. However, we also agreed that such representation should be distinct from appointments by ministers and local authority nominations. What are the violent objections to injecting some democracy into the process? Do we not have enough quangos? I appeal to committee members to be positive, because my amendments are positive and are designed to extend the democratic process. Please support them.

**The Convener:** Although I am keen to allow the minister to respond directly to the issues raised by Mike Rumbles, do any other members have comments?

**Dr Murray:** Although I am very sympathetic to

Mike Rumbles's wish to add some more democracy to the quango system, I am not sure that I can support his amendments. He mentioned community councillors; however, there is no guarantee that, under his system, those people would be community councillors. They might be other members of the community such as people from political parties standing in council elections. For example, he has not indicated whether the national park area will be warded. If it is not warded and there is a population imbalance in an area, how can we ensure that all the local people do not come from one part of the park area and that the interests of everyone in the park area are represented?

Mike Rumbles suggested that elections to national park boards could happen at the same time as local authority elections. However, if local councillors are on the boards, they should be representing local interests.

My other objection is to the statement in amendment 64 that

"Eighty per cent of the members"

of the national park board

"are to be appointed by the Scottish Ministers".

Although I was not happy with COSLA's response in the stage 1 discussions, we should not entirely rule out the local authorities and their planning powers—

**Mr Rumbles:** That is not what the amendment is about.

**Dr Murray:** Subparagraph (2D) of amendment 64 states:

"Eighty per cent of the members are to be appointed by the Scottish Ministers".

**Mr Rumbles:** And the rest of that part of my amendment talks about half of those members being appointed on the nomination of local authorities.

**Dr Murray:** Perhaps there is a lack of clarity in the amendment.

**Mr Rumbles:** No, there is not.

**Des McNulty:** I have several practical questions. With regard to the Loch Lomond national park, I would have thought that the outcome of the elections would significantly depend on the territory included in the national park area. For example, if Balloch and significant areas of the Vale of Leven were included in the national park, that would overwhelmingly influence the electorate in that constituency. However, if those areas were excluded, many people would feel that they were not being allowed to participate in decisions on something in which they have a strong vested interest.

**Mr Rumbles:** They are excluded anyway.

**Des McNulty:** The population of the west side of Loch Lomond is significantly higher than on the east side. How would we define the electoral process to allow both sides to have some representation? It would be interesting to know whether Mike Rumbles wants a proportional representation or first-past-the-post electoral system.

**Mr Rumbles:** One thing at a time. *[Laughter.]*

**Des McNulty:** There are many complications. If we were to go ahead with this idea, it would be most practical to hold elections on the same day as local authority elections, but there is a sense in which the two roles might be confused. An important principle of accountability, which is that people report back to local organisations, would be removed. We should look at ways in which the 20 per cent of people who represent local interests are accountable, not on a four-yearly basis, but regularly, to community councils or other local organisations. The mechanisms for that might be more effectively achieved through what ministers propose than through what Mike Rumbles proposes. Those are issues about the process of democracy which the minister might care to address.

**Dr Sylvia Jackson:** From my knowledge of Loch Lomond and the Trossachs, I am aware that there is a serious flaw, in that there might not be representation from different parts of the park area. Also, as has been said, severe implications could arise from having a four-year period.

**Rhoda Grant:** I wish to speak briefly about the idea of holding elections on the same day as council elections. First, there would be confusion if someone were standing for both the park authority and the local authority. Secondly, councils would have to make their appointments to the park authority quickly after the election. That would not give time to new councillors to bed in or discover their expertise. The knock-on effect might be that councils would make bad appointments, because they would not have had time to discover the strengths and weaknesses of their members.

**Fergus Ewing:** There is a case for a directly elected park authority, but surely it is that all the members should be directly elected. Mike Rumbles said that he did not wish the authority to be a quango. If only 20 per cent of the authority's members were directly elected, four fifths would be appointed, and we would still be left with a quango. I thought that I should point out that logical flaw before we went further.

**Sarah Boyack:** I would love to agree with Fergus Ewing's identification of the logical flaw.

Mike Rumbles's amendment allows us to focus

on what we are trying to do. A special election would require extremely careful thought. Mike suggested that finance was a side issue, which we should not be thinking about. However, to make an election fair and democratic, there must be safeguards in place and it must be conducted properly.

Des McNulty talked about the need to define the electoral process with much more clarity. The amendment would require a further order to be made and approved to cover such issues. Much more thinking would need to be done if we were to go down that route. I suggest that that would be a diversion from the other broad objectives that we are trying to deliver. We would end up focusing on a small number of positions in each national park authority and could lose the big picture.

Potentially, there are some downsides to the approach that is proposed. It is important that we bed down the new national park authorities with legitimacy. As several members have said, elections might politicise the process. It would be entirely possible to end up with local councillors standing for the national park authority as well. The objective that Mike Rumbles is trying to deliver would not necessarily be realised. It is important that everyone in the national park feels that the park authority relates to them and represents them. That is why it is important that local people have a sense of ownership of not just the 20 per cent of park authority members who will be appointed as local members, but the other members.

A downside of the amendment would be that we would lose the partnership that the bill tries to deliver through local authority involvement. We would move from the local authorities having half the input into national parks to having 40 per cent of the representatives. That could be a retrograde step. Our amendment seeks to give local authorities representation through the proportion of people that they have on the national park authority. Mike Rumbles's objectives would not be delivered by the formulation in his amendment.

16:45

**Mr Rumbles:** I would like to comment.

**The Convener:** I was about to ask you to introduce the next sub-group of amendments, so please comment only briefly.

**Mr Rumbles:** I would like to address some of the issues that have been raised. Elaine Murray said that my amendment would lead to 80 per cent of members being directly appointed by ministers. That is not correct. The amendment makes it absolutely clear that 40 per cent would be directly appointed by ministers, 40 per cent would be nominated by local authorities, and 20 per cent

would be elected by local voters in each national park.

I point out to Des McNulty that only about four members will be elected locally, so I would leave it to ministers to devise the appropriate form of election. I do not think that it will be beyond the wit of man or woman to design a fair election system.

I accept Fergus Ewing's point that the authority is still a quango, but I am trying to be reasonable and ask the committee to accept a move towards the democratisation of the system. I accept that that will not get rid of the quango altogether.

I do not believe that the proposal is a diversion. I think that it would be welcomed by people who live and work throughout the national park area. There would be a full partnership among the Scottish Executive, the local authorities and the elected community representatives.

Local councillors will have many responsibilities other than the major responsibilities in the national parks that we shall give them. That is an important point, which should not be forgotten.

**The Convener:** I ask Mike Rumbles to speak to the sub-group of amendments on local authority members, which comprises amendments 65, 22, 57 and 112.

**Mr Rumbles:** Amendment 65 suggests that we should move away from the 50:50 approach. The amendment would ensure that we had a 40:40:20 relationship, so that, as I said, there was a partnership among ministers, the local authority and the local community.

**Alex Fergusson:** My name appears as a supporter of Mike Rumbles's amendment. I will say nothing more, other than to agree with what he has said.

**Richard Lochhead:** May I speak to amendment 112, in the name of Linda Fabiani, or shall I wait until I move it?

**The Convener:** You may speak to it now—it is part of this group.

**Richard Lochhead:** I am losing track a little—I was supposed to be meeting a minister in 15 minutes and I have had to postpone the meeting.

We have said that the 20 per cent figure for local representation was not high enough. Many members have put forward that point of view. In Linda Fabiani's absence, I will speak to her amendments, one of which is amendment 112, which would increase the percentage of local membership. The amendment states:

"A minimum of half of the number of members nominated to the authority by local authorities are to be elected councillors representing wards which lie wholly or in part within the National Park."

Linda Fabiani and I and others think that that would be an excellent safeguard.

This is a complex issue, but the amendment is a clear-cut way of keeping an assurance that there will be adequate local representation on the authority. Along with amendment 113, which would mean that a minimum of half the local members appointed by the Scottish ministers would be people with local connections, knowledge or experience, the amendment would mean that, overall, if there were a 50:50 split in the membership of the board between local authority appointees and Scottish ministers' appointees, at least 50 per cent of the membership would have a local connection, and would therefore, I hope, be representative of the local community. We feel that assuring people that half of that appointed quango represented the local community would be an appropriate compromise. The local view would be important and taken into account.

My final point is that that would offer two lines of accountability. One of the concerns about quangos is their lack of accountability. The first line of accountability offered in the amendment is that if half the local authority appointees were locally elected councillors, they would be directly accountable to the people living in a national park area.

The second line of accountability is covered in amendment 116, in the name of Linda Fabiani, which is about nominations by the Scottish ministers. Given that those appointees would have to be ratified by the Scottish Parliament or the relevant committee, they would be accountable to the Scottish Parliament.

The amendments offer lines of accountability—in other words, democracy—and an assurance that there is a proper, indeed majority, level of local representation on the quango.

**The Convener:** Did anyone wish to speak to Tavish Scott's amendment, 22?

**Mr Rumbles:** I wish to support that amendment.

**The Convener:** We also have an amendment in the name of Ben Wallace in this sub-group.

**Alex Fergusson:** That is him sitting at the end there. *[Laughter.]*

**The Convener:** You have been nominated, Murray. Did you wish to speak to the amendment?

**Mr Tosh:** I have nothing to say. It is self-explanatory.

**The Convener:** Does Des McNulty wish to comment on the issues raised by this sub-group?

**Des McNulty:** My concern about Linda Fabiani's amendment, 112, is the same as my concern about Mike Rumbles's proposal. One of the most

important issues relates to planning functions. Through the designation process, each national park is an island; planning cannot be exercised in isolation.

Local authorities have to plan for their whole area, including the parts that are subject to national park legislation. If we are trying to achieve a partnership mechanism—at Loch Lomond, there has been a strong tradition of partnership between the local authorities—proposals to reduce the extent of proportional representation of local authorities on national park authorities or to constrain who they put on those bodies will lead to local authorities arguing hard for retaining planning functions over the national parks. That would detract from what could be achieved by real and meaningful partnership, which could give the national park authorities greater influence and control. There is a delicate balance of partnerships there.

I would not want to see local authorities, which have the legal planning functions and planning responsibilities at present, either reduced in their influence over national park authorities or constrained in the way in which they put forward representatives. The consequence would be that authorities would run away from ceding their powers to park authorities, or they would not co-operate in other ways. We can bring to bear only a limited legislative force on local authorities to comply on planning issues. It is a question of balance, but it is important that we recognise the role of local authorities and give them due weight in the process.

**Richard Lochhead:** I think that I grasped what Des McNulty was trying to say. Does what he has just outlined conflict with Linda Fabiani's amendment?

**Des McNulty:** Each local authority has a responsibility to conduct planning in the context of its area. The people it puts on committees or indeed how it operates its planning procedures is a matter for that local authority. To enforce the legislative constraints and say that particular people from particular wards should be put on a committee that has planning functions is an unnecessary constraint on local authorities' practical autonomy.

In general, my experience of Loch Lomond was that the authorities found a way of dealing with that, which satisfied people. I do not see why we need to constrain people with legislation, especially if we are going down the route on which there seems to be broad consensus—that of having 20 per cent representation.

**Dr Sylvia Jackson:** All the councillors in the wards covering the proposed Loch Lomond and the Trossachs national park are in the interim

committee, and there is no indication that that situation will not continue. I think that what Des McNulty is getting at is that a lot of good will would be lost by being as rigid as the amendment.

**The Convener:** Would the minister like to comment on the issues raised in this sub-group?

**Sarah Boyack:** Can I clarify that we are still on the sub-group on local authority members?

**The Convener:** Yes.

**Sarah Boyack:** I was just asking because members have raised a series of other issues as well.

The point about partnership is reinforced. We see the local authorities as important partners because of their democratic legitimacy: local people vote for their local councillors. However, it is critical to get right the links between local services and the management of a national park, and the park's relation to wider local authority areas. That will be important wherever we identify a national park area. To be as prescriptive as some of the amendments tightens our scope to enable the right balance between the local authorities and the other members of the national park authority to be struck. The good will involved in that is important, as is a degree of flexibility, to get that balance right.

**Mr Rumbles:** Could we move on to the next sub-group if that is all right, convener?

**The Convener:** Okay. I now ask Mike Rumbles to introduce the sub-group of amendments on nominations by community councils—66, 67, 68, 70 and 76—which are all yours, Mike.

**Mr Rumbles:** Richard Lochhead talked about an appropriate compromise. Here is one I prepared earlier. [*Laughter.*] What I am trying to say with the five amendments in the sub-group headed "Nominations by Community Councils" is that this committee has already agreed two things—as I said in the discussion about direct elections—at stage 1. The ministers accepted one of those, that we will get a guarantee, and we have come up with the figure of 20 per cent of the membership. Why 20 per cent? Because a lot of people mentioned that figure, and it is a reasonable figure. It is not an unreasonable request.

I referred earlier to Sheena Slimon, the convener of the community councils group of the Cairngorms Partnership, who gave evidence to us at stage 1. She wrote to say that she was

"asking that during the committee stages of the Bill, an adjustment is made to give Community Councils 20% of the seats on the new Park Board as of right."

That would fit in very well with what we have agreed. We have said that we want something that is distinct both from ministerial appointments and



from local authority nominees. Nobody is getting clobbered—40 per cent of membership is a very good input from local authorities; 40 per cent is a very good input from ministers; and 20 per cent at least locks in local representation in the distinct manner that we were seeking earlier.

I also think that the arguments about this stand, and also that they stand for direct elections. Something at the back of my mind tells me, however, that that might not get approval from the committee, although I do not know why—the arguments work extremely well. So far, I have not been bowled over by the counter-arguments. That is why I have lodged a second set of amendments: I really think that our local communities deserve to be directly represented, and that community councils have an important role to play and an important voice.

We do not give community councils enough responsibility, authority or status. Relatively few people want to join them and put the time and effort in. It is a chicken-and-egg situation: if we give them that status and if they have a real role to play in the national park management boards, we will get real commitment and enthusiasm from people who live and work in the national park areas.

I welcome the movement offered by the minister. The middle way between directive actions and the minister's proposals is an appropriate way to move forward. I hope that the committee will take that on board.

17:00

**The Convener:** I will take a few brief comments before I ask the minister to reply.

**Cathy Peattie:** I do not like Mike Rumbles's middle way at all. I welcome the additional 20 per cent—I know where the minister is coming from—but we must ensure that that 20 per cent is representative of local people, and not just of community councils. There are a number of voluntary and community organisations that will also have an interest in the national park, not least those voluntary organisations that have an interest in the environment.

If we were to lock that 20 per cent into community council places, we would exclude from the table those other organisations that have a key interest in national parks. I would be concerned if we were to say, "Okay. That 20 per cent is great. Let's allocate it to community councils". Community councils are important and they should be given more recognition, but we must ensure that local people are represented. We cannot be so prescriptive that we say, "That 20 per cent is for people from community councils", as that would be far too narrow an interpretation.

**Dr Murray:** Like Cathy Peattie, I am not a great proponent of Mike Rumbles's third way. Mike obviously comes from an area where community councils are directly elected and very active. Sadly, that is not true for all of Scotland, as there are areas where community councils are self-appointed. To limit community representation to community councils alone would be too narrow.

**Rhoda Grant:** When we took evidence, community councils were not prescriptive about that 20 per cent having to go to community council members, although they wanted to have an input and, possibly, to be consulted about which local community members would become members of the authority. If we could take up those suggestions, we would ease a lot of worries.

**Fergus Ewing:** Under the minister's proposals of a minimum of 20 per cent, it could be the case that there would be no community councillors on the authority at all. Everyone agrees that the local authority members of the park authority will all be local authority councillors; certainly, that is the impression that I get. Therefore, the Executive position seems to be one of having no community councillors on the authority.

I have some sympathy with Mike Rumbles's middle way, as he described it. However, that would allow only five community councillors out of 24 authority members. For example, within the Cairngorms area, there are more than five community councillors in Badenoch and Strathspey alone. How community representatives are to be chosen is unclear, and that is why I believe that Linda Fabiani's amendment would allow community councillors to become excellent candidates for appointment under the provisions of schedule 1. Her amendment provides that, of the ministerial appointees, 50 per cent should be

"people with local connection, knowledge or experience".

Not all community councillors would wish to become a member of the authority, but some, such as Sheena Slimon, have a particular interest and track record in this area.

**The Convener:** I ask the minister to reply to the debate on this group of amendments on community council nominations.

**Sarah Boyack:** I will start by acknowledging that members recognise that the amendment that we lodged on the 20 per cent guarantee is an improvement to the bill.

I refer back to the discussions that we held on the draft bill, when we sought views and consulted. After receiving views, we amended the draft bill so that paragraph 4 of schedule 1 now reads:

"The Scottish Ministers must, before appointing any directly appointed member, consult—

(a) every local authority and community council any part of whose area is within the National Park,

(b) such persons as appear to them to be representative of the interests of those who live, work or carry on business in the National Park, and

(c) any other person they think fit."

In amending the draft bill, we intended to acknowledge the views of community councils, which were that they should be both consulted and given the opportunity to identify people from their membership who would be good representatives on the national park authority. We wanted to take those points on board when we amended the draft bill. Fergus Ewing's comments about the Executive wanting to avoid involving community councils in national park authorities goes completely against what we are trying to achieve. We think that the views of community councils are important and we would seek their views on ministerial appointments.

The points that Cathy Peattie and Elaine Murray made about restricting ourselves to viewing the representatives from communities as only being from community councils seems a retrograde step. I can think of local business organisations that may feel that they have strong representatives who could play an important role on a national park authority. I am sure that there are people in the Cairngorms area who would fit that bill. There are many organisations that have a local focus, but that are not necessarily community councils. To narrow it down would be a mistake.

In saying that, I remind members that having heard the views at the draft stage, we changed the bill so that now it says explicitly that we will consult community councils on the appointments to be made by Scottish ministers. That, in combination with a guaranteed minimum 20 per cent representation if the amendments are passed, would give the guarantees for which people asked.

**The Convener:** Would you like to make a brief reply to that, Mr Rumbles?

**Mr Rumbles:** How did you guess?

**The Convener:** You were champing at the bit.

**Mr Rumbles:** I would like to respond to those points about self-appointed community councillors, because they saddened me. The community councils in the Cairngorms, Loch Lomond and the Trossachs are very robust, active and participatory. In Deeside, we have elections for them all the time. The idea that they are somehow self-appointing community councillors does not ring true and seems to be an excuse not to go down that route.

The point about restricting those representatives only to community councillors made it seem as though we were deliberately going out of our way

to delimit that. As far as I know, the community councillors in the Deeside and Cairngorms area are businessmen, farmers and volunteers in local organisations. These people are the community. Anyone on the electoral roll can stand for election to the community council; it is not restrictive, it is an opportunity. We must take off the blinkers and think about what we are trying to do.

We want to engage with the local community and one way of doing that is through the community councillors. Another way is by direct election, but I understand why some members are reluctant to follow a full democratic process. Engaging with community councillors seems to be a reasonable solution. We have an opportunity to do something different and it would be wrong to let that go.

I return to the points that the committee agreed at stage 1. We have a principle of guaranteed direct local representation, which all three options provide. However, the minister's option does not provide what we asked for, which is that that representation would be distinct. Both of the options that I have presented to the committee today address what we already agreed at stage 1.

**The Convener:** We move on to the sub-group on qualification of members. John Munro will introduce the group.

**Mr Munro:** Amendment 58 is very straightforward and this time the wording should be legally correct. It provides for local representation within the direct appointments made by the Scottish ministers to the national park authority. It is important that there is an acceptable level of local representation. The community involvement in the national park must have local identity, so that the park appears to be within the grasp and ownership of the local community. We must ensure that the people who live and work in the community feel that they are being represented. Unless that is in the legislation, we will have difficulty in getting the communities that live and work within the national park to accept the concept of the national park.

In England, 20 per cent of the members of the national park authority come from local parish councils and 50 per cent come from the local authority. Therefore, in the English model, 70 to 75 per cent of the membership comes from the parish councils and the local authorities. Doubts have been expressed about the representation on national park authorities of our own community councils, which are doing an excellent job. What are we afraid of in Scotland? Unless we can afford the communities within the national park boundaries the options and facilities that are afforded to their English counterparts, we will not secure the degree of support for the concept of national parks that we hope for. That is why I have

lodged amendment 58, which I shall be happy to move later in the debate.

**The Convener:** Richard Lochhead will speak to amendment 113, in the name of Linda Fabiani.

**Richard Lochhead:** I shall be brief. My arguments for amendment 113 are the same as the arguments that I outlined earlier for amendment 112.

**The Convener:** The other two amendments in this group are in the names of Mary Scanlon and Alex Fergusson. Alex, will you speak to both amendments?

**Alex Fergusson:** I would be delighted to be Mary Scanlon for a few minutes, if people can imagine that transition.

**Richard Lochhead:** I thought that you already were. [*Laughter.*]

**Alex Fergusson:** Careful, Richard.

Like other members, I welcome the minister's change of position on local membership. Amendments 114 and 115 would broaden the definition of a local member to include not only a person whose sole or main residence lies within the national park, but a person who lives, works or carries out business in the national park area. That is a broader definition, which would benefit this bill. If the definition of a local member is confined to somebody whose main or sole residence is within the boundaries of the national park, people whose input to the national park would be relevant are excluded. These amendments seek to include those people.

Both amendments emphasise the importance of the ownership of the national park, a subject to which I have referred before, and are designed to increase the sense of ownership of the national park by local people. I shall be happy to move both amendments at the appropriate time.

**The Convener:** Would anyone like to comment on this sub-group of amendments before I ask the minister for a brief reply?

**Dr Murray:** The amendments in the names of John Munro and Alex Fergusson ask for 20 per cent of the total membership of the national park authority to come from the local community, which is what the minister is suggesting. The minister's proposals therefore take into account that desire.

The amendment in the name of John Munro suggests that 40 per cent of the minister's appointments—which would be 20 per cent of the total membership—should come from the local community. We are talking about national parks, not regional parks such as Strathclyde country park, on the board of which I served as a Strathclyde regional councillor. That means that there must be room for national interests to be

represented.

**The Convener:** As there are no further comments on these amendments, I ask the minister to respond. After we have heard that response, I shall ask Mike Rumbles to speak, in view of his contribution to this group of amendments. The minister will then reply.

17:15

**Sarah Boyack:** The amendments in the names of John Farquhar Munro and Alex Fergusson are in tune with the spirit of the Executive amendments, which would guarantee that 20 per cent of the membership of the national park authority would be constituted of local people. However, the way in which that is achieved should be more flexible. Although I endorse the sentiments that those members have articulated in support of their amendments, their amendments have been overtaken by events. The Executive amendments would deliver that guarantee, which we are all looking for.

John Farquhar Munro made a point about the difference between English and Scottish national parks. I hope that they will not be exactly the same; I hope that our parks will be appropriate for our circumstances. One of the differences is that the Scottish ministers have made it absolutely clear that the Executive will pay the bill for national parks, and we will be accountable to Parliament for that process. That is a difference from the parks in England, 25 per cent of which are paid for by local authorities.

In some ways, it is symbolically important that we are making such a full commitment to national parks, and we hope that we have got it right by ensuring the 20 per cent local membership of the new national park authorities. I hope that that makes the difference to John Farquhar Munro and Alex Fergusson with regard to their amendments.

My other point about Alex Fergusson's amendment 115 relates to something that I suspect was not intended. When a member resigns, or when an appointed member ceases to be local, there are potential difficulties, and no allowances are made for that in the amendment.

I have briefly commented on Linda Fabiani's amendment 113. I return to the localness test. The representations that we received were very much in favour of the approach that we have now taken. Amendment 114, Mary Scanlon's amendment, suggests a presumption in the bill that all appointments and nominations would be of

"persons who live, work or carry on business in the National Park area."

That would tie our hands in a way that none of us actually means. The sentiment behind the

amendment is one of local involvement, but the amendment is, I suggest, too restrictive, and would also have no practical effect in legal terms, because Mary's amendment refers to a presumption, and that is a problem.

I wish to comment on Tavish Scott's amendment 22, because I fully agree with what Tavish is intending to do: to open up a different approach in national park authority areas, where there may not be a natural local authority, and where there may be an issue about representation on the park authority.

In advising members not to support that amendment, I can say that it would be my intention, when we reach section 29, to identify how we intend to deal with the issue. Tavish Scott's amendment not only concerns marine national parks; it could potentially apply to all national park boards. I agree with his intentions and make the commitment to lodge a similar amendment for section 29 to deliver what I think Tavish wants to deliver.

**The Convener:** I now propose to allow Mike Rumbles to sum up, as briefly as possible, for the whole group of amendments, and then to allow the minister to respond.

**Mr Rumbles:** I will be brief, convener. I am conscious that we have had a very long meeting this afternoon.

Briefly, on expertise, this is available to the national park boards through the advisory groups, which report to the management board anyway.

To focus on the main issue now, we have three options before us. I think that the minister has moved towards the committee's view since stage 1, and I congratulate her on doing so. She has addressed 50 per cent of what we were arguing for at stage 1. I welcome that.

I do not like the creation of a whole series of new quangos without any democratic accountability at all, especially accountability to local people. I am asking for a reasonable thing: for 20 per cent of the people to have a direct input, through local election, to the boards. It is not difficult; it only means that when someone goes into a voting booth to vote for the local authority, they have two voting papers instead of one.

I accept that the proposal might not get through the committee when we take the vote on it in a few minutes' time, but that is why, all joking apart, I am also focusing on the 20 per cent representation on the national park boards by community councils. I think it is important that this committee and this Parliament send out a message to our communities about people who serve on community councils. We would be doing communities a disservice if we rejected

amendment 66, and I particularly hope to get support for my second sub-group of amendments about direct representation. That is the second point on which we have already agreed. It would seem rather ironic to throw that out now when we had agreed the principle in stage 1.

**The Convener:** Does the minister wish to reply to that?

**Sarah Boyack:** My only comment is that, however we vote on the issues before us, we must send out a clear message that local community members are absolutely central to national park authorities and the advisory groups, whether they live in the park and have particular expertise or reflect the interests of those people. Regardless of the formulation that we choose, that message must come from us all.

Having heard the comments about community councils, I want to place on record my acknowledgement of the importance of their work. Whatever formulation we decide on, such bodies play a fundamentally important role in the areas that might be designated as national parks. However we vote at the next stage, all of us will agree that their work is critical, which is why we amended the bill when we had the opportunity to do so. Community councils are now included under the requirement that we must consult a range of individuals and organisations with interests in national park areas.

The point is that these are national parks and it is important to strike the right balance. MSPs have a responsibility to show leadership and be positive about the establishment of the parks; as the boards are a crucial part of the process, they too will have to have show some leadership. We will have to get the right mix. Although that will be a tricky balance, the Executive's amendments meet concerns that were raised at the draft bill stage about the lack of representation and the acknowledgement of the importance of local people.

We now have a balanced approach that will stand the test of time, relate to the functions of local authorities and deliver a local partnership that will fully engage the breadth of expertise and experience that we will need as we designate the new national parks. I hope that the committee will vote for the Executive amendments, because we have thought long and hard about the right balance. Although Mike Rumbles is right to say that there are many different formulations—he has made a good attempt at outlining two of them—we need to get the right formulation in the bill, because we will have to live with it.

*Amendment 79 agreed to.*

**The Convener:** I call amendment 46, in the name of Murray Tosh, which opens up the matter

of the inclusion of maps in designation orders. Amendment 46 is grouped with amendments 47 and 49.

**Richard Lochhead:** On a point of order, convener. Is it possible to continue with the votes on the other groups, or do we have to move on to amendment 46?

**The Convener:** Those votes will be taken, but this group of amendments also applies to section 6 and we are proceeding in the order laid down in the marshalled list.

**Richard Lochhead:** Two committee members have to leave in a minute or two.

**Mr Rumbles:** In seconds.

**The Convener:** Murray Tosh, do you wish to move amendment 46 and speak to amendments 47 and 49?

**Mr Tosh:** I will be very brief, convener.

The Transport and the Environment Committee took evidence on this issue from the Convention of Scottish Local Authorities and the Scottish Society of Directors of Planning, which were of the view that there must be accurate maps. Politicians are all used to having maps when considering council areas, planning areas and local wards. It seemed odd that the draft legislation said only that there may be maps; the committee felt that there should be maps, and amendments 46, 47 and 49 are designed to ensure that maps are required when the designation orders are made.

**Sarah Boyack:** I know that Mr Tosh's amendments seem reasonable and sensible. However, I want to clarify why the bill specifies that maps "may" be used, rather than "shall" be used, as the amendments suggest. If a national park boundary exactly met a local authority boundary, maps would already be fully available and would not need to be developed. We felt that a requirement to use maps would give rise to an excessive financial commitment. However, if a national park boundary did not meet those existing boundaries, we would intend to produce maps for full circulation.

**Mr Tosh:** That explanation seems a bit weird. I cannot imagine the circumstances in which the boundary for a national park area and a local authority area would coincide. However, if the minister absolutely and categorically intends to make maps available in all other circumstances, I shall not press the amendments.

*Amendments 46 to 49 not moved.*

*Section 6, as amended, agreed to.*

#### After section 6

*Amendment 111 moved—[Fergus Ewing].*

**The Convener:** The question is, that amendment 111 be agreed to. Are members agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)

#### AGAINST

Fergusson, Alex (South of Scotland) (Con)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Johnstone, Alex (North-East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**The Convener:** The result of the division is: For 2, Against 8, Abstentions 0.

*Amendment 111 disagreed to.*

*Section 7 agreed to.*

#### Schedule 1

##### CONSTITUTION ETC OF NATIONAL PARK AUTHORITIES

*Amendment 80 moved—[Sarah Boyack]—and agreed to.*

*Amendment 64 moved—[Mr Rumbles].*

**The Convener:** I should point out that, if amendment 64 is agreed to, it will pre-empt amendment 65.

The question is, that amendment 64 be agreed to. Are members agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Fergusson, Alex (South of Scotland) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

#### AGAINST

Grant, Rhoda (Highlands and Islands) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**The Convener:** The result of the division is: For 6, Against 4, Abstentions 0.

*Amendment 64 agreed to.*

**The Convener:** Because amendment 64 has been agreed to, amendment 65 is pre-empted.

*Amendments 22, 66 and 57 not moved.*

*Amendment 58 moved—[Mr Munro].*

**The Convener:** The question is, that amendment 58 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Mr John Munro (Ross, Skye and Inverness West) (LD)

**AGAINST**

Grant, Rhoda (Highlands and Islands) (Lab)  
Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**ABSTENTIONS**

Fergusson, Alex (South of Scotland) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**The Convener:** The result of the division is: For 1, Against 6, Abstentions 3.

*Amendment 58 disagreed to.*

*Amendment 112 moved—[Richard Lochhead].*

17:30

**The Convener:** The question is, that amendment 112 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)

**AGAINST**

Fergusson, Alex (South of Scotland) (Con)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Johnstone, Alex (North-East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**The Convener:** The result of the division is: For 2, Against 8, Abstentions 0.

*Amendment 112 disagreed to.*

*Amendment 113 moved—[Richard Lochhead].*

**The Convener:** The question is, that amendment 113 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)

**AGAINST**

Fergusson, Alex (South of Scotland) (Con)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Johnstone, Alex (North-East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**ABSTENTIONS**

Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 1.

*Amendment 113 disagreed to.*

*Amendment 67 not moved.*

*Amendment 81 moved—[Sarah Boyack].*

**The Convener:** The question is, that amendment 81 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Fergusson, Alex (South of Scotland) (Con)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Johnstone, Alex (North-East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**AGAINST**

Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)

**The Convener:** The result of the division is: For 8, Against 2, Abstentions 0.

*Amendment 81 agreed to.*

*Amendment 68 not moved.*

*Amendment 69 moved—[Mr Rumbles]—and agreed to.*

*Amendments 114 and 115 not moved.*

*Amendment 59 moved—[Mr Munro].*

**The Convener:** The question is, that amendment 59 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Lochhead, Richard (North-East Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**AGAINST**

Fergusson, Alex (South of Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Johnstone, Alex (North-East Scotland) (Con)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)

**The Convener:** The result of the division is: For 4, Against 6, Abstentions 0.

*Amendment 59 disagreed to.*

*Amendment 70 not moved.*

*Amendment 82 moved—[Sarah Boyack]—and agreed to.*

**The Convener:** We come to amendment 116, in the name of Linda Fabiani. Is another member going to speak to the amendment?

**Richard Lochhead:** The substance of what I was going to say about the amendment has been covered by previous speeches.

I move amendment 116.

**Sarah Boyack:** Amendment 116 would require all the nominations of Scottish ministers to be approved by resolution of the Parliament. Strictly speaking, there are no ministerial nominations under the terms of the bill, but I presume that the point of the amendment is to require parliamentary scrutiny of the appointments that Scottish ministers are intending to make.

The issue extends beyond national parks and was addressed in the recent Executive consultation paper on public appointments. I suggest that we await the conclusion of that exercise. If there are general changes to be made to the process of making and scrutinising public appointments, we would expect those to apply to all public bodies, including national park authorities. At this stage, the amendment is inappropriate and prejudices the consultation exercise. I ask Mr Lochhead to consider withdrawing the amendment.

**The Convener:** Are there any other comments on amendment 116?

**Fergus Ewing:** This is an important amendment. It is essential that the Parliament has a role in considering the appropriateness of an appointment, rather like the Senate hearings in the United States. It is important that the appointments meet the criteria contained in the bill. If the appointees are to have certain abilities and local knowledge, surely Parliament has a role to play in ensuring that there is democratic accountability and scrutiny.

Finally, I am bound to reflect on what the Labour party used to say about quangos and quango appointments; as I recall, the story was different before it took the reins of power. I wish that we

could have implemented some of the old ideas of the Labour party to ensure proper democratic scrutiny by allowing Parliament to play a role in considering the appropriateness of proposed ministerial appointments.

**The Convener:** Did you wish to comment, Richard?

**Richard Lochhead:** This is a reference to the line of accountability that I mentioned earlier. We have covered those points.

**The Convener:** The question is, that amendment 116 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Lochhead, Richard (North-East Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)

**AGAINST**

Grant, Rhoda (Highlands and Islands) (Lab)  
 Johnstone, Alex (North-East Scotland) (Con)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Munro, Mr John (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**The Convener:** The result of the division is: For 2, Against 7, Abstentions 0.

*Amendment 116 disagreed to.*

*Amendments 71 to 75 moved—[Mr Rumbles]—and agreed to.*

*Amendment 76 not moved.*

*Amendment 83 moved—[Sarah Boyack]—and agreed to.*

**The Convener:** I call amendment 117, originally in the name of Mike Russell. I ask Irene McGugan whether she wishes to speak to and move the amendment.

**Irene McGugan:** The purpose of the amendment is to ensure that any cultural purposes of the park that include Gaelic will be backed up by the presence of people who are able to speak the language. The effect of that will be that national parks will have to prove that, in their operation, they have people who can communicate in the language. It will mean that national park authorities will have cemented into their staffing the language and its importance. That will go some way towards mainstreaming Gaelic in a meaningful way.

I move amendment 117.

**The Convener:** Would the minister like to respond?

**Sarah Boyack:** The importance of Gaelic as

part of our heritage has been discussed by almost every committee that has considered the national parks. It was discussed during a meeting of this committee a couple of months ago, when John Munro raised the issue. We discussed it again last week and I suspect that we will discuss it again when we deal with the definition of cultural heritage.

The amendment requires a national park authority, on appointing its staff, to ensure that it can satisfy any measure with respect to the use of Gaelic that may be required under the act and, especially, under any national park plan prepared pursuant to the act. In effect, the amendment says that the national park authority must have the right staff to do the job of the national park work that is contained in the bill and will be contained in the designation orders that follow from the bill. However, the bill already says it all—we do not need to single out Gaelic.

We had a good discussion last week, when Mike Russell moved his series of amendments. It is important for the park authorities to make their own judgment on their staffing structure and how they achieve the right balance of appropriately qualified people. From that perspective, although I take on board the sentiment behind the amendment, I suggest that it is unnecessary. We have discussed this issue at previous meetings; it is not necessary for it to be specified in the bill. It will be picked up, along with other requirements in the bill that must be met by national park authority staff. Given those comments, I hope that Irene McGugan feels that she does not need to push the amendment to a vote.

**Irene McGugan:** I wish to push the amendment.

**The Convener:** The question is, that amendment 117 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

McGugan, Irene (North-East Scotland) (SNP)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

#### AGAINST

Grant, Rhoda (Highlands and Islands) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

#### ABSTENTIONS

Johnstone, Alex (North-East Scotland) (Con)

**The Convener:** The result of the division is: For 3, Against 4, Abstentions 1.

*Amendment 117 disagreed to.*

**The Convener:** Does Murray Tosh wish to

speak to and move amendment 60?

17.45

**Mr Tosh:** Amendment 60 would not affect those national parks where planning functions had remained with the local authorities but it would affect those where the national park authority had become the planning authority in respect of some or all of the powers that are envisaged under the bill.

I have seen correspondence that suggests that the amendment would somehow affect the membership of the national park authority. It would not. It relates solely to any committee that the authority might set up to discharge planning functions. It would not affect the park authorities' ability to determine planning applications or to take decisions on the formation of a local plan, if the park authority decided that it was the forum in which those decisions should be taken.

However, if the park authority sets up a committee—presumably the most likely event would be a committee set up to process a local plan or to take planning applications—I suggest that the membership of that committee ought to be comprised principally of elected councillors. If the amendment is passed, there would be a presumption that those councillors on the national park authority should be on that committee. Moreover, it would be possible—even desirable—for those councillors for the national park areas who were not already members of the authority to be co-opted on to the committee.

Des McNulty spoke about the importance of the local authority and its planning function. The local authority from which the park area is carved will continue to have an interest and a role to play, so it would be helpful if councillors from those local authorities were present on any planning committee that was established.

The purpose of the amendment is to try to preserve links with the councils and indeed to preserve the role of councillors in continuing to determine planning issues in the areas for which they will still have a variety of important functions. I see that as an important balance in ensuring that the expertise and the interest that councils and councillors have in planning matters in national parks is translated into the work of the park authorities.

I move amendment 60.

**The Convener:** Minister, would you like to respond briefly to that?

**Sarah Boyack:** I fully understand the concerns behind Murray Tosh's amendment on drawing local authorities into the planning process, but I suggest that it is not an appropriate amendment at



present as it prejudices what will happen in each national park in relation to planning powers. We have said that we will address that issue at the designation order stage.

On the basis of advice from Scottish Natural Heritage, we have not specified that all national parks will have the same planning arrangements. We have made provision for that to be decided on a park-by-park basis. The national park authority's role in town and country planning issues will be specified in the designation order and may not be the same as for other parks.

The designation order can also specify, as set out in paragraph 14 of schedule 1,

"the composition of particular committees"

of the national park authority. That was precisely because we appreciated the importance of the make-up of any planning committee that we included in that provision. As the designation order specifies planning arrangements, it seems sensible to decide on the make-up of those committees once the designation order has been prepared. I suggest that there are adequate powers to ensure an appropriate composition of the planning committee of a national park authority. I do not believe that the designation order would be approved, particularly with the lengthy consultation process that we have now identified, if the arrangements for dealing with the planning decisions were not satisfactory.

Amendment 60 would impose a requirement that may not always be necessary. If, for example, the national park authority is not the planning authority, and if its role is that of an enhanced consultee, must the planning authority still have a majority of councillors?

The amendment attempts to address a situation that may or not arise, depending on the circumstances for each designation order. For that reason, I suggest that the amendment is not appropriate at this stage and I ask members to resist it.

**The Convener:** I presume that you wish to press amendment 60 to a vote, Murray. I should point out to members that we are being threatened with eviction from this room, so we do not have much time.

**Mr Tosh:** I am aware that the issue would arise only in cases where the planning functions were given to the national park authority. I do not consider that being a consultee is a planning function in terms of the Town and Country Planning (Scotland) Act 1997. I would define a planning function as it is defined elsewhere in the bill, so I do not think that the minister's point is valid. I see this matter in terms of development control and local planning. I think it appropriate to

lay down a general proviso that will have effect in cases where the powers are given to the authority, but not where they are not given to it.

**Des McNulty:** Murray Tosh has raised an important set of issues. Part of the problem is that, if the legislation follows the route suggested by Mike Rumbles's amendments, the issue that Murray has raised will be put into considerable relief. I do not want Murray to press his amendment at this time, but if, in passing the bill, the Parliament decides to go in the direction of Mike's amendments—which is now the committee's position—a series of issues about planning powers will have to be reconsidered. I want to reserve my position, depending on what the Parliament eventually decides to do about the composition of national park committees.

**The Convener:** The question is, that amendment 60 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Johnstone, Alex (North-East Scotland) (Con)  
McGugan, Irene (North-East Scotland) (SNP)

**AGAINST**

Grant, Rhoda (Highlands and Islands) (Lab)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Peattie, Cathy (Falkirk East) (Lab)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

**ABSTENTIONS**

McNulty, Des (Clydebank and Milngavie) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)

**The Convener:** The result of the division is: For 2, Against 4, Abstentions 2.

*Amendment 60 disagreed to.*

*Schedule 1, as amended, agreed to.*

**The Convener:** The two other items on today's agenda will be added to the agenda for Friday's meeting, which is due to begin at 9.30 am.

*Meeting closed at 17:54.*



Members who would like a printed copy of the Official Report to be forwarded to them should give notice at the Document Supply Centre.

Members who would like a copy of the bound volume should also give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the bound volume should mark them clearly in the daily edition, and send it to the Official Report, Parliamentary Headquarters, George IV Bridge, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Friday 23 June 2000**

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

#### PRICES AND SUBSCRIPTION RATES

##### DAILY EDITIONS

*Single copies: £5*

*Meetings of the Parliament annual subscriptions: £500*

BOUND VOLUMES OF DEBATES are issued periodically during the session.

*Single copies: £70*

Standing orders will be accepted at the Document Supply Centre.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

*Single copies: £3.75*

*Special issue price: £5*

*Annual subscriptions: £150.00*

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Published in Edinburgh by The Stationery Office Limited and available from:

**The Stationery Office Bookshop**  
71 Lothian Road  
Edinburgh EH3 9AZ  
0131 228 4181 Fax 0131 622 7017

**The Stationery Office Bookshops at:**  
123 Kingsway, London WC2B 6PQ  
Tel 020 7242 6393 Fax 020 7242 6394  
68-69 Bull Street, Birmingham B4 6AD  
Tel 0121 236 9696 Fax 0121 236 9699  
33 Wine Street, Bristol BS1 2BQ  
Tel 01179 264306 Fax 01179 294515  
9-21 Princess Street, Manchester M60 8AS  
Tel 0161 834 7201 Fax 0161 833 0634  
16 Arthur Street, Belfast BT1 4GD  
Tel 028 9023 8451 Fax 028 9023 5401  
The Stationery Office Oriol Bookshop,  
18-19 High Street, Cardiff CF1 2BZ  
Tel 029 2039 5548 Fax 029 2038 4347

**The Stationery Office Scottish Parliament Documentation**  
Helpline may be able to assist with additional information  
on publications of or about the Scottish Parliament,  
their availability and cost:

**Telephone orders and inquiries**  
**0870 606 5566**

**Fax orders**  
**0870 606 5588**

**The Scottish Parliament Shop**  
George IV Bridge  
EH99 1SP  
Telephone orders 0131 348 5412

[sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers